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BERNALILLO COUNTY  
BOARD OF REGISTRATION

**COPY**

BOARD MEETING

February 19, 2013  
1:07 p.m.

In Attendance:

- Maggie Toulouse Oliver, County Clerk
- Roman Montoya, Deputy County Clerk
- Rebecca Martinez, BOE Administrator
- Connie Gilman, County Manager's Office
- Olivia Bolden, BOE Coordinator
- John Doran, Member
- Samuel Carnes, Member
- Bruce Barnaby, Member
- Peter Auh, Deputy County Attorney

REPORTED BY: PAUL BACA, CCR #112  
PAUL BACA COURT REPORTERS  
500 4th Street, NW, Suite 105  
Albuquerque, New Mexico 87102

1 COUNTY CLERK TOULOUSE OLIVER: Okay.

2 Well, welcome everyone to the first meeting of the  
3 2013 Bernalillo County Board of Registration. I  
4 want to welcome you all.

5 We have some veterans here today and the  
6 new member, so I want to extend a special welcome to  
7 Sam as the new member on the board. Thank you for  
8 being here. Thank you for serving, being willing to  
9 serve.

10 So I just -- before you-all formally  
11 convene and elect a chair and do your business I  
12 just wanted to provide you-all with just an overview  
13 of the purpose of the board of registration. Most  
14 of you are already very well aware of it, but just  
15 to kind of review what, you know, statutorily what  
16 is the purpose of the board and what your duties  
17 are.

18 And then we'll talk a little bit about  
19 some conflicting guidance that we're trying to just  
20 get clarified. And then, you know, we'll turn it  
21 over to you-all to take it from there.

22 And as you-all know, I am the secretary to  
23 the board. And so I and my staff are all here to  
24 support the board and the work that you will be  
25 doing, if any, which we'll discuss.

1           And I think you-all know everyone. But if  
2 you guys want to go ahead and introduce yourselves  
3 as well.

4           MR. MONTOYA: I'm Roman Montoya, the  
5 deputy clerk.

6           MS. GILMAN: Connie Gilman, county  
7 manager's office.

8           MS. MARTINEZ: Rebecca Martinez, BOE  
9 administrator.

10          MR. AUH: I'm Peter Auh. I'm Deputy  
11 County Attorney.

12          COUNTY CLERK TOULOUSE OLIVER: I asked  
13 Peter to be here today, in particular, to talk about  
14 some of the -- just some of the sticky legal issues  
15 that we're trying to work through, in order to  
16 provide you-all with the appropriate guidance for  
17 how to proceed.

18          And so just briefly, as you-all are no  
19 doubt already aware, the board of registration  
20 exists under Section 4 of the Election Code of the  
21 voter registration statutes.

22          The essential purpose of the board is to  
23 serve as an external citizen body to authorize the  
24 voter cancellation process, and the voter  
25 cancellation process as pursuant to the National

1 Voter Registration Act.

2           And as you-all are no doubt aware, the  
3 standard process is for the Secretary of State to  
4 conduct a voter confirmation mailing. There's a lot  
5 of different, you know, I's that have to be dotted  
6 and T's that have to be crossed. And then if a  
7 voter is sent a piece of mail and that mail is  
8 returned as undeliverable and then does not vote in  
9 the following two -- or really, the following four  
10 years after that mail is sent and received back as  
11 undeliverable, then they would become eligible for  
12 removal pursuant to the NVRA cancellation process.

13           And the last time that we were able to do  
14 a removal was 2009. And the four years prior to  
15 that the cancellation process had been properly --  
16 the confirmation mailing process had been properly  
17 conducted pursuant to federal law. And then  
18 unfortunately two years ago, when we convened, we  
19 were informed by the Secretary of State's office  
20 that the DOJ felt that the list had not properly  
21 been created for that year and so we were unable to  
22 present you-all with a list to be authorized for  
23 removal.

24           And then we find ourselves in the same  
25 position this year. Unfortunately, in 2009, the

1 Secretary of State at that time did not properly  
2 conduct the confirmation mailing. And so the  
3 Department of Justice has advised the Secretary of  
4 State that, unfortunately, we're not going to be  
5 able to provide you-all with a list to be  
6 authorized.

7 I think you-all have the statute. I know  
8 that in your notebook we have it provided to you  
9 there. It's pretty clear that your duties are to  
10 review the list of eligible voters and then to  
11 review the list of potentially canceled voters and  
12 to authorize that, assuming there is a list, which  
13 there isn't.

14 We recently received some guidance from  
15 the Secretary of State and the Attorney General's  
16 Office that seems to suggest that this board has  
17 some expanded duties that aren't specifically  
18 spelled out in the statute.

19 And I'm not here today to tell you whether  
20 that is correct or not. I can tell you that I don't  
21 find those duties spelled out anywhere in the  
22 statute. And so as a result of that, I have been in  
23 contact with Mr. Auh and with the Attorney General's  
24 Office to try to get some clarification.

