

# STATE BOARD OF ELECTIONS BOARD MEETING

Monday, October 15, 2007

## MINUTES

PRESENT: Albert S. Porter, Chairman  
Bryan A. Schneider, Vice Chairman  
John R. Keith, Member  
William M. McGuffage, Member  
Wanda L. Rednour, Member  
Jesse R. Smart, Member  
Robert J. Walters, Member (present by telephonic call)

ABSENT: Patrick A. Brady, Member

ALSO PRESENT: Daniel W. White, Executive Director  
Steve Sandvoss, General Counsel  
Darlene Gervase, Administrative Specialist II

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Chairman Porter called the meeting to order at 10:32 a.m. and led everyone in the pledge of allegiance. Vice Chairman Schneider held Mr. Brady's proxy.

The minutes of the September 14, 2007 regular meeting were presented. Mr. Keith indicated that the vote regarding *SBE v. Friends for Judy Yeager*, should read 7-0-1 to reflect his recusal from that vote. Member Smart moved to adopt the minutes with that change and Vice Chairman Schneider seconded the motion which passed unanimously.

The first item on the Executive Director's agenda was preparations for the General Primary Election. Director White presented a list of staff assignments for the first day of candidate petition filing on October 29, 2007 and indicated that last minute changes and information would be sent to them directly from Elections Director Mark Mossman. He continued that this is the earliest primary in Illinois history since it has been moved up 6 weeks and will take place on February 5, 2008. The first filing will take place in our Springfield office in 2 weeks and we are in the final days of preparations and moving along well. Since this is a presidential election, we expect a large number of filings and the Democratic delegate and alternate delegates will be filing that day also. Four years ago we had over 300 candidates filing on the first day and we now have the Green Party, another established political party in addition to the Democratic and Republican established parties. The Green Party indicated that their delegates and alternate delegates will be selected by convention, but they may have candidates as a statewide party for all other offices as well. For the first time, we have contacted and coordinated with the Illinois State Police concerning security issues. Mr. White invited the Board Members to come down and observe the filing as it is a highlight of our election activities.

Mr. White presented a list of 72 Election Judges training schools for informational purposes and indicated there will be more as we go through the election cycle.

The Director reported on an item carried over from the September meeting regarding a contingency plan for Election Day due to inclement weather. The results of a survey of other states resulted with 11 states having emergency procedures and 4 with no emergency procedures. Of those 15 states 5 have statutory provisions; 2 provide guidance by administrative rules; and 4 provide advisory direction by written guidelines or procedural manuals. Some procedures offered extensive detail, while others had less than two paragraphs authorizing the governor, secretary of state, or chief election officer to close impacted polling places. Mr. White contacted McHenry County Clerk, Kathy Schultz, who initially posed the question and Ms. Schultz confirmed that the clerks would appreciate any form of advisory guidance from the Board. Since it is unlikely that legislation could be drafted and passed in time to be effective and administrative rulemaking poses similar time related obstacles as well, Mr. White recommended that staff be directed to draft an advisory memorandum providing general emergency guidelines for the February 5, 2008 and subsequent elections. Since Election officials are the election official by law of their jurisdiction, they would be free to follow the guidelines or consult with their own state's attorneys, law enforcement agencies, or emergency operations agencies. Mr. McGuffage stated that the governor would have to declare a disaster area and as part of his declaration that the election in that area be postponed. He indicated that he wants input from the County Clerks and Governors office. Member Smart declared that this is a good reason to promote early voting since early voting provides the flexibility to choose when you want to vote. This matter was continued to a later date awaiting input from the County Clerks and the Governor's office.

