

MINUTES
Fairfax County Electoral Board
September 27, 2023

The Fairfax County Electoral Board (Board) met on Wednesday, September 27, 2023, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Hon. Katherine K. Hanley; Vice Chairman Jeffrey K. Shapiro; General Registrar Eric L. Spicer; Deputy Director Cheryl Jones; and Clerk to the Electoral Board Beth Dixon Methfessel were present. Secretary Amb. (ret.) Christopher P. Henzel participated remotely.

IT Manager Cord Whitehouse; Election Manager Ravi Udeshi; Deputy Registrar for Voter Registration Bushra Ardalan; Deputy Registrar for Voter Satellite Offices Florence Brown; Deputy Registrar for Absentee Voting Sean Stewart; Voting Equipment and Logistics Manager Tyrone Allen; Election Officer Manager Gretchen Coleman; Supply Manager Kay Garrison; Financial Specialist Teresa Maza; Mira Elliott, Ann Hines, Jean Thoensen, Kelly Roberts, and Rodrigo Quintanilla Alba (Office of Elections (Office) staff); Andi Bayer, Christine Brim, Jim Emery, and Shari Emery (Fairfax County Republican Committee (FCRC) Election Integrity Task Force); Gregory Brandon (Fairfax County Democratic Committee (FCDC) Central Communications); Peggy Morrison (FCDC Voter Registration and Education); Barbara Palmer-Tengs (member FCRC); and Jean Deavers, Kyle Laker, Jill Mobley, and Benjamin Mobley (residents of Fairfax County and/or neighboring jurisdictions).

Also present at the meeting were representatives of ES&S: Mike Dvorak, Chris Wlaschin, Tom O'Brien, Mac Beeson, Cara Florence, and Bridgette Richardson; PrintElect representatives: Owen Andrews, Chris Andrews, and Tyler Lincks; and representatives from Hart InterCivic: Felice Liston, Bob Heisner, Letty Salazar, and Jen Moreci.

The following individuals participated using the Zoom videoconferencing platform: Human Resources Manager Yoon Choi-Lee; FOIA Coordinator Pat Ferguson; IT Business Analyst Khamthakone Betts; Office staff and/or rovers Mark Beale, Carrie Clark, Jeanne Faubell, Lisa Hogle, B. Gissell Jimenez, Alejandra Malanowski, Abigale Peters, Claudia Stallings, Todd Strelow, Jerald Taylor, and Fily Vilasanta; Maria Vorel (FCDC Precinct Operations); Arina van Breda (Fairfax League of Women Voters (LVW)); Carol Allen (FCDC Election Law and Voter Protection); Helen Chaikovsky, Audrey Dutton, William Denk, Phyllisa Goldenberg, Amanda Griffith, and David Lopez, Fairfax County election officers and/or residents of Fairfax County or neighboring jurisdictions).

Ms. Hanley called the meeting to order at 4:00 p.m. and introduced the Board. Ms. Hanley asked Mr. Henzel to state for the record his location and why he was participating remotely. Mr. Henzel replied that he was on business and calling in from Manhattan, New York. Ms. Hanley called for a motion that Mr. Henzel's voice can be adequately heard and that his remote participation comports with the Electoral Board's Remote Participation Policy. Mr. Shapiro so moved, and the motion passed 2-0.

Mr. Shapiro moved approval of the agenda. Ms. Hanley offered a correction on page 5, paragraph 1, to remove “at the VEBA Annual Conference” and replace it with “the VEBA Legislative Committee and Executive Board.” The correction was accepted, and the Minutes of the Board meeting held on August 7, 2023, were adopted, as amended.

Mr. Shapiro made a motion to appoint of 255 election officers (EO) (98 Democrats, 73 Republicans, and 84 Unaffiliated) for a term ending February 28, 2025. The motion passed by a vote of 3-0.

