

JULY 24, 2006

STATE BOARD MEETING
151 WEST STREET, SUITE 200, ANNAPOLIS, MD 21401

Attendees: Gilles Burger, Chairman
Bobbi Mack, Vice Chairman
Joan Beck, Member
Andrew Jezic, Member
Susan Widerman, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Donna Duncan, Election Management Director
Mary Wagner, Voter Registration Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Jessica Jordan, Budget and Personnel Director
Nikki Trella, Election Reform Director

Also Present: Daniel "The Wig Man" Vovak, Candidate
Huri Shahrokhshahi, Visitor
Courtney Higgins, Maryland Republican Party
Erin Jones, Maryland Republican Party
James Thomas, Maryland Republican Party
Adam Hare, Maryland Republican Party
Charles Smith, Candidate
Gineen Bresso Beach, Governor's Office
Colin Pierce, Project Vote
Andrew A. Rivera, Advancement Project
Sara Harris, Montgomery County
Robert Ferraro, SAFE Voting for Maryland

DECLARATION OF QUORUM PRESENT

Chairman Burger called the meeting to order at 1:30p.m. and declared that there was a quorum present. Mr. Burger welcomed new Board Member Andrew Jezic. Mr. Jezic stated that he was honored to have been appointed and hoped to do a good job filling the vacancy left by outgoing Board Member Thomas Fleckenstein.

ADDITIONS TO THE AGENDA

Donna Duncan requested that the Board consider a proposed change to a polling place. Ross Goldstein requested that the Board formally approve and sign the certification document for the ExpressPoll 5000. Mr. Burger granted two members of the public five minutes each to present issues to the Board.

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APPROVAL OF PRIOR MEETING MINUTES

1. May 31, 2006 Meeting
 - a. On page 3, Ms. Beck proposed adding on page three, fifth paragraph, a sentence to clarify that the earlier version of the contract did not have a reference about real time connectivity.
 - b. On page 1, last paragraph, Ms. Widerman proposed adding clarifying language on page 1, last paragraph to explain that “checked-in” meant to issue the voter a voter access card.
 - c. Ms. Widerman made a motion to accept the minutes with the proposed additions and Ms. Mack seconded the motion. The amended minutes of the May 31, 2006 board meeting were approved unanimously with Mr. Burger abstaining because he was absent.
2. June 20, 2006 Meeting

Mr. Burger made a motion to accept the minutes as presented and Ms. Beck seconded the motion. The minutes of the June 20, 2006 board meeting were approved unanimously.
3. July 6, 2006 Meeting
 - a. On page 1, second paragraph, Mr. Burger proposed adding, “since he is a candidate for office” to clarify why Mr. Fleckenstein’s name was being removed from the agency website and letterhead.
 - b. On page 3, Mr. Burger proposed changing from 10 to 121, the number of people that were found in the Montgomery County legacy system whose signatures were not verified initially.
 - c. Mr. Burger made a motion to accept the minutes with the proposed additions and Ms. Beck seconded the motion. The amended minutes of the July 6, 2006 board meeting were approved unanimously.

ADMINISTRATOR’S REPORT

Before beginning her report, Ms. Lamone asked all of the staff to introduce themselves to Mr. Jezic.

1. Meetings

U.S. House of Representatives’ Committees on Science and House Administration

Ms. Lamone reported that on July 19, 2006, she presented testimony before a joint hearing of the House Committee on Science and Committee on House Administration. She was asked to discuss whether Maryland has adopted the 2005 Voluntary Voting System Guidelines and the impact the guidelines and recent usability studies will have on improving voting systems. At this hearing, the Committees announced their intention to hold a hearing in September on paper trail. The hearing was broadcast on CSPAN.

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Metro Washington Council of Governments (MWCOG)

Ms. Lamone reported that on June 23, 2006, Mary Dewar attended the MWCOG meeting in Washington, D.C. The discussions included issues regarding the Help America Vote Act, the Voting Rights Act and its extension in 2007 (or before), Latino voter registration initiatives, and wireless doorbells at polling places for voters with disabilities. Gerry Hebert, an attorney specializing in election law, discussed issues with the Voting Rights Act and how the renewal will affect southern states. Other discussions included how Maryland will handle early voting issues including polling site security, voter security, ballot security and equipment security.