During the legislative update, Director White stated that the legislature was in session last week and there were overrides to some of the Governor's vetoes. The only portion of our budget that was affected involved the removal of \$350,000 for an outside expert to help with the census data. That \$350,000 is back in our budget and will be addressed further in his report; however, the consultant would have to be agreed upon by the 4 legislative leaders. Cris Cray, Legislative Liaison, indicated that that they have only until October 25<sup>th</sup> to do overrides and asked for the board to contact the Senate President about their concerns. She explained that an override is preferable over a supplemental. Ms. Cray was asked to do a stand alone supplemental to satisfy the Election Assistance Commission's audit regarding the \$3,400 HAVA money that has to be returned to the Federal Government. Discussion ensued among the Board. It was agreed that staff and the Board Members will try to relay the urgency of our request to Senate President Jones and his staff.

An update of the Help America Vote Act (HAVA) funds was presented by the Executive Director. He was pleased to report that a check was received from Champaign County for \$2,436.19 which is payment in full for outstanding HAVA interest. Also, a second check, in the amount of \$21,693.75, was received from Rock Island County in full repayment for outstanding HAVA interest. He said that dialogue continues with the Secretary of State and we hope to satisfy the last interest repayment which is a little over \$40,000.

Mr. White took this opportunity to update the Board on the 2010 U.S. Census Bureau (USCB) Redistricting Data program. This voluntary program began over 2 years ago and the four legislative leaders and the Governor's office agreed to the Board's participation designating him as the main contact person and nonpartisan liaison to the USCB. Phase 1 consisted of updating legislative plans, codes and names to the USCB and the USCB verified the information and provided data for post-2000 legislative districts. Illinois now moves to Phase 2 of the program providing the opportunity to submit our voting districts to the USCB for development of data products by voting district for use in future phases. Outside expertise will be necessary during the fall of 2008 to realign data from their master database and partnership software. This provides all legislative leaders with the same basic data. The \$350,000 funding that was returned to our budget will fund this expertise. Remaining phases involve data delivery in 2011, collection of revised state redistricting plans, and a post program evaluation.

Executive Director White concluded his report with an informational report of the two year plan of staff activity for the months of October and November. He reminded the Board of a proposal that had been approved by the Board regarding a refund retrieval plan. As a result of that contract we have identified \$279,651.98 of FY-04 agency funds that were paid through GRF funds that may be eligible for reimbursement through HAVA funds. Proposals for FY-05 and FY-06 are pending with the EAC.

The Chairman acknowledged Susan Lombard and Alderman Lona Lane for *SBE v. Citizens to Elect Lona Lane*, L13713, 07AC031. General Counsel Steve Sandvoss summarized the activities of the committee and agreed with the hearing officer that the appeal be denied for lack of an adequate defense, but to reduce the penalty to 10% of the total amount which is \$628.00. Member Smart moved to adopt the recommendations of the hearing officer and general counsel. Mr. Keith seconded the motion which passed unanimously.

Chairman Porter called Mr. William Davis in the matter of *SBE v. William Davis for State Representative*, S8040, 07MA015. The general counsel offered his rendition of the case, and said that the hearing officer granted part of the appeal, but denied part of the appeal. Mr. Davis accepted responsibility for the late reports, but in his defense said that he had contracted with a certified public accountant (CPA) to prepare the filings and the CPA did not fulfill that contract and went out of business. After discussion the Board considered the two fines separately and Representative Davis made a settlement offer of \$2,500, 50% of the D-2 fine. Member Smart moved and Vice Chairman Schneider seconded the motion to accept the settlement offer for the D-2 filing. The motion passed by 6-2 vote with Members Keith and Walters voting no. Member McGuffage said that his motion is to take into consideration the fact that an accounting firm went out of business and didn't fulfill its fiduciary duty to Representative Davis, and therefore, the reports were filed late; and in that case, because of these exigent circumstances, moved to reduce the A-1 violation fine of \$7,000 to 50% which would be \$3,500. Member Rednour seconded the motion. The motion failed by 4-4 vote with Members Brady, Smart, Walters and Vice Chairman Schneider voting no. Member McGuffage moved to hold this matter over or to refer this matter back to a hearing officer and require that the hearing officer consider an affidavit that Representative Davis will obtain from his former accountant, make a new recommendation to the Board based on that affidavit and the record, or the Board's discussion today may be taken into consideration. Member Rednour seconded the motion. The motion failed by a vote of 4-3-1 with Members Smart, Walters and Vice Chairman Schneider voting no and Member Brady's present vote. Vice Chairman changed Mr. Brady's present vote to no and the motion failed by a vote of 4-4. Member McGuffage suggested going back and voting again and the motion failed by 4-4 vote with Members Brady, Smart, Walters and Vice Chairman Schneider voting against the motion. After further discussion, Member McGuffage moved to accept 50% of the A-1 fine in the amount of \$3,500. Member Rednour seconded the motion which passed 5-3 with Members Brady Walters and Vice Chairman Schneider voting no. Chairman Porter acknowledged that the \$3,500 and \$2,500 fines had to be paid within 30 days from the date of the Board Order.

