



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Tuesday, November 3, 2015
The Washington Building
Room B27
8:00AM

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

DATE: November 3, 2015
LOCATION: The Washington Building, Room B27
TIME: 8:00 a.m.

- I. CALL TO ORDER** *James B. Alcorn*
SBE Chair
- II. APPROVAL OF MINUTES** *SBE Board Members*
October 6, 2015
- III. COMMISSIONER'S REPORT** *Edgardo Cortés*
ELECT Commissioner
- IV. REPORT FROM LEGAL COUNSEL** *Anna Birkenheier*
SBE & ELECT
Legal Counsel
- V. NEW BUSINESS**
- A. General Elections** *SBE Board Members*
- VI. OTHER BUSINESS & PUBLIC COMMENT**
Next SBE Meeting-November 16 , 2015 @ 1pm
- VII. ADJOURNMENT**



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Call to Order

BOARD WORKING PAPERS



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Minutes Approval

October 6, 2015

BOARD WORKING PAPERS
SBE Board Members

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Tuesday, October 6,
4 2015. The meeting was held in the General Assembly Building, Richmond, Virginia –
5 Room D. In attendance, representing the State Board of Elections (SBE) was James
6 Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; and Singleton McAllister, Secretary.
7 Also in attendance, representing the Department of Elections (ELECT) was Edgardo
8 Cortés, Commissioner; Brooks Braun, ELECT Policy Analyst; and Rose Mansfield,
9 Clerk. Heather Hays Lockerman, Senior Assistant Attorney General and Counsel to SBE
10 and ELECT and Anna Birkenheier, Assistant Attorney General and Counsel to SBE and
11 ELECT attended. Chairman Alcorn called the meeting to order at 2:00PM. Secretary
12 McAllister departed the meeting at 6:20PM.

13 The first order of business was the approval of the Minutes from the State Board
14 of Elections Board Meeting held on September 1, 2015. Chairman Alcorn asked if Board
15 Members had any additions or corrections to the Board Meeting Minutes presented and
16 there were none. Secretary McAllister moved *to adopt the Minutes for the September 1,*
17 *2015 meeting.* Vice Chair Wheeler second the motion. The Board unanimously approved
18 the motion.

19 The second order of business was the Commissioner Report. Commissioner
20 Cortés stated that the electronic pollbook certification (EPB) process is occurring at the
21 ELECT offices. The Virginia Information Technologies Agency (VITA) has begun their
22 vulnerability testing on the systems submitted for certification. Commissioner Cortés
23 stated that ELECT provided to the localities reimbursements for accessibility voting
24 equipment for their central absentee voting precincts noting that 47 localities applied for
25 the resources and qualified for a total of reimbursement of \$165,000. Commissioner
26 Cortés stated that emergency requests for changing polling locations have been approved
27 by ELECT and the general registrar's are following their protocol for notifying their
28 voters of those changes.

29 Commissioner Cortés stated that there have been late candidate withdraws for the
30 November 3, 2015, election and withdraws occurred, after the ballots were printed.
31 Notices were sent with absentee ballots and posted and will be handed to voters on

32 Election Day. Commissioner Cortés stated that Mecklenburg County had a candidate
33 withdraw after four absentee ballots were cast and asked board members for guidance on
34 a resolve. Ms. Birkenheier stated that §24.2-612.1 states that the Board does have
35 authority to decide in the situation were a candidate withdraws. Chairman Alcorn stated
36 that since the locality had not printed the ballots to be utilized on Election Day the
37 candidate name, who withdrew late, will be removed from the ballot. Vice Chair Wheeler
38 moved *that Mecklenburg County update their ballots to reflect the removal of the*
39 *candidate from the school board office for in-person voting.* Secretary McAllister
40 seconded the motion and the Board unanimously approved the motion.

41 The next order of business was the Recount Standards for final approval presented
42 by Edgardo Cortés, ELECT Commissioner. Commissioner Cortés stated that the recount
43 document has been removed of redundant information and now presents with clarity on
44 the procedures of how to conduct a recount. Commissioner Cortés acknowledged the
45 efforts of Myron McClees, ELECT Policy Analyst for his efforts on the presented
46 materials. Commissioner Cortés stated that the information was originally presented at
47 the September 1, 2015, SBE meeting to members and the objective is to have the
48 document adopted, at this meeting, to be available for the November 3, 2015, election.

