

**State Board of Elections Board Meeting
Monday, June 14, 2004
Chicago, IL**

MINUTES

PRESENT: John R. Keith, Chairman
Jesse Smart, Vice Chairman
David E. Murray, Member
Albert Porter, Member
Wanda L. Rednour, Member
Elaine Roupas, Member

ABSENT: William McGuffage, Member

ALSO PRESENT: Daniel W. White, Executive Director
Colleen Burke, General Counsel
Darlene Gervase, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 11:02 a.m. with a quorum of six members present. Member Porter held Member McGuffage's proxy.

Chairman Keith opened the meeting by leading everyone in the Pledge of Allegiance and asked for a moment of silence in respect to the passing of President Ronald Reagan.

Vice Chairman Smart moved to recess and reconvene as the State Officers Electoral Board. Member Murray seconded the motion which carried 7-0. Meeting recessed at 11:13 a.m. and reconvened at 11:31 a.m.

The Chairman presented the Minutes of the May 17, 2004 regular and the May 24 and June 1, 2004 special Board meetings for approval. Member Porter moved and Vice Chairman Smart seconded the motion to approve the minutes. The motion carried 7-0.

Director White began his report with the presentation of a staff service award for 30 years of service to Tony Morgando. He thanked Tony for his diligence and support and further stated that he can always depend on Tony. Mr. Morgando stated that he enjoys his job and co-workers and commented that the IDIS program has improved the work environment of his department. Member Murray offered his personal thanks for Tony's commitment to the agency and noted that Tony could have accepted early retirement, but chose to stay with the agency.

The Director continued with an update on HAVA activities and thanked Dianne Felts, Karen Ward, Lisa Danna and Laurie Dittman for their work in addressing accessibility improvements.

An application relative to Health and Human Services grant funds was presented for Board approval. The Director clarified that the short cycle to return the application requires only the reading and signature of the election authority to begin the approval process and funds will be disbursed beginning August 1, 2004. Director White stated that \$870,000 is available for improvements to accessibility, but the State Board of Elections is able to increase that amount by adding \$1.5 million of the Board's discretionary funds earmarked for accessibility projects. These monies are for accessibility improvements to polling places that have long term contracts with the election authorities specifically covered by the Federal government's HHS Title II grant. Dianne Felts advised the Board that items such as magnifiers, signature guides, etc. are considered accessibility improvements and that we supply a compliance checklist, but the auditor general is in charge of auditing the purchases. Mr. Hollister Bundy of Inclusion Solutions, a member of the audience stated that he is in favor of this issue. Member Roupas asked the Director to alert the election authorities via email that the application is forthcoming and of the short turn-around date. Member Murray moved to approve the disbursement of the H.H.S. grant of \$870,000 and to approve the expenditure and disbursement of 1.5 million of HAVA money for handicap accessibility as outlined in the proposal. Member Rednour seconded the motion which carried unanimously.

The Director spoke of the \$3 million of HAVA money earmarked for requirements such as education, training, judge outreach and training. Dianne Felts stated that this money would be available this summer for the presidential election and if approved, Mr. White would advise the election authorities that this money is available. Member Murray moved to approve the award of the \$3 million HAVA money for discretionary funds. Member Roupas seconded the motion which carried 7-0.

Mr. White reported on the Election Assistance Commission's public hearing which was held in Chicago on June 4th. Fourteen witnesses appeared before the Commission. Copies of testimony submitted to the EAC were available for interested parties. Limited questioning was

allowed and the presentation was broken into four, rather than the five categories expected. The Lever Machine Panel was not available at this meeting. Panelist Doug Lewis, Director, Election Center stressed that good people, good guidelines and administrative procedures are of utmost importance to operate the systems. Mr. White met with EAC Director DeForest Soaries and offered him a copy of the Board's request to define a statewide voting system and followed up with an email to his assistant.

The Director stated that he received notification to be available to testify before the House Appropriation Committee on June 16, 2004 about the Agency's needs to ensure that its core base of activities will not be affected in the event that the budget is not passed by July 1st. He invited Cris Cray to offer a legislative update, and complimented Cris on her thorough and consistent attention to the election bills. Ms. Cray spoke of the 5% match to the Federal government's \$98 million grant and concurred that the budget has not passed yet. She stated that SB 2123, "Put Bush on the Ballot," passed the Senate and remains in the House, and the omnibus election bill (HB955) is in the Senate.

