

State of Maryland 
State Board of Elections – April 20, 2017 Meeting

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Linda H. Lamone, Administrator
Jeff Darsie, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Shelly Holland, Director, Budget, Finance and Procurement
Keith Ross, Assistant Deputy, Project Management
Paul Aumayr, Director, Voting Systems
Mary Cramer Wagner, Director, Voter Registration
Janet Smith, Voter Registration Division
Vicki Smith, Candidacy and Campaign Finance Division

Also Present: Nahid Khozeimeh, Vice President, Montgomery County Board of Elections
Mary Ann Keefe, Member, Montgomery County Board of Elections
Alisha Alexander, Election Director, Prince George's County Board of Elections
Alysoun McLaughlin, Deputy Director, Montgomery County Board of Elections
Lynn Garland
Ralph Watkins, League of Women Voters
Holly Joseph
Mary Kiraly
Michelle Kanter Cohen, Project Vote

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 3:00 pm and confirmed that a quorum was present. He stated that the meeting was being recorded.

RATIFICATION OF MINUTES FROM JANUARY AND FEBRUARY 2017, MEETINGS

In response to a question, Ms. Charlson confirmed that the meeting minutes from January and February were posted on SBE's website. Ms. Howells made a motion to ratify the minutes from the January and February 2017 meetings, and Mr. Hogan seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

Council on Governmental Ethics (COGEL)

Jared DeMarinis attended the Council on Governmental Ethics Laws (COGEL) Steering Committee's meeting in Chicago. COGEL is an organization dedicated to ethics, campaign finance and FOIA and is comprised of federal, state and local government officials and practitioners in the fields. The Steering Committee is the governing body of the organization. COGEL holds an annual conference in December.

Election Directors' Meeting

On April 20, 2017, we hosted an Election Directors' meeting by conference call. Topics discussed at the meeting included voting system and pollbook updates, inventory, and election audit reports. A summary of the meeting will be provided when it is complete.

2. **Election Reform and Management**

Post-Election Comprehensive Audit Reports

As each report is completed for a local board, it is sent to the board's Election Director. Earlier this week, SBE sent audit reports to four local boards. Each local board has approximately four weeks to respond to the audit report.

Federal Voting Assistance Program (FVAP)- Grant Status

SBE has two grants from the Department of Defense's FVAP.

- Grant #1: Develop an online voter registration system and online ballot delivery system. This grant terminates on April 30, 2017. We have submitted the final financial report and will submit any additional grant reports required by the FVAP.
- Grant #2: Create a single point of contact for military and overseas voters and develop an online portal for voters to learn about candidates and ballot questions. We notified FVAP of our desire to terminate this grant early and are waiting to discuss the specific timeline and steps necessary to do this.

Election Judge Workgroup

The Election Judge Workgroup will meet on April 26th at the Anne Arundel County Board of Elections. The purpose of this meeting is to review the lessons learned from the 2016 elections, discuss revisions to the *Election Judge Manual*, and develop a timeline for the 2018 elections.

Spanish Glossary of Terms - Review and Update

After the February meeting, Nikki Charlson discussed with Margaret Jurgensen, Election Director for the Montgomery County Board of Elections, and Alisha Alexander, Election Director for the Prince George's County Board of Elections, the effort to review and update the existing glossary of terms. Both agreed to help with this effort after legislative session. Nikki asked both Election Directors to provide names of individuals from their offices and Spanish-speaking communities in the two counties who may want to participate in this effort.

3. **Voter Registration**

MDVOTERS

Functional specifications are currently being completed for release 6.5. Areas of enhancement include candidacy reports, Electronic Registration Information Center's National Change of Address (NCOA) interface, and issues identified by the local boards. Release 6.4 included the NCOA interface, and it worked very well.

MVA Statistics - March 2017

The number of voter registrations received from the MVA for March 2017 were:

New Registrations - 7,915

Address Changes - 19,696

Last Name Changes - 1,654

Political Party Changes - 3,904

Voter Registration Applications

Historically, SBE prints voter registration applications after legislative session to capture any legislative changes. The 2017 General Assembly session made no changes. For the upcoming 2018 election, SBE will print and distribute more than 213,000 applications.

