

# Minutes

Talbot County Board of Elections  
215 Bay Street  
Easton, MD 21601  
*August 19 and 24, 2105*

## Present:

### Board

Joseph H. Secrist, President (R)  
Susan MacKinnon (D)  
Walter W. Black (D)  
Richard B. Bulman (R)  
John F. Hall (R)

### Staff

Patricia L. Mitchell, Election Director  
Philip Cronan, Board Attorney

### Guests

Mary-beth Goll  
Eugene Goll  
Desvin Gabbidon, Regional Manager, Field Support Division, State Board of Elections  
Kimberly Meiklejohn, State Manager, Field Support Division, State Board of Elections  
Judy Wixted  
George Dappert  
Christine Polk, "Star-Democrat"

A meeting of the Talbot County Board of Elections was held on August 19, 2015 and August 24, at the Board office indicated above, with two site visits, as indicated below. Mr. Secrist called the meeting of August 19, 2015 to order at 7:00 p.m. Mr. Secrist noted that a quorum was present.

## Approval of Minutes of July 8, and July 16, 2015

Mr. Secrist asked if the Board had any corrections or additions to the minutes of the meeting of June 1, 2015 which had been forwarded to the Board Members by email in advance of the meeting. Mr. Bulman moved the approval of the minutes and Mr. Black seconded. Mrs. MacKinnon requested that the minutes be amended in two places, first on page 9 and second on page 11. On page nine, she asked that the second full sentence be changed to accurately reflect her statement which was: "Mrs. MacKinnon stated that she was opposed to the bylaws mainly because of the deletion of the assumption by each board member of a fiduciary duty and because of the limits put on access to the Board

attorney.” On page 11, in the second sentence of the second full paragraph, Mrs. MacKinnon objected to the wording “attempted to deflect the blame onto her staff” on the basis that it contained the recorder’s characterization rather than what Mrs. Mitchell said, which was “that her staff took care of such matters.” The Secretary amended the draft minutes to reflect Mrs. MacKinnon’s comments. The motion to approve, as amended, was carried unanimously.

### **Addition/Changes to the Agenda**

The following changes to the agenda under new business were moved (Mr. Bulman), and seconded (Mr. Black) and approved by the Board by unanimous vote: (a) a discussion of the record of the closed meeting of August 13, 2013; (b) the approval of the canvas minutes; and (c) distribution of corrections to minutes at each meeting identifying changes and deletions.

### **Public Comment**

Mr. Secrist asked if the members of the public present wished to make any comments. There was no response.

### **Reports**

Mrs. Mitchell provided her report in writing, a copy of which is attached hereto as Exhibit A. Mrs. Mitchell stated that, in the future, her report would include a statement from each staff member describing each’s job activities since the prior report.

Mr. Secrist mentioned the statement on the “County Report” dated July 24, 2015, which said that the State Board had adopted new regulations for “Special Elections by Mail.” He asked if Board members could be provided with a copy of those regulations. Mrs. Mitchell stated that she would send them to the Board members by email on August 19.

Mr. Bulman thanked Mrs. Mitchell for her report which, as requested, contained more details than previous reports.

Mr. Cronan’s positive response to a request for an opinion regarding whether current Board members were entitled to review prior performance evaluations had been circulated by email. As a result, Mrs. Mitchell had provided Mr. Bulman with a copy of her December 2013 evaluation.

Mr. Secrist observed that a staff training session had occurred in late July, and asked if any training sessions were scheduled in the near future. Mrs. Mitchell replied that there were none.

## **Old Business**

### **Use of Easton Fire House for early voting**

Mr. Secrist reported that, on August 12, 2014, he, Mrs. Mitchell, Carol Prettyman (administrative assistant of the Easton Volunteer Fire Department) and J. Edward Lynch, president of the EVFD, had met to discuss the use of the fire house for early voting. Mr. Lynch had informed them that he was opposed to its use, because the public walked across the apron by which emergency vehicles exited from the fire house. Such use by the public hampered the efforts of firemen when it was necessary to get fire equipment out of the fire house. He pointed out that the fire company averaged one non-fire emergency each day. Mr. Lynch was concerned that the location of the polls in close proximity to the emergency medical equipment meant that the presence of the public prevented the EMS from gaining ready access to its equipment in an emergency.

