MINUTES

The State Board of Elections Board Meeting was held on Tuesday, March 20, 2012. The meeting was held in the General Assembly Building, House Room C in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice-Chair; Donald Palmer, Secretary; Justin Riemer, Deputy Secretary; Joshua Lief, Senior Assistant Attorney General and SBE Counsel; Susan Lee, Elections Uniformity Manager; David Blackwood, Policy Analyst; Martha Brissette, Policy Analyst; Chris Piper, Election Services Manager and Matt Abell, Election Administration Lead. Chairman Judd called the meeting to order at 10:30AM.

The first order of business was the approval of the Minutes from the State Board of Election Board Meeting held on January 23, 2012. After careful review of the Minutes, Vice-Chair Bowers made a motion to approve them since there were no suggested changes. Secretary Palmer seconded the motion and the Minutes were unanimously approved by the Board.

The second order of business was the Secretary's Report delivered by Secretary Palmer. The Secretary's Report is an agenda item for each Board Meeting describing recent developments at SBE. Secretary Palmer reported that the March 2012 Republican Presidential Primary went smoothly. Secretary Palmer noted that the May 1, 2012 town elections were approaching with 154 municipalities participating and the absentee ballot deadlines associated with those elections have been met. Secretary Palmer reported that the new SBE campaign finance system, Committee Electronic Tracking (COMET), will be active by the April 2012 filing deadlines. Secretary Palmer noted that Chris Piper, Elections Services Manager, was responsible for the implementation of the program and has conducted training throughout the Commonwealth. Secretary Palmer reported that Virginia's congressional redistricting was precleared by the Department of Justice. Secretary Palmer noted that eighteen localities have completed the process of redistricting with four localites still in process. Secretary Palmer stated that new voter cards would be sent to those voters impacted by Virginia congressional redistricting. Secretary Palmer reported that the June 2012 Congressional Primary was approaching and that tasking related to this primary was on target. Secretary Palmer reported that the

32 General Assembly passed several bills affecting SBE and those new bills would be
33 implemented during the summer of 2012.

34 Secretary Palmer introduced Michael Hill who will be working as the Elections
35 Services Project Assistant for SBE and Syreeta Thomas who is the new SBE Grants
36 Manager. Secretary Palmer extended a warm welcome to the new members of the SBE
37 team as did the Board and audience members.

38 The third order of business was to ascertain the results of the March 6, 2012
39 Republican Presidential Primary pursuant to § 24.2-534 of the Code of Virginia. Matt
40 Abell, Election Administration Lead, explained the certification process to the Board and
41 SBE staff members. SBE Board Members and Matt Abell partnered to complete the
42 certification process. Governor Mitt Romney was declared the winner of the Virginia
43 State Republican Presidential Primary. Chairman Judd, Vice-Chair Bowers, and
44 Secretary Palmer concluded the process by signing the Certificates of Election and
45 Chairman Judd declared that the results of the March 6, 2012 were certified.

46 The next order of business was the Revised Statement of Organization Forms
47 presented by Chris Piper, Election Services Manager. Chris Piper explained the COMET
48 System created a need to revise the Organization Forms. Chris Piper presented the
49 individual changes and the benefits that would be gained by their implementation to the
50 Board Members. Secretary Palmer moved to accept the changes to the organization
51 forms. Vice-Chair Bowers seconded the motion and Chairman Judd asked if there were
52 any public comments and with there being none the Board unanimously passed the
53 motion.

54 The next order of business was the approval of the new E-Filing Procedures.
55 Chris Piper explained that the new system, COMET, provides access to users who wish
56 to file reports electronically with SBE. Chris Piper reported that with the new system
57 political action committees could create an account which would give additional users the
58 ability to upload data versus being user exclusive. Chris Piper noted that staff resources
59 could be directed to other services as the new system eliminates the need for desktop
60 support which was previously provided by SBE staff. Chris Piper reported that political
61 action committee members could file independently, submitting completed documents to
62 SBE for processing. Chris Piper noted that the procedure for filing has not changed only
63 the method for filing. Chris Piper reported that the data would download on the SBE

server with monitoring supported by VITA under the Information Security Standard, SEC501-06. Chris Piper noted that the data uploaded does not fall under the Freedom of Information Act and is not accessible to individuals who are not cleared through the VITA system. Vice-Chair Bowers moved that the Board approve COMET as an approved method for electronically transmitting campaign finance reports to the State Board of Elections. Secretary Palmer seconded the motion and Chairman Judd asked if there were any public comments and with there being none the Board unanimously passed the motion.