The Director submitted a request from Jim Withers, Director of Support Services, to change the Division of Support Services to Division of Administrative Services as it more fully reflects the division's responsibilities and would be more consistent with other state agency titles. Changing the title would be of minimal cost and only require completion of a few forms. Member Murray moved to change the name. Member Roupas seconded the motion which carried unanimously.

Mr. White submitted a letter from State Treasurer Judy Baar Topinka with her recommendations to fill the vacancy created by former member Phil O'Connor's resignation. Bryan Schneider, Jason Gerwig and Joshua Potts are her choices. After the Governor selects one of the nominees, the appointment is subject to a 3/5 confirmation vote in the Senate. As the legislative session has been extended, Mr. White stated he will monitor this matter and advise the Board of any developments.

The fiscal status report ending May 31st was presented for informational purposes. The budget is in good shape to meet all fiscal obligations for FY04. Mr. White stated that there has

been very little activity with the distribution of HAVA/federal funds for the November General Election this past month, but expects it to increase before the November election.

The two year plan of staff activity for the months of June and July was presented for information purposes.

Mr. White concluded his report with a reminder that June 14 -21 is the filing period for new and independent candidates and that July 6, 2004 at 9:00 a.m. is the tentative date set for a conference call to address any objections filed.

The Chairman asked for entries of appearances on pending campaign disclosure hearings and noted that these matters would be taken out of order and called first.

The Chairman recognized Jennifer Fritz, attorney for Respondent committee 02 JS 153, *ISBE v. Naperville Township Republican Organization*. Ms. Fritz, asked that this matter be continued to the August 27, 2004 meeting in Chicago. Ms. Burke noted that the respondent has had two continuances already and recommended this be the final continuance. She further stated that the committee has an unusual defense which should be heard by the Board. Member Murray moved and Member Roupas seconded a motion to grant a request to continue this matter to August 27, 2004 in Chicago and that this is the third and final continuance. There being five ayes and two nays, the motion is allowed. Vice Chairman Smart and Chairman Keith voting against the motion.

The Chairman called *ISBE v. Citizens for Dwight Welch*, 02AG53. No one appeared, although an appearance for Dwight Welch was filed.

Ms. Burke presented *SBE v. Frank Aguilar*, 02AP01. Mr. Licea, the new treasurer of the committee stated that they accept the verdict and was ready to liquidate the fine. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel to reduce the find to 10 percent of the original assessment and assess the fine accordingly. Member Rednour seconded the motion which carried 7-0.

SBE v. Personal PAC, 02 AG 82, represented by Mathias Delort, was considered next. Member Murray moved to accept the recommendation of the hearing officer and General Counsel and to grant the appeal as to the remaining \$1,200 as to Group A, and that checks found in the

desk drawer were not required to be reported on an A-1 report. Member Porter seconded the motion which carried unanimously.

Mr. Mathias Delort requested that two other matters be continued to the August meeting in Chicago, *SBE v. People for Naurus*, 03 AC 39 and 02AG37, Citizens for Capparelli. Mr. Rupert Borgsmiller confirmed that he spoke with Mr. Delort and agreed to a continuance with the Board's permission. Member Murray moved to continue the matter until the August 27, 2004 meeting in Chicago. Member Rednour seconded the motion which carried 7-0.

SBE v. Silverstein for Senator, 02AG22, represented by Mathias Delort was presented by Ms. Burke. She agreed with the recommendation of the hearing examiner that the committee unwittingly sent an amended Pre-Election Report for the 2002 election rather than a Schedule A-1 and further concurred that the appeal be granted. Mr. Delort concurred with the recommendations. Member Porter moved to accept the recommendation of the hearing examiner and General Counsel and grant the appeal. Mr. Murray seconded the motion which carried unanimously.

The next matter considered was *SBE v. Citizens for Dave Miller*, 03AE9 wherein respondent failed to report an in-kind contribution of liquor. Mathias Delort appeared for the respondent. Respondent stated that he believed the contributor overstated the cost of the donation. The hearing examiner agreed and recommended the appeal be granted. Member Porter moved to accept the recommendation of the hearing examiner and General Counsel and grant the appeal. Member Murray seconded the motion but noted that the in-kind value should be based on the donor's value, rather than the recipients. The motion carried 6-1 with Chairman Keith dissenting.