49 Vice Chair Wheeler asked if the document could be sent to the general registrars
50 for review prior to the election and before the Board members take a vote on adoption of
51 the document. Commissioner Cortés stated that the document was posted on the website
52 prior to the September 1, 2015, meeting and has remained for available for review.
53 Chairman Alcorn inquired if comments had been received by ELECT from the elections
54 community. Commissioner Cortés stated that ELECT did not receive comments
55 regarding the proposed recount document. Secretary McAllister noted that the process of
56 conducting a recount is important, and a review of the document indicates it is a good
57 document, however: it is always important to have the review of those individuals who
58 will be utilizing the materials in the event of a recount. Vice Chair Wheeler stated that
59 notice should be sent to the general registrars requesting a review of the document with a
60 firm deadline for review established. Chairman Alcorn confirmed with the clerk and the
61 commissioner that the materials have been posted for review prior to the meeting.
62 Chairman Alcorn stated that comments have not been received and a delay would lead to

63 a period of uncertainty regarding procedures for recounts. Commissioner Cortés review
64 the posting procedures for all board materials and the time frames for which materials are
65 available for review. Public comments were received. Vice Chair Wheeler moved *that a*
66 *directive be sent to all general registrar’s and electoral board members stating that the*
67 *recount standards have been presented to the State Board of Elections and have been*
68 *reviewed and posted on the website and if you would like to make comments, please do*
69 *so, because: the Board members will take a final vote at the next appropriate board*
70 *meeting.* Vice Chair McAllister second the motion. A voice roll vote was taken:
71 Chairman Alcorn: Nay, Vice Chair Wheeler: Yae, and Secretary McAllister: Yae. The
72 motion passed two to one.

73 The next order of business was the Hand Count Standards for Final Approval
74 presented by Commissioner Cortés. Commissioner Cortés stated that issue of hand
75 counting ballots has become more frequent with localities transitioning to paper ballots
76 after the WinVote decertification. Commissioner Cortés reviewed the Hand Count
77 document provided in the Board Working Papers, stating that the document has not been
78 revised since 2007. ELECT has revised the document to increase legibility and ease of
79 use. Commissioner Cortés stated that the materials included an example of a ballot where
80 the voter has written in the name of an individual whose name is printed on the ballot and
81 marked that same candidates name as their selection. This scenario has occurred and has
82 come into question during recent recounts and is included in the example of ballots that
83 would be counted. Commissioner Cortés stated that this example requires a policy
84 decision by board members.

85 Chairman Alcorn stated that it is important to be clear on procedures to be utilized
86 in a recount and the direction that localities are provided during hand counts on Election
87 Day. Chairman Alcorn stated that *Code* does not state how to handle the example
88 presented. Vice Chair Wheeler stated that it is important to follow the *Code*, §24.2-644
89 regarding write-ins. Vice Chair Wheeler stated that the *Code* states that no ballot shall
90 be counted when the voter writes-in the name of a person that is printed on the ballot.
91 Commissioner Cortés explained the different ways the example provided would be
92 handled during a hand count or recount. ELECT staff and the Board Members reviewed
93 the different examples in the hand count document and the particulars associated to each

94 of the examples in detail. Secretary McAllister stated that it is important to follow the
95 *Code* and the intent of the voter and it is important that the Board Members provide solid
96 guidance.

97 Secretary McAllister inquired about the incident in 2013, concerning Alexandria
98 and Chesapeake. Commissioner Cortés explained that those localities do not have
99 equipment, which in a recount situation, will count only the race in question which is a
100 *Code* requirement. In this scenario, a hand count must occur during the recount.
101 Commissioner Cortés stated that the issue of equipment limitations is not a new topic but
102 rather identifying the situation so that in the event of a recount that requires a handcount
103 the document presented could provide guidance. Commissioner Cortés stated that
104 anytime a handcount would occur the recount document would be utilized pending board
105 approval. The Board received input from attending general registrars. Chairman Alcorn
106 asked if there were public comments and comments were received by the Board.