4. **Candidacy and Campaign Finance (CCF) Division**

Candidacy

As of April 18, 2017, 47 candidates have filed a certificate of candidacy at SBE for the 2018 General Election.

Campaign Finance

As of March 30, 2017, the Fair Campaign Financing Fund has \$2,722,298.51. Of this amount, \$1,361,149.25 is eligible for the 2018 Primary Election matching program. Based upon current information and data:

- The expenditure limit for the 2018 Election is projected at \$2,655,833.92.
- The seed money qualifying threshold would be \$265,583.39 in eligible private contributions.
- The maximum that candidate could receive in matching funds for the 2018 Primary Election is \$1,327,916.96.

The fund can fully fund one primary candidate only.

On April 26th, the CCF Division will conduct a seminar on campaign finance laws and regulations. Over 50 people have responded that they will attend.

Enforcement

The following penalties were assessed and paid.

1. People for Kim Truehart made cash disbursements exceeding the legal limits. The committee agreed to pay \$100.00 civil penalty.
2. Baltimore Transit Equity PAC self-reported a cash disbursement violation and agreed to pay a civil penalty of \$50.00.
3. The Committee to Elect Allan Kittleman self-reported an authority line violation. The committee agreed to pay a \$125.00 civil penalty.
4. A civil citation was issued against Clean Slate Baltimore PAC, Indigo Strategies, and Walter Ludwig, as the person directing or in control of the independent expenditure entity, for failure to file independent expenditure reports. Clean Slate Baltimore paid \$12,600.96 of the \$55,454.18 late fee penalty.

5. **Project Management Office (PMO)**

Inventory: Excess Equipment Disposal

The first public auction for the over 18,000 legacy touchscreen units and carts began on April 3rd. The Department of General Services (DGS) divided the equipment into six equal lots of approximately 3,000 per lot. The current auction will close for bids on May 3rd. Any touchscreen units not purchased may be subject to another auction with a different approach or may be disposed of in other ways, including possible recycling of the units.

SBE will soon submit for auction other legacy equipment types. This includes TSX and optical scan voting units, servers and workstations, and various other equipment and supply items.

SBE completed the pickup of equipment and supplies for disposal from several local boards during this reporting period.

New Inventory System

The PMO and the inventory project team continue to work on the requirements for converting the many legacy and new equipment and supply items to the new inventory system. All equipment and supplies must be loaded into the new inventory system prior to the expected start of the 2017 Annual Inventory sometime around May 15th.

FY 2017 Annual Inventory

The preparation for the FY 2017 Annual Inventory is in full force. The plans are for one or two teams of individuals from SBE to visit each of the local boards and perform the annual inventory between May 15th and June 30th. The PMO is in the process of coordinating with the local boards for the visits and making sure that everything is covered.

2018 Mock Election

SBE is in the final phase of developing the scope of the 2018 Mock Election scheduled for January 2018. The mock election will involve SBE and the 24 local boards. SBE expects to share with the local boards the scope in the next couple of weeks and request their feedback before finalizing the scope.

Other

The PMO completed the re-classification documents for two vacant staff positions - Technical Writer and the Technical Infrastructure Support Technician. The documents were submitted to the Department of Budget and Management for their review and approval. Recruitment will begin as soon as approval is received.

6. Voting Systems

Post-Election Maintenance

The local boards have completed post-election maintenance on the voting equipment and pollbooks. ES&S has completed the contractually required maintenance on the high-speed scanners and is repairing flagged equipment. The local boards reported 32 DS200 precinct scanners and 49 ExpressVote units requiring repair, although most ExpressVote issues concerned headsets and keypads. More than 28 electronic pollbooks were also reported as requiring repair. In response to a question, Mr. Aumayr explained that all equipment will be repaired, including any equipment with reports of ballot jams.

