

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, February 20, 2013

MINUTES

PRESENT:

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

ALSO PRESENT:

Rupert Borgsmiller, Executive Director
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened shortly after 10:30 a.m. via videoconference with all Members present in Chicago.

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

Vice Chairman Smart moved to recess the State Board of Elections and reconvene as the State Officers Electoral Board. Member Scholz seconded the motion which passed unanimously. The meeting recessed at 10:39 a.m. and reconvened at 10:50 a.m.

Vice Chairman Smart moved to approve the minutes of the January 22 and 30 meetings as presented. Member Scholz seconded the motion which passed unanimously.

The Chairman briefly discussed the 2013 Consent Decree and asked if legislation was being sought to deal with the dates of special primary elections if needed. The Executive Director and General Counsel both confirmed that this was the case.

The General Counsel presented Agenda item 2.a.1, a motion for reconsideration from *SBE v. Friends of Derrick Smith, 22275*, 12AM026 and recommended the motion be denied. He explained that there is no authority to issue a subpoena under these circumstances, and the Board does not have jurisdiction to issue a subpoena against someone that is not a party to the complaint. Victor Henderson was present on behalf of the respondent committee and said that the former treasurer Diamond Moreno has knowledge of the late filing but refuses to appear and that the fine is extremely high for a late filing. He explained that the committee had approximately \$500 and asked for some reduction in the fine. Member Gowen moved to deny the motion to mandate the appearance of Diamond Moreno. Member Scholz seconded the motion which passed by roll call vote of 8-0. Member Scholz moved to deny the motion for reconsideration. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.2, a request for settlement offer from *SBS v. Friends of Michael Smith, 23064*, 11MA076 and recommended the offer of \$775.00 (50% of the original assessment) be granted. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed unanimously.

The General Counsel presented Agenda item 2.a.3, *SBE v. Project M PAC*, 23716, 12JQ121, which was an appeal carried over from the January meeting and 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. 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 he concurred with the hearing officer recommendation to grant the appeals for Agenda items 2.a.4-14:

- 4) *SBE v. Richland County Democratic Central Committee*, 94, 12SQ003;
- 5) *SBE v. Macoupin County Republican Central Committee*, 1207, 12AS006;
- 6) *SBE v. Committee to Re-Elect Patrick J. Herrmann Bureau County State's Attorney*, 15146, 11MQ290;
- 7) *SBE v. Friends of Tony Mayville*, 17602, 12SQ061;
- 8) *SBE v. Vernon Township Republican Central Committee*, 19724, 12SQ079;
- 9) *SBE v. Cook County Republican Party*, 20282, 12AS025;
- 10) *SBE v. Friends of John Thodos*, 21549, 12SQ105;
- 11) *SBE v. Citizens for Carole Cheney*, 22683, 12MA089;
- 12) *SBE v. Friends of Greg Mitchell*, 22816, 12SQ131;
- 13) *SBE v. Citizens for Lori S. Yokoyama*, 23123, 12JQ188;
- 14) *SBE v. Friends of Sandy Sauget*, 23964, 13AD008.

Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.30 & 37, *SBE v. Citizens for Carl R. Wasco for State Rep.*, 23766, 13AD007 and *SBE v. Citizens to Elect Richard Schmack*, 24452, 12AS050 and indicated that he did not concur with the hearing officer recommendation to deny the appeals and recommended they be granted, based on the "electronic filing" defense. Vice Chairman Smart moved to accept the recommendation of the General Counsel and grant the appeals. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that Agenda item 2.a.33, *SBE v. Citizens to Elect William S. Boyd*, 23872, 12MQ298 was pulled and will be placed on a future meeting Agenda. He also noted that Agenda item 2.a.41, *SBE v. Citizens for Dan Patlak*, 13999, 12AJ023 was placed in the wrong category and should be moved to the denied section of the Agenda.

The General Counsel presented the following appeals where he concurred with the hearing officer recommendation to deny the appeals for Agenda items 2.a.15-23, 25-29, 31-32, 34-36 & 38:

- 15) *SBE v. Rock Island County Democratic Central Committee*, 343, 12MA097;
- 16) *SBE v. Wheatland Township Republican Org.*, 704, 12AS004;
- 17) *SBE v. Henderson County Democratic Central Committee*, 1214, 12AS007;
- 18) *SBE v. Family Taxpayers Network*, 4942, 12SQ021;
- 19) *SBE v. Citizens for Joe Moore*, 6380, 12AM092;
- 20) *SBE v. Committee to Elect Daniel P. Conness*, 9153, 12SQ033;
- 21) *SBE v. Citizens to Elect Jon Stewart*, 12572, 12JQ029;
- 22) *SBE v. Citizens for Sweeney*, 20608, 12SQ094;
- 23) *SBE v. Citizens to Elect James C. Schlader*, 20680, 12SQ095;
- 25) *SBE v. Friends of August H. Griffin for Edgar County Clerk*, 22674, 12SQ127;
- 26) *SBE v. Friends of Chad Kalecki*, 22763, 12SQ129;