25 And I think that they're -- you know,

1 you've all seen this letter, and I think you've seen  
2 the memo from the Secretary of State or from the  
3 AG's office.

4 I think there's sort of two distinctive  
5 questions. I think one is whether those activities  
6 would be permissible, and the other is whether  
7 they're obligatory.

8 And basically, what the secretary is  
9 suggesting that this board do is to review the  
10 entire voter registration list and to look for  
11 deceased people or people who have moved and  
12 recommend to the Secretary of State that she pursue  
13 a legal process to have them removed from the list.

14 Certainly, that would be your prerogative  
15 as individuals. I'm uncomfortable advising you-all  
16 as a board to engage in that activity, as it's not  
17 clear that that is your obligation, and we could be  
18 potentially opening ourselves up to some liability.

19 And I'll let Mr. Auh speak to that more  
20 specifically once you guys convene. I just kind of  
21 wanted to give you guys a broad overview, and then  
22 you can ask him all the questions you want. You  
23 don't have to take my word for it.

24 So that's basically where we stand. And  
25 so I'll just wrap up quickly here.

1           My suggestion would be to you-all that,  
2    you know, you convene the board, you know, elect  
3    your chair, have some discussion about this matter  
4    and decide for yourselves how you would like to  
5    proceed forward.

6           At this time we don't have a process  
7    detailed for how you-all would undertake that. We  
8    don't have resources identified. This is kind of a  
9    brand-new conceptualization. And so at a minimum,  
10   my recommendation would be that we, you know, await  
11   some more clarification on these questions.

12           But again, I will leave that up to the  
13   discretion of the board, for you-all to decide how  
14   you-all want to undertake these issues.

15           And so with that, unless you have any  
16   questions, I would suggest that we convene the board  
17   of registration and go about the first order of  
18   business, which would be selecting a chair.

19           Please raise your right hand and then just  
20   repeat after me.

21           And the first thing I'll say -- don't  
22   repeat this after me yet -- when I state your name  
23   you state your name.

24           I --

25           MR. DORAN: John Doran.

1 MR. CARNES: Samuel Carnes.

2 MR. BARNABY: Bruce Barnaby.

3 COUNTY CLERK TOULOUSE OLIVER: -- having  
4 been appointed to the board of registration in the  
5 County of Bernalillo, State of New Mexico, do  
6 solemnly swear that I will support the Constitution  
7 of the United States and laws of the State of New  
8 Mexico and faithfully and impartially discharge the  
9 duties of said office to the best of my ability.

10 All right. You may go ahead and sign your  
11 name.

12 I'll go ahead and sign one.

13 MR. BARNABY: Madam Clerk, I nominate John  
14 Duran to be our chairperson.

15 COUNTY CLERK TOULOUSE OLIVER: All right.

16 MR. BARNABY: All those in favor?

17 Opposed?

18 Seeing none, it is so ordered.

19 Nominated and...

20 MR. CARNES: Second.

21 MR. DORAN: Having done that, time to get  
22 back to the main order of business, which we're here  
23 for, and that's to consider what we intend to do for  
24 the duration of our term.

25 The first item of business would be

1 discussion. So everybody has copies of the letter  
2 that the Secretary of State wrote, that the Attorney  
3 General wrote, or the Attorney General's Office  
4 wrote, and you know where we're at at this point.

5 Does anybody want -- have anything to say  
6 about that at this point?

7 MR. BARNABY: Yeah. I'm a little bit  
8 confused about the last paragraph of the second page  
9 from the Secretary of State's office. I think I  
10 know what it means, but I can't convince myself that  
11 the words say that.

12 Let me read it further: "The AG's office  
13 specifically directed our office to advise counties  
14 and boards of registration that the registration of  
15 any individual identified in the review shall not be  
16 canceled or removed from the official list of  
17 eligible voters."

18 Any individual identified in the review as  
19 a candidate for removal? Is that what the  
20 implication is?

21 MR. DORAN: Pretty much, yeah.

22 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair?

23 MR. DORAN: Yes.

24 COUNTY CLERK TOULOUSE OLIVER: Bruce, if  
25 it's appropriate for me to respond?

1 MR. DORAN: Yes.

2 COUNTY CLERK TOULOUSE OLIVER: I think  
3 what the Secretary of State was trying to stress  
4 here is that given any review that this board may  
5 undertake of the list of registered voters -- and I  
6 should point out if you haven't -- you've already  
7 received a copy through e-mail, and you have a hard  
8 copy there as well -- that you-all will not be  
9 authorizing any cancellation nor will you-all be  
10 able to instruct me to authorize any cancellation.