The next order of business was "Stand by your Ad Complaints" presented by David Blackwood, SBE Policy Analyst. David Blackwood identified the first matter for Board consideration as the complaint against candidate Brenda Blackburn. David Blackwood informed the Board that on November 3, 2011, SBE was forwarded a complaint concerning an advertisement sponsored on behalf of Brenda Blackburn. The complaint alleges that Brenda Blackburn did not comply with state law requiring that candidates identify whether they have authorized the advertisement. David Blackwood stated that the candidate has been formally notified about the violation and that there was no response. David Blackwood recommended a two hundred dollar fine since this was a first time violation occurring within fourteen days of the election. Chairman Judd moved to uphold the staff recommendation. Vice-Chair Bowers seconded the motion and Chairman Judd asked if there were any public comments and with there being none the Board unanimously passed the motion.

David Blackwood identified the second matter for Board consideration as the complaint against candidate James Borland. David Blackwood informed the Board that on December 9, 2011, the State Board of Elections received a complaint concerning an advertisement paid for by James Borland. The complaint alleges that James Borland did not comply with state law requiring candidates identify whether they have authorized an advertisement. David Blackwood stated that the candidate has been formally notified about the violation and there was no response. David Blackwood recommended a two hundred dollar fine as this was a first time violation occurring within fourteen days of the violation. Chairman Judd inquired if the mailing with the letter contained a brochure with the required disclaimer. Mr. Blackwood said he was not aware of that. Chairman Judd said he was aware that the letter had the proper disclaimer. Vice-Chair Bowers asked if

96 the law required the disclaimer to be on each piece if the documents come together in a
97 packet. David Blackwood expressed that, while the statute does not specifically address
98 the issue, SBE's position is that it does meet the requirements of the statute. Chairman
99 Judd asked if there were any comments from the audience and what was the pleasure of
100 the Board. Vice-Chair Bowers commented that if the mailing met the satisfactory
101 requirement then there is no reason to be penalized for it. Vice-Chair Bowers moved to
102 not assess a fine against candidate James Borland. Secretary Palmer seconded the motion
103 and the Board unanimously passed the motion.

104 David Blackwood identified the third matter for Board consideration as the
105 complaint against candidate John Bowers. David Blackwood informed the Board that on
106 October 17, 2011, the State Board of Elections received a complaint concerning an
107 advertisement sponsored by John Bowers. The complaint alleges that John Bowers did
108 not comply with state law requiring that candidates identify whether they have authorized
109 an advertisement. David Blackwood stated that the candidate has been formally notified
110 about the violation and there was a response on March 19, 2012 by John Bowers. David
111 Blackwood informed the Board that John Bowers acknowledged the error and
112 apologized. David Blackwood recommended that the Board access a penalty of one
113 hundred dollars. Secretary Palmer moved to uphold the staff recommendation. Vice-
114 Chair Bowers seconded the motion and Chairman Judd asked if there were any public
115 comments and with there being none the Board unanimously passed the motion.

116 David Blackwood identified the fourth matter for Board consideration as the
117 complaint against candidate Preston Brown. David Blackwood informed the Board that
118 on October 18, 2011, the State Board of Elections received a complaint concerning a
119 series of advertisements sponsored by Preston Brown. David Blackwood stated that the
120 candidate has been formally notified about the violation and that there was no response.
121 The complaint alleges that Preston Brown did not comply with state law requiring that
122 candidates identify whether they have authorized an advertisement. David Blackwood
123 noted that several of the newspaper ads contained the disclaimer while eight others did
124 not. David Blackwood noted that staff recommendations are to assess a fine of eight
125 hundred dollars, one hundred dollars for each advertisement without the disclaimer. The
126 Board members expressed that the fine was somewhat excessive. Chairman Judd asked if
127 there were any other comments or questions. Andrew Shoukas approach the Board and

