

State of Maryland 
State Board of Elections Meeting February 28, 2008

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Andrew V. Jezic, Member
David McManus, Member
Charles E. Thomann, Member
Linda H. Lamone, Administrator
Ross Goldstein, Deputy Administrator
Donna Duncan, Election Management Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Liz del Catillo, Budget and Personnel Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Paul Aumayr, Voting System Project Manager
John Clark, Voter Registration System Project Manager
Karen Simpson, Candidacy and Campaign Finance Deputy Director

Also Present: Holly Joseph, Save Our Votes
Michael Berla, Save Our Votes
Richard L. Andrews
Mark Talty, Attorney General's Office

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:40 p.m.

APPROVAL OF THE JANUARY 24TH BOARD MEETING MINUTES

Mr. McManus made a motion to approve the minutes, and Mr. Thomann seconded the motion. The minutes of the January 24, 2008, board meeting were approved unanimously.

ADDITIONS TO THE AGENDA

Chairman Walker thanked the staff of the State Board and the local boards for their long hours on election day. He expressed his appreciation for all the election judges who worked until 3 or 4 in the morning because of the weather related extension of voting hours. Mr. Walker also thanked Linda Lamone acting promptly in seeking the extension, thereby allowing voters a chance to get through the gridlock and get to the polls. Mr. Walker noted that most comments in the media were positive about seeking the extension and as a result, over 10,000 voters were able to vote after 8 p.m. Finally, Mr. Walker further extended appreciation to all the local election directors for getting the word out to the election judges in such a rapid fashion and noted the efforts of the Baltimore City Police Department for getting the word to all the polling places in Baltimore City.

Mr. Thomann seconded Mr. Walker's comments and inquired why the voting machines were closed at 8 p.m. Ms. Lamone explained that the federal Help America Vote Act requires voters to cast provisional ballots during an extended period of voting. The policy reason for this is to allow those votes to be kept apart so they can be rejected in the event that the order requiring the extension is successfully challenged and overturned. Since no such challenge occurred, the extended hours provisional ballots were counted.

Ms. Lamone indicated that the roads were actually safer for the judges to return home after the polls were closed. The Governor is preparing a letter to be sent to all election judges to express his appreciation for working late.

Ms. Mack expressed the appreciation of the local boards for the State Board's support.

ADMINISTRATOR'S REPORT

1. Meetings and Important Dates

Board of Canvassers

Ms. Lamone invited all Board members to attend the Board of Canvassers meeting, which will be held on March 11, 2008 at 11:00 a.m.

National Association of State Election Directors' (NASSED) Winter Meeting

Ms. Lamone informed the Board that she, Ross Goldstein, and Nikki Trella attended NASSED's Winter Meeting on February 8th and 9th in Washington DC. At the conference, she gave an update on our grant from Pew's Make Voting Work program, and Mr. Goldstein provided an overview of Maryland's post election audit procedures.

National Voter Registration Act (NVRA) Working Group

Ms. Lamone informed the Board that Brian Moe, Deputy Secretary of State, has reconvened an interagency working group at the request of the Governor's Office to ensure that the State agencies designated under NVRA are offering voter registration and capturing information. The working group met on February 7th to establish a timeline for educating agency employees about their obligations under NVRA and discuss how best to capture information. The next meeting is scheduled for April 2nd.

2. 2008 Presidential Primary Election

Overview

Ms. Lamone informed the Board that, of the 2.85 million voters eligible to participate in the primary election, nearly 40% cast a ballot among the State's 1,817 precincts. Approximately 15,240 17 year old voters were eligible to vote in the primary election, and as of February 18, 2008, approximately **55%** of these 17 year olds voted last week. Given the significant number of 17 year olds who voted in the primary SBE will track of 17 year olds voting in November.

SBE's website had 15,000 web hits the first two weeks in February, with over 4,000 hits on the day before the election, election day, and the day after the election. Primary hits were to determine if registered to vote, find polling places, determine party affiliation and review sample ballots.

The voting units and electronic pollbooks performed well.

Ms. Lamone reported that the results of professionalized election judges training in Baltimore County and Baltimore City are now being seen. Baltimore City is now in its third election cycle training of election judges and Baltimore County is in its second cycle training election judges by the University of Baltimore. We really hope more local boards will use professional trainers.

Challenges

Ms. Lamone reported that the ice storm was the major challenge. Prior to the election, staff worked with Maryland Emergency Management Agency (MEMA) and the Governor's Office to assist the local boards of elections in the development of *snow* emergency plans. However, snow was not the problem during this election - ICE was an entirely different matter.