11 MR. BARNABY: That's the way I understand  
12 it.

13 MR. DORAN: So what we're saying is that  
14 in order -- that in order to be in compliance with  
15 the law, our job is to just sit here and not  
16 accommodate purges of any sort that -- at this  
17 point, without better direction approved by a whole  
18 lot higher authorities than ours.

19 COUNTY CLERK TOULOUSE OLIVER: Mr.  
20 Chairman, that is true. Certainly, this board is  
21 being advised by pretty much every legal authority  
22 there is that you don't have a list of eligible  
23 voters to be canceled pursuant to the NVRA for your  
24 authorization.

25 MR. CARNES: We don't have a list.

1 COUNTY CLERK TOULOUSE OLIVER: We don't  
2 have a list.

3 I think what is -- what we are -- I think  
4 what we're still unclear about is this additional  
5 advice, that you-all are to, you know, review the  
6 list to look for deceased voters and moved voters  
7 and create your own list and send that to the  
8 Secretary of State, and she'll instigate a separate  
9 process. I think that -- that is the question that,  
10 you know, we're still trying to get some  
11 clarification on.

12 MR. DORAN: At this point, but -- if you  
13 don't mind my interrupting.

14 COUNTY CLERK TOULOUSE OLIVER: No. You're  
15 not interrupting, Mr. Chair.

16 MR. DORAN: It is my understanding of the  
17 process -- the electronic process, at least. My  
18 understanding of the electronic process is that the  
19 Bureau of Vital Statistics provides this office  
20 and/or the Secretary of State with a list of  
21 deceased potential voters and those potential voters  
22 are flagged for purge.

23 And that is pretty much -- if I understand  
24 it correctly, that's not subject to our approval.  
25 That's pretty much automatic.

1           The same is true when we get a note from  
2 the Courts that, as part of sentencing, a felon's  
3 voting privileges are revoked. That, again, is not  
4 subject to our review.

5           And any time somebody moves, with the  
6 correct procedure wherever they move to and register  
7 to vote, part of their procedure to register to vote  
8 is to send Bernalillo County a nasty-gram informing  
9 us that they have moved.

10           So given that that is true and that this  
11 is an electronic process that's totally beyond our  
12 purview of it, it's nice that we're advised of it,  
13 but that's about it. There's no -- no action that  
14 we can take to enhance or diminish that process  
15 that's in place.

16           So the only question, at this point  
17 remaining, is people that for some reason have not  
18 voted in some lengthy period of time. And that is  
19 clearly beyond our authority in the statute.

20           COUNTY CLERK TOULOUSE OLIVER: Mr.  
21 Chairman, yet just to confirm what you said, that is  
22 correct. We do receive monthly, if not more  
23 frequent than that, electronic files from the Bureau  
24 of Vital Statistics and from the corrections  
25 department. We do regularly remove voters from the

1 voter registration list who have become deceased or  
2 who have been convicted of felonies.

3 We do regularly remove voters who, upon  
4 written request, ask that their registration be  
5 canceled because they have moved. That is basically  
6 a day-in/day-out responsibility of my staff in this  
7 office. The voter registration file literally  
8 changes on a daily basis, minute-to-minute basis.  
9 We're constantly updating the voter registration  
10 file.

11 In fact, what you have through -- received  
12 through the e-mail already looks different from when  
13 you initially received it.

14 I do concur with your assessment that  
15 those activities are out of your purview in terms of  
16 authorization. However, my staff and I are more  
17 than willing to chat with you about those processes,  
18 how they work, walk you through them, if you're at  
19 all interested.

20 MR. CARNES: If you could for my  
21 benefit -- and I guess the other follow-up  
22 question -- is there any suggestion by anybody that  
23 that process is terribly flawed that, you know, we  
24 are only getting 10 percent of the people that die  
25 from the Bureau of Vital Statistics or some smaller

1 number of -- you know, I know as a third-party  
2 registrar, oftentimes somebody will say, well, now  
3 just don't worry about where I voted before. So I  
4 know there's some flaw in that process. But it  
5 can't be very large, I would think. I don't know  
6 how the state of New York or Colorado handle those  
7 kinds of questions, if they really follow up or ask  
8 that question when they're registering somebody new  
9 and you get those kinds of notes from -- I assume  
10 you get it from Quay County or someplace else here  
11 in New Mexico. But whether you get it from out of  
12 state on a regular basis, I don't know.

13 COUNTY CLERK TOULOUSE OLIVER: Mr.  
14 Chairman, Sam, yes. Well, to answer your most  
15 recent question. So we're on a centralized  
16 state-wide voter registration database, so we are  
17 able to transfer those registrations between  
18 counties.

19 Outside of state there are only a couple  
20 of states that regularly update us as to voters who  
21 have transferred.

