



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Sara Ward

Complainants: Patty Carpenter

Background: On October 16, 2015, Ms. Carpenter e-mailed the general registrar of Chesterfield County, Larry Haake, a complaint and PDF scan regarding two items being distributed by Vote Sara Ward, an email and a flyer, which omitted the necessary disclosures. On October 20, 2015 Ms. Carpenter emailed a second complaint to Mr. Haake, this time regarding a different e-mail sent by Vote Sara Ward. Mr. Haake forwarded these complaints and accompanying evidence to me. The emails and PDF are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”



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§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement ‘Paid for by _____ [Name of sponsor]’ may be replaced by the statement ‘Authorized by _____ [Name of sponsor].’

§ 24.2-955.3(A) provides that “Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”

§ 24.2-955.3(E) provides that “It shall not be deemed a violation of this chapter if the contents of the disclosure legend or statement convey the required information.”

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an “advertisement” as defined by § 24.2-955.1. The definition of “advertisement” requires the communication be an “expenditure” according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is “for the purpose of expressly advocating the election or defeat of a clearly identified candidate.” Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as “express advocacy”. Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “reject,” or some variation thereof. These are the so called “magic words.”

The communications put out by Vote Sara Ward contain the magic words “Sara Ward for Board of Supervisors” and therefore qualify as express advocacy. These also appear to be communications for which Vote Sara Ward paid something of value and are therefore an expenditures under § 24.2-945.1. Furthermore, these communications (a pamphlet and electronic mails) fall squarely within the definition of print media and therefore qualify as advertisements under § 24.2-955.1. Because these communications are advertisements falling within the scope of the Stand by Your Ad law provided in § 24.2-955, they are required to contain disclosure statements.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement “Paid for by _____ [Name of sponsor],” or “Authorized by _____ [Name of sponsor]” for an advertisement that mentions no other candidate. Disclosures must be “displayed in a conspicuous manner in a minimum font size of seven point.” However, in addition to these requirements, § 24.2-955.3(E) provides that “It shall not be



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deemed a violation of this chapter if the contents of the disclosure legend or statement convey the required information.”

The print media advertisements put out by the Vote Sara Ward campaign do not contain any disclosure statements indicating who “paid for” or “authorized” them. The email sent on September 17, 2015 contains no disclosure statement at all. However, the pamphlet and the email sent on September 7, 2015 both bear the legend “sponsored by Vote Sara Ward.” The phrase “sponsored by Sara Ward” seems to convey the same information as “paid for by Sara Ward” or “authorized by Sara Ward” would.

Conclusion: Because they are in substantial compliance, the pamphlet and the email of September 7, 2015 should not be considered to have been in violation of Stand by Your Ad. However, Vote Sara Ward has failed to properly comply with Stand by Your Ad in regards to the print media advertisements emailed on September 17, 2015.

Staff Recommendations: The State Board should find that Vote Sara Ward has violated the provisions of Stand by Your Ad and should fine her campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: E-mail

From: Haake, Lawrence <HaakeL@chesterfield.gov> Sent: Fri 10/16/2015 11:11 AM
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Happy Labor Day!

Message Sara Ward Handout Piece scan0001.pdf (2 MB)

From: Patricia Carpenter [mailto:patricia.carpenter20@gmail.com]
Sent: Friday, October 16, 2015 10:31 AM
To: Chesterfield Elections
Subject: FW: Happy Labor Day!

Larry:

I hope this finds you well with the election just around the corner!

I wanted to bring to your attention that there have been a number of occasions that Sara Ward, running for the BOS, has not put disclaimers on literature, signage, email blasts, etc...two examples are attached.

I will forward additional examples but wanted to make sure your office was aware of this.

Please feel free to contact me if you have questions.

Thanks,
Patty Carpenter

Patricia M. Carpenter
804-651-6070

"A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the equality of his actions and the integrity of his intent." —Douglas MacArthur

From: Haake, Lawrence <HaakeL@chesterfield.gov> Sent: Tue 10/20/2015 11:54 AM
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Education Endorsement

From: Patricia Carpenter [mailto:patricia.carpenter20@gmail.com]
Sent: Tuesday, October 20, 2015 11:49
To: Haake, Lawrence
Subject: FW: Education Endorsement

Larry:

Here is another one that was sent later.

I didn't know who/where to send this at the state.

Thanks,
Patty Carpenter

Patricia M. Carpenter
804-651-6070

"A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the equality of his actions and the integrity of his intent." —Douglas MacArthur



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Appendix B: Evidence

VOTE TUESDAY NOV. 3RD



The Chesterfield Observer reports that Ward has "... twice been recognized with awards for distinguished public service."

**SARA
WARD**
for
**BOARD
OF SUPERVISORS**

MIDLOTHIAN DISTRICT

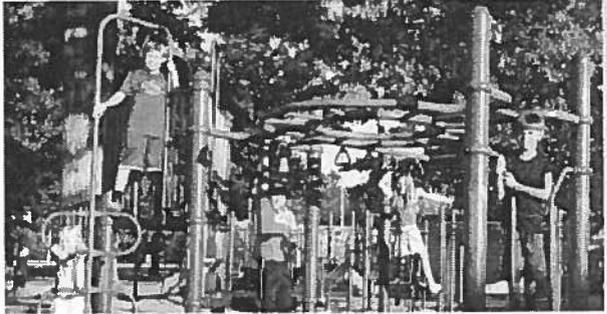
YOUR VOTE COUNTS

Find us on 

WARD4BOARD.COM

Sponsored by Vote Sara Ward

VOTE TUESDAY NOV. 3RD



"Ward co-chaired fundraising committee to expand the too small playground at J.B. Watkins Elementary School"

Dear Midlothian Resident,

Do you believe that local elections are about issues that have the greatest impact on our day to day lives? I do. As a candidate for the Board of Supervisors, I want a bright future for Midlothian's children and an outstanding quality of life for all of Chesterfield's citizens. I believe these are ways that we can be certain Midlothian is a beloved community.

Education - Investing in a quality education provides the cornerstone of a thriving community.

Responsible Development - Pursuing planning policies that keep Midlothian moving forward will protect Chesterfield's quality of life.

Public Safety - Building a new Midlothian Fire Station will accommodate growth and maintain a high standard of safety.

Citizen Participation - Creating a convenient platform that allows citizens to get involved and stay informed will result in a community reflective of it citizens.

If you agree, I invite you to get involved with my campaign, and vote for me on November 3rd.

Sincerely,
Sara Ward

Find us on 

★ **WARD4BOARD.COM**

Sponsored by Vote Sara Ward



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----- Forwarded message -----
From: "Vote Sara Ward" <sarajohnsonward@ymail.com>
Date: Sep 7, 2015 8:59 AM
Subject: Happy Labor Day!
To: <emily.blatt.11@cmu.edu>
Cc:

Your Candidate - Your Community



HAPPY

Labor Day

School Starts Tomorrow!



1100 Bank Street
Washington Building - First Floor
Richmond, VA 23219-3947
www.sbe.virginia.gov
info@sbe.virginia.gov

Telephone: (804) 864-8901
Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194



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Photograph by Lewis Hine, 1908-1912

"The first and continuing argument for the curtailment of working hours and the raising of the minimum age was that education was necessary in a democracy and working children could not attend school."

— Grace Abbott

Did you know?

- The first Labor Day was celebrated on Sept. 5, 1882 in New York City.
- In 1894, President Grover Cleveland and Congress made Labor Day an official holiday.
- In the late 1800's, Americans worked 12 hour days, 7 days a week, and children as young as 5 years old worked in factories.
- PTA began lobbying against child labor in 1909.

Sara has advocated for EpiPens in schools, SOL reform, smaller class sizes, full funding of the Standards of Quality, improved teacher pay, and overcrowding solutions before state and local government officials.

See you at Urban Farmhouse on Thursday morning!

[Visit Website](#)

Vote Sara Ward | P.O. Box 1476, Midlothian, VA 23112 |
sarajohnsonward@vmail.com | www.Ward4Board.com

Like Sara Ward4Board
STAY CONNECTED:



[Forward this email](#)

SafeUnsubscribe

This email was sent to emily.blatt.11@anu.edu by sarajohnsonward@vmail.com
[Update Profile/Email Address](#) Rapid removal with [SafeUnsubscribe™](#) [About our service provider.](#)

Constant Contact
Try it FREE today

Vote Sara Ward 15913 Swindon Court Midlothian VA 23112



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From: "Vote Sara Ward" <sarajohnsonward@vmail.com>
Date: Sep 17, 2015 11:18 PM
Subject: Education Endorsement
To: <emily.blatt.11@vcu.edu>
Cc:



WARD 4 BOARD ANNOUNCEMENT!

Education Endorsement

I am honored to announce that the Chesterfield Education Association is supporting my campaign for the Midlothian seat on the Board of Supervisors.

I am humbled to be selected to serve the teachers of Chesterfield County. CCPS teachers are dedicated public employees who make our school system work and impart daily guidance, inspiration, and knowledge to Chesterfield's children.

To the teachers, thank you for your service.



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To the teachers, thank you for your service.



The CEA is an advocacy organization for employees of the Chesterfield County Public School system (Virginia).
[CEA](#)

Know someone else who would love this?

[FORWARD](#)

Not yet signed up to receive our offers?

[SIGN UP](#)

Check us out on Social Media!

