

State Board of Elections Board Meeting
Monday, October 17, 2005
10:30 a.m.

MINUTES

PRESENT:

Jesse Smart, Chairman
Wanda L. Rednour, Vice Chair
John R. Keith, Member
William McGuffage, Member
David E. Murray, Member
Albert S. Porter, Member
Elaine Roupas, Member
Bryan A. Schneider, Member

ALSO PRESENT:

Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Assistant to the Executive Director

The regular monthly meeting of the State Board of Elections was called to order shortly after 10:30 a.m. with 7 members present. Mr. Schneider arrived at 10:45 a.m.

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

The Chairman presented the minutes of the September 19 regular Board Meeting and the September 23, 2005 telephonic special board meeting. Mr. Murray moved to approve the minutes and Vice Chairman Rednour seconded the motion. Mr. Keith noted a discrepancy in the time the board returned to open session on September 19th and asked that the time be verified and corrected. The motion regarding the September 19 minutes passed unanimously. The motion regarding the September 23rd minutes passed 7-1 with Mr. Keith abstaining from the vote.

The Director presented the proposed language to the Open Meetings Act regarding a quorum (5) of the Board members to be physically present any time a meeting was held. The board's concerns regarding time constraints and significant increases in travel expenses were recognized and no legislation was passed in the spring session. Proposed language exempting the SBE from the physically present quorum provision for meetings related to objections and campaign disclosure complaints was presented. Members McGuffage and Porter suggested changes that will be implemented before the amendment is introduced in the fall veto session.

Mr. White reported that Pat Freeman, Cris Cray and election officials from various jurisdictions were asked to participate in a hearing regarding early voting on October 18, 2005. A list of issues will be presented to the legislative leaders and election authorities. Mr. White indicated that he will update the Board after the meeting.

An update of HAVA Requirements Funds was presented. Director White indicated that 12 applications for Accessible Voting Equipment funds have been received but that he expected more activity within the next month. Mr. White reported that thirty-six jurisdictions need to be upgraded to communicate with the statewide system as well as those jurisdictions that have no electronic communication capability or other technology issues. Finally, he presented a list of 13 election jurisdictions that were ineligible for HAVA punch card funds because they replaced their voting systems prior to the November 2000 General Election and an estimate of the amount they expended to upgrade their systems.

Mr. White and General Counsel Sandvoss reviewed the executive session minutes from January, 2001 through the present pursuant to Section 120/2.06 of the Open Meetings Act (5 ILCS 120, *et seq.*) and reported that with few exceptions the minutes should be made available for public inspection. Mr. Murray moved to release the executive session minutes recommended by staff and added that copies should be supplied to the board members. Mrs. Roupas seconded the motion which passed unanimously.

Mr. White concluded his report by submitting the FY06 Fiscal Status Report, the HAVA FY06 Fiscal Status Report, and the Two year plan of staff activity for October and November for the Board's review and information.

The Chairman called the proposed settlement agreement in 05CD002, *Illinois Campaign for Political Reform & Dr. Kent Redfield v. Justice for All Foundation*. Clarification was required regarding the settlement agreement. Mr. Keith moved to defer the matter to November and submit the hearing officer's recommendation to the parties to either include or not include the report. Mr. Murray seconded the motion which carried unanimously.

Chairman Smart called *SBE v. Friends to Elect Michael J. Costa*, 05CP002. No one appeared for the respondent. General Counsel Sandvoss reviewed the case and advised the board that the committee tendered a \$325 check and would pay \$100 per month for 8 months starting November, 2005. Mr. Borgsmiller added that the committee would pay the installments by the 28th of each month. Mr. Schneider moved and Mrs. Roupas seconded the motion to accept the payment schedule proposed by the respondent. The motion passed 8-0.

General Counsel Sandvoss presented proposed legislation regarding the obligation of the contributor. Discussion ensued among the members and the matter will be considered in November.