Voting System Software Update Review

At this time, we have decided not to upgrade the voting system software before the 2018 elections. This means that we will continue to use the software used in the 2016 elections (version 5.2.0.3) and not use ES&S' software version that was federally certified on February 28th (version 5.2.2.0). While the new software version allows more candidate names to be shown on one screen of the ExpressVote unit, the new version does not solve the navigation concerns and has no other changes relevant to Maryland. Upgrading the software would have required updating more than 6,000 pieces of equipment, and neither SBE nor the local boards budgeted for this expense.

There was a discussion about why the navigation issue was not resolved in version 5.2.2.0. Mr. Aumayr stated that ES&S has reported that the navigation issues are resolved in version 6.0.0.0, which will not be ready for Maryland to use for the 2018 elections.

Electronic Pollbooks

SBE continues to work with ES&S on our requested updates to the pollbook software. It is anticipated that an alpha release will be made to SBE in the next couple of weeks for review and testing by SBE. It is also anticipated that there will be some joint testing at ES&S' offices in early June.

Following the demonstration of pollbook hardware updates and SBE feedback, ES&S has refined the prototype and has shared the updated drawings. ES&S has committed to present in mid-May updated hardware.

Municipal Elections

We are working with the local boards to support several municipalities using the State's voting system for their municipal elections. Support includes programming the election database, generating ballot artwork, and creating pollbook databases by the SBE team. Municipalities using the system in May elections are Taneytown, Hampstead and Manchester in Carroll County, Rock Hall in Kent County, and Havre de Grace in Harford County.

7. 2016 General Election – Election Day – Baltimore County Line Analysis

Ms. Charlson referenced a document in the meeting folder summarizing the analysis SBE performed, findings, possible corrective actions, and considerations when acquiring additional equipment. Although lines only occurred in counties with two page ballots, not all counties with two page ballots had lines. Montgomery and Prince George's Counties deployed additional scanners at all or most of the precincts, and the small size of the precincts in Baltimore City mitigate the impact of the two page ballot. There was a discussion about whether the primary cause of lines was the two page ballot or ballot jams, and Mr. Aumayr and Ms. Charlson stated that the two page ballot was the primary cause. Ms. Charlson agreed to keep the members updated on resolving this issue.

2017 LEGISLATIVE SESSION – UPDATE

Ms. Wagner reported that the Governor has signed the following legislation.

- HB 143 - SBE's department bill with technical and administrative changes.
- HB 619/SB 882 - Changes the time when campaign signs can be placed at voting places. Under this new law, signs can be posted starting at 5pm the day before voting starts. Current law allows posting starting at 7 pm.
- SB 130 - Prohibits foreign principals from making contributions to a ballot issue committee.

The following legislation is awaiting the Governor's signature:

- HB 73 - Lowers the minimum age for election judges to 16.
- HB 118/ SB 632 - Requires quarterly reports from governmental entities to SBE identifying any persons with contracts of \$200,000 or more with the governmental entity.
- HB 353 - Requires advance public notice of a meeting of the State Board or local boards when a change in the administrative policy affecting voting rights will be considered. Additionally, a description of the change must be posted on the website.
- HB 529 - SBE's departmental bill on candidacy and campaign finance.
- HB 898 - Prohibits coordination between independent expenditure entities and candidates.

- HB 1382/SB 1121 - Prohibits a judicial candidate who was defeated in both primary elections from appearing on the general election ballot.
- HB 1498 - Requires a registered agent for independent expenditure groups and participating organizations spending \$50,000 or more on public communications to influence Maryland elections. Prohibits treasurers or individuals who exercise control or direction of the independent expenditure entity and participating organizations from forming new entities until the late fee or civil penalties have been paid. Changes the reporting obligations for participating organizations and creates compliance accounts for PACs.
- HB 1626 - Removes the requirement that a registered voter updating his or her address during early voting provide proof of the change of address.
- SB 1023 - Creates an independent congressional redistricting commission when certain states adopt similar legislation.

A final legislative tracking chart was included in the meeting folder. The next bill signing is scheduled for May 2.