Ms. Lamone reported that weather conditions were monitored throughout the day. Later in the day, the office began to receive phone calls from voters stuck in traffic who were anxious about not being able to reach their polling place in time to vote. Ms. Lamone noted that it was obvious that ice and resulting traffic conditions would prevent voters from reaching the polls before they closed. Following a briefing by Maryland Department of Transportation Secretary John Porcari and careful deliberation by many individuals, the Anne Arundel County Circuit Court was asked and Judge Silkworth issued an order to extend the voting until 9:30 p.m. The message was immediately disseminated to every election director who quickly disseminated the information to all polling places.

Ms. Lamone reported that another concern arose about voter registration activity at the Motor Vehicle Administration (MVA). Nearly 10% of the calls and emails reported to the SBE Help Desk involved voters who were surprised to learn that they were not registered to vote or their registration address did not reflect where they currently live, when they thought they had completed the process at MVA.

SBE staff have been monitoring this process with MVA for several months now and continue to be concerned that there is a failure on the part of the MVA of properly collecting and transferring paper registration forms which if not corrected will be a major problem for voters using their system before the General Election. Ms. Lamone explained that there are three ways in which applications could be falling through the cracks. First, the individual gives the completed application to the MVA customer service representative and relies on the representatives to direct the application to the correct place. Second, the individual completes the application and deposits it in a designated box at MVA and again relies on MVA to transmit the application to the local board of elections. Third, the individual takes the application home to complete and mail. Ms. Lamone has a meeting schedule to meet with representatives of MVA on March 3, 2008, and reported that SBE is developing a plan to notify individuals who had a transaction at MVA and indicated an interest in registered to vote about their registration status.

Ms. Lamone reported that another challenge to the Presidential Primary was the number of new local boards of election members and election directors. One-third of the election directors are new, and over half of the election directors will be conducting their first presidential election.

Help Desk

Ms. Lamone acknowledged the work of Matt Libber from EDS. Mr. Libber, along with SBE staff, designed an Access database to serve as a Helpdesk module. This effort transitioned the agency, as well as Premier Election Solutions and the Wicomico County Board of Elections, from collecting election day help desk call information on a paper form to an electronic data system. It was a good trial run and was flexible enough to add new criteria throughout the day to collect data. The intent and long term goal is to have such a system available to all jurisdictions networked together to provide statewide real-time updates.

The SBE Helpdesk for the primary election logged approximately 1,700 calls and emails over a 3 day period (the day before the election, election day, and the day after). Contacts were received from citizens, candidates and their staffs, election workers, media outlets, as well as other sources. The vast majority of calls were voters seeking information about whether they were registered and where they should vote. The majority of the callers were from Prince George's County.

Mr. Goldstein informed the board that, in addition to improvements to the help desk application, our immediate goal for the general election is to work to establish an offsite call center. He expressed concern that there will not be sufficient in-house capacity to keep up with the anticipated call volume for the Presidential General Election. Ms. Lamone reported that Oregon uses prison call centers for Election Day Help Desk support. This was not deemed a viable option for Maryland given safety concerns this may pose to Maryland voters if voter information was provided to prisoners.

Ms. Lamone reported that a serious fire outside of Ocean City made it difficult for people to get to their polling place. She noted that the road was re-opened and people were able to vote prior to the polls closing.

Montgomery County Board of Election Provisional Canvass

Ms. Lamone reported that this year, many voters who were not affiliated with the Democratic or Republican Parties showed up at the polls on election day. Since Maryland has a closed primary system, these voters were not allowed to vote in partisan contests. If they insisted, however, they were given a provisional ballot. In Montgomery County, these voters were issued a provisional ballot that included school board contests.

The *Guidelines for the Administration of Provisional Voting* state that, during the canvass, these provisional ballots should be rejected in full because the voter was not eligible to vote the ballot cast. The Montgomery County Board of Elections, however, chose to partially count these ballots (i.e., count the votes for school board contests), which is not consistent with the *Guidelines*. Ms. Lamone expressed deep concern about local boards disregarding State Board guidelines because it frustrates the efforts of administering State election laws in a uniform manner and it invites challenges to the process.

Mr. Goldstein stated that he and Mark Davis, Assistant Attorney General, informed Kevin Karpinski, Attorney for Montgomery County Board of Elections, that partially counting those ballots was inconsistent with the *Guidelines for the Administration of Provisional Voting* and should therefore not be done. However, the Montgomery County Board of Elections chose to disregard their advice and chose to count the votes cast by these provisional voters for school board contests since they would otherwise be eligible to vote for those contests.

