

State of Maryland 

State Board of Elections Meeting – October 15, 2015

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Bobbie Mack, Member
Linda H. Lamone, State Administrator
Jeff Darsie, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy for Election Policy
Mary Cramer Wagner, Director, Voter Registration

Also Present: Jim Shalleck, Chair, Montgomery County Board of Elections
Mary Ann Keefe, Montgomery County Board of Elections
Nahid Khozeinich, Montgomery County Board of Elections
David Naimon, Montgomery County Board of Elections
Alex Vincent, Montgomery County Board of Elections
Armstead Jones, Election Director, Baltimore City Board of Elections
Tracy Dickerson, Election Director, Charles County Board of Elections
Wendy Atkins, Election Director, St. Mary's County Board of Elections
Susan Julian, Deputy Director, St. Mary's County Board of Elections
Ralph Watkins, League of Women Voters
Rebecca Wilson, SAVE Our Votes
Lynn Garland
Holly Joseph
Mary Kiraly
Paula Puglisi, Montgomery County
Darrell Anderson, Chair, Montgomery County Democratic Central Committee
Cameron Thompson, WNEW
Matt Bylis, Capital News Service
Lewis Porter, Maryland 20-20 Watch
John O'Malley, Montgomery County
Jack Phillips, Montgomery County
Tom Hucker, Councilmember, Montgomery County Council
Matt Verghese, Montgomery County Council
Elbridge James, Montgomery County & State NAACP
Michelle Ngwafan, Office of Congressman John Sarbanes

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 2:09 pm and confirmed that a quorum of the State Board of Elections was present. Mr. McManus stated that the meeting was being recorded and explained the process for an individual to address the State Board of Elections.

RATIFICATION OF MINUTES FROM JULY 2015 MEETING

Ms. Mack stated that she had edits to the minutes but did not have them with her at the meeting. Mr. McManus stated that she could provide her comments at the next meeting.

Mr. Hogan made a motion to ratify the approval of minutes from the September 2015 meeting, and Ms. Howells seconded the motion. The motion passed unanimously.

EARLY VOTING CENTERS

Mr. McManus stated that the State Board was meeting to consider the proposed early voting centers for each county and summarized the ten criteria in Code of Maryland Regulations 33.17.02.01B for early voting centers.

Ms. Charlson presented the proposed early voting centers for each county. For centers being proposed for the first time, Ms. Charlson explained whether they met the criteria defined in Code of Maryland Regulations 33.17.02.01B, displayed a map showing the percentage of that county's voters that reside within the required range, a photograph of the outside of the facility, and a proposed layout of the voting room in the facility.

Allegany County

The Allegany County Board of Elections proposes moving its early voting center to another room in the same facility. Ms. Mack made a motion to accept the proposed early voting center, and Mr. Hogan seconded the motion. The motion passed unanimously.

Anne Arundel County

The Anne Arundel County Board of Election proposes one new early voting center and four returning centers. The new center is the Annapolis Senior Center and replaces the Pip Moyer Recreation Center, which is not available for the 2016 elections. Ms. Mack made a motion to accept the proposed early voting centers, and Mr. Hogan seconded the motion. The motion passed unanimously.

Baltimore City

The Baltimore City Board of Elections proposes two new early voting centers and four returning centers. The proposed new early voting centers are the Southeast Anchor Library and Westside Skill Center. The library replaces a center that is being converted to a housing community, and the other center replaces a facility with inadequate space and parking. Ms. Mack made a motion to accept the proposed early voting centers, and Mr. Hogan seconded the motion. The motion passed unanimously.

Baltimore County

The Baltimore County Board of Elections proposes four new early voting locations and five returning locations. This will be Baltimore County's first election cycle with nine early voting locations. The new facilities – Arbutus Community Center, Sollers Point Multipurpose Center, and Victory Villa Community Center – replace facilities that are not available or had electioneering and access issues. The additional facility – Woodlawn Community Center – is proposed to ease some of the turnout at the Randallstown early voting center, the State's best performing early voting center. Ms. Howells made a motion to accept the proposed early voting centers, and Mr. Hogan seconded the motion. The motion passed unanimously.

Calvert County

The Calvert County Board of Elections proposes the same early voting center it used in the 2014 elections. Ms. Mack made a motion to accept the proposed early voting center, and Mr. Hogan seconded the motion. The motion passed unanimously.