After a brief recess the Chairman recognized Mr. Will McNeil, treasurer of the African-American Republican Council of Illinois. Mr. McNeill asked and was granted a continuance of *SBE v. AARC of Illinois*, S9909, 06DS178, until December 6, 2008.

Chairman Porter called *SBE v. Friends for Todd Stroger*, S9283, 06AG072 and asked the general counsel the status of this matter. Mr. Sandvoss indicated that an appeal hearing was conducted and that he agreed with the recommendation of the hearing officer to deny the appeal, but reduce the assessed penalty to 10% of the original amount of the assessment which would be \$25,581.65. Further, that two motions were filed in this matter. The first was a motion to intervene, which was denied by the hearing officer, and a motion to reconsider denial of the motion to intervene. In the meantime, a complaint was filed on behalf of Mr. Peraica against the Todd Stroger committee which is set for closed preliminary hearing later in the week. However, a motion to consolidate their

complaint with the case before the Board was submitted as well. The General Counsel concurred with the hearing officer to deny the motion to intervene. After discussion Member McGuffage moved to deny the petition for reconsideration of denial of the motion to intervene on the grounds stated in our rules and that Mr. Peraica can proceed with his independent complaint without jeopardy. Member Rednour seconded the motion which failed by 4-3-1 with Members Smart, Walters and Vice Chairman Schneider voting no and Member Brady's present vote. The Chairman explained that Mr. Peraica could not intervene as the motion to reconsider intervention failed. Vice Chairman Schneider explained that for purpose of completeness of the record, he moved to grant intervention to Mr. Peraica represented by Mr. Means. Member Smart seconded the motion which failed by 3-4-1 with Members Keith, McGuffage, Rednour and Chairman Porter voting against the motion and Member Brady's present. General Counsel Sandvoss affirmed that under 125.130, in the absence of a motion to change that decision, the hearing officer's decision stands. Chairman Porter ruled from the chair that the Board cannot get involved in a case that has not passed the preliminary hearing stage. Vice Chairman Schneider moved to grant the motion to consolidate the cases. Member Smart seconded the motion which failed by 3-4-1 with Members Keith, McGuffage, Rednour and Chairman Porter voting no and Member Brady's present vote. The Chairman called the appeal of *SBE v. Friends for Todd Stroger, S9283, 06AG072*. Mr. Burton S. Odelson and Felicia Frazier were present for the committee. Mr. Odelson presented his case with the assistance of charts. Mr. Odelson explained the constraints put upon the committee by the Cook County Ethics Ordinance and its far reaching effects. After discussion, the general counsel was asked for his recommendation. Mr. Sandvoss agreed with the recommendation of the hearing officer to deny the appeal, but reduce it to 10% of the original assessment. Member Walters moved to adopt the recommendation of the hearing officer and general counsel. Vice Chairman Schneider seconded the motion which failed by a 4-3-1 count. Members McGuffage, Rednour and Chairman Porter voted no and Member Brady voted present. Mr. Sandvoss indicated that it takes a five vote majority vote to impose a civil penalty, so denial or failure of the motion to pass does not mean that the fine is assessed, or that the appeal is granted. It is really of no consequence until the board by five votes chooses to do something. The Chairman called for a recess at 2:21 p.m. and the Board returned at 2:36 p.m. After further discussion, Member McGuffage moved to assess the Committee for actual violations of failure to report A-1 contributions from transfers in and from in-kind contributions, the contributions that came in from political committees is transfers and the in-kinds that came from the unions be included in the stipulated-to violations, and that the fine adds up to a total amount of \$141,816 and reduce the amount of the fine to 10% or \$14,200. I move that we assess this committee \$14,200 in penalties for a finding of violation of the Campaign Financial Disclosure Act. Member Rednour seconded the motion. Member Keith moved that the exhibit be included in the record of the case, the exhibit with the delineated ones that are being found for violations. Chairman Porter indicated it will be marked at Exhibit 1, October 15, 2007. The motion failed by a 4-3-1 count. Members Smart, Walters and Vice Chairman Schneider voted no and Member Brady voted present. Since there was no solution to the matter, the Chairman continued this matter to the next Board meeting.