The General Counsel presented *SBE v. Friends of Blagojevich*, 02AG9. Mathias Delort, attorney for respondent, stated that a check was received by the committee that bore no preprinted name, address, check number, nor account number and that the committee did not know if it was a prank. They were not able to verify the check until four days later and reported at that time. Mr. Delort said that his client contends that the report was not late as the check had not been received by an officer of the committee until it had been verified and cashed. Member

Murray moved and Vice Chairman Smart seconded a motion to deny the appeal and propose a fine of \$500. After further discussion Member Murray withdrew his motion. Member Porter moved to adopt the recommendation of the hearing officer and general counsel and grant the appeal, the motion failed for lack of a second. Member Murray moved to recognize that a violation occurred, deny the appeal, but not to assess a fine. Vice Chairman Smart seconded the motion which failed by a vote of 4-2. Member Rednour recused herself and Members McGuffage and Porter voted against the motion. The Chairman moved to continue this matter until the August 27, 2004 meeting in Chicago. The motion carried unanimously.

Ms. Burke submitted *Sufferdin for Cook County, 02AG64* for Board consideration. The committee was assessed a \$4,500 penalty for failure to report eight contributions. The committee incorrectly submitted a contribution of \$150 and listed it as \$500; another mistake in uploading on October 16th occurred, the last name of a contributor was incorrect; and the remaining five contributions were received at a fund raiser and timely reported with the Cook County Clerk's office. The bookkeeper made a mistake on the date and hand wrote the correct date and asserts that the report was uploaded, although she has no receipts of the transaction. The hearing examiner recommended that the appeal be denied in part and granted in part and assess a civil penalty in the amount of \$300. Mathias Delort, representing the committee stated that the committee has no objection and is not seeking any further action by the Board with respect to the hearing officers' report. He did not want to say they agreed with it. The General Counsel concurred and Member Murray moved to accept the hearing officer and General Counsel's recommendation and assess a penalty of \$300. Vice Chairman Smart seconded the motion which carried 7-0.

The next matter presented by the General Counsel was a D-4 complaint, *Appa v. Des Plaines Taxpayer Alliance, 04CD006*. Mr. Leroy E. Stevens, Jr. appeared on behalf of the respondent committee. The hearing examiner recommended and the General Counsel concurred that the matter be dismissed for lack of prosecution as the complainant refused to accept certified notice relating to the matter.. Member Murray moved to accept the recommendation of the

hearing examiner and General Counsel. Member Roupas seconded the motion, which carried unanimously.

Ms. Burke submitted D-4 complaint *Handler v. Flores*, 04CD004 to the Board after closed preliminary hearing. Richard K. Means represented the Friends for Flores and Mr. Handler appeared *pro se*. Messrs. Means and Handler agreed to proceed with this matter in open session. Member Murray moved and Vice Chairman Smart seconded the motion that the complaint was filed on justifiable grounds and it should go to a public hearing. Upon further discussion Member Murray withdrew his motion and moved again to find that the complaint was filed on justifiable grounds, the committee corrected the discrepancies, there is no need for public hearing and no further action is required. The motion carried unanimously.

The General Counsel presented 03DS155, *ISBE v. Citizens to Elect Thomas Duda* to the Board for decision. Mr. Means filed appeared for the respondent. Three deficiencies resulted in a total assessment of \$5,850. The committee dissolved on April 28, 2003 and intends to remain dissolved indefinitely. The hearing examiner recommended and the General Counsel agreed that the appeal be denied, but should the committee remain dissolved at least until April 28, 2005, the penalty be abated at that point. Member Murray moved to accept the recommendations of the hearing examiner and General Counsel. Vice Chairman Smart seconded the motion which passed unanimously.

The Chairman called Mr. Dwight Welch who appeared *pro se* before the Board in the matter of *ISBE v. Citizens for Dwight Welch*, 02AG53. Respondent appealed a civil penalty assessment for failing to file a Schedule A-1 Report. The hearing examiner recommended that the appeal be denied and the penalty reduced to 10% of the contribution, or \$2,495.50. Member Murray moved and Member Rednour seconded the motion to accept the recommendation of the hearing examiner and General Counsel. The motion carried 7-0.

Ms. Burke submitted 26 Ill. Adm. Code 204 (Approval of Voting Systems) for approval. Member Murray moved to accept the rules and publish them as amended. Vice Chairman Smart seconded the motion which carried unanimously.

