

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Andrew V. Jezic, Member (by phone)
David McManus, Member
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Mark Davis, Assistant Attorney General
Donna Duncan, Election Management Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Liz del Castillo, Budget and Personnel Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Paul Aumayr, Voting System Project Manager
Mary Heath, Election Reform Division
Rick Urps, Election Reform Division
Natasha Walker, Webmaster

Also Present: Jerrold S. Garson, Member, Montgomery County Board of Elections
Sara Harris, Deputy Director, Montgomery County Board of Elections
James A. Harris, Montgomery County
Nishan Williams, Cisco
Stan Boyd, Save Our Votes

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:34 p.m.

APPROVAL OF THE APRIL 24TH BOARD MEETING MINUTES

The minutes of the April 24, 2008, board meeting were approved unanimously.

ADDITIONS TO THE AGENDA

Linda Lamone reported that there will be a closed session at the conclusion of the public meeting.

ADMINISTRATOR'S REPORT

1. Announcements

Ms. Lamone announced that Rick Urps has joined the Election Reform Division. Mr. Urps will be responsible for most matters relating to election judges (manual, curriculum, etc.), managing the federal funds to improve accessibility by individuals with disabilities, and developing a new training and certification program for the local boards of elections. He comes to SBE from the Department of Human Resources and has extensive training and compliance review experience.

Ruth Maynard completed her last class and will be graduating with a Bachelors of Arts Degree from Sojourner Douglas College. Ms. Lamone expressed congratulations to Ms. Maynard for her hard work and determination in reaching this important milestone. The Board also relayed their best wishes and congratulations to Ms. Maynard.

2. Meetings and Important Dates

Annual MAEO Conference

Ms. Lamone, Ross Goldstein, Nikki Trella, Mark Davis, Donna Duncan, the Voter Registration Division attended the MAEO Annual Conference in Ocean City (May 5th-6th), and Ms. Mack attended on behalf of the Board. MAEO deserves congratulations for putting together a good conference with excellent speakers and meaningful content. Mr. Goldstein and Ms. Trella conducted a session for Board members on post-election audits and recounts. The voter registration staff conducted a briefing for all attendees on MDVOTERS and the process for how changes get implemented and the 2008 election schedule.

Data for Democracy

Bob Murphy attended the Data for Democracy conference sponsored by The Pew Charitable Trust and the JEHT Foundation on May 12th-13th in Washington D.C. The stated purpose of the conference was to address the need for

empirical data to improve election administration in the United States. Attendees included representatives of the academia, voter advocacy and elections administration communities. Mr. Murphy presented case studies of Maryland's use of data from the electronic pollbooks for purposes of equipment allocation and post-election audits. The presentations were well received. Day 2 of the conference was devoted to a review of the 2008 Election Administration and Voting Survey to be administered by the U.S. Election Assistance Commission. The complete set of conference materials is available on-line at <http://earlyvoting.net/datafordemocracy/>.

NVRA Work Group

At the request of the Governor's Office, Brian Moe, Deputy Secretary of State, has reconvened an interagency working group to ensure that the State agencies designated under NVRA are offering voter registration and capturing information. The working group meets monthly to discuss the progress each agency is making on educating agency employees on the obligations under NVRA. Voter registration staff have been an active part of the working group.

3. Election Management and Reform

The U.S. Election Assistance Commission released for public comment its draft 2008 Voter Registration and Election Day Survey. After reviewing the draft survey, comments about the questions and the types of information they are requesting were submitted. Ms. Lamone noted that Pew is also providing comments on the draft survey and hopes that the survey instrument will be improved.

Mary Heath held the first meeting of a workgroup to discuss election judge recruitment strategies. At this meeting, the workgroup (comprised of representatives from 8 local boards) discussed how best to target teachers, retain current election judges through recognition, create an "adopt-a-precinct" program, and develop a statewide election judge application. The representatives of the local boards were pleased with SBE's interest in this effort. The next meeting of the workgroup is scheduled in June. Ms. Lamone recognized Ms. Heath for including election judge recruitment information on the State's centralized website for State jobs.

4. Candidacy and Campaign Finance

The Candidacy and Campaign Finance Division continues to monitor and regulate all of the campaign finance reporting for both county council Special Elections. The 2008 Montgomery Pre-General campaign finance report was due on May 2, 2008. The 2008 Prince George's Special Election Post-General campaign finance report is due on May 27, 2008.

