

Attendees: Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Rachel T. McGuckian, Member
Charles E. Thomann, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Sandy Brantley, Assistant Attorney General
Jeff Darsie, Assistant Attorney General
Mary Wagner, Voter Registration Director
Donna Duncan, Election Management Director
Paul Aumayr, Voting System Director
Nikki Trella, Election Reform Director
Jared DeMarinis, Candidacy and Campaign Finance Director
John Clark, Voter Registration System Project Manager
Stacey Johnson, Voter Registration System Deputy Project Manager
Keith Ross, Project Management Office
Matt Libber, Project Management Office
Kathy McClellan, Project Management Office

Also Present: Holly Joseph, Save Our Votes
Stan Boyd, Save Our Votes
Daniel "The Wig Man" Vovak
Barbara Sanders, League of Women Voters Maryland

DECLARATION OF QUORUM PRESENT

Chairman Walker called the meeting to order at 2:39 p.m.

Chairman Walker introduced Rachel McGuckian and welcomed her to the State Board of Elections. Mr. Walker thanked former board member Andrew Jezic for his service to the State Board and wished him continued success in his legal career.

Chairman Walker also offered condolences from the Board, Administrator, and staff to Betty Nordaas, the Election Director for the Howard County Board of Elections, for the loss of her son.

APPROVAL OF THE MAY 28th BOARD MEETING MINUTES

The minutes of the May 28, 2009, board meeting were presented for approval. Ms. Mack made a motion to approve the minutes, and Mr. Thomann seconded the motion. The minutes were approved unanimously.

ADDITIONS TO THE AGENDA

Chairman Walker stated that there were no additions to the agenda.

ADMINISTRATOR'S REPORT

Ms. Lamone provided the Administrator's Report.

1. Announcements

Victorica (Vicki) Smith has been as hired to serve as the new front desk receptionist. Ms. Smith worked as a voter registration clerk for the Baltimore County Board of Elections prior to coming to SBE. Ms. Smith started on June 24, 2009.

At least once every three years, the Office of Legislative Audits conducts fiscal and compliance audits of each unit of State government. This year the Auditor has begun its audit of SBE. A team of two general auditors and two information technology auditors will be spending the next three months reviewing records and interviewing staff regarding activities from March 2006 through June 2009. In response to a question from Chairman Walker, Ms. Lamone explained that information technology auditors participated in SBE's prior audit and they will be reviewing security and inventory procedures and will attempt to gain unauthorized access to the agency's website.

2. **Meetings and Important Dates**

U.S. Election Assistance Commission (EAC)

As a member of the EAC's Board of Advisors, Ms. Lamone attended the Board's meeting in Washington, D.C. from June 2 – 4, 2009. The focus of the meeting was the proposed updates and improvements to the 2005 Voluntary Voting System Guidelines. The Board of Advisors' Voting System Standards Committee, of which Ms. Lamone is a member, presented its recommendations to the full board on the upcoming revisions to the guidelines.

Similarly, Nikki Trella attended a meeting of the EAC's Standards Board's Ad Hoc Voting System Standards Committee to prepare for the Standards Board's meeting in early August. The Committee reviewed the proposed changes to the 2005 Voluntary Voting System Guidelines and will be making recommendations to the full Standards Board on the upcoming revisions to the guidelines.

Ms. Lamone explained that the 2005 version of the Voluntary Voting System Guidelines is being updated because of the challenges that manufacturers and testing laboratories have in implementing these guidelines. The hope is that the revised version of the guidelines will be in effect for several years.

Maryland Association of Election Officials' Annual Meeting

The Maryland Association of Election Officials' annual meeting was held from June 7 – 9, 2009, at Rocky Gap Resort in Allegany County. Ms. Lamone reported that she, Ross Goldstein, Donna Duncan, Mary Wagner, and Nikki Trella attended the conference. The theme of the meeting is "Protecting the Integrity of Elections" and most of the discussion focused on early voting. One of the presenters was Connie Schmidt, a former election official from Kansas who had implemented early voting. She presented very useful information for election officials. Other presentations included an overview of a recent General Accounting Office report summarizing its findings from a local election official survey, thoughts on the Minnesota recount for U.S. Senate by Minnesota Secretary of State Mark Ritchie, and breakout discussions for local board members and board counsel. Ms. Lamone noted that the local board members stressed that they did not believe that they are receiving adequate information and, in response, more information will be provided to the board members.

Ms. Mack asked about the impact of holding separate biennial meetings for the board members and the election directors and staff. Mr. Goldstein responded that holding the biennial meeting for election directors and staff later in the year means that there will be more information to present about early voting and the new voting system. He noted that the board members need different information than election directors and staff members and that the board members' biennial meeting would focus on information they need to perform their duties as board members (*i.e.*, information on conducting a canvass).