Mr. Karpinski told Mr. Goldstein and Mr. Davis that his Board felt strongly that counting the votes was not inconsistent with State law (although he conceded that the *Guidelines* required a different conclusion) and was consistent with the overall goal of trying to accommodate the voters and efforts to count whatever portion of their ballot could be counted.

Mr. Jezic, Ms. Lamone and Mr. Goldstein discussed at length the distinction between law, regulation, rule and guidelines regarding level of enforcement. It was determined that because the State law recognizes guidelines adopted by the Board the guidelines rise to the level of regulations which may be supported by law.

It was noted by Mr. Goldstein that under State law, the position taken by the Montgomery County Board may be supportable. The State law does not explicitly address this issue. However, the requirement under the *Guidelines*, which is also supported by State law, clearly requires a different result. Since it was a deviation by one county, their actions create concern.

Ms. Lamone clarified that if Montgomery County disagrees with a regulation, guideline or policy of the State Board, there is a process for seeking a change. In fact, there is a required periodic review process for the Provisional Guidelines which took place prior to the Presidential Primary Election. However, it is not acceptable for one county to simply ignore State Board's guidelines.

Mr. Jezic requested that Mr. Karpinski and the Montgomery County Board provide a letter of explanation to the State Board of their actions.

Parallel Testing

Ms. Lamone reported that parallel testing took place on election day at SBE from 7:00 a.m. when the polls are opened until 8:00 p.m. on one unit from Allegany County and one unit from Calvert County. The units were tested throughout each election day to simulate use in a polling place, with four volunteers required per unit. During parallel testing, a volunteer reads aloud the vote cast on a paper ballot; two others separately record the vote cast on paper, and another casts the vote on a touchscreen voting unit while it is caught on video and audio tape. The teams periodically check to ensure that the two hand-tallies match and that the number of ballots cast match. At the conclusion of parallel testing, the two sets of hand-tallies are compared to the results generated by the voting unit. The results from the voting units in comparison to the hand tallies were 100% accurate.

Twenty-two (22) volunteers were recruited from the League of Women Voters, several State agencies, and Anne Arundel County to participate in the testing over the course of the day.

3. Candidacy and Campaign Finance (CCF)

Campaign Finance Reports

Ms. Lamone reported that on February 1, 2008, the 2008 Presidential Pre-Primary campaign finance report was due for Presidential election designated political committees. The transaction period covered from January 10 to January 27, 2008. The Candidacy and Campaign Finance Division has received reports from 71% of the committees required to file. The remaining reports that have not filed are late and being assessed late fees.

The Candidacy and Campaign Finance Division is still receiving filings for the 2008 Annual campaign finance report. As of February 25, 2008, over 85% of the political committees have filed an Annual report. The Annual campaign finance report is due for all political committees registered with the State Board.

Contribution Disclosure

Ms. Lamone reported that on February 5, 2008, the semi-annual Contribution Disclosure Form was due. The Candidacy and Campaign Finance Division received over 275 disclosure forms from qualifying persons from the last filing. The forms are kept in a file.

Seminar

Ms. Lamone reported that on February 25, 2008, Jared DeMarinis, Director of Candidacy and Campaign Finance conducted a campaign finance compliance seminar for the Wicomico County Republican Club. Mr. DeMarinis informed that the training was attended by over 40 people. Mr. Thomann expressed appreciation to Mr. DeMarinis for a job well done.

4. Voter Registration

MDVOTERS software release and training planned

Ms. Lamone announced the latest release of MDVOTERS software is scheduled for installation the week of March 10th. Training on the new software will be provided.

Voter Registration Applications

Ms. Lamone reported that the interest in voter registration remains high following the Presidential Primary Election. SBE continues to receive 150 applications every day and is forwarding these to the 24 local boards for entry into MDVOTERS.

JAD Session Scheduled

Ms. Lamone reported that the Voter Registration Division will host two Joint Application Design (JAD) sessions on March 12th and March 13th. The two days will focus on shared Lessons Learned from the Primary Election and applying the knowledge of our user community to improve MDVOTERS in the areas of Election Workers and Election Management (including labels and forms).

Meeting with MVA

Ms. Lamone reported that she and staff will be meeting with representatives from the Maryland Motor Vehicle Administration (MVA) on Monday, March 3rd. The purpose of the meeting will be to reiterate concerns about the number of people who have a transaction with MVA and believe they are registered but do not appear in the statewide voter registration database.

