

**STATE BOARD OF ELECTIONS
Board Meeting
Tuesday, January 20, 2009
Springfield, Illinois**

MINUTES

PRESENT: Albert Porter, Chairman
Bryan Schneider, Vice Chairman
Patrick Brady, Member
John Keith, Member
William McGuffage, Member
Jesse Smart, Member
Robert Walters, Member

ABSENT: Wanda Rednour, Member

ALSO PRESENT: Dan White, Executive Director
Steve Sandvoss, General Counsel
Rebecca Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:30 a.m. with seven members present. Member Brady was present in the Chicago office and connected via videoconference. Member Rednour was absent and Member Keith held her proxy.

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

The Executive Director presented the minutes of the November 27 regular meeting, November 30 special meeting, December 5 regular meeting and December 12 special meeting and discussed revisions to each set of the minutes which had been distributed to the Board. Member Smart moved to approve the revised November 17 regular meeting minutes. Member Keith seconded the motion which passed unanimously.

Member Smart moved to approve the revised November 30 special meeting minutes. Member Keith seconded the motion which passed unanimously.

Member Smart moved to approve the revised December 5 regular meeting minutes. Member McGuffage seconded the motion which passed unanimously.

Member Smart moved to approve the revised December 12 special meeting minutes. Member McGuffage seconded the motion which passed unanimously.

Director White noted that two years ago today Senator Obama announced his candidacy for President in Springfield. Today he is being sworn in as President of the United States.

Director White presented an amended certification for Will and Williamson counties and discussed the changes. Neither amendment affected the election of any candidate. Member Smart moved to adopt the amended certifications. Member Walters seconded the motion which passed unanimously.

Director White reported on the Advisory Committee meeting held this morning. The group was small this morning but good discussions were held on a post election review where Mark Mossman thanked the clerks for their great cooperation in getting us the canvasses quickly. Discussions also included the special election in the 5th Congressional District, an update on the database, legislation and voting systems testing. The database should be HAVA compliant soon as the only thing remaining is an agreement with the Department of Corrections. The clerk's legislative committee will be meeting next Tuesday at their conference.

Director White presented a legislative update on the Ethics legislation, Public Act 95-0971. This legislation went into effect January 1, 2009 and staff has proceeded with paper filing of the business registrations. Two reports included in the Board packet outline current and future activities. Rupert Borgsmiller indicated there has been steady filing since the inception of the program with a total of 1,200 as of this morning. The legislature has passed legislature to allow additional time to prepare for electronic filing and the bill will be sent to the Governor's desk for signing. No additional funding was provided. Member Keith thanked Steve Flowers for preparing the lengthy explanatory memo regarding the Business Entity Registration program and the various options for an electronic program. The General Counsel discussed issues with the Business Entity Program language. There is a concern about the listing of a residential address for affiliated persons including minor children. The legislation just says "address" and not residential address. Mr. Sandvoss asked if our form should be changed from residential address to address. Discussion ensued on the intent of the legislation as well as affiliated persons. It was noted that judge's addresses are public information and when candidates file a statement of candidacy they have to list residential address. A business does not have to do business with the state if they do not want to abide by the law. Member Walters moved that staff continue handling this process in the manner they have been. There being no second the motion died. Member McGuffage then moved to use the term "address" and not modify it be

“residential.” Member Smart seconded the motion which lost by a vote of 3-5 with Members Brady, Keith, Walters, Vice Chairman Schneider and Chairman Porter voting in the negative. Chairman Porter was concerned what staff should answer to people who questioned the term “address.”

Member Keith then moved to change the from to indicate address, and if asked by an interested party staff should advise them it is our interpretation address means a residential address. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel discussed action taken at a prior Board meeting where the Board asked him to seek an opinion from the Attorney General on the Business Entity Registration program. Ms. Lynn Patton indicated there was a technical problem as the request was sent from Steve Sturm and not Steve Sandvoss. He indicated he would revisit with the Board on whether to resubmit the request. She also indicated the opinion we were seeking may not be a favorable opinion. Mr. Sandvoss suggested waiting to resubmit until after the Governor acts on the legislation pushes back the start up date for electronic filing to August 1, 2009. The Board agreed to let it rest until after the Governor acts on the legislation.