[Like us on Facebook](#)

[Follow us on twitter](#)

Get Involved and Vote Ward4Board!
www.Ward4Board.com

Vote Sara Ward/ P.O. Box 1476/ Midlothian, VA 23113
Your Candidate Your Community

[Forward this email](#)

[SafeUnsubscribe](#)

This email was sent to [am@lydiam117@mail.com](#) by [sarah@ceastudent.com](#)
[Unsubscribe](#) [Update Email Address](#) [Report Problem with This Message](#) [About Our Privacy Policy](#)



Sponsored by Vote Sara Ward P.O. Box 1476 Midlothian VA 23113



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Friends of Mike McMenamin

Complainants: Jack Zetkolic and Federico E. Cura

Background: On October 27, 2015, Mr. Zetkolic sent me a complaint about a phone call he and Mr. Cura received, which omitted the necessary disclosures. Mr. Zetkolic provided a letter, signed by himself and Mr. Cura, which provides the details of the call. In the letter, Mr. Zetkolic and Mr. Cura accuse Mike McMenamin of sponsoring the anonymous phone calls. The email and letter are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-945.1 defines “campaign telephone calls” as “a series of telephone calls, electronic or otherwise, made (i) to 25 or more telephone numbers in the Commonwealth, (ii) during the 180 days before a general or special election or during the 90 days before a primary or other political party nominating event, (iii) conveying or soliciting information relating to any candidate or political party participating in the election, primary or other nominating event, and (iv) under an agreement to compensate the telephone callers.”

§ 24.2-959 makes it “unlawful for any candidate or candidate campaign committee to make campaign telephone calls without disclosing, before the conclusion of each telephone call, information to identify the candidate or candidate campaign committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the telephone call shall disclose the name of the candidate.”

§ 24.2-955.3(C) provides that “Any person violating Article 5 [Campaign Telephone Call Requirements] of this chapter shall be subject to a civil penalty not to exceed \$ 2,500; and in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. A violation of the provisions of Article 5 of this chapter shall not void any election.”



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Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-959 requires the communication to be a “campaign telephone call” as defined by § 24.2-955.1 (see above).

According to the letter submitted by Mr. Zetkulic and Mr. Cura, they both “suspect” that the phone call was made to more than 25 people. However, absent their suspicion there are only two confirmed cases of persons who heard this call. Furthermore, other than the mention of the “push-pull” nature of the calls, nothing suggests that the callers were “conveying or soliciting information relating to any candidate or political party participating in the election.” And while we may be able to infer that these telephone calls were paid for, the only thing that we seem to know for sure was that the phone calls were made within the 180 days before the election.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether a telephone call within the scope of that law contains the appropriate disclosure. If we assume that Mr. Zetkulic and Mr. Cura are being truthful and listened to the phone call all the way to the end, then we can conclude that there was in fact no disclosure on the phone call.

Even if we had at this point concluded that campaign telephone calls were made and that those telephone calls lacked the appropriate disclosure, we would still have no evidence that these telephone calls were made at the behest of Mr. McMenemy.

Conclusion: There is not enough information present to conclude much of anything about the phone calls in question.

Staff Recommendations: No recommendation.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(C) provides that “Any person violating Article 5 (§ 24.2-959 et seq.) of this chapter shall be subject to a civil penalty not to exceed \$ 2,500; and in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. A violation of the provisions of Article 5 of this chapter shall not void any election. “



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Appendix A: Email

From: Jack Zetkalic <jmz3316@gmail.com> Sent: Tue 10/27/2015 1:10 PM
To: Braun, Brooks (ELECT)
Cc: Kip Malinosky; Federico E Cura
Subject: Complaint About Candidate-Affiliated Polling Call

 Message  VA_Dept_of_Elections_Complaint[1].pdf (490 KB)

Dear Mr. Braun:

Please see attached my complaint about a candidate-affiliated polling call that I and many other Arlington residents received earlier this month. As noted in the complaint, the caller did not properly identify his organization, even after being asked to do so.

The video referred to will come to you in a separate email attachment.

Thanks very much for your attention to this important matter.

Jack Zetkalic
3316 2nd Road North, Arlington, VA 22201
703-516-0024 (h)
571-214-9011 (m)



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Appendix B: Letter

Virginia Department of Elections
Washington Building
1100 Bank Street, First Floor
Richmond, VA 23219
Attention: Mr. Brooks Braun
Brooks.Braun@elections.virginia.gov

CC: Kip Malinosky, Chair of the Arlington Democrats

October 27, 2015

Re: Report of Potential Violations of Virginia Code §§ 24.2-959 or -959.1

Dear Mr. Braun:

This letter shall serve as a complaint to the Virginia Department of Elections, as provided in Section 15.1 of the Department's Summary of Laws and Policies, Candidate Campaign Committees, reporting potential political advertisement violations.

Under Virginia Code §§ 24.2-959 and -959.1, all campaign telephone calls must include the name of the candidate, committee or sponsor who authorized and paid for the calls.

On Tuesday, October 6, 2015, many residents of Arlington County received telephone calls that included a survey and questions on the Arlington County Board race in the upcoming November 3, 2015 General Election. Based on the push-poll nature of the questions, and the way they were articulated, we suspect that Michael T. McMenemy, a candidate for County Board, was responsible for these calls conveying and soliciting information relating to his candidacy in the November 3 General Election. We suspect such calls were made to more than 25 telephone numbers in Arlington County and were, almost certainly, made by paid callers.

The undersigned listened to the entire call, and there was never a disclosure statement indicating who authorized or paid for these campaign calls. One of the undersigned, Jack M. Zetkovic, asked who paid for the call and the caller hung up. The other individual co-signing this complaint, Federico E. Cura, specifically asked the caller to identify himself or herself, and who had paid for the call, and the caller refused to answer the question.

The telephone number responsible for both of these calls, though other numbers could have possibly also been used in other calls, is (804) 293-8064, based out of Chesterfield, Virginia. When one calls that number back, a recording says that the call "was on local political issues, and was not a sales call." Also attached to the complaint via email is a video showing this. The recording does not identify the



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original caller or who paid for the call, which we believe also potentially constitutes a violation under §§ 24.2-959 or -959.1.

We hope the Department will conduct a thorough and expedited investigation, and that, if a violation is found, a \$2,500 penalty will be assessed as provided in the Code and Department guidance.

Please let us know if you need additional information or sworn statements. Contact information for each of the complainants is listed below.

Thank you for your attention to this important matter.

Sincerely,

Jack M. Zetkovic
3316 2nd Rd N
Arlington, VA 22201
E-mail: jmz3316@gmail.com
Phone: (703) 516-0024

Federico E. Cura
1004 N Daniel St
Arlington, VA 22201
Email: fedecura@gmail.com
Phone: (202) 841-2749



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Friends of Monique Miles

Complainants: Holly Wallace

Background: On October 1, 9, and 15, 2015, Ms. Wallace e-mailed me PDF copies of the Alexandria Times that, on three separate publication dates, contained advertisements for Ms. Miles, which omitted the necessary disclosures. Emails and photos are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”

§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement ‘Paid



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for by _____ [Name of sponsor]' may be replaced by the statement 'Authorized by _____ [Name of sponsor].'

§ 24.2-955.3 provides that "Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000."

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an "advertisement" as defined by § 24.2-955.1. The definition of "advertisement" requires the communication be an "expenditure" according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is "for the purpose of expressly advocating the election or defeat of a clearly identified candidate." Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as "express advocacy". Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject," or some variation thereof. These are the so called "magic words."

The communications put out by the Miles campaign contain the magic words "Miles for City Council" and therefore qualify as express advocacy. They also appear to be communications for which the Miles campaign paid something of value and are therefore expenditures under § 24.2-945.1. Furthermore, these communications (messages in a newspaper) fall squarely within the definition of print media and therefore qualify as advertisements under § 24.2-955.1. Because these communications are advertisements falling within the scope of the Stand by Your Ad law provided in § 24.2-955, they are required to contain disclosure statements.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement "Paid for by _____ [Name of sponsor]," or "Authorized by _____ [Name of sponsor]" for an advertisement that mentions no other candidate. Disclosures must be "displayed in a conspicuous manner in a minimum font size of seven point."

The print media advertisements put out by the Miles campaign do not contain any disclosure statements indicating who paid for or authorized them.

Conclusion: Friends of Monique Miles has failed to properly comply with Stand by Your Ad in regards to the print media advertisements at issue.



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Staff Recommendations: The State Board should find that Friends of Monique Miles has violated the provisions of Stand by Your Ad and should fine the campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: E-mails

From: Holly Wallace <hjw@radixil.com> Sent: Thu 10/1/2015 5:17 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: Campaign Advertising Violation -- Alexandria city Complaints # 6, 7, 8

Message 10_01_2015-Alex_Times_FinalWeb pages 13 -14-15.zip (13 MB)

Mr. Braun,

I understand from Mr. Cortez that you are in charge of campaign advertising violations.