Election Directors' Conference Call

SBE hosted election directors' conference calls on Tuesday, June 2nd and Tuesday, July 14th. At the June 2nd meeting, the election directors were updated on the status of the voting system procurement and the contract dispute with Premier and the impact of this dispute on the amount they were billed. In response to a question about the number of touchscreens to be retained, election directors were informed that a standard would be developed and included in upcoming regulations. Questions about electronic pollbook battery management and early voting site selection were also addressed. Minutes from the June 2nd meeting were distributed at the meeting.

At the July 14th meeting, the election directors were updated on the status of the voting system solicitation, testing of electronic pollbook software, and the status of regulations related to selecting early voting centers. Additionally, the election directors were advised that local laws authorizing speed cameras in school zones cannot be petitioned to referendum. Minutes from the July 14th meeting were distributed at the meeting.

Ms. Mack inquired as to why there are three solicitations. Mr. Goldstein responded that one solicitation is for the new voting system, one is for services to implement the new voting system, and one is an on-going contract with Premier. Mr. Goldstein explained that, in the past, SBE had one contract for both equipment and services but it was thought that there would be greater competition for the services if the contracts were separated.

3. **Election Management and Reform**

Federal Legislation

There are a number of election-related bills introduced in the 111th Session of the U.S. Congress. The legislation that is currently moving through the process is S. 1415 – Military and Overseas Voter

Empowerment Act introduced by Senator Schumer. The goal of this legislation is to simplify the voter registration and voting process for military and overseas voters, and many of the provisions will benefit Maryland registered voters living or working overseas or in the military. Prior to the Committee considering the bill, election officials expressed concerns with several provisions of the bill as originally introduced. The Senate Committee on Rules and Administration recently amended S. 1415 to address these concerns and unanimously passed the bill out of Committee. The provisions of the bill as amended were recently introduced as an amendment to the National Defense Authorization Act for FY2010. The Senate is expected to vote on the Act this week, and upon approval, the Act will be sent to conference committee for reconciliation with the version passed by the House of Representatives. Ms. Lamone noted that these provisions will be in place for the 2010 election and may require amendments to regulations.

Ms. Lamone also provided comments on Representative Maloney's legislation (H.R. 1739 – Overseas Voting Practical Amendments Act of 2009), which attempts to streamline the voter registration process and ensure that absentee ballots are not rejected for non-essential reasons.

Copies of both letters were distributed at the meeting.

Election Official Preparedness and Professional Development Program

Over the last several months, Rick Urps has been developing a certification program for election directors, deputy directors, and staff of the local boards. The program includes courses that will assist local board employees with preparing for an election as well as enhancing their professional development with courses such as project management and managing an election office. Unlike other national certification programs, this proposed program is Maryland-specific and is offered at no cost to the local boards. An overview of the program was distributed at the meeting. The program was presented at July 14th Election Directors' meeting and was very well received. After the meeting, several election directors expressed their support for this effort and the value of this type of certification program.

Election Judges' Manual Committee

The committee is continuing its work and has reviewed and provided feedback on many chapters of the election judges' manual. The committee is attempting to streamline the manual and the forms completed by the election judges. Portions of the manual cannot be written until the new voting system is selected.

4. **Voter Registration**

Early Voting

From June 22nd to June 24th, the Voter Registration Division hosted members from eleven local boards and Saber Consulting in an Early Voting Joint Application Design (JAD) session to identify the changes needed in MDVOTERS prior to the 2010 elections. The three Saber participants (including Rex Brown of our Field Support Program) who attended the design session had worked together to implement early voting in Colorado, which uses the same basic voter registration system as Maryland. During the meeting, every aspect of MDVOTERS was reviewed and the changes needed for early voting were discussed and documented. These changes will be implemented over the next year. Stacey Johnson was key in preparing both Saber and the local board participants for the three day workshop.

Election Director Audits

Each month, as part of SBE's auditing of local boards, election directors are required to submit a report on their oversight of changes made to the critical data in MDVOTERS. In each of the 24 local boards, this oversight looks at: (1) *cancellations* of registered voters from the system; (2) *additions* of registered voters to the system; (3) the processing of *absentee ballot applications*; and (4) *party changes* made to voter records prior to a primary election.

