

**Approved Motions Related to the Buchanan Appeal,
Republican 5th Congressional District Committee Meeting, 12/2/17**

By a unanimous voice vote, the formation of an Appeals Committee was approved.

By a unanimous voice vote, the Appeals Committee's report (see Attachment I) was approved.

By a unanimous voice vote, the appeal filed by Rick Buchanan and submitted to the CD5 Committee on 11/20/17 (see Attachment II), concerning the FCRC September 12, 2017, meeting, was approved (upheld). This means that both the October 23, 2017, FCRC ruling on the Buchanan contest (submitted to the FCRC on 10/6/17, see Attachment III) and the membership election vote taken at the September 12, 2017, FCRC meeting are hereby overturned and declared null and void.

In addition to the above votes, votes were also taken on the motion and resolution below.

**Final Motion Passed by the Republican 5th Congressional District Committee
on 12/2/17:**

**Remedy for the Appeal Filed by Rick Buchanan Against
The Fauquier County Republican Committee (FCRC)**

“The Chairman of the Fauquier County Republican Committee and the Fauquier County Republican Committee shall operate under its bylaws, the *State Party Plan*, and *Robert's Rules of Order*. We require that the recommendations in the report of the Appeals Committee be followed. We also require that at least two (2) observers be allowed at meetings and the reconstitution of the committee (FCRC), comprised of District Committee members, the State Party, and/or 5th District SCC, to enter and observe the process and be provided with required documentation, as an extra layer of accountability. This shall continue until the completion of the first meeting after the next committee (FCRC) reconstitution.”

The motion above was passed by a unanimous voice vote.

**Resolution Passed by the Republican 5th Congressional District Committee
on 12/2/17**

“Whereas, the 5th Congressional District Committee believes that the *State Party Plan*, the *FCRC Bylaws*, and *Robert’s Rules of Order* are the source of authority for all acts undertaken by the Fauquier County Unit; and

Whereas, the 5th Congressional District Committee believes that adherence to these rules ensures that all persons are treated fairly by the Unit Committee; and

Whereas, the 5th Congressional District Committee is concerned that Republicans in Fauquier County have been disenfranchised by the FCRC’s violations of these rules; therefore

Be it resolved that the 5th Congressional District Committee places our member Unit, the FCRC, under notice; until the Unit is fully reconstituted, that they will be held accountable by this body to follow the *FCRC Bylaws*, the *State Party Plan*, and *Robert’s Rules of Order*, with the assistance of district observers as specified by the District Committee at its meeting on December 2, 2017; and

Be it further resolved that failure of the FCRC to comply will result in a hearing to determine whether the FCRC is a functioning committee.”

The resolution above was adopted by a unanimous voice vote.

Respectfully submitted,
Aaron Moyer – Secretary
Republican 5th Congressional District Committee

Attachment I

5th District Appeals Committee Report December 2, 2017

Appeal by Rick Buchanan Vs. the Fauquier County Republican Committee

Committee Members:

Diana Shores, Chair

Bill Harvill

Will Pace

The Committee Members discussed this matter at length by phone and email. During the process, Ms. Hayes sought relief by attempting to negotiate vacating the actions of her committee. With legal counsel and RPV advice, the committee determined that Ms. Hayes could only vacate herself from this matter and could not speak on behalf of the Fauquier County Republican Committee without a vote on providing remedy to the matter. In other words, she could not nullify this appeal by saying she would take specific actions on the matters before this committee had the chance to meet. There was an attempt to agree to certain actions if Mr. Buchanan dropped the appeal. Regrettably, this committee could not come to an agreeable arrangement. In addition to these negotiations, numerous attempts were made to receive specific documentation that countered Mr. Buchanan's claims. No documentation was received from either Ms. Hayes or other members of her committee that submitted affidavits.

All correspondence from Mrs. Shores with the FCRC members, Ms. Hayes or its legal representatives will be made available upon request.

This Appeals Committee reserves the right herein to include other inappropriate actions taken by the FCRC in its execution of business, as it pertains to the proper operation of the FCRC. This follows with previous sanctions the FCRC has received from the both the 5th District Committee and the State Central Committee. This Committee evaluated the totality of the appeal, what lead to the appeal coming before the 5th District Committee, and how the initial contest was handled at the Unit Committee level.

The Appeals Committee agrees 2 to 1, that Mr. Buchanan's appeal has merit. In the dissenting opinion, Mr. Harvill had this to say, "My rational is: (a)The positions were advertised (b) In Kay's Message from FCRC Committee Friday 11/24/2017 7:28pm ...no additional names shall be undertaken at this meeting....passed by a wide margin...no attempt to amend... (c) In reading all the correspondence regarding past practices I feel that this would fall under the forbearance definition "an inaction creates a action".