107 Chairman Alcorn moved *that the last ballot sample on page six of the Hand*
108 *Count Standards proposed document be stricken from the document and directed ELECT*
109 *to letter and number each of the examples.* Vice Chair Wheeler seconded the motion and
110 the Board unanimously approved the motion. Chairman Alcorn moved *that the amended*
111 *Hand Count Standards document be adopted for use in the Commonwealth.* Secretary
112 McAllister seconded the motion and the Board unanimously approved the motion.
113 Chairman Alcorn stated that the ballot sample on page six should be presented to board
114 members at a future date.

115 The next order of business was a Pre-Election Update presented by Commissioner
116 Cortés. Commissioner Cortés stated that absentee voting has begun for the November 3,
117 2015, general election. Commissioner Cortés stated that two localities experienced an
118 issue relating to their absentee ballots and the general registrars of those localities have
119 connected with those voters to inform them of the resolve. Commissioner Cortés
120 explained a map provided in the Board Working Papers that identifies the localities that
121 are in transition either with a new registrar or are currently operating without a general
122 registrar. ELECT has been working with those localities to ensure that they are prepared
123 for the November election by providing training and support. ELECT will be offering a
124 one day training event for those registrars on October 22, 2015, with a focus of Election

125 Day issues. Commissioner Cortés stated that ELECT has been working with our Election
126 Day partners; Virginia State Police, Capitol Police, Virginia Department of
127 Transportation, and The Department of Mines of Minerals (Power Companies). Chairman
128 Alcorn asked about the two localities that had issues with the absentee ballots and asked
129 that the two associated electoral boards explain to SBE the particulars of their incident.
130 Commissioner Cortés stated that the two localities with absentee ballot issues were
131 Winchester City and Virginia Beach City. Chairman Alcorn moved *that Winchester City
132 and Virginia Beach City provide information to SBE concerning the causes of not
133 meeting the statutory requirements for sending absentee ballots and for providing
134 information for their plan to be proactive in the future.* Vice Chair Wheeler seconded the
135 motion and the Board unanimously approved the motion.

136 The next order of business was the Protocol for handling Campaign Finance
137 Complaints presented by Brooks Braun, ELECT Policy Analyst. Mr. Braun presented a
138 power-point presentation on the subject matter and explained the basics of campaign
139 finance complaints and how they are received by ELECT and when they are presented to
140 the Board. Mr. Braun explained that the Board approves campaign finance forms, hears
141 appeals when penalties have been assessed, and has the ability to extend campaign filling
142 deadlines. Mr. Braun explained the nuances of the fines and how they are accessed.
143 Board Members exchanged questions and answers regarding the particulars of campaign
144 finance. Mr. Braun explained that the third party complaints are directed to the local
145 commonwealth attorney under the authority of §24.2-1019. Mr. Braun explained the
146 frequency of complaints received by ELECT. Mr. Braun stated that it has been a long
147 standing policy of the Board to hear complaints after the election as the Board historically
148 does not want to be involved in any election contests. Mr. Braun explained the procedure
149 for conducting a hearing for campaign complaints. Mr. Braun asked if the Board
150 Members had any questions.

151 Secretary McAllister stated that the option to hear complaints before an election
152 should be a decision that the current board members can decide and should be
153 considered. Chairman Alcorn stated that balancing the need to be responsive to
154 complaints and maintaining a non-partisan approach would require some discussion
155 among board members and a decision on future actions. Chairman Alcorn stated that the

156 Board Members will revisit this concern at a future meeting. Secretary McAllister stated
157 that researching the best practices of other state election boards could provide in-sight to
158 future handling of complaints by SBE. Vice Chair Wheeler suggested that an approach to
159 hearing complaints prior to an election would be to receive the details of the complaint
160 with the name(s) redacted. Chairman Alcorn directed Mr. Braun to send the members the
161 complaints, with the names redacted, to the members and stated that there is a desire to
162 review the entire process by SBE. Chairman Alcorn asked that some historical data be
163 gathered and a data base be established to handle future complaints.

