MINUTES

The State Board of Elections Board Meeting was held on Tuesday, March 3, 2015. The meeting was held in the Washington Building, Room B27, Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was James Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; and Singleton McAllister, Secretary. Also in attendance, representing the Department of Elections (ELECT) was Edgardo Cortés, Commissioner; Elizabeth Howard, Deputy Commissioner; and Rose Mansfield, Clerk. Kristina Perry Stoney, Senior Assistant Attorney General and Counsel and Anna Birkenheier, Assistant Attorney General and Counsel to SBE and ELECT attended. Chairman Alcorn called the meeting to order at 2:09PM.

The first order of business was an introduction of the newly sworn-in Vice Chair, Clara Belle Wheeler of the Virginia State Board of Elections whose term initiated on February 12, 2015. Vice Chair Wheeler provided an overview of her professional background and expressed enthusiasm for her upcoming service to SBE.

The first order of business was the approval of Minutes from the State Board of Elections Board Meeting held on February 4, 2015. Chairman Alcorn asked if Board Members had any additions or corrections to the February 4, 2015 Board Meeting Minutes and there were none. Secretary McAllister moved to adopt the Minutes for the February 4, 2015 Board Meeting. Chairman Alcorn seconded the motion and the Board unanimously approved the Minutes. Vice Chair Wheeler abstained on the vote to approve the Minutes.

The next order of business was the Commissioner's Report delivered by Commissioner Cortés. Commissioner Cortés stated that 27 legislative bills passed both houses associated to elections. The Department of Elections tracked and provided analysis for over 150 bills during the legislative session that just concluded. Commissioner Cortés expressed gratitude for the work of the Election Uniformity Team under the guidance of Susan Lee, Manager of Compliance & Administration and Sharon Woo, Manager of the Fiscal Department, for all their efforts. Three of the bills were agency related bills that updated the responsibilities in the code. The bills reflected the Department of Elections responsibilities verses State Board of Elections responsibilities.

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Commissioner Cortés noted that one bill was a result of the GREB Workgroup that outlined responsibilities that were the duty of the general registrar verses the electoral board. Commissioner Cortés stated that post July 1, 2015, the certification of the November election will be held on the third Monday of November. Commissioner Cortés stated that post July 1, 2015, voter registration cards will no longer be required at the polls and registered voters will receive a letter providing the information previously contained on the voter registration cards. Commissioner Cortés stated that post July 1, 2015; the number of scanners in the precincts on Election Day will increased. Commissioner Cortés stated that the general assembly did not provide funding for the replacement of legacy voting equipment across the commonwealth. Commissioner Cortés outlined the impact of varying bills and their impact to the agency. Commissioner Cortés asked if there were any questions. Chairman Alcorn asked Commissioner Cortés to provide a summary of the Board Members responsibilities as impact by any recent legislation. Commissioner Cortés was in agreement with the request.

The next order of business was the Legal Report presented by Anna Birkenheier, Assistant Attorney General. Ms. Birkenheier stated that she did not have a report to present at this Board Meeting.

The next order of business was the SB11 Update-Workgroup Recommendations presented by Edgardo Cortés, ELECT Commissioner. Commissioner Cortés stated that SB11 was adopted in 2014, which provides for the electronic return of ballots by uniformed military members. SBE is required to establish a working group to outline the details of how this program will function before the bill returns to the general assembly next year for final approval. Commissioner Cortés stated that a Request for Information (RFI) was distributed to solicit information and to provide feedback to ELECT for which ten organizations submitted information. Commissioner Cortés provided the proposed workgroup composition to the Board Members. Commissioner Cortés requested that Board Members approve the members that have stated they can participate in the workgroup and as the vacancies are filled, Board Members could approve those individuals at subsequent meetings. Commissioner Cortés recommended that the Chairman of SBE serve on the SB11 Workgroup. Commissioner Cortés asked if there were any questions. Chairman Alcorn stated that he would participate in the workgroup.

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Vice Chair Wheeler volunteered to assist the workgroup by participating in the meetings. The offer of assistance was accepted by SBE Board Members. Chairman Alcorn moved *that the roster of names submitted for the SB11 Workgroup be accepted and approved.* Secretary McAllister seconded the motion. Chairman Alcorn asked if there was public comment and there was none. The Board unanimously approved the motion.

The next order of business was the Process for Certifying Elections presented by Chairman Alcorn. Chairman Alcorn stated that this business was introduced during the February 4, 2015, SBE Board Meeting. Chairman Alcorn stated that the focus would be on process improvement. Commissioner Cortés stated that the request has been discussed and ELECT will present during the April 2015, SBE Board Meeting. Chairman Alcorn stated that the certification process and any suggested changes should be tested during the certification of the June 9, 2015, primaries on June 23, 2015. Secretary McAllister stated that the suggested changes and testing would be acceptable during the time period noted. Chairman Alcorn asked if there were public comments and there were none.

The next order of business was the GREB Workgroup presented by Commissioner Cortés. Commissioner Cortés presented an overview of the workgroup's activities and stated that at the close of 2014, the workgroup provided a list of action items, findings, and a resolution outlining their 2015 workgroup goals. The workgroup membership includes a member of SBE and former SBE Chairman Judd served in that capacity. On February 1, 2015, new SBE appointments occurred as prior SBE Board Members ended their appointed term. This action requires that a new appointment to the GREB Workgroup occur with the recommendation that Vice Chair Wheeler participate as the SBE representative. Vice Chair Wheeler stated that former SBE Chairman Judd continued representation on the GREB Workgroup would be desirable and beneficial to the group and the entire elections community. Secretary McAllister stated that she would support the continued representation of former SBE Chairman, Charles Judd on the GREB Workgroup. Commissioner Cortés reviewed the 2015, GREB Workgroup goals and stated that the workgroup is due to report to the SBE Board at the end of 2015, with its' final recommendations. Secretary McAllister requested that a report from the workgroup be presented to SBE Board Members mid-year on the status of their findings and work-in-progress. Chairman Alcorn asked if there were public comments. Charles

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Judd, former SBE Chairman, approached the podium. Mr. Judd stated that he would continue to support the workgroup by serving in an ex-officio capacity. Chairman Alcorn moved *that former SBE Chairman, Charles E. Judd, continue to serve, as a member, with the GREB Workgroup and that the workgroup provide an update to the SBE Board mid-year, 2015.* Secretary McAllister seconded the motion and the Board unanimously approved the motion.

The next order of business was the Administrative Code updates presented by Martha Brissette, ELECT Policy Analyst. Ms. Brissette stated that the three administrative codes being presented were discussed at the SBE Board Meeting on February 4, 2015. Ms. Brissette stated that as a result of the change of structure, of the now Department of Elections, that occurred in July, 2014, several administrative code sections require updating. Ms. Brissette stated that the three code sections require public comment. Anna Birkenheier, Assistant Attorney General, stated that the review of changes will be completed after the recommended changes complete the public comment period on Regulatory Town Hall. Ms. Brissette provided an overview of the changes and stated that the position of commissioner needs to be inserted in the code with previously aligning responsibilities of the secretary who was the previously designated agency head. Chairman Alcorn stated that Administrative Code section 1 VAC 20-20-60 should be amended to reflect "Delegations to the Commissioner of the Department of Elections" and the motion to post for public comment should reflect this change. Secretary McAllister moved *that Administrative Code Section 1 VAC 20-20-60 should be amended to reflect "Delegations to the Commissioner of the Department of Elections".* Vice Chair Wheeler seconded the motion. Chairman Alcorn asked if there was public comment and there was none. The Board unanimously approved the motion. Vice Chair Wheeler moved *that the Board seek public comment through May 15, 2015, on the proposed amendments to conform its regulation to 2013 legislation designation the Commissioner of Election as the agency head responsible for supervising the conduct of elections or eligibility to vote which affects 1 VAC 20-20-10, 1 VAC 20-20-30, and 1 VAC 20-20-60 of the 2013 Virginia Acts Chapter 542.* Secretary McAllister seconded the motion. Chairman Judd asked if there was public comment and there was none. The Board unanimously approved the motion.

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Chairman Alcorn opened the floor to other business and public comment. William Card, Chairman of the Prince William County Republican Committee approached the podium. Mr. Card stated that on February 24, 2015 he did not file the appropriate paperwork indicating their primary. Mr. Card stated that he called ELECT on February 25, 2015 and filed the necessary paperwork. Mr. Card stated:"We really have not damaged anyone by filling late and there are similar situations covered by the code. I am asking SBE to accept our request to grant an extension to the deadline and therefore to accept the request for five primaries." Chairman Alcorn asked SBE counsel to inform the Board Members on their authority to issue extensions on statutory deadlines. Ms. Birkenheier stated that this conversation would be appropriate in closed session. Commissioner Cortés stated that the request for primary was on February 24, 2015 and ELECT received the Prince William County paperwork subsequent to the deadline. Commissioner Cortés stated that historically waivers have not been extended for missed deadlines. Vice Chair Wheeler stated that §24.2-511 may give SBE the opportunity to be lenient when the party chair is in error and after every attempt was made to produce the paperwork on time. Commissioner Cortés stated that if a staff member is absent their email generates an automatic reply that directs the individual to an alternative staff member and additionally the front office is open during normal business hours to answer and direct calls. Mr. Card stated that he acknowledges that he is in error and as a result is asking SBE for a waiver to the deadline. Chairman Alcorn stated that a closed session is required to consider this request. Chairman Alcorn moved *that the SBE Board close the meeting to discuss specific legal matters requiring the provision of legal advice by legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.* Secretary McAllister seconded the motion and without public comment the Board unanimously approved the motion. Chairman Alcorn directed Clara Belle Wheeler, Vice Chair; Singleton McAllister, Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and SBE Counsel; and Anna Birkenheier, Assistant Attorney General to remain with the Board during the closed session. The Board went into Executive Session at 3:20PM.

At 3:40PM Chairman Alcorn *moved to reconvene in open session and a roll call vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously certifying that during the closed meeting (i) only public business matters lawfully*

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exempted from open meeting requirements under this chapter, and (ii) only such public business matters as were identified in the motion by which the closed meeting was concerned were heard, were discussed or considered. Secretary McAllister seconded the motion and the Board unanimously approved the motion. Rose Mansfield, Clerk, performed the roll call vote and all Board Members approved the motion.

Chairman Alcorn stated that after consultation with SBE Counsel the SBE Board Members have reviewed the code and it is determined that in this particular situation (Prince William County), candidates are able to participate in the electoral process and the Board does not have the authority to grant an extension. Chairman Alcorn thanked Mr. Card for bringing this matter before the Board. Chairman Alcorn asked if there were additional public comments.

Kirk Showalter, General Registrar of Richmond City approached the podium. Ms. Showalter stated that she wanted to review the pending certification procedures for electronic pollbooks. The City of Richmond is in the process of procuring new equipment. Ms. Showalter detailed the concerns and processes of the City of Richmond's pollbooks. Ms. Showalter suggested changes to the current procedures. Ms. Showalter stated that Mr. Scott Leiendecker from Knowink-innovative election solutions was present to answer any questions the Board Members may have regarding this request and the systems Knowink provides to the elections community. Mr. Leiendecker joined Ms. Showalter at the podium. Vice Chair Wheeler stated that the electronic pollbooks only communicate with the precinct they are associated with which is a safe guard designed to protect the information. Ms. Showalter stated that the ability to view information away from the precinct is essential to running Election Day effectively. Chairman Alcorn stated that the security of the electronic pollbooks is essential. Mr. Leiendecker explained the nuisances of the equipment Knowink developed that will address the concerns that Ms. Showalter presented. Chairman Alcorn asked that any written materials and or brochures be presented to the Board Members. Chairman Alcorn asked if there were any other public comment and there were none.

Chairman Alcorn asked if there were comments for the Good of the Order and there were none.

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Secretary McAllister moved *that the Board adjourn*. Vice Chair Wheeler seconded the motion and without further comment the Board voted to adjourn. The meeting was adjourned at approximately 4:06PM.

The Board shall reconvene on April 1, 2015 at 2:00PM in the Washington Building, 1100 Bank Street, Room B27, Richmond, Virginia.

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Secretary

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Chair

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Vice Chairman

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