



OFFICE OF THE ELECTORAL BOARD GENERAL REGISTRAR

City of Fairfax

Minutes of the May 15, 2015 Electoral Board Meeting



Attendance: Rick Herrington, Secretary; John Harold, Chairman; Dirk Brouwer, Vice Chairman; Kevin Linehan, General Registrar; Nancy Tingen, Chief Deputy Registrar, and Mr. Matt Prestone, City of Fairfax Officer of Election.

At 10:06am the Secretary called the meeting to order.

The Chairman moved for the Board to approve the April 14th, 21st, 23rd, 24th, 28th, 29th and May 6, 2015 Electoral Board Meeting Minutes. The Vice Chairman seconded the motion and it passed unanimously.

The Electoral Board reviewed a proposed policy for participation in electronic meetings required by VA Code §§ 2.2-3707, 2.2-3708, 2.2-3708.1, 2.2-3711, 2.2-3712. After a discussion and a minor modification to the proposed policy, a motion was made by the Chairman to approve the policy. The Vice Chairman seconded the motion and it passed unanimously. The Registrar's Office will provide Board members with a signed copy of the policy and will also post the policy on the department's website.

The Board's Plan of Action and Milestones (POA&M) for replacement of WINVote DREs with certified voting equipment was reviewed to determine if any changes were needed. After a discussion, the consensus of the Board was the document required no changes/updates at this time.

The legislative plan for Fiscal Year 2016 was discussed. The Board expressed their desire to stay abreast of legislative initiatives of the following agencies and organizations: Virginia Department of Elections (ELECT), General Assembly members, the Voter Registrar's Association of Virginia and the Virginia Electoral Board Association. There are a number of available resources for the Electoral Board to utilize to accomplish this goal (Legislative Information System, the Virginia Department of Elections website and the Virginia Electoral Board Association's Listserv).

Mr. Linehan updated the Board on the Virginia Department of Elections proposed voter registration regulations on material and immaterial omissions and a corresponding draft of a new voter registration form. The Registrar reported that the draft form is confusing and could inadvertently cause voter registration offices to register individuals who are not qualified to vote. After review of the proposed regulation and draft form, the Board voiced concern over the proposed regulation. The Chairman will craft a draft response and it will be considered at the next Electoral Board meeting. Once the response is approved, the Chairman will send it to Edgardo Cortes, ELECT Commissioner and copy the letter to the City of Fairfax Councilmembers, and select General Assembly members. The Secretary will contact the President of the local chapter of the Virginia Electoral Board Association to determine if other Boards are aware of ELECT's proposed voter registration regulations.

Mr. Linehan reported on a bill submitted the past two legislative sessions: During the past two legislative sessions, a bill was introduced to require the Commonwealth to pay 100% of the monies



**OFFICE OF THE ELECTORAL BOARD
GENERAL REGISTRAR
City of Fairfax**
Minutes of the May 15, 2015 Electoral Board Meeting



allocated for Registrar and Electoral Board compensation. The bill has not made it out of Committee. The Registrar will email this year's failed bill and the Registrar/Electoral Board annual reimbursement form to the Board.

Mr. Matt Prestone was present because of his interest in the voting machines the Board was going to select for the City of Fairfax. He expressed an interest in the process the Board was going to follow. While the Secretary gave Mr. Prestone an overview of the process the Board was following, the Chairman called was placed to Brenda Cabrera who was recently appointed by the Board to replace Mr. Linehan in July. The purpose of the call was to determine if she and the Personnel Department had discussed sick and annual leave options. The Chairman left Ms. Cabrera a voicemail message.

The discussion of the process the Board was following included the potential of discussing contractual issues. A motion was made by the Chairman that the Board go into closed session while discussing the proposals from the various vendors. The motion was seconded by the Vice Chairman. Discussion followed. The Registrar recommended the meeting stay in open session as he believed the information to be discussed did not satisfy the threshold for a Closed Meeting. Matt Prestone decided he had received enough information about the process the Board was following and stated he was confident in the approach the Board was taking and his presence was not needed. Matt Prestone left the meeting.

After a review of the various code sections, the Secretary determined the matters to be discussed did qualify as a reason to go into Closed Session. Mr. Linehan asked that his objection to the Board moving into Closed Session be noted for the record.

The Board went into Closed Session at 11:21am. Kevin Linehan and Nancy Tingen remained in the room.

The Chairman moved the Board go into Closed Session pursuant to §2.2-3711 (A29) of the Code of Virginia to discuss a recommendation to award a public contract to a voting machine vendor. The Vice Chairman seconded the motion and the motion passed unanimously.

