

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  
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  
Mary Wagner, Voter Registration Director  
Paul Aumayr, Voting System Project Manager  
Mary Heath, Election Reform Division  
Rick Urps, Election Reform Division  
John Clark, MDVOTERS Project Manager  
Roger Stitt, Voter Registration Division  
Janet Smith, Voter Registration Division

Also Present: Jerrold S. Garson, Member, Montgomery County Board of Elections  
Margaret Jurgensen, Director, Montgomery County Board of Elections  
Mary Kiraly, Montgomery County voter  
William Edelstein, Maryland Save Our Votes  
Patricia Villone, CTV News  
Ara Laughlin, CTV News  
Stan Boyd, Save Our Votes  
Lisa Rein, Washington Post  
Melissa Davis, Charles County voter

#### **DECLARATION OF QUORUM PRESENT**

Chairman Walker called the meeting to order at 2:32 p.m.

#### **APPROVAL OF THE MAY 22<sup>ND</sup> BOARD MEETING MINUTES**

The minutes of the May 22, 2008, board meeting were presented for approval. Ms. Mack made a motion to approve the minutes, and Mr. McManus seconded the motion. The minutes were approved unanimously.

#### **ADDITIONS TO THE AGENDA**

Donna Duncan reported that there two additional requests for polling place changes.

#### **ADMINISTRATOR'S REPORT**

Ms. Lamone informed that Board members that the meeting was being videotaped. Mr. Walker requested that the individual identify himself, and Patricia Villone stated that she was representing CTV News.

##### **1. Announcements**

The Voting System Division is pleased to announce the addition of James Courtney to the team. Mr. Courtney has been a State employee for 3 years, most recently with the Department of Education and prior to that with the Department of Public Safety and Correctional Services, and will be filling the vacancy left by Paul Aumayr when he was promoted to the Project Manager for Voting Systems. He has more than seven years data processing and server experience, and the interview team was overwhelmed by his credentials.

##### **2. Meetings and Important Dates**

###### NASED

Ms. Lamone attended the annual conference of the National Association of Election Directors. There was a lot of useful and interesting information presented, including the following:

- a. The U.S. Election Assistance Commission (EAC) announced that the U.S. Veterans Administration will provide voter registration information at long term care facilities through volunteers. Ms. Lamone reported that this issue involves allowing election officials to enter VA facilities and assist individuals with voter registration. Since the meeting, however, the VA has determined that election officials will not be permitted to enter facilities based on an interpretation of the Hatch Act. There is currently a bill in the U.S. Senate that would require the VA to allow this activity, and the Connecticut Secretary of State has filed a lawsuit against the VA on this issue.
- b. The EAC has a work group developing guidelines for registration and absentee voting at long term care facilities. Ms. Lamone noted that the State's procedures have been shared with the EAC.
- c. The EAC will be issuing an RFP for a risk assessment which will detail the risks and priorities of the whole election process, including paper ballots.
- d. There was information provided on Internet voter registration. Ms. Lamone reported that Arizona, Kansas and Washington are on-line, although on-line registration is limited to those individuals with driver's license or identification numbers issued by the State driver's license bureau.
- e. Disaster preparedness and contingency planning was another major topic discussed, including encouraging all election officials to get flu shots.

#### Meeting of the State Board of Canvassers

After the 4<sup>th</sup> Congressional District Special General Election, the members of the State Board of Canvassers met to certify the results. Treasurer Nancy Kopp, Comptroller Peter Franchot, Bessie Decker, Clerk of the Court of Appeals, and Interim Secretary of State Dennis Schnepfe constituted a quorum of the Board. Following the election of Treasurer Kopp as Chairman, the Board declared the results official and signed the appropriate documentation. The next meeting of the State Board of Canvassers will be in early December.

### **3. Election Management and Reform**

Ms. Lamone reported that the proposed regulations adopted by the State Board at its May meeting were published in the July 7<sup>th</sup> edition of the *Maryland Register*. Public comment on these proposed regulations must be received by August 7<sup>th</sup>, with the regulations being presented for final adoption at the next Board meeting. To date, no public comments have been received. The General Assembly's Administrative, Executive, Legislative Review Committee has approved the emergency regulations. Evaluation reports have been submitted to the Committee and other required agencies for the review of Subtitles 01 (Definitions; General Provisions) and 12 (Recounts), and proposed regulations will be presented for adoption and publication at the next Board meeting. The Committee has approved the work plan for the review of Subtitles 06 (Petitions), 07 (Election Day Activities), and 08 (Canvassing), and review of these subtitles will begin shortly.