Both the opinions agreeing in favor of Mr. Buchanan are for the reasons listed below and this Appeal Committee requests that the 5th District Committee adopt this committee report and support the actions laid out herein.

1.) The FCRC violated its own bylaws by allowing Ms. Hayes to serve as the Committee Chair of the Membership Committee. The FCRC fails to allow members to know, in an open and transparent manner, who serves on sub-committees. Committee members should know, by public posting or in a document issued to the committee, a listing of the members of all standing committees. The Appeals Committee agreed that Mrs. Hayes should not have appointed herself as Chairman of the Membership Committee (as she so admitted by email) per the FCRC bylaws Article 8, Section B, Item 7. The Vice Chair for Membership is the Chair of the Membership Committee. According to one member, there has not been a Vice-Chair of the Membership committees since March 2017 (Aaron Winters email). Ms. Hayes was asked by a member of the Appeals Committee who was the Vice Chair for Membership and no response was received. Ms. Hayes should immediately appoint a Vice Chair of this committee to put the committee in compliance with its bylaws.

2.) The FCRC did not give proper notice of the membership vacancies given the precinct specific membership structure that is currently in place. The FCRC should provide notice of specific vacancies by precinct. Membership rosters should indicate the precinct which the member represents. The Appeals Committee highly recommend the FCRC amend its bylaws, with the help of RPV legal counsel and staff, to include the formula for precinct member (X number of Members per X number of Republican votes for example) or vote on a standing rule that is understood by everyone. Some of the FCRC membership claims that the Call for Party Canvas adequately established and provides notice for all future vacancies. The Appeals Committee does not feel that this is proper membership vacancy notice as it does not list the specific precinct openings.

3.) The Nominations Committee and the Membership Committee of the FCRC is failing to function in accordance with the FCRC bylaws. It is the goal of Unit Committees to build local committees. The Nominations Committee should function as stated in the FCRC bylaws and any member should be able to nominate a candidate to the committee for consideration. Both the rules and reports of the Nominations and Membership committees should be part of the records of the FCRC. It should be clear how to pre-file for membership and to whom these pre-files should go. Because the goal is party building to win elections, the Appeals Committee recommends that the committee continue to fill its vacancies, though it isn't required. The Appeals Committee requests that membership applications submitted be given full consideration. The Appeals Committee does not feel halting or suspending evaluation of applications benefits the local committee or the Party.

4.) Ms. Hayes did not have the authority to negotiate with Mr. Buchanan to hear his appeal outside the parameters of the Party Plan. No Chairman, or any committee member, has that authority. Furthermore it is recommended, though not required, that significant matters, such as appeals, to be included in the call for meeting. This brings full transparency to these matters.

The Appeals Committee hopes the FCRC understands that this is not the first time that these types of matters have come before the District Committee and State Central Committee. In recent years, they were heavily admonished to create a more open and transparent process.

The Appeals Committee wishes the FCRC well in finding remedy to these matters and coming in full compliance with their own bylaws, the State Party Plan, and Robert's Rules. The Appeals Committee asks that Ms. Hayes seek the guidance of the District Committee if needed.

Attachment II

**Appeal of October 23, 2017, Decision
Made by Fauquier County Republican Committee
(submitted by Rick Buchanan to the
Republican 5th Congressional District Committee on 11/20/17)**

November 15, 2017

Lynn Tucker,

Chairman, 5th District Republican Committee

I, Rick Buchanan, am appealing the decision rendered by the Fauquier County Republican Committee (FCRC) during the October 23rd, 2017 hearing of my Contest of the method by which new precinct and at-large members were elected for membership at the September 2017 meeting of the Fauquier County Republican Committee (FCRC). I present this letter to the 5th District Republican Committee for their decision on the matter.

This is a supplement to the Contest originally presented to the Chairman of the FCRC (included), detailing the merits of my contest, and contending that several of the Bylaws of the Fauquier County Republican Committee (June 4th, 2013) were violated, thus preventing the membership of the Committee from properly filling the vacancies that exist in accordance with said bylaws.