The Chairman made a motion to reconvene in Open Session. The Vice Chairman seconded the motion and the motion passed unanimously. The Board reconvened in open session at 1:37pm.

Upon a motion made by the Chairman and seconded by the Vice Chairman, and passed upon affirmative roll call vote in open session, it was certified that (i) only public business matters lawfully exempted from open meeting requirements and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the closed session or meeting by the Electoral Board.



OFFICE OF THE ELECTORAL BOARD GENERAL REGISTRAR

City of Fairfax

Minutes of the May 15, 2015 Electoral Board Meeting



Roll Call Vote:

Chairman, John Harold: "Yea."

Vice Chairman, Dirk Brouwer: "Yea."

Secretary, Richard Herrington: "Yea."

The Board moved to open session at 1:37pm.

The Board went into recess at 1:37pm for a one hour lunch break.

The Board reconvened at 2:33pm. Present were Rick Herrington, Secretary; John Harold, Chairman; Dirk Brouwer, Vice Chairman; Kevin Linehan, General Registrar; Nancy Tingen, Chief Deputy Registrar.

The Chairman made a motion that Unisyn brand voting equipment be selected for the City of Fairfax. The motion was seconded by the Vice Chairman and the motion passed unanimously.

The Secretary asked the Registrar what process needed to be followed to make the City aware of the Board's recommendation. The Registrar informed the Board that the Purchasing Department needed to be informed of the decision of Unisyn equipment and the cost spreadsheet.

The Chairman made a motion for the Registrar to provide the Purchasing Department with the Board's decision and a copy of the cost spreadsheet. The motion was seconded by the Secretary and the motion passed unanimously.

The Chairman made a motion that six additional Unisyn OVI-VC devices be leased to support elections in Fiscal Year 2016. The Vice Chairman seconded the motion. Discussion followed. An amendment to the motion was offered by the Vice Chairman; that the lease of the OVI-VC was not needed for the Primary Elections in Fiscal Year 2016. The question was called on the amendment. The Secretary voted "Yea," the Chairman voted "Nay" and the Vice Chairman voted "Yea." The amendment to the motion passed 2:1. The question on the main motion was called and passed unanimously.

The Chairman recommended the Board go into Closed Session with just Board members to discuss legal advice which the City Attorney provided to the Chairman for dissemination to the rest of the Board. Mr. Linehan indicated there were two documents in question, an Agreement between the Electoral Board and the City of Fairfax and an Agreement between the General Registrar and the City of Fairfax. Since both Agreements affected the General Registrar and the Registrar's staff (Deputy and Assistant Registrars), Mr. Linehan stated a Closed Session was not necessary. Discussion followed. After consulting various portions of the Virginia Code concerning the need to go into Closed Session to address the two documents, the Chairman made a motion that the Board go into Closed Session. The Secretary seconded the motion. After further discussion, the Secretary called the question and the



**OFFICE OF THE ELECTORAL BOARD
GENERAL REGISTRAR
City of Fairfax**
Minutes of the May 15, 2015 Electoral Board Meeting



Chairman voted “Yea,” and Vice Chairman voted “Nay,” and the Secretary voted “Nay.” The motion failed to pass 2:1 and the Board remained in Open Session.

Discussion of the two Agreements followed with several suggested changes offered by the General Registrar, the Secretary, the Chairman, and the Vice Chairman. Mr. Linehan and Ms. Tingen recorded the Chairman’s suggested changes. A motion was made by the Vice Chairman to submit the changes made to the two documents to the City Attorney. The Secretary seconded the motion and it passed unanimously.

The Mr. Linehan indicated both Agreements were acceptable before the suggested changes were approved. Ms. Tingen stated that she did not have an opinion on the Electoral Board/City Agreement and the General Registrar/City Agreement was acceptable before the suggested changes were approved.

The draft General Registrar Position Description was reviewed by the Board. There was discussion about editing some phrases. A number of small changes were made and the revised document will be reviewed at the next Board meeting.

The Secretary made a motion for the Chairman provide a copy of the edited General Registrar Position Description to Brenda Cabrera. The motion was seconded by the Vice Chairman and the motion passed unanimously.

The Board decided to notify Brenda Cabrera of the selection of Unisyn voting equipment. The Chairman will notify her as soon as she returns his call.

The next Board meeting will take place at the Sisson House on Wednesday, June 3, 2015 at 10:00am.

The meeting adjourned at 4:37pm.

Richard Herrington, Secretary
City of Fairfax Electoral Board