Absentee voting materials have been reviewed and updated to reflect comments from the 2008 Primary Election. Specifically, additional emphasis has been placed on the importance of signing the absentee oath. The local boards of elections are reviewing the proposed quantities for all of the absentee supplies, and we expect to start printing these materials by the end of July. Other election-related supplies (e.g., polling place signs, items to make polling places accessible) will also be ordered shortly.

SBE's efforts to recruit election judges continue to be successful. Currently, SBE has information posted on the State Department of Budget and Management's (DBM) State job website, Craig's List, and MySpace. These forms are immediately sent to the appropriate local board of elections for follow-up contact. Mary Heath has also been invited to attend meetings hosted by the Maryland State Department of Education and attended by school administrators, teachers, and support personnel to recruit election judges. In response to a question from Mr. Walker, Ms. Heath responded that the posting on DBM's website is an actual job posting.

Ms. Lamone reported that Montgomery County Executive Ike Leggett has authorized giving county employees administrative leave for serving as an election judge on election day. County Executive Leggett also stated that the county would be providing technology staff to provide technical support. In response to a question from Ms. Mack, Ms. Lamone responded that we are working with the State's Director of Personnel to facilitate the same incentive for State employees. Ms. Lamone noted that letters have been sent to the County Executive or President of the County Commissioner of each county requesting this incentive. Ms. Heath noted that Garrett County has also agreed to provide administrative leave for service as an election judge.

Ms. Lamone reported that Ms. Heath is developing an "adopt-a-precinct" program for organizations and businesses. This program will allow individuals associated with businesses and organizations to serve as election judges at one or more precincts and have their election judge pay sent to the business or organization to be used for an agreed-upon purpose. While a few local boards of elections have previously used this model, this is SBE's initial effort to create a statewide program. Ms. Mack noted that the Prince George's County Board of Elections has had a successful program in the past.

Rick Urps is preparing a curriculum for election judge refresher training and updates to the curricula for new election judges' training. The refresher training curriculum will include hands-on activities with a voting unit and electronic pollbook, instructions for extended hours voting, and other important reminders. Update to the new election judges' training curricula include a reminder about how to handle voters who do not want to vote on the voting unit and other frequently asked questions.

#### **4. Candidacy and Campaign Finance**

##### Candidate Filing

The petition and non-principal political party candidate filing deadline for the 2008 Presidential Election occurred on July 1<sup>st</sup>. These candidates have until 5:00 p.m. on August 4, 2008, to file the other requisite requirements in order to appear on the November ballot. August 4<sup>th</sup> is also the deadline to file a new party petition.

On July 14<sup>th</sup>, Jared DeMarinis met with Ilene Carroll, Acting Director and other staff of the Central Collection Unit (CCU), to help streamline the collection of late fees and the referral process. In 2006, the General Assembly changed the enforcement statute to allow the State Prosecutor, at his discretion, the ability to refer late fee collection matters to the CCU, instead of using the criminal process. In November 2007, the Office of the State Prosecutor referred 170 individuals for collection. In June 2008, CCU sent out collection notices to the individuals. However, many individuals in the lapsed time period paid their outstanding late fees. As result, SBE will have to file numerous Debt Adjustment forms for the individuals.

Ms. Lamone reported that Office of the State Prosecutor has declined to prosecute 21 referrals that were late fee only matters due to insufficient resources. The Office of the State Prosecutor also declined to forward these committees to the CCU. The Office of the State Prosecutor has informed Candidacy and Campaign Finance Division that future late fee only referrals will be handled in a similar matter until more staff is hired.

##### Campaign Finance Report Review

Ruth Maynard has completed the audit of campaign finance reports for the 2007 Baltimore City Election. 184 committees will be receiving deficiency notices to amend their campaign finance reports. This represents approximately 27% of all the committees required to file for the Baltimore City election. Once the committee has received the deficiency notice, the responsible officers will have 30 days to file an amended report otherwise late fees may accrue.

