

SPALDING COUNTY BOARD OF ELECTIONS & REGISTRATION
Regular Meeting
December 14, 2021

Attending were Chairman Ben Johnson, presiding and Board Members Roy McClain, and Jim Newland. Absent were Members Jim O'Brien and Alfred Jester. Also present were Elections Supervisor Kim Slaughter, Attorney Stephanie Windham, and Teresa Watson to record minutes.

Call to Order

Chairman Ben Johnson called the meeting to order at 6:00 p.m. and welcomed everyone. He read a brief statement regarding meeting protocol.

Invocation and Pledge

Jim Newland provided the invocation, and Chairman Johnson led the pledge.

Chairman Johnson read the guidelines for public comment.

Signed to speak were the following:

None

Adoption of the Agenda

Motion/second to adopt the agenda by Mr. McClain/Mr. Newland carried 3-0 .

Minutes:

Consider approval of Minutes for the Spalding County Board of Elections and Registrations meetings on October 12, 2021, and November 8, 2021.

One correction to October 12 minutes, second page, "Roy McClain asked that voting system issues be reported at the next meeting." Motion/second to approve with correction by Mr. McClain/Mr. Newland carried 3-0.

Motion/second to approve November 8, 2021, Minutes by Mr. Newland/Mr. McClain carried 3-0.

Consent Agenda

Old Business

Recognitions

New Business

Facility and security update presented by Roy McClain – Dominion Contract

What Mr. McClain initially thought would be to capture issues in the office has turned into an ongoing report.

As an interim report, there will be no beginning or end, but rather a continuation.

Two specific items on the contract with Dominion have larger connotations. Old and new passwords were pinned to a Notepad file and witnessed by an employee during a walkthrough. There have been unsecured and open doors since Marcia Ridley left, with no key. Spalding County cleans and maintains with prisoners who have access. While the Ad Hoc committee conducted the walkthrough, a report is pending.

Additionally, there was much more security paper on hand than was needed for a county our size. An audit of how much was ordered and our status is ongoing.

Ballot marking devices were found in election day mode and could still actually be activated for printing ballots. Paper remained unsecured and devices unsecured. An audit will help, and they can determine usage based on printer counts. A security journey will divulge needed measures.

Storage of ballots and materials were found a day or so ago. The Clerk of Superior Court visit found materials moved from courthouse to offsite. This evidently happened quickly, and documents were literally piled in the floor haphazardly against other files. The Elections office cannot access in an orderly fashion for ORAs. The Clerk of Court indicated to Ms. Windham that there is no way to timely respond to ORAs since she is in court most of the time. Some were told by the Fire Marshal they had to move records. Chair Johnson asked Mr. McClain if he could work with Ms. Windham to determine storage of records and accessibility for ORAs, with the hope being for dedicated space or at least a space partitioned in some fashion.

Mr. McClain mentioned the election management server was unsecured for months. Everyone knows of these issues in the Secretary of State Office. We are looking for clear legal guidance for the proper process to secure and report. He wondered if we could accumulate possible violations and what protocols should be followed. Ms. Windham said it depends on the severity and that self-reporting is always the best alternative, but she cautioned it should not be for things that are not necessary.

Ms. Windham reported there was nothing on the Secretary of State's agenda for Spalding today. Reporting is necessary for the server, and there is no obligation to put anything in writing.

Dominion Contract – Prior to his becoming Chair, Mr. Johnson reported that Dominion was chosen by all Georgia counties in a democratic process. We now discover that the contract between Secretary of State and Dominion for voting systems reveals there was no agreement for Spalding County. Additionally, he worried that the Secretary of State's office was responsible for providing support and response, and the answer is deficient. This is a work in progress, and also there is no agreement between Secretary of State and any county in Georgia. Hardware and software are on permanent loan to counties in Georgia. We have paid up on permanent loan status with Dominion Voting Systems software with no dedicated technical resource, then we depend on Secretary of State for support and training. There has been no charge to date beyond having someone on site for election day. There is nothing between us and the vendor to guarantee. We have a budget of \$28,000; the original contract with Secretary of State was paying for hardware, warranties, devices, server, and computer/scanner. This expires on 12/31/21, and it will be up to all counties to foot the bill for this equipment. So, our \$28,000 budget is now \$31,045 for one year of hardware warranted. There is no mention of licensing or support for software. There also is no clarity on this issue. The U.S. District Court found earlier in this year that QR codes were not readable for our version 5.5, and that it is breaking Georgia Election law and, therefore, is not legal to use. This case is being heard tomorrow – Singleton v. Rafensberger. A judicial opinion is that our equipment is illegal with no clarification from Secretary of State or from Dominion. Service level agreements are sorely needed. We only have a hardware warranty and are repairing hardware as needed.

Dominion sent over a non-disclosure agreement and a limitation of liability that really referred to no hardware agreement. As far as the warranty expiring 12/31/21, we have tickets on everything we know is broken now for repair. Mr. McClain advised there will be a continuation of this issue, and we can pick up discussion again after a later date when the legal issues settle.