128 inquired if there were different ads run by this candidate or if the same ad ran on different
129 dates? David Blackwood reported that there were three different ads circulated on three
130 different days. Secretary Palmer moved to assess a fine of three hundred dollars which
131 totaled one hundred dollars for each different version of the advertisement. Vice-Chair
132 Bowers stated for the record that SBE should be consistent with similar violations in the
133 future and assess fines accordingly. Chairman Judd seconded the motion and the Board
134 unanimously passed the motion.

135 David Blackwood identified the fifth matter for Board consideration as the
136 complaint against candidate Andrew Gregory. David Blackwood informed the Board that
137 on January 9, 2012, the State Board of Elections received a complaint concerning a
138 website sponsored by Andrew Gregory. The complaint alleges that Mr. Gregory did not
139 comply with state law requiring that candidates identify whether they have authorized an
140 advertisement. David Blackwood stated that the candidate has been formally notified
141 about the violation and there was no response. David Blackwood noted that staff
142 recommendations are to assess a fine of one hundred dollars. Secretary Palmer moved to
143 uphold the staff recommendation. Vice-Chair Bowers seconded the motion and Chairman
144 Judd asked if there were any further public comments. Andrew Shoukas addressed the
145 Board members inquiring as to the timeliness of the penalty being assessed. Chairman
146 Judd stated that SBE and Board Members cannot react to a potential campaign violation
147 until they have been informed of the situation. Chairman Judd asked if there were any
148 other comments or questions and with there being none the Board unanimously passed
149 the motion.

150 David Blackwood identified the sixth matter for Board consideration as the
151 complaint against candidate Nancy Long. David Blackwood informed the Board that on
152 October 17, 2011, the State Board of Elections received a complaint concerning an
153 advertisement circulated on the behalf of Nancy Long. The complaint alleges that Nancy
154 Long did not comply with state law requiring that candidates identify whether they have
155 authorized an advertisement. David Blackwood stated that the candidate has been
156 formally notified about the violation and Nancy Long has communicated with SBE.
157 David Blackwood stated that Nancy Long acknowledges the error and admits to the
158 mistake. David Blackwood stated that Nancy Long submitted documentation in support
159 of her campaign literature being printed in error. David Blackwood noted that staff

160 recommendations are to assess a fine of one hundred dollars. Vice-Chair Bowers asked if
161 Nancy Long was present and with no response it was noted that Nancy Long was not
162 present at the SBE Board Meeting. Vice-Chair Bowers moved to uphold the staff
163 recommendation. Secretary Palmer seconded the motion and Chairman Judd asked if
164 there were any other comments or questions and with there being none the Board
165 unanimously passed the motion.

166 David Blackwood identified the seventh matter for Board consideration as the
167 complaint against candidate Chris McCarney. David Blackwood informed the Board that
168 on October 31, 2011, the State Board of Elections received a complaint concerning a
169 campaign flyer distributed on behalf of Chris McCarney. The complaint alleged that
170 Chris McCarney did not comply with state law requiring that candidates identify whether
171 they have authorized an advertisement. David Blackwood stated that the candidate has
172 been formally notified about the violation and there was no response. David Blackwood
173 reported that the staff reviewed the campaign literature and found no evidence of a
174 violation. Chairman Judd moved to accept staff recommendations to dismiss the
175 allegations. Secretary Palmer seconded the motion and Chairman Judd asked if there
176 were any other comments or questions and with there being none the Board unanimously
177 passed the motion.

178 David Blackwood identified the eighth matter for Board consideration as the
179 complaint against candidate Mark Milstead. David Blackwood informed the Board that
180 on October 28, 2011, the State Board of Elections received a complaint concerning an
181 advertisement run on behalf of Mark Milstead. The complaint alleges that Mark Milstead
182 did not comply with state law requiring that candidates identify whether they have
183 authorized an advertisement. David Blackwood stated that the candidate has been
184 formally notified about the violation and there was a response from Mark Miller
185 apologizing and that the errors were corrected. David Blackwood noted that staff
186 recommendation was to assess a fine of five hundred dollars. Vice-Chair Bowers
187 questioned the consistency of this fine. Vice-Chair Bowers moved that SBE access a
188 penalty of four hundred dollars. Secretary Palmer seconded the motion and Chairman
189 Judd asked if there were any other comments or questions and with there being none the
190 Board unanimously passed the motion.

