

State of Maryland 

State Board of Elections – September 14, 2016 Meeting

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Bobbie S. Mack, Member
Linda H. Lamone, Administrator
Jeff Darsie, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy for Election Policy
Erin Perrone, Director, Election Reform and Management
Mary Cramer Wagner, Director, Voter Registration and Petitions
Stacey Johnson, MDVOTERS Project Manager
Vincent Omenka, IT Director
Kenway Chen, IT Programmer

Also Present: Vince Hardick, Sidus/ByteGrid
Steve Goins, Sidus/ByteGrid
Andrew Durkin, Sidus/ByteGrid
Ralph Watkins, League of Women Voters
Holly Joseph, Montgomery County citizen
Lou Ann Blake, National Federation of the Blind
Mary Kiraly, Montgomery County voter
Michael Greenberger, University of Maryland
Rebecca Wilson, SAVE Our Votes
Poorvi Vora, George Washington University
Jake Wilson, Senator Cheryl Kagan

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 12:35 pm and confirmed that a quorum was present. He stated that the meeting was being recorded.

RATIFICATION OF MINUTES FROM AUGUST 25, 2016, MEETING

This agenda item was deferred, as the State Board members were considering edits.

REQUEST FOR CERTIFICATION OF THE ONLINE BALLOT MARKING TOOL

Rebecca Wilson of SAVE Our Votes submitted written comments. She stated that certification of the online ballot marking tool should be deferred until the tool meets the State law requirement to protect privacy and prohibit the transmission of votes. Ms. Wilson recommended limiting the burden on the local boards of elections by restricting the use of online ballot delivery to those voters that need to use it – specifically, military and overseas voters, voters with disabilities, and voters in emergency situations. She stated that voters should be notified that ballots must be transcribed before counting. In response to a question, Ms. Wilson stated that, because ballot selections are returned temporarily to SBE’s server, the online ballot marking tool is transferring votes in violation of Election Law Article, §9-308.1(a)(2).

Michael Greenberger, testifying in his personal capacity, stated the online ballot delivery system could be fixed and made more secure. He noted that requests for absentee ballots can be

submitted online but recommended that all blank ballots be delivered by mail and signatures on the absentee oath be verified. Mr. Greenberger stated that the constitutional right to a secret ballot outweighs the State law requirement that blank ballots can be sent over the Internet.

In response to a question, Mr. Greenberger explained that the online ballot marking tool could be limited to military and overseas voters but that limitation would still be unreasonable. He stated that the online ballot delivery system is easy to manipulate and a dangerous environment now. As more voters use the system, he noted that the risk will increase.

Poorvi Vora, a Professor of Computer Science at The George Washington University, provided her comments in writing. She explained that ballot secrecy cannot be protected when votes are entered into personal computers on the Internet and weak credentialing jeopardizes the integrity of the election. Dr. Vora asked the State Board members to restrict the use of the ballot marking tool to voters disadvantaged without it and restrict the delivery of online ballots to those for whom delivery is required under federal law.

Dr. Vora described how banking online is different than voting online – the secrecy required for voting is not required for banking. Conducting fraud with mailed ballot is very difficult compared to fraud using the Internet, especially when voters are using their own equipment. There was a discussion about whether voters assume some risk by using their computers, and Dr. Vora offered to provide information on how to strengthen credentials.

CLOSED MEETING

Mr. McManus requested a motion to close the board meeting under General Provisions Article, §3-305(b)(13), which permits closing a meeting to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public discussions about a particular proceeding or matter. This exemption would apply to any discussions between the Board, its counsel, and staff to prevent disclosure of information about the security of an information system under General Provisions Article, §4-338 and enable the members of the State Board of Elections to discuss, ask questions, and receive information about the security of the online ballot marking tool and security reports.

Mr. Hogan made a motion to convene in closed session, and Mr. Cogan seconded the motion. The motion passed unanimously. The open meeting recessed at 1:30 pm.

The motion having passed, the Board met in closed session in accordance with exemptions (b)(13) of Section 3-305 of the Open Meetings Act to prevent the disclosure of information about the security of the online ballot marking tool. The closed session began at 1:30 pm.

In addition to the board members present at the open meeting, Ms. Lamone, Ms. Charlson, Ms. Perrone, Ms. Johnson, Mr. Omenka, Mr. Chen, Mr. Hardick, Mr. Goins and Mr. Durkin were present. During the closed session, Mr. Chen demonstrated the various security measures of the online ballot marking tool, and Mr. Omenka presented the findings from recent security scans.