Payment of civil penalties was submitted for informational purposes.

Mr. Sandvoss presented a policy regarding receipt of absentee voter information with the suggestion to include voters' addresses for internal purposes to make them easier to track and deter vote fraud. Mr. Murray moved to create a rule regarding receipt of absentee voter information. Mr. Schneider seconded the motion which passed unanimously.

The General Counsel presented a rule regarding appearances before the Board of Non-Illinois Attorneys. An amendment to the rule added that attorneys not licensed and registered to practice in the State of Illinois may appear if admitted to the Illinois Bar as provided in Supreme Court Rule 705. After lengthy discussion Mr. Keith moved to request an opinion from the Attorney General regarding this practice. Mr. Schneider seconded the motion which passed 7-1. Mr. Murray dissented and explained that he did not think the courts intended to include

administrative agencies and further that administrative agencies have the power to make their own rules.

The Chairman called *SBE v. Citizens for Jim Meyer*, 04AG100 and noted that Mr. John Countryman was present for the respondent. Mr. Sandvoss summarized the activities of the committee and agreed with the hearing officer's recommendation. Mr. Countryman had no comment. Mr. Keith moved to adopt the recommendation of the hearing officer and general counsel and order the respondent to file the amended documents within 30 days of the board meeting. Mr. Porter seconded the motion which passed by a roll call vote of 8-0.

At 12:00 Noon the Chairman asked for a motion to recess to executive session to discuss litigation and personnel matters. Vice Chairman Rednour moved and Mr. Porter seconded the motion which passed unanimously.

The Board returned to open session at 1:00 p.m. with all 8 members present.

The Chairman acknowledged Mr. James Lewis, Executive Director of the East St. Louis Board of Elections, who offered comments and had questions regarding HAVA matters. Mr. White will continue conversations with Mr. Lewis regarding his questions.

General Counsel Sandvoss reviewed the appeal in the *SBE v. Citizens for Emil Jones*; 04AG097. Mr. Courtney Nottage appeared on behalf of the respondent. Mr. Sandvoss agreed with the hearing officer to grant the appeal. Mr. Keith moved and Vice Chairman Rednour seconded the motion to grant the appeal and the motion carried 8-0.

The Chairman called *SBE v. Illinois Housing Institute PAC*; 04AG055 and noted that Mr. Andrew M. Raucci appeared for the respondent. Mr. Sandvoss summarized the appeal and disagreed with the recommendation of the hearing officer to grant the appeal. The General Counsel recommended the Board deny the appeal and reduce the fine to 10% as this is a first time offense. Mr. Murray moved and Mrs. Roupas seconded a motion incorporating the General Counsel's recommendation. The motion passed unanimously.

In the next matter before the Board, *ISBE v. Chicago Teachers Union PAC*, 04AG061. Mr. James Nally appeared for the respondent committee. Mr. Sandvoss summarized the complaint and agreed with the hearing officer to deny the appeal and assess a penalty in the amount of \$780. Mr. Nally stated that the committee has taken steps to correct the problems to ensure these problems would not occur in the future. Mr. Keith moved to accept the hearing officer and general counsel's recommendations. Vice Chairman Rednour seconded the motion which carried 7-1. Mr. McGuffage recused himself from this matter.

Ms. Margo Alpert and Mr. Michael Kasper appeared for the complainant in 05CD002, *Illinois Campaign for Political Reform & Dr. Kent Redfield v. Justice for All Foundation*. The chairman advised them that the matter had been called before the noon recess and the settlement agreement would be resubmitted with verification as to accuracy and truthfulness at the November 21st regular board meeting.

In the matter of *SBE v. Citizens to Elect Fred Bucholz*; 04AG113, Mr. Neal Cerne appeared on behalf of the respondent committee. Mr. Sandvoss offered a short summary of the case and agreed with the hearing officer's recommendation to grant the appeal and further to order the committee to file the amended December, 2004 report within 30 days of the date of the order.