Under the General Registrar’s (GR) report dated September 26, 2023 (attached and made a part of this record), Mr. Spicer updated the voter registration numbers since the last Electoral Board meeting:

| Registered Voters | As of September 25, 2023 | Change from 8/3 |
|----------------------------|---------------------------------|------------------------|
| Active registered voters | 714,527 | -7,156 |
| Inactive registered voters | 70,595 | +7,919 |
| TOTAL | 785,122 | +763 |

| Registration Transactions | August 2023 (8/1 to 9/1) | Year-to-Date (1/1 to 9/1) |
|--|---------------------------------|----------------------------------|
| DMV online voter registration transactions | 21,437 | 120,618 |
| Web voter registration transactions | 1,894 | 7,584 |
| Third-party voter transactions | 276 | 2,814 |
| Other voter registration transactions | 2,701 | 16,650 |
| TOTAL | 26,308 | 147,666 |

| Voter Cancellations | August 2023 (8/1 to 9/1) | Year-to-Date (1/1 to 9/1) |
|----------------------------|---------------------------------|----------------------------------|
| Deceased | 496 | 2,793 |
| Out-of-state | 2,226 | 8,470 |
| Other | 63 | 7,172 |
| TOTAL | 2,785 | 18,435 |

Mr. Shapiro commented that the 21,000+ DMV transactions in August seemed like a large number compared to the small increase in active registered voters. Ms. Ardlan explained that most DMV transaction result in no change to the active voter numbers because they are duplicates, name changes, or address updates. Mr. Henzel asked how many new registrations are included in the 21,000+. Ms. Ardlan responded that a VERIS report can be generated to

reflect new registrations. Mr. Henzel asked Ms. Ardalan if any other third-party groups other than the League of Women Voters have submitted voter registration applications. Ms. Ardalan responded that another group sent in several applications, and she will provide the name of that group to the Board.

Sample ballot mailers will be sent this week to all active voters in Fairfax County. The brochure contains an image of the voter's precinct-specific ballot, information on the three options for voting (early in-person, by mail before Election Day, Election Day), the voter's polling place and precinct, and in-person early voting locations and schedules. Mr. Spicer added that although it is not a legal requirement, the sample ballot mailer will be sent "Return Receipt Requested." If the mailer is undeliverable, it will be returned to the Office. Ms. Hanley added that the sample ballot mailer is usually not sent "Return Receipt Requested," but this is a continued effort to improve the accuracy of the voter rolls. Mr. Shapiro commended the Chairman, Mr. Spicer and staff for this initiative.

On July 1, 2023, the statutory requirement for absentee by mail voting (Va. Code § 24.2-706) removed the need for a witness signature on the "statement of absentee voter" and replaced it with a requirement for the last four digits of the voter's Social Security number and year of birth. To implement these legislative changes, a new absentee ballot return envelope in collaboration with the Office's third-party printer/mailer and the USPS will be used beginning with the September 22 mailing. The new absentee return envelope features a privacy flap that covers the "statement of absentee voter" while the mailer is in transit, but, importantly, allows staff to review and process the returned envelope as efficiently as possible. Although this privacy flap is not legally required, it protects the voter's birth year and social security number. (An image of the voter submission area and privacy flap on the new envelope is attached and made a part of this record). The Board commended Ms. Jones, Mr. Stewart, and staff for an ingenious feature designed to protect voters' privacy.

As of September 22, 59,611 absentee ballot (AB) applications have been received for the November 2023 General Election. This includes 55,633 permanent applications, 1,669 applications from overseas and military voters, and 2,309 one-time applications. Mr. Shapiro asked if the Office tracks ABs when they are returned as undeliverable. Mr. Spicer confirmed that ballots returned as undeliverable are tracked. Additionally, voters moved to the inactive list are removed from the permanent AB list. Mr. Shapiro suggested another way to maintain "list hygiene" is to send a mailing to permanent AB voters allowing them to "opt-out" of the permanent AB list. Ms. Jones mentioned that there is an opt-out form available on the Office's website. Mr. Henzel asked about the rate of voters requesting permanent AB status. Mr. Stewart explained that about half of the applicants request permanent AB status and half of the requests are one-time only for the upcoming election. He added that currently the portal is receiving mostly one-time applications. Mr. Henzel asked that the number of applicants requesting permanent AB status and those requesting one-time ABs be tracked and reported on the next General Registrar's report.

