

Goochland County Electoral Board
Revised Amended D RAFT Minutes 4/22/19

The Goochland County Electoral Board convened at 6:12 pm in the Conference Room of the Administration Building. Present: Chair Keith Flannagan, Vice Chair Wanda Taylor, Secretary Robin Lind, Director of Elections/General Registrar Ryan Mulligan.

Guests: District 1 Supervisor Susan Lascollete, District 2 Supervisor Manuel Alvarez, former General Registrar Frances Ragland, Louisa County Director of Elections Cris Watkins, Louisa Electoral Board Secretary David Koegle and Louisa Electoral Board Chair Curtis Haymore.

Discussion began on the issue of mis-assigned voters along the Goochland/Louisa county line. Mr. Lind reviewed several maps generated by the Goochland GIS and Mr. Mulligan projected certain areas onto a screen from his computer. Several large areas in both counties showed voters on the other side of the Census line.

The impetus for change, said Mr. Lind, came from the November, 2017 House of Delegates election with focus on mis-assigned voter in the 88th and 28th District around Fredericksburg, and more importantly in the 94th House District in Newport News where a close election, and a recount, resulting in a tie, was decided by drawing a name out of a bowl.

Ms. Watkins explained that Louisa County began work in April, 2018 on cleaning up mis-assigned voters on the Louisa boundaries with Albemarle, Fluvanna and Hanover but did not include Goochland at that time because both counties were in the 7th Congressional District where mis-assignment would have no impact on the federal election. She said that when Sen. Mark Peake's proposed legislation to correct voter mis-assignment was defeated in the recent session of the General Assembly she believed she was compelled by Code to act.

Ms. Watkins referred to the upcoming June Primary Election in Louisa and said that Absentee voting begins on April 26. She said Louisa was ready to transfer voters to Goochland who were currently registered in Louisa but shown to be on the Goochland side of the Census line.

Mr. Lind said he believed the Code language in § 24.2-302.2 B is ambiguous and argued that the "Oxford comma" and conjunction between superior and subordinate clauses created two different definitions which were in conflict. He added that the Census line adopted in 2011 was known to be inaccurate and that the two counties' GIS analysts had prepared a mutually agreed upon revision for the 2020 Census that would correct the errors. He said he did not agree with moving voters from one county to another in 2019 and moving them back again after the correction in 2021. He also said that Commissioner of Elections Chris Piper had told him that afternoon there was a strong likelihood of being sued whichever decision was made. [His remarks on Code interpretation, distributed at the meeting, is attached as Appendix A.]

Mr. Mulligan said he supported whatever was more defensible in court.

Ms. Taylor said we are trying to follow the law. She disagreed with Mr. Lind's description of the language being ambiguous.

After much discussion, including a request for opinion from the two supervisors, Mr. Lind offered draft language for a motion which he said he might not be able to support.

Ms. Taylor then moved:

In accord with the Electoral Board authority for Administration of Elections and the duty to ensure the truth, accuracy and dependability of vote totals submitted to the Department of Elections, the Goochland Electoral Board now directs the Director of Elections/General Registrar to conform the Goochland voter registration records with those submitted by the Director of Elections/General Registrar of Louisa County.

The motion was seconded by Mr. Lind for the purposes of discussion.

Vigorous discussion ensued and Mr. Flannagan said he did not like it. Mr. Alvarez said he thought people should vote where they pay their taxes. ~~"This will screw it up more before we fix it," he said.~~ Ms. Taylor said people will be upset whatever we do. Ms Lascollete said she thought the law was clear.

The motion was defeated 2-1, Ms. Taylor voting in favor; Mr. Lind and Mr. Flannagan voting against.

Mr. Flannagan then led a discussion on a possible amendment and reference was made to a policy adopted in July, 2018 in which the Goochland Electoral Board agreed to accept any voters transferred from an adjoining jurisdiction. That policy also provided for the transfer of voters to other jurisdictions upon approval of the electoral board.

Ms. Taylor then moved, seconded by Mr. Flannagan, to amend the previous motion to read:

In accord with the Electoral Board authority for Administration of Elections and the duty to ensure the truth, accuracy and dependability of vote totals submitted to the Department of Elections, the Goochland Electoral Board now directs the Director of Elections/General Registrar *to accept the voters submitted by the Director of Elections/General Registrar of Louisa County as belonging to Goochland, and to transfer voters identified by the Directors of Elections/General Registrars of Goochland and Louisa County as belonging to Louisa County, as approved by the Goochland Electoral Board.*

The amendment was adopted 2-0; Mr. Lind abstained.

Discussion continued with some contentious remarks about a problem that should have been solved centuries ago.

Mr. Flannagan then moved to adopt the amended motion, seconded by Ms. Taylor. The amended motion was adopted 2-1, Mr. Lind opposed.

Ms. Watkins then provided a list of voters currently registered in Louisa who will be transferred to Goochland. Mr. Mulligan said he had a list of addresses of Goochland voters on the Louisa side of the Census line and should be able to provide a list of voters at those addresses with a day or two. The Board agreed to receive those names by email for approval, without the necessity of another formal meeting.

Discussion then turned to the interpretation of § 24.2-303.2.B. Mr. Flannagan asked that the board seek an official opinion from the Attorney General. The secretary agreed.

The secretary expressed appreciation on behalf of the Goochland Electoral Board to the members of the Louisa Electoral Board and Director of Elections/General Registrar of Louisa County for their attendance and help in reaching a solution to the problem.

There being no further business, the board voted to adjourn at 7:55 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robin Lind". The signature is written in a cursive style with a large initial "R".

Robin Lind, Secretary

DRAFT

24.2-302.2. Congressional districts.

A. There shall be 11 Virginia members of the United States House of Representatives elected from 11 congressional districts and each district is entitled to one representative.

B. All references in this section to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 2011, and as reported by the United States Bureau of the Census in the 2010 Census reports provided pursuant to United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final.

The “Oxford Comma” with the conjunction “and”

B. All references in this section to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 2011, and as reported by the United States Bureau of the Census in the 2010 Census reports provided pursuant to United States Public Law 94-171, ...

This could have been written:

B. All references in this section to boundaries of counties and cities shall be interpreted to refer to those reported by the United States Bureau of the Census in the 2010 Census reports provided pursuant to United States Public Law 94-171, and in existence on April 1, 2011, ...

In the existing Code language, however, it is clear that the boundaries “in existence on April 1, 2011” is a superior clause to the subordinate reference to the US Census reports.

We know that boundaries of Goochland County have existed since 1728. Those of Louisa County (along the Goochland line) have existed since 1742. The current Census line that was reported to the US Census Bureau is inaccurate and does not reflect the reality of the boundaries that were “in existence on April 1, 2011;” GIS mapping analysts in both counties have shown these inaccuracies. The corrected, agreed-to boundaries have been reported to the US Census Bureau and a new Census line is expected to be established for the 2020 Census.