A further concern was that political signs preventing the town from mowing grass for, what amounted in practical terms, two weeks. In addition, some candidates left signs in place beyond Election Day. He was also concerned about the reduction of available parking places for responding firemen. Mr. Lynch acknowledged that Mayor Robert Willey favored the use of the fire house for early voting, but he (Mr. Lynch) asked the Board to pursue other sites before resorting to the fire house.

A discussion followed of whether preventing the public from walking on the apron could be addressed by marking off the apron with yellow tape. The need to drop the tape prior to driving the emergency vehicles from the building was considered an intolerable delay by Mr. Secrist.

Mr. Secrist said that one other site was the Community Center, ordinarily accessed from Rte. 50. Mr. Secrist said that, during voting, people would have to be discouraged from using Rte. 50 (which for the majority of voters would require a left turn in the vicinity of the Community Center) due to heavy traffic. Instead, voters would be asked to use Airport Road and the rear entrance to the Community Center.

Mr. Bulman suggested the American Legion as another site, but further suggested that security was a problem, because keys to the facility were distributed among a number of Legion members.

Mrs. MacKinnon stated that an advantage of staying with the fire house, and a disadvantage of moving from that site, was that the public was accustomed to voting at the fire house and would be confused by the switch to another location. She also observed that the Board faced this very issue at each election since early voting was adopted and was never been able to find a fully satisfactory alternate site.

Mrs. MacKinnon asked Mrs. Mitchell if there were any state requirements regarding the selection of voting sites. Mrs. Mitchell noted the tendency of many voters to appear for the purpose of voting within a short period of time, such that the need for excess parking was always an issue.

Mr. Black stated that he regretted the inconvenience which voters caused to others, but that he hoped everyone would bear in mind that subject at hand involved performing a function vital to our democratic form of government.

The Board referred to the statutory deadline of September 28 for submitting its early voting approval form to the State Board, noting that the deadline for finally deciding the meant a decision had to be made at the September meeting.

Upon motion duly made, seconded and carried, it was decided that, at the conclusion of the current meeting, the Board would recess until Monday, August 24 at 9:00 a.m. At the time, the first order of business would be to visit the two alternative sites. Mrs. Mitchell was asked to be in attendance. She agreed and said she would bring blank early voting site approval forms for the Board's use in evaluating the site.

#### Board Attorney's retainer agreement

Mr. Cronan had circulated his revised retainer agreement by email prior to the meeting and prior to being informed that the Board was considering changing its bylaws to satisfy the State Administrator's view that an attorney's presence was required. Upon learning of the proposed change, Mr. Cronan confirmed that the most current draft required his presence only at the request of the president of the Board or of a majority of the Board members. He said he would make the revision and forward the retainer agreement the following day.

Mrs. MacKinnon observed that there may be a need to adopt a revision to the budget to allow for Mr. Cronan's attendance.

A discussion followed concerning whether and under what circumstances Mr. Cronan's presence might be excused. However, no consensus could be reached.

Mr. Bulman made a motion that the fee agreement, as revised, be approved; Mr. Hall seconded the motion and it was approved unanimously.

#### Review of State Administrator's Requested changes to the bylaws.

Mr. Hall presented the Board with revised bylaws which incorporated the requested changes set forth in a memorandum from Nikki Baines Charlson. One matter, having to do with the deadline for the swearing in of members, was left unchanged, since, while Mrs.

Charlson had referred to it, she had not insisted on any change. At Mrs. MacKinnon's request, Mr. Hall went down the memorandum and explained how each had been addressed in the revised bylaws.

Mrs. MacKinnon asked Mr. Cronan about the affidavit requirement referred to in Section 5.1, C., 3, (which prohibits a Board member who obtains information for which the State requires that an affidavit and fee be prevented from distributing such information). A copy of the application provided by the State Board office was reviewed and it was determined that the reverse side contained an affidavit.

Mr. Bulman moved that the revised bylaws, in which the footer bears the revision date of July 28, 2015, be adopted as the bylaws of Talbot County Board of Elections. Mr. Hall seconded. The motion carried by a vote of 3 in favor (Mr. Bulman, Mr. Secrist and Mr. Hall) and two opposed (Mrs. MacKinnon and Mr. Black).

