

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

Attendees: Gilles Burger, Chairman
Joan Beck, Member
Susan Widerman, Member
Gene Raynor, Member
Frank Boston, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Judy Arnold, Assistant Attorney General
Donna Duncan, Director of Elections Management
Mary Cramer Wagner, Director of Voter Registration
Pam Woodside, Director of Information Technology
Terry Harris, Deputy Director of Campaign Finance
Joe Torre, Procurement Officer
Jan Hejl, Voter Registration Manager
Jessica Jordan, Agency Budget Specialist
John Clark, Voter Registration System Project Manager
Patrick Stauch, Voting System Project Manager
Jaimie Jacobs, Election Reform Deputy Director
Janey Hegarty, Administrative Assistant
Natasha Walker, Election Management Assistant

Also Present: Guy L. Harriman, President, Howard County Board of Elections
Betty Nordaas, Election Director, Howard County
Sara Harris, Montgomery County Election Office
Barbara Fisher, Election Director, Anne Arundel County, and President of
MAEO
Carole Streeting, Assistant Election Director, Anne Arundel County
Robert A. Antonetti, Jr., Prince George's County
David A. Laning, Baltimore County
Fred Broccolino, Democratic State Central Committee, 45th District
Mike Curtis, Accenture
Henry C. Marshall
Bettie Crawl, Free State Reporting (transcriber)

DECLARATION OF QUORUM PRESENT

Mr. Burger began the meeting at 1:34 p.m. with a general welcome to all in attendance and introduced Mr. Frank Boston as the newest Board member. Mr. Burger noted that there was a quorum present and that he was pleased to have a full five-member Board. Mr. Burger also extended his thanks to everyone who worked on Election Day. Mr. Burger issued a special note of thanks to Election Judges for their service.

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APPROVAL OF MINUTES OF MEETING OF SEPTEMBER 28, 2004

Ms. Widerman expressed concern about the wording of the Board's policy on not issuing provisional ballots to protest voters. Ms. Lamone suggested that the Board check the meeting's transcript and then amend the policy, if necessary, during today's meeting. Mr. Burger deferred the approval of the September minutes.

APPROVAL OF MINUTES OF MEETING OF OCTOBER 26, 2004

Ms. Beck moved to adopt the minutes from the Board meeting held on October 26, 2004. Ms. Widerman seconded the motion. The motion was unanimously approved.

ADDITIONS TO THE AGENDA

There were no additions to today's agenda.

ADMINISTRATOR'S UPDATE

WELCOME

Ms. Lamone welcomed Mr. Boston and had the attending staff members and guests introduce themselves. Ms. Lamone also welcomed Ms. Betty Nordaas, Howard County's new Election Director. Ms. Lamone further informed the Board that Ms. Rita Dather, former Director of the Harford County Board of Elections, has suffered a stroke.

ELECTION DAY

Election Day went smoothly. Problems that occurred were typical of any Election Day.

STATE BOARD OF CANVASSERS

The State Board of Canvassers will be meeting at the State Board of Elections (SBE) office on Monday, December 6, 2004, at 10:00 a.m., to officially certify the results of the General Election.

ELECTORAL COLLEGE

The Electoral College will be meeting at the State House on December 13, 2004, at 11:00 a.m.

UNOFFICIAL FINAL ELECTION RESULTS

In response to questions from Mr. Raynor, Ms. Woodside reported that unofficial election results were completed by 3:00 a.m., November 3rd, and the 100% verification was completed by 6:30 p.m., November 3rd.

ELECTION ASSISTANCE COMMISSION (EAC)

SBE staff is gathering statistics for the EAC report that is due January 3, 2005. The Board will receive a draft of the report by mid-December.

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ADMINISTRATOR'S UPDATE (continued)

VOTER TURNOUT STATISTICS

In response to a question from Mr. Burger, Ms. Duncan explained that complete voter turnout statistics could not be provided until after the Local Boards of Elections (LBEs) have completed scanning the Voter Authority Cards (VACs)/precinct registers, since these statistics are generally based on voter history.

LESSONS LEARNED WORKSHOP

The Lessons Learned Workshop for SBE and LBE staff has been rescheduled for January 13, 2005.