Caroline County

The Caroline County Board of Elections proposes the same early voting center it used in the 2014 elections. Ms. Howells made a motion to accept the proposed early voting center, and Mr. Hogan seconded the motion. The motion passed unanimously.

Carroll County

The Carroll County Board of Elections proposes the same early voting center it used in the 2014 elections. Ms. Mack made a motion to accept the proposed early voting center, and Mr. Hogan seconded the motion. The motion passed unanimously.

Cecil County

The Cecil County Board of Elections proposes the same early voting center it used in the 2014 elections. Ms. Mack made a motion to accept the proposed early voting center, and Mr. Hogan seconded the motion. The motion passed unanimously.

Charles County

The Charles County Board of Elections proposes one new early voting center and one returning location. The new location – La Plata Fire Hall – replaces the Charles County Board of Elections' office and its parking issues. Ms. Mack made a motion to accept the proposed early voting centers, and Ms. Howells seconded the motion. The motion passed unanimously.

Dorchester County

The Dorchester County Board of Elections proposes the same early voting center it used in the 2014 elections. Mr. Hogan made a motion to accept the proposed early voting center, and Ms. Mack seconded the motion. The motion passed unanimously.

Frederick County

The Frederick County Board of Elections proposes the same three early voting centers it used in the 2014 elections. Mr. Hogan made a motion to accept the proposed early voting centers, and Ms. Howells seconded the motion. The motion passed unanimously.

Garrett County

The Garrett County Board of Elections proposes one new early voting center and one returning center. Ms. Mack made a motion to accept the proposed early voting centers, and Mr. Hogan seconded the motion. The motion passed unanimously.

Harford County

The Harford County Board of Elections proposes same four early voting centers it used in the 2014 elections. Mr. Hogan made a motion to accept the proposed early voting centers, and Ms. Howells seconded the motion. The motion passed unanimously.

Howard County

The Howard County Board of Elections proposes same three early voting centers it used in the 2014 elections. Mr. Hogan made a motion to accept the proposed early voting centers, and Ms. Howells seconded the motion. The motion passed unanimously.

Kent County

The Kent County Board of Elections proposes the same early voting center it used in the 2014 elections. Mr. Hogan made a motion to accept the proposed early voting center, and Ms. Howells seconded the motion. The motion passed unanimously.

Prince George's County

The Prince George's County Board of Elections proposes one new early voting center and seven returning centers. The new early voting location – Bowie Gym – replaces a center that is under construction. Ms. Mack made a motion to accept the proposed early voting centers, and Mr. Hogan seconded the motion. The motion passed unanimously.

Queen Anne's County

The Queen Anne's County Board of Elections proposes one new early voting center and one returning center. The new location – Kent Island Fire Department – replaces the Kent Island Library, which had space and electioneering issues. Mr. Hogan made a motion to accept the proposed early voting centers, and Ms. Mack seconded the motion. The motion passed unanimously.

St. Mary's County

The St. Mary's County Board of Elections proposes moving its one early voting center to the Hollywood Firehouse Carnival Bingo Building. The prior location had space issues. Mr. Hogan made a motion to accept the proposed early voting center, and Ms. Mack seconded the motion. The motion passed unanimously.

Somerset, Talbot, Washington, Wicomico, & Worcester Counties

These county boards of elections propose the same early voting centers as they used in the 2014 elections. Each county has one early voting center. Mr. Hogan made a motion to accept the proposed early voting centers for these counties, and Ms. Mack seconded the motion. The motion passed unanimously.

Montgomery County

Jim Shalleck, President of the Montgomery County Board of Elections, summarized the Montgomery County Board of Elections' activities related to early voting centers and requested that the State Board of Elections give deference to its decision. Mr. Shalleck explained that Potomac voters had never had an early voting center and make significant contributions to the community and his belief that a new location will generate enthusiasm. He also stated that he would support an early voting center in Bethesda if the legislature authorized an additional early voting center. In response to a question from Mr. McManus, Mr. Shalleck stated that he consulted with the Montgomery County Republican Central Committee but there was not a quorum of the Montgomery County Board of Elections during those conversations.

