

STATE BOARD OF ELECTIONS
Regular Board Meeting
Monday, July 16, 2012

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ABSENT: Ernest L. Gowen, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Jim Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened at 10:30 a.m. via videoconference with the Chicago office. Chairman McGuffage, Vice Chairman Smart and Members Byers, Coffrin and Scholz were present in Springfield and Member Schneider was present in Chicago. Member Gowen was absent and Member Schneider held his proxy.

The Chairman opened the meeting by leading everyone in the pledge of allegiance.

Member Schneider moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Chairman McGuffage seconded the motion which passed unanimously. The meeting recessed at 10:30 a.m. and reconvened at 10:40 a.m.

Vice Chairman Smart moved to approve the minutes from the June 19 meeting as presented. Member Scholz seconded the motion which passed unanimously.

Member Scholz moved to approve the minutes from the July 9 meeting as presented. Vice Chairman Smart seconded the motion which passed unanimously.

The General Counsel presented a motion for settlement offer from *SBE v. Citizens for Cepero*, 7709, 11MQ002, Agenda item 2.a.1 and reviewed the matter. He recommended the motion for settlement offer of 50% of the fine be granted and noted that the committee filed a final report and if it remains dissolved for a two year period from the date of the final order the entire fine will be abated. Robert Cepero was present and concurred in part with the recommendation to pay 50% of the penalty. He said he is facing ballot forfeiture and, therefore, cannot dissolve the committee at this time. Vice Chairman Smart moved to accept the recommendation of the General Counsel and that the penalty be paid by August 24, 2012. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a motion for settlement offer from *SBE v. Hinsdale First*, 21128, 12MA021, Agenda item 2.a.2 and reviewed the matter. He recommended that the motion be denied because the amount of the offer was not at least 50% of the penalty. No one was present for the respondent committee. Vice Chairman Smart moved to accept the recommendation of the

General Counsel to deny the settlement offer. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a request for payment plan from *SBE v. Citizens for Deyon Dean*, 21676, 10JS245 & 11MA066, Agenda item 2.a.3 and reviewed the matter. He recommended the payment plan be granted as outlined on page twelve of the Board packet with the condition that the committee submits the first good faith payment as indicated. Member Byers moved to accept the recommendation of the General Counsel. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The following appeals of campaign disclosure fines where the General Counsel concurred with the recommendation of the hearing officer to grant the appeals were presented for Agenda items 2.a4-12:

- 4) *SBE v. Bloom Township Democratic Organization*, 454, 12AD005;
- 5) *SBE v. Concerned Citizens for America*, 11321, 12MQ056;
- 6) *SBE v. Citizens for Lane Harrison*, 16951, 12MA010;
- 7) *SBE v. Friends for Deborah E. Woodruff*, 18310, 12MQ122;
- 8) *SBE v. Citizens for Scott Lee Cohen*, 21641, 11JQ279;
- 9) *SBE v. Citizens for Mary Kelley*, 22473, 12AM029;
- 10) *SBE v. Committee to Elect Thomas Ganiere*, 23718, 12AM039;
- 11) *SBE v. Citizens to Elect Mike Nerheim*, 23727, 12AM041;
- 12) *SBE v. Friends of Ken Snider*, 24140, 12MQ264.

The General Counsel noted that for item 2.a.11 the order also include that failure to amend the report as ordered would subject the committee to a civil penalty not to exceed \$5,000 for failure to comply with the board order. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the above listed committees. Member Byers seconded the motion which passed by roll call vote of 8-0.

Mike Kasper was present on behalf of the respondent committees for Agenda items 2.a.13 & 28, 13) *SBE v. Cook County Democratic Party*, 163, 12AM002 and 28) *SBE v. IBEW Local 9 PAC Fund*, 24351, 12MA074 and asked if the matters could be remanded to the hearing officer. He indicated he was recently retained as counsel by the committees and to give them an opportunity to have counsel present at the hearing. The General Counsel agreed to the request based on past Board practice. Vice Chairman Smart moved to accept the request and remand the matters to the hearing officer. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals of campaign disclosure fines where the hearing officer recommended to deny the appeals for Agenda items 2.a.17 & 21, 17) *SBE v. Friends of District 214*, 20059, 11DQ110 and 21) *SBE v. Citizens for Anna Moeller*, 23092, 12DQ169. He did not concur with the recommendation of the hearing officer in those matters and recommended the appeals be granted based on the electronic filing defense. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The following appeals of campaign disclosure fines where the hearing officer recommended the appeals be denied for Agenda items 2.a.14-16, 18-20, 22-27 & 29 were presented:

- 14) *SBE v. Springfield & Central IL Trades & Labor Council AFL-CIO*, 935, 12MQ020;
- 15) *SBE v. Moraine Township Democratic Organization*, 6630, 12AD014;
- 16) *SBE v. Citizens for Schussler*, 4504, 12MQ028;