191 David Blackwood identified the ninth matter for Board consideration as the
192 complaint against candidate Renee Parker. David Blackwood informed the Board that on
193 November 8, 2011, the State Board of Elections received a complaint concerning a
194 newspaper advertisement run on behalf of Renee Parker. The complaint alleged that
195 Renee Parker did not comply with state law requiring that candidates identify whether
196 they have authorized an advertisement. David Blackwood stated that the candidate has
197 been formally notified about the violation and there was no response. David Blackwood
198 noted that staff recommendations are to assess a fine of two hundred dollars. Secretary
199 Palmer moved to accept the staff recommendations. Vice-Chair Bowers seconded the
200 motion and Chairman Judd asked if there were any other comments or questions and with
201 there being none the Board unanimously passed the motion.

202 David Blackwood identified the tenth matter for Board consideration as the
203 complaint against candidate Andrew Pryor. David Blackwood informed the Board that on
204 November 4, 2011, the State Board of Elections received a complaint concerning a
205 newspaper advertisement run on behalf of Andrew Pryor. The complaint alleged that
206 Andrew Pryor did not comply with state law requiring that candidates identify whether
207 they have authorized an advertisement. David Blackwood noted that staff
208 recommendation was to access a fine of one hundred dollars. David Blackwood stated
209 that the candidate has been formally notified about the violation and a response was
210 received on March 19, 2012, confirming the time of the Board Meeting. Chairman Judd
211 inquired if the candidate was present. Andrew Pryor addressed the Board informing
212 Board Members that he was unaware of the violation until he received notice from SBE.
213 Andrew Pryor apologized for the oversight in his campaign ads. Secretary Palmer moved
214 to reduce the imposed fine to fifty dollars. Chairman Judd seconded the motion and asked
215 if there were any other comments or questions and with there being none the Board
216 unanimously passed the motion.

217 David Blackwood identified the eleventh matter for Board consideration as the
218 complaint against candidate Valdis Ronis. David Blackwood informed the Board that on
219 October 5, 2011, the State Board of Elections received a complaint concerning a
220 newspaper advertisement run on behalf of Valdis Ronis. The complaint alleged that
221 Valdis Ronis did not comply with state law requiring that candidates identify whether
222 they have authorized an advertisement. David Blackwood noted that staff

223 recommendations are to assess a fine of one hundred dollars. David Blackwood stated
224 that the candidate has been formally notified about the violation and there was a response
225 from the candidate's spouse. David Blackwood reports that Mrs. Ronis stated that the
226 literature was a private email sent to friends with the intent to vote. Chairman Judd and
227 Vice-Chair Bowers expressed that because the recipient list was not available, that there
228 was uncertainty in the level of distribution of this email. Vice-Chair Bowers moved to
229 not access the penalty. Secretary Palmer seconded the motion and Chairman Judd asked
230 if there were any questions or concerns and with there being none the Board unanimously
231 passed the motion.

232 David Blackwood identified the twelfth matter for Board consideration as the
233 complaint against candidate Anthony Spenser. David Blackwood informed the Board that
234 on November 14, 2011, the State Board of Elections received a complaint concerning a
235 series of advertisements run on behalf of Anthony Spencer. The complaint alleges that
236 Anthony Spencer did not comply with state law requiring that candidates identify
237 whether they have authorized an advertisement. David Blackwood stated that the
238 candidate has been formally notified about the violation and there was no response.
239 David Blackwood noted staff recommendation is that the candidate is not in violation of
240 the requirements. Secretary Palmer moved to accept the staff recommendation. Vice-
241 Chair Bowers seconded the motion and Chairman Judd asked if there were any questions
242 or concerns and with there being none the Board unanimously passed the motion.