The attached Alexandria Times contains three advertisements from Alexandria City Council candidates with no authorization or "paid by" lines.
Page 13 – Bob Wood
Page 14 – Townsend Van Fleet
Page 15 – Monique Miles

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591

From: Holly Wallace <hjw@radixil.com> Sent: Fri 10/9/2015 3:07 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: Campaign Advertising Violation -- Alexandria city Complaints # 10 and 11 and 12

Message 10_08_2015-Alex_Times_Final-Web Pages 5-9-10.pdf (8 MB)

Mr. Braun,

Attached are further instances of lack of authorization lines in an Alexandria City Council candidates advertising:

Alexandria Times 10-8-15:
Monique Miles Page 5
Bob Wood Page 9
Townsend Van Fleet Page 10

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591

From: Holly Wallace <hjw@radixil.com> Sent: Thu 10/15/2015 2:56 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Campaign Advertising Violation -- Alexandria city Complaints # 13,14,15

Message 10_15_2015-Alex_Times_Final-Web.pdf (8 MB)

Mr. Braun,

Attached are further instances of lack of authorization lines in an Alexandria City Council candidates advertising:

Alexandria Times 10-15-15:
Monique Miles Ad, Page 10
Bob Wood, Page 13
Townsend Van Fleet, Page 17

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591



Appendix B: Evidence

WWW.ALEXTIMES.COM

OCTOBER 1, 2015 | 15

“I’ve been on varsity three years and we’ve never had a season like this. Going into the season I really wasn’t expecting this, but so far, we’ve been playing great. We haven’t let down and have come back from some really tough [deficits]. Against Lake Braddock we were down 1-0 going into the second half and we came back and won [2-1]. I think our team’s just got a lot of heart and we want to win.”

- Alex Milliken, T.C. Williams Field Hockey player



General T.C. Williams Field Hockey players wait for a play to develop in their game against Alexandria. The Titans went on to win 3-0, and at the time of writing have a six-game winning streak.

TITANS FROM 14

season, led by goalkeeper Sarah Lockman. With 10 seniors on the roster, there is plenty of experience, and that has stood the Titans in good stead.

“I’ve been on varsity three years, and we’ve never had a season like this,” said Milliken. “Going into the season I really wasn’t expecting this, but so far, we’ve been playing great. We haven’t let down and have come back from some really tough [deficits]. Against Lake Braddock we were down 1-0 going into the second half and we came back and won [2-1]. I think our team’s just got a lot of heart and we want to win.”

“We have a saying that losing isn’t an option,” added Fyfe. “We said that in our halftime meeting with Lake Braddock, and we came out and scored two goals again in the first 30 minutes. I think losing isn’t an option this year, we’re really trying hard to go all the way.”

With just five games left in the regular season, including Wednesday’s game at West Potomac, the Titans are setting themselves up for a strong end to the season, even with the prospect of facing a South County team that beat the Titans 11-0

last week. The players are confident, but know they have to stay sharp in the closing stages of their conference schedule.

“I think a lot of focus in practice is key,” Milliken said. “Then just communicating on the field, because the second we start communicating we get and work together. Our team’s gonna really close this season, which I think also helps, because we all know how each other plays and will cover for each other and talk.”

Harewisk also emphasized the need for focus among his players, and said he is determined to see his side not get too carried away with their winning ways.

“We’re pretty grounded,” he said. “The thing that—always as a coach—you have in the back of your mind is they’re teenagers. They’re not professional athletes. You’ve got to keep them focused, have fun, but we take it one game at a time. It’s one after the other after the other. Their focus is the same way.”

And while the Titans are not getting too ahead of themselves, their current run of form has attracted some attention and may have them dreaming of a deep postseason run. Harewisk says the onus is on his players to make those wins

count and use them as a springboard for playoff success.

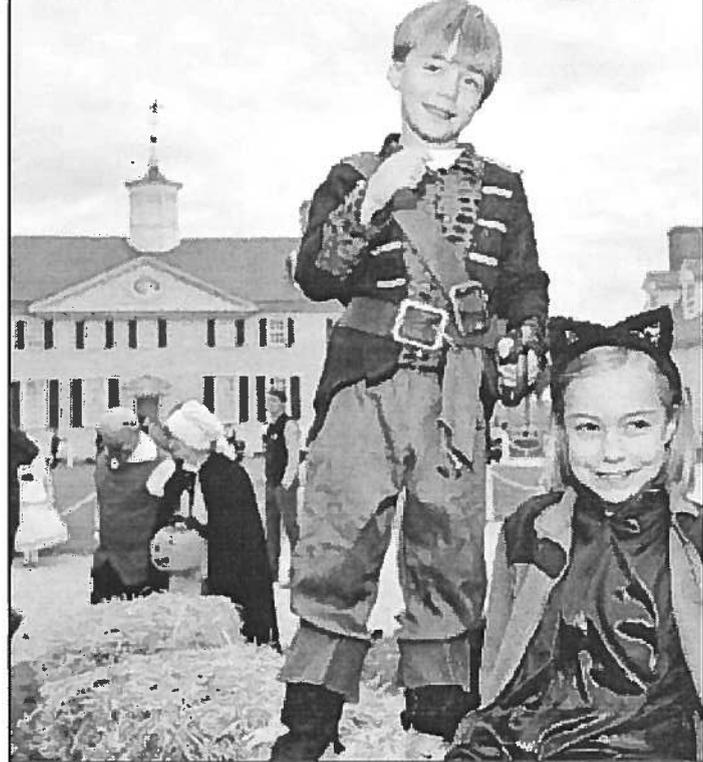
“It’s up to them,” he said. “That’s what it comes down to. How bad do they want it? A lot of the girls on the team, they have goals set as individuals and we have goals set as a team, and it depends on how bad they want that and how far we can go.”

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COUNCIL

FROM | 1

the city re-establishing the 1-cent set-aside for affordable housing. Wood abstained on whether he would support a \$30 million expansion project at the J.C. Williams Minnie Howard campus, while Miles held up both "Yes" and "No" cards to indicate being undecided. Wood abstained again on whether low-income users should be on panels to evaluate the use of grants from the Fund for Human Services.

The rapid-fire questions didn't mean voters weren't able to hear some longer answers on other issues, including the city's dwindling affordable housing stock. All agreed that something must be done, but candidates bid out a number of different possible solutions.

Chapman repeated his belief that affordable units should be built into municipal buildings, and that the number of units managed by the Alexandria Redevelopment and Housing Authority should be expanded.

Both Lawain and Wilson said the city's land-use and zoning authorities could prove useful, and remain one of the most effective things at the city's disposal.

“The city has a lot of tools in the toolbox when it comes to affordable housing, and it needs to use them all.”
- City Councilor Tim Lawain (D)

“The city has a lot of tools in the toolbox when it comes to affordable housing, and it needs to use them all,” Lawain said.

Several candidates said officials must be more aggressive with developers when negotiating the number of affordable units in new projects, while Pappas suggested partnering with nonprofit and for-profit organizations could be beneficial.

“We’re basically able to say location, location, location,” said

Cefaruzzi, referring to a possible negotiating tactic with developers.

“We need to be negotiating hard ... we can’t force them, but we can ask them,” said Miles.

Wilson cited the example of the Beaumont development as one where the city has done well to preserve affordable units. But Wood accused councilors of failing to maintain enough affordable units in the neighborhood’s redevelopment plan, alleging that affordable units were reduced by 86 percent at Beaumont.

The redevelopment resulted in the temporary loss of 2,475 apartments rented mostly by those with low or medium incomes, with half of the existing units set to be demolished over the next 20 years and replaced by 5,000 new apartments, townhouses and condominiums. Within that, the city negotiated an agreement that 800 new or existing apartments will be made affordable.

The candidates also were asked their one main initiative if they are elected, with answers as varied as universal pre-K, expanding the commercial tax base

and Van Fleet’s assertion that the city must reduce its debt service.

To close things out, they were asked how to reduce inequality and improve civic engagement. Several suggested hiring more bilingual staff and providing information in multiple languages.

while Torres said increasing diversity among city councilors would give others something to aspire to. Chapman agreed mimicking D.C.’s use of Advisory Neighborhood Commissions

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10 OCTOBER 15, 2015

ALEXANDRIA TIMES

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Mayoral race enters high gear

Campaigns trade endorsements, barbs
BY ERICH WAGNER

There are less than three weeks left until the November 3 local election, and Alexandria's mayoral candidates still are trying to get a leg up with voters.

Vice Mayor Allison Silberberg leads the local Democratic ticket, but she faces a write-in challenge from incumbent Mayor Bill Euille, who lost the party primary by 312 votes in June. The candidates have been garnering chattering lists of endorsements and are trading jabs over each other's campaigns.

U.S. Rep. Don Beyer (D-S) endorsed Silberberg last week, joining the Alexandria Democratic Committee, Democratic nominee for Delegate in the 45th District Mark Levine and Sheriff Dana Lawrence.

"As a lifelong Democrat and as an Alexandrian, I am pleased to support Allison's candidacy for mayor," Beyer said in a statement. "Allison is a person of integrity with a vision for the future of our great city. I am con-

As a lifelong Democrat and as an Alexandrian, I am pleased to support Allison's candidacy for mayor."
— U.S. Rep. Don Beyer (D)

"We can't control every particular voter in the city, but we did send an email out immediately after we heard about the flyers."
— Eric Williams Euille campaign manager

"I'd say that our current officials are united in their support of the Democratic ticket, top to bottom."
— State Sen. Adam Ebbin (D)

"The vice mayor, despite many platitudes, has done nothing to improve small business life in the city."
— Delegate Rob Krupicka

dent that she will be over present in our community, and will do her best to help Alexandria stay balanced and prosperous."

But a growing number of prominent local Democrats have announced they would break with the party to support Euille's write-in effort, including former Mayor and primary foe Kerry Donley, former City Councilor Lonnie Rich and former candidate for delegate Julie Jakopic. And on Monday, Delegate Rob Krupicka, who is not running for re-election, announced his own support for Euille's campaign in a letter to the Alexandria Times.

