

STATE BOARD OF ELECTIONS
Regular Board Meeting
Wednesday, February 22, 2012

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
Charles W. Scholz, Member

ABSENT: Bryan A. Schneider, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Jim Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The meeting convened at 9:00 a.m. with seven Members present in Chicago. Member Schneider was absent and Vice Chairman Smart held his proxy. The Springfield office was connected via videoconference.

The Chairman opened the meeting by leading everyone in the Pledge of Allegiance to the flag.

The minutes from the January 24 and February 2 meeting were presented. Vice Chairman Smart moved to approve the minutes as presented. Member Scholz seconded the motion which passed unanimously.

The Chairman informed everyone that he would begin with the report of the Executive Director then move to the report of the General Counsel to allow time for those individuals to arrive for campaign disclosure matters.

The General Counsel reported that the Circuit Court of Cook County issued an order in *Cunningham v. SBE*, 2012COEL11, reversing the decision of the State Officers Electoral Board and ordering the candidate to be certified to the ballot by the State Board of Elections. He then advised the Board that a motion was in order to amend the certification reinstating Mr. Cunningham. Member Scholz moved to reinstate Jack A. Cunningham to the ballot as a Republican candidate for the office of U.S. Congress, 11th Congressional District. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel stated that a candidate withdrawal was received from Steven Dove, who was a republican candidate in the 50th Senate District. The Board