Mr. Keith moved and Mr. Murray seconded the motion to adopt the hearing officer and general counsel's recommendations. The motion passed 8-0.

Mr. Sandvoss introduced the appeal in *SBE v. Painters Local 147 PAC*; 05JS079 and agreed with the hearing officer that the appeal should be granted. Mr. Bill Paulson appeared for the respondent committee. Mr. Keith moved and Mr. McGuffage seconded a motion to adopt the recommendations of the general counsel and hearing officer and grant the appeal. The motion passed by roll call vote of 8-0.

Chairman Smart asked for a motion to recess to executive session to discuss 16 closed preliminary hearings and reports. Mr. Murray moved and Mrs. Roupas seconded the motion which passed unanimously. The board recessed to executive session at 1:20 and returned at 5:00 p.m.

The Board adopted the actions taken in the noontime executive session regarding personnel and litigation issues. Mr. Keith moved to approve the salary adjustments that were voted upon in Executive Session as to specific employees who were discussed. Mrs. Roupas seconded the motion. The motion passed 6-1-1. Mr. Murray voted no and Mr. Schneider voted present.

Mr. Keith moved to approve the actions taken on Cases 1 through 16 in Executive Session and to issue final written orders in accordance with same. Mr. Porter seconded the Motion. Mr. Murray asked to include "in accordance with the statute, to order dismissing the complaints where appropriate". Mr. Keith accepted the amendment and the motion passed unanimously.

The Chairman called *SBE v. Citizens for Moreno Committee*, 04GP123 which was carried over from the July meeting. Mr. Mathias Delort represented the respondent committee. Mr. Murray moved to adopt the recommendation of the hearing officer and general counsel and accept a \$300 settlement offer and Mrs. Roupas seconded the motion which passed 7-1 with Mr. Keith dissenting. Mr. Delort thanked the board and offered his best wishes to the departing board members wishing them the best. Chairman Smart thanked Mr. Delort for the opportunity to mention that a library at Mr. Murray's fraternity at the University of Illinois in Champaign was named in his honor.

Mr. Sandvoss reviewed the activities of the following committees and concurred with the recommendation of the hearing officers to grant the appeals. *SBE v. Lake County Federation of Teachers/Local 504 Committee on Political Education*; 04AG109; *SBE v. Citizens to Elect Raymond Tuminello*, 05AE008; *SBE v. Friends of Steve Wilhelmi*, 04AG106; and *SBE v. SEIU Local 73 Bi-Partisan Political Action Committee*, 04AG080. Mr. Keith moved and Vice Chairman Rednour seconded a motion to adopt the recommendations of the hearing officers and general counsel and grant the appeals. In addition, the *Citizens to Elect Raymond Tuminello*, 05AE008 is ordered to file its report within 30 days of receipt of this order.

Mr. Sandvoss presented and reviewed the matter in *SBE v. Larry Leafblad for County Board*, 04AG109. He agreed with the recommendation of the hearing officer to grant the appeal and dismiss the complaint. Mr. Keith moved to adopt the recommendations and Vice Chairman Rednour second the motion which passed unanimously.

The Chairman continued *SBE v. Citizens to Re-elect Bob Miller*, 04GE110 to the December 20th meeting in Chicago.

Mr. Sandvoss agreed with the recommendations to deny the appeals in the following cases: *SBE v. Voters for Vivian*, 05JS004; *SBE v. Committee for Chris Kachiroubas*, 04AG110; E110; *SBE v. Friends for Dorothy Brown*, 04AG112; *SBE v. Cook Library Patrons*, 05AE004; *SBE v. Citizens for Singer*, 05CE052; *SBE v. Citizens for Kurt*, L11781, 04AG005; *SBE v. United Party of Lansing*, 05D108; *SBE v. Chicago Teachers Union PAC*, S564, 04AG061; *SBE v. Citizens to Elect Karen Yarbrough*, 04AG102; *SBE v. Friends of Mike Zalewski*, 04AG103; *SBE v. Citizens to Elect Francis Joseph Dolan*, 05JS106; and *SBE v. Families First Party*, 05CE051. Mr. Porter moved to sustain the recommendations and deny the appeals. Vice Chairman Rednour seconded the motion which passed by unanimous vote.

