

**Buncombe County Board of Elections**  
**Asheville/Buncombe County Board of Elections**

**Monitor Name:** Cheryl Williams in person

**Date & Time:** November 12, 2024 3:30 PM

**Names of Board Members Attending:**

Jake Quinn, Chairman

Mary Ann Braine, Board Member

Steven Aceto, Board Member

Glen Shults, Secretary

Sally Stein: Board Member

**Names of Buncombe Co Staff Attending:**

Corrine Duncan, Director; Anna Katherine Moore, Administrative Coordinator and Clerk to the Board; Victoria Pickens, Accounting Technician and Campaign Finance; Devin Whitney, Elections Technical Specialist – GIS; another staff

**Location of Meeting:** 59 Woodfin Place, Asheville NC

**Observers:**

5 Total in person including 1 LWVAB 1 Common Cause, 1 National Election Integrity Association plus 2 others

**I. Agenda for this meeting approved without objection**

**II. Office Updates – Corrine Duncan, Director**

- We are well into the Canvass process and keeping up with all that needs to be done
- On Thursday the Board will have about 1,400 provisional ballots to review as well as about 40 Absentee ballots
- Yesterday, staff successfully conducted the sample audit of 2 precincts randomly selected by the State Board of Elections
  - The selected race was for President
  - The selected time was Election Day
  - Teams conducted an eye-hand count of the ballots
  - The findings matched the tabulator tape with one exception
    - 2 ballots had write-in candidates but because the voter did not color in the circle for write in, the machine counted them as undervotes rather than write ins

**III. Photo ID Exception Form Review – Corrine Duncan and Victoria Pickens**

- Ms. Duncan noted that at the last meeting on November 8 the Board had refused some Photo ID exception forms that had checked “Other” as the reasonable impediment

- The Board asked staff to conduct further research on these forms and to contact the voters, which they did
- Ms. Duncan sent the Board copies of the 6 forms and notes from a State Board workshop on Photo ID exception forms
  - Copies of the relevant Numbered Memo 2023-03 are available, if needed
- Only 2 of the 6 voters were reached by phone
- Staff sent out letters to all 7 using the template letter from Numbered Memo 2023-03 with a copy of the memo
- Ms. Duncan also sent copies of the forms to the State Board for review
  - The State Board said they are all acceptable
- Today the 6 are presented to the Board for review and if the Board unanimously finds them unacceptable, staff will notify the voters of the opportunity to appear before the Board on Canvass
  - A seventh Photo ID exception form that checked “other” was found during the review of provisional ballots and is also presented to the Board
  - Staff recommend not accepting the provisional ballot but not for reasons related to the Photo ID exception form
- Ms. Pickens presented the Board with the 6 photo ID exception forms
  - Voter #1 is registered, under the age of 65, has an expired ID, and a valid phone number
    - When contacted, he said he did not have transportation to the Board of Elections to get a photo ID
      - Ms. Stein asked whether that was all the information staff had and Ms. Pickens said yes
  - The phone number for Voter #2 was not valid
  - Mr. Quinn asked whether the State Board gave any additional guidance on why they found the forms acceptable
    - Ms. Pickens said that the Board found that any reason listed as Other was acceptable, so long as the person completed the form and as long as the Board has no evidence that the statement is false
      - Mr. Aceto said the key word is “present”, the reason should relate to their ability to present the ID, not whether they have one
  - Voter number 3 is registered, under the age of 65, and the phone number on file is not valid
  - Voter number 4 is registered, over the age of 65, and the phone number on file is not valid
  - Voter number 5 is registered, under the age of 65, and there is no phone number on file
  - Voter number 6 is registered, has a valid phone number, is under the age of 65, and is considering coming in to obtain a Photo ID
  - Ms. Pickens presented the provisional ballot documents and noted that the provisional application was not signed by the voter but was initialed

by the poll worker and the Photo ID exception form was not signed by the voter

- The packet also contained an acknowledgement form given to the voter stating that they were offered the provisional ballot but it was also not signed
- Ms. Pickens said that the ballot inside the envelope appears to be completed because dark marks can be seen through the paper
- The phone number appears to be valid but the voicemail box is full
- The voter is not registered but since they voted on the first day of Early Voting they may have completed a same-day registration but Ms. Pickens was not able to find one

Discussion of the exception forms continued:

- Ms. Braine asked whether the voter who said they had an expired ID and had applied for a new one presented the expired ID.
  - Ms. Pickens did not know, saying staff can only work with the information on the forms
- Ms. Braine asked whether the person who had an expired out of state license registered within the 90-day window (she said 30 days but later in the meeting it was made clear the window is 90 days in which to present an out of state license)
- Ms. Stein, Mr. Quinn, and Mr. Shults each were puzzled that the State Board recommended approving the exception form for the expired out of state license for someone under age 65 and noted that the advice seems at odds with the text of the numbered memo
- Ms. Duncan said the State Board's reasoning is that on the photo ID form, once we have decided whether the reason applies to the ability to present an ID, (i.e. not the sky is blue) then the Board must decide whether the statement is true or false
- Mr. Aceto noted that the question is do we believe the statement is creditable and relevant to why the voter could not present an ID
  - Further the Board is not to evaluate whether we believe their reason is true
- Mr. Quinn reminded the Board that in the Primary one voter used "other" and stated that they did not believe in the law, which the Board did not find acceptable
  - Mr. Aceto noted that whether they believe in the law or not, the belief does not affect their ability to present an ID
  - Mr. Shults said he thought it was rejected because we thought the voter failed to comply with the law, not because the Board found the reason false
  - Mr. Aceto expressed thanks that the State Board is making County Boards go through the exercise of unpacking the issue
- Ms. Moore passed out copies of the Numbered memo as the Board determined how to word motions on each of the 6 exception forms
  - Mr. Aceto said the relevant section was FAQ number 16

- Mr. Quinn said he thought some needed to be approved and others rejected so it would be better to make separate motions
  - He cited voter number 1 as an example of one that he did not think should be accepted because the voter was asked to present an ID and did not
  - He also expressed concerns regarding consistency across the state in applying the guidance to uphold the law
- After some discussion of wording, Mr. Aceto moved the exception form for voter #1 be rejected by reason that the statement of reasonable impediment, i.e. their ID has expired, bears no relationship to their ability to present a photo ID and is therefore false for purposes of Numbered Memo 2023-03 paragraph 16
  - Ms. Stein asked whether the information provided by that voter that he did not have transportation to get a County BOE ID change the discussion
  - Mr. Quinn thought not since the form is an affidavit, signed by the voter
  - Ms. Duncan said the point of follow up and notification to voters is to give the voters the chance to come before the board to present an ID or present other information for the Board to then decide at Canvass whether to count their ballot
  - Today's vote is not to rule on the truth or falsity of the reason
  - Mr. Aceto read from the Numbered Memo "Importantly, it is not the county board's role to second-guess the reasonableness of a voter's asserted impediment to showing photo ID. Instead, the Board is only concerned with the truth or falsity of the assertion on the form ..."
    - He further stated that the stated impediment may be false on the basis of information to the contrary or false because it does not apply to the ability of the voter to present an ID
  - Mr. Shults asked whether if the voter appears with additional information does this not amount to amending the original form
    - Ms. Duncan said there have been many discussions about this with members of the State Board legal team because it is uncharted territory
    - Mr. Aceto pointed out that the Numbered Memo relies on information found on the form at the time the voter showed up to vote, not information supplied later, unless it is a photo ID, so Mr. Shults' comment about timing is very relevant
    - Mr. Quinn noted that it would be OK for everyone to write, I have ID and I will bring it in
    - Mr. Shults noted that the Board has taken the approach to apply the law strictly as they did last Friday on the case of the woman whose absentee ballot was not signed by both witnesses
      - Mr. Quinn agreed saying he absolutely believed the woman was telling the truth but the law is clear and it was the second hardest vote he has ever made on the Board (he abstained)

- The observer from the National Election Integrity Association said that, as worded, the motion would establish the truth or falsity of the form which cannot be done until the voter has been given notice and the opportunity to be heard
  - Instead, the Board notifies the voter of their intent to hold a hearing, encompass the specific reasons the Board may find the affidavit false, outline the possible responses the voter can take either through providing documents or at an in-person hearing
  - Both Mr. Aceto and Mr. Quinn thanked the person for their input
- Mr. Aceto said the motion is to establish a record, not to determine the truth or falsity, and give the voter the right to respond to why their statement is true or false rather than to bring in totally new information; it must go to the reason how their statement applies to their ability to present an ID
- Further discussion of wording ensued and Mr. Aceto offered an amended motion that the Board proposes to hold a hearing to possibly reject the exception form for voter #1 by reason that the statement of reasonable impediment, i.e. their ID has expired, bears no relationship to their ability to present a photo ID and is therefore false for purposes of Numbered Memo 2023-03 paragraph 16
  - Mr. Aceto said the wording could serve as a template for them all
  - Ms. Moore asked whether the vote needs to be unanimous and Mr. Aceto thought not because the motion is not about the truth or falsity
  - Ms. Stein asked whether we can specify that the discussion is focused on number 4 on the exception form and the Board is looking for information that is relevant and material to the statements on your photo ID exception form
  - Ms. Braine asked how the Board would respond if the voter brought in their expired ID
    - Mr. Aceto said that if the person does, then the truth or falsity of the statement on the form is irrelevant because the question then becomes whether the expired ID qualifies as acceptable
    - Mr. Shults asked whether the voter could come in to get a County BOE identification that would moot the question
      - The answer is yes and is backed up by the Numbered Memo
    - Ms. Duncan said she believes the intent of the law is to get voters to show an acceptable ID although that is a subject of debate in the office in Asheville
    - Mr. Shults expressed concern that giving options to cure the problem might be seen as coaching one voter
      - Ms. Braine read from the Administrative Code that states the notification must provide information on remedies