"Small businesses give our city much of its unique character," Krupicka wrote. "Euille has first-hand small business experience and has worked to streamline permitting and process. The vice mayor, despite many platitudes, has done nothing to improve small business life in the city."

But AIC joint campaign chairman state Sen. Adam Ebbin said he was not concerned by the growing rift in the party or how it might affect the results on Election Day.

"I'd say that our current officials are united in their support of the Democratic ticket, top to bottom," Ebbin said. "I respect

Delegate Krupicka and his decision, but he's a little bit of an outlier in terms of the current membership of the committee and elected officials."

Ongoing arguments over whether Euille and Silberberg should square off on the issues also gathered steam Wednesday, when the Alexandria Chamber of Commerce issued a statement strongly calling for a debate and offering to help arrange one.

"Given the level of activity by both the Euille and Silberberg campaigns, the chamber believes the debate over the method of nomination is now over," chamber officials wrote. "We are focused squarely on the election in November and the future of Alexandria; in the chamber's view, there are two candidates running for mayor."

"One is a party nominee, the other a declared write-in. Those candidates owe the business owners of Alexandria a debate to explore their positions on key issues such as budget, land use, small business, taxes and transportation. To omit such a debate and discussion from an electoral process is a disservice to all voters, es-

SEE CAMPAIGN | 13



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint - Mark Marshall for Sheriff

Complainants: David Lyons and Russell Stephenson

Background: On Monday September 14, 2015 Mr. Lyons and Mr. Stephenson e-mailed me several photos as evidence that Mark Marshall for Sheriff was in violation of Virginia campaign finance law. They specifically mentioned yard signs and banners distributed by the Marshall campaign, and a joint advertisement with Georgette Phillips that ran in the Smithfield Times on September 8th, 2015, which omitted the required disclosures. Emails and photos are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”

§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign



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committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement ‘Paid for by _____ [Name of sponsor]’ may be replaced by the statement ‘Authorized by _____ [Name of sponsor].’

§ 24.2-955.3 provides that “Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an “advertisement” as defined by § 24.2-955.1. The definition of “advertisement” requires the communication be an “expenditure” according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is “for the purpose of expressly advocating the election or defeat of a clearly identified candidate.” Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as “express advocacy”. Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “reject,” or some variation thereof. These are the so called “magic words.”

The communications put out by the Marshall campaign each contain the magic words asking voters to “re-elect” sheriff Marshall and therefore qualify as express advocacy. They also appear to be communications for which the Marshall campaign paid something of value and are therefore expenditures under § 24.2-945.1. Furthermore, these communications appear to be examples of print media and therefore qualify as advertisements under § 24.2-955.1. Because these communications are advertisements falling within the scope of the Stand by Your Ad law provided in § 24.2-955, they are each required to contain a disclosure statement.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For advertisements in print media purchased by candidates or their committees, the required disclosure is provided in § 24.2-956. The advertisement must include the statement “Paid for by _____ [Name of sponsor],” or “Authorized by _____ [Name of sponsor]” for an advertisement that mentions no other candidate. Disclosures must be “displayed in a conspicuous manner in a minimum font size of seven point.”

The print media advertisements put out by the Marshall campaign do not seem to contain any disclosure statements indicating who paid for or authorized them.

Conclusion: The Mark Marshall for Sheriff has failed to properly comply with Stand by Your Ad in regards to the three print media advertisements at issue.



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Staff Recommendations: The State Board should find that Mark Marshall for Sheriff has violated the provisions of Stand by Your Ad and should fine the campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: E-mails

From: David Lyons <varadarcop@aol.com> **Sent:** Mon 9/14/2015 12:39 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: RE: Ad violation

Message V_9D4D.jpg (671 KB) V_4F8A.jpg (566 KB)

Here are two photos. Thank you. Will send another shortly.

From: Braun, Brooks (ELECT)
Sent: 9/14/2015 10:53 AM
To: 'David Lyons'
Subject: RE: Ad violation

Mr. Lyons,

Thank you for your e-mail. If you wish this violation to go before the State Board for adjudication please send some photographic evidence of the advertisement in question. You can send it to me either at this e-mail address or at the address provided below in my signature. If you have any further questions, please feel free to contact me. I'm happy to help

Sincerely,

Brooks E. Braun, Esq.
Policy Analyst
Virginia Department of Elections
1100 Bank Street
Richmond, VA 23219
Direct: 804.864.8924
Toll free: 800.552.9745 ext. 5924

Remember - Virginia law now requires photo identification when voting in person.

Disclaimer: This message is not legal advice, nor a binding statement of official policy. It is intended only for the use of the name addressee(s). Any other use is prohibited. If you received this message in error, please call me and delete the message and any attachments without forwarding, copying or otherwise disclosing them. Thank you.

From: David Lyons [mailto:varadarcop@aol.com]
Sent: Monday, September 14, 2015 10:43 AM
To: Braun, Brooks (ELECT)
Subject: Ad violation

Dear sir,
I wanted to advise you of an ad violation.
Recently a special edition in Smithfield Times featured Mark Marshall and Georgette Phillips together, he is running for sheriff, she for Commonwealth attorney. There was no "authorized by" disclaimer in the ad. This is in Isle of Wight County.

Sincerely
Dave Lyons
346 s church st
Smithfield Va



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Follow up. Start by Monday, September 14, 2015. Due by Monday, September 14, 2015.

From: David Lyons <varadarcop@aol.com>

Sent: Mon 9/14/2015 1:09 PM

To: Braun, Brooks (ELECT)

Cc:

Subject: RE: Ad violation

Message

Additional photos, from the ad paper.

Dave Lyons

7576854719

Follow up. Start by Monday, September 14, 2015. Due by Monday, September 14, 2015.

You replied to this message on 9/14/2015 2:19 PM.

From: Russell Stephenson <j.russell.stephenson@gmail.com>

Sent: Mon 9/14/2015 1:26 PM

To: Braun, Brooks (ELECT)

Cc:

Subject: Fwd: Advertisement Violation?

Message

----- Forwarded message -----

From: **Russell Stephenson** <j.russell.stephenson@gmail.com>

Date: Mon, Sep 14, 2015 at 8:00 AM

Subject: Advertisement Violation?

To: info@elections.virginia.gov

To Whom It May Concern,

It appears that two candidates, Mark A. Marshall and Georgette Phillips, running for office in Isle of Wight County has violated the political advertisement rule by not stating who paid or authorized the ad in a paper that was mailed to all 15,000+ county residences. I have attached pictures of the ad to this email for your review. I appreciate you handling this matter and look forward to your reply.

Sincerely,

J. Russell Stephenson
Russell Stephenson for Sheriff

From: Russell Stephenson <j.russell.stephenson@gmail.com>

Sent: Mon 9/14/2015 2:37 PM

To: Braun, Brooks (ELECT)

Cc:

Subject: Another Possible Violation

Message

To Whom It May Concern,

There appears to be another advertising violation for the Mark Marshall for Sheriff campaign in reference to signs placed throughout Isle of Wight county and even in the city of Suffolk that are much larger than the standard "yard sign." I have attached photos of both sides of the sign in 2 emails due to the size of the files. Please review. Thank you.

Sincerely,

J. Russell Stephenson
Russell Stephenson for Sheriff

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Washington Building - First Floor
Richmond, VA 23219-3947
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info@sbe.virginia.gov

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Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194



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Follow up. Start by Thursday, November 05, 2015. Due by Thursday, November 05, 2015.

From: Russell Stephenson <j.russell.stephenson@gmail.com>

Sent: Thu 9/24/2015 8:24 AM

To: Braun, Brooks (ELECT)

Cc:

Subject: Another Violation

Message  20150918_140047[1].jpg (3 MB)

To Whom It May Concern,

Once again for the third time is another advertising law violation from Mark Marshall for Sheriff campaign. This banner (x2) was hung out in full display at our county fair last week. This makes the third violation in several weeks and I think something should be done about it immediately. The first was the fair ad, the second was his 4' x 4' signs and now this banner. Also you may want to look into his golf tournament that was held last year and his reporting of it. He has another one schedule for October as I know that these events are discouraged due to reporting requirements.

I hate complaining but right is right and wrong is wrong and I can't imagine waiting until after the election to handle these matters. I am requesting that all signs not displaying the proper wording "authorized or paid for by" be removed from public view.

Thank you for your attention in this matter.