Candidate filing for the 2008 Special General Election for the 4th Congressional District closed on May 9th. Three candidates have been nominated (one each from the Democratic, Republican, and Libertarian Parties) and will be on the June ballot. The deadline to file as a write-in candidate is June 10th.

The Candidacy and Campaign Finance Division has issued guidance for publication on using campaign funds for travel and other expenses associated with a national political party convention. It is available on the website. Mr. Walker asked if the guidance changed from prior years, to which Mr. DeMarinis responded that the information is the same.

Senate Bill 755 (which was signed by the Governor on May 14th) requires all persons making expenditures greater than \$10,000 to promote the success or defeat of the slots referendum to file campaign finance reports electronically. CCF has designed and is currently testing the Expenditure Reporting System (ERS) software to ensure compliance. A release of ERS will be posted on the website. Mr. Walker inquired as to whether the bill will be retroactively applied to spending that occurred prior to the effective date, to which Ms. Lamone responded that the Attorney General's Office is looking into that issue.

5. Voter Registration

The Voter Registration Division provided support to Montgomery and Prince George's local boards as they prepared for their special elections in May.

The Voter Registration Division rescheduled installation of the June MDVOTERS software release until after the Montgomery and Prince George's Counties' Special Elections. This change will allow the two counties to attend the training on the new software and also to participate in the Joint Application Design (JAD) sessions for the December software release.

In an attempt to identify people who had a transaction at MVA but whose updated information is not in MDVOTERS, the Voter Registration Division coordinated with the Motor Vehicle Administration on mailing letters to:

- a. Voters who have changed their name or address on their driver's license since 2007 but whose addresses were not changed in the voter registration system; and
- b. Individuals who requested to be registered to vote through MVA but are not listed in the statewide voter registration database.

The first mailing was approximately 28,000 letters and covered a 3 month period. This coordinated effort between SBE and the MVA will help to reduce the number of provisional voters in November, by permitting LBEs to correct any out-of-district situations and to register those applicants that made the request before the election. Letters to 100,000 voters will be sent out this year. In response to a question from Mr. McManus, Mary Wagner explained that voters either assume that the update is automatic or take the forms with them and never submit them to their election office. Ms. Mack asked whether the data is being entered at SBE, to which Ms. Wagner explained that the information is being forwarded to the local boards for entry into MDVOTERS.

Women's Voices Women Vote, a Boston-based voter rights organization, sent Federal Post Card Applications to Maryland voters and encouraged the voters to use the application to make sure that their registration was up-to-date. In response, over 5,800 applications have been received so far. Initially, there was some concern whether the applications were acceptable since some of the instructions relating to the voting rights of felons in Maryland is incorrect. However, it was determined that the application is the official Federal Post Card Application and the error was duplicated from the EAC's website. The EAC has been notified that the information as it relates to Maryland is incorrect but to date, has not changed the information. Many other states are experiencing the same high number of applications from this organization. It is suspected that the majority of these applications are duplicates. Instructions to the local boards on processing these applications have been provided. The local boards have been asked to track the number of duplicate or problem applications they receive. Ms. Lamone thanked all SBE staff who pitched in and helped with this effort. It is not known how many more of these VRAs we will receive.

6. Voting Systems

Electronic Pollbook Software Upgrade

The State expects to receive an updated version of the electronic pollbook software from Premier Election Solutions for evaluation and testing beginning May 22nd. Software code changes in this release include enhancements to speed up voter lookup, improved reliability and expanded error logging capabilities. The current plan is to conduct preliminary testing at SBE from May 22nd through May 27th and perform a mock election at the Prince George's LBE warehouse on May 28th, performing at least 2,000 voter check-ins on a 4 pollbook per precinct setup. SBE, Premier, Prince George's and Montgomery County personnel will participate in the testing.

If the tests are successful, the updated version will be installed on electronic pollbooks to be used in the June 17th Special Election in Montgomery and Prince George's Counties. The updated software will then be installed on electronic pollbooks statewide in July and August.

Special Elections

Both Montgomery and Prince George's Counties held Special General Elections for council districts in May. Turnout was very light in both cases. There were no issues associated with the pollbooks or voting units. In addition, municipal elections were held in St Michaels and Havre de Grace.