Ms. Lamone thanked Ms. Wagner and Mr. DeMarinis for their hard work during the legislative session.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Darsie reported that there was no new information to report.

APPROVAL OF REQUESTS FOR WAIVERS OF CAMPAIGN FINANCE LATE FEES

Ms. Smith presented requests from 28 committees to waive late fees incurred by the committees. The requesting committees are:

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|---|---|
| 1. Barre, Mumin Friends of | 15. Hennessy, Loraine Friends Of |
| 2. Blasey, (Michael) Nomocracy for | 16. Holt, Alice L. Friends of |
| 3. Blitz, (Paul) Citizens for | 17. Maryland Citizens Clergy Pac |
| 4. Brewster, Joshua People for | 18. Muskin, Alies Friends of |
| 5. Bunting, Madison (Jim) Citizens for | 19. Nason, Bud Friends of |
| 6. Coale, Tom Friends of | 20. Nurses Association PAC MD (MNA-PAC) |
| 7. Delimater, Joe Friends of Sheriff | 21. OrtmanFouse, Jill Friends of |
| 8. DiMarco, Joe Friends of | 22. Pearce, Anna Friends Of |
| 9. District 17 Democratic Team Slate, The | 23. Riley, Denise Friends of |
| 10. Dove, Spencer Friends of | 24. Shackelford, Derek Friends of |
| 11. Falcon, Jamie Citizens to Elect | 25. Striplin, Tom Citizens for |
| 12. Fink, Derek Citizens to Elect | 26. Team 12 Slate |
| 13. Green Party, Maryland | 27. Ward, Keith, for Register of Wills |
| 14. Hammen, Peter A. Friends of | 28. Watson, Micah Friends of |

In response to a question, Ms. Smith explained that several committees inadvertently selected the wrong filing period when filing the report online. The 2017 filing deadline (1/18/17) is very similar to the 2018 filing deadline (1/17/18), and several treasurers made the wrong selection in the drop down menu.

Mr. Hogan made a motion to grant the requests for waivers of late fees, and Ms. Howells seconded the motion. The motion passed unanimously.

APPROVAL OF REQUESTS FOR WAIVERS OF TITLE 14 REQUIREMENTS

Ms. Smith presented denied requests from 5400 Holiday Drive LLC and Maryland Works, Inc. to waive late fees. No action was required for denied requests.

Ms. Smith presented a request from The Maryland Zoo in Baltimore to waive the requirement to disclosure contract requirements. In response to a question from Mr. Hogan, there is no process for an entity to receive a permanent waiver of this requirement. The entity will be required to make the waiver request annually.

Mr. Hogan made a motion to grant the request to waive late fees, and Ms. Howells seconded the motion. The motion passed unanimously.

APPROVAL OF REQUEST FOR ADMINISTRATIVE CLOSURES

Ms. Smith presented requests for administrative closure of the Friends of Scott Hymes committee. The Office of the State Prosecutor has determined that the committee is unable to pay the debt and recommends administrative closure of this committee.

Mr. Hogan made a motion to close administratively this committee, and Mr. Cogan seconded the motion. The motion passed unanimously.

APPROVAL OF REQUESTS FOR CONFIDENTIALITY

Ms. Smith presented requests from 16 voters to designate certain information confidential and protected from public disclosure. There was a discussion about whether three of the voters met the requirements to request confidentiality, and Mr. Darsie agreed to look into the reasons provided by the voters.

Mr. Hogan made a motion to grant requests from 13 voters and deferred the requests from the remaining three voters, and Mr. Cogan seconded the motion. The motion passed unanimously.

OLD BUSINESS

Ms. Howells requested an update on obtaining information about non-citizens from the federal jury commissioners. Ms. Wagner reported that she does not have an update and will work with the Attorney General's Office on this issue.

NEW BUSINESS

1. Judicial Watch: National Voter Registration Act (NVRA) Correspondence

Mr. McManus stated that this correspondence raises serious questions from a serious organization and SBE needs to publicize the results of its finding. He asked that these types of letters be forwarded immediately upon receipt.

