

State of Maryland 

State Board of Elections – August 19, 2020 Meeting

Attendees (via video conference call):

Michael R. Cogan, Chair
Patrick J. Hogan, Vice Chair
Kelley A. Howells, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Andrea Trento, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy, Election Policy
Tracey Hartman, Director of Special Projects
Mary Cramer Wagner, Director of Voter Registration
Jared DeMarinis, Director of Candidacy and Campaign Finance
Keith Ross, Assistant Deputy, Project Management

Also Present (via conference call):

Diane Loibel, Director, Allegany County Board of Elections
Jessica Noranbrock, Dorchester County Board of Elections
Patti Jackson, Director, Worcester County Board of Elections

DECLARATION OF QUORUM PRESENT

Mr. Cogan called the meeting to order at 2:01 pm. After taking roll call, he stated that Mr. Voelp would be absent from the meeting but there was still a quorum. He stated that the meeting was being livestreamed.

ADDITIONS TO THE AGENDA

There were no additions to the agenda. Mr. Cogan stated that the “Member’s Remarks” agenda item (number 5a) would be an open forum discussion.

APPROVAL OF MINUTES FROM JULY 2020 MEETING

Mr. Hogan made a motion to approve the minutes from the July 23, 2020 meeting, and Ms. Howells seconded the motion. The motion passed unanimously.

CLOSED SESSION

Mr. Cogan requested a motion to close the board meeting under General Provisions Article, §3-305(b) (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending or potential litigation. Meeting in closed session allows the members to be briefed on a personnel matter and share their views without compromising the confidentiality of those discussions, consult with Board counsel without waiving attorney-client privilege and obtain information relevant to potential or pending litigation. Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7) and (8), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(7) and (8) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation.

The closed session began at 2:08 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, and Mr. Funn attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting.

Mr. Trento provided legal advice, and staff provided information about pending or potential litigation.

No actions were taken.

The closed meeting adjourned at 2:26 pm.

The open meeting reconvened at 2:27 pm.

NOVEMBER ELECTION DISCUSSION

Member's Remarks

Ballot Schedule: In response to a question from Mr. Cogan regarding the ballot schedule, Ms. Charlson stated that SBE is currently designing and laying out the ballots, a process that cannot start until several pieces of information are known. Petitions were due around the end of July for unaffiliated candidates and for non-principal parties and those signatures are required to be verified, a process which will be completed soon. The deadline for language for ballot questions to be submitted is also at the end of July. Finally, the candidates for President and Vice-President from the two major political parties are not official until each party holds its nominating convention, one of which is happening this week and one next week. She stated that there was also a legal issue related to a candidate in a local contest, which was decided in court the prior day. Once the ballots are designed, they are sent to the local boards for proofing. Per state law, ballot printing can begin around September 3, and SBE is on track to begin mailing UOCAVA ballots at least 45 days before election day as required by federal law.

Election Judges: The members shared their concerns regarding election judges. Mr. Hogan stated that he was frustrated that multiple local boards were not reporting weekly data regarding election judges as the Board had requested. Mr. Funn stated that the Board has received letters from individuals who say that they signed up to be an election judge but have received no response. Ms. Howells echoed these concerns. Mr. Cogan stated that there has been more anecdotal reporting than normal of this problem. Specifically, he stated that local boards not reporting their election judge numbers, and individuals who sign up to be a judge and being told to call back are both unacceptable.

Mr. Hogan made a motion to direct the local boards to provide numbers for election judges required and election judge slots filled for early voting and election day for each category of election judge. Mr. Funn seconded the motion. The motion passed 4-0.

Regarding the recruitment of election judges, Mr. Cogan requested that MAEO discuss with the local boards why there is a public perception of people being turned away when signing up. Mr. Hogan stated that the law requires both that an election judge be 16 years old and that Maryland high school students complete a certain number of community service hours to graduate. In that vein, Mr. Hogan urged the local boards to reach out to the local boards of education to recruit high school students to serve as election judges on election day. Ms. Howells concurred and reminded the local boards not to forget about private schools and school co-ops in their recruitment efforts.