- 18) *SBE v. Friends of John Shaw*, 20952, 12AM022;
- 19) *SBE v. Alsip Coalition for Excellence*, 21766, 12DQ138;
- 20) *SBE v. Friends of August H. Griffin for Edgar County Clerk*, 22674, 12MQ211;
- 22) *SBE v. Mike Smiddy for State Representative*, 23773, 12AM044;
- 23) *SBE v. Friends of Tabares*, 23775, 12AD063;
- 24) *SBE v. Northwestern Illinois Building & Construction Trades Council*, 23781, 11MA130;
- 25) *SBE v. Citizens to Elect William S. Boyd*, 23872, 12AD066;
- 26) *SBE v. Citizens to Elect Eileen M. O'Connor*, 23985, 12DQ200;
- 27) *SBE v. Committee to Elect Real Democrats 3rd District County Board*, 24278, 12MQ284;
- 29) *SBE v. Carpenters Helping in the Political Process (CHIPP)*, 24364, 12MA075;

The General Counsel concurred with the recommendation of the hearing officer to deny the appeals. No one was present on behalf of the respondent committees for any of the matters. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the above listed appeals. Member Rice seconded the motion which passed by roll call vote of 8-0.

The appeal of campaign disclosure fines were the hearing officer recommended the appeal be granted in part and denied in part for Agenda item 2.a.30, *SBE v. Joy Cunningham for Justice*, 23691, 12AD032 was presented and the General Counsel concurred. Rich Means was present on behalf of the respondent committee and indicated that he also agreed with the recommendation. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Rice seconded the motion which passed by roll call vote of 8-0.

The following appeals of contribution limit fines where the General Counsel concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.31-35 were presented:

- 31) *SBE v. Illinois Hospital Assn. PAC (IHA PAC)*, 675, 11MA-CL001;
- 32) *SBE v. Citizens for Deborah Sims*, 11768, 11DQ-CL005;
- 33) *SBE v. Friends of John Sullivan*, 16708, 12MQ-CL004;
- 34) *SBE v. Citizens for Alderman Reilly*, 19263, 11DQ-CL009;
- 35) *SBE v. Friends of Michael D. Nardello*, 23764, 11DQ-CL013.

Member Schneider moved to accept the recommendation of the General Counsel and hearing officer for the above listed appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0. Member Scholz recused himself from Agenda item 2.a.33.

The General Counsel presented Agenda item 2.a.36, *SBE v. Pliura for Senate*, 23774, 12MQ-CL015 and informed the Board that the appeal was inadvertently placed in the granted section. He concurred with the hearing officer recommendation to deny the appeal. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.37, *SBE v. Illinois Democratic County Chairmen's Association*, 393, 11DQ-CL0002 and summarized the matter. He did not concur with the hearing officer recommendation to deny the appeal and suggested the appeal be granted on the basis that the amount transferred was not a contribution, but rather a payment for services provided by the committee. Terissa Lashmett and Scott Doubet were present on behalf of the respondent committee and also agreed with the recommendation of the General Counsel. Member Rice moved

to accept the recommendation of the General Counsel and grant the appeal. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.38, *SBE v. Citizens for Kirk Dillard (for Senate)*, 9857, 12MQ-CL001 and noted he received a request from the committee asking to place the matter on the August Board Meeting Agenda. The Board agreed to the request.

The General Counsel presented Agenda item 2.a.39, *SBE v. Citizens for Antonio "Tony" Munoz*, 13732, 11DQ-CL006 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal. Mike Kasper was present on behalf of the committee and explained that they did not adequately explain the situation to the hearing officer. The committee incorrectly reported a \$36,500 donation when they should have reported a \$10,000 contribution and a \$26,500 debt. The report was subsequently amended, the debt was paid and Mr. Kasper asked the Board to grant the appeal since the committee did not actually exceed the contribution limit cap. After discussion regarding the contribution limits law, Chairman McGuffage moved to grant the appeal. Member Rice seconded the motion which passed by roll call vote of 8-0.

Civil penalty assessments and contribution limit penalty assessments necessitating a final board order were presented. Vice Chairman Smart moved to issue final board orders for those committees listed on the memos from the Director of Campaign Disclosure. Member Byers seconded the motion which passed by roll call vote of 8-0.

A listing of civil penalty payments was presented for informational purposes.