5. Voting Systems

Presidential Primary Support

Ms. Lamone reported that Paul Aumayr managed approximately 17,000 voting units and 4500 E-pollbooks were deployed for the election Presidential Primary Election.

All canvassing has been completed except Montgomery County's absentee and provisional counts, which is scheduled for tomorrow. The division has been providing support and assistance to the LBEs with this effort and has also been assisting with results processing at the State level.

Optical Scan Ballots

Ms. Lamone reported that SBE had used a new printer for ballot production. It was the first time that the ballot printer had printed ballots for a statewide election, and there were no reports of any issues with the ballots supplied. Close to 400,000 absentee and provisional ballots were printed and sent to the LBEs.

Ms. Mack inquired how many ballots would be needed with a paper system. Ms. Lamone indicated 3 ballots per voter would be needed. Additional ballots are necessary because voters spoil ballots and need another ballot. The cost of printing will be increased tremendously.

Power Management

Ms. Lamone said the Voting System Division spent considerable time modifying the power management plan to prepare for the possibility of inclement weather, and the increased likelihood of power outages, due to the primary being moved to February. Power companies were on high alert. They met with the primary providers and obtained contacts from everyone to call in case of an outage. Some 3000 extra touchscreen batteries were positioned around the State, and despite the poor weather on election day, there were no outages.

Special Election Support

Although the Presidential Primary Election has not yet been certified, the Division is now making preparations to assist Montgomery and Prince Georges Counties, both of which have special elections for council districts in April and May.

Pollbook Testing

Ms. Lamone reported that the Rockville City Election prompted EDS to be tasked with the responsibility of establishing an Electronic Pollbook Quality Control Enhancement Project. This project is an ongoing effort to provide quality assurance assessment for the electronic pollbooks and data used during an election and includes 5 individual testing categories; functionality testing, volume testing, verification testing, summary reporting, and audit reporting. Ms. Lamone and Mr. Goldstein both expressed that the pollbooks were a viable and great tool well worth the effort put into them because the vast amount of information they provide.

6. Budget and Personnel

Ms. Lamone reported Liz del Castillo hosted an online seminar on January 24th for County Budget officers and on January 31st for local election directors. That seminar covered the FY09 budget, FY07 bills that will be collected in FY08, and a reminder of upcoming F08 bills. The seminar was also used to develop a collaborative timeline for the new voting system project. LBEs indicated their desire to participate in the procurement process which has always been SBE policy.

Ms. Lamone reported that two requested hiring freezes exceptions have been denied. One position is to fill a vacancy in the voting system division and the other is to provide support for the MDVOTERS project. We are very concerned about these denials and the impact they will have on our ability to prepare for the election. Funds were taken from our budget for personnel. Ms. Lamone has contacted the Governor for approval for an exemption.

7. Information Technology

Ms. Lamone referred to the written information reporting on the activities of the Information Technology Division.

Ms. Mack asked about reported sample ballot errors. Donna Duncan, Election Management Director, clarified that the error occurred in Talbot County, where the election director failed to use the specimen ballot extract in MDVOTERS to generate mailing labels. This caused the mailing to be sent out incorrectly from the mailing house. SBE staffed worked to help correct the problem. The corrected sample ballots were delivered prior to election day.

Chairman Walker questioned the absentee ballot envelopes stating they needed additional postage when in fact it may not be needed. Ms. Trella shared that it is difficult to determine if additional postage is necessary due to ballot size or other weight of other documents the voter may include in the envelope. Ms. Trella assured the Board that no ballots are returned for improper postage because each local board is required, under Board policy, to have an insufficient postage account with the local postmaser.

CONSIDERATION OF REQUESTS FOR WAIVER OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis provided an overview of the determining factors for granting or denying waiver requests.

The Board reviewed the requests for 56 late fee waivers from campaign finance entities and the State Administrator’s recommended action.