##### Enforcement Actions

Aaron Fischer, a registered voter from Catonsville, Maryland, attempted to sell his vote on EBay to the highest bidder for the November election. Additionally, he stated his intention to videotape his voting at the voting unit as proof. The matter was referred to the State Prosecutor for review and possible enforcement action. On our suggestion, EBay has established a program to search for and forward any future individuals who attempt to sell their vote. Ms. Lamone noted that SBE has received notification for other postings on EBay and has shared that information with the appropriate state's election officials.

#### **5. Voter Registration**

##### Provisional Voting

During the last several months, staff has been working on writing a comprehensive provisional voting manual. This manual includes instructions on retrieving the provisional ballot bag the day after the election, processing provisional ballot applications in MDVOTERS, conducting the provisional canvass, and reconciling provisional voting data. The draft manual will be distributed shortly to several local boards of elections for review and comment, with the final manual ready for statewide distribution at the beginning of September. Trainings will be conducted on the manual in September and October. Ms. Mack requested that the draft manual be shared with the Board members.

##### New Software Release

MDVOTERS software release 2.22.31 was placed in production on June 30<sup>th</sup>. Staff is currently performing a mock election to test all aspects of the release, including checking to make sure that no regression has occurred. Staff did identify some issues that are being corrected and a patch will be placed in production on August 4<sup>th</sup>. The mock election also assists in identifying areas of needed training.

##### Hardware

Additional Citrix licensees have been procured. This will allow an additional 100 users access to MDVOTERS. Delivery and installation is expected to be complete by August 17<sup>th</sup>.

Calendars for the MDVOTERS Help Desk extended hours (August through October) have been sent to the LBEs with a request they notify SBE with any changes or additions. Ms. Lamone reported that SBE is expecting at least one new party petition from the Independent Party and possibly a petition from the

Constitution Party. The deadline to receive the new party petition is close of business on August 4<sup>th</sup>. Once SBE has received the petition pages, they get sent to the local boards for verification. Voter merge will be open in August for the LBE's to merge voters with duplicate records.

## 6. Voting Systems

### Electronic Pollbook Software Upgrade

The State used conducted election-day simulation testing of updated ExpressPoll software at the Prince George's County Board of Elections on May 28<sup>th</sup> and May 29<sup>th</sup>. Software version 2.1.5 was installed on 282 Prince George's electronic pollbooks used in the 4<sup>th</sup> Congressional District Special General Election.

### Special and Municipal Elections

During June, electronic pollbooks were used in 2 municipal elections (Frostburg and Cambridge) and the 4<sup>th</sup> Congressional District Special General Election.

### Additional Electronic Pollbooks

SBE has prepared a Board of Public Works agenda item for the purchase of an additional 458 electronic pollbooks to be allocated among 15 counties. The additional pollbooks are necessary to help avoid long lines at some precincts in November.

### Voting System Updates

SBE is processing, for DBM approval, a sole source procurement to rent 745 additional touchscreen voting units for the November election. We expect approval before August 1, 2008. In response to question from Mr. Walker about where the additional units will be deployed, Mr. Aumayr noted that historical voter registration data have been reviewed and applied to current voter registration statistics. He explained that recommendations were made to the local boards of elections, which approved the recommendations.

Much of the focus of the voting system team for the month has been on the preparation for the November election. The team has been working with the LBEs to determine their requirements for additional resources, such as county technicians, logic and accuracy assistance, trainers and election day support specialists. In addition to these resources, the team has been gathering data on what consumables and other additional items will be required by the LBEs for the election.

The team has also met with the ballot printer to start planning the printing of absentee and provisional ballots. In addition, the possibility of bringing on board a second printer is currently being reviewed. The team has commenced the changing of the cryptographic security keys for the general election, as they do for every election. This effort should take a couple of weeks.

### Procurement

A new contract is being prepared with InfoSentry to provide an analysis and evaluation of potential risks for the upcoming election. SBE has entered into a contract with InfoSpherix to provide call center support for the November election. Ms. Lamone reported that 50 people will be at the call center answering basic questions, such as the registration status and assigned polling place of the caller.