243 David Blackwood identified the thirteenth matter for Board consideration as the
244 complaint against candidate Mike Timm. David Blackwood informed the Board that on
245 October 6, 2011, the State Board of Elections received a complaint concerning the
246 website of candidate Mike Timm. The complaint alleged that Mr. Timm did not comply
247 with state law requiring that candidates identify whether they have authorized an
248 advertisement. David Blackwood stated that the candidate has been formally notified
249 about the violation and that Mike Timm; acknowledged, corrected, and apologized for the
250 error. David Blackwood noted that staff recommendation was to assess a fine of one
251 hundred dollars. Secretary Palmer moved to accept staff recommendations. Vice-Chair
252 Bowers seconded the motion and Chairman Judd asked if there were any questions or
253 concerns and with there being none the Board unanimously passed the motion.

254 The next order of business was the requests to "Waive Campaign Finance Civil
255 Penalties Assessed". Chris Piper, Elections Services Manager, identified the first matter
256 for consideration as a request for waiver of civil penalties from David Cox. Chris Piper
257 informed the Board that David Cox is requesting a waiver or reduction of four hundred
258 dollars in penalties assessed for the late filing of required finance reports. Chris Piper
259 reported that communications between the campaign and VPAP provided by the
260 campaign show that VPAP provided the assistance prior to the deadline, but the candidate
261 did not file the report in a timely manner. Chris Piper reported that staff recommended
262 upholding all penalties assessed against the campaign except for the penalty for the report
263 due December 8, 2011, as an extension was granted due to issues beyond the filer's
264 control. Chris Piper noted the penalty should not have been assessed and will be
265 rescinded due to agency error. Secretary Palmer moved to adopt staff recommendations
266 and assess the fine of four hundred dollars. Vice-Chair Bowers seconded the motion and
267 Chairman Judd asked if there were any questions or comments and with there being none
268 the Board unanimously passed the motion.

269 Chris Piper identified the second consideration as a request for waiver of civil
270 penalties from Michael Gage, candidate for the Virginia House of Delegates. Chris Piper
271 informed the Board that Michael Gage is requesting the agency to waive or reduce the
272 penalties because he did not believe that he was notified in a timely manner that his
273 reports were overdue. Chris Piper noted that the committee was provided a link to SBE's
274 Campaign Finance Guidance and were aware of the requirement to file a final report.
275 Chris Piper reported that the total amount of the penalties due was eleven hundred
276 dollars. Chris Piper reported that three hundred dollars in penalties was assessed to the
277 campaign after the time Michael Gage filed the final report and those penalties have been
278 rescinded. Chris Piper reported that staff recommends upholding the remaining eight
279 hundred dollars of the assessed penalties. Secretary Palmer moved to adopt staff
280 recommendations and assess the fine of eight hundred dollars. Vice-Chair Bowers
281 seconded the motion and Chairman Judd asked if there were any questions or comments
282 and with there being none the Board unanimously passed the motion.

283 Chris Piper identified the third consideration as a request for waiver of civil
284 penalties from Ms. Schmidt, candidate for the Virginia House of Delegates. Chris Piper
285 informed the Board that Ms. Schmidt is requesting the agency to waive or reduce the

286 penalties because she had no knowledge that she had to report "No Activity". Chris Piper
287 noted that acknowledgements were sent on January 20, 2012 and March 7, 2012 by SBE
288 that stated reports are due even if the committee had "No Activity". Chris Piper reported
289 that staff recommended upholding all penalties, three hundred dollars, assessed against
290 the campaign because the candidate was properly informed that reports are due until the
291 committee files a final report even if there is "No Activity" to report. Secretary Palmer
292 moved to adopt staff recommendations and Vice-Chair Bowers seconded the motion.
293 Chairman Judd asked if there were any questions or comments and with there being none
294 the Board unanimously passed the motion.