The 4th Congressional District Special General Election is to be held on June 17th, and the ballot has already been programmed and approved by the two counties. Ballot printing has started and should be complete by the end of the week. Logic and Accuracy testing must be completed by the first week of June. The voting systems team is continuing to support these two jurisdictions for this election.

In addition, Montgomery County also conducted the election for the Student Member of the Board of Education. 64,000 of the 75,000 eligible students (turnout of 85%) voted on approximately 600 voting units.

Additional Equipment

The team has conducted an analysis of the numbers of pollbooks and voting units that will be required by the local boards for the November 2008 Presidential General Election. After consulting with the local boards, SBE will be purchasing an additional 800 pollbooks and leasing 755 touch screen voting units in anticipation of high turnout for this election.

Maintenance

Maintenance of voting units from the February Primary Election has been completed in most of the LBEs. All Post Election maintenance has been scheduled and is expected to be completed by the end of next week.

New Voting System Procurement

SBE met with Department of Budget and Management to discuss the new system procurement, concerns and how we should proceed. It was determined that we will continue to move forward with the solicitation with the intent of having a new contract awarded by the end of this year.

A number of workgroup meetings have been planned for the month of May to refine the RFP and generate a final working document for submission to DBM for approval to issue by the end of June 2008.

7. Budget

FY09 Budget

Ms. Lamone reported that the final outcome of the budget process provides SBE with a total of \$29.13M

Invoices

The counties have been invoiced for the remaining balances from FY07 and the majority of FY08. Mr. Walker inquired about prior recording of payments, and Ms. Lamone responded that it was an accounting issue.

Financing

After careful review, there has been a request use the Treasurer's Office to finance additional electronic pollbooks for the counties. Currently, rates to finance nearly 800 electronic pollbooks over 5 years with a cost of \$2.4M, generates financing costs of just under \$160,000.

8. Personnel

Ms. Lamone reported that there has been significant personnel activity. The Personnel Division has been supporting transactions for seven counties and six positions at SBE, open enrollment for health benefits and leave bank renewals and enrollments for SBE and the local boards, and preparing for the increment processing and COLA adjustments effective July 1, 2008.

9. Information Technology

Ms. Lamone noted that the IT Department has been working closely with Verizon and other telecommunications entities to troubleshoot and maintain the existing systems. Mr. Walker asked about excess equipment and whether there is a process for recording and disposing of the equipment, to which Ms. Lamone responded that the excess equipment is State equipment used by the counties and that there is a process. Mr. Walker asked about how new office space is certified, and Michael Kortum explained that the Department of Budget and Management checklist is used and is supplemented by SBE requirements and that the certification is provided in writing.

10. Updates from Prior Meeting

LBE By-laws

Letters have been sent to Dorchester and Queen Anne's Counties advising them that the Board did not approve their by-laws as submitted. Queen Anne's County has acknowledged the letter and will correct the problem. Dorchester County's election director indicated that the letter has been received but was not discussed at the the Board's meeting on Wednesday, May 23rd.

Montgomery County

Ms. Lamone directed the Board members to information provided in response to materials verbally presented by a board member of the Montgomery County Board of Elections at the April board meeting.

In response to a question from Ms. Mack, Mr. Goldstein stated that there must be one voting unit for every 200 voters and that the additional voting units are based on the expected increase in the number of registered voters. The number of additional electronic pollbooks is based on the expected voter turnout. Ms. Mack asked about the estimated increase in voter registration, to which Paul Aumayr responded that the increase varied by county and was based on past trends.

Mr. Walker expressed his concern for the number of absentee ballots cast in the 2008 Primary Election that were rejected for a lack of signature and not being timely. Ms. Trella noted that both the instructions that accompany the absentee ballot and the return envelope emphasize the importance of signing the oath on the envelope. In response to a question about the provisional voting statistics, Ms. Lamone responded that many voters wanted to vote a primary ballot for which they were not eligible to vote. Ms. Trella also noted that the 2008 Primary Election was the first statewide election under the Court of Appeals' ruling in *Lamone v. Capozzi*, and provisional ballots that would have been previously accepted in part are now rejected.

APPROVAL OF POLLING PLACE CHANGES

Natasha Walker presented 3 polling place change requests.