Internet-Delivery of Mail-In Ballots: Ms. Howells stated that the number of requests for internet-delivered mail-in ballots is steadily increasing. In response to a question from Ms. Howells

regarding if language discouraging voters from requesting an internet-delivered ballot is being used, Ms. Charlson stated that the language the Board approved is being used on the application. In response to a follow up question from Ms. Howells regarding the ability of local boards to email those who have requested internet-delivered mail-in ballots and ask them to consider having a ballot mailed to them, Ms. Charlson stated that emails could be sent to these voters, but that for each email with a response, there is a step to change the ballot delivery method in MDVOTERS. Mr. Funn stated that he understood Ms. Howells' concern, but felt that that asking voters to change their desired ballot delivery method after they have already made that decision sends the wrong message and might be perceived as an attempt to disenfranchise voters. Mr. Howells read a draft of an email that could be used by the local boards, but also stated that she understood the concern Ms. Charlson raised about the extra processing steps. Mr. Hogan stated that he understood Ms. Howells' concern about ballot duplication slowing down canvassing but felt that many requests for internet delivered ballots are from voters who are concerned about receiving their ballot in the mail. Mr. Cogan stated that the concerns expressed by Ms. Howells, Mr. Funn, and Mr. Hogan are all correct. Without any objection, Mr. Cogan suggested that the Board request opinions on the matter from MAEO and discuss the issue further at the next meeting.

Prepaid Postage: In response to a question from Mr. Cogan regarding how prepaid postage is paid, Ms. Charlson stated that SBE submitted a budget request for postage for the ballot applications, with the end goal being a 50/50 split between the State and local boards. In response to a follow up question from Mr. Cogan, Ms. Charlson stated that SBE could request more money if needed. Mr. Hogan stated that the State, specifically the Department of Budget and Management (DBM) and not SBE, should be paying for the local boards' portion of the postage. In response to a question from Mr. Hogan regarding the budget and payment process, Ms. Charlson stated that SBE would submit a budget request to DBM and follow the normal budget process. Mr. Cogan, Mr. Funn, and Ms. Howells all concurred with Mr. Hogan.

Mr. Funn made a motion directing the staff to submit a budget appropriation to DBM for the State to pay for the local boards' share of postage for the mail-in ballot applications. Mr. Hogan seconded the motion. The motion passed 4-0.

USPS Concerns: Mr. Cogan stated that USPS was terrific during the primary election and there is no reason to expect we will not see that level of commitment in November. Mr. Cogan stated that ballots mailed in mid-October should reach local board offices with no problem, but a voter planning to mail their ballot closer to November 3 should use a ballot drop off box instead. For voters who plan to vote during early voting, mid-day is usually the least-busy time, he stated.

Data Center: In response to a question from Mr. Cogan, Ms. Lamone stated that SBE is still looking at other state agencies for a solution. She stated that a location was found at the Motor Vehicle Administration (MVA) training center, but MVA does not have staff to help with the processing. She voiced her concern that equipment needs to be set up and workers need to be trained. She also stated that anyone performing the data processing would need a criminal background check, which is not a requirement for all State employees. Mr. Cogan requested that she inform him daily with progress on finding and staffing a data center.

Change Start Date for Canvassing

Ms. Charlson presented the Board with three provisions of the statute that must be suspended for the local boards to begin canvassing ballots before election day, as is consistent with the canvassing for the June and April elections. She stated that MAEO originally requested October 5,

2020 as the start date but now they are requesting October 1, 2020. In response to a question from Mr. Cogan, Ms. Charlson and Ms. Lamone both stated that SBE doesn't have any objections to October 1 as the start date for canvassing. In response to questions from Mr. Hogan, Ms. Charlson clarified that the results would be embargoed until 8 pm on November 3, and that local boards would not be required to start canvassing on October 1, but could start on that date.

In response to a question from Mr. Cogan asking if this action would endanger the public health, welfare or safety, Ms. Lamone stated that it would not, and would, in fact, promote the public health, welfare, and safety by spreading the amount of time that local boards have to canvass ballots.

Mr. Funn made a motion to approve MAEO's request to allow local boards to begin canvassing ballots no earlier than October 1, 2020. Mr. Hogan seconded the motion. The motion passed 4-0.