PARALLEL TESTING

The parallel testing conducted during voting hours on Election Day was trouble-free. Mr. Burger complimented Ms. Lamone and the SBE staff for making the extra effort to conduct the parallel testing in addition to other Election Day responsibilities. Ms. Lamone noted that members of the League of Women Voters had been very helpful as participants.

VOTER REGISTRATION SYSTEM REQUEST FOR PROPOSALS (RFP)

The RFP for the new Voter Registration System was re-issued on November 16, 2004. Twenty-two vendors attended the pre-proposal conference held on November 23rd. The deadline for proposals to be submitted is December 21, 2004.

LESSONS LEARNED WORKSHOP FOR VOTER REGISTRATION

Ms. Wagner will be conducting a Lessons Learned Workshop on December 15th for voter registration staff from SBE and the LBEs.

MOTOR VEHICLE ADMINISTRATION (MVA)

Ms. Wagner and Mr. Goldstein will be meeting with MVA officials on December 2nd to discuss "Motor Voter" processes. In response to a question from Ms. Wideman, Ms. Lamone noted that a comparison of MVA records of voters who requested to register to vote and the statewide voter registration list would be conducted regularly.

REPORTS SUBMITTED

The Board received a copy of SBE's update on the State Plan that is due December 1, 2004, to the Department of Legislative Services. The report includes expected HAVA expenses and an update on security issues from the RABA Report. The Board also received a copy of an expense report for the Help America Vote Act (HAVA) Accessibility Grant. The expense report was submitted to the U.S. Department of Health and Human Services on November 30, 2004.

UPCOMING PROJECTS

Upcoming projects include: procurement of the new voter registration system, implementing the new voting units in Baltimore City, preparations for the Lessons Learned

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ADMINISTRATOR'S UPDATE (continued)

UPCOMING PROJECTS (continued)

Workshop, municipal elections scheduled for 2005, and an electronic pollbook pilot during one of the municipal elections. In response to Mr. Burger's inquiry, Ms. Lamone stated that a report on a proposed electronic pollbook pilot was not prepared by Prince George's County.

VOTING EQUIPMENT EXECUTABLE CODE VERIFICATION

Ms. Lamone extended thanks to Ms. Woodside for organizing the verification of the voting equipment executable code. The National Institute of Standards and Technology (NIST) had asked states to perform a "hash" process. Ms. Woodside explained to the Board that the process involves comparing two snapshots of the software's executable code: one taken before the election and one taken after the election. The two snapshots had a 100% match. Ms. Woodside noted that this process did not involve the source code that is held in escrow.

PROVISIONAL BALLOT REPORT

A chart showing the number of provisional ballots issued and counted by the LBEs was submitted to the Board. Mr. Burger expressed his amazement at the high number of provisional ballots canvassed by the LBEs in such a short amount of time.

ADMINISTRATIVE COMPLAINT

The one administrative complaint that had been filed has since been withdrawn.

ELECTION DAY OBSERVATIONS

Mr. Burger invited the Board members to share their Election Day observations.

Ms. Beck noted that the election went smoothly; there were long lines, but the judges kept them moving; and the election judges seemed pleased. Mr. Burger observed that the problems with long lines seemed to be due to the check-in process and not the voting units. Mr. Burger noted that Georgia was conducting a plan to improve the queuing of lines at the polls and wished for Maryland to do the same. Mr. Burger would like for the Board to provide guidance to the LBEs on this issue. Ms. Lamone noted that political science experts were already working on the issue of long lines. Mr. Burger observed that the alphabetical breakdown of check-in tables contributed to the problem. Ms. Wagner said that the electronic pollbook pilot might provide solutions. Mr. Burger agreed that the electronic pollbook was an idea worth pursuing. Ms. Lamone noted that electronic pollbooks could be expensive.

Ms. Widerman visited thirteen precincts on Election Day. In addition to observing long lines, Ms. Widerman had several election judges suggest that everyone should show ID at the polls. Ms. Widerman invited these election judges to submit their suggestions to the Board in writing. Mr. Burger recalled that MAEO had previously brought up the ID issue.

