

ELECTIONS

New group claiming to represent educators makes surprise Election Day endorsements, raising questions about its political advocacy

BY JOHN-HENRY DOUCETTE

VIRGINIA BEACH — Early on Election Day, state Del. Barry Knight, R-81st District, drove from his home in rural Virginia Beach to the Capps Shop Precinct at Back Bay Christian Assembly. The delegate spotted a sign with his name on it outside the polling location. There was a list of candidates, generally on the conservative side, endorsed by an unknown group called the Virginia Beach Teachers' Association. Illustrated by a bespectacled owl, the sign urged voters to "make the wise choice."

The sign displayed names of folks running for state legislature, city treasurer, court clerk, City Council, School Board, even for soil and water conservation district director. Knight was one of six delegates, all from the GOP, listed.

"I saw I was endorsed and said, 'Huh, what's this all about?'" Knight said.

That's a question many people in Virginia Beach had on Election Day, when the VBTA — a nonprofit organization started by Virginia Beach School Board Member Laura Hughes — executed a kind of political sneak attack. VBTA only announced itself when signs went up and volunteers started handing lists to voters.

There was no website or social media page, no known events or policy positions. Its endorsement process — at least in instances involving politicians interviewed by *The Independent News* — did not seem to include candidates.

VBTA is a different beast from the Virginia Beach Education Association, an established group that represents city educators and schools employees. VBEA advocates for things such as better wages, benefits and employment conditions. And VBEA has a standalone political action committee, or PAC, that makes endorsements after interviewing candidates for local offices. As state election law requires of PACs, it files public disclosures so voters can understand its political influence and spending.

Knight is among the candidates who said they knew little about the group that endorsed them. During an interview following the election, he said he had heard "a rumble that somebody was going to do something and they were going to put my name on it." The idea, as he heard it, was to offer an alternative to the perceived leanings of the VBEA.

"At the end of the day," Knight said of the VBTA, "they must have tried to be very secretive about it and taken them by surprise."

VBTA may have succeeded from a strategy standpoint, but the organization appears to have avoided public disclosure standards of state campaign finance law. That could be a problem.

The Virginia Beach Voter Registration & Elections Department reported receiving a number of emails and calls about the VBTA. Some concerns were forwarded to the commonwealth's attorney in Virginia Beach and to state elections officials in Richmond.

This past week, Virginia Beach Common-

The Virginia Beach Teachers' Association, a nonprofit founded by Virginia Beach School Board Member Laura Hughes, made several political endorsements critics say misled city voters on Election Day.

Hughes has declined to answer questions from The Independent News, but said the organization is a 501(c)4 nonprofit. The newspaper has sought additional documentation from the organization.

State election officials declined to say whether such nonprofits making endorsements must report activities under campaign finance law meant to let citizens understand who is influencing their votes.

Virginia Beach Commonwealth's Attorney Colin Stolle said his office is reviewing a complaint about the VBTA's activities, though he declined to discuss the specific concerns that have been raised.

wealth's Attorney Colin Stolle told *The Independent News* his office is reviewing a complaint that raised multiple issues about the VBTA, though he declined to describe them in detail. It is uncertain when the review will be completed and what remedies may follow if any violations of state law are found.

The VBTA's public activities to date — en-

dorsing candidates and urging voters to support them — suggest it may have operated like a political action committee without registering with the state. Via email on Wednesday, Nov. 13, state election officials said there is no record of VBTA filing as a PAC. Stolle declined to say whether this is part of the review.

Beyond confirming the group is a 501(c)4

"social welfare" nonprofit and that appropriate paperwork was filed, Hughes declined to comment for this story. By the time this edition went to press, Hughes had not responded to a Friday, Nov. 8, email request seeking information nonprofits are expected to provide the public, such as an application to the U.S. Internal Revenue Service or a letter from the agency verifying its status.

Following a School Board meeting on Tuesday, Nov. 12, Hughes told a reporter, "I'm not interested in an interview right now." Two other people listed in a state corporation commission record as directors of VBTA did not respond to calls made following the election.

State election law allows 501(c)4 "social welfare" nonprofits to engage in some political activities, such as educating the public about issues, and it exempts them from campaign finance disclosure requirements. However, the exemption applies to a 501(c)4 organization that "does not advocate or endorse the election or defeat of a particular candidate, group of candidates or the candidates of a particular political party," according to the law.

When a nonprofit makes endorsements, it may need to make disclosures of its donors and spending, similar to what a PAC does.

"There may be reporting requirements," said Stephen Piepgrass, a partner with the Troutman Sanders firm in Richmond who, among other areas, has specialized in election law. Piepgrass did not comment on specific matters involving the VBTA, but he spoke generally about political activities by 501(c)4 organizations.

"If it's a 501(c)4 endorsing a candidate or set of candidates, then they no longer enjoy the exemption from those reporting requirements," he said. The law is not saying that it is illegal for a 501(c)4 to engage in political activities, only that "they might be treated as a PAC for the purposes of complying with campaign financial reporting requirements."

State election officials declined to answer specific questions about whether 501(c)4 organizations that make political endorsements are expected to disclose donors and spending or register with the state elections department. Officials referred a reporter to the law.

"Any allegations that a 501(c)4 did not properly disclose would need to be referred to the attorney for the commonwealth for further investigation as ELECT does not have the authority to investigate such allegations," Chris Piper, commissioner of the state Department of Elections, wrote via email on Tuesday, Nov. 12.

In an interview on Wednesday, Nov. 13, Stolle said his office is reviewing a complaint related to the VBTA. "We have received a complaint, and we are reviewing the complaint," Stolle said. "There were multiple issues raised."

As voting progressed on Tuesday, Nov. 5, people responded in different ways to the signs

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The Virginia Beach Teachers' Association was formed by Virginia Beach School Board Member Laura Hughes, according to incorporation paperwork filed with the state. The 501(c)4 nonprofit essentially was unknown before Election Day, when it endorsed several candidates in Virginia Beach general and special elections.

John-Henry Doucette/The Independent News

Elections: Commonwealth's attorney is reviewing complaint about nonprofit's political efforts

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and the volunteers passing out a list of candidates endorsed by VBTA.

Some were upset, claiming the group meant to confuse voters — one of whom apparently pulled up a sign. VBEA, for its part, called VBTA's endorsements a "sham" in statements to the press. Yet others were glad, seeing in the new group an antidote to the VBEA. By day's

end, the founder of the group was identified in media reports as Hughes, who told other news organizations then that the nonprofit represented an unspecified number of educators and others with concerns about city schools.

Hughes is part of a minority on the elected board that has clashed with the majority, which generally enjoys the support of the VBEA.

"It was done by a School Board member,

Laura Hughes, to sway the election," said Kelly Walker, president of the VBEA.

VBEA is an established membership organization. Political activities, including endorsements, are conducted through the Virginia Beach Education Association Political Action Committee of Educators, known as VBEA PACE. That means the organization files quarterly financial disclosure statements of donations and spending. PAC funds are different from membership dues, none of which, according to the group, are used for politics.

Walker said the PAC's decisions about endorsements are not partisan but "issue driven, party blind." VBEA PACE also publicized endorsements at the polls on Election Day. It endorsed candidates in local elections, meaning city offices — City Council and School Board — not state legislative races, as VBTA did.

One candidate for local office this year, City Councilmember Michael Berlucchi, received endorsements from both VBEA PACE and VBTA. In an interview following the election, Berlucchi said he had applied for the VBEA political action committee's endorsement, completing written questions and undergoing an interview to secure that endorsement.

He engaged in no such process with VBTA. Berlucchi said he only learned about that endorsement on the eve of the election, when he was told his name was on a sign.

"It wasn't on my radar," he said.

On Tuesday, Nov. 5, a person a reporter encountered handing out literature for VBTA seemed unclear about where it had come from. The man, who declined to give his name, passed out a list of endorsed candidates for the group outside the Princess Anne Recreation Center, and he initially said the group's recommendations were backed by the Republican Party — a misstatement promptly corrected by a nearby volunteer representing the GOP.

Hughes told WVEC-TV the association has

fewer than 50 members, including some teachers, who pay \$200 in dues, and the group meets weekly. Dues paid for the cost of the materials distributed or displayed on Election Day, according to the WVEC-TV report.

Hughes is listed as the registered agent of the group in papers filed with the state corporation commission on Tuesday, July 30. VBTA's certificate of incorporation became effective on Thursday, Aug. 15. Aside from that paperwork, *The Independent News* has been unable to find other documentation about the nonprofit. VBTA has not registered with the Virginia Beach Commissioner of the Revenue's Office, according to Dottie Shurtz, the deputy revenue commissioner who oversees business licenses.

"Nonprofits should register with the commissioner even if they don't pay tax," Shurtz said. Among other things, the office would check whether the nonprofit is operating in accordance with its IRS determination letter.

That letter and the VBTA's application with the IRS are among the documents *The Independent News* unsuccessfully sought from Hughes. The newspaper also tried to obtain this information from the IRS, though the process of fulfilling such requests can take several weeks. The agency does not comment upon individual filers, according to a spokesperson.

Republican Leigh Henderson on Tuesday, Nov. 5, won the special election to remain Virginia Beach's city treasurer, a position to which she had been appointed following the resignation of John Atkinson. Coincidentally, Atkinson in 2016 founded No Light Rail Virginia Beach and established a PAC that argued against extending light rail to Town Center and endorsed political candidates. That year, a 501(c)4 also was involved in a local election.

In 2016, the other side of the light rail argument was made by a 501(c)4 organization,

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State Del. Barry Knight, R-81st District, greets a voter on Tuesday, Nov. 5, at Back Bay Christian Assembly. Knight said he learned about his endorsement by the Virginia Beach Teachers' Association when he arrived at the polling location that day and saw a sign posted there, at left in the photo.

ELECTIONS

VIRGINIA BEACH

Ed. — The following from the Tuesday, Nov. 5, general and special elections is based upon unofficial returns reported by the state elections department as of Wednesday, Nov. 13. State legislative races that cross municipal boundaries include votes from precincts outside the city. Write-in totals are not listed below.

Senate of Virginia - 6th District

Elizabeth A. Lankford (R) 40.2%
▶ Lynwood W. Lewis Jr. (D) 59.7%

Senate of Virginia - 7th District

▶ Jen A. Kiggans (R) 50.4%
Cheryl B. Turpin (D) 49.5%

Senate of Virginia - 8th District

▶ William R. "Bill" DeSteph (R) 52.1%
Missy Cotter Smasal (D) 47.8%

Senate of Virginia - 14th District

▶ John A. Cosgrove Jr. (R) 60.2%
Rebecca E. Raveson (D) 39.6%

House of Delegates - 21st District

Shannon D.S. Kane (R) 45.3%
▶ Kelly K. Convors-Fowler (D) 55.5%

House of Delegates - 77th District

▶ C.E. "Cliff" Hayes Jr. (D) 91.4%

House of Delegates - 81st District

▶ Barry D. Knight (R) 52.1%
Lenard T. Myers II (D) 47.8%

House of Delegates - 82nd District

▶ Jason S. Miyares (R) 59.2%
Gayle H. Johnson (D) 40.7%

House of Delegates - 83rd District

Christopher P. Stolle (R) 49.9%
▶ Nancy D. Guy (D) 50%

Ed. — A recount in the race is possible.

House of Delegates - 84th District

▶ Glenn R. Davis Jr. (R) 51.2%
Karen P. Mallard (D) 48.7%

House of Delegates - 85th District

N.D. "Rocky" Holcomb III (R) 48.2%
▶ Alex Q. Askew (D) 51.6%

House of Delegates - 90th District

Joseph C. "Joe" Lindsey 91.8%

Clerk of Court

▶ Tina E. Sinnen 98%

Treasurer

▶ V. Leigh Henderson 48.9%
Laura Wood Habr 37%
Ralph M. Parham II 13.7%

City Council - Beach District

Rosemary A. Wilson 39.7%
▶ Guy K. Tower 42.3%
Richard W. "R.K." Kowalewitch 17.7%

City Council - Rose Hall District

▶ Michael F. Berlucchi 75.9%
C. Conrad Schesventer II 23.3%

School Board - Rose Hall District

Joel A. McDonald Jr. 16.3%
Stephen A. Johnston 13.6%
Robert K. Dean 23.3%
▶ Jessica L. Owens 46.3%

Soil and Water Conservation Director - Virginia Dare District

Two Seats

Francis J. "Frank" Drumm Jr. 16.9%
▶ Leslie A. Jones 26.4%
Marsella S. Sanders 9.4%
John A. Dickie 6.3%
Doreen Bender Jackson 8.6%
▶ Bill W. Fleming 20.8%
Russell H. Malbone 10.9%

Elections: Some learned about endorsements only as signs went up

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Light Rail Now, advocating under names such as Virginia Beach Connex and Mission Transport VB. As *The Independent News* reported at the time, Light Rail Now was able to shield the identities of donors because it legally did not need to form a referendum committee, which would have meant disclosure under state law.

More than a year later, the newspaper obtained filings with the IRS that showed that what had been described as a grassroots organization spent nearly a half-million dollars to influence Virginia Beach voters. Some donors had given as much as \$25,000 or \$35,000, the records showed, though their names legally were withheld. Light Rail Now did not make political endorsements of candidates.

This year, Henderson was among the candidates endorsed by the VBTA, though she said she knew only a little about the group. Henderson said the group consisted of individuals who said they would like to put her name on a list of candidates. She understood it to be "a different type of organization that is more conservative than the VBEA."

"Laura Hughes is the one who reached out," Henderson said. "I don't know the details about how you become a member."

Henderson said she believed Hughes was not in agreement with VBEA PACE endorsements and "wanted to form another organization that

could give people options."

The VBTA also made one endorsement in the race for two seats on the local soil and water conservation district board. The group recommended Leslie Jones, who ultimately was the top vote-getter among seven candidates.

"I just knew that someone said I was put on a poster that was going up at election polls," Jones said. "That's all I know."

Jones said she wanted to learn more about the group. She was not aware of any endorsement until the night before the election.

VBEA PACE endorsed former School Board Member Joel McDonald for the Rose Hall District seat on the board in a special election ultimately won by School Board Member Jessica Owens. Owens was appointed to temporarily serve in the seat earlier this year after McDonald acknowledged moving outside the district he represented amid his term. Owens will now finish the term McDonald started before the district seat was declared vacant.

In that special election, the VBTA endorsed Robert Dean, a former member of the City Council. During an interview, Dean said he is a dues-paying member of the VBTA, and he said he was honored to have the endorsement. He placed second among the four candidates in the race, according to unofficial returns.

"It's going to probably really grow to give the teachers and public an alternative to the

Virginia Beach Education Association," Dean said, noting that questions about the VBTA should be directed toward Hughes. He added, "It was just a brilliant move they did and caught everybody off guard. This group's going to be around for a long, long time."

Owens said she has no issue with a group forming to represent teachers, but she said the organization should be transparent and include teachers. She did not receive the endorsement of VBEA PACE, but she noted that that group at least included her in its process. She knew nothing about VBTA's endorsement process.

"I'd never heard of their organization, and they never reached out at all," she said.

School Board Chairperson Beverly Anderson said a number of people were upset by the VBTA's actions. Among them were a few speakers during the School Board meeting on Tuesday, Nov. 12. Anderson said she was not sure whether what the group did was at odds with the law.

"Was it ethical?" Anderson said. "I'm not sure. I think when you try to mislead the public, it's very unethical."

Schools Superintendent Aaron Spence, who has faced much-publicized opposition from the School Board minority, including Hughes, told a reporter he wanted to stay out of the politics of what happened on Election Day. But he offered this: "I think it's best if people are forthcoming about what they're up to."

Chesley: Trump, civility on the minds of voters in Suffolk and Virginia Beach

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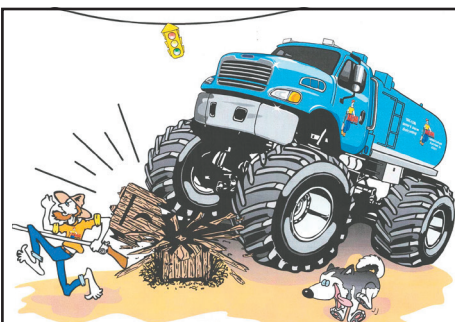
for a change in Washington.

"We have that crazy man in the White House," noted Wiggins, who's black. She declined to say whether she voted for Chris Jones or his Democratic opponent, Clinton Jenkins, or who she voted for in the Senate contest.

Others simply wanted civility and a chance for a better future for their children. They included Mellisa Allen, whose 7-year-old daughter, Jaylah, accompanied her to the polls in the state's most populous city, in the Buckner Precinct.

Unity would help, said Allen, who's black and declined to say who she voted for. "We've got a generation growing up," she said.

Chesley was a longtime columnist and editorial writer at The Daily Press and The Virginian-Pilot. This first appeared in The Virginia Mercury, an independent, non-profit online outlet covering state government and policy at virginiamercury.com.



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