164 The next order of business was the Request for Full-Time Status for Bath and
165 King & Queen Counties presented by Commissioner Cortés. Commissioner Cortés stated
166 that the Virginia Budget authorizes and funds general registrars with a population in most
167 counties under 10,000 and cities under 7,500 to work on a part-time basis for most of the
168 year. The budget does provide funding for the registrars to be compensated to work full-
169 time for the months surrounding each year's May General Election (March through
170 May), the Budget does not account for other elections, including local elections and
171 primaries. The request from the Bath County Electoral Board is for the period of January
172 1, 2016 through April 30, 2016. The request from the King & Queen Electoral Board is
173 for the period of January 1, 2016 through February 29, 2016. Chairman Alcorn moved
174 *that the Board approve the requests from the Electoral Boards of the Counties of Bath*
175 *and King & Queen.* Vice Chair Wheeler seconded the motion. Chairman Alcorn asked if
176 there were any public comments and there was none. The Board unanimously approved
177 the motion.

178 The next order of business was the Other Business and Public Comment
179 period. Vice Chair Wheeler stated that she received numerous communications
180 regarding the use of electronic typed names on absentee ballot requests. Vice Chair
181 Wheeler stated that she was concerned about this issue that SBE reviewed and
182 approved in May, 2015. Chairman Alcorn stated that the Board should not take action
183 on this issue, this close to the election, without listing the item on the agenda, and or
184 without given public notice. Secretary McAllister stated that she concurred about not
185 taken any action for the same reasons cited by the Chairman. SBE discussed the
186 particulars of this subject matter and stated that the subject should be revisited at a

187 future meeting. Commissioner Cortés stated that ELECT has been following the
188 directives given by the Board since May, 2015. Commissioner Cortés stated that
189 ELECT has not been notified or been made aware of any situation were an electronic
190 absentee ballot application has been submitted with the intent of fraud. Commissioner
191 Cortés stated that making any changes half-way through the absentee ballot period
192 would not be responsible. Chairman Alcorn asked if there were any public comments.
193 General Public comments were received by the Board.

194 Discussion returned to the Board Members regarding electronic signatures on
195 absentee ballot applications. Commissioner Cortés reviewed the requirements for
196 processing an absentee application electronically and stated that the process that is in
197 place for verifying electronic absentee ballot requests is functioning. Commissioner
198 Cortés stated that ELECT was currently working to provide an online absentee ballot
199 application process utilizing the ELECT website. Vice Chair Wheeler stated that a
200 resolution to the typed signature question should occur at this board meeting.
201 Chairman Alcorn stated that the process could be improved; however I am concerned
202 about enacting any changes today without input from the elections community.
203 Commissioner Cortés stated that ELECT will present information at a post-election
204 SBE meeting regarding suggested changes to the electronic absentee application
205 request program/process. Board members welcomed the presentation of future
206 information from ELECT. Chairman Alcorn asked if there were additional comments
207 and there were none.

208 Vice Chair Wheeler moved *that the Board adjourn*. Chairman Alcorn seconded
209 the motion and without further comment the Board voted unanimously to adjourn. The
210 meeting was adjourned at approximately 7:40PM.

211 The Board shall reconvene on November 3, 2015 at 8:00AM in the Washington
212 Building, 1100 Bank Street, Room B27, Richmond, Virginia 23219.

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Secretary

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Chair

Vice Chair

DRAFT



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Commissioner's Report

BOARD WORKING PAPERS
Edgardo Cortés
Commissioner
Department of Elections



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Legal Report

BOARD WORKING PAPERS
Anna Birkenheier
Assistant Attorney General



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New Business

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General Elections November 3, 2015

BOARD WORKING PAPERS
SBE Board Members



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Other Business & Public Comment

BOARD WORKING PAPERS



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Adjournment

BOARD WORKING PAPERS



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8:00AM

SBE Board Working Papers
Prepared by Rose Mansfield
SBE Clerk