

MINUTES
Fairfax County Electoral Board
October 25, 2016

The Fairfax County Electoral Board (Board) met on Tuesday, October 25, 2016, at 4:00 p.m. in Conference Rooms 9 and 10 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Stephen M. Hunt, Vice Chairman Seth T. Stark, Secretary Katherine K. Hanley, General Registrar Cameron Glenn Sasnett, Deputy Registrar Gary Scott, Election Manager Judy Flaig, Public Information Officer Lisa Connors, Senior Assistant County Attorney Erin Ward, Assistant County Attorney Martin Desjardins, and Clerk to the Board Beth Dixon Methfessel were present. Jim Lyle representing the Fairfax County Republican Committee (FCRC); Donna Rostant representing the Fairfax County Democratic Committee (FCDC); John Farrell and Stephen Spitz, members of FCDC, Therese Martin, Olga Hernandez, and Maggi Luca representing the Fairfax League of Women Voters (LWV) also were in attendance. Jean Thoensen, Thomas Hueg, Ron Toth, and Ed Kemon also attended the Electoral Board meeting.

Mr. Hunt called the meeting to order at 4:04 p.m. and introduced himself, Vice Chairman Stark and Secretary Hanley. Mr. Hunt called for a motion to approve the October 25, 2016 meeting agenda. Ms. Hanley moved to approve the agenda and by a vote of 3-0, the agenda was adopted.

Mr. Hunt called for a motion to approve the Draft Minutes from the September 19, 2016 Electoral Board meeting. Ms. Hanley moved for approval, and by a vote of 3-0, the September 19, 2016 Minutes were adopted.

Mr. Hunt asked for a motion to appoint 1197 election officers (744 Democrats, 118 Independents, and 335 Republicans) for a term ending February 28, 2018. Ms. Hanley moved to adopt and by a vote of 3-0, the Board appointed 1197 (744 Democrats, 118 Independents, and 335 Republicans) individuals to serve as election officers for a term ending February 28, 2018. Mr. Hunt asked if all of the newly appointed election officers would receive an assignment for the November 8 election. Jane Hong, Election Officer Coordinator, responded that some of the new election officers would not be assigned on November 8 because they did not attend training. Ms. Hanley clarified that the list is extensive because the Board has not met to appoint election officers for over one month, therefore, the list also contains many individuals who have completed the required paperwork, received training, and will serve on November 8.

Mr. Sasnett presented the General Registrar's report (see attached October 21, 2016 Registrar's Report and Attachments.)

Approximately 4,200 election officers have been trained. The page program generated 504 applications from high school students. All 243 Chief and Assistant Chief election officers, as well as 2,817 regular election officers, and 78 Technical/Procedural Specialists

have been assigned for November 8. Ms. Hanley commended staff for assigning almost 2/3 of all election officers by October 1.

Under Technology and Innovations, all PollPads have been sent to the warehouse for deployment. The AEOC (Alternate Emergency Operations Center) and the Chantilly Technical Operations facility will be readied by the Department of Information Technology (DIT) for November 8. All vendor support will be on-site for pre and post-Election Day assistance.

Under Election Administration, the final Resource Allocation for November 8 (attached and made a part of this record) reduces the number of single DS200 precincts from 36 to 17. The new, freestanding curbside voting signs will be used on November 8 with a larger display for the phone number to call for assistance.

The party access portal for the PollChief system will be put on hold until after the November 8 election.

Under Voter Registration, the voter registration deadline was extended by the Governor until Friday, October 21, 2016 at 5:00 p.m. This extension had a minimal impact on workload. Absentee in-person voting is approximately 100% higher compared to the same time in 2012 with returned absentee ballots approximately 50% higher when compared to the same time in 2012.

General Administrative and November Election Planning Update, the voter (registered, active and with a Virginia mailing address) mailer was sent at the end of September. The mailer included specific precinct information, sample ballot, absentee voting information, and photo ID requirements. A printing error in the 11th Congressional District caused a small number of the precincts in this district to receive incorrect ballot information. At its cost, the printer rectified the mistake and re-mailed 33,000 corrected ballots. Ms. Hanley reported that voters are bringing the mailer to their absentee satellite location to assist them in marking their absentee ballot. The mailers also helped correct the confusion as to where Herndon town residents should vote for the Herndon Town Election. Mr. Sasnett added that the mailer also satisfies the change in the law that now allows voters to “provide” their name and address when checking-in to vote.