Mr. Funn made a motion to suspend Md. Code Ann., Elec. Law § 11-302(a), § 11-302(b)(1), and § 11-302(e) , pursuant to the authority granted to the Board in the Governor's Proclamation dated June 19, 2020, and to direct the Administrator to file the appropriate notifications of the suspension, and Mr. Hogan seconded the motion. The motion passed 4-0.

APPROVAL OF EARLY VOTING CENTERS

Worcester County

Ms. Charlson presented a request from the Worcester County Board of Elections to move its early voting center from the Gull Creek Senior Living Community to the Roland E. Powell Convention Center in Ocean City. Due to COVID-19, Gull Creek is not open to the public. While displaying a map showing a five-mile radius around the proposed early voting center, Ms. Charlson stated that the proposed site meets the requirement for a jurisdiction with one early voting center that 50% of the population live within 10 miles. 71.8% of the registered voters in Worcester County live within 10 miles of the proposed site. The proposed site is 100% accessible for voters with disabilities, is accessible by public transit, and has been used as an election day polling place for many years. SBE recommended that the Board accept moving the Worcester County early voting center to the proposed site.

Mr. Hogan made a motion to approve the request to move the early voting center for Worcester County to the Roland E. Powell Convention Center in Ocean City. Ms. Howells seconded the motion. The motion passed 4-0.

APPROVAL OF ELECTION DAY VOTE CENTERS

Allegany County

Ms. Charlson presented a request from the Allegany County Board of Elections to approve six election day vote centers. The proposed vote centers include the Allegany County Office Complex, which serves as the early voting center, three high schools, two middle schools, and one fire department. While displaying a map showing the proposed election day vote centers, Ms. Charlson stated that 83.5% of the population lives within five miles of one of the proposed election day vote centers. All proposed vote centers have previously been used as polling places and are 100% accessible for voters with disabilities, and all except for the fire department are accessible by public transportation.

In response to a question from Mr. Funn regarding why three of the proposed vote centers were so close together, Ms. Loibel stated only about 2,300 voters reside in the eastern part of the county that is not near a vote center, much of which is state forest and therefore non-residential.

Ms. Charlson clarified that the radius on the maps shown is five miles, however the early voting standard is ten miles. There is not a standard for election day vote centers, but if the map was expanded to show a ten-mile radius, most of the population would be covered. Ms. Loibel also stated that there is very little to no cell phone coverage in the eastern part of the county. In response to a question from Mr. Cogan, Ms. Loibel stated that there are three high schools in Allegany County.

Mr. Funn made a motion to approve the six proposed election day vote centers as presented for Allegany County. Ms. Howells seconded the motion. The motion passed 4-0.

Mr. Hogan congratulated Allegany County for being the first local board to submit proposed election day vote centers to the Board.

Dorchester County

Ms. Charlson presented a request from the Dorchester County Board of Elections to approve three election day vote centers. The proposed vote centers include the Dorchester County Office Building, which serves as the early voting center, plus both Dorchester County high schools- Cambridge High School and North Dorchester High School. Both high schools are 100% accessible for voters with disabilities and are accessible by public transportation. 72.5% of the registered voters in Dorchester County live within five miles of one of the three proposed election day vote centers.

In response to a question from Mr. Cogan, Ms. Noranbrock stated that the water is the southern boundary and the Nanticoke River is the eastern boundary. In response to a follow up question from Mr. Cogan, Ms. Noranbrock stated that the remaining 28% of the Dorchester County population lives in the southern half of the county, but are very spread out. Mr. Hogan extended his congratulations to Dorchester for also being among the first local boards to submit proposed election day vote centers to the Board.

Mr. Hogan made a motion to approve the three proposed election day vote centers as presented for Dorchester County. Mr. Funn seconded the motion. The motion passed 4-0.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Cogan disclosed the following contributions:

- \$50 National Republican Senatorial Committee (NRSC)
- \$55 National Republican Congressional Committee (NRCC)
- \$30 McSally for Senate

SCHEDULE NEXT MEETING

The next meeting is scheduled for Friday, August 28, 2020, at 12:00 pm.

ADJOURNMENT

Mr. Hogan made a motion to adjourn the meeting, and Mr. Funn seconded. The motion passed 4-0. The meeting adjourned at 3:57 pm.