The Chairman called *SBE v. Citizens for Ocasio*, 04GE117. Mrs. Roupas noted that there was a typographical error in the amount of the fine. Mrs. Roupas moved and Mr. Murray seconded a motion to assess a fine in the amount of \$2,00 and stayed as a first violation. The motion carried 8-0.

Mr. Sandvoss reported on the activity and appeal of *SBE v. 39th Ward Regular Democratic Organization*, 04GE115. Mr. Keith moved and Mrs. Roupas seconded a motion to reduce the fine from \$2,400 to \$500 and reject the recommendation of the hearing officer. The motion passed by roll call vote of 8-0.

Chairman Smart asked Mr. Sandvoss to review and report on the matter of *SBE v. IVCA PAC*, 04AG107. General Counsel Sandvoss agreed with the hearing officer's recommendation to stay the penalty and deny the appeal. Mrs. Roupas moved to adopt the hearing officer and general counsel's recommendations and to deny the appeal and stay the penalty. Mr. Murray seconded the motion which passed unanimously.

In the matters of *SBE v. Citizens for Elaine Nekritz*, 04AG104 and *SBE v. Citizens for Gary Grasso*, 05MA011 the hearing officer recommended that the appeals be granted in part and denied in part. In *Nekritz*, to reduce payment of the fine to \$576; and in *Grasso* the total assessed penalty of \$500 is stayed as a first violation and the committee is ordered to file all future reports electronically. Mr. Keith moved to amend the recommendation of the hearing officer on *Nekritz* to represent payment of part of the fine; and on *Grasso* to adopt the recommendation of the hearing officer modifying it rather than reminding Mr. Grasso his obligation to file with the Board electronically and that he do so within 30 days. Mr. Sandvoss concurred. Mr. Murray seconded the motion which passed by roll call vote of 8-0.

Chairman Smart recognized Mr. Wilson who represents the Illinois Ballot Integrity Project. He made several statements about the Sequoia Voting System. Discussion was had among the Board members. Mr. Wilson was advised to contact Dianne Felts, or Rick Fulle with his questions and comments.

The Chairman called on Mr. Dave Donahue. Mr. Donahue advised the Board that the State's Attorney declined to file a complaint regarding the Citizens for Moreno and asked if the Board was going to continue with the complaint that Mr. Donahue filed in 2002. The Board asked Mr. Sandvoss to reacquaint himself with the file and apprise the Board of his findings at the December 20th meeting.

Mrs. Roupas was asked to report on the plans for the December Holiday party. She has secured the Parthenon Restaurant and will continue to work with staff to advise every one of the final arrangements.

Mrs. Roupas stated that this would be the last meeting she would attend as confirmation for her replacement was expected shortly. She stated that she felt like she has been saying good bye for a long time, but wanted to again thank her fellow board members and the staff for their support, good work ethic and their friendship for the past 8 years. Mr. Murray seconded her comments and added that he has been proud to work with such a professional staff for the last 20 years. The Chairman thanked them for their positive contribution to the Board and stated that they will be missed.

Chairman Smart noted that the date of the November meeting has not been changed and remains scheduled at 10:30 a.m. November 21, 2005 in Springfield, IL.

There being no further business before the Board Mr. Smart asked for a motion to adjourn. Mr. Murray moved and Mrs. Roupas seconded the motion to adjourn. The meeting adjourned at 6:10 p.m.

DATED: November 15, 2005

Respectfully submitted,

Daniel W. White, Executive Director

Darlene Gervase, Assistant to the Executive Director