Sincerely,

Russell Stephenson
Russell Stephenson for Sheriff



Appendix B: Evidence

Exhibit A: Yard Sign



Exhibit B: Banner

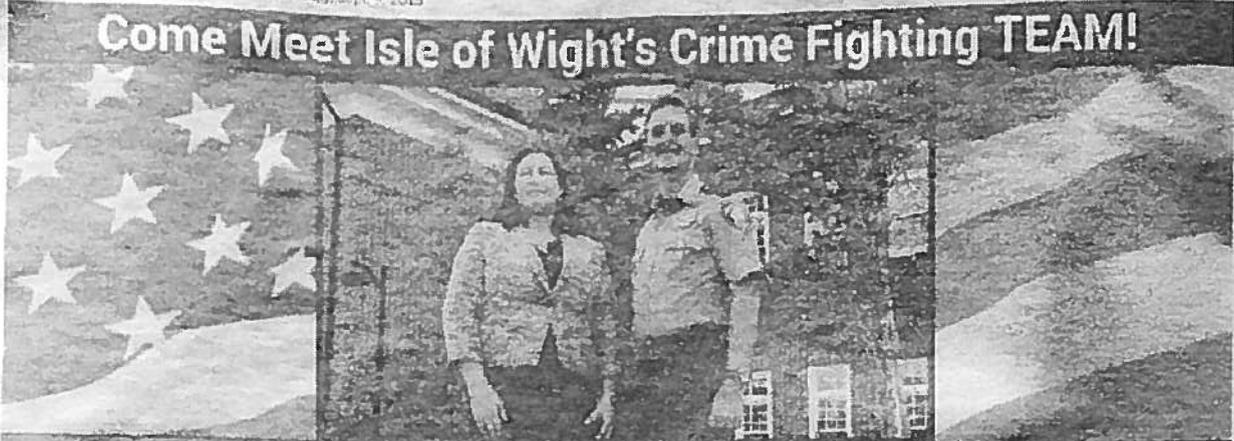




Exhibit C: News Paper Advertisement

Page 14 The Southern Times Wednesday, Sept 9, 2015

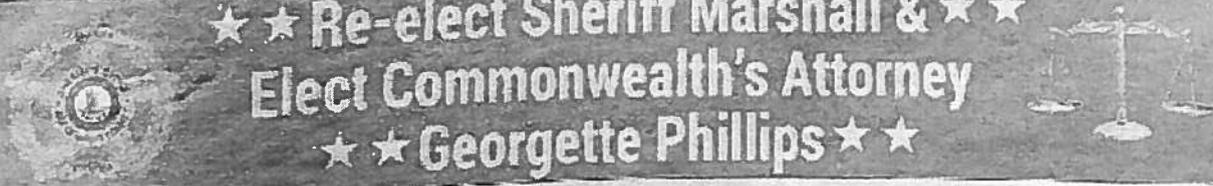
Come Meet Isle of Wight's Crime Fighting TEAM!



Sheriff Mark Marshall and Commonwealth's Attorney Georgette Phillips will be at the County Fair ready to meet and greet you! Come on by and say "Hi!" And don't forget to VOTE experience and progress on November 3rd.

★★ SHERIFF MARSHALL	COMMONWEALTH'S ATTORNEY GEORGETTE PHILLIPS ★★
<ul style="list-style-type: none">• 30 yrs. law enforcement experience• Led sheriff's office through the accreditation process• Practiced fiscal responsibility and returned tens of thousands of tax payer dollars• Over 90% school safety rating• Graduate of FBI National Academy• Former President of International Association of Chiefs of Police• Masters in Public Administration from ODU• Initiated the first use of SRO's in Isle of Wight	<ul style="list-style-type: none">• Graduate of William & Mary School of Law• 14 years career prosecutor• Nationally recognized for her work with welfare fraud• Served as a Special Prosecutor for various localities• Unanimously endorsed by the IOW Bar Association• Endorsed by her fellow Commonwealth's Attorneys• Endorsed by Circuit Court Clerk• Endorsed by Sheriff Marshall & Supported by our local law enforcement officers

★★ Re-elect Sheriff Marshall & ★★
Elect Commonwealth's Attorney
★★ Georgette Phillips ★★





Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Van Fleet for Alexandria Council

Complainants: Larry Altenburg and Holly Wallace

Background: On Wednesday, September 30, 2015 Mr. Altenburg and Ms. Wallace e-mailed me photographic evidence that Van Fleet for Alexandria Council was in violation of Virginia campaign finance law. They specifically mentioned a mailer that went out to potential voters in Alexandria, which omitted the required disclosures. On October 1, 9, and 15, 2015, Ms. Wallace e-mailed me PDF copies of the Alexandria Times that, on three separate publication dates, contained advertisements for Mr. Van Fleet, which omitted the necessary disclosures. Emails and photos are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”



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§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement ‘Paid for by _____ [Name of sponsor]’ may be replaced by the statement ‘Authorized by _____ [Name of sponsor].’

§ 24.2-955.3 provides that “Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an “advertisement” as defined by § 24.2-955.1. The definition of “advertisement” requires the communication be an “expenditure” according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is “for the purpose of expressly advocating the election or defeat of a clearly identified candidate.” Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as “express advocacy”. Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” “reject,” or some variation thereof. These are the so called “magic words.”

The communications put out by the Van Fleet campaign contain the magic words asking voters to “vote for” Van Fleet and therefore qualify as express advocacy. They also appear to be communications for which the Van Fleet campaign paid something of value and are therefore expenditures under § 24.2-945.1. Furthermore, these communications (printed material sent through the mail and messages in a newspaper) fall squarely within the definition of print media and therefore qualify as advertisements under § 24.2-955.1. Because these communications are advertisements falling within the scope of the Stand by Your Ad law provided in § 24.2-955, they are required to contain disclosure statements.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement “Paid for by _____ [Name of sponsor],” or “Authorized by _____ [Name of sponsor]” for an advertisement that mentions no other candidate. Disclosures must be “displayed in a conspicuous manner in a minimum font size of seven point.”

The print media advertisements put out by the Van Fleet campaign do not seem to contain any disclosure statements indicating who paid for or authorized them.



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Conclusion: Van Fleet for Alexandria Council has failed to properly comply with Stand by Your Ad in regards to the print media advertisements at issue.

Staff Recommendations: The State Board should find that Van Fleet for Alexandria Council has violated the provisions of Stand by Your Ad and should fine the campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: E-mails

Follow up. Start by Wednesday, September 30, 2015. Due by Wednesday, September 30, 2015.

From: SBE-CFDA, rr (ELECT) Sent: Wed 9/30/2015 5:01 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Campaign finance violation

Message: lma wf solicitation.pdf (242 KB)

Notice: This message may summarize views, regulations and policies. It is not a guarantee, nor a binding statement of official policy. Furthermore, this message and any responses sent to this email address may be subject to public disclosure under FOIA.

From: Larry Altenburg [mailto:laltenburg@gmail.com]
Sent: Wednesday, September 30, 2015 9:59 AM
To: SBE-CFDA, rr (ELECT)
Subject: Re: Campaign finance violation

I forgot the attachment...

On Wed, Sep 30, 2015 at 9:58 AM, Larry Altenburg <laltenburg@gmail.com> wrote:
I would like to report a campaign finance violation committed by Townsend Van Fleet, candidate for Alexandria City Council. I received the attached solicitation from him in the mail without a return address, and noticed several items of concern.

The ethics of offering a "scholarship" for a high school campaign worker aside, I was surprised that his solicitation was not marked with the required "Paid for and approved by..." statement. It is not clear that he fully understands the campaign finance laws in Virginia.

Thank you for looking into this.

Larry Altenburg
about.me/laltenburg

From: Holly Wallace <hjw@radixil.com> Sent: Thu 10/1/2015 5:17 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: Campaign Advertising Violation -- Alexandria city Complaints # 6 7 8

Message: 10_01_2015-Alex_Times_FinalWeb pages 13 -14-15.zip (13 MB)

Mr. Braun,

I understand from Mr. Cortez that you are in charge of campaign advertising violations.

The attached Alexandria Times contains three advertisements from Alexandria City Council candidates with no authorization or "paid by" lines.

Page 13 – Bob Wood
Page 14 – Townsend Van Fleet
Page 15 – Monique Miles

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591



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STATE BOARD of ELECTIONS

From: Holly Wallace <hjw@radixil.com> Sent: Thu 10/1/2015 5:34 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: Campaign Advertising Violation -- Alexandria city Complaints # 9
Message: Van Fleet solicitation.pdf (243 KB)

Mr. Braun,

Attached is yet another campaign piece from Townsend Ban Fleet with no authorization or paid for information. This letter was apparently sent to veterans in the City of Alexandria in an envelope without a return address.

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591

From: Holly Wallace <hjw@radixil.com> Sent: Fri 10/9/2015 3:07 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: Campaign Advertising Violation -- Alexandria city Complaints # 10 and 11 and 12
Message: 10_08_2015-Alex_Times_Final-Web Pages 5-9-10.pdf (8 MB)

Mr. Braun,

Attached are further instances of lack of authorization lines in an Alexandria City Council candidates advertising:

Alexandria Times 10-8-15:
Monique Miles Page 5
Bob Wood Page 9
Townsend Van Fleet Page 10

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591

From: Holly Wallace <hjw@radixil.com> Sent: Thu 10/15/2015 2:56 PM
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Campaign Advertising Violation -- Alexandria city Complaints # 13,14,15
Message: 10_15_2015-Alex_Times_Final-Web.pdf (8 MB)

Mr. Braun,

Attached are further instances of lack of authorization lines in an Alexandria City Council candidates advertising:

Alexandria Times 10-15-15:
Monique Miles Ad, Page 10
Bob Wood, Page 13
Townsend Van Fleet, Page 17

Thank you.

Holly Wallace
Vice Chair Finance and Administration
Alexandria Democratic Committee
703-969-0591



Appendix B: Evidence

Exhibit A: Flyer



Dear Fellow Alexandria Veteran:

Please allow me to introduce myself, my name is Townsend A. ("Van") Van Fleet. I am running in the 3 November 2015 City Council election here in Alexandria. I need your help. We veterans are not well-served by our current local government. We need someone who understands the issues we face to represent us.