On September 22, in-person absentee voting for the November 2023 Election began at the Government Center, Mount Vernon Governmental Center, and North County Governmental Center. A total of 757 voters cast ballots at these three locations on September 22 and 340 voters on September 23. An additional thirteen locations will open on Thursday, October 26. All

locations will be open for ten consecutive days from October 26 until November 4, including Sunday, October 29.

Under the Resource Allocation for the General and Special Elections (attached and made a part of this record), each precinct will receive ballots for at least 60% of active voters. Ballots will be ordered for 65% to 80% of active voters for the precincts that had the highest in-person turnout in past elections and for new precincts created by redistricting. Each precinct will receive three to five Poll Pads, two ExpressVote ballot marking devices, and two DS200 ballot scanners. Each precinct will be assigned seven to twelve total election officers, including one SDR specialist officer to help the chief process same day registration voters. Ms. Hanley noted that this is the first time the Town of Vienna will hold its election in November. She expected the four Vienna precincts to have higher turnout, so the Office needs to be prepared to send extra ballots. Mr. Shapiro approved of the three to five Poll Pads for each precinct to ensure proper backup. Mr. Spicer commented that there are 117 candidates on the ballot in Fairfax County this November. Each voter satellite office has a sample ballot book containing all 265 precinct ballots for the November election.

In accordance with the Code of Virginia and Electoral Board policy, Republican chief election officers have been assigned and confirmed in 250 precincts. Due to extensive staff efforts, a pool of 100 more Republican officers willing to serve as a chief or reserve chief have been secured ensuring that a Republican chief will be assigned for all 265 precincts. Approximately 35 reserve chiefs are available to step in should a chief cancel anywhere in the county.

Florence Brown was appointed Deputy Registrar for Voter Satellite Offices effective July 15. Gretchen Coleman was hired as Election Officer Manager effective August 21, and Abigale Peters was promoted to the Election Officer Specialist position effective September 23. The Office is recruiting a training specialist for the Election Administration Division, a GIS analyst for the IT Division, and an administrative assistant for the Absentee Division.

Mr. Spicer made the following statement,

“On September 14, I was served with a lawsuit that questioned the validity of signatures on a candidate petition. The lawsuit, filed by three voters in Fairfax County and the Fairfax County Republican Party, sought to disqualify six signatures that did not have a date on a candidate petition from Ms. Saint John-Cunning, a candidate for School Board in the Franconia District for this November election. This matter was presented at a hearing in the Fairfax County Circuit Court on September 20. The judge dismissed the case and ruled that I had discretion in my position as General Registrar to determine that the six signatures in question that did not have a date were valid and that the missing dates were not a material omission. We began voting last Friday on September 22 with ballots that were approved by ELECT [Virginia Department of Elections] on September 7 that included Ms. Saint John-Cunning as a candidate for School Board in the Franconia District.”

Under the Chairman’s report, Ms. Hanley moved to reaffirm the appointment of Ben Jarratt as an Electoral Board representative and to appoint William Turley to replace Dan Per-

Lee as an Electoral Board representative. At least one of these representatives will be present during the L&A process until it is completed and will sign the machine certification forms. The motion passed by a vote of 3-0.

Ms. Hanley made the following motion to approve ELECT's ADA Compliance Confirmation that states all polling places in the locality stated above have been assessed for accessibility using an Americans with Disabilities Act (ADA) checklist provided either by the Virginia Department of Elections (ELECT) or by the U.S. Department of Justice (DOJ); that the ADA checklist for each polling place has been filed and will be maintained within the records of the local electoral board in accordance with the Virginia Freedom of Information Act (§2.2-3700 et. seq.); and that pursuant to §24.2-310(C), all polling places in the locality stated above are currently compliant with the requirements of the ADA (§42 USC 12132), the Voting Accessibility for the Elderly and Handicapped Act (§52 USC 20102), and the Virginia with Disabilities Act (§51.5-1 et seq.). The motion passed by a vote of 3-0.