Campaign Finance Institute

Ms. Lamone reported that on July 19, Jared DeMarinis attended a seminar hosted by the Campaign Finance Institute in Washington, DC. It consisted of three panel discussions focusing on 527s, 501(c) advocacy entities, and regulation of those entities. The Institute presented a study showing that interest groups deploy three different types of organization -- PACs, 527s, and 501(c) advocacy entities -- to increase their influence on federal elections and public policy. Additionally, the report highlighted major weaknesses in the IRS's public disclosure system for 501(c) groups' "political expenditures," including inadequate guidance and monitoring of reports. Finally, the panels debated the constitutional implications of increased disclosure of nonprofit entities active in federal elections as well as issue advocacy.

2. Early Voting

Outreach

Ms. Lamone reported that a packet of outreach materials was developed by Nikki Trella and Mary Dewar for use by the local election officials in fulfillment of the requirements under State Law to inform the public about early voting. Counties will include early voting information on their specimen ballots or send a separate postcard to each voter informing the voter about early voting and the sites in the county. Other outreach activities will include public service announcements.

Polling Sites

Ms. Lamone reported that sites have been finalized and posted on the State Board of Elections website. Michael Kortum, CIO and Larry Grim, CISSO have begun going to the sites to conduct security assessments.

3. Electronic Poll Books

Electronic Poll Book Implementation

Ms. Lamone informed the Board that Diebold has conducted two tests of the network capabilities of the electronic poll books. The first test, in Baltimore City, was successful at two sites. The third site could not be tested because it did not have a static IP address. As soon as the IP address issue is resolved, the site will be tested. The test in Howard County successfully networked all three locations. Mr. Burger asked whether staff was

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looking into whether other sites had similar IP address issues. Mr. Kortum responded affirmatively noting that such issues were why he and Mr. Grim were conducting their site surveys.

Training

Ms. Lamone stated that three informal emergency training classes were conducted to accommodate the local election officials in counties that were starting judges training immediately. The formal classes required under the contract will be held during the last few days of July. Ms. Beck asked which counties attended the informal training classes. Mr. Goldstein responded that Montgomery, Baltimore City, Prince George's, Calvert, St. Mary's, Charles, Queen Anne's, Anne Arundel, and Howard counties had attended the trainings.

4. Help America Vote Act

EAC's Inspector General Audit

Ms. Lamone reported that two representatives of the U.S. Election Assistance Commission's Inspector General are in the office to review the agency's compliance with the Help America Vote Act and corresponding grant funds. They expect to be on site through Friday, July 21st. A draft report on their findings is projected for mid-September.

Administrative Complaints

Ms. Lamone reported that on July 19, 2006, the Howard County Board of Elections submitted an administrative complaint against fifty-nine registered voters. In its complaint, the Howard County Board of Elections alleges that these voters provided a non-residential address (i.e., Mail Boxes Etc.) on their voter registration application and are now registered to vote at an address at which they do not reside. Linda Pierson has agreed to review the complaint and determine whether these voters were erroneously entered onto the voter registration list. The goal is to have a final determination issued in mid-August, before the close of the voter registration deadline.

Election Judges' Manual and Training

Ms. Lamone reported that two of the three remaining chapters (those that included procedures for electronic pollbooks) were distributed; the remaining chapters are scheduled for distribution by July 21, 2006. Review of the election judges' manual is ongoing. Ms. Lamone noted that several local boards have not submitted any of the distributed chapters for review and other local boards have submitted some but not all the distributed chapters. Mr. Burger and Ms. Beck noted their concern about the lack of response from the aforementioned counties. Ms. Lamone agreed, noting the hard work and diligence shown by Jaimie Jacobs in turning around reviewed materials. Mr. Burger proposed sending a letter via County Support that states the Board's strong desire for the local election officials to review and return the remaining chapters of the judges' manual. Mr. Burger noted that it was important that we not fall behind with this effort.