The rules amending Title 26, Ill. Adm. Code 100.50, 100.60, 100.70, 100.140, 100.170 (the Campaign Financing Act), Section 125.425 (civil penalty assessments); and Section 210.10 (licensing of raffles) which were adopted at the May 2004 Board meeting were included in the packet at the request of Rupert Borgsmiller. No action was required.

An oral presentation on American Taxpayers Alliance (ATA) and Law Enforcement Alliance of America (LEAA) was made by Ms. Burke. She stated that she moved the deadline to the end of June to comply with the Rule to Show Cause and asked that this matter be included on the July agenda.

The General Counsel also asked to have *SBE v. Republican Party of Illinois, 02AP37* continued to the July meeting per a request from the defendant.

The General Counsel presented agenda items 3.c.1)a) New Appeals/Granted, minus 02AG22, 03AE9 and 02AG9, wherein the hearing officer recommended and the General Counsel agreed that the appeals be granted. Vice Chairman Smart moved and Member Murray seconded the motion to accept the recommendation of the hearing officer and General Counsel and grant the appeals. The motion carried 6-1 with Chairman Keith dissenting.

Ms. Burke presented agenda items 3.c.1)b) New Appeals/Denied, items 1 through 55 with the exceptions of numbers 1, 2, 6, 20 and 53 which were withdrawn by staff until further notice. The hearing officer recommended that the remaining New Appeals be denied. Member Porter moved and Vice Chairman Smart seconded a motion to accept the recommendations of the hearing officer and General Counsel and deny the appeals. Mrs. Roupas suggested rounding up fines to the nearest dollar, rather than a multiple of five. Chairman Keith clarified that the motion is to approve on docket Items B1 through 55, except 1, 2, 6, 20 and 53, which have already been determined with the appeals being denied and fines imposed in accordance with the rounding up rule. The Chairman called for the roll and the motion carried 7-0.

Ms. Burke submitted agenda item 3.c.1)c), minus item 1, new appeals wherein the hearing officer recommended the appeals be granted and denied in part. Vice Chairman Smart moved and Member Roupas seconded a motion to accept the recommendations of the hearing officer and

General Counsel and to grant and deny the appeals as proposed in the recommendation. The motion carried 7-0.

Ms. Burke presented Campaign Disclosure Volume II, item 3.c.1)d), new appeals where the hearing officer recommended the appeals be granted for items 1-21 minus items 5 and 17 which will be considered individually. Vice Chairman Smart moved and Member Murray seconded the motion to accept the recommendation of the hearing examiner and General Counsel and grant the appeals. The motion carried 7-0.

Agenda item 3.c.1)d)17, *SBE v. Citizens for Davis*, 02AG43 is an appeal of a civil penalty for failure to file a scheduled A-1 report. The hearing examiner recommended that the appeal be granted because the treasurer incorrectly stated the date of the check, rather than the date received on the A-1 report. The General Counsel agreed with this recommendation. Member Murray moved to reject the recommendations, deny the appeal and assess a penalty in the amount of \$550. Vice Chairman Smart seconded the motion which passed by a vote of 5-2 with Members McGuffage and Porter dissenting.

The next item presented by the General Counsel was Volume II, item 3.c.1)e) – new appeals which the hearing officer recommended be denied, minus items 9, 10, 12 and 13. Vice Chairman Smart moved and Member Porter seconded the motion to deny the appeals. The motion carried 7-0.

Agenda item 3.c.1)e), *SBE v. Citizens for Martin A. Sandoval*, 00AP71 was considered. The hearing examiner recommended and the General Counsel concurred that the appeal be denied, and the penalty reduced to 10% of the amount of the penalty or \$400. They further recommended that since the committee filed a Final Report on March 25, 2004 and a parallel committee was formed in January, 2002, that the successor committee be responsible for the fine. Vice Chairman Smart moved to accept the recommendations of the hearing examiner and General Counsel and to deny the appeal and assess the penalty against the successor committee. Member Murray seconded the motion which carried 7-0.

The General Counsel presented *SBE v. Citizens to Elect Wallace Davis III*, 02 AP61 to the Board for its consideration. Member Murray moved to accept the recommendation of the hearing

examiner and General Counsel and find that the appeal be denied for lack of adequate defense and reduce the fine to \$600. Vice Chairman Smart seconded the motion which passed 7-0.