The General Counsel presented a motion for direct appeal regarding jurisdiction in *Sherman v. Indian Trails Public Library District, et al*, 11CD019 & 11CD023, Agenda item 2.a.43 and summarized the matter. He concurred with the recommendation of the hearing officer that the Board does have jurisdiction to hear the complaint but lacks jurisdiction to issue any type of a sanction. If the Board decides to hear the case, its only option would be to refer it to prosecutorial authorities. Richard Means was present on behalf of the complainant and Ken Florey was present on behalf of the respondent. Mr. Means agreed with the recommendation of the General Counsel and hearing officer. Mr. Florey thought a resolution was reached in October that a state agency was not equipped to handle violations of a criminal nature and asked the Board to not accept the recommendation of the General Counsel and hearing officer. After discussion, Chairman McGuffage moved to dismiss the portion of the complaint that alleges a violation of 9-25.1 and a violation of 9-8.10 and the matter proceed to a public hearing on the other issues. Member Scholz seconded the motion which passed by roll call vote of 8-0.

After a short break, the Executive Director began his report with an update on preparations for the November 6, 2012 General Election. He said the candidate petition filing period for independent and new party candidates went very well. Forty-one candidates filed nominating petitions and approximately twenty-two objections were also filed against some of those candidates. A listing of election judge training schools was presented for informational purposes and it was noted that staff were also conducting some local election officials workshops as well.

The Executive Director said the budget bill was signed and the FY13 spending plan has been implemented. Cris Cray indicated the omnibus election bill was also signed and staff was working on disseminating those changes to the election authorities. The bill also extended grace period registration and voting and shortened the early voting period which will both end on November 3, 2012.

Kyle Thomas reported on the voter purges being conducted in Alexander and Massac Counties and said they went very well. Both jurisdictions are below 90% for their percentage of registered voters versus individuals age eighteen and over. He noted that Pulaski County will be conducting their purge this summer with an anticipated completion date of August 8.

The Executive Director reported on the 2012 IVRS State Grant which was for support of the local election authorities' voter registration systems as well as purging expenses. One hundred and seven of the election jurisdictions applied for the grant and three indicated they were not requesting the grant funds this year. The SBE was able to fully fund those jurisdictions' request for funding and a small portion of the appropriation will be returned to the General Revenue Fund.

Mr. Thomas noted that Pulaski County was the only jurisdiction above 100% on the census data chart and the number of duplicate matches has increased a little due to inactivity during the summer. He expects those numbers to fluctuate leading up to the General Election.

The Executive Director indicated that some research was conducted as to the need for a portable dais for the Springfield office Board meetings. He noted that a permanent dais would not be a good solution because the Board room would lose some of its functionality for other election projects (testing, petition filing, voter searches, objections, etc.) conducted throughout the year. A quote was received from Correctional Industries for \$6,500 to \$7,000 to build a temporary dais that could be set up and broken down after the meetings. After discussion, it was agreed by all to not purchase a portable dais at this time.

The fiscal status reports were presented for informational purposes and it was noted that next month will be the final spending for FY12 and is anticipated that some funds will be returned to the General Revenue Fund.

The two year plan of staff activity was presented for informational purposes.

Member Scholz moved to recess to executive session to consider complaints, litigation and personnel matters and the motion passed unanimously. The meeting recessed at 12:35 p.m. and reconvened at 12:45 p.m.

As to Agenda items 2.a.44-50, Member Schneider moved to find the following complaints to have been filed on justifiable grounds and the matters proceed to a public hearing:

- 44) *SBE v. First Ward Organization*, 12CD032;
- 45) *SBE v. Citizens United for Change in the 20th Ward*, 12CD047;
- 46) *SBE v. The Committee to Elect Tracy A. McLeMore*, 12CD069;
- 47) *SBE v. Illinois Black Business PAC*, 12CD081;
- 48) *SBE v. Vargas for 43*, 12CD084;
- 49) *SBE v. People for Beachem*, 12CD088;
- 50) *SBE v. Friends of Loree H. Washington*, 12CD112.

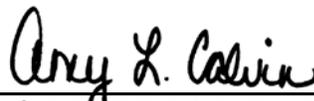
Member Byers seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.51, *SBE v. Friends of Molly Phelan*, 12CD083, Member Schneider moved to find the complaint to have been filed on justifiable grounds, but as a result of information garnered at the closed hearing, there is not a need for a public hearing and that the matter be referred to appropriate staff for review and imposition of civil penalties if necessary. Member Rice seconded the motion which passed by roll call vote of 8-0.

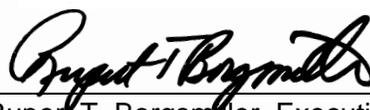
The Executive Director reminded the Board that Special and SOEB Meetings are scheduled for July 23 and August 6 at 10:00 a.m.

With there being no further business before the Board, Member Scholz moved to adjourn until July 23, 2012 at 10:00 a.m. Vice Chairman Smart seconded the motion which passed unanimously. The meeting adjourned at 1:00 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director