Director White presented a legislative update and indicated a review of legislative initiatives is included in the packet. There is one new proposal for discussion to amend Section 9-15 of the Campaign Financing Act to allow staff to conduct random audits of political campaign committees each year. In response to a question Mr. Borgsmiller indicated that currently in order for the staff to conduct an audit they would have to file a complaint which would go to closed preliminary hearing. This would then have to go to public hearing and where staff could ask for a subpoena. He indicated he was looking at this initiative as more of an enforcement tool and making people aware of the importance of filing correct reports. Discussion ensued on the reasons for the legislation as well as staff time this would use. Member Keith felt the language should be refined and discussed probable cause and a pre-complaint mechanism which would be with the committee’s agreement for the audit. Mr. Borgsmiller indicated he would discuss with Cris Cray revamping the language of the proposed legislation.

Chairman Porter questioned #5 of the legislative proposals about giving committees the option of accepting notice electronically and asked if this meets all statutory notice requirements. Mr.

Borgsmiller explained that he would like to see the committees who file electronically accept notice electronically. The General Counsel suggested taking it a step further by saying in addition to confirmation receipt the notice we are giving you is satisfied by us sending to you the information, the reminder notice, the notice to file and the information that is contained in the packet.

Member Keith suggested adding per the discussion this morning that staff seek definition on the Ethics legislation from the General Assembly and define address requirements for spouses and minor children. Member Keith moved to add to the legislative packet non-policy clarification language that staff feels is appropriate, as they work with the legislature on pay to play. This was seconded and passed by unanimous consent. Steve Flowers should be involved in this discussion to plan for electronic filing. Cris Cray indicated that Senator Harmon is starting a trailer bill on the Ethics legislation.

Director White indicated the Special Congressional Primary Election in the 5th District will take place on March 3, 2009 and the General Election will be held on April 7, 2009 the same day as the Consolidated Election. This district is mainly in the City of Chicago with part in Cook County. The filing period concluded yesterday with 26 candidates filing. Some additional meeting dates are necessary for certification and canvassing. The meetings will be scheduled as follows: January 26, 2009 5 p.m. for certification of established party candidates for the March 3, 2009 special primary ballot – 5th Congressional District; February 5, 2009 at 9:30 a.m. for certification of the April 7, 2009 Consolidated Election ballot for Regional Board of School Trustees and Fox Waterway Agency Trustees; March 10, 2009 at 5 p.m. to proclaim the results of the March 3, 2009 Special Primary Election and certify the New Party and Independent candidates for the April 7, 2009 Special General Election; and May 8 at 10:30 a.m. to proclaim the results of the April 7, 2009 Special General Election, and proclaim the results of the Fox Waterway Management Trustees election. The Executive Director thanked Mark Mossman and his staff for coming in on Monday's holiday which was the last day of filing for the Special Primary Election in the 5th Congressional District.

Director White presented for informational purposes a memo from Rupert Borgsmiller indicating that all campaign disclosure paper reports and/or correspondence are now being scanned and are available on-line in the same timely fashion as electronic reports.

Director White presented the FY 09 fiscal status report for the period ending December 31, 2008, the FY 09 fiscal report for the Help Illinois Vote Fund, the first fiscal report for the EAC Data Collection grant, and the two year plan of activity for the months of January and February for informational purposes.