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ADMINISTRATOR'S UPDATE (continued)

ELECTION DAY OBSERVATIONS (continued)

Ms. Wideman also observed that about 90% of the people whose names did not appear in the register said they had registered through the MVA. Ms. Wideman also noted that there are some training issues for the election judges. Mr. Burger noted that the judges receive a large amount of information in a short time and that SBE should do its best to keep the instructions easy to follow.

In response to a question from Ms. Wideman, Ms. Lamone and Mr. Goldstein clarified that only votes for federal offices on a provisional ballot would be counted if a registered voter voted in the wrong precinct. This process for partially counting a provisional ballot was based on advice from the Attorney General's Chief Counsel for Opinions and Advice. Mr. Burger observed that provisional ballot policies will probably be changed over time, based on experiences across the country.

ASSISTANT ATTORNEY GENERAL'S UPDATE

Ms. Arnold highlighted some of the cases mentioned in her written report.

TrueVoteMD v. SBE (Item B): The TrueVote case was dismissed in federal court.

Bly v. SBE (Item G): The Bly case was voluntarily dismissed.

Suessman v. Lamone (Item E): In the Suessman case, the court issued its opinion; however the case may come back or the issue may go before the General Assembly.

Lyman v. SBE (Item F): The Lyman case was put on hold pending a decision in the Suessman case. Now that the Suessman decision has been issued, it is not clear what Mr. Lyman will do.

Maryland Green Party v. Maryland Board of Elections (Item D): SBE won the Green Party case for attorney fees in circuit court, but the circuit court decision has been appealed.

Ross v. SBE (Item H): The complaint from Mr. Ross was not filed in time. The treasurer for Mr. Ross spoke at last month's Board meeting. Mr. Ross lost the election and wants to prevent the certification of the election results, since his opponent's committee has not filed campaign finance reports on time and owes late fees.

Poole v. Lamone (Item I): Mr. Poole caused a disturbance at the polls on Election Day. It is unclear whether his case will be pursued.

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ASSISTANT ATTORNEY GENERAL'S UPDATE (continued)

Ms. Arnold also noted that paper trail supporters appear to be using the Public Information Act to request copies of large amounts of records. Ms. Arnold noted that SBE is allowed to charge for preparing documents and for copies.

Ms. Arnold received calls on Election Day from people who thought they had registered to vote online. Online services are a problem if they are misleading people into thinking they have properly registered, even after Maryland's registration deadline has passed. Mr. Burger said that SBE should consider putting information on our website to inform people that we do not work with these online services, especially since some online services are charging a fee. Ms. Widerman noted that she has received reports of voters who are happy with the absentee ballot application that is available on our website.

Ms. Arnold also noted that a pending formal contract claim from Diebold needs to be resolved.

REGULATIONS

Mr. Torre requested final adoption of three proposed regulations. Mr. Torre referred the Board members to an information packet sent to them by Ms. Nikki Trella, Director of Election Reform.

Confidentiality of Certain Information (33.04.02)

SBE has not received any comments from the public on the proposed regulation. Ms. Beck moved to adopt the regulation as proposed. Ms. Widerman seconded the motion. The Board voted unanimously in favor of adopting the regulation.

Uniform Definition of a Vote (33.08.02)

SBE received public comment suggesting amendment of the proposed regulation to include the step of pressing the "Cast Ballot" button on the DRE voting unit. Mr. Burger and Ms. Widerman both noted their agreement with this suggestion. After Ms. Lamone explained the available options for proceeding with the regulation, Mr. Burger moved to adopt the regulation; Ms. Widerman seconded the motion; and the Board voted unanimously in favor of adoption. Mr. Burger then moved to amend the regulation to incorporate the discussed suggestion; Mr. Boston seconded the motion; and the Board voted unanimously in favor of amending the regulation.

Return and Canvass of Absentee Ballots (33.11.03 and .04)

SBE received public comment objecting to renaming the Overseas Ballot Canvass as the Second Absentee Ballot Canvass. Ms. Duncan explained that the proposed rewording is to prevent a misperception of the absentee ballot canvassing process. Overseas absentee ballots received by the date of the first absentee ballot canvass are canvassed at that time with all other absentee ballots. In addition, five randomly selected absentee ballots are held

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REGULATIONS (continued)

Return and Canvass of Absentee Ballots (33.11.03 and .04) (continued)

over for the second absentee ballot canvass, to help maintain voter secrecy if any additional timely overseas ballots are received. Ms. Widerman moved to adopt the regulation as proposed; Ms. Beck seconded the motion; and the Board voted unanimously in favor of the adoption.