295 Chris Piper identified the fourth consideration as a request for waiver of civil
296 penalties from Andrew Shoukas, candidate for the Virginia House of Delegates. Chris
297 Piper informed the Board that Andrew Shoukas is requesting the agency to waive or
298 reduce the penalties because he was unable to file the August 15, 2011 report in a timely
299 manner. Chris Piper noted that the extension was granted and all other reports have been
300 filed on time. Chris Piper reported staff recommends upholding the penalty assessed, one
301 hundred dollars, because SBE emailed the campaign on June 20, 2011 notifying them
302 that the reports were due. Chairman Judd inquired if the candidate was present and
303 Andrew Shoukas approached the Board. Andrew Shoukas informed the Board that when
304 he discovered he was late in his filing, he immediately filed the needed reports in attempt
305 to rectify the error. Andrew Shoukas added that his campaign neither spent nor raised
306 funds in support of his candidacy. Secretary Palmer moved to reduce the fine to fifty
307 dollars. Vice-Chair Bowers seconded the motion and Chairman Judd asked if there were
308 any questions or comments and with there being none the Board unanimously passed the
309 motion.

310 The next order of business was Request for Temporary Full-Time Status for the
311 General Registrars in Richmond and Mathews Counties. Deputy Riemer informed Board
312 Members that the Electoral Boards have submitted the required requests that are
313 authorized under Chapter 890, 2011 Acts of Assembly, Item 80(C). Deputy Riemer noted
314 that these acts authorized the State Board of Elections to approve temporary full-time
315 status to general registrars who, because of the size of the locality's population, are only
316 funded to work on a part-time status. Deputy Riemer asked that the requests be approved
317 from Richmond and Mathews Counties. Secretary Palmer moved to approve the requests

318 from the Electoral Boards of Richmond and Mathews Counties to grant temporary full-
319 time status to these two localities. Vice-Chair Bowers seconded the motion and Chairman
320 Judd asked if there were any questions or comments and with there being none the Board
321 unanimously approved the motion.

322 The next order of business was the Proposed Regulation Defining when Absentee
323 Ballot is Voted. Martha Brissette, SBE Policy Analyst, informed the Board Members that
324 SBE staff is requesting that the Board permit the proposed regulation to be posted to the
325 Virginia Regulatory Town Hall for public comment. Martha Brissette noted the period of
326 public comment would be April 9, 2012 thru April 30, 2012. Martha Brissette reported
327 that those public comments received would be presented at the May 3, 2012 Board
328 Meeting. Chairman Judd asked that Martha Brissette cite the language that is proposed.
329 Martha Brissette cited the proposed language: "An absentee voter who votes other than
330 in-person shall be deemed to have cast his ballot and voted at the moment he personally
331 delivers the ballot to the general registrar or electoral board or relinquishes control over
332 the ballot to the United States Postal Service or other authorized carrier for returning the
333 ballot as required by law." Vice-Chair Bowers moved that the Board request staff to
334 publish the proposed regulation for public comment through the Virginia Regulatory
335 Town Hall. Chairman Judd seconded the motion and asked if there were any additional
336 questions or concerns and with there being none the Board unanimously approved the
337 motion.

338 The next order of business was the Voting Equipment Undergoing Virginia
339 Certification Update provided by Susan Lee, Election Uniformity Manager. Susan Lee
340 reported to the Board that in preparation for the May 3, 2012 Board Meeting, SBE taff is
341 reviewing the program that provides state certification of voting equipment with the
342 intent to make modifications to the program. Susan Lee reported that currently, voting
343 equipment is undergoing certification. Susan Lee reported that on January 6, 2012
344 Election Systems and Software (ES&S) representatives presented to SBE their software
345 Unity 3.2.1.1 voting system for certification in Virginia. Susan Lee noted that those
346 reports would be provided at the May 3, 2012 Board Meeting. Susan Lee asked if there
347 were any questions or concerns and there were none. Susan Lee thanked Board Members
348 for their time.