22 The state of Idaho for some reason is very  
23 good about that. Not all states do that.

24 To get on my soapbox for half a second,  
25 there are some great multistate databases that are

1 coming into prominence where states are sharing this  
2 data back and forth voluntarily with each other.  
3 This is something that I have spoken with the  
4 Secretary of State's office about and urged their  
5 interest.

6 And to be honest with you, I don't know  
7 exactly where they stand right now on that matter.  
8 But there are some real proactive things we could be  
9 doing to clean up the voter rolls in terms of people  
10 that have moved out of state.

11 As far as the deceased file and the  
12 Courts' files go, they're not perfect. And I'm not  
13 going to pretend that they are, Sam.

14 MR. CARNES: Sure.

15 COUNTY CLERK TOULOUSE OLIVER: They are --  
16 you know, when we find someone who is still on the  
17 voter rolls who has been deceased, that's an  
18 exception. It is not the rule. So the vital  
19 statistics information, the Courts' information, is  
20 generally correct.

21 When we have -- when we have issues with  
22 people still remaining on the rolls after they have  
23 become deceased -- they're for a variety of reasons.  
24 For example, we have a -- we can't get an exact  
25 match because we have -- the social security number

1 that we have in the database is off by a digit or  
2 something, which happens a lot. We get a lot of  
3 either individuals making mistakes on their voter  
4 registrations or mistakes being made in the data  
5 entry, just because it's a human process.

6 We actually -- one of the things that my  
7 staff are going to be working on this year is to go  
8 back through the files. This is particularly an  
9 issue for elderly people.

10 But a lot of -- you know, around 50, 60  
11 years ago we had a lot of women registering under  
12 their husband's name, and so it was Mrs. Joe Smith.  
13 And so we know that there have been some mistakes  
14 made. And so when Mr. Joe Smith passed away,  
15 Mrs. Joe Smith was removed from the rolls and vice  
16 versa.

17 So we are already doing -- we're doing  
18 some due diligence on those issues. But you know,  
19 99 percent of the time we get accurate data. It's  
20 just not perfect. And so that's when this  
21 additional work has to be done. And my staff will  
22 review obituaries.

23 You know, when it comes to the Court's  
24 stuff we actually have to go above and beyond there  
25 and kind of, you know, make sure we're not removing

1 people for something that's old and has already been  
2 expunged, those types of things.

3 MR. CARNES: On the criminal background?

4 COUNTY CLERK TOULOUSE OLIVER: On the  
5 criminal background, yes.

6 MR. CARNES: Okay.

7 COUNTY CLERK TOULOUSE OLIVER: So I hope  
8 that answered your questions.

9 MR. CARNES: Yeah. I assumed it wasn't --  
10 you know, that it was as accurate as it could be,  
11 but there wasn't -- you know, it's certainly not  
12 perfect.

13 Did the Secretary of State's office seem  
14 to direct her letter to all -- I assume to all  
15 counties. And so she wasn't picking on Bernalillo  
16 County or anybody else. And I -- because I assume  
17 ours are probably as sophisticated, albeit bigger,  
18 as any other County Clerk's office and staff in the  
19 state.

20 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
21 Sam, that is true. The guidance was directed to all  
22 County Clerks.

23 One of the early concerns that I raised  
24 when the Secretary of State first indicated that she  
25 thought it would be a useful exercise for the boards

1 to undertake review was that, you know, having that  
2 sort of local boots on the ground knowledge of the  
3 community could be valuable in helping to clean up  
4 the voter rolls.

5 And I don't disagree with that  
6 conceptually. I just don't necessarily think that  
7 would be effective here in Bernalillo County with  
8 430,000 registered voters. You-all might be able to  
9 effectively do that, you know, within your precinct  
10 or even within your ward, your neighborhood,  
11 something like that. But to look across an entire  
12 county and engage in a real analysis of that type  
13 didn't seem possible to me.

14 MR. CARNES: Well, it would seem if we  
15 were going to do something like that we would be  
16 basically just troubleshooting what you and your  
17 staff have already done. I'm not going to sit down  
18 with the paper in the morning and the voter list  
19 and -- you know, and look at the obituaries and try  
20 to find somebody out of 400 names that matches.  
21 That seems like a terrible waste of everybody's  
22 time.

23 COUNTY CLERK TOULOUSE OLIVER: And,  
24 Mr. Chair, Sam, thank you for that.

25 And what I would say to this board is,

1 honestly, I would love to be able to clean up  
2 Bernalillo County's voter rolls a little bit. We  
3 know there's bloat on them.

4           We know -- you know, every time we conduct  
5 a mailing, you know, we get about -- you know, 15 to  
6 20 percent of that mail comes back to us. That's a  
7 waste of the taxpayer dollars. It's -- you know,  
8 when we're -- for planning purpose for elections,  
9 you know, it causes us to inflate, you know, our  
10 conceptualization of how to conduct the election.  
11 And just for the general integrity of the election  
12 and the voter rolls it would be wonderful for us to  
13 be able to have a more updated, more accurate list.