The Chairman called Ms. Margo Alpert from the Illinois Campaign for Political Reform. She indicated that they will submit written comments at a later date and that they would like to work with the Board on general procedures.

The General Counsel continued with rule to show cause hearings in *SBE v. Citizens to Elect Dennis Allen, L13849, 07CD059* and *SBE v. Committee to Elect John A. Lartz, S9158, 07CD038*. He summarized the activities of the committees and indicated that the Board issued orders to file the reports within 30 days or face a civil penalty not to exceed \$5,000 and neither of the committees have filed those reports. Vice Chairman Schneider moved to order a rule to show cause why a penalty should not be imposed. Chairman Porter moved to continue these two items until the next meeting in Chicago.

Mr. Sandvoss continued with items 3 through 8, new appeals of campaign disclosure fines. He agreed with the hearing officer's recommendation to grant the appeals. He added that as to Item 8, the committee has to file an

amended report also. Vice Chairman Schneider moved to accept the recommendation of the hearing officer and general counsel with regards to Agenda Items 3, 4, 5, 6, 7, and 8. Member Rednour seconded the motion which passed 8-0 with the exception of items 3 and 6 which passed by 7-0-1, which, pursuant to Mr. Brady's direction, Vice Chairman Schneider voted present in connection with items 3 and 6 and voted yes with respect to the remaining items. Appeals were granted in 3) *SBE v. Citizens for Dorothy Tillman*, L825, 07AE017; 4) *SBE v. Friends of Vi Daley*, L9229, 07AE003; 5) *SBE v. Thompson for Sheriff*, L10686, 07JS007; 6) *SBE v. First CD Victory PAC*, L13868, 07AE008; 7) *SBE v. Friends of Mattie Hunter*, S8427, 06AG095; and in 8) *SBE v. Pellegrino for Illinois*, S9255, 06AG103, the appeal is contingent up the committee filing an amended report.

Mr. Sandvoss agreed with the hearing officers recommendations to deny the appeals of Agenda Items 9, 10, 11, 12, 13, 14, 15, 17, 19 and 20. Vice Chairman Schneider moved to accept the recommendations of the hearing officer and general counsel with respect to Agenda Items 9,10, 13, 14, 15, 17, 19 and 20. Member Walters seconded the motion which passed unanimously. New Appeals were denied in 9) *SBE v. Peoples Party*, L12517, 07AE021; 10) *SBE v. Tom 4 Forest Preserve*, L13687, 07MA014; 11) *SBE v. Citizens to Elect Lona Lane*, L13713, 07AC031; 12) *SBE v. Friends of Denise Brown*, L13905, 07AC033; 13) *SBE v. William Davis for State Representative*, S8040, 07MA015; 14) *SBE v. Citizens to Elect Harold "Noonie" Ward*, S8340, 07CP030; 15) *SBE v. Friends for Levin*, S8797, 07JS053; 17) *SBE v. Committee to Elect Carol DiCola*, S9248, 06AG102; 19) *SBE v. Crete Township Democrats*, S9301, 07JS063; and 20) *SBE v. Friends of Joseph Bertrand Jr.*, S9378, 07AE014.