## 7. Budget

### FY 08 Close Out

Liz del Castillo is working on finalizing the fiscal year 2008 and closing the books in the next week. One more final FY08 bill will be distributed. In response to a question from Mr. Walker about the total amount owed by the local boards for fiscal year 2007 invoices, Ms. Del Castillo responded that it was approximately \$2 million for everything. Mr. Thomann asked her what the money was owed, and Ms. Lamone responded that SBE pays bills for the voting system and electronic pollbooks and bills the local boards for their share. Prior to the closed session, Ms. del Castillo provided Ms. Lamone with specific amounts owed by year, and provided a summary document to Mr. Walker for his review which noted a general breakdown of funds owed: \$1.4M for FY07; \$0.8M for FY08#1, and \$0.2M for FY08 #2, creating a total of \$2.4M.

### Managing for Results

Efforts are also turning toward preparation of the agency's Managing for Results update due August 31, 2008. Ms. Lamone reported that this update is important to the General Assembly's budget committees. Mr. Walker asked whether SBE was part of StateStat, to which Ms. Lamone responded that the agency was not.

SBE received its FY10 budget target and must provide its budget submission by September 2, 2008. Ms. Lamone reported that Ms. del Castillo has been overseeing the disposal of old equipment at the warehouse through DGS, which approves the paperwork, and the website Govdeals.net. To date, over 100 pieces of equipment have been sold. The funds generated from the sale go into the State's general funds.

## **8. Information Technology**

Ms. Lamone reported that the Division has been busy making technical upgrades and noted that SBE has a positive relationship with Verizon. She noted that annual security and disaster recovery assessment visits have begun, disaster recovery scenarios have been developed for SBE and LBE, and an SBE data/server room security upgrade has been approved (installation August)

## **9. Updates from Prior Meeting**

The new voting system procurement is proceeding. The draft solicitation is substantially complete and has been reviewed by counsel and by the local election directors. Staff has incorporated the comments from those reviews into the draft solicitation and will be sending it to the Department of Information Technology (DoIT) this week for review. After the DoIT review, it will be reviewed by the Department of Legislative Services and then will be ready to be released.

## **ASSISTANT ATTORNEY GENERAL'S REPORT**

Mark Davis reported that the amount of litigation continues to dwindle. The court in *Schultz v. State of New York, et al* granted the states' motions to dismiss. Mr. Davis noted that this lawsuit was brought against all 50 states challenging the use of any machines to count and tabulate votes. He reported that the Montgomery County Board of Elections prevailed in its motions in *Jane Doe v. Montgomery County Board of Elections* and that the ruling will likely be appealed. Mr. Davis noted that he drafted a number of advice letters and memoranda.

Mr. McManus inquired about how the advice that campaign funds may be used for a candidate's legal defense is monitored and whether an investigation is related to the individual's candidacy. Mr. Davis acknowledged that there are no clear lines, and the Attorney General's Office had only media reports on which to base the substance of the investigation into Senator Currie. Jared DeMarinis noted that it would be retrospective analysis.

Mr. Walker noted that Mr. Davis' report included a note that Mr. Davis will be transferring to the Department of Health and Mental Hygiene to become chief counsel to the Medical Assistance Program. Mr. Walker stated that he would miss Mark's wise advice and counsel and would like him to stay indefinitely. On behalf of the Board, Mr. Walker commended Mr. Davis for his service to SBE.

## **APPROVAL OF POLLING PLACE CHANGES**

Ms. Duncan presented five requests from three local boards of elections to change the location of a polling place.

1. Anne Arundel County – move the polling place in district/precinct 7-9 from Sollers United Methodist Church Annex to the Lothian Elementary School to accommodate an increase in voter registration in this precinct, move the polling place in district/precinct 7-22 from the Holy Family Catholic Church to the Riva Trace Baptist Church due to renovations, and move the polling place in district/precinct 2-10 from the Country Club Recreation Center to the Glen Burnie High School due a fire.
2. Montgomery County – move the polling place in district/precinct 10-7 from the Carderock Springs Elementary School to the Adat Shalom Reconstructionist Congregation due to renovations and move the polling place in district/precinct 13-47 from The Bennington to the National Oceanic and Atmospheric Administration Science Center to accommodate an increase in voter registration.
3. Worcester County – move the polling place in district/precinct 6-1 from the Ocean Pines Community Hall to the Ocean Pins Country Club due to renovations.