Although most local boards timely submit the oversight reports (by the 12th of each month), a few local boards have not kept up with the reporting deadlines. Ms. Lamone reported that the following counties have not submitted reports for the following months: (1) Talbot County for January 2009; (2) Dorchester and Montgomery Counties for April 2009; and Dorchester and St. Mary's Counties for May 2009. These local boards have been notified repeatedly of the need to submit their reports on time and requests for these reports will continue.

Go-To Meeting Attendance

Distributed at the meeting was a list of important Go-To meetings conducted by SBE and each local board's attendance at the meetings. These instructional meetings were conducted when there were new software releases as well as a refresher training course on the petition module in MDVOTERS. SBE conducts these Go-To meetings over a two day period to accommodate the local boards' busy schedules.

5. **Candidacy and Campaign Finance**

Candidate Filings

As per Board policy, candidate filing may not occur until one year prior to the candidate filing deadline for that election. For the 2010 Gubernatorial Primary Election, the start of candidate filing was July 6, 2009. As of July 27, 2009, 20 candidates have officially filed for the 2010 Gubernatorial Election.

Auditing

The audit of the 2008 Annual Report and the 2008 election-related reports is ongoing. Staff members of the Candidacy and Campaign Finance Division hope to have the 2008 Annual audit completed by mid-August. After the completion of the audit, deficiency notices will be sent to the appropriate committees.

Software Update

ELECTrack Agency 9.1 was placed into production on July 8, 2009. New features include the ability to view amended campaign finance reports, installment plans for late fees, and a communication log field. Ms. Lamone explained that the communication log field will be used to capture the name of the individual to whom a staff member of the Candidacy and Campaign Finance Division spoke, the question asked by the individual, and the answer provided by the staff member. In response to a question from Ms. McGuckian, Mr. DeMarinis noted that all staff members have been instructed to use this field to memorialize all conversations. Mr. Walker inquired about installment plans, to which Mr. DeMarinis replied that there are late fees in the amount of \$1,000 and that installment plans are limited to 12 months.

6. **Voting Systems**

Municipal and Special Elections

SBE prepared a training database for the Frederick City Primary Election scheduled for September 15th. SBE has begun invoicing municipalities for the data and related electronic pollbook services that are being provided. The rate depends on the number of voters and ranges from \$500 to \$1,250.

Early Voting ExpressPoll Software

A functional requirements document covering early voting requirements for the ExpressPoll (electronic pollbook) software, the EPIC server, and the pollbook wide area network has been prepared. SBE conducted scripted testing using Premier's Early Voting version of the ExpressPoll software. The system generally performed as expected, but some issues were noted that are likely to require further revisions to the ExpressPoll software. Ms. Lamone noted that there was a conference call today to discuss the revisions.

Early Voting Site Selection

Bob Murphy has completed the geo-coding (assigning latitude and longitude) of residential addresses for all 3.6 million registered voters. This data was used to help set guidelines for early voting site selection.

Procurement

In the past, SBE has solicited services and hardware under one Request for Proposals (RFP). However, staff has determined that two separate RFPs would be in the best interest of the State. The two RFPs are:

- **Voting System Support Services (SBE-2010-01)** – This RFP solicits services that are necessary for implementing and managing the voting system, conducting the election, and undertaking a statewide voter outreach and education program. The services being sought are independent of the voting system selected and will not be affected by or changed based on which vendor is awarded the hardware contract. The services solicitation is open to any vendor that can supply the required services – not just voting system vendors. This RFP has been issued and can be accessed from SBE's website. The pre-proposal conference was held on July 29th.
- **Optical Scan Voting System** (*Anticipated release date is August 3, 2009*) – This RFP is for optical scan units, an election management system, high-speed central count scanners, and other necessary peripheral equipment.

Ms. Lamone noted that the Department of Information Technology (DoIT) has taken time to review the equipment solicitation. In response to a question from Ms. Mack, Mr. Goldstein responded that draft cost estimates of the new voting system and early voting will be distributed to the local boards next week.

Voting System Project Plan

As a result of the re-issuance of the new voting system-related RFPs, the voting system team has had to extensively modify the project management documents. The updated documents which include the project charter, system boundary document, project schedule and risk plan were submitted, as required, to the DoIT on July 17th.

Other preparations in anticipation of the new voting system have also been ongoing. These include changes to the *Conducting the Election Guide*, anticipated warehousing requirements and looking at the State certification requirements for the new system.

7. Early Voting

Proposed regulations for selecting early voting centers are on the meeting agenda. Structurally, the proposal includes the creation of a new subtitle in Title 33 of the Code of Maryland Regulations (COMAR) for all regulations related to early voting. This structure is preferable to reviewing all of Title 33 and inserting regulations related to early voting throughout the entire title.