#### Review of Invoices

Mr. Bulman asked for clarification of the Hollis. Cronan & Fronk invoice, specifically the \$350 "Balance Forward." Mrs. Mitchell explained that the firm's billing including information as to the bill presented, and paid, in a prior month.

Mr. Hall asked for an explanation of the Verizon charge of \$28.52. Mrs. Mitchell explained that Verizon provided a fiber optic line (commonly referred to a T1 line) at that monthly cost.

Mr. Secrist referred to the November 12, 2014 list of two judges and pointed out that there were only 12 chief judges, but 17 people had been paid as chief judges. Mrs. Mitchell acknowledged that she had been in error.

#### Final Budget and Current Budget review

Mr. Secrist asked for an explanation of the County budget report which contained a large sum for "DUES & ASSOCIATION M." Mrs. Mitchell said she would contact Mrs. Asche and request an explanation of the expenditure that been assigned to that entry on the budget report. She speculated that the charge related to the required biennial meeting that was held in June 2015.

#### New Voting Equipment (Distribution of Equipment)

Mr. Secrist directed the Board's attention to the "Warehouse Assessment Final Report" dated July 24, 2015, and to the accompanying graphic entitled "New Units Needed and Existing Usage Plan." Mrs. Micklejohn provided a description of the space that would be occupied by each machine and by its auxiliary equipment.

## John F. Hall's Petition to State Board of Elections

Mr. Secrist presented a copy of the letter he had written to Daniel J. McManus, Jr., Chairman, State Board of Elections, and to Corey W. Pack, President, Talbot County Council, stating that this Board took no position with regard to Mr. Hall's position.

## Website Corrections.

All requested corrections had been made.

## Primary Election 2014 Canvas minutes

Mrs. Mitchell said she would be emailing copies to all Board members. Those minutes could then be considered for approval at the September meeting. Mrs. MacKinnon asked that the minutes be sent to her by mail, rather than by email.

## Mock Election October 2015

Mrs. Mitchell stated that the Mock Elections would be held October 19 through October 23, 2015. No other information was currently available.

## **New Business**

### Warehouse space survey report

Mr. Secrist said that he and Mrs. Mitchell had met with R. Andrew Hollis, County Administrator, Jessica Morris and Brian Moore, Assistant County Administrator, regarding the need to store the leased voting machines and necessary auxiliary equipment. Mrs. Mielklejohn pointed out the extreme urgency of the need to get a limited number machines moved to Talbot County in time for preparation for the planned October mock elections. The deadline for having all the machines onsite that would be required for the April primary election is January 1. The State Board considered Talbot County to be an acute problem because of the lack of progress in obtaining storage space. She asked that this Board emphasize to the County the urgency of the need for warehouse space.

Mrs. Mitchell described the Board office space as lacking sufficient power outlets and voltage to charge the new machines.

Mr. Secrist reported that Mr. Hollis wanted to look into a number of alternate sites which would satisfy the requirements of the lessors of the equipment, have adequate power supply, climate control, and security, as well as space not only for storage but for working

on the machines. Until Mr. Hollis had completed his search, the Board could take no conclusive action. By consensus, the matter was tabled.

Mrs. Mitchell informed the Board that a video demonstrating the new equipment was available for distribution to Board members. Alternatively, individual Board members might visit the Board office, where they could view the video. Mr. Bulman and Mr. Hall said they would prefer to receive the video.

#### New Telephone System

Mrs. Mitchell reported that the new telephones were a major improvement over the system that had been replaced.

#### August 2014 meeting minutes

Mr. MacKinnon referred the Board's attention to Mr. Hall's email concerning the procedural requirements for closing a Board meeting, especially his comments that the minutes did not show that the Board had voted to close a meeting in August 2014 and that no reason for closing the meeting was given in the minutes. Mr. Hall had also pointed out that the absence of any minutes for September meant that it was impossible to determine if the minutes of the closed session were properly approved.

Mrs. MacKinnon expressed her certainty that the proper procedures were followed in closing the August meeting. She provided Mrs. Mitchell with a copy of the minutes for September meeting so that those minutes could be published on the Board's website. Mrs. Mitchell said she would do so. Mrs. Mitchell said she would look for minutes for the closed session in August 2014, for regular meeting minutes for December 2014 and for January 2015 and would post the December 2014 and January 2015 minutes when they were found.