As a 23-year Army veteran and a Vietnam Vet. as such, I feel that I am particularly well-positioned to understand and address the issues confronting veterans like ourselves. In addition, to the bond we share from having served our country with honor, we as a group possess a positive, "can do," attitude. If elected, I will bring that "Can Do" mentality and military understanding of how to tackle difficult challenges to our City government.

As a military man, I have great respect for tradition, values, and the historic nature of our great nation. Some of you may not know that the City of Alexandria played a pivotal role in the formation of our country. Our Founding Fathers gathered here, ate, drank here, and even formulated their battle plans around the tables at Gadsby's Tavern. Ultimately, two wars flowed through this great City: the American Revolution and the Civil War.

I have been a resident of Alexandria for the past 30 years. During that time, I have seen this City grow, battle all types of issues, and develop at an alarming pace. Under the pressure of unrestrained development, our precious green space is rapidly disappearing. I have experienced both the positive and negative effects of this growth.

In recent years, Alexandria's City Council has put our community into debt of substantial proportions—\$526 million, with a yearly debt service of at least \$66 million. This figure increases to \$80 million if you include the \$14 million additional debt that will result if Council approves the construction of a new Metro station in Potomac Yard. And they have done this while increasing our property taxes by 23 cents per \$100.00 of assessed value during the past ten years alone! Council members have failed to reconcile the imbalance of expenditures and revenues such that 'the Council' has overspent City revenues for the past eight years consecutively!

This fiscal dilemma--and the fact that City Council has steadfastly refused to pay attention to the needs and desires of its citizens in almost every neighborhood within the City have been major factors in my decision to stand as a candidate for election to the Council. I need your help and support to win this election. There are many ways you can help. Please visit my website, www.vanisyourman.com, to learn more about me, my positions on the issues facing our great City, and ways you can assist my campaign.



★ VIRGINIA ★
STATE BOARD of ELECTIONS

I respectfully ask for your help to bring responsible and responsive government back to Alexandria, and I ask for 'Your Vote' on 3 November 2015. Together we can make a difference.

Sincerely,

Van

Townsend A. ("Van") Van Fleet.

HOW YOU CAN SUPPORT 'VAN' VAN FLEET

Please Tear off and return in the pre-paid addressed envelope provided

DONATE:

Thank you for your Generosity, every contribution makes a BIG Difference!

\$25.00 \$50.00 \$100.00 \$250.00

\$500.00 _____ Your Amount

Checks can be made to: Van Fleet for Alex. City Council

VOLUNTEER or JOIN in our EVENTS: We'll keep you up to date on 'What's Going On' in the Van Fleet Campaign:

Name _____ Phone _____

Email: _____

VAN FLEET 2015 Government Scholarship Competition is about to Begin ...

1st Place \$1000.00; 2nd & 3rd \$500.00 each

NOTICE to Parents and High School Junior or Senior Students residing in the City of Alexandria. VAN FLEET 2015 Scholarship Competition starts Friday, SEP 18th, 2015. Students and a parent/guardian must attend the Kick-Off Ceremony at The Chinquapin Recreation Center on Friday, 18 SEP from 6-8 PM. to apply, sign forms and the competition begins that night. Please see the VAN FLEET Scholarship ad running in the *Alexandria Times and Gazette Pocket* for more details.

Many Thanks to my fellow Veterans - Please Vote 'VAN' VAN FLEET on 3 NOV 2015!

IT'S A TIME FOR CHANGE - And We Need Your VOTE

1100 Bank Street
Washington Building - First Floor
Richmond, VA 23219-3947
www.sbe.virginia.gov
info@sbe.virginia.gov

Telephone: (804) 864-8901
Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194



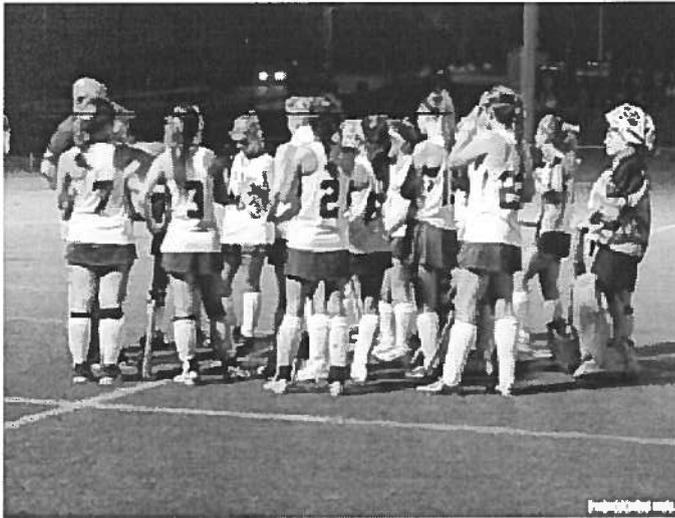
Exhibit B: Newspaper Advertisements

14 OCTOBER 1, 2015

ALEXANDRIA TIMES

SPORTS

Keeping up the pressure



Titans head coach William Heron talks to his players at halftime against Annandale Wednesday night. T.C. beat the Altira 3-0 on goals from Mimi Hyde, Claire Bilodan and Alex Millikan.

Titans field hockey looks to stay focused in midst of hot streak

BY CHRISTY KALE

For all their dominance Monday night at home against Annandale, the T.C. Williams field hockey team was only ahead 1-0 at halftime on a goal from senior forward Mimi Hyde, and the players know they needed more to put the game out of reach.

The Titans had plenty of opportunities in the first period, but the break proved crucial, as they tallied additional goals from Claire Bilodan and Alex Millikan within five minutes of the restart. The eventual 3-0 win over the Altira extended T.C.'s winning streak to six games, prior to their away game against West Potomac on Wednesday evening, played after the Times' print deadline.

And in spite of a slow start, where the hosts dominated but could not convert their chances, the Titans were delighted to keep their run going.

"I thought we played really well, especially in the second half," Millikan said. "We had a lot of shots on goal [and]

we didn't let them get a corner whatsoever. I was happy with how the team played. We were talking a lot, had a lot of good passing combinations and, overall, I thought we gelled and were dominating the whole time."

The win improved the Titans' record this season to 10-1, with their only loss coming away against Herndon in late August. Head coach William Heron attributes their success to having a deep roster that has managed to cope with injuries to key players.

"It's great when I've got people coming in off the bench and filling in spots and whatnot, even with a couple of injuries that we have," he said. "I don't have two starters right now, who are normally on my starting roster, so even with them being injured we're still solid, which, as a coaching staff, you couldn't ask for more."

From the players' perspective, it has been an exciting time to be involved in the program. The Titans look like a real force in the Patriot Conference and have conceded just two goals all

BY TITANS 15

You're Invited

Come. Listen. Learn.

PLEASE JOIN US FOR AN EDUCATIONAL EVENT.
Hear from the MSD expert and learn about several treatment options for managing MS.

Date and Time:
Monday, 10/26/2015 at 6:30 PM

Speaker:
Erika Mitchell, NP

Location:
Magyar's Little Italy
2001 International Drive
McLean, VA 22102

Event code: TR212919 (1254821)

PLEASE RSVP:

- Multiple Sclerosis Events.com
- 1-888-783-8293
- GenzymePatient@VPE@amdirect.com

Registration is limited to two people per RSVP.
Photo ID may be requested at event with online registration.
Complimentary parking or valet available.

Sponsored by **genzyme**
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- Restore Citizens' Faith in City Council
- Enhance Alexandria City Public Schools
- Support Historic Preservation and Consistent Growth
- Decrease Your Taxes & Increase City Revenues

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18 OCTOBER 8, 2015

ALEXANDRIA TIMES

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DESKS

FROM | 7

Just a few weeks into the new school year, Bayrosh said that after some initial growing pains as students and teachers became used to the new arrangement, things have gone very smoothly and have already started to show results. He said with the desks being on wheels, they are conducive to different kinds of activities and class structure, in addition to offering students the option to sit or stand.

"What we anticipated, and what I think we're beginning to see, is that in fact, the ability to stand increases focus and attention," Bayrosh said. "When you're sitting, you tend to collapse in on yourself and it can be hard to maintain your energy. But when you're standing, you have a little more blood flow, a little more oxygen flowing around. You tend to be more engaged. I think the teachers are seeing that."

"If they've just come off a hard PE period and need to sit, they can sit, but if they're getting into the legs of the day after lunch, they can stand."

In addition to standing desks

in the middle school grades, the lower school was provided with new stools designed by Hokii, which are ergonomically designed to strengthen students' core muscles and encourage better posture.

Bayrosh said that standing desks were unlikely to be introduced across all grades due to their size, but the idea



Fifth graders at Alexandria County Day School give standing a try at their new adjustable desks introduced in the middle school grades this year.

of improving the posture of the youngest student is something that has permeated other schools in Alexandria.

At Douglas MacArthur Elementary School, second grade teacher Jan Olmstead pioneered the use of fitness balls as an alternative to standard seats for her students, with the seats also available for those who want them. Having used them in a

variety of locations across the U.S. and Europe for the last two decades, Olmstead said the benefits are apparent in class.

"Rather than expecting [students] to sit still and do their work, they can be in one location and continue to do their work, be engaged in their work, but at the same time they're moving," she said. "For example, they might be sitting on the ball, and when they sit they have to have both feet flat on the ball for stability but they can still bounce up and down on the ball. They do it as they need it."

"Sometimes they'll be still for a while and other times they'll be moving. They can also rock back and forth on the ball, they can rock side to side on the ball or they can move in a circular motion, clockwise and counter clockwise."