- 27) *SBE v. Friends of Frank Soto*, 23463, 12JQ115;
- 28) *SBE v. WSTU PAC*, 23609, 12SQ147;
- 29) *SBE v. Committee to Elect Kevin W. Horan*, 23658, 12AM106;
- 31) *SBE v. Friends for Marty Moylan for State Representative*, 23798, 12AM112;
- 32) *SBE v. Friends for Randy Frese*, 23823, 12AS037;
- 34) *SBE v. Citizens for Charlie Meier*, 24136, 12AS039;
- 35) *SBE v. Citizens for Plank*, 24254, 12AJ056;
- 36) *SBE v. Citizens to Elect Nicole Gooden*, 24322, 12SQ176;
- 38) *SBE v. Committee to Elect Cheryl L. Jones*, 24606, 12SQ203.

He also noted that as to Agenda item 2.a.21, if the committee dissolves any residual funds must be applied toward the civil penalty. No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer in the above named appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.24, *SBE v. Lake County Life PAC*, 22333, 12JQ089 and concurred with the hearing officer recommendation to deny the appeal for lack of adequate defense. Robert Kadera, former Treasurer of the respondent committee was present and asked that the \$825 fine be reduced because he intended to pay the fine out of his own pocket. It was noted that the new treasurer of the committee will receive the notice of the penalty and it is the committee's responsibility to pay the penalty (as opposed to the Committee officers personally). Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.41, *SBE v. Citizens for Dan Patlak*, 13999, 12AJ023 and concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. No one was present on behalf of the respondent committee. The Chairman suggested the penalty be reduced or waived because the SBE erred in this situation. The General Counsel agreed with the Chairman and noted that it was unfair that the committee had to return a contribution that was not supposed to be returned. Chairman McGuffage moved to grant the appeal. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.44, *SBE v. Friends of Farkas*, 24372, 12MA120 and indicated he did not concur with the decision of the hearing officer. He felt this was a computer related defense and recommended the appeal be granted. Glenn Farkas was present on behalf of the respondent committee and agreed with the General Counsel. The following appeals were also presented where the General Counsel concurred with the hearing officer recommendation to grant in part and deny in part for Agenda items 2.a.39, 40, 42 & 43: *SBE v. Grundy County Democratic Central Committee*, 174, 13AD001; *SBE v. Citizens for Patrick O'Connor*, 4353, 12AJ017; *SBE v. Palatine Township Republican Organization*, 22664, 12MA088; and *SBE v. Friends of Natalie Manley*, 23984, 12MA114. Vice Chairman Smart moved to accept the recommendation of the General Counsel in the above noted appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a complaint following public hearing for Agenda item 2.a.45, *SBE v. Friends of Brian Sleet*, 12CD089 and concurred with the hearing officer recommendation to dismiss the complaint and no further action be taken other than referral to staff for assessment of civil penalties for the late filing of the reports. 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. Member Coffrin seconded the motion which passed unanimously.

The General Counsel presented Agenda item 2.a.46, failure to comply with a Board order in the matter of *SBE v. First Ward Organization*, 12CD032 recommended the committee be assessed the full penalty and referral of the matter to the Attorney General's office for enforcement pursuant to Section 9-23. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel.

A listing of civil penalty assessments necessitating a final board order was presented. Chairman McGuffage moved to issue final board orders for those committees listed on pages 231-236 of the Board packet. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

A listing of payment of civil penalties was presented for informational purposes.

Member Schneider moved to recess to executive session to consider complaints following closed hearing. Member Scholz seconded the motion which passed by roll call vote of 8-0. The meeting recessed at 11:40 a.m. and reconvened at 12:30 p.m. Upon reconvening a second roll call was taken with the same attendance noted in the initial roll call.