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Voter Outreach

Ms. Lamone reported that Jaimie Jacobs attended a Baltimore County voting unit demonstration for blind voters. Five attendees – some of whom are plaintiffs in the *Poole* case – were present and provided feedback on the current audio ballot. The comments were mixed but constructive. The majority of comments involve long-term software changes, including a request for commonly used screen reader features.

Polling Place Accessibility

Ms. Lamone reported that Jaimie Jacobs continues to collect information on what items are needed to make polling places accessible on Election Day. She expects to begin the procurement process for these items and plans on having a report on polling place accessibility at next month's meeting.

5. Voting Systems

Supplies

Ms. Lamone reported that the voting system team is ordering supplies for the local boards for the upcoming election cycle. Some supplies are already being delivered to the local boards such as tamper tape.

Conducting the Election Guide

Ms. Lamone reported that the voting system team is revising and reviewing the Conducting the Election Guide to support Early Voting and the Electronic Poll Books. The guide is in peer review and will be published shortly. She thanked Jeff Stevens of Baltimore County, Guy Mickley of Howard County, and Stan Haramoto of Somerset County for reviewing the document and providing valuable feedback.

Reallocation of Units

Ms. Lamone also reported that the voting system team analyzed the distribution of the voting units and their peripherals across the State with respect to the registered voter population in each county. As a result of the analysis the voting units were reallocated across the state to those counties that needed additional units. This task was successfully completed by transferring voting units from counties with a surplus of voting units to counties needing additional voting units. No additional voting units were purchased to support the reallocation effort.

Training

Ms. Lamone noted that the statewide operation training classes for the Touchscreen voting unit, GEMS application server, and the Optical Scan will be completed in July. The student feedback on the classes already conducted has been positive. The voting system team will offer a Ballot Programming class after the election cycle.

Supervisor Cards

Ms. Lamone reported that the voting system team has collected the supervisor cards from each county and programmed new security keys on each card. It is our standard

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operating procedure to change the security keys prior to each statewide election. This project will be completed by the end of July. Mr. Burger asked whether staff would be able to complete this project by the end of the month. Patrick Strauch responded that only one county was left and that the team was on schedule to complete the task on time.

6. Ballot Production

Ms. Lamone reported that today is the deadline for certification of the 2006 Primary election ballots. Maryland will have 301 Republican ballot styles, 270 Democratic ballot styles and 16 Non-partisan ballot styles in the upcoming primary. The State provides each LBE with proof copies of each optical scan ballot, a memory card containing all touch screen ballot styles, various proofing reports and a detailed instruction and procedure document. Ballot development will continue for at least another week and a half with the addition of audio and Spanish translation and the LBE proofing and approval process.

The voting system team has provided support to the ballot production team. The voting system team configured the hardware and software necessary to program the ballots. The hardware is kept in a secured room with restricted access.

7. Candidacy and Campaign Finance

Candidacy

Ms. Lamone stated that the candidate filing for the 2006 Gubernatorial Election ended on July 3. Central Committee nominations for vacancies were due on July 18. A total of 681 candidates have officially filed for office. Additionally, the Division now has over 1,600 active campaign finance entities with the next campaign finance report due August 15, 2006.

Summary Guide

Ms. Lamone reported that the Candidacy and Campaign Finance (CCF) Division has published a new Summary Guide for the upcoming election. The Guide incorporates the Supplemental Summary Guide and the 2003 Summary Guide into one easy to use book and is now available.

New Software Version

Ms. Lamone reported that a new version of ELECTTrack EFS is available. The new version 4.7 addresses and rectifies many of the common problems encountered and also includes a few new features. The upgrade is available on SBE's website or CD by request. This software upgrade is being provided as a convenience. If a user does not want to upgrade, the current version (4.5) of the software will be able to file all of the 2006 reports.

Contribution Disclosure

Ms. Lamone reported that the semi-annual Contribution Disclosure Form is due on August 7, 2006. This form is required by either a person who does business with the

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State involving consideration of \$100,000 or more and makes campaign contributions of \$500 or more or a person who provides lobbyist compensation and makes campaign contribution greater than \$500. CCF has sent out a reminder to all previous fliers.