There was no Vice Chairman's report, or Secretary's report.

Under Public Comments, Ms. Hanley reminded the public that comments are limited to three minutes. The Board may provide the information; however, an answer may be deferred if more research is required.

Jill Mobley asked if the voting equipment vendors will be providing a SOC 2 Type 2 audit report with an audit opinion for consideration in reviewing their voting equipment. Ms. Hanley responded that this question will probably be answered during the upcoming voting equipment presentations.

Andi Bayer commented that in addition to the lawsuit that was filed regarding the School Board's candidate signatures, new information surfaced and should have been presented to the Board on September 26, 2023. This information reveals that on one of the signature pages there was an incorrect home address for the candidate. Ms. Bayer asked if this issue will be addressed at this meeting, a future meeting, or has it been discussed. Mr. Shapiro and Ms. Hanley responded that they had just received the information today. Mr. Henzel responded that the letter came from an attorney, and wondered if it makes it a legal matter that should be discussed in Closed Session. Mr. Shapiro agreed, and asked Ms. Hanley to add the matter to the reasons for the Closed Session.

Christine Brim requested a copy of the General Registrar's statement.

Mr. Shapiro confirmed for William Denk that page 2, section Absentee by Mail Requests for November 2023 Election, paragraph 1 of the General Registrar's report breaks down absentee applications by permanent, overseas and military, and one-time applications.

Arina van Breda asked if there was a policy about the timing for sending out the sample ballot mailer so that LWV can provide an answer when voters inquire when they should expect to receive them. Ms. Spicer explained that the mailer cannot be sent until the ballots are approved, which occurred on September 7. Ms. Jones added that the timeline is further impacted by the time required to download all the voter addresses, ensure that the polling places are accurately reflected, and to properly incorporate all the ballot styles. The sample ballot mailer also includes a translation into three languages. Multiple cross-checks are performed to ensure

accuracy. The third-party printer must then load all this information and ensure that it integrates properly.

Ms. Deavers read a statement regarding her experience attempting to vote early in-person at the North County Governmental Center. Ms. Hanley thanked her for her comments and responded that the Office will investigate how the process should work for “fleeing” voters and make sure it is covered during training.

Under the Voting Equipment Presentations, two vendors, ES&S and Hart InterCivic, presented voting equipment that they have developed or are developing that would meet the new 2.0 standards.

Ms. Hanley moved that the Board go into Closed Session to discuss protocols for maintaining the security of ballots or voting and counting equipment, where discussion of such matters in open meeting would compromise the security of any election, as permitted by Va. Code § 2.2-3711(34), and Va. Code § 24.2-625.1(B); and to discuss or consider of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, as permitted by Va. Code § 24.2-3711(A)(6); and to discuss personnel matters, as permitted by Va. Code § 2.23711(A)(1).

Mr. Henzel asked about adding the legal matters exemption, and Ms. Hanley indicated that the letter regarding the incorrect address on the candidate petition would fall under the personnel exemption. Without objection, and by a vote of 3-0, the Board entered a Closed Session at 5:45 p.m.

At 7:14 p.m. the Board concluded the Closed Session. Chairman Hanley read the following statement:

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

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

| | |
|-------------|-----------------------|
| Voting Yes: | Chairman Hanley |
| | Vice Chairman Shapiro |
| | Secretary Henzel |

Mr. Shapiro moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 7:16 p.m.

Hon. Katherine K. Hanley, Chairman

Jeffrey K. Shapiro, Vice Chairman

Amb. (ret.) Christopher P. Henzel, Secretary

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