CAMPAIGN FINANCE REPORT LATE FEE WAIVERS

Ms. Harris presented two waivers to the Board.

(#1) MICHAEL SEIPP FOR COUNCIL # A3972

The Board agreed with the Administrator's recommendation to waive the \$240 fee for the 11/20/04 report, since the account is now closed, with the condition that the outstanding \$10 fee for the 2/03/04 report be paid within 30 days.

(#2) TALBOT COUNTY REPUBLICAN CENTRAL COMMITTEE # A162

The Board agreed with the Administrator's decision to deny the Committee's reconsideration request for waiving \$270 in late fees (\$20 for the 1/21/04 report and \$250 for the 02/03/04 report).

REPORT TO THE GENERAL ASSEMBLY ON CAMPAIGN FINANCE LATE FEES

Mr. Goldstein presented a report required by the General Assembly on Campaign Finance Late Fees. The report focuses on ways to reduce the occurrence of late fees and effectively collect late fees. In addition, the report includes a listing of all State and local campaign finance entities that owe late fees and a listing of campaign finance entities that have been referred to the Office of State Prosecutor for enforcement action. Mr. Burger stated his endorsement of the suggestions listed on the first two pages of the report

In response to questions from the Board members, Ms. Jordan explained to the Board how funds from campaign finance late fees are accounted for and spent as part of SBE's budget. In addition, Ms. Jordan explained that the Fiscal Year 2006 budget was submitted to the Department of Budget and Management (DBM) on August 30, 2004 and that DBM has issued a response. The Board members asked to see a line item copy of the budget, in addition to a timeline of the budget process to ensure the Board's involvement in future budgeting tasks. Ms. Lamone reminded the Board that the budget is confidential until the Governor submits it to the General Assembly.

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OLD BUSINESS

Ms. Widerman asked to see the voting system video that was produced to be played at the polling places during election hours. Mary Dewar, SBE's Voter Outreach Director, brought copies of the video to the Board members later in the meeting.

Ms. Duncan explained that an audit of the voter registration process at the LBEs is still in progress due to the high volume of applications that were processed. Ms. Wagner and Ms. Trella are working on the audit.

Ms. Arnold explained that a demonstration voting unit was still in the custody of the State Police after an election judge refused to return it after a voting demonstration in October. Ms. Lamone noted that the Montgomery County State's Attorney did not want to pursue criminal charges against this individual.

Ms. Wagner explained that SBE staff is following up on voter registration issues, including problems with registering through the MVA and Delegate Dwyer's concern with non-citizens trying to register.

APPROVAL OF MINUTES OF MEETING OF SEPTEMBER 28, 2004

The Board amended the wording of the provisional ballot policy to say that a duly registered voter whose name is on the precinct register may not be issued a provisional ballot. Ms. Widerman moved to adopt the minutes as amended. Ms. Beck seconded the motion. The Board voted unanimously in favor of the motion.

NEW BUSINESS

There was no new business brought up for discussion.

SCHEDULING OF DECEMBER MEETING

There will not be a Board meeting in December. In response to a suggestion by Mr. Raynor, the Board members decided to meet at SBE at 9:30 a.m. on December 13, 2004, to walk over together to the Electoral College meeting at the State House. The next meeting of the State Board will be held on Tuesday, January 11, 2004, at 1:30 p.m. Ms. Beck noted that Mr. Boston and Mr. Raynor would need to get official ID badges before December 13th.

CLOSED SESSION

Mr. Burger noted that the Board would not be meeting in a closed session. A closed session was included as an item on the agenda in error. Mr. Raynor noted that he would like to add discussion of a uniform specimen ballot to the next Board meeting's agenda.

NOVEMBER 30, 2004

REVISED

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ADJOURNMENT

Ms. Wideman moved that the meeting be adjourned. The Board meeting adjourned at 3:15 p.m.

Gilles W. Burger, Chairman