I was not given notice that the FCRC would be having a hearing of the contest and then I was only given six minutes to present the merits to my Contest, preceded by FCRC Chairman, Kay Hayes introducing the contest as a distraction to the importance of the election, dismissing the violations of the bylaws, and launching into a personal attack on myself and those members who support my contest. In an email exchange with one of the members prior to the October 23rd meeting, Chairman Hayes stated that the membership at large cannot provide input into the nominating process, nor nominate candidates for membership, and that the Membership Committee which she currently chairs in violation of the FCRC bylaws, has sole authority to determine who can and cannot be a member of the FCRC. During her statement at the October 23rd meeting, not once did she address the merits of my contest; choosing instead to attack and berate me personally.

This is the nominations and election process, as outlined in the FCRC Bylaws:

- I. The right of members to nominate to fill vacancies, requiring that such existing vacancies *shall* be given with the call for the meeting.
(Article V, Section G, Paragraph 2)
- II. The Nominating Committee *shall* prepare and distribute pre-file forms and receive and process nominations submitted thereon, prior to deadlines set by the County Committee, for election as *member of the County Committee*.
(Article VIII, Section B, Paragraph 4)

- III. The Nominating Committee is required to examine the qualification, or lack thereof, of all nominees and *shall* prepare a report thereon for presentation to the County Committee.
(Article VIII, Section B, Paragraph 4)
- IV. Nothing states that the Membership Committee has *exclusive* authority to appoint new members without allowing the proper nominations process as stated in Article V, Section G, Paragraph 2 and the proper examination of nominated candidates as required in Article VII, Section B, Paragraph 4. The Membership Committee simply has the *responsibility* for recruiting members. This recruitment process does not curtail the responsibility of the Nominating Committee to examine potential members, nor does it exclude the right of the membership to nominate their own candidates.
(Article VIII, Section B, Paragraph 7)
- V. The Chairman has assumed the position of Vice Chairman – Membership Committee without appointing a new chairman to this standing committee after it was vacated in March 2017. While it is within the purview of the Chairman to appoint this position, inaction to appoint, along with numerous reminders by the Chairman that she is the chairman of the Membership Committee, gives the appearance of consolidation of power to ensure limited membership.

In the rebuttal to my contest, three members spoke; Mr. Jim Rich whose position and function on the Executive Committee is unclear, Mr. Harry Burroughs who is the Vice Chair for Precinct Organizing, and Mr. Phil Kasky a voting member. Mr. Rich and Mr. Burroughs used their time in vitriolic personal attacks on me and those who support my contest. Mr. Kasky called for unity in the committee. Neither Mr. Rich nor Mr. Burroughs addressed the merits of my contest, or the specific portions of the bylaws outlined above. This appeal is made in the hopes that an impartial and fair ruling on my contest can be rendered by the 5th District Committee.

The Committee leadership has consistently taken action to consolidate power, restrict the Committee's membership, and chastise those who simply disagree, labelling them as obstructionists. Myself and many other members of this Committee are simply asking that the rules set forth in the Bylaws, as well as the State Party Plan, be followed. These rules exist to protect the rights of all of our members, and the FCRC Executive Committee cannot be allowed to violate these rights whenever they please.

For your reference, this is the link to the current FCRC bylaws found on the FCRC website. <http://fauquiergop.com/wp-content/uploads/2013/09/FCRC-Bylaws.pdf>

Attachment III

(submitted by Rick Buchanan to the FCRC on 10/6/17)

October 2, 2017

Kay Hayes

Chairman, Fauquier County Republican Committee

Contest of September 12, 2017 FCRC Meeting

In order to contest the method by which new precinct and at-large members were elected for membership on the Fauquier County Republican Committee (FCRC) during the September 12th, 2017 meeting and with the aim of bringing transparency to the workings of the Fauquier County Republican Committee, this letter is presented to the FCRC for their decision on the matter.

The Bylaws of the Fauquier County Republican Committee (June 4th, 2013) establish that members have the right to nominate members for election to fill vacancies in the Committee.

Article V – Membership, Section G: Vacancies, Paragraph 2 states:

“Members may be nominated to fill any vacancy at any regularly called meeting of the County Committee provided that notice of such existing vacancy shall be given with the call for the meeting.”

The call for the meeting was sent out via email on Monday, September 4th, 2017 at 4:59AM which stated:

I, Kay Hayes, Chairman, Fauquier County Republican Committee, hereby call a meeting of the Committee, to be held on Tuesday, September 12, 2017, starting at 7:00 PM, at the following location:

**John Barton Payne Building
2 Courthouse Square
Warrenton, Virginia 20186**

Business will include the following:

Invocation

Pledge of Allegiance

Welcome guests and visitors

Announcements

Election of Precinct and At Large Committee members

Reports of officers and subcommittees

Reports of elected officials

Old business: None

New business:

Candidates and Campaign Representatives

**KAY HAYES,
CHAIRMAN, FCRC**

Members were not provided with a list of vacancies in the call for the meeting making it impossible for the membership to nominate candidates.

Chairman Hayes was made aware of this violation in various past meetings and through multiple correspondence just prior to the September 12th meeting and chose to continue forward with the nomination and election-process without distributing the list of vacancies to the membership.

The following correspondence was sent via email from Committee Member Aaron Winters (Warrenton) to Chairman Hayes the same day as the call, dated Monday, September 4th, 2017 at 10:09PM:

Madam Chairman,
I noticed in the call's agenda for the September 12th, 2017 meeting that elections are to be held for precinct and at-large committee members. I have not yet received the roster of existing membership as was adopted in the last meeting to be provided to the membership. Has this gone out yet and if so, could you please send me a copy?
Also, I have heard from several members that they do not know what vacancies there are for each precinct or the at-large, and this is needed in order to ensure proper nominations of individuals at the upcoming meeting. Could you please provide the available vacancies by precinct, as well as at-large, to the membership along with the roster of existing membership?
Thank you for your continued dedication to the Republican cause and let me know if there's anything I can do to assist.
For Liberty,
-Aaron Winters

Chairman Hayes sent the roster of names and addresses to Mr. Winters on Saturday, September 9th, 2017 at 12:05PM, attached in an email that stated:

Aaron,
Attached is a copy of our current membership roster which contains the information required by our bylaws. Additional copies of the roster will be provided at the upcoming meeting. Regarding the proper nomination of individuals to fill vacancies, that duty, pursuant to our bylaws is delegated to the membership committee which I currently chair. And that committee has been diligently performing its responsibilities in light of our upcoming meeting. See our bylaws, Article VIII, Section B, Paragraph 7.
Best regards,
Kay Hayes Chairman

As referenced above by Chairman Hayes, Article VIII - Committees, Section B: Duties, Paragraph 7 of the Bylaws states:

"The Membership Committee shall consist of the Vice Chairman – Membership (who will serve as Chairman) and five other members from the Committee, preferably one from each magisterial district, who will be appointed by the Vice Chairman – Membership and who will serve at the pleasure of the said Vice Chairman. The County Chairman will be an ex-officio member. The Membership Committee shall be responsible for

recruiting members of the Committee needed to fill interim vacancies, maintaining membership records of the Committee, approving Associate Membership applications and carrying out such other tasks as are assigned by the County [sic] Chairman. Three or more members shall constitute a quorum. The Membership Committee shall meet at the call of the Membership Committee Chairman or the County Chairman.”

[Emphasis added]

While this paragraph states it is the responsibility of the Membership Committee to recruit members, it does not relegate the authority to an exclusive right to nominate new members.

It is not the purpose of this Contest to imply the Membership Committee may not propose nominees, but to defend the right of the membership at large to also nominate new members, particularly from their own precinct. That right was denied when the Chairman refused to release the vacancies with the call for the meeting as required in Article V, Section G, Paragraph 2 of the Bylaws which states,

“Members may be nominated to fill any vacancy at any regularly called meeting of the County Committee provided that notice of such existing vacancy shall be given with the call for the meeting.”

A final correspondence was made by Mr. Winters requesting that the membership receive the vacancies for nominations on Monday, September 11th, 2017 at 12:22AM, which stated:

Kay,
I have several people that may be interested in joining the Committee and I imagine other members have interested people as well. Could you share the vacancies with the Committee so we know the appropriate people to bring to the meeting for nomination?
Thank you Kay,
Aaron Winters

To which Chairman Hayes responded the same day, Monday, September 11th, 2017 at 9:39AM, stating:

Cannot elect from the floor. All must be reviewed by Membership Committee as stated in our bylaws.
Kay

The statement of Chairman Hays is incorrect. The Nominating Committee, not the Membership Committee, is tasked by the bylaws with receiving, reviewing and processing nominations for positions on the County Committee, and for candidates for public office. When nominations are made for the offices below, the Nominating Committee is required to validate the qualifications of the nominees, and issue a report to the entire Committee as to the qualifications, or lack thereof, of these nominees.