- Ms. Duncan said this is the first time it has been questioned whether a voter can bring in an acceptable ID after submitting the exception form
    - She thinks they can but said she will text another member of the State legal team for an opinion
      - Mr. Cox wrote back that it is acceptable for the voter to bring in an acceptable ID by the end of business on the day before Canvass
    - She also said they had given remedies to the 2 voters they spoke with
  - The motion passed 5/0
- For voter number 2, Mr. Aceto offered a motion that the Board proposes to hold a hearing to possibly reject the exception form for voter #2 by reason that the statement of reasonable impediment, i.e. they forgot their ID, bears no relationship to their ability to present a photo ID and is therefore false for purposes of Numbered Memo 2023-03 paragraph 16
  - Ms. Duncan said that she thinks the State Board would view forgetting the ID is an impediment
  - Mr. Quinn said if everyone forgot their ID it would be a problem and Mr. Aceto said it would mean we didn't have a Photo ID law
  - The National Election Integrity observer said that the State Board is viewing the impediment as existing at the time of voting so a person who has forgot their ID cannot present an ID because they don't have it with them and their statement is true
    - Further, regarding how many need to vote in favor of giving notice, he would need to dig further, but he believes it requires at least one vote less than unanimous. Mr. Shults agreed
  - The motion passed 5/0
- For voter number 3, Mr. Aceto offered a motion that the Board proposes to hold a hearing to possibly reject the exception form for voter #3 by reason that the statement of reasonable impediment, i.e. they forgot their ID, bears no relationship to their ability to present a photo ID and is therefore false for purposes of Numbered Memo 2023-03 paragraph 16
  - The motion passed 5/0
- For voter number 4, Mr. Aceto offered a motion that the Board proposes to hold a hearing to possibly reject the exception form for voter #4 by reason that the statement of reasonable impediment, i.e. their ID was an expired out of state driver's license, bears no relationship to their ability to present a photo ID and is therefore false for purposes of Numbered Memo 2023-03 paragraph 16
  - This person registered before the 90-day window began on August 6 and ended October 12 and is under 65
  - Ms. Stein asked whether the voter presented the expired ID but Ms. Pickens said she did not know

- Per State law an expired driver's license from another state is only acceptable within the 90-day window
- The motion carried 5/0
- Based on Mr. Cox's advice we need to add to the letter
- For voter number 5, Mr. Aceto offered a motion that the Board accept the exception form for voter #5 whose reason was that their ID had expired and they had applied for a new ID
  - In this case, any document showing they have applied for the ID would render the exception form true
  - Ms. Duncan thought that because they had applied for a new ID the impediment was reasonable even if they still don't have it
  - The motion passed 5/0
- For voter number 6, Mr. Aceto offered a motion that the Board accept the exception form for voter #6 whose reason was that their ID was taken by the police
  - The motion passed 5/0
- Next is a provisional ballot that lacked voter signatures on the provisional application, the photo ID exception form, and the acknowledgment that they were offered a provisional ballot, even though it had been initialed by the poll worker which suggests the poll worker did not review the documents
  - Mr. Quinn stated concerns about how much of this case was "on" the voter versus "on" the County
  - Mr. Shults noticed that the hand written reasonable impediment was "reasonable impediment"
  - The poll worker's notes state that no ID was provided to verify address
    - The person is not found in the voter rolls and no same day registration application has been found
    - Mr. Aceto read from the Numbered Memo that if a voter fails to sign the exception form at the voting place, they can return to the County Board to sign it by 5 pm on the day before Canvass
    - Ms. Stein noted that signing the form would fix one problem but the provisional ballot would not count because they are not registered
    - Ms. Braine moved that the exception form be rejected because neither the provisional ballot nor the exception form were properly executed, and the person is not registered to vote in Buncombe County
    - Mr. Quinn asked whether a verification process had occurred between same day registration and Canvass for this voter
      - Ms. Duncan asked to see the documents and said we may need more information before adjudicating the ballot
      - The poll worker may have made a mistake and we should give the voter every consideration before rejecting it