Alex Vincent, a Republican member of the Montgomery County Board of Elections, stated that the Montgomery County Board of Elections had valid reasons for proposing an early voting center in Potomac. Mr. Vincent stated that 45,000 residents live in Potomac and the early voting center in Bethesda had low turnout for the 2014 elections. Ms. Mack stated that the location of early voting centers should be based on the good of the voter and potential voter, not specific communities. In response to a question from Mr. Hogan, Mr. Vincent reported that, according to Census data, Potomac has 45,000 residents and Bethesda has 60,000 residents. Mr. Hogan stated that the criteria in the Code of Maryland Regulations establishes the minimum – not the maximum – requirements. There was a discussion about Metro access in Montgomery County, and Mr. Cogan asked for the number of voters who would be within 5 miles of the Bethesda location and the number of voters who would be within 5 miles of the Potomac location.

Mary Ann Keeffe and David Naimon, Democratic members of the Montgomery County Board of Elections, addressed the State Board. Ms. Keeffe stated that she strongly supports keeping the

nine early voting centers used in the 2014 elections. She noted that the Bethesda location was supported by the Republican members of the Montgomery County Board of Elections in 2013 and is located in a highly populated and large business area and there are multiple ways to access the location via public transportation. Mr. Naimon distributed maps showing the number of households in Montgomery with three or more cars and households in the county with no cars. He reported that the Potomac area has more households with three cars, and the Bethesda area has more households with no cars. Mr. Naimon stated that he did not believe that proposed Potomac location meets the accessibility requirements for an early voting center.

In response to questions from Mr. McManus, Ms. Keeffe stated that it was not inherently wrong to move an early voting center to a community that does not currently have one or to strive for geographic diversity, but she stated that it is important to look at the location you are taking away and where the voters are and go. Mr. Naimon stated that the Democratic members of the Montgomery County Board of Elections offered to take away the Damascus center, the county's lowest performing center, instead of the Bethesda center. Mr. Hogan stated his support of the Damascus location and that Montgomery County should have more than nine early voting centers.

Mr. Cogan asked why the State Board should not defer to the Montgomery County Board of Elections since there is no evidence that the decision making process was improper. Ms. Keeffe stated that the current process was less collaborative and collegial than the 2011 and 2013 processes.

Tom Hucker, a member of the Montgomery County Council, stated that he represents the east side of Montgomery County and has heard from many voters outraged by the process and the Montgomery County Board of Elections' recommendations. Mr. Hucker requested that the State Board restore the early voting centers in Bethesda and Burtonsville. He stated that the Bethesda location serves more residents – many of whom are senior citizens – and individuals who do not have cars and rely on public transportation. Mr. Hucker presented a petition signed by 2,600 voters to restore the Bethesda and Burtonsville centers.

Roger Berliner, a member of the Montgomery County Council, stated that he represents both Bethesda and Potomac residents. Mr. Berliner noted that the location of the early voting centers is a decision between more or less voters, and Bethesda has more residents and commuters than Potomac. He stated that the Montgomery County Board of Elections has the burden to show why the change is needed, and he does not believe that the board has met that burden.

Lewis Porter board stated that with multiple overlaps to the existing seven early voting sites, the two new sites are not a burden to voters. He finished by requesting the State Board to approve the two new sites proposed by the Montgomery County Board of Elections. Mr. Porter submitted written comments.

John P. O'Malley explained that residents who live in rural areas are systematically excluded from services and district lines are drawn to exclude those individuals. Mr. O'Malley stated that turnout is low because rural voters believe that elections are rigged without a paper ballot.

Darrell Anderson, Chair of the Montgomery County Democratic Central Committee, stated that data show that voter turnout increases the longer an early voting center is used. Mr. Anderson stated that there is not as much access to public transportation at the Potomac location, and parking at the proposed location is dreadful. In response to a question from Mr. McManus, Mr.

Anderson stated that the Burtonsville center had the county's lowest turnout in its first election cycle, but in the second election cycle, the center had second highest turnout in the county.

Elbridge James represented the Montgomery County NAACP and the State NAACP. Mr. James stated that he opposes the proposed Potomac center. The NAACP previously had its headquarters in Bethesda and the area is easy to access. He shared his personal experiences with driving to and parking at the proposed Potomac facility.

In response to a question from Ms. Howells, Ms. Charlson stated that the proposed location in Potomac is not accessible because there is no van accessible parking space and that the Montgomery County Board of Elections intends to use cones to create an accessible parking space. Mr. Hogan explained that "Metro Transit" is not the "Metro"; it is bus service.