Citizens For Tim Caldwell RECONSIDERATION	A6386	Deny
High Impact Leadership Coalition 365 PAC	A6507	Grant for \$250.00 for 11-28-06 (refund)
Bill Herold – Personal Treasurer Account	A4507	Grant for treasurer
Friends To Elect Reba Hawkins	A6519	Grant
Charles Bruce Delegate Campaign	A6248	Grant
Friends Of Tom Conradt	A6576	Grant –account must close

Friends To Elect John Moran	A4047	Grant for 08-14-07 & 08-31-07 reports Deny for 01-17-07
Citizens For Kweisi Mfume	A6499	Grant
Maryland Orthopaedic PAC	A287	Grant
Charles Chester For Delegate	A6255	Grant
Committee To Re-Elect Virginia P. Clagett	A104	Grant
Friends Of Joshua Feldmark	A4578	Grant for treasurer for 10-26-07 report Deny for 08-14-07 & 08-31-07 reports
Friends Of Stephen Knable	A4512	Grant
Friends Of Patrick Abbondandolo	A4712	Grant for chairman
Friends Of Quianna M, Cooke	A5603	Grant
Mark Crawford For Education	A3491	Grant
Friends Of Karren Pope-Onwukwe	A4968	Grant
Citizens For Greg Wells	A4614	Grant for 08-14-07 report Deny for 08-31-07
Friends Of Ron Alessi	A4815	Grant
Pat McDonough For Delegate Committee	3584	Grant
Citizens To Elect Glenn L. Ross	A4096	Grant
Citizens For Adrienne Jones	A851	Grant
Friends Of Jean Cryor	A565	Grant
Citizens For Anirban Basu	A6554	Grant for 08-14-07 report Deny for 08-31-07 & 10-26-07 reports
Citizens For Tanya Shewell	A4295	Grant
Jonathan Newell For State's Attorney	A4038	Grant
Friends Of Doug Gansler	A888	Grant
Citizens For Julian Jones	A4944	Grant for 08-31-07 report Deny for for 10-26-07 report
Friends For Grace C. Connolly	A622	Grant
Anne McCarthy For Maryland	A4966	Grant
Citizens For Dan Morhaim	A523	Grant
Committee To Elect Mike Cady	A4301	Grant
Friends Of William Donald Schaefer	A1064	Grant
Neighbors For A Better Maryland Slate	A6502	Deny
Friends Of Emil Pielke	A2280	Grant
Maryland Citizens For Responsible Government PAC	A679	Deny
Friends Of Leronia Josey	A5071	Grant
Baltimore City Developers & Builders Political Affairs Comm.	A4379	Grant
Bank of America Maryland PAC	A308	Grant
Committee To Elect Jim Brochin	A1112	Grant
Friends Of Joe Bartenfelder	A60	Grant
Committee Of Ten Slate	A4386	Grant
Friends Of Ron Burdynski	A4218	Grant
Committee to Elect Michael Shay	A4574	Grant
Friends Of Kathy Klausmeier	A461	Grant
Friends Of Joanne C. Benson	A394	Grant
Committee to Elect Phil Bissett	A353	Grant
Friends Of Doug Riley	A4653	Grant
Friends Of Joseph C. Boteler, III	A3967	Grant
Montgomery County Libertarian Central Committee	A167	Grant for chairman H. Aaronson
Friends Of Alexander Rodriguez	A6316	Deny
Talbot County Democratic Central Committee	A137	Deny
Re-Elect Allyn Price Nickle, Register of Wills	A4683	Grant
Citizens For Gene Ransom	A1552	Grant
Rebecca L. Nelson – Personal Treasurer	A6310	Grant

Committee To Elect Keith E. Haynes	A3547	Grant for treasurer
Citizens For Karen Montgomery	A1863	Grant
Committee For Thomas A. Mattingly, Sr.	A977	Grant

Mr. Thomann made a motion, and Vice Chair Mack seconded the motion to approve the recommendations of the Administrator. The motion passed unanimously.

ADMINISTRATIVE CLOSURE OF A CAMPAIGN FINANCE ENTITIES

Mr. DeMarinis provided an overview of the determining factors in granting or denying an administrative closure of a Campaign Finance Entity.

The Board reviewed the request on behalf of the Progressive Leadership Alliance (A1715) which meets the requirements for an administrative closure under 13-313 (a) (1): They have a zero balance and an outstanding obligation which is over five years old-\$11,285.85 to Print Source for 2002.

Mr. McManus made a motion, and Mr. Thomann seconded the motion to approve the recommendation of the Campaign Finance Director to grant the administrative closure of the Progressive Leadership Alliance (A1715). The motion passed unanimously.

OLD BUSINESS

The review and adoption of the by-laws was held over to the March meeting.

NEW BUSINESS

There was no new business.

CONFIRM NOVEMBER MEETING DATE

Mr. Walker announced that the next meeting of the State Board of Elections is scheduled for Thursday, March 27, 2008 at 2:30 p.m.

ADJOURNMENT

Mr. Walker made a motion to adjourn the meeting. Mr. McManus seconded the motion, and the motion passed unanimously.