- Mr. Quinn noted the ballot was cast on the first day of Early Voting and he would like to amend the motion to invite the voter to come in and be heard before rejecting
- In this case, an election official spent a lot of time with this voter which and perhaps the voter can shed light on it
- Ms. Braine said that none of the forms were signed and they were printed from our system
- Mr. Quinn said we don't know that the person was asked to sign anything and the election official should ensure that the documents are signed
- Further, Ms. Braine said the election official initialed the document before letting the voter cast a provisional ballot and that if a person appears, we have no way of knowing if it's the same person
  - It's not clear to her that a way exists to cure this ballot
- Ms. Duncan said that administratively it's a mess but from the ballot side ask staff to research the ballot further and possibly recommend that it be rejected
- Mr. Quinn favors asking the voter to appear on Thursday
- Ms. Pickens said that the search for the registration form was cursory and is perhaps worth searching more diligently as well as to review election documents for an incident report and talk with the poll worker
  - If, after that process, they invite the voter to come in, the voter will have more and possibly different actions to consider.
  - Ms. Duncan said we can notify the voter that questions exist about their exception form, then discuss it on Thursday thereby giving staff more time to find evidence of registration. Doing so will give the voter every chance to have their ballot count
- The voter's mailbox is full and it's doubtful that mail will be delivered in time, but staff could attempt a text although the number is 828 so it may not be a cell and there is no email on file
  - The Common Cause observer said mail will not reach the voter in time
  - Mr. Quinn noted that phone numbers are often not updated over time which causes problems in situations like these
- Ms. Braine amended her motion to propose to reject the photo ID exception form for lack of a signature and to



return the ballot to staff for further research into the voter's registration

- Motion passed 5/0
- The last ballot (the eighth) presented is a provisional ballot that staff suspect have the photo exception form inside the provisional envelope
  - Ms. Stein opened the envelope and found a signed exception form that checked exception number 2 – ID is lost, stolen, or misplaced
  - Mr. Aceto moved to accept the completed Photo ID exception form as valid
    - The motion passed 5/0
    - Ms. Stein noted this is an opportunity to improve quality at the polls to note that the absence of an ID results in a provisional ballot but starting down the Photo ID exception form leads for additional complications that are not necessary
    - Ms. Braine noted that additional training should emphasize the need for signatures

#### **IV. Board Challenges (G.S. § 163-84) – Devin Whitney**

- Mr. Whitney said in this second round as in the first something had happened to make the cast ballot ineligible and he had received a list of challenges this morning from the State Board of Elections to present to the Board and that he combined them with challenges received on Friday that staff had not completed researching by last Friday's meeting
- All 17 voters have been notified by mail
  - The first three were voters who had voted Absentee but their names were not entered into the system, so they voted on Election Day
    - For each case Elections Services decided to cancel their Absentee ballots and accept the Election Day ballots even though staff could find Authorizations to Vote for 2 of the 3
      - However, the third voter was remembered by poll workers because it was a generally lower volume site and they were the lone voter during a down time although their documentation fell through the cracks
    - Mr. Aceto asked about the typical procedure when we have two ballots for the same person
      - Mr. Whitney replied that typically the second ballot would be rejected but new guidance from the State Board says to accept the Election Day ballot and retrieve, then cancel the Absentee ballot
      - In the case of the missing Authorization to Vote, the voter history says they voted, suggesting the Authorization was mislaid
      - Also, the number of voters in voter history matches the number of ballots
      - This happens at slow sites even though it shouldn't

- The next set are ballots from people who showed up in the SEIMS system as convicted felons who showed up on to vote, including the highlighted case where the individual was contacted and provided documentation that their rights had been restored
  - Mr. Aceto questioned whether the determination of rights was a matter for the Board or more properly between State agencies regardless of what the voter provides
    - Mr. Whitney said he had reached out to the State Board on that matter but had not yet received a reply
    - He added that today is the last day to file challenges
- 4 individuals died before Election Day but death certificates are not yet available
- The last 2 voters have similar names but one appeared on Election Day to vote and discovered they were listed as already having voted, so they voted provisionally and the provisional ballot was accepted
  - Staff retrieved the documentation and found that during Early Voting a person with a very similar name appeared, changed the name and address, and voted. However, the signatures on the Early Voting Authorization and Address Change documents did not match the signature on the registration form of the voter who surfaced the problem
  - Staff reached out to the State Board for guidance
  - The names of the two people are substantially similar but there is no record of a registration for the person who voted during Early Voting. As a result, staff do not know the identity of the person who voted during Early Voting
  - If the voter had been registered it would not have been an issue for the Board because staff would sort out and correct the records for each voter, but the one voter is not registered
- Mr. Aceto entered a motion to disapprove the 5 absentee by mail applications from 3 who voted on Election Day and 2 who died passed 5/0
- Ms. Braine entered a motion to enter challenges on the 17 ballots presented by staff passed 5/0
- Regarding voters who were identified as not eligible by virtue of being on the convicted felon list, Ms. Duncan said they would continue to reach out to the State Board and if the State Board says to accept those ballots we will, in addition to hearing from individuals who appear at Canvass

**V. Next Meeting: Tuesday, November 14, 2024 at 3:30**

- **Location 59 Woodfin Place**