The General Counsel continued with his recommendation following public hearing. He agreed with the recommendation of the hearing officer that no further action be taken as to 21) *SBE v. 25<sup>th</sup> Ward Democratic Political Alliance*, 07CD042 other than that the campaign disclosure staff will assess the civil penalties that are appropriate based on the late filing of the report. In the matter of 23) *SBE v. Friends of Don Patterson*, 07CD067 he agreed with the hearing officer's recommendation and asked the Board to specifically order the respondent committee to electronically file its February 2007 pre-election report. In the last item 22) *SBE v. Citizens for Gaughan*, 07CD055 Mr. Sandvoss agreed with the hearing officer that no further action is necessary other than assessing the appropriate civil penalty based on the number of days late the report was filed. Vice Chairman Schneider moved to accept the recommendation of the hearing officer and general counsel concerning Agenda Items 21, 22 and 23 and Member Rednour seconded the motion. The motion passed unanimously.

Mr. Sandvoss presented a letter from Harry Van Sickle, commissioner of the Bureau of Commissioners, Election and Legislation for the Commonwealth of Pennsylvania requesting to look at the source code that was used to develop the IDIS 2.0 software. Mr. Keith suggested that staff looks at this request in more detail and report next month. The matter was continued until the November meeting.

Other matters continued until November are: consideration of mandatory training of political officers and the revised script for satellite downlink seminar.

General Counsel Sandvoss presented a list of committees that have been assessed a civil penalty, who did not appeal the assessment of those penalties and asked for a final order assessing the civil penalty against the committees. Member Smart so moved and Member Keith seconded the motion which passed unanimously. Member McGuffage recused himself from S9018 and Member Walters recused himself from the first one, Caterpillar Foundation.

Payment of civil penalties assessments in the total amount of \$17,153.30 was submitted for informational purposes.

The last item was a required review of the minutes of Executive Sessions. In five of those meetings certain items were discussed regarding the Cook County Republican Party and the Campaign for Political Reform cases. Both are under appeal and the record has been sealed by the Appellate Court. Any discussion regarding these cases contained in the minutes should remain confidential. Also, three other items that were part of the closed preliminary hearing process should be kept confidential to protect the rights of the respondents in those cases. Further discussion regarding the audio tape will continue at the November meeting.

Member Rednour moved to retire to executive session and Member McGuffage seconded the motion. The motion passed by ayes in unison and none opposed. The Board recessed at 3:33 p.m.

The Board returned to open session at 3:48 p.m. Mr. Keith moved to ratify the salary adjustment for the division directors as voted on in Executive Session. Member Smart seconded the motion which passed by ayes in unison and none opposed.

The Chairman recognized Member Smart during other business. Member Smart suggested that voters identification cards should be issued with your picture on it, since you have to show a driver's license when you go to register.

Executive Director White asked if the Board would consider moving the November 19<sup>th</sup> meeting from Springfield to Chicago, since that is the first day the Board will be scheduled to meet as the State Officers Electoral Board and the November meeting was scheduled to be held outside the Board's Springfield office. He continued that in the past, the first day of objections is an organizational meeting and that most of the attorneys and hearing officers are in the Chicago area. Member Smart moved to hold the November 19<sup>th</sup> meeting in Chicago if it is possible to work out the proper arrangements and the December meeting in Chicago also. Member Rednour seconded the motion which passed 7-1 with Member Walters voting no.

Member McGuffage asked if it was feasible to put our voter registration data file on the Internet and sell passwords to people with a confidentiality agreement that they won't use it for commercial purposes. Mr. White said he would check with the IT department and get back to the board.

Chairman Porter adjourned the meeting at 3:55 p.m.

Dated: October 22, 2007

Respectfully Submitted,

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Daniel W. White, Executive Director

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Darlene Gervase