The General Counsel presented agenda items 3.a.1-4, appeals of campaign disclosure fines that the hearing officer recommends be granted. Mr. Sandvoss indicated he concurred with the hearing officers recommendation in all the matters except #3 where he recommends the appeal be denied. No one was present in these matters. Member Smart moved to accept the recommendation of the hearing officer and General Counsel to grant the appeals in the matters of *SBE v. Barbara Flynn Currie for State Representative*, 08AP089; *SBE v. Farmers Employee & Agent PAC*, 08JS157; and *SBE v. Committee to Elect Dan Duffy*, 08AP066, and to deny the appeal in *SBE v. 30th Ward Regular Democratic Organization*, 08AP058. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented agenda items 3.1.5-7, appeals of campaign disclosure fines that the hearing office recommends be denied. Mr. Sandvoss concurred with items 5 and 6 to deny and concurred with item 7 but a party is present on this matter in the Chicago office. Member Keith moved to accept the supplement to item #5 into the record and adopt the recommendation of the hearing officer and General Counsel in the matters of *SBE v. Grayson Gile for the People of Johnson County*, 08MA012; and *SBE v. Citizens to Elect Melanie Rose Nuby*, 08JS232. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Friends of Judge Clay Clark*, 08JS238, an appeal of a campaign disclosure fine that the hearing officer recommends be denied. Arvin Boddie was present via video conference in the Chicago SBE office. Mr. Sandvoss discussed the complaint concurring with the hearing officer's recommendation that the appeal be denied. Mr. Boddie indicated that the Treasurer had some personal problems and failed to file the required report or inform Judge Clay Clark. He asked the Board to reduce the fine to an amount of \$1,800 or 50% of the original fine. Member McGuffage moved to accept the settlement offer of \$1,800 on this case and payment be due within 30 days. Vice Chairman Schneider seconded the motion which failed by a vote of 4-4 with

Members Brady, Keith Smart and Walters voting in the negative. Member Walters then changed his vote to “aye” resulting in the motion passing by a vote of 5-3. Rupert then reminded the committee a report was due today by midnight.

The General Counsel presented agenda items 3.a.8-10, appeals of campaign disclosure fines that the hearing officer recommends be granted in part and denied in part. No one was present in these matters. Mr. Sandvoss indicated he concurred with the hearing officer in items #8 and 9 but disagreed with #10 in regard to the December 2007 semi annual as he believes the penalty assessed should have been denied as well. Member Keith questioned #8 as to the A-1 and why it was denied as it seems to be an electronic issue. Mr. Sandvoss didn't know if clarification was sought by the hearing officer. It could be remanded back to the hearing officer for further information as to specifics as to why the upload was unsuccessful. Since no one was present on that matter today it was not remanded back to the hearing officer. A letter was received in #10 that explained Mr. Perkin's wife was in a car accident and was unable to be here today. Member Keith then moved to adopt the recommendation of the hearing officer and General Counsel in the matters of *SBE v. Party to Elect Egan*, 08AP031, and *SBE v. Friends of Ken Dunkin*, 08AP040 and to continue the matter of *SBE v. Friends of Kevin Perkins*, 08MA013 to the February meeting. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a request for a payment plan for Travis Loyd. The committee has submitted a \$100 good faith payment and asked to make a \$100 installment each month until paid. Member Keith suggested a payment plan within one year as it is administratively easier for staff. Chairman Porter also requested the committee be notified and given the opportunity to respond if they cannot meet this requirement. Member Keith moved to accept the payments of \$100 a month but the entire amount be paid within one year from the date of the Board order. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for informational purposes a listing of campaign disclosure downlink seminars and a listing of committees who have paid civil penalties.

The General Counsel indicated that in response to Public Act 95-0889 rules were to be promulgated for ranked balloting. The draft rules are include in the Board packet. Mr. Sandvoss

indicated the draft rules were submitted to Dan Johnson Weinberger as he was the person pushing this for years. Discussion ensued as to when this bill was signed and Mr. Sandvoss indicated this rulemaking would not apply for the 2009 elections. It was agreed the General Counsel would review any comments he has received and present to the Board at the February meeting.

Member Keith moved to recess to executive session for the purpose of discussing campaign disclosure matters following closed preliminary hearings and pending litigation. Vice Chairman Schneider seconded the motion which passed by roll call vote of 8-0. Meeting recessed at 12:30 p.m. and reconvened at 12:38 p.m.

Member Keith moved in the matter of *SBE v. Friends of Murray Gilford*, 08CD080 to find the complaint filed on justifiable grounds but no further action be taken except for the assessment of an appropriate civil penalty. Vice Chairman Schneider seconded the motion which passed unanimously.

The next meeting of the State Board of Elections is scheduled for Monday, January 26, 2009 at 5:00 p.m. by videoconference. The next regular meeting of the State Board of Elections will be held on Tuesday, February 17 at 10:30 a.m. in Chicago.

With there being no further discussion, Vice Chairman Schneider moved to adjourn until January 26, 2009 or the call of the chair. Member Keith seconded the motion which passed unanimously. The meeting adjourned at 1:42 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director