As stated in Article VIII – Committees, Section B: Duties, Paragraph 4:

“The Nominating Committee shall consist of five members, one from each Magisterial District. The Committee shall be appointed as soon as possible following the organization of the County Committee as provided in Article V, Section D for a term of two (2) years. The Nominating Committee shall prepare and distribute pre-file forms and receive and

process nominations submitted thereon, prior to the deadlines set by the County Committee, for election as:

- a. Member of the County Committee*
- b. Chairman of the County Committee*
- c. Delegate to county, district and state conventions*
- d. Candidate for election to public office*

This committee shall examine the qualifications, or lack thereof, of all nominees and shall prepare a report thereon for presentation to the County Committee.”

[Emphasis added]

Vacancies have existed on the county committee since the Canvass of 2016, and ample time has been available for the Nominating Committee to be properly staffed and this nominations process to be properly conducted, yet the required process has been completely ignored. Just as it was done erroneously in the past, nominations made at the September meeting were never submitted to the general membership prior to that meeting. Nor was there ever a report from the Nominating Committee giving the qualifications, or lack thereof, on the nominees as required in the bylaws. In fact, there are not, as of the September meeting, Chairmen assigned to either the Membership Committee or the Nominating Committee, as noted in the FCRC webpage. Furthermore, the members of both the Membership and Nominating Sub-Committees are unknown to the general membership.

The importance of the Nominating Committee’s stated goal has been highlighted when a person of questionable background were allowed onto the rolls of other committees in the 5th District. A robust Nominating Committee is a safeguard of such infiltration into our Republican Party.

Additionally, according to the FCRC bylaws, the Chairman is specifically prohibited from being a member of the Nominating Committee, as stated in Article VIII – Committees, Section A: Standing Committees, Paragraph 2 which states:

*“The chairman of said Committees shall select the membership of their respective committees with the exception of the Executive Committee which shall be selected by the County Chairman and shall include the officers of the committee, the chairmen of the standing committees, plus one at-large member, one precinct member, and the President of the Piedmont Republican Women’s Club. There may be such additional special committees as are deemed advisable by the Chairman. The County Chairman shall be an ex-officio member of all such committees **except the Nominating Committee**, and he shall fill any vacancy as it may occur. At his discretion the County Chairman may appoint chairmen of special committees to the Executive Committee.”*

[Emphasis added]

This paragraph clearly attempts to ensure an impartial Nominating Committee by restricting ex-officio membership of the Chairman.

Furthermore, as Chairman Hayes indicated in the above email correspondence, she has currently assumed the position of Vice Chairman of the Membership Committee.

That position was vacated in March of 2017 when the former Chair of the Membership committee, Dirk Wyckoff, resigned and a new Chairman of the Membership Committee

has not been announced to the County Committee. This decision violates the bylaws as stated in Article VIII – Committees, Section A: Standing Committees, Paragraph 1:

*“There shall be the following Standing Committees, the chairmen of which shall be appointed at the discretion of the County Chairman, **with positions announced to the Committee after appointment**, to be reflected in the minutes of the meeting which are sent out to all the members:*

- a. Finance*
- b. Precinct Organization*
- c. Candidates*
- d. Nominating*
- e. Research and Issues*
- f. Rules and Resolutions*
- g. Membership***
- h. Programs*
- i. Executive”*

[Emphasis added]

The bylaws do not allow the Chairman to simply assume chairmanship of these standing committees.

It is clear that a nominations process is required for electing new members onto the County Committee, and that process is prescribed in the bylaws. This process was completely circumvented in the elections held on the September 12, 2017 meeting. By circumventing the process prescribed in the bylaws, the rights of the members were violated.

It is our contention that the failure of the Committee to properly adhere to the nominations process and call requirements pursuant to the Bylaws of the Fauquier County Republican Committee renders the election held on September 12, 2017 as invalid.

This contest is made to ensure the Committee Member’s rights are protected, that the Committee properly fill vacancies per the bylaws, and that the committee members must be provided a list of vacancies, and provided the opportunity to nominate new members. The membership must then agree and vote on deadlines by which nominations must be received, and the Nominating Committee must provide the membership a report. At that time, new members found to be qualified for membership may be voted on.

According to the Republican Party of Virginia Plan of Organization (April 29, 2016), Article X – Rulings and Appeals, Section B. Contests, Paragraph 5:

“All Contests and Appeals under sub-sections 1, 2 and 3 of this section, except for an appeal to the State Central Committee, shall be heard and a decision rendered by the committee to which the appeal was made within fourteen (14) days of receipt of the appeal.”

This paragraph grants our Contest the right to be heard by the entire Committee and a decision rendered by the entire committee within fourteen (14) days of receipt. We will be awaiting your reply.

Respectfully,
Rick Buchanan, _____
Baldwin Ridge Precinct