Mr. Newland questioned if this was a judge ruling or opinion since what Mr. Johnson read was from the US Circuit; he was not sure if the ruling was given. Ms. Windham said there will probably be no ruling tomorrow, but the case will begin. There are no satisfactory answers on the nature of our relationship with Dominion. Kim Slaughter will determine if we need to renew and whether or not there will be any renewal fees or penalties. We are not sure of the legality of a third-party forcing compliance. Ms. Windham asked Ms. Slaughter to explore this situation with other counties for comparison.

Motion/second by Mr. McClain/Mr. Newland to table consideration of this contract carried 3-0.

Report of Elections Supervisor –

Kim presented her After Action review report. Ballot marking devices with scanners inventory was found. All issues found during L&A testing, along with challenges encountered, were broken down by precinct. We need Secretary of State codes and passwords to close out properly. The Secretary of State's office knows verbally of these issues, but no written report has been provided yet for same. We worked with our CES representative.

Ms. Windham said it would be appropriate to send a report to our liaison, Xavier Harris.

Mr. McClain felt that one concern for him is the conflicting information that comes from the Secretary of State's office versus what we receive from tech support and others. We have felt this is a revolving door with much turnover, which makes it difficult to know if you have told write person. If wrong person is told and the right thing is not done as a result, we are still the responsible party. Our comfort level is to capture as much as possible and put it in writing, so we have made proper notification and documented appropriately. We need to establish some procedure to follow for proper documentation. We are finding many things that require attention, and not all rise to the level of reporting. We need to think about what the process should be according to the level of severity.

Mr. Johnson said in the two cases we have now, this issue and the one in McClain's report, we have received great legal advice. Documentation is always a good idea. Kim Slaughter can document and report to the Board who will decide whether or not to submit to the liaison, for both minor and major issues. We need to make a habit of submitting a report, and the Board can take additional action, if needed, to forward to the liaison and let the Secretary of State's office take it from there.

Ms. Slaughter said in general there were several Elections Office issues determined to exist with devices, security, unsecured boxes not locking, devices not properly charged, or which had no power charge (it requires 2 to 3 hours to fully charge). Many devices and protocols were not closed from previous elections.

Testing was conducted successfully and indicated some issues, as well. L&A took a little over 3 weeks total. To take more than one week is not uncommon, but we did have issues and need a cleaner slate.

Poll worker challenges were apparent; of the 61 workers, 36 were brand new. This is a tremendous challenge. No electronic records were left from the previous supervisor. An extraordinary number of hours were spent to recruit and train poll workers. We have already begun building a poll work master list.

Equipment – A visit by Dominion had versions updated, sent in October 2020. It had not been previously updated. There were broken power buttons, printer language issues, and things that had to be recertified. Three scanners had to be repaired with no promise for turnaround time.

The 11/2/21 election was a successful one. Timely information occurred, and poll workers helped greatly. L&A instructions in Exhibit A of her report noted specifics. We reviewed protocols with all poll workers. Power issues were better resolved by utilizing a power strip and not plugging into wall outlets. Power surges within the building and power strips protect from surges which were a problem. We continue to have challenges, but we are successfully addressing them, such as the voter encoder specifics with I-Pads.

Mr. Johnson mentioned the slowness of programming cards, noting the process was slowed down because they were plugged into walls; he agreed the power strips rectified this issue for the most part. Wait times were calculated to be very satisfactory overall.

Ms. Slaughter said her office was working with this Board and with Spalding County to resolve the storage space issues. Moving equipment for L&A to the Hall of Fame location is inconvenient and time consuming. They have moved workstations from the Dominion room to the office for better access. Forming a larger

team for L&A has improved both logic and accuracy. She continues to develop office staff and has an interview for an election assistant and a part-time voter registration clerk. We have worked so far with extremely limited staff, and she was proud of everyone's efforts. Going forward, they will conduct poll worker outreach ahead of time. Training time will be extended for poll workers – from 2-1/2 to 3-4 hours – since there is a lot to cover with Dominion systems and working with poll pads. Some issues with control were encountered, but none would prevent voters from their right to vote. We are building on experiences. The only thing Mr. Johnson could recall for the After Action would be to have more than one line for poll managers to turn their information into the office.

County Manager Dr. Steve Ledbetter said a deal was ready for approval on 1-2-22 for redistricting efforts.

The Board thanked Ms. Slaughter for her efforts and diligence at getting things under control with so many challenges.

Board Member Comments

None

Executive Session

Motion/second by Mr. Newland/Mr. McClain to go into Executive Session to discuss pending or potential litigation at 6:56 p.m. carried 3-0.

Adjournment

Motion/second to adjourn Executive Session and reconvene to Open Meeting at 7:15 p.m. by Mr. McClain/Mr. Newland carried 3-0.

Motion/second to adjourn at 7:15 p.m. by Mr. Newland/Mr. McClain carried 5-0.

Ben Johnson, Chairman

Teresa A. Watson, Recording Secretary