The State Board recessed for ten minutes.

Mr. McManus stated that the proposed centers meet the requirements of the Code of Maryland Regulations and the State Administrator recommends the two new locations and summarized the arguments of convenience and traffic and the lower performance of the Bethesda site in the 2014 elections. He stated that the convenience and traffic issues are real but should not trump the deference that should be given to the Montgomery County Board of Elections. Mr. McManus suggested that if the Potomac location does not perform well, it could be moved for the 2018 elections.

Ms. Mack stated that early voting centers need to be located where voters can access them. Mr. Hogan suggested asking the Maryland General Assembly to allow Montgomery County to have an additional early voting center, and Mr. Cogan stated his strong support for Mr. Hogan's suggestion. Ms. Howells stated that she did not think that the State Board should overturn the local board's decision, and Ms. Mack noted that while she was reluctant to do the same, the goal should be to increase, not decrease, participation. Mr. Cogan stated that he does not have the necessary data, owes deference to the local board of elections, and relayed his observation that the comments about Bethesda's vitality are contradicted by the center's poor turnout in the 2014 elections. Mr. McManus explained that the regulations require the State Board to give deference to the local board if the proposed location meets the regulatory requirements and stated that absent clear evidence of an arbitrary and capricious decision, the State Board should defer to the local board of elections.

Mr. Cogan made a motion to approve the proposed early voting centers approved by the Montgomery County Board of Elections and recommended by the State Administrator, and Ms. Howells seconded the motion. The vote on the motion was 3-2 but failed for lack of a supermajority of the appointed members.

There was a discussion about the impact of the failed motion and whether early voting centers in a county with multiple centers are approved individually or as a package. Mr. McManus stated that the centers are approved as a package. Mr. McManus invited Mr. Shalleck and Ms. Keeffe to share their individual views on whether the Montgomery County Board of Elections would be interested in proposing other centers. Mr. Shalleck stated that he would prefer that the Montgomery County Board of Election make a decision and return to the State Board, and Ms. Keeffe concurred. In response to a question about what happens if the State Board is unable to approve a motion on Montgomery County Board of Elections' early voting centers, Mr. McManus suggested that the State Board convene a closed session to receive legal advice from Mr. Darsie.

CLOSED MEETING

Mr. McManus requested a motion to close the board meeting under General Provisions Article, §3-305(b)(7), which permit closing a meeting to consult with counsel to obtain legal advice. These exemptions would apply to any discussions between the Board and its counsel regarding the designation of early voting centers and any potential legal challenge to the Board's action. Meeting in closed session would allow the Board to hear and discuss information, opinion, and legal advice from its counsel without waiving or compromising the confidentiality of such discussions.

Mr. Hogan made a motion to convene in closed session, and Ms. Mack seconded the motion. The motion passed unanimously. The motion having passed, the Board met in closed session in accordance with exemptions (b)(7) of Section 3-305 of the Open Meetings Act to discuss advice from the Attorney General regarding the State Board's authority with regard to the designation of early voting centers.

The open meeting recessed at 5:15 pm.

In addition to the board members present at the open meeting, Mr. Darsie, Ms. Lamone, and Ms. Charlson were present. During the closed session, Mr. Darsie provided his advice on the consequences of the State Board failing to approve early voting centers in Montgomery County or approving centers after the October 28, 2015, deadline. No action was taken. The closed meeting adjourned at 5:40 pm.

EARLY VOTING CENTERS (Continued)

The open meeting re-convened at 5:42 pm.

Ms. Mack made a motion to request the Montgomery County Board of Elections to reconsider and submit by Wednesday, October 21, 2015, proposed early voting centers for the 2016 elections, and Mr. Hogan seconded the motion. The motion passed unanimously.

The State Board will meet on Friday, October 23, 2015, at 4:00 pm to consider the early voting centers proposed Montgomery County Board of Elections.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Hogan disclosed that he made contributions to Senators Middleton and Kasemeyer.

SCHEDULING OF NEXT MEETING

The next meeting is scheduled for October 23, 2015, at 4:00 pm.

ADJOURNMENT

Mr. Hogan made a motion to adjourn the meeting, and Ms. Howells seconded the motion. The motion passed unanimously.

Mr. McManus adjourned the meeting at 5:45 pm.