With more and more research suggesting that alternative ways to sit in class can be beneficial to students, the use of standing desks, fitness balls and other methods may well grow further across the city and the country as time goes on.



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info@sbe.virginia.gov

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Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194



EPISCOPAL FROM | 16

game we were really pushing it through from the beginning and got it straight down to the circle and tried to get a goal as fast as possible because once we did that, they knew that we were a threat."

On the strength of that performance, Episcopal appeared to have put the disappointment of a blowout loss to its cross-town rival behind it, albeit after taking some hard lessons from the defeat.

"Having a loss to St. Stephen's, it really put our season in perspective," Phillips said. "It showed us that we can't always win, that we need to push through it and we need to learn from this mistake and have it in the back of our minds but not think about it all day. It's definitely an uphill climb from here."

"[The defeat] just showed us what we needed to work on," Winants added. "Even though it brought us down, it showed us that we need to really improve, and it showed us what parts of the game we were weak at. I think we worked on it this game and got a lot better."

It has been an up and down season so far for Episcopal, which saw an initial two-game winning streak wiped

out by a three-game losing run, followed by a thumping four-match win streak. Even with some difficult moments, Montgomery is adamant her players are talented enough to make an impact in future games.

"I've been telling them,

“ [The defeat] just showed us what we needed to work on. Even though it brought us down, it showed us that we need to really improve, and it showed us what parts of the game we were weak at. I think we worked on it this game and got a lot better.”

- Eleanor Winants, Episcopal field hockey player

and I truly do believe this, that they have absolutely so much potential," she said. "I'm really waiting for them to keep taking it to the next level because it's been fun to coach them as they've jumped on absolutely every-

thing I've sent their way."

With a No. 7 ranking in the last two state polls, the Maroon may have one eye on the postseason, especially having lost in the quarterfinals of both the Independent School League and Virginia Independent Schools Athletic Association playoffs last season. The players and coaches are well aware of what still needs to be done moving forward.

"I think we just [shouldn't] change what we have already, keep getting better and working harder," Phillips said. "I think the team works really well together and we're good about switching positions and helping each other out and having a lot of give-and-take. From here, we just need to push through and we need to remember the fundamentals and not let it get really scrappy."

"One thing that we've been focusing on is playing together and being super intentional about the time that we have to practice," Montgomery said. "It's not about practicing more or necessarily harder, it's really just being smart about our practicing. I think if we continue to do that, we're going to continue to make those improvements that we've been making and be in a good place to be successful at the end of the season."

SPORTS SHORTS

Local football teams see mixed results

With the majority of the city's high school football teams having played six games, there have been plenty of intriguing results so far, led by Bishop Ireton with a 5-1 record.

On the back of a state final appearance last season, the Cardinals began with a three-game winning streak and have more recently won two straight, including on October 3 at home against local rivals St. Stephen's and St. Agnes. Ireton travels to Benedictine of Richmond

this Saturday.

Ireton's only defeat so far this season came at the hands of Episcopal, which holds a 3-0 record so far. The Maroon also defeated SSSAS by the handy margin of 41-13, and will have the biggest test of the season Saturday as they welcome Bullis. The Bulldogs are defending Interscholastic Athletic Conference champions, having finished ahead of Episcopal last season.

It has been a mixed season so far for SSSAS, which has lost to both of its local rivals

but held a 3-3 record at this stage. The Saints are currently on a two-game losing streak and welcome Landon to Moss Field on Saturday.

T.C. Williams has struggled and is 2-4 overall, with two two-game losing streaks sandwiching its only other victory since opening day: a 27-6 defeat of Mount Vernon. The Titans are 0-3 at home after losses to Westfield, South County and Lake Braddock, and travel to West Springfield on Friday night.

- Chris Teale

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Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – W. Wayne Robertson

Complainants: Don Johnson

Background: On October 15, 2015, Ms. Johnson e-mailed me a complaint and photograph regarding a flyer being distributed by W. Wayne Robertson, candidate for school board in Pittsylvania County, which omitted the necessary disclosures. The email and photo are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes and expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”

§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement ‘Paid



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for by _____ [Name of sponsor]' may be replaced by the statement 'Authorized by _____ [Name of sponsor].'

§ 24.2-955.3 provides that "Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000."

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an "advertisement" as defined by § 24.2-955.1. The definition of "advertisement" requires the communication be an "expenditure" according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is "for the purpose of expressly advocating the election or defeat of a clearly identified candidate." Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as "express advocacy". Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject," or some variation thereof. These are the so called "magic words."

The communication put out by Mr. Robertson contains the magic words "re-elect W. Wayne Robertson" and therefore qualifies as express advocacy. It also appears to be a communication for which Mr. Robertson paid something of value and is therefore an expenditures under § 24.2-945.1. Furthermore, this communication (pamphlet) falls squarely within the definition of print media and therefore qualifies as an advertisement under § 24.2-955.1. Because this communication is an advertisement falling within the scope of the Stand by Your Ad law provided in § 24.2-955, it is required to contain a disclosure statement.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement "Paid for by _____ [Name of sponsor]," or "Authorized by _____ [Name of sponsor]" for an advertisement that mentions no other candidate. Disclosures must be "displayed in a conspicuous manner in a minimum font size of seven point."

The print media advertisement put out by the Robertson campaign does not contain any disclosure statement indicating who paid for or authorized it.

Conclusion: Mr. Robertson has failed to properly comply with Stand by Your Ad in regards to the print media advertisements at issue.



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Staff Recommendations: The State Board should find that W. Wayne Robertson has violated the provisions of Stand by Your Ad and should fine his campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: E-mail

From: SBE-CFDA, rr (ELECT)
To: Braun, Brooks (ELECT)
Cc:
Subject: FW: Violation of Political Advertisement Disclosure

Sent: Thu 10/15/2015 8:13 P

1100 Bank St, 1st Floor
Richmond, VA 23219
Phone 1-800-552-9745 ext 8921
Fax 804-371-0194
Email: rise.miller@elections.virginia.gov

NOTICE: This message may summarize laws, regulations and policies. It is not legal advice, nor a binding statement of official policy. Furthermore, this message and any responses sent to this email address may be subject to public disclosure under FOIA.

From: Donald Johnson [<mailto:donald.johnson@pcs.k12.va.us>]
Sent: Thursday, September 17, 2015 3:04 PM
To: SBE-CFDA, rr (ELECT)
Subject: Violation of Political Advertisement Disclosure

Dear Board of Elections,

I do not know if this is the proper way to file a complaint or not, but here goes. I was walking down route 41 in Pittsylvania County and was looking at the yard signs. All of the yard signs with the exception of two had the "Paid for By" disclosure on them. It was my thought that all advertisements for a candidate were required by law to have this disclosure. Westover district Board of Supervisor candidate Ronald S. Scarce has numerous yard signs without the disclosure and so does Chatham/Blairs district School Board candidate W. Wayne Robertson. I also received a pamphlet from W. Wayne Robertson without the disclosure.

When I see the majority of candidate's conforming to the law, I just thought I needed to bring these violations to your attention. Could you please inform me of the actions taken by the Board on these violations.

Thank you for your attention to the matter.

Donald R. Johnson
Registered voter in the Chatham/Blairs district of Pittsylvania County



Appendix B: Evidence

++ Re-ELECT ++
W. Wayne Robertson
School Board-Chatham Blairs

- *Current School Board Member**
- * Pittsylvania County Native**
- *20 Year Teacher at Gretna High School**
Math, Chemistry, Physics, Calculus
- *Bachelors Degree—Virginia Tech**
Masters —Lynchburg College
- *Financial Conservative**
- *Common Sense in Making Decisions**
- *Member: Blairs Baptist Church**



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Kyra Bullock for Circuit Court Clerk

Complainants: Ernie Haas

Background: On October 27, 2015, Mr. Haas e-mailed Chairman Alcorn a complaint and photograph regarding a yard sign for Kyra Bullock, candidate for Circuit Court Clerk in Spotsylvania County, which omitted the necessary disclosures. Chairman Alcorn forwarded the message to me. The email and photo are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”

§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the



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advertisement makes no reference to any other clearly identified candidate, then the statement 'Paid for by _____ [Name of sponsor]' may be replaced by the statement 'Authorized by _____ [Name of sponsor].'

§ 24.2-955.3 provides that "Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000."

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an "advertisement" as defined by § 24.2-955.1. The definition of "advertisement" requires the communication be an "expenditure" according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is "for the purpose of expressly advocating the election or defeat of a clearly identified candidate." Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as "express advocacy". Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject," or some variation thereof. These are the so called "magic words."

The communication put out by the Bullock campaign contains the magic words "elect Kyra Bullock" and therefore qualifies as express advocacy. It also appears to be a communication for which the Bullock Campaign paid something of value and is therefore an expenditures under § 24.2-945.1. Furthermore, this communication (yard sign) falls squarely within the definition of print media and therefore qualifies as an advertisement under § 24.2-955.1. Because this communication is an advertisement falling within the scope of the Stand by Your Ad law provided in § 24.2-955, it is required to contain a disclosure statement.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement "Paid for by _____ [Name of sponsor]," or "Authorized by _____ [Name of sponsor]" for an advertisement that mentions no other candidate. Disclosures must be "displayed in a conspicuous manner in a minimum font size of seven point."

The print media advertisement put out by the Bullock campaign does not contain any disclosure statement indicating who paid for or authorized it.