Mr. Hall pointed out that the minutes for October 2014 show there had been a closed session at the beginning of the meeting in October 2014, yet there was no indication that a vote to close the meeting had been taken, nor was any explanation for the closing of the meeting provided in the minutes.

Mr. Hall asked that he be able to review the minutes of the closed session held August 2014. Mrs. MacKinnon asked Mr. Cronan if it were permissible for Mr. Hall to review such minutes, as minutes of closed sessions are sealed, once approved. Mr. Cronan said he would research the issue.

Ms. Wixted and Mr. Dappert left at 9:00 p.m.

Mr. Bulman moved, and Mr. Black seconded, that the Board go into closed session under the General Provisions Article, Section 3-305(b)(1), for the purpose of conducting a State-required end-of-cycle performance planning and evaluation of Ms. Mitchell as Election Director. The motion was approved by the affirmative vote of Mr. Black, Mr.

Bulman, Mr. Hall, Mrs. MacKinnon and Mr. Secrist, whereupon the remaining visitors left. After a brief recess, the Board went into closed session at 9:30 p.m.,.

In view of the hour, the Board came out of a closed session at 11:35 p.m., without having completed the evaluation. Upon motion duly made and seconded, the Board recessed until Monday, August 24 at 9:00 a.m.

The Board reconvened at 9:05 a.m. on August 24, 2015. All members of the Board, as well as Ms. Mitchell, visited the home of the American Legion ("American Legion") on Canvasback Drive, the Easton Fire House ("Fire House") on Aurora Park Drive, and the Talbot County Community Center ("Community Center") on Rte. 50 north of Easton.

The group met with William Ewing at the American Legion, who responded to questions from Ms. Mitchell and Mr. Secrist. At the Fire House, the group met with J. Edward Lynch, president of the Easton Volunteer Fire Department. Mr. Lynch answered questions regarding the placement of fire and EMS vehicles. He also expressed his concerns about the voting public's interference with the fire suppression and EMS personnel and equipment. Ms. Mitchell was familiar with the Community Center, had spoken recently with Preston Peper, Director, Talbot County Department of Parks and Recreation, and was able to identify a number of features of that site.

Following the site visits, the group returned to the Board office to discuss the suitability of the sites. Mr. Secrist led the discussion by referring to the questions in the State Board's "Proposed Early Voting Center – 2016" review form.

Ms. Mitchell pointed out that the voting center needed to be connected to the EPIC server by high speed line at all times. As to data connectivity, the Fire House and the Community Center were currently satisfactory. However, the American Legion was not, and inquiry as to a possible solution would have to be made to Easton Utilities.

Phone service would not be available at the American Legion. However, in the past, the election judges had relied on cellular telephones.

The Board had no information regarding a backup power supply at the American Legion nor the Community Center. Mr. Secrist said that the Fire House had backup power service.

All sites satisfied the HVAC requirements.

All sites were handicap accessible.

The American Legion has 37 parking spaces in the rear, and there were not handicap parking in the rear area and no lighting. It has 11 spaces in the front, where there were only two handicap spaces. There is a possibility of a few spaces along the street.

All sites were located in, or in close proximity, to Easton. Security was best at the Community Center, because that portion of the building to be used would not be needed by other users of the facility. At the fire house, the room which would be used was a classroom; at the American Legion, it was the meeting hall.

The size of each facility, both for those standing in line and those voting, as well as for check-in stations and ExpressVote units was adequate.

No renovations were anticipated at any of the facilities.

Space for electioneering presented a problem at the American Legion, because of its close proximity to the street and to the Shore Health facility next door.

Availability of public transportation was the same for each site; each was easily accessible by major roads; and each is served by roads free of restriction. However, it was recognized that the American Legion location was not generally familiar to most of the public. Mrs. MacKinnon stated that the need for most people to make a left turn crossing two lanes of traffic on Rte 50 should be a concern when considering the Community Center.

No information was available concerning other major events at the Community Center.