In response to a question from Mr. Thomann about the role of the Board members in these changes, Ms. Lamone explained that State law requires that the Board members must approve polling place changes after a certain date.

Ms. Mack made a motion to approve the polling place changes, and Mr. McManus seconded the motion. The motion passed unanimously.

## **APPROVAL OF LOCAL BOARD BY-LAWS**

Ms. Lamone referred to a memo from Ross Goldstein in the Board members' folders. Nikki Trella explained that there are by-laws from six local boards of elections before the Board for approval. Four local boards of elections made minor changes to the draft by-laws but none of the changes conflict with State law, regulations, or policies. Mr. Walker asked about the status of the by-laws for Queen Anne's County Board of Elections, to which Ms. Trella responded that she did not have an updated status.

Mr. Thomann made a motion to approve the by-laws submitted by the six local boards of elections, and Mr. McManus seconded the motion. The motion passed unanimously.

## **WAIVER OF CAMPAIGN FINANCE LATE FEES**

Mr. DeMarinis presented 21 requests for a waiver of late filing fees for the following committees:

- Friends of Rick Dabbs
- Committee to Elect Danny Mayer
- MD/DC National Association of Industrial and Office Properties PAC
- Women for County Progress Slate
- Queen Anne's County Republican Central Committee
- Somerset County Democratic Central Committee
- Friends of Athena Malloy Groves
- Carroll County Democratic Central Committee
- Norma Powers for the People
- Citizens to Election Les Belcher
- Baltimore County Victory Slate
- Elbert Henderson for Mayor
- Friends of Gwendolyn Britt
- Citizens for Garry Mumford
- Citizens for Emmett Burns
- Friends of Bill Hwang
- Southwest Baltimore County Democratic Club PAC
- Friends of Kirill Reznik
- Citizens for Lawrence Jamaal Moses
- Friends of Jason Gallion
- Business and Commerce PAC

The Board reviewed the requests. Mr. Thomann made a motion to approve the recommendation of granting the waiver, and Ms. Mack seconded. The motion passed unanimously.

#### **REQUEST FOR CONFIDENTIALITY**

Mr. DeMarinis presented 15 requests by registered voters to have certain information be deemed confidential. Mr. DeMarinis explained that most of the voters requesting this designation were judges or family members of judges. In response to a question from Mr. McManus, Mr. DeMarinis responded that these voters requested this designation and that, if the requests were approved by the Board, the voters' residential addresses would be kept confidential. Ms. Mack made a motion to approve these requests for confidentiality, and Mr. McManus seconded the motion. The motion was unanimously approved.

#### **PROPOSED POLICY – SPECIMEN BALLOT CONTENT**

Ms. Heath presented a proposed policy outlining the content of all specimen ballots. She highlighted the requirement that specimen ballots include information about the best time to vote to try and avoid lines at the polls. Ms. Trella explained that most of the proposed requirements are already statutory requirements and are already included in the specimen ballots. In response to a question from Mr. Walker, Ms. Trella explained that the only potentially new item is the inclusion of SBE's toll-free number. In response to a question from Ms. Mack, Ms. Trella noted that SBE's toll-free number is always available.

Ms. Mack made a motion to approve this policy, and Mr. McManus seconded the motion. The motion passed unanimously.

Ms. Trella requested that the agenda item relating to the no electioneering zone be withdrawn.

#### **OLD BUSINESS**

Mr. Walker stated that the discussion on the proposed by-laws will be deferred until the next Board meeting and asked that all Board members be prepared to discuss their proposed changes to the by-laws. Mr. Walker asked that previously submitted comments be incorporated into the proposed by-laws and distributed prior to the next meeting.

#### **NEW BUSINESS**

There was no new business.

#### **SCHEDULE FOR THE AUGUST MEETING**

Mr. Walker stated that the June meeting will be held on August 28, 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). Mr. Thomann made a motion to hold a closed session, and Ms. Mack seconded the motion. 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. Jezic seconded the motion. The motion passed unanimously.