Conclusion: The Bullock campaign has failed to properly comply with Stand by Your Ad in regards to the print media advertisements at issue.



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Staff Recommendations: The State Board should find that Kyra Bullock for Circuit Court Clerk has violated the provisions of Stand by Your Ad and should fine her campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



Appendix A: E-mail and Photo

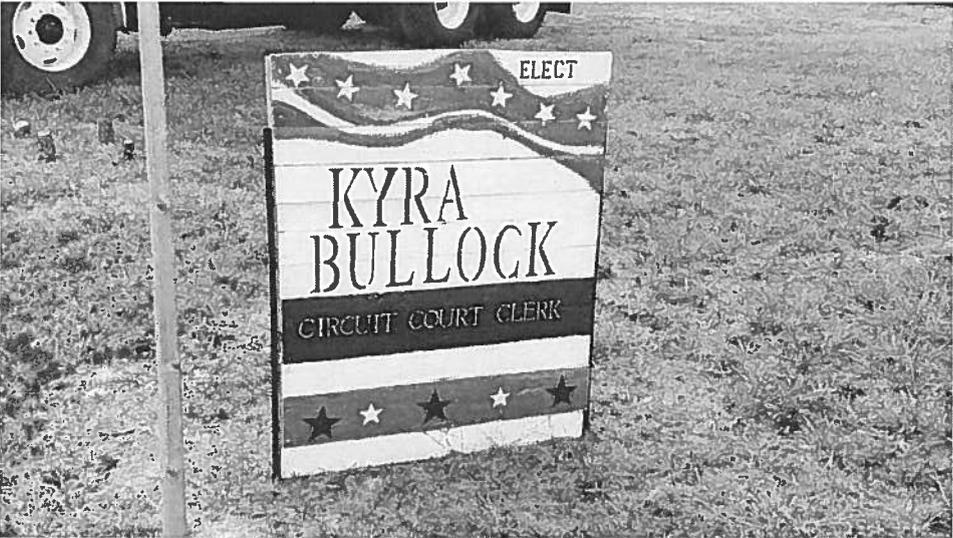
From: Alcorn, James (ELECT)
To: Evans, Brooke (ELECT)
Cc:
Subject: FV: No paid for info

Sent: Tue 10/27/2015 1:46 PM

See below SBYA complaint.

James Alcorn
Chairman
Virginia State Board of Elections

From: Ernie [marylandstar@aol.com]
Sent: Tuesday, October 27, 2015 11:46 AM
To: Alcorn, James (ELECT)
Subject: No paid for info



Sent from my iPad



Memorandum

To: James Alcorn, Chairman; ClaraBelle Wheeler, Vice Chair; Singleton McAllister, Secretary

From: Brooks C. Braun, Policy Analyst

Date: November 16, 2015

Re: Stand by Your Ad Complaint – Teri L. Pace for Supervisor

Complainants: Thomas Graves

Background: On September 23, 2015, Mr. Graves sent a complaint letter to the Department of Elections regarding a pamphlet put out by the Teri L. Pace for Supervisor campaign, which omitted the necessary disclosures. Mr. Graves provided an original copy of the pamphlet therein. Scanned images of the letter and pamphlet are attached.

Relevant Statutory and Policy Provisions:

§ 24.2-955 states that “The disclosure requirements of this Chapter [Stand by Your Ad] apply to any sponsor of an advertisement in the print media [...] the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 [the Campaign Finance Disclosure Act].”

§ 24.2-955.1 defines “Advertisement” as “any message appearing in the print media [...] that constitutes an expenditure under Chapter 9.3” and “Print Media” as including “[...] newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, yard signs, and outdoor advertising facilities.”

§ 24.2-955.1 defines “Yard sign” as “a sign paid for or distributed by a candidate, [or] campaign committee [...] to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.”

§ 24.2-945.1 defines “expenditure” as “money and services of any amount, and any other thing of value, paid [...] by any candidate, [or] campaign committee [...] for the purpose of expressly advocating the election or defeat of a clearly identified candidate.”

§ 24.2-956 requires a print media advertisement sponsored by a candidate committee to “[bear] the legend or includes the statement: ‘Paid for by _____ [Name of candidate or campaign committee].’ Alternatively, if the advertisement is supporting a candidate who is the sponsor and the



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advertisement makes no reference to any other clearly identified candidate, then the statement 'Paid for by _____ [Name of sponsor]' may be replaced by the statement 'Authorized by _____ [Name of sponsor].'

§ 24.2-955.3 provides that "Any sponsor violating [the print media requirements] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000."

Analysis: The first step in an analysis of a Stand by Your Ad complaint is to determine if the communication at issue falls within the scope of the law requiring disclosures. To do so, § 24.2-955 requires a communication to be an "advertisement" as defined by § 24.2-955.1. The definition of "advertisement" requires the communication be an "expenditure" according to § 24.2-945.1. According to the definition in that section, something is a reportable expenditure only when it is "for the purpose of expressly advocating the election or defeat of a clearly identified candidate." Therefore, for a communication to fall under the scope of § 24.2-955 it must contain what is known as "express advocacy". Express advocacy is a term of art which has come to mean any communication containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject," or some variation thereof. These are the so called "magic words."

The communication put out by the Pace campaign contains the magic words "Vote Teri L. Pace for District 2 Supervisor" and therefore qualifies as express advocacy. It also appears to be a communication for which the Pace Campaign paid something of value and is therefore an expenditures under § 24.2-945.1. Furthermore, this communication (a pamphlet) falls squarely within the definition of print media and therefore qualifies as an advertisement under § 24.2-955.1. Because this communication is an advertisement falling within the scope of the Stand by Your Ad law provided in § 24.2-955, it is required to contain a disclosure statement.

The second step in an analysis of a Stand by Your Ad complaint is to determine whether an advertisement within the scope of that law contains the appropriate disclosure. For an advertisement in print media purchased by a candidate or their campaign committee, the required disclosure is provided in § 24.2-956. The advertisement must include the statement "Paid for by _____ [Name of sponsor]," or "Authorized by _____ [Name of sponsor]" for an advertisement that mentions no other candidate. Disclosures must be "displayed in a conspicuous manner in a minimum font size of seven point."

The print media advertisement put out by the Pace campaign does not contain any disclosure statement indicating who paid for or authorized it.

Conclusion: The Pace campaign has failed to properly comply with Stand by Your Ad in regards to the print media advertisements at issue.



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Staff Recommendations: The State Board should find that Teri L. Pace for Supervisor has violated the provisions of Stand by Your Ad and should fine her campaign accordingly in an amount not to exceed \$1,000.

Authority: § 24.2-955.3(D) provides that “The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty.” § 24.2-955.3(A) provides that “Any sponsor violating Article 2 [...] of this chapter shall be subject to (i) a civil penalty not to exceed \$1,000.”



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Appendix A: Scans

*Knowledge is Your
Best Policy...
Bureau of Insurance*

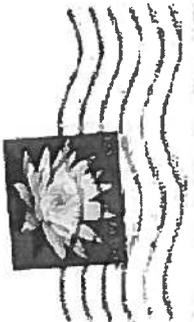
*This campaign material
from Teri Pace candidate
for Supervisor District 2
Orange County does not
have the statement who
authorized and paid for it.*

*Thomas Graves
540-854-5903*

www.scc.virginia.gov/boi
(877) 310-6560



*Department of Elections
c/o Brown
1100 Bank Street
1st Floor
Richmond, Va. 23219*



*THOMAS GRAVES
1800 Zachary Taylor Hwy
Orange, Va. 22960*

[Handwritten signature]

23 SEP 2015 PMS 1



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**VOTE
TERI L. PACE
FOR DISTRICT 2 SUPERVISOR**

*Sorry I
missed
you*



I have lived in Orange County for 41 years. My husband and I have raised our three children here on our farm. I appreciate Orange County and all it has to offer.

Our citizens are creative and hardworking, providing needed and unique products and services. We are producers, not only in agriculture where we rank 8th in the state, but as entrepreneurs. Production produces wealth, not consumption. Unlike your current supervisor, I will not use your tax dollars to fundamentally change Orange County from a productive rural community to the suburban sprawl he is promoting.

I know an elected official's job is to serve you, not the government. Wasteful budgets equal irresponsible spending of your money and out of control government.

I have a proven record of looking out for the best interest of Orange County citizens by being fiscally responsible, giving careful consideration of issues, and voting accountably.

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As supervisor from 2006 - 2009, I never supported or voted in favor of the bloated budgets and wasteful tax levies.

I am an advocate of academic excellence and prudent spending. I was opposed to building a \$50 million school we didn't need, and now funding the operation of 2 half-empty schools. Thoughtful and challenging curriculum and excellent teachers paired with accountability from students, parents, teachers and administration is what we should be demanding.

A VOTE FOR
TERI L. PACE
ON NOVEMBER 3, 2015
IS A VOTE FOR:

RESPONSIBLE BUDGETS AND SPENDING

TRANSPARENCY IN GOVERNMENT

OPPOSITION TO CRONY CAPITALISM

OPPOSITION TO THE FUNDAMENTAL
TRANSFORMATION OF ORANGE COUNTY

I cannot bring about these changes without your help, but working together, we can ensure our county is the kind of place we want to live.

If I'm elected, I will make sure you know what your county government is doing and if you engage in the process, we can get the county government working for the citizens of Orange County again.

"The penalty good men pay for indifference to public affairs, is to be ruled by evil men." -- Plato 429 - 347 BC

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