8. Voter Registration

Software Releases

Ms. Lamone reported that Saber issued a new software release for MDVOTERS on July 17. Aside from any emergency software fixes, this is the final scheduled release prior to the 2006 elections. From now until December, the MDVOTERS software is being “frozen” to ensure a stable business environment is made available to users throughout the election cycle. In regards to two critical reports, the NVRA statistics report tested properly, while the Monthly Statistical Report is undergoing further checking by Local Boards. With over 140 items deemed critical for the elections, this was the largest release since implementation. Once again the participation of Local Board staff members was critical to the user testing of the new software. In particular, Ms. Lamone thanked St. Mary’s, Calvert, Washington, Allegany, Baltimore, Montgomery and Prince George’s counties.

Field Support Training

Ms. Lamone also reported that with the recent large software release, the Saber Field Support Team is actively training the Local Boards on how to use the MDVOTERS business functions and reports. Onsite assistance and instruction to every LBE is being provided over a two-week period. Of particular interest is the use of the election management portion of the system to produce the precinct registers for the upcoming elections. Ms. Mack stated that she attended a training session for the election management portion of MDVOTERS and found it to be very impressive. Ms. Beck asked whether the problems that Montgomery County had experienced were resolved. Sarah Harris, Deputy Director for Montgomery County, stated that some issues were resolved, but that there were still outstanding issues. Mary Wagner asked whether Ms. Beck was referring to the GIS interface, to which Ms. Beck responded in the affirmative. Ms. Wagner stated that Susan Campbell, IT Technician for Montgomery County Board of Elections had signed off on the interface and that two successful interface updates had taken place. Nonetheless, Ms. Harris restated that there were still outstanding issues. Since she wasn’t certain of what they were, she suggested that Ms. Wagner follow up with Ms. Campbell. Ms. Lamone raised the possibility of user error.

Security Testing

As reported last month, ISMART has received the small purchase contract to conduct penetration and intrusion testing of the MDVOTERS system. Ms. Lamone reported that the company has delivered its Security Test Plan, which was reviewed and approved by the SBE CIO and MDVOTERS Project Managers.

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Coordination with Early Voting and ePollBooks Project

Ms. Lamone reported that the MDVOTERS Project Team, including SBE and Saber staff, met with Mr. Bob Murphy, SBE Project Manager for Early Voting and ePollBooks, to ensure smooth coordination between the statewide voter registration activities and the operations planned during the Early Voting and Primary Election. Of paramount interest to each project team is that complete and accurate voter registration data is loaded from MDVOTERS to the ePollBooks, so that our Local Boards can verify the registration status of voters, produce voter authority cards (VACs), and provide for provisional voting at each of the Early Voting sites and during the Primary Election.

Ms. Mack complimented Linda for her recent speaking engagements. Mr. Burger stated that we are in the home stretch of the election preparations and noted his appreciation for the hard work of the staff. Ms. Beck also noted that the magnitude of the task is striking, but she feels much better about the position the state is in for the election.

Ms. Lamone thanked the members for their compliments and went on to note that Mark Davis' absence was due to the vast amount of litigation activity. She also reported that the Roskelly case is scheduled for a hearing the following day in the Court of Appeals. She also noted that the temporary restraining order request in the Perez case (challenging the qualification of Perez's candidacy for Attorney General) was denied. Ms. Lamone mentioned the Capozzi case that challenges the constitutionality of early voting.

Finally, Ms. Lamone asked the Board members to keep September 25 and 26 open on their calendars so they can be available to certify the primary election results.

Ms. Beck asked whether there was a listing of all early voting sites to which Ms. Lamone state that there was such a list and that is available on the website.

The Board members discussed their practice of visiting polling places on election day. The members agreed that it would be important to also do this during early voting. Mr. Burger stated that this would be discussed in greater detail at the next meeting.