FCDC asked if the 14,182 absentee ballots returned included those returned undeliverable. Mr. Sasnett answered that the number includes returned marked ballots as well as those returned as undeliverable. FCDC asked if there was a backlog of recording the return of these ballots. Mr. Sasnett responded that processing is complete through October 24, 2016. FCDC asked if there was a backlog of voter registration applications. Mr. Sasnett replied that 6,000 remain in the hopper and staff is working through a number of these that are duplicates, incomplete, out-of-state, or require more extensive research.

Ms. Luca asked how many absentee ballots have been mailed out and Mr. Sasnett indicated that 47,948 absentee ballots have been sent out. Ms. Luca inquired if a voter can find out through the OVR (Online Voter Registration) whether or not his/her voter registration

application has been processed. Ms. Sasnett responded that there is no online “pending” status for voter registration applications. Mr. Sasnett noted that adding this enhancement to the OVR has been requested because it would not only alleviate voter confusion but also the submission of duplicate applications.

Mr. Farrell asked if absentee ballot applications are time-stamped in order to comply with the statutory requirement of mailing a requested ballot within 3 business days. Mr. Sasnett answered that mail is stamped the day it is received and all mail requests have complied with the law. Some of the online requests may take longer if there are pending OVR applications, or if additional research is required to confirm eligibility.

Under the Chairman’s report, Mr. Hunt acknowledged the “crash” of VERIS (Virginia’s Election and Registration and Information System) which precipitated the extension of the voter registration deadline and commended staff for dealing with yet another deficiency in VERIS. He pointed out that when the Department of Elections (ELECT) cannot determine which locality should receive a voter registration application, it is sent to Fairfax County. This further clogs the OVR hopper, and requires staff to forward any misdirected applications to the correct locality’s hopper.

There was no Vice Chairman or Secretary’s report.

Under New Business, the Board discussed the draft of the new polling place guidelines for authorized visitors and neutral observers (attached and made a part of this record.) Ms. Hanley moved to approve the policy. After discussion, the following changes were accepted;

- 1) change the words “handicapped citizens” to “persons with disabilities”;
- 2) change the words “to turn off” to “not to use” cellular phones, and add the words “unless authorized in advance”;
- 3) add the words “from the Electoral Board or General Registrar” to whom can authorize visitors or observers;
- 4) remove the words “be happy to” as a guideline for Chief Election Officers when answering any questions for visitors or observers.

Ms. Hanley noted that she signed all previous authorization letters. The Board decided not to impose a deadline after which no further requests would be considered. The motion passed, with the accepted changes, by a vote of 3:0.

Mr. Hunt reported that he requested the Clerk of the Circuit Court to provide a list of individuals from 2012-2015 who have indicated non-citizen status on their jury questionnaire. Upon further research, he found that a number of these responders have a voting history. As he “has been made aware of a potential crime”, he queried the Board as to what action should be taken. Ms. Hanley asked Mr. Stark if he had seen or been given the list referred to by Mr. Hunt and Mr. Stark replied that he had neither seen nor received them. Ms. Hanley stated that she has not received the list and caution should be exercised in the event that individuals provided misinformation on the questionnaires. Mr. Sasnett added that a list of deceased and moved out of Fairfax County names has been requested by registrars in the past, however, using the jury questionnaire responses as a “source document” for list maintenance was

vetoed by the Governor in 2015. He also explained that Virginia Code does offer other remedies for challenging an individual's voter registration status. Mr. Farrell commented that the Board should not be acting on information from a list where the "reliability of that list is not confirmed" nor a list that is "not produced in the normal course of business." FCDC asked why the other two Board members have not received the list and additionally, what prompted Mr. Hunt to pursue this investigation? Mr. Hunt responded that he had just completed the research and is just now bringing the issue forward. He further added that he was contacted and asked about [non-citizens with voting history] and he "decided to find out the facts for [himself] so [he] could find out what is going on." An oral FOIA request was submitted by FCDC requesting all emails from persons or groups asking Mr. Hunt in his capacity as the Chairman of the Electoral Board to look into this specific issue. Ms. Ward asked if this request could be reduced to writing and FCDC agreed, provided that the five day response time commences from the time of the oral request.

Mr. Stark moved to direct the General Registrar to write a letter to the Clerk of the Circuit Court of Fairfax County to ascertain the proper procedures with respect to the list of potential jurors who indicated on a jury questionnaire that they may not be citizens and to direct the communications with whatever is necessary to the Commonwealth's Attorney. The motion passed by a vote of 3:0.