8. Information Technology

Ms. Lamone referred the board members to the written Administrator's Report for a summary of the IT Division's work. Mr. Walker inquired about the findings from the security audits, to which Ms. Lamone responded that Michael Kortum documents any findings and provides them to the appropriate local board.

9. Follow-up from May 28th Meeting

At the May meeting, Mr. Walker reported he was notified by a friend that his 6 year old son received a letter that he had a transaction at MVA but was not registered to vote. MVA acknowledged that a letter had been sent to the child because the child had received a MVA identification card. Changes to MVA's software now prohibit anyone under the age of 16 from being asked if they would like to register to vote.

Also at the May meeting, it was reported that the deadline to submit a petition to place a question on the 2010 ballot was May 31, 2009. A petition to place a question on the 2010 ballot relating to SB 277 on the use of speed cameras was anticipated. However, a petition was never filed.

ASSISTANT ATTORNEY GENERAL'S REPORT

Ms. Brantley introduced Jeff Darsie as the agency's new Assistant Attorney General. Ms. Brantley will be transitioning the duties of counsel over to Mr. Darsie. Mr. Walker thanked Ms. Brantley for her service and welcomed Mr. Darsie. Ms. Brantley acknowledged the tremendous resources of the office and because of these resources, the agency was easy to represent.

She reported that the Attorney General's office recently advised that local authorizations of speed cameras in a locality cannot be petitioned to referendum. Since local authorizations would be done pursuant to authority granted by a public general law passed by the General Assembly, the local authorizations are not subject to local referendum. The original speed camera legislation (Chapter 500, Laws of Maryland 2009) could have been petitioned to referendum on a statewide basis, but the effort to do so earlier this year fell short of the necessary number of signatures. Mr. Walker asked whether there were any options, to which Ms. Brantley responded that either the legislature could authorize referenda on local authorizations granted by a public general law or could change the State law authorizing speed cameras.

Ms. Brantley reported that she recently advised SBE that the counting of registrants to determine the required number of early voting centers is an administrative purpose under § 3-503(d) of the Election Law Article. That section states that voter "[r]egistrants placed into inactive status may not be counted for official administrative purposes including establishing precincts and reporting official statistics." Accordingly, SBE should only consider active voters when determining of the number of early voting centers in each county.

She also advised SBE that a slate committee cannot establish administrative accounts. Because a slate is a committee formed by two or more *candidates*, the same expenditure and contribution rules apply to slates that apply to candidates. Because candidates are not allowed to make expenditures for non-electoral purposes, slates are not permitted to make these expenditures either.

In response to a question from Ms. Mack about whether there could be a clause in the voting system contract holding the vendor responsible for any voting system malfunctions, Ms. Brantley stated that standard provisions in the contact would provide the agency with relief and she agreed to look at the provisions in the solicitation and contract.

REGULATIONS

Mr. Goldstein explained that a new subtitle was being created for early voting, and the first chapter of proposed regulations was Chapter 02 dealing with selecting the early voting centers. Although the regulations will not be finalized for several months, Mr. Goldstein noted that the local boards can use the proposed regulations – pending approval by the board members – to identify proposed early voting centers and submit the required information. Any early voting

centers proposed before the regulations become final will be given conditional approval pending the final adoption of the proposed regulations.

Mr. Goldstein reviewed the proposed regulations for selecting and approving early voting centers. The proposed regulations require that a local board complete a form for each early voting center, specify the contents of the form and information to provide if a local board is unable to find a facility that meets the criteria, require the identification of alternate early voting centers if an approved center is unavailable, require that the State Administrator review and make a recommendation to the State Board whether to accept or reject the proposed center, and require a legally binding agreement with each facility where early voting will be conducted and a security plan for each early voting center.

One of the criteria for an early voting center concerns the location of the proposed early voting center in relation to where the voters in that county reside. The proposed regulations specify that, in a county with one early voting center, a proposed early voting center should be located in an area where 50% of the registered voters in the county live within 10 miles of the proposed early voting center. For counties with more than one early voting center, 80% of the registered voters in that county should live within 5 miles of one of the early voting centers. Mr. Goldstein explained that the intent of this criteria was to provide a fair and equitable standard for selecting early voting centers.

In response to questions by Ms. McGuckian and Ms. Mack, Mr. Goldstein explained that the number of early voting centers per county was set by statute. Counties with less than 150,000 registered voters are required to have one early voting center; counties with more than 150,000 but less than 300,000 registered voters are required to have three centers; counties with more than 300,000 registered voters are required to have five centers. Ms. Mack asked about how the public would be notified of the early voting centers, to which Mr. Goldstein responded that State law requires that the early voting centers be announced six months before a primary election and that SBE and the LBEs conduct a public education campaign about early voting. Mr. Goldstein noted that the public education campaign is part of the solicitation for the services contract.