BRIEFING ON GEORGIA ELECTION EXPERIENCE

Tom Feehan, Diebold's Maryland project manager, reported to the Board that the Georgia Primary Election (July 18, 2006) using the ExpressPoll 4000 was very successful. Mr. Feehan provided the following information:

1. The poll books were deployed in all 159 counties to support a registered voter population of 5.2 million voters.
2. Georgia had 6,000 electronic poll books and generally only deployed 2 per precinct – though some large precincts had 3.
3. The poll books were used for look-up and check-in.
4. The counties did the training, which was supplemented by Kennesaw State University (KSU).

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5. The counties issued poll books the Monday before the election. This late distribution went well.
6. There were a few reports of delayed openings.
7. Generally, there were a low number of incidents. For example, in Fulton County (which includes Atlanta) had only 8 precincts that reported a problem, of which 6 were the result of the wrong poll book being sent to the wrong precinct. Another example is that the command center at KSU only received 100 ExpressPoll related calls – of which the majority concerned procedural issues, not technical issues.
8. As a contingency plan, paper precinct registers and encoders were deployed to the polling places.

Mr. Goldstein noted that, in Maryland, if the wrong pollbook is delivered to a polling place, the local board would be able to walk the election judge through the process to set the pollbook for the correct polling place.

CERTIFICATION OF EXPRESSPOLL 5000 (*addition to the agenda*)

Ross Goldstein stated that he had provided the Board with three documents. The first was the contract modification for 5,300 additional electronic poll books. The second document was an email confirmation that the National Association of Election Directors had reviewed the ITA report on the ExpressPoll 5000 and would be issuing a formal certification. Finally, the State certification documentation for the ExpressPoll 5000 for Board approval. Mr. Burger asked what was different between this certification document and the one for the ExpressPoll 4000. Mr. Goldstein stated that the only difference was the number of USB ports. Mr. Burger made a motion to approve the certification of the ExpressPoll 5000 and Ms. Mack seconded that motion. The certification of the ExpressPoll 5000 passed unanimously. Each Board member signed the certification report.

POLLING PLACE CHANGE (*addition to the agenda*)

Donna Duncan reported that Baltimore County Board of Elections provided notification of the need to change a polling place. The polling place at the Glyndon Volunteer Fire Department had to be moved to the Glyndon Elementary School due to the fact that the Fire Department refused to renew the lease agreement. Mr. Burger asked Ms. Duncan whether there was any reason not to approve this request. Ms. Duncan reported that there was not. Ms. Beck moved to approve the polling place change and Ms. Widerman seconded the motion. The polling place change passed unanimously.

REGULATIONS

Ross Goldstein presented proposed emergency regulations amending COMAR 33.11.05.04 and 33.16.05.05. The regulations address the issue raised during the last

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meeting by Mr. Burger regarding canvassing guidelines for instances where more than one ballot is received from the same voter at the same election. Mr. Goldstein explained that their current regulations address this issue for absentee ballots only. The regulations provide that, in the event that more than one absentee ballot was received from the same individual at the same election, the absentee ballot cast last should be counted and the ballot cast first should be rejected. Staff, along with Mark Davis, determined that the standard should be reversed. In other words, count the first ballot since it was legally cast and reject the later ballot since it was illegally cast (because the person already voted). The proposed regulations provide for all scenarios and permutations of multiple ballots cast: absentee, provisional, and a regular ballot cast at a polling place. The regulations also address instances where the date on one or both of the ballots cannot be determined. If the date cannot be determined on one ballot but can be determined on the other ballot, then the one with the date is counted and the one without the date is rejected. If they both do not have dates, both must be rejected. The regulation also provides that, since a ballot cast in a polling place (on election day or during early voting) cannot be rejected, that ballot will have to be counted in favor of a provisional or absentee ballot. Mr. Burger made a motion to accept the proposed emergency regulations and Ms. Mack seconded the motion. The motion passed unanimously.

Ms. Trella explained that proposed regulations approved by the Board in March (changes to COMAR 33.03.02, 33.05.02, 33.05.04, 33.07.06, 33.07.07, 33.11.02, 33.11.03, 33.12.04, and 33.16.05) were ready for final adoption. She stated these regulations were also adopted as emergency regulations, which became effective in June 2006. No public comments were received on these proposed regulations. Ms. Beck made a motion to adopt as final regulations, and Ms. Mack seconded the motion. The motion passed unanimously.