Agenda item 3.c.1)e), *SBE v. Citizens to Elect Robin Kelly* was considered. Member Murray moved to accept the recommendation of the hearing examiner and General Counsel and deny the appeal and reduce the civil penalty fine to \$400. Vice Chairman Smart seconded the motion which carried unanimously.

Ms. Burke submitted item 3.c.1)f), new appeals wherein the hearing officer recommended the appeals be granted and denied in part, minus items 2, to be considered individually, and 3 which is continued to the July 19, 2004 meeting. Member Murray moved and Member Rednour seconded a motion to accept the recommendations of the hearing officer and General Counsel. The motion carried 7-0.

Agenda Items 3.c.1)f)2) *SBE v. Citizens for Don Bauer, 02AP84* was presented. The treasurer misunderstood and made mistakes on the filings. In addition, the candidate intends to close the fund after this matter is resolved. As this is a first violation, the penalty will be stayed. Member Murray moved to accept the recommendations. Member Rednour seconded the motion which passed by a roll call of 7-0.

The Chairman presented a motion at the request from Mr. Lavelle to continue *SBE v. Citizens for Marovitz, S420* to the July board meeting. The motion carried unanimously.

Ms. Burke submitted *Cynthia Canary and David Morrison v. Citizens for Calvin Giles and the 37th Ward Regular Democrat Organization* 04 CD 05 and 04 CD 07 for consideration after public hearing. A motion to accept the recommendations of the hearing officer and General Counsel was moved by Member Murray with Member Rednour seconding the motion. The motion carried by a roll call vote of 7-0.

The General Counsel presented a motion for reconsideration from the Clinton County Republican Organization wherein the committee requested a payment plan consisting of an initial payment of \$9,650 and the remaining \$3,000 to be paid over one year. Member Murray moved to accept the proposal of the committee. Member Rednour seconded and the motion passed unanimously.

Chairman Keith moved to deny a motion for reconsideration from the Reform Party of Illinois. The motion passed unanimously as there was no action in opposition.

Item 3.6) was presented to the Board for final orders as these committees had not filed appeals. Member Murray moved and Vice Chairman Smart seconded a motion to enter final orders for all committees who did not file appeals and reduced the fines to 10% of the penalty for all first time A-1 violations. The motion passed by roll call vote of 7-0.

The appointment of a subcommittee for campaign disclosure appeals was removed from consideration.

The Board recessed to closed session at 3:05 p.m. and returned to open session at 3:50.

In the matter of *Craig E. Westfall v. Maine Township Regular Republican Organization*, 04CD36, Member Murray moved and Member Roupas seconded a motion that the cause was filed on justifiable grounds, the committee filed amended reports and no further action is required. The motion carried by a roll call vote of 7-0.

Member Murray moved and Member Roupas seconded the motion to find that the matters of *SBE v. Committee to Re-Elect Sally D. Confelt*, 04CD8; *SBE v. Bonnie Thompson Carter Committee*, 04CD9; *SBE v. Committee to Elect Diane M. Shelley*, 04CD11; *SBE v. Citizens for Biagini*, 04CD13; *SBE v. Committee to Elect Charles Hanley Coroner*, 04CD14; *SBE v. Trucking Industry PAC*, 04CD21; *SBE v. ERA PAC*, 04CD22; *SBE v. Committee to Elect Jay Footlik*, 04CD23; *SBE v. William Davis for State Representative*, 04CD29; *SBE v Rawlings for Commissioner Committee*, 04CD32; and *SBE v. Neppi for Judge Committee*, 04CD35 were filed on justifiable grounds but require no further action. The Motion carried unanimously.

Member Murray moved and Member Rednour seconded a motion that *SBE v. Citizens to Elect Kevin M. Gallaher*, 04CD10; *SBE v. Citizens to Elect Barbara Reyes*, 04CD20; *SBE v. Cicero Regular Democratic Organization*, 04CD24; and *SBE v. Illinois Progressive Leadership Political PAC*, 04CD27, were filed on justifiable grounds and ordered to a public hearing. The motion carried unanimously.

The next regular meeting of the State Board of Elections is scheduled for Monday, July 19, 2004 in Springfield.

There being no further discussion, Member Rednour moved to adjourn. Member Porter seconded the motion which passed unanimously. The meeting adjourned at 3:52.

Respectfully submitted,

Darlene Gervase
Assistant to the Executive Director

Daniel W. White
Executive Director