349 The next order of business was the Adoption of the 2012 HAVA State Plan
350 presented by Edgardo Cortés. Edgardo Cortés presented the draft version of the Help
351 America Vote Act (HAVA) Plan to Board Members at the previous Board Meeting.
352 Edgardo Cortés noted that under the federal plan every state is required to have a plan in
353 place to receive federal funds. Edgardo Cortés stated that the Virginia State HAVA Plan
354 was last amended in 2006 and a committee of stakeholders met in December 2011 to
355 discuss the plan and submitted suggestions for revisions. Edgardo Cortés reported that the
356 plan was published for a 30 day public comment period with those comments submitted
357 for Board Members to review. Edgardo Cortés reported there is a proposed HAVA
358 Budget submitted that outlines the projected expenditures. Edgardo Cortés stated he is
359 requesting that the Board approve the Virginia HAVA State Plan and that if it is
360 approved it will be presented to the Election Assistance Commission for publication in
361 the Federal Registrar. Chairman Judd noted that all the comments for the Town Hall
362 review process were positive. Chairman Judd asked if there were any questions or
363 comments. Larry Haake, General Registrar from Chesterfield County, approached the
364 Board and expressed his approval for the plan stating that it recognizes the need to
365 support the elections community and requested the Board adopt the plan. Secretary
366 Palmer expressed his gratitude to the committee members for working on the plan and for
367 presenting the plan for implementation. Chairman Judd asked if there were any other
368 comments or questions. Carol Noggle, Legislative Coordinator for the Virginia League of
369 Women Voters, approached the Board and inquired if the HAVA plan was available
370 online and if comments were still permitted. Carol Noggle additionally requested a copy
371 of the HAVA State Plan. Edgardo Cortés stated that the plan is available on the SBE
372 website and that the official comment period is closed; however, comments are still
373 encouraged and can be submitted through the website. Chairman Judd asked if there
374 were any additional questions or concerns. Walt Latham, York County General
375 Registrar, extended his support for the HAVA plan and was pleased to read that an
376 emphasis had been placed on electronic voter registration. Walt Latham noted this
377 provides an additional level of security to the voter registration process information.

378 Chairman Judd then asked if there were any other questions or concerns related to
379 the Voting Equipment Undergoing Virginia Certification Update agenda item. Tyler
380 Lincks expressed his gratitude to Secretary Palmer and the key members of the SBE staff

381 who have been working on the process of certifying equipment. Tyler Lincks stated that
382 a piece of voting equipment had been certified by the Board and was not made to go
383 through the same process as the ES&S equipment. Mr. Lincks inquired if all voting
384 equipment systems moving forward would be subjected to the same testing standards and
385 scrutiny by SBE. Chairman Judd assured Tyler Lincks that there would be a level
386 playing field.

387 Chairman Judd asked if there were any other questions or concerns related to
388 approval of Virginia's 2012 HAVA State Plan and with there being none Chairman Judd
389 moved to adopt the 2012 HAVA Plan as presented. Secretary Palmer seconded the
390 motion and Chairman Judd asked if there were any additional questions or concerns and
391 with there being none the Board unanimously approved the motion.

392 The next order of business was the Revisions to the Petition of Qualified Voter
393 Forms. Matt Abell, Election Administrative Lead, presented the changes to the current
394 forms and noted that they are a result of the *Lux* decision and that the Circuit Court of
395 Appeals issued a final opinion in January 2012. Matt Abell reported that with Governor
396 McDonnell's approval of HB1133, which removes the eligibility requirement of the
397 circulator, the Petition of Qualified Voter Forms will need to be revised. Matt Abell noted
398 the change of residency requirements by the circulators has been applied to all
399 Commonwealth of Virginia petitions including the Referendum Petitions. Matt Abell
400 explained the individual changes to each of the forms and the change to the Affidavit that
401 the circulator must sign. Matt Abell notes the changes bring uniformity to the petitions
402 and bring the circulator affirmations within the boundaries of the Virginia Code. Matt
403 Abell asked the Board Members for approval of the changes demonstrated. Secretary
404 Palmer thanked the SBE staff for their efforts in revising these forms. Secretary Palmer
405 moved to adopt the changes to the Petition of Qualified Voter Forms as required by the
406 *Lux* decision. Vice-Chair Bowers seconded the motion and Chairman Judd asked if there
407 were any additional questions or concerns and with there being none the Board
408 unanimously approved the motion.

