



# BUNCOMBE COUNTY ELECTION SERVICES

## BUNCOMBE COUNTY BOARD OF ELECTIONS

### **Board Meeting Agenda**

Tuesday May 19, 2020

5:00 pm

Welcome of Visitors and Introduction of Remote Meeting Features

- I. Review of Minutes
- II. Resolution (Petition to SBOE)
- III. Approval of Budget
- IV. Office Updates

**Buncombe County Board of Elections**  
Meeting Minutes  
May 19, 2020

**Opening**

The scheduled meeting of the Buncombe County Board of Elections was called to order at 5:00PM June 1, 2020 at 77 McDowell Street, Asheville, NC 28801.

In response to the COVID-19 threat and NC Stay at Home Order, the board meeting was held with limited in-person Board members and staff. The Board members and staff, along with the public, were in attendance over a virtual public access site hosted through the Public Teams meeting app. Directions on how to attend this virtual meeting were provided to the public on the Buncombe BOE website.

**Present**

Board Members-

BOE Staff-

Jake Quinn, Chairman (in person)

Corinne Duncan, Director (in person)

Linda Block (virtual)

Devin Whitney, Elections Technical Specialist (in

Stephen G. Duncan (virtual)

person)

Jay Watson (in person)

Visitors-

14 virtual guests

**Welcome Visitors and Introduction of Remote Meeting Features**

Chairman Jake Quinn did a roll call of all Board members and staff attending the meeting. He indicated who was attending “in person” and “virtual”. All virtual guests were welcomed. Secretary Elizabeth Newman was unable to attend because of a family emergency.

**Item One – Review/Approval of Minutes**

- Chairman Quinn moved to approve the meeting minutes for:
  - March 6, 2020, March 12, 2020, March 13, 2020 (9AM and 11AM Canvass), March 17, 2020, and April 28, 2020.
- Chairman Quinn made individual motions to approve each of the above mentioned meeting minutes as presented by staff. Member Watson individually seconded each and the Board approved unanimously each time.

## **Item Two –Petition to NC State Board of Elections Resolution**

- Director Duncan explained NCSBOE petition for NCSBE to represent Buncombe County in the NAACP lawsuit against both the SBE and 21 Counties using the ExpressVote voting machine. Chairman Quinn explained that these are machines used by less than one percent of voters who visually or physically impaired causing them to be unable to fill in the bubbles on the ballots on their own. These ExpressVote machines are provided at every voting location within the county. The current machines print out a list with a bar code. The DS200 reads the barcode to count the voter's vote. Chairman Quinn commented that the next generation of ExpressVote machines are supposed to print out ballots. Currently, the machine will read the ballot to the voter.
- There was much discussion between board members including:
  - Linda Block commented that the ExpressVote printout provides the names of candidates for which the person voted, so they can see what it has recorded prior to tabulation. The Law suit mentions possible contamination from the touch screens (during pandemic) and additionally addresses that during the March 2020 Primary some ExpressVote machines in another county were left in an improper mode resulting in the machine being used for voting it was not authorized to do and improperly tabulated votes.
  - Member Watson expressed a concern as to not wanting to be in a position to have to accept a settlement which would directly impact budget/activities or require Buncombe County without some input into the agreement.
  - Member Block would like to be sure there is a solution for November 3, 2020 election if we are not able to use the ExpressVote machines. Also wants to be sure there are no concerns with the State representing BOE.
  - Director Duncan explained that staff tests every single machine and when the Board does machine testing it is only a final QA/QC spot check. Staff audits in multiple ways and designed to catch various possible issues, including looking at the paper ballots.
  - Member Duncan clarified that the lawsuit is concerned about the voter not being able to read the barcode on the ExpressVote sheet. This does concern him too – separating the voter from their actual marks.
  - Discussed that it is more prudent to have a unified defense and have the SBE represent all counties.
  - Member Watson concerned that the Resolution states “assist the Buncombe County Board of Elections” and not “represent”. Apparently, this wording does come from the General Statues 163-25 language. The cover memo (May 15, 2020 from Katelyn Love) does state that the SBE passed unanimously to represent the 21 County Board of Elections in the NAACP v. State Board lawsuit.
- Member Watson made a motion subject to the May 15, 2020 memo from Katelyn Love NCSBE re: State Board representation of county boards – NAACP v. State Board and had been passed unanimously by the State Board, and this Board's understanding that the State Board will be representing and not just assisting BOE, that Resolution of Elections Assistance in Litigation Pursuant to G.S. 163-25 and 163-22(a) be passed. Chairman Quinn seconded and the Board approved unanimously.

### **Item Three – Election Services Office Updates**

Director Duncan updated the Board:

- Current COVID-19 response:
  - The Office remains closed to the public with the exception of Absentee Ballot drop off.
  - PPE supplies is largely being supplied by State Board for BOE through five vendors and being shipped directly to us.
  - Voting public and workers are being provided mask, gloves and face shields received May 18, 2020.
  - SBE also supplying disinfecting wipes, hand sanitizer, individual pens for voters, painters tape to mark social distancing, plexi-glass guards for each precinct (four each) and Early Voting locations during 2<sup>nd</sup> Primary.
- Absentee ballots for June 23, 2020 2<sup>nd</sup> Primary for the 11<sup>th</sup> Congressional District Republican and public education seems to be working on informing voters that anyone can absentee vote in NC.
  - 480 absentee ballot requests for 2<sup>nd</sup> Primary
  - Absentee ballots were mailed out on Friday May 8, 2020
    - 80 absentee ballots have already been returned
- United States Postal Service reached out to obtain basic statistics of mail-in voting but also inquired as to any problems we may be experiencing with the mail service. Director Duncan provided statistics on the following issues we have encountered:
  - Ballots arriving late
  - Ballots not having post mark
- Voter input on General Election (180 e-mails mostly form letters):
  - Strongly wants Wesley Grant Center, UNCA and AB Tech to be used as a voting location
  - Early Voting weekend hours
  - Adequate staffing
  - Ballots in Spanish and English
- Discussion ensued regarding the General Election Site plan needs to be submitted by July 31, 2020. Coding, testing, etc is done prior to the September 4, 2020 General Election ballot mailing.
- Hiring process is moving along.
  - Absentee and training position closed today (May 19, 2020).
  - Two interview panel teams have been trained with HR.
- Staff is taking Federal CERA training. It is now virtual so is less expensive thus allowing more staff to be able to participate.
- New Director virtual training starts next week and will last three weeks. Eight days of eight hour a day training.

### **Item Four – Approval of Board of Elections Budget**

Director Duncan reiterated that the County needs to receive the Board approved FY 2020/2021 Budget before June 2020.

- Presented a spreadsheet showing past and proposed FY budgets and actuals for 2017/2018, 2018/2019, 2019/2020, and 2020/2021.
- Items shown – sales and services, salaries and wages (county controlled), non-discretionary categories also county managed. Notes on sides to explain items included in each category.

- Sales and services (revenue) lower since City of Asheville has moved elections to even years.
- Member Duncan inquired about large difference in phone expenses between elections.
  - IT has been managing all cell phones (staff and Election Day) and then billing BOE. Director Duncan has separated this out to eliminate confusion. Additionally, land lines required at some voting locations which do not have cell phones.
- Member Watson inquired about salaries and wages historical estimates does not include the last large election of 2016.
  - Director Duncan explained that the 2016 election occurred while the county was using a different accounting system and not able to extract those data. County budget team recommended to use \$35,000 as in previous years, since it has always covered the expense.
  - Contracting services – Director Duncan said that this covers pollworkers through Adecco (staffing agency) and Gasperson Moving Company for moving equipment for Election Day and Early Voting Day.
  - In 2018/2019, utilities (water bill) were paid for the Mathews Ford location for the time we were using the site.
- Member Block inquired about travel and training line item. Chairman Quinn pointed out that travel and training has been separated out into individual categories, providing a better picture. Also, asked about the purchase of more voting equipment. Director Duncan indicated there may be more need and purchase of equipment from an increase in absentee voting.
- Director Duncan explained how she has collected budgets from staff, then she met with a County budget team, is now presenting it to the Board, and sends the Board approved budget back to County Management.
- Member Watson made a motion to approve the proposed FY 2020/2021 titled “First Pass” budget as presented by staff. Chairman Quinn seconded and the Board approved unanimously.


### **Public Comments**

Public questions were answered in the background by staff. Chairman Quinn commented that staff is working on making this more of an interactive meeting. There was a public question regarding the recruitment of the election workers and protection of workers and voters. The PPE provided by State Board will not appear in the budget. The 2<sup>nd</sup> Primary is allowing BOE to be better prepared for the General Election, along with ensuring voters understand that any registered voter can vote absentee.

The meeting adjourned at 6:10pm.


Minutes submitted by: Mary Harrill.

Approved by:   
Jake Quinn, Chairman

  
Elizabeth Newman, Secretary

  
Jay Watson, Member

  
Stephen G. Duncan, Member

  
Linda Block, Member



**NORTH CAROLINA  
STATE BOARD OF ELECTIONS**

*Mailing Address:*  
P.O. Box 27255  
Raleigh, NC 27611  
(919) 814-0700 or  
(866) 522-4723  
*Fax:* (919) 715-0135

**RESOLUTION REQUESTING STATE BOARD OF  
ELECTIONS ASSISTANCE IN LITIGATION PURSUANT  
TO G.S. §§ 163-25 AND 163-22(a)**

At a meeting duly called and held on May 19, 2020, the Buncombe County Board of Elections adopted the following resolution:

**WHEREAS** in April 2020 the North Carolina State Conference of the NAACP and four individuals filed a complaint (“the lawsuit”) against the State Board of Elections (“State Board”) and the Alamance, Ashe, Buncombe, Burke, Cherokee, Davie, Davidson, Forsyth, Haywood, Henderson, Jackson, Lenoir, Mecklenburg, New Hanover, Pender, Perquimans, Polk, Rutherford, Transylvania, Surry, and Warren County Boards of Elections (“Affected County Boards”).

**WHEREAS** the lawsuit seeks an injunction declaring it “unconstitutional for any public election in North Carolina to be conducted using the ExpressVote” ballot-marking device and “decertifying the ExpressVote and prohibiting Defendants from employing the ExpressVote to conduct any public election in North Carolina.”

**WHEREAS** G.S. §§ 163-25 and 163-22(a) provide that the State Board, in its discretion, may assist county boards of elections in litigation where the uniform administration of elections is threatened. G.S. § 163-25 provides that “the State Board of Elections shall possess authority to assist any county board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county board of elections in such county petitions, by majority resolution, for such assistance from the State Board of Elections and, provided further, that the State Board of Elections determines, in its sole discretion by majority vote, to assist in any such matter.” G.S. § 163-22(a) provides “[t]he State Board of Elections shall have general supervision over the primaries and elections in the State.”

**WHEREAS** on May 15, 2020, the State Board adopted a resolution to assist the Affected Boards in the lawsuit pursuant to G.S. §§ 163-25 and 163-22(a).

**WHEREAS** the State Board’s assistance in representing the Affected County Boards in the lawsuit will ensure a common and coordinated defense, thereby helping to protect the uniform administration of the laws and rules governing voting machines in this state.

**THEREFORE, THE BUNCOMBE COUNTY BOARD OF ELECTIONS HEREBY RESOLVES THAT:**

Pursuant to G.S. §§ 163-25, by adoption of this resolution, the Buncombe County Board of Elections requests that the State Board of Elections assist the Buncombe County Board of Elections in the lawsuit. The State Board, represented by the North Carolina Department of Justice, will lead the defense of the litigation, including development and execution of litigation strategy, filing written pleadings, and making appearances on behalf of the defense at proceedings. The Buncombe County Board of Elections and the Buncombe County Attorney will assist with the litigation when necessary by, for example, collecting and providing discovery responses to the State Board's legal team and assisting with the production of evidence in support of the defense.

Adopted this 19<sup>th</sup> day of May, 2020.



Jake Quinn, Chair  
Buncombe County Board of Elections



## Corinne M. Duncan

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**From:** Love, Katelyn <Katelyn.Love@ncsbe.gov>  
**Sent:** Friday, May 15, 2020 3:48 PM  
**To:** Kathy Holland; johnshepherd@ashecountygov.com; John Shepherd; Corinne M. Duncan; BURKE.boe@burkenc.org; Debbie Mace; Leighsa Jones; Tabatha Parrish; Davidson.boe@davidsoncountync.gov; Tim Tsujii; elections@haywoodcountync.gov; Robert Inman; Karen Hebb; Lisa Lovedahl; Steve Hines; Michael Dickerson; Rae Hunter-Havens; Susan Williams; penderboe@pendercountync.gov; Holly Hunter; Cliff Marr; elections@rutherfordcountync.gov; Jeff Storey; Michella Huff; Deborah Formyduval; Dawn Lovelace  
**Cc:** Bell, Karen B; SBOE\_Grp - Legal; Cox, Paul  
**Subject:** State Board representation of county boards - NAACP v. State Board  
**Attachments:** Correspondence\_05152020\_CBE Representation.pdf; County Board Resolution\_05152020\_Sample.docx

**To:** Alamance, Ashe, Buncombe, Burke, Cherokee, Davie, Davidson, Forsyth, Haywood, Henderson, Jackson, Lenoir, Mecklenburg, New Hanover, Pender, Perquimans, Polk, Rutherford, Transylvania, Surry, and Warren County Boards of Elections

**Re:** State Board representation of county boards - NAACP v. State Board

This afternoon the State Board [voted unanimously](#) to represent the 21 county boards of elections in the *NAACP v. State Board* lawsuit regarding the use and certification of the ExpressVote. Please find the attached correspondence regarding this action. Please carefully review this correspondence, as it also provides information about the scope of the representation and the deadline for receiving a resolution from your county board. You should forward the letter to your county board members and county attorney.

We have also prepared for you a draft resolution that your county board of elections may use to petition by majority resolution for assistance from the State Board. Please note that, as outlined in the letter, due to the rapidly approaching filing deadlines in this case, if we do not hear receive a resolution from your board by May 22, 2020, we will interpret this as agreement to the representation.

The NC Department of Justice will be representing the State Board and county boards, as outlined in the letter. We will be reaching out soon to set up a conference call to take place the week after next with attorneys at the NC Department of Justice. If you need assistance before that, please let us know.

If you have not already, please forward us any materials you receive in the mail or from the plaintiffs regarding the lawsuit.

Sincerely,

Katelyn Love | General Counsel  
o: 919-814-0756 | f: 919-715-0135