Under Public Comments, Ed Kemon presented his research paper entitled "Fairfax County 2016 – Presidential Election Contest, October 14, 2016" addressing the vulnerability of electronic voting systems (attached and made a part of this record.) Mr. Sasnett commented that Fairfax County's voting system does not have transmission modems built into them.

Ron Toth addressed the Board with concerns that he was unable, after multiple attempts to contact staff over a number of months, to receive the necessary training in order to serve as an election officer. Mr. Stark asked Mr. Toth if he had documentation regarding whom he contacted and Mr. Toth answered that he would send this information the next day. Mr. Hunt thanked Mr. Toth for his interest in becoming an election officer and stated that the Board would review his material and respond accordingly.

Mr. Farrell asked what instruction is being given to the Chief Election Officers regarding open-carry of weapons as a "form of intimidation." He questioned whether open-carry, although permissible in Virginia polling places located in public buildings and certain private facilities, would violate the 1982 Consent Decree [Democratic National Committee, New Jersey Democratic State Committee, Virginia L. Feggins; Lynette Monroe, Plaintiffs v. Republican National Committee, New Jersey Republican state Committee, Alex Hortado, Ronald C. Kaufman and John A. Kelly, Defendants.] Ms. Hanley suggested staff survey all private polling places as to whether their policy on possessing firearms is publically posted. Lisa Connors read the following statement in response to several media calls regarding plans for Election Day security:

"We are confident that Fairfax County will have a safe and efficient election. As we have done for past elections, multiple county agencies have coordinated with

the Office of Elections and Fairfax County Police Department in creating a strong security plan.”

FCDC asked the Board what guidance should be followed in the event a voter “feels intimidated.” Mr. Hunt suggested that if safety is an issue and the situation is dangerous or threatening, 911 should be called. If a voter feels intimidated, the Chief should be notified. Mr. Sasnett offered the Fairfax County Non-Emergency phone number, 703-691-2131, for those situations that are not emergencies, dangerous, or violent. Mr. Stark added that the Chief should always be informed if 911 is called. Ms. Hanley commented that “intimidation is in the eye of the beholder” and common sense and good judgement should prevail no matter what the situation.

FCDC informed the Board that Langley School will be holding a fall fair on Saturday, November 5, the final day of in-person absentee voting at the neighboring McLean Governmental Center. Traffic control is requested to assist with these concurrent events. An incident was reported at the Mount Vernon satellite location that two voters requested “early voting” and were told that there is no early voting and so they left without voting. The Board reiterated that training includes the instruction not to turn away a voter that requests early voting. FCDC asked if more clipboards could be provided outside the 40-ft prohibited area so voters could fill out their absentee ballot application before entering the satellite voting locations. FCDC asked if the numbers displayed on the curbside voting signs could be tested the morning of the election to ensure that the number is correct and working.

The canvass of the November 8, 2016 General and Special Elections will begin at 9:00 a.m. on Wednesday, November 9, 2016. The provisional ballot meeting will begin at 12:00 noon on Wednesday, November 9, 2016.

Mr. Hunt moved that the Board enter into a Closed Session to discuss specific personnel matters, as permitted by Va. Code § 2.2-3711(A)(1); and protocols for maintaining public security and risk assessments of specific local electoral procedures, where discussion of such matters in open meeting would compromise the safety of any government facility or persons using such facility, as permitted by Va. Code § 24.2-3711(A)(19). Without objection, and by a vote of 3-0, the Board entered into Closed Session at 5:56 p.m.

At 7:05 p.m. the Board concluded the Closed Session. Chairman Hunt read the following statement:

“In accordance with *Virginia Code* § 2.2-3712(D), I am asking the Secretary of the Electoral Board to conduct a roll call vote to certify that to the best of each member’s knowledge that (i) only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were conducted in the closed meeting and (ii) only such public business as was identified in the motion for the closed meeting, by which the closed meeting was convened, was heard, discussed or considered in the closed meeting of the Electoral Board. That roll call vote shall be recorded and included in the minutes of the Electoral Board.”

Secretary Hanley then called the roll for the vote on the above statement:

Voting Yes: Chairman Hunt
 Vice Chairman Stark
 Secretary Hanley

There being no further business, Mr. Stark made a motion to adjourn. The motion carried, and without objection, the meeting was adjourned at 7:06 p.m.

Attachments

Stephen M. Hunt, Chairman

Seth T. Stark, Vice Chairman

Katherine K. Hanley, Secretary