409 At 12:23PM Vice-Chair Bowers exited the State Board of Elections Board
410 Meeting.

411 The next order of business was the Material Omissions from Candidate and
412 Referendum Petitions. David Blackwood, SBE Policy Analyst, reported that the Virginia

413 General Assembly has amended the statutes and that SBE is proposing to publish the
414 proposed amended regulations for public comment through the Virginia Regulatory
415 Town Hall. David Blackwood reported that the proposed changes are a reflection of
416 HB1133 and address a separate issue of the petitions documents being printed on both
417 sides. Chairman Judd asked for further clarification on the material omissions from the
418 candidate and referendum petitions regulations, specifically regarding certain omissions
419 which the regulation considered non-material. Secretary Palmer cited that the only
420 changes at this point are those related to the *Lux* decision which HB1133 drew its
421 foundation. Secretary Palmer noted the current changes requested are procedural changes
422 and that the list of material omissions would be vetted, at a later date, to the election
423 community. Chairman Judd asked if there were any other questions or concerns. Deputy
424 Riemer stated that the purpose of this agenda item is to place the proposed changes on
425 Virginia Regulatory Town Hall for public comment. Deputy Riemer added that public
426 comments associated to the proposed changes would be brought to the May 3, 2012
427 Board Meeting for review and approval preceding a motion for adoption. Joshua Lief,
428 Senior Assistant Attorney General and SBE Counsel, advised Board Members that it is
429 suggested that the proposed regulations align with the injunction. Secretary Palmer
430 moved to direct the SBE staff to publish the proposed material omissions from the
431 candidate and referendum petitions on the Virginia Regulatory Town Hall for public
432 comment to reflect the changes promoted by *Lux* v. *Judd*. Chairman Judd seconded the
433 motion and inquired if there were any comments or questions; with there being none and
434 notation of a quorum being satisfied the Board unanimously passed the motion.

435 Chairman Judd asked if there was any other business to come before the Board.
436 Susan Lee, Elections Uniformity Manager, came before the Board to introduce David
437 Levine as the new Deputy General Registrar for the City of Richmond. Susan Lee also
438 introduced Gary Fox, SBE Voting Technology Coordinator. Chairman Judd asked if
439 there was any other business to come before the Board.

440 Walt Latham, York County General Registrar, approached the Board and inquired
441 about the status of preclearance of the Boards' previously adopted absentee ballot policy.
442 Walt Latham additionally inquired if the absentee ballot policy would be enforceable for
443 the June 2012 Elections. Martha Brissette, Policy Analyst, informed the Board that
444 preclearance for this policy is expected by June 2012. Walt Latham thanked the Board for

this information and noted that the training provided to the localities would be affected by these changes. Chairman Judd asked if there was any other business to come before the Board.

Robin Lind, Secretary of the Goochland Electoral Board, approached the Board and provided the Board Members with copies of the federal overseas voter absentee ballot envelope and the Virginia State Absentee Ballot Envelope B. Robin Lind informed the Board Members that there were variations between the two envelopes. Robin Lind expressed concerned that he had previously rejected a submitted absentee ballot because of a material omission while personally knowing the voter and knowing that it was an innocent error. Robin Lind provided the Board Members with suggested policy language that could change the outcome of this material omission in the future. The Board Members thanked Robin Lind for his time and effort and stated that they would take his input into consideration. Joshua Lief, Senior Assistant Attorney General and SBE Counsel, added that the differences in the examples that he provided the Board are established by the Code of Virginia and in order for changes to occur legislation would have to be presented to the General Assembly and passed. Robin Lind stated that if legislation was developed to support these suggested changes that he would be unconditionally supportive.

Chairman Judd asked if there was any other business to come before the Board for the Good of the Order and with there being none Chairman Judd made a motion to adjourn. Secretary Palmer seconded the motion and with a notation of a quorum being satisfied the Board unanimously passed the motion. The Board shall reconvene on May 3, 2012 at 2:00 PM in the General Assembly Building, House Room C. Chairman Judd asked for any further public comments. There being none, the meeting was adjourned at approximately 12:45PM.

Secretary

Chair

Vice-Chair