Mr. Goldstein explained the proposed form that the local boards will need to complete for each proposed early voting center. The first part of the form asks questions to determine whether the proposed center meets the criteria in the proposed regulations, and the second part of the form asks about additional factors that were considered when selecting the proposed center. If the proposed center does not meet all of the criteria, Part 3 of the form asks about mitigating factors, and Part 4 identifies the additional documents that must be attached to the form. One of the attachments is a worksheet to help the local board identify the expected hourly turnout of voters during early voting, the number of voting equipment and staff, and other information about the proposed early voting center.

Ms. Mack made a motion to adopt the proposed regulations and early voting center form, and Ms. McGuckian seconded the motion. The motion was approved unanimously.

REPORT ON LBE CRITICAL AREA OVERSIGHT

Ms. Lamone noted that she presented this topic during her Administrator's Report.

WAIVER OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis presented the following committees that requested a waiver of late fees:

1. Friends of Toni Jarboe-Duley
2. Committee to Elect James M. Kelly
3. Next Generation PAC
4. Friends of Thomas Fleckenstein
5. Friends of Ron Haslam
6. Friends of Kathy Klausmeier
7. Aumann Frank Victory Slate
8. David Vane for Citizens of Maryland
9. State Law Enforcement Officers Labor Alliance PAC
10. Friends of Amber Waller
11. Libertarian Party of Maryland
12. Committee of Ten Slate
13. Friends of Byron Macfarlane
14. Together Everyone Achieves More PAC
15. Friends of Barbara Frush
16. Citizens for Sharon Dooley
17. Tommy McKay for Southern Maryland
18. Friends of John McKinnis

19. Kent County Republican Central Committee
20. Harry Sampson For MD Senate
21. Citizens for Elizabeth Smith
22. Friends of Ewing McDowell
23. National Federation of Independent Business/Maryland Save America's Free Enterprise Trust
24. Citizens to Elect Richard Bowers
25. Tom Hendershot Campaign Committee
26. Citizens for David Kauffman

Ms. Mack made a motion to accept the Administrator's recommendations to waive the late fees accrued by these committees, and Ms. McGuckian seconded the motion. The motion was approved unanimously.

REQUEST FOR LEGISLATIVE DISTRICT BOUNDARY CHANGE

Ms. Duncan explained the Maryland Department of Planning is reviewing all precinct and district lines in preparation for the 2010 Census. During this process, the Department discovered a discrepancy in the lines of a legislative district in Washington County. The change in the district lines affects 30 voters. Ms. Mack made a motion to accept the proposed change to the district lines, and Mr. Thomann seconded the motion. The motion was approved unanimously.

APPROVAL OF FORMS

Mr. DeMarinis presented three forms related to the Fair Campaign Financing Fund – Notice of Intent to Qualify for Public Contributions from the Fair Campaign Financing Fund, Seed Money Certification and Initial Request for Public Contributions, and Request for Additional Public Contributions by the Gubernatorial Ticket from the Fair Campaign Financing Fund. Mr. Thomann made a motion to approve the forms, and Ms. McGuckian seconded the motion. The motion passed unanimously.

Ms. Wagner presented a redesigned voter registration application and explained that the order of the fields on the application was changed to mirror the order of the fields in MDVOTERS. This change was requested by the local boards of elections and will make processing easier, especially for temporary workers. Ms. Wagner also noted that the application is larger which will make it easier to read when scanned into MDVOTERS and that one additional field was added to request an applicant's email address. Ms. Mack made a motion to approve the revised voter registration application, and Ms. McGuckian seconded the motion. The motion was approved unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Lamone explained that Design for Democracy, a program that evolved from work by a university in Chicago, has redesigned voting materials and provided templates to election officials to use. Ms. Trella noted that various polling place signs have been redesigned using the Design for Democracy templates and showed the board members several signs used in prior elections and the redesigned signs. The board members responded positively to the change in the signs and commented that they were more readable. Ms. Trella explained that federal funds will be used to print a redesigned sign for voters needing assistance.

SCHEDULE FOR THE NEXT MEETING

The next meeting is scheduled for August 27, 2009, at 2:30 p.m. Chairman Walker requested that Mr. McManus be contacted about his availability for this meeting.

ADJOURNMENT

Ms. Mack made a motion to adjourn the meeting, and Ms. McGuckian seconded the motion. The meeting adjourned the meeting at 3:44 p.m.