No action was taken. The closed meeting adjourned at 2:30 pm.

The open meeting reconvened at 2:35 pm.

Mr. McManus explained that he had previously voted against the certification of the online ballot marking tool. In response to concerns, he noted that SBE staff and vendors worked diligently to

make the online ballot marking tool as secure as possible. He stated that there are inherent vulnerabilities with systems using equipment outside of SBE's control and suggested adding a "voter beware" statement about the privacy and secrecy risks. According to Mr. McManus, this statement would let voters know that they are assuming risks that SBE cannot control. Mr. McManus stated that the General Assembly has decided the policy of online ballot delivery system, and the State Board must decide whether the online ballot marking tool is secure enough. He noted that it appears that SBE has addressed concerns over the issues that it can control.

Mr. Hogan expressed his appreciation for the public comments on this issue. He explained he has been observing State agencies for over 20 years but has never seen an agency that is as well prepared to deal with vulnerabilities as SBE. Mr. Hogan explained that there is a balance between security and ease of voting, and while there are no guarantees, he is satisfied with the agency's plan for this system.

Mr. Cogan endorsed Mr. McManus' and Mr. Hogan's comments and expressed support for a bold and obvious disclaimer that informs voters that their computers may be exploitable and there may be privacy issues. He stated that the security surrounding this system is impressive but is concerned with the expanded use and risk of the system.

Ms. Mack stated that she was pleased to see the attention to security and is confident that SBE will continue to be vigilant.

Ms. Howells explained her two governing principles – nothing should be on the Internet unless necessary and needless complexity should be avoided. She expressed concern that security will be a one-time issue and does not see the need for the online ballot marking tool for anyone except voters with disabilities.

Mr. McManus noted that Office of the Attorney General has advised that the online ballot marking tool does not violate Election Law Article, §9-308.1(a)(2) and it can be shut down if it becomes necessary. Mr. McManus stated that he shares Ms. Howells' concerns.

Mr. Hogan made a motion to certify the online ballot marking tool, and Ms. Mack seconded the motion. The motion passed 4-1, with Ms. Howells voting against the motion. The members requested disclaimer language alerting users to risks of using the online ballot marking tool.

Mr. McManus departed the meeting at 2:58 pm.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Ms. Duncan presented eight emergency polling places changes requested by the Baltimore City Board of Elections. The Baltimore City Board of Elections is requesting the following changes:

1. Precinct 26-009: Move from the Friendship Academy Science and Technology #338 to the Southeastern Anchor Library, 3601 Eastern Avenue, Baltimore 21224
2. Precincts 27-052 and 27-058: Move from the Pimlico Elementary School #223 to Levindale Home, 2434 W. Belvedere Avenue, Baltimore 21215
3. Precinct 15-002: Move from Forest Park High School #406 to Garrison Middle School #42, 3901 Barrington Road, Baltimore 21207

4. Precinct 16-014: Move from Lyndhurst #88 to the Westside Skill Center, 4501 Edmondson Avenue, Baltimore 212299
5. Precinct 13-003: Move from Academy for College Career Exploration to Roosevelt Recreation Center, 1221 W. 36th Street, Baltimore 21211
6. Precinct 13-010: Move from John Howard #61 to the Reservoir Hill Improvement Council, 2001 Park Avenue, Baltimore 21217
7. Precinct 25-009: Move from Friendship Academy @ Cherry Hill #159 to Patapsco Elementary School #163, 844 Roundview Road, Baltimore 21225

The current facilities are under renovation or being demolished. Ms. Duncan reported that all of the proposed facilities are accessible to most voters with disabilities and the Baltimore City Board of Elections will notify the voters.

Mr. Hogan suggested notifying the candidates of these changes, and Ms. Lamone agreed.

Mr. Cogan made a motion to approve the emergency changes to the eight polling places, and Ms. Mack seconded the motion. The motion passed unanimously.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Cogan reported a \$100 contribution to the Republican National Committee and \$200 to the National Republican Senatorial Committee.

CONFIRM NEXT MEETING

The next meeting is scheduled for Thursday, September 29, 2016, at 2 pm.

ADJOURNMENT

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

Mr. Hogan adjourned the open meeting at 3:02 pm.