ELECTION OF BOARD CHAIRMAN

Mr. Burger stated that the law requires that the Board select a chairman not later than August 1. Ms. Widerman nominated Mr. Burger. Ms. Mack seconded the nomination. Mr. Burger was unanimously elected to serve as Board chairman. Mr. Burger abstained from the vote. Mr. Burger thanked his colleagues and noted that being chairman is a challenging job. Mr. Burger noted his appreciation for the trust his colleagues place in him.

Mr. Burger indicated that, since the Board was at full capacity, it would be appropriate to elect a vice chairman. Traditionally, the vice chairman is a member of the principal minority party. Mr. Burger stated that he had received a request from a Board member to wait until the next meeting to elect a vice chairman. Ms. Beck stated her disagreement with waiting until the next meeting and requested that the issue be taken up at the current meeting, and Ms. Widerman concurred. Mr. Burger nominated Ms. Mack. Ms. Beck seconded the motion. Ms. Mack was unanimously elected vice chairman.

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OLD BUSINESS

Ms. Beck asked about the level of security being applied to the early polling places. Mr. Kortum reported that most counties had a good plan that included changing locks, using seals, and in some instances hiring security guards.

Ms. Widerman asked for an explanation on how MDVOTERS records votes cast on two provisional ballots at two different early voting locations in different counties on the same day, specifically how the system records this information on the upload. Mr. Goldstein explained that both records will be stored in MDVOTERS. Mr. Burger noted that he would have expected the system to generate an error if this were to occur, and Mr. Goldstein responded that he would confirm this information.

NEW BUSINESS

Mr. Burger stated that two members of the public in attendance had asked to address the Board. Each member would be allotted 5 minutes to speak.

Daniel “the Wig Man” Vovak

Ms. Lamone reminded Mr. Vovak that he is currently in litigation against the Board and should take that into consideration while addressing the Board. Mr. Vovak indicated that he was aware of that fact. Mr. Vovak stated that he wanted to educate the Board. In the May meeting minutes, he was referred to as the “self described Wig Man.” Mr. Vovak stated that there had been press reports in Maryland and New Hampshire that described him as the Wig Man. Mr. Vovak also renewed his protest against not being on the ballot as “*the Wig Man*”. He stated his reverence for the ballot and the State. He alleged that, “the Wig Man” was accepted for two weeks before he was informed of the needed change. In Mr. Vovak’s opinion, this is an embarrassment to the State.

Charles Smith

Mr. Charles U. Smith, a Democratic candidate for United States Senate, addressed the Board to reconsider Mr. DeMarinis’ rejection of his candidacy for Governor. Mr. Smith stated that, prior to the candidate filing deadline, he asked the Campaign Finance Division what was necessary to be a candidate. Mr. Smith claimed that he was informed that he had the necessary documents for filing on July 3rd. Mr. Smith contends that when he arrived to file on July 3rd he was first informed of the requirement for a Lieutenant Governor and the need for that candidate to have a campaign finance entity.

Mr. Burger asked Mr. DeMarinis for an explanation. Mr. DeMarinis responded to the Board stating that on July 3rd, the deadline for candidate filing, Mr. Smith did present himself as a candidate for Governor; however, he did not have present a Lieutenant Governor and the Lieutenant Governor did not have a campaign finance entity on record. Mr. DeMarinis explained that it is a legal requirement that the Governor and Lieutenant Governor must file as a unit, and additionally all candidates must have a campaign

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finance entity on record with SBE. Mr. Burger inquired why this issue was not presented before the board. Mr. DeMarinis stated that the rejection was based upon the legal requirements established by statute and does not allow for interpretation by the Board. Mr. DeMarinis further noted that Mark Davis was consulted prior to any decision was rendered.

Mr. Smith concluded his remarks by noting his concerns over the voting system.

SCHEDULING OF AUGUST MEETING

The next meeting of the State Board will be held on August 22, 2006, at 1:30 p.m.

ADJOURNMENT

The meeting adjourned at 3:20 p.m.