Regarding parking, both the Fire House and the Community Center had adequate parking. As noted in the earlier discussion, parking at the American Legion was problematic. In connection with a discussion of the need to encourage voters who might be using the Fire House to park in the lot adjacent to the early voting area rather than in the lot which is faced by the front of the building, Ms. Mitchell said that she had some "Help America Vote Act" funds to purchase feather flags to direct parking. Those signs would be tall enough to be seen over electioneering signs.

Regarding cost (under "Other Information"), since the Community Center is County-owned, it would be available at no charge, whereas the other facilities would require payment.

The entrance to the voting area at the American Legion was in close proximity (approximately 25 feet) to entrance to the bar serving alcoholic beverages, and containing slot machines.

Ms. Mitchell noted that the American Legion had plenty of receptacles. Ms. Mitchell stated that she needed five receptacles of two outlets each, plus four outlets for the poll books. However, the poll books could be attached to power strips and did not require separate outlets for each. She said that the Fire House had sufficient receptacles.

Ms. Mitchell pointed out that Mr. Ewing had said that he would have to take the matter to the American Legion Board. That Board would then present a contract which we would need to review.

Windows were not a concern at the Fire House. At the Community Center, and at the American Legion, the windows could easily be covered with paper to shield the voting machines.

Mr. Secrist asked the Board whether it was ready to make a decision or should the matter be decided at the September meeting (which is a deadline for so doing). Mr. Bulman said that he would like to get the answers to some questions. Specifically, Mr. Ewing had said that the American Legion was unwilling to shut the bar for during early voting hours. However, perhaps if that were a condition to the use of that facility, the American Legion might reconsider. Second, the matter of the cost to use the facility had not been finally agreed to by the American Legion and that needed to be resolved. Finally, there was the matter of the capacity of the room. The American Legion is limited to 125 people. Mr. Secrist explained that he had discussed that issue with Richard Towers, now-retired former fire marshall, who had stated that the number referred to those seated and did not affect circumstances where people were constantly coming and going.

Regarding capacity, Mr. Secrist asked if anyone knew how many people voted each day during Early Voting. Ms. Mitchell said that over 1,000 people had voted on one day. Mr. Hall pointed out that there would not only be voters, but, additionally, election judges and poll watchers. He further observed that the numbers not only went to capacity of the voting area, but, additionally, parking.

The discussion then moved to whether there might be anyway to address the concerns of the Easton Volunteer Fire Department regarding loss of parking and with the interference of the voters with the emergency squad's need to quickly leave the facility. That need was not merely limited to the presence of voters on the aprons, but, additionally, in the roadway. Mr. Bulman observed that the same problem exists when other gathering are held at the Fire House, such as the weekly bingo fund raiser. Mr. Secrist pointed out the presence of the public was not of the same magnitude when the public gathered at the meeting room rather than in the northern portion of the building.

Ms. Mitchell suggested that if the Elliott-Wilson parking area, which adjoins the Fire House property, were identified as "voter parking" as well as marked into parking spaces, with, perhaps, something non-permanent, such as baseline rolling chalk dispenser, then the public might use that area for parking. That would reduce the impact on the fire company. However, it would not address the need for the County ambulance to quickly leave.

Mr. Black asked if there would be adequate space within the facility. Ms. Mitchell stated that she felt it was adequate, so long as the back-up fire vehicle were cleared out, and the area for the County ambulance were cleared out.

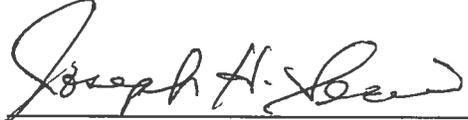
Mr. Secrist inquired whether the surface of the Elliott-Wilson lot was satisfactory for handicap parking. Ms. Mitchell said that it was tar-&-chip, rather than smooth asphalt, but was nevertheless satisfactory.

Mr. Secrist if there was a proposal for a back-up site. Ms. Mitchell stated that the Board office would serve as back-up site.

The consensus of the Board was to delay a final decision as to the site for early voting until the Board's September meeting. The Board reconvened in closed session to continue consideration of its evaluation of the performance of the Election Director. The Board reconvened in open session at 1:00 p.m., and adjourned.

Attested,

Respectfully submitted,

  
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Joseph H. Secrist, President

  
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John F. Hall, recorder