14           With that said, where I think the issue  
15 lies is with moved voters and figuring out a better  
16 way to try and proactively remove some of those  
17 people from the list. And again, you know, I  
18 reference the multistate databases and things like  
19 that, where you've got states going back and forth  
20 sharing information with each other.

21           MR. DORAN: It seems to me -- and I hate  
22 to interrupt you again. But it seems to me the use  
23 of the national change of address register from the  
24 Post Office -- we still use that, right? I don't  
25 know if we do it like quarterly or every election,

1 but it seems to me we do that.

2 COUNTY CLERK TOULOUSE OLIVER: Mr.  
3 Chairman, yes. In fact, the NCOA is what largely  
4 forms the basis for the confirmation mailing that  
5 the Secretary of State's office engages in every  
6 other year.

7 MR. CARNES: And the Secretary of State  
8 does that. You don't do that locally?

9 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
10 Sam, that is correct. Although to the extent that  
11 we could get some clarification as to the legality  
12 of it, I'm sure -- you know, if we could identify  
13 some resources in this county to potentially reach  
14 out a little bit better to those folks as well.

15 MR. CARNES: By "resources" you mean money  
16 to pay for the service?

17 COUNTY CLERK TOULOUSE OLIVER: Right.  
18 And, Mr. Chair, Sam, also, election mail is not  
19 forwardable. So that's part of the problem.

20 MR. CARNES: Yes.

21 MR. DORAN: Excellent.

22 MR. CARNES: Is there -- and I didn't go  
23 through this in as much detail as I should.

24 Is there some process to get the Secretary  
25 of State's opinion more fleshed through and

1 determine if that's something that we, in fact,  
2 should be doing as a board, or was it just guidance,  
3 you can go do this if you choose to do so?

4 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
5 Sam, my initial sense from what the Secretary of  
6 State's office was saying -- and of course I, you  
7 know, would value your insight, and then if Peter  
8 has anything to add.

9 But the initial direction -- or guidance,  
10 I should say, that we got -- seemed to indicate that  
11 it was optional.

12 The Attorney General's memo seemed to  
13 indicate that these activities were mandatory, and  
14 that's really where I am taking the most issue, is  
15 that I really do feel like it's one thing for them  
16 to suggest that you might undertake these  
17 activities, and it's another thing to suggest that  
18 you have to.

19 So that -- and I don't know. Peter, do  
20 you have anything?

21 MR. CARNES: And I guess the question I  
22 asked on the AG's, was that a formal opinion that  
23 carries that weight to whatever extent it has  
24 weight, or was it just a memorandum of advice or...

25 MR. AUH: Mr. Chair, Member Carnes, the

1 Assistant Attorney General's opinion is only in the  
2 form of a memorandum which is -- falls far short of  
3 a formal opinion issued by the Attorney General.

4 MR. CARNES: Okay. Do we know if he's --  
5 the Attorney General's Office is planning on making  
6 that a formal opinion or has anybody asked him to  
7 bring it up to that level?

8 MR. AUH: Well, the last response we heard  
9 from Attorney General King is that they were going  
10 to look at the issue and take it under  
11 consideration. I can't see how he would be able to  
12 formalize this memorandum opinion because it is --  
13 well, it's not based in law, and it's contrary in  
14 one -- it contradicts itself.

15 Because as Madam Clerk pointed out, this  
16 memorandum opinion uses the word "shall" in a number  
17 of places, which normally means mandatory, but it  
18 can -- cannot be mandatory in this context because  
19 there's no statutory authority for it.

20 One thing I would point out, the Secretary  
21 of State -- and I think the Assistant Attorney  
22 General as well -- view the election code provision  
23 1-4-28E as containing two separate required  
24 activities.

25 The first is that no later than the 15th

1 day of March following a general election the board  
2 of election shall view the list of eligible voters,  
3 period.

4 And then the second, separate from the  
5 first, the board of registration shall direct the  
6 County Clerk to cancel the registration of any voter  
7 who has been sent notice in conformance with this  
8 section and who -- then it lists the criteria.

9 As has been mentioned, clearly, the second  
10 part of that mandate cannot be carried out.

11 However, the Secretary of State seems to  
12 think that a review of the list of eligible voters  
13 standing alone as a requirement still must be  
14 observed. Now to what end that review is going to  
15 accomplish or why or what shape it's going to take,  
16 there is no direction on that score.

17 But I read her letter and the Attorney  
18 General's memorandum to mean that their view is that  
19 we -- you're still required to, quote, review the  
20 list of eligible voters.

21 I think to be on the safe side -- I happen  
22 to disagree with their construction of this  
23 provision. I think if you can't do the one there's  
24 no purpose in doing the other, either one.