As to Agenda item 2.a.48, *Zurek v. Friends of Barrett F. Pedersen*, 12CD137, Member Schneider moved: with respect to Count 1, that the complaint was filed on justifiable grounds and no further action taken in light of the corrective action taken by the Respondent; with respect to Counts 2 and 3, that the complaint was not filed on justifiable grounds, however the committee was advised to file an amendment as to the identity of the donor as specified in the hearing officer's report. Member Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.49, *Zurek v. Friends of Barrett F. Pedersen*, 13CD001, Member Schneider moved that the complaint was filed in part on justifiable grounds and in part not on justifiable grounds and that no further action is required at this time based on remedial action already taken. Member Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.51, *Carballido v. January, Jr.*, 13CD004, Member Schneider moved that the complaint be dismissed for want of proof. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

After a short break, the Executive Director gave a brief update on Jane Gasperin and said her surgery went well and is recovering nicely. He began his report with an update on the 2013 election cycle and said that the staff assignments were included in the Board packet. He noted that the phone system has now been configured to evenly distribute all incoming calls on election day to staff in both the Springfield and Chicago offices. Approximately 25 jurisdictions are holding elections on February 26 and no major problems are expected.

Next was an update on the 2013 Consent Decree and the Executive Director said that two reports regarding UOCAVA ballots have been submitted in timely fashion and the SBE was in compliance. The next report is due on March 11th.

The Executive Director indicated the need for a Special Meeting on March 7 to certify the ballot for the April 9 Special Election in the 2nd Congressional District and dispose of objections as well. The General Counsel informed the Board that he has heard through the media that one of the candidates for the February 26 Special Election in the 2nd Congressional District has withdrawn but an official written withdrawal has not been received by staff. If it is received it was noted that amendment of the certification would not be feasible with the election only one week away. Also, it would be a good idea that notice of any withdrawn candidates be posted in the polling places to inform the voters. The General Counsel referred to two court cases dealing with this issue in the

past and the Board had suppressed votes for those candidates who either withdrew their candidacy or were kicked of the ballot. Discussion ensued regarding the different scenarios election authorities could deal with regarding any votes cast for a withdrawn candidate. Member Scholz moved to adopt a recommendation directing the election authorities to accept the withdrawal if submitted, post notices of the withdrawn candidate and to not suppress votes cast. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0.

The Executive Director discussed pre-testing of voting equipment and said the Counties of Clark, Douglas, Jefferson, Perry, Union and Williamson have been selected for the Consolidated Election.

A listing of election judge training schools was presented for informational purposes.

The Executive Director began the legislative update and said that a total of 104 election bills have been introduced and anticipated this number to grow by the end of the week which is the deadline for introduction in the House. Cris Cray indicated that the House Executive Committee voted 11-0 to remove the last weekend of early voting for permanent locations because it falls on Easter weekend. Extra hours will be added during the week to make up for the loss of weekend hours. Ms. Cray noted that she is keeping an eye on other bills regarding college campus voter registration and online voter registration.

The Executive Director gave an update on the counting of General Assembly Retirement System Annuitant Trustee election ballots and said the process lasted about an hour. A total of 154 ballots were counted and Phil Collins was declared the winner. The SBE will be assisting SERS again in May of 2014 when they will hold their election for Trustees.

The Campaign Finance Reform Task Force held meetings in January 28 and February 11 to discuss the draft report of independent expenditures that was due on February 1. Because the report was issued to the Members shortly before the January meeting, the Task Force opted to issue a final vote at its February 11 meeting. The Task Force has another report due on March 1 dealing with enforcement, auditing and an overall review of the impact of the legislative changes regarding the Campaign Finance Act. A public hearing will be held in Springfield on February 25 or 26 regarding these issues.

Kyle Thomas gave an IVRS update and said that duplicated matches dropped from 6,600 to just over 5,000 in the state because the election authorities are cleaning up their voter registration rolls for the upcoming election. There was not much change in the census data versus registered voters in certain jurisdictions. Staff was still assisting East St. Louis to clean up their rolls and offering recommendations for conducting their next purge.

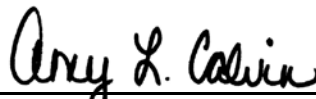
The fiscal reports of activity were presented and the Executive Director reported that expenditures are on target and the fiscal office was in the process of disbursing election judge reimbursements from the November General Election. The appropriation is approximately \$700,000 short and the Agency did not receive a supplemental appropriation that would have fully funded the judge reimbursement, IVRS and County Clerk Stipends. Staff will continue to monitor expenditures to ensure they fall within the budgeted limits.

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

The Executive Director reminded everyone of the special meeting scheduled for 3:00 p.m. on Thursday, March 7 in Chicago and Springfield via videoconference to certify the ballot for the April 9 Special Election in the 2nd Congressional District and dispose of objections to certain candidates. The next regular meeting is scheduled for Monday, March 18 in Springfield.

With there being no further business before the Board, Vice Chairman Smart moved to adjourn until 3:00 p.m. on March 7, 2013. Member Gowen seconded the motion which passed unanimously. The meeting adjourned at 1:40 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director