Ms. Wagner explained that there are reasons why comparing the number of registered voters against the number of citizens 18 years and older is not an equivalent data comparison. She stated that because State law allows 16 and 17 years old to register to vote, these individuals are reported as registered voters but would not be included in the Census or other data of citizens 18 years old or older. Montgomery County has between 7,000 and 8,000 registered voters who are 16 or 17 years old. Montgomery County also has the highest number of military and overseas voters in the State. These individuals are considered registered voters in Montgomery County but are counted for Census purposes elsewhere or not at all.

In response to a comment as to whether the Montgomery County Board of Elections was the only identified county in Maryland, Ms. Keefe stated that she does not know whether other counties have the same issue but that the Montgomery County Board of Elections performs list maintenance monthly. Mr. McManus stated that this letter provides an opportunity to reassure the voting public of the work performed and requested a robust and public response to this letter.

Mr. McManus recognized Michelle Kanter Cohen, Election Counsel for Project Vote, as an individual who asked to address the board on this issue. A letter from Project Vote and Dēmos was included in the meeting materials, and Ms. Cohen highlighted the following content:

- The purpose of NVRA is to increase the number of eligible citizens who register to vote, not remove voters from the voter rolls.
- Project Vote and Dēmos are not opposed to reasonable efforts to remove ineligible voters from the rolls, but the efforts must be carried out in accordance with NVRA and without risking removing eligible voters.
- NVRA requires each state to conduct a general program that makes a reasonable effort to remove the names of ineligible voters who have died or moved.
- Judicial Watch's reference to the Ohio settlement does not acknowledge that activities agreed to in the settlement were held to violate NVRA.

Mr. Cogan stated that both Judicial Watch and Project Vote are focused on what the State Board should do but before determining what to do, the State Board needs to gather more information. He stated that if, after the required adjustments are made, the number of registered voters is close to the number of citizens 18 years or older, it would be a striking finding. It was noted that, since NVRA prohibits the removal of inactive voters unless they have not voted in two election cycle (four years), NVRA's removal provisions create a lag.

2. Public Comment – Mary Ann Keefe, Member, Montgomery County Board of Elections

Mr. McManus recognized Mary Ann Keefe of the Montgomery County Board of Elections, who asked to address the board on the voting system software upgrade decision and the use of the ballot marking devices for early voting.

Ms. Keefe explained that the Montgomery County Board of Elections is concerned about managing the number of ballots styles and number of early voting centers expected in the 2018 elections. Speaking on behalf of the Montgomery County Board of Elections, she stated that they would like to upgrade the voting system software to resolve the column display issue even if the navigation is not fixed and use as many ballot marking devices as possible for early voting.

The board members expressed their belief that ES&S had committed in prior meetings that the navigation issue would be resolved for the 2018 elections. Ms. Keefe stated that the State Board should demand that ES&S make this change, as there is more than one year before the 2018 Primary Election.

Ms. Lamone explained that not all of the local boards want to use the ballot marking devices exclusively during early voting. She noted that Prince George's County, which will have the most ballot styles in the primary election, does not want to use the ballot marking devices exclusively. Ms. Lamone noted that the cost to install and test the upgrade outweighs the benefits of a partial solution to the display and navigation issues.

In response to a question, Mr. Aumayr explained that he would expect that the software changes to display names in two columns are easier to program than changing the navigation logic. Mr. Hogan stated that he expects candidates whose names are displayed on the second or subsequent screens complaining, to which Ms. Alexander agreed. Ms. Lamone stated that State Board can decide whether to allow increased use of the ballot marking devices during early voting.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Ms. Howells reported that she contributed \$30 to buy tickets to a function sponsored by the Southern Prince George’s County Republican Club.

CONFIRM NEXT MEETING

The next meeting is scheduled for Thursday, May 18, 2017, at 2 pm.

ADJOURNMENT

Ms. Howells made a motion to adjourn the meeting, and Mr. Hogan seconded the motion. Mr. McManus adjourned the meeting at 4:40 pm.