25 So -- but in order to be on the safe side,

1 and perhaps mollify the Secretary of State's office,  
2 we could report to them that we at least have  
3 reviewed the eligible list. And again, what form  
4 that takes I'll leave it up to you.

5 MR. DORAN: If I'm not mistaken, the  
6 County Clerk provides the Democrats and the  
7 Republicans and probably somebody else a valid voter  
8 list on a regular basis for us to review and take  
9 appropriate action on as provided.

10 And when I say "appropriate action," I  
11 mean like we know who all lives in the neighborhood  
12 and we can go ask if they're still registered to  
13 vote and that kind of thing. So...

14 COUNTY CLERK TOULOUSE OLIVER: Mr.  
15 Chairman, that is correct. However, you know,  
16 getting to Deputy County Attorney Auh's point, you  
17 know, we have provided you both -- in both, you  
18 know, multiple formats, an electronic list.

19 My initial question to the Secretary of  
20 State was to the process for this review.

21 MR. DORAN: Exactly.

22 COUNTY CLERK TOULOUSE OLIVER:  
23 Unfortunately, they haven't responded back with any  
24 suggestion for a process. And I'm not trying to be  
25 unhelpful. I literally don't know what process we

1 would undertake outside of what we already do in our  
2 office on a daily basis, which I mentioned, to  
3 indicate to you-all that it's literally a daily  
4 activity that we undertake. And you know, we parse  
5 and we look at -- you know, we do various  
6 maintenances. And in this off-year process we're  
7 trying to attempt some cleanup on our own.

8 But you know, we're looking at different  
9 segments of the voter roll. You know, there's not  
10 really a way to kind of look at the whole voter  
11 roll. It's 430,000 people. So --

12 MR. DORAN: Of our closest friends.

13 COUNTY CLERK TOULOUSE OLIVER: Of our  
14 closest friends -- of our fellow Bernalilloans.

15 MR. DORAN: So the question, then, is  
16 what -- what the County Clerk's office is doing is  
17 probably sufficient for providing a list of eligible  
18 voters, probably, and -- if I'm not mistaken. So  
19 that just means all we have to worry about is the  
20 rest of them.

21 We have no direction whatsoever on them.  
22 So given that there's no direction present -- and I  
23 hope some direction forthcoming -- when we get some  
24 direction we can do something. But right now we  
25 don't have any direction. We are totally not

1 authorized to do much of anything. I mean it  
2 certainly is not part of our mandate without  
3 direction how to comply.

4 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
5 I concur. But that's to the board to determine.

6 MR. CARNES: Madam Clerk, do we anticipate  
7 any clarification, additional direction, guidance,  
8 whatever you want to call it, in the next 30, 60,  
9 90, 120 days? Do we have any idea that we should  
10 expect something?

11 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
12 Sam, I have certainly asked for that. I,  
13 unfortunately, don't know whether anything more  
14 detailed will be forthcoming.

15 If -- I will be frank with the board that,  
16 unfortunately, the secretary and I have had a rather  
17 unfortunate conversation over e-mail on this matter  
18 because I have just been asking this question.

19 And, unfortunately, I don't think it was  
20 taken very well. So I'm not sure that I'm the best  
21 person to continue, you know, asking for guidance.

22 Certainly, if the board were interested in  
23 undertaking making that request directly, my staff  
24 and I could facilitate that on your behalf, if  
25 that's something you wanted to do. It's at the

1 board's discretion.

2 MR. DORAN: That's -- at this point, I'm  
3 intimidated by the process for the simple reason  
4 that the Secretary of State has the position, you  
5 know, that -- statutory position. And it's probably  
6 a little beyond my ability to challenge her  
7 authority or to make her do something, and yours, as  
8 well. County Clerks don't do as well as the  
9 Secretary of State in that regard.

10 So basically we can't demand anything, but  
11 we can sure ask. And it would be my opinion -- and  
12 this is just my opinion. Everybody jump in if you  
13 want. But maybe we should get the Attorney General  
14 in on the loop to let him know that we're at a loss  
15 how to proceed.

16 MR. BARNABY: Mr. Chairman?

17 MR. DORAN: Sir.

18 MR. BARNABY: Perhaps for Sam's benefit as  
19 well, just the way this conversation went here a few  
20 moments ago, I recall -- here's the file on it --  
21 that we wound up in the same situation two years  
22 ago. And you did then exactly what you're thinking  
23 about doing now.

24 You wrote a letter directly to the  
25 Secretary of State, and I thought that was clear and

1 pretty effective, because you got a letter back from  
2 her that told us to stand down, very specifically.

3 MR. DORAN: Well, I don't think that was  
4 the word she used, but that was pretty much the  
5 intent, yeah. They were not charitable.

6 But I suggest we do that again if there  
7 are no objections.

8 MR. BARNABY: I agree.

9 MR. CARNES: I would certainly agree to  
10 that. I certainly would like to look at the letter  
11 before it goes out or have something...