1. Howard County – move the polling place in district/precinct 4-6 from Glenwood Middle School Gym to the Glenwood Middle School Cafeteria (lack of heat in the gym) and district/precinct 5-21 from the Howard Community College Room 100 to the HCC Science and Technology Building, Game Room SA 101 (building renovations).
2. Harford County – move the polling place in district/precinct 3-13 from the Bel Forest Christian Academy to the Harford Day School (construction and new site is fully accessible).
3. Cecil County – move the polling place in district/precinct 3-3 from the Knights of Columbus Hall to the Holly Hall Elementary School (sale of building)

Ms. Mack made a motion to approve the polling place changes. Mr. McManus asked whether SBE independently surveys the sites, to which Ms. Walker responded that SBE relies on the surveys conducted by the local boards of elections. The motion was seconded by Mr. McManus and passed unanimously.

APPROVAL OF PROPOSED REGULATIONS

Ms. Trella explained that the proposed regulations were the result of the regulatory review process and asked that the Board consider adopting all but one of the proposed changes as both proposed regulations and emergency regulations. Ms. Trella explained that there are proposed changes to delete regulations related to voting systems no longer used in Maryland and these regulations do not need to be adopted as emergency regulations. Mr. McManus asked whether there would be any opportunity for public comment and whether the Board would have another opportunity to review the regulations. Ms. Trella responded that there is a public comment period for the proposed regulations and that the proposed regulations would be presented to the Board for final approval after public comment.

Ms. Trella presented the proposed changes to COMAR 33.02.01.02; 33.02.02.03; 33.02.03.01-.04; 33.03.01.05; 33.03.02.05; 33.04.01.10; 33.04.02.01, .03-.07; 33.04.03.04; 33.09.01.01; 33.09.05.01-.02, .06, and .11-.12; 33.09.06.04; 33.09.07.02 and .07; 33.10.11.37, and 33.10.01, .12-.13, .21-.22, and .31. Ms. Mack made a motion to adopt the proposed regulations, and Mr. McManus seconded the motion. The motion passed unanimously.

Ms. Trella presented the emergency changes to COMAR 33.02.01.02; 33.02.02.03; 33.02.03.01-.04; 33.03.01.05; 33.03.02.05; 33.04.01.10; 33.04.02.01, .03-.07; 33.04.03.04; 33.09.01.01; 33.09.05.01-.02, .06, and .11-.12; 33.09.06.04; 33.09.07.02 and .07; and 33.10.11.37. Ms. Mack made a motion to adopt the emergency regulations, and Mr. McManus seconded the motion. The motion passed unanimously.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mark Davis updated the Board on litigation. The Board of Public Works approved payment of the judgment /settlement in *Stysley v. Carroll County Board of Elections*. *Schade v. SBE* will remain stayed until SBE decertifies the AccuVote-TS voting system. A decision on motions to dismiss is pending in *Schultz v. SBE*, and the circuit court in *Bowers v. State Board of Elections* granted SBE's motion to dismiss the appeal because of Mr. Bowers' failure to file a memorandum of appeal. Mr. Davis explained SBE's involvement in *Jane Doe v. Montgomery County Board of Elections* because the litigation involves long-standing SBE and Attorney General positions on petition verification. Specifically, SBE policy is that the petition verification process verifies the identity – not the signature – of the signer, and the Attorney General's Office has advised that a petition circulator can attest to his or her own signature.

In response to a question from Mr. McManus, Mr. Goldstein responded that the AccuVote-TS voting system will not be decertified until a new voting system is certified and in place.

OLD BUSINESS

Mr. Walker stated that the discussion on the proposed by-laws will be deferred until all Board members are present.

NEW BUSINESS

There was no new business.

SCHEDULE FOR THE JUNE MEETING

Mr. Walker stated that the June meeting will be held on June 26, 2008, at 2:30 p.m.

CLOSED SESSION

The Board voted to hold a closed session to discuss possible litigation pursuant to State Government Article, § 10-508(a)(8) and implementing the budget directives of the Department of Budget and Management. All members voted in favor of holding a closed session.

ADJOURNMENT

Mr. Walker asked for a motion to adjourn. Ms. Mack made a motion to adjourn the meeting, and Mr. McManus seconded the motion. The motion passed unanimously.