



**OFFICE OF THE ELECTORAL BOARD &
GENERAL REGISTRAR
CITY OF FAIRFAX
APRIL 14, 2015 ELECTORAL BOARD MEETING MINUTES**



The meeting took place in the General Assembly Building, Room D in Richmond Virginia. The purpose of this meeting was to attend the Virginia State Board of Election's public hearing regarding the certification status of the Winvote voting system.

Present were: Richard Herrington, Secretary; Dirk Brouwer, Vice Chairman; John Harold, Chairman; Kevin Linehan, General Registrar. The Electoral Board and General Registrar traveled in one vehicle to and from the meeting in Richmond. While en route the Electoral Board did not discuss any business.

The Virginia State Board of Elections (SBE) called for a public hearing to discuss reported WINVote DRE vulnerabilities. In response to reported issues with voting equipment in November 2014, the governor called for an investigation into voting machine irregularities. SBE approved a proposal from the Commissioner of Elections to conduct the first comprehensive review undertaken of voting equipment used across the Commonwealth. An interim report of the investigation was made public in April 1, 2015. That report contained allegations of serious security concerns associated with the WINVote system's wireless capability.

Prior to the hearing start time, the opportunity to speak at the hearing was announced; there was a process in place to ensure anyone who wished to speak could do so.

The hearing start was delayed slightly awaiting the arrival of one SBE board member. Once the hearing started, SBE quickly moved to the "Commissioner's Report" which was provided by the Commissioner of Elections, Mr. Edgardo Cortes. Mr. Cortes gave a high level review of the WINVote DRE issue:

- Cited the interim report on WINVote vulnerabilities.
- Stated there had been a survey of all localities which use WINVote DREs.
- Discussed the TSX DRE touch screen problem.
- Provided an update on problems reported in Henrico and Spotsylvania.
- Indicated more testing was needed.

Mr. Cortes spoke for several minutes and after some discussion with the SBE, it was clear more information had to be made available so the attendees could understand the risk which ELECT had determined to be associated with the WINVote DRE system.

Legal Counsel gave a report to the SBE on matters not involving the WINVote DRE issue.

A motion was made by the SBE to go into executive session to discuss the interim report. This motion was not well received by members of the press and several interested individuals who have traveled some distance to attend what was published as a "public hearing." The chairperson for the SBE explained that because of the sensitivity of information, an executive session was warranted. Legal



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counsel was consulted and indicated an executive session could be conducted at the advertised public hearing. The motion was seconded and passed. Members of Electoral Boards and General Registrars were allowed to remain for the executive session. Everyone else left the hearing room.

The Executive session lasted approximately 35 minutes.

Once the assembly was in open session, agenda item IV B., "Public Hearing Regarding Certification Status of WINVote System" was addressed. Individuals who had requested to speak were allowed to do so. There were 15 individuals who spoke including the Secretary of the City of Fairfax Electoral Board and the City of Fairfax General Registrar.

The Secretary of the City of Fairfax Electoral Board a statement at the hearing. Excerpts of his statement:

"The simultaneous release of a significantly flawed audit and internal report to the election community and press has put localities that use the WinVote DREs into a defensive position...The information does not convince me and many others the level of risk the Department of Elections believes exists is valid. The manner in which the Department of Elections is orchestrating this drive to decertify WINVote DREs could be used as a model to force unfunded mandates on to the localities of the Commonwealth.

Risk is the product of threat times vulnerability. Some level of risk always exists – the question is what level of risk is acceptable? ...No matter how much time, money and effort is put into making a device as secure as possible, there is always the possibility that someone else will spend the time and effort to exploit a known or unknown vulnerability of a device or system. The possible scenarios presented by the Department of Elections have a low probability. The level of effort to effect the outcome of an election is huge and in my judgment not an event that is plausible. Let me apply the Department of Elections logic: There is a possibility that if an airplane flies, it will crash – so we should decertify all aircraft to ensure there are no crashes.

The Department of Elections rush to decertify the WinVote DREs is not the result of rigorous analysis and risk assessment. Qualifying language is substituted for quantitative findings.

To be succinct, the heart of the "the sky is falling" issue suggested by the Department of Elections is this: If there is the possibility of a compromise of the WINVote DREs, stop! There is vulnerability experts in a lab may readily exploit, but not something the average voter or one with malicious intent can easily replicate...the risk is very low.



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The Department of Elections is now attempting a rush that will set us up for failure. If the Department of Elections can do this based on a flawed risk analysis, what is to stop the Department of Elections from mandating that a specific vendor or equipment must be purchased by the localities? The Department of Elections is embracing a flawed risk assessment and has injected doubt into the minds of the voters of Virginia. The ability of the WinVote DREs to accurately record votes cast in elections has been repeatedly demonstrated."

The General Registrar for the City of Fairfax spoke, providing to the SBE and ELECT the details on the reliability of optical and digital scanning equipment, pointing out the rush to move away from the WINVote DREs because of the remote possibility of compromise was not necessarily a cost effective approach that would ensure 100% accuracy.

There were several individuals who spoke in favor of decertifying the WINVote DREs, with most stressing that if there was any possibility of a compromise of the integrity of the devices, the DREs should not be used. Others spoke to the age of the WINVote DREs and the fact replacements could not be purchased because the General Assembly decided in 2007 the voters of Virginia would move away from electronic voting and return to using paper because paper would provide an auditable trail.

As soon as everyone who wished to speak had done so, the SBE discussed the WINVote DRE and the information provided. A motion was made to decertify the WINVote DRE. The motion was seconded and passed.

The State Board of Elections (SBE) decertified the AVS WINVote equipment. Decertification means the WINVote system can no longer be used in elections in Virginia, effective immediately.

There was no other business to come before the SBE.

The public hearing adjourned at 12:51am.

The Electoral Board and General Registrar stopped for lunch and returned to the City of Fairfax at 3:15pm.

Respectfully submitted,

Richard Herrington, Secretary
City of Fairfax Electoral Board