12 MR. DORAN: You can pretty much make book  
13 on that's how it works. These guys are very good  
14 about making sure that we're all on board and  
15 informed, not necessarily in that order.

16 MR. CARNES: Mr. Chair, if I could just  
17 ask a -- somewhat off topic.

18 MR. DORAN: Sure.

19 MR. CARNES: Could I or my next-door  
20 neighbor, as a member of the public, if they chose  
21 to get a list in their neighborhood of people that  
22 they know who had died and should no longer be on  
23 the rolls, can't they make that list and send it off  
24 either to you or the Secretary of State and say, "I  
25 think all -- you know, my next-door neighbor died

1 three years ago, and I've been informed he's still  
2 on the voter roll."

3 I think they can do that, can't they? I  
4 don't know what happens with it when the letter gets  
5 up there in Santa Fe or gets to your office.

6 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
7 Sam, yes, that's completely the right of any  
8 citizen.

9 MR. CARNES: Just as a point of reference,  
10 in my ward last -- three years ago I did a sort by  
11 age. And I had, like, 75 people over the age of 90  
12 and 8 or 9 over the age of 100, and a couple of them  
13 that were 106.

14 You know, I didn't drive by anybody's  
15 houses or anything else to see if there was a house  
16 there. But I thought, well, living in the Valley  
17 seems to be healthy for some people.

18 But anyway, that's an irrelevant  
19 statement. But anyway...

20 MR. DORAN: Not a problem.

21 A lot of those people I think you'll find,  
22 especially the ones that are getting along in years,  
23 wind up in, like, retirement homes or whatever they  
24 call them this week. But those people are still  
25 usually registered to vote at their home or original

1 home address. Whether the kids sold the house or  
2 what, it doesn't matter, but that's where they're  
3 still registered.

4 But that's one of those things that if you  
5 had -- if you knew about that ahead of time you  
6 could take them a voter registration form and life  
7 would be good. It would solve all our problems.

8 Okay. Anything else? Anybody else?

9 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair  
10 and members, just -- I just would -- it's sort of up  
11 to you how you would like to proceed on the letter.  
12 Certainly if you-all, you know, wanted to do a draft  
13 and then, you know, we could send it or -- I mean do  
14 you have any direction for my staff and I as to how  
15 we can help with this, with the letter?

16 MR. DORAN: We do have a kind of a rough  
17 draft. I took some time last night and drew one up.

18 Did you get a copy of that or...

19 MR. MONTOYA: The draft you sent out this  
20 morning? Yes.

21 MR. DORAN: Yes. I'm pretty sure I have a  
22 copy of it, too, but I'm not sure -- son of a gun,  
23 guess what I just found. Here we go.

24 This is essentially -- well, you can take  
25 a look at that one.

1           Essentially, this is all the points that  
2 we have been discussing, anyway, because those were  
3 the points that came to my mind. We did this same  
4 thing two years ago, as Bruce pointed out, and  
5 nothing much has changed. I haven't seen any new  
6 instructions from the Secretary of State. Have you?

7           COUNTY CLERK TOULOUSE OLIVER: No,  
8 Mr. Chairman.

9           MR. DORAN: And they were in -- what was  
10 the word they were -- used? I want to say  
11 inadequate or inconsistent or -- insufficient.  
12 Yeah. They were insufficient at that time. And if  
13 they haven't changed, they're probably still  
14 insufficient.

15           So we need to get a clarification from the  
16 Secretary of State, it would seem to me. It's not  
17 urgent that we do that today. I'll recommend you  
18 take that home.

19           MR. CARNES: Okay. Thank you.

20           MR. DORAN: I would have e-mailed it to  
21 you but I didn't have your e-mail address.

22           COUNTY CLERK TOULOUSE OLIVER: Mr.  
23 Chairman, if I could just recommend maybe the board  
24 would just want to kind of discuss the content of  
25 the letter among yourselves via e-mail, if you so

1 choose. And then if you would like my staff and I  
2 to facilitate, you know, sending the letter, or if  
3 you want to do that on your own that's fine, as  
4 well. Just let us know what -- you know, what  
5 guidance you have for us, and then just keep us in  
6 the loop on your discussions.

7 MR. DORAN: Sure.

8 MR. CARNES: Mr. Chairman, a couple of  
9 related questions.

10 Is there somebody in the Secretary of  
11 State's office that this board should communicate  
12 with besides the Secretary of State, or do you just  
13 address the letter to her and she lets it filter  
14 around wherever it goes?

15 And I guess the same -- I assume a copy  
16 would go to whoever signed the AG's memorandum.

17 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
18 Sam, yes. I -- my recommendation, unless Peter  
19 thinks differently, would be to address the letter  
20 to the Secretary of State and to cc Deputy Attorney  
21 General Maestas on the letter.

22 And if you were so inclined, you could  
23 also include Bobbi Shearer, the election director,  
24 as a carbon copy. But that's totally up to you.

25 MR. CARNES: Going back to what your

1 office does in terms of going through deceased and  
2 moved, is there a -- do you have an internal written  
3 procedure, organizational chart about -- those  
4 things are done in -- you know, every 30 days  
5 someone in your office does this, and that -- that  
6 might be helpful for at least me, since I'm  
7 unfamiliar with that process, at some point in time.

8 COUNTY CLERK TOULOUSE OLIVER: Sure. We  
9 do -- Mr. Chair, Sam, Olivia Boiden is our voter  
10 registration coordinator. So she's here to maybe  
11 get into any specifics.

12 But we do have a written manual for how we  
13 handle all of the voter registration process. So  
14 new registrations, changes, deceased, felonies,  
15 et cetera.

16 In terms of the file -- in terms of how  
17 frequently, we don't have -- we don't have a written  
18 process, unless Olivia wants to correct me. We --  
19 when we get a file we process it. That's our  
20 process, unless you have any --

21 MS. BOLDEN: No. When we get it we  
22 process it. We get it about once a month.

23 COUNTY CLERK TOULOUSE OLIVER: But  
24 certainly, we would be able to provide you --

25 MR. CARNES: Just so I have a better

1 understanding of how that goes. Again, I can't  
2 imagine that the three of us, even if we sat down  
3 and divided the obituaries and the voter rolls,  
4 could do any of that kind of work. It just makes no  
5 sense.

6 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
7 Sam, what I would recommend -- I think we could even  
8 probably print you out a copy before you leave.

9 MR. CARNES: Sure.

10 COUNTY CLERK TOULOUSE OLIVER: I want to  
11 emphasize that's an internal document. Obviously,  
12 our software is proprietary. We don't want Joe  
13 Citizen to know how to get and manipulate the voter  
14 file. So just --

15 MR. CARNES: I would just as soon not have  
16 that knowledge myself.

17 COUNTY CLERK TOULOUSE OLIVER: But  
18 certainly, as members of the board of registration,  
19 it's absolutely your prerogative to have that  
20 information, and we will provide you with that if...

21 MR. CARNES: Okay. And I don't remember  
22 getting an e-mail with the voter list. Is this one?

23 COUNTY CLERK TOULOUSE OLIVER: That is  
24 correct.

25 MR. DORAN: And you can also talk to your

1 database expert over there at headquarters.

2 MR. CARNES: If we had one today, yes.

3 MR. DORAN: The last time I checked we  
4 were good friends. But this time it might be  
5 somebody different. But that's one of the things  
6 that we've been -- the party chair challenges us to  
7 do something about it. But...

8 Anything else?

9 COUNTY CLERK TOULOUSE OLIVER: Mr. Chair,  
10 just for the record, it doesn't appear that we have  
11 any members of the public here to offer public  
12 comment. But...

13 MR. DORAN: At this point we should open  
14 the floor to public comment, public comment meaning  
15 anybody in your shop, pretty much.

16 Anybody have anything to say?

17 Second offer. Anybody else have anything  
18 to say?

19 Third and final offer. Anybody who wants  
20 to contribute to this discussion?

21 Seeing none...

22 MR. CARNES: Next meeting?

23 MR. DORAN: At this point we really have  
24 nothing that we can or will do. So I would  
25 suggest -- and you know, subject of course to

1 concurrence -- I suggest we adjourn until -- if we  
2 get a directive from the Secretary of State, the  
3 Attorney General, somebody, to do something, fine.

4 I vote let's get together and we will know  
5 then when that is. Forecasting a date for a meeting  
6 at this point, with no idea when or if anybody is  
7 going to respond, it's kind of a waste of our time  
8 and theirs.

9 And I should point out that each one of  
10 these meetings we have comes out of the County  
11 Clerk's budget, and I want to stay on the good side  
12 of the County Clerk.

13 COUNTY CLERK TOULOUSE OLIVER: Mr.  
14 Chairman, it's our pleasure to provide the  
15 administrative support to the board. So...

16 MR. DORAN: We appreciate it, but we don't  
17 want to take advantage of it either.

18 Is there anything else to come before this  
19 board?

20 MR. BARNABY: Mr. Chairman, I move that we  
21 adjourn.

22 MR. DORAN: I have a motion to adjourn.

23 MR. CARNES: Second.

24 MR. DORAN: If there are no objections it  
25 is so ordered. Off the record.

(Proceedings concluded.)

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I, Paul Baca, RPR, CCR in and for the State of New Mexico, do hereby certify that the above and foregoing contains a true and correct record, produced to the best of my ability via machine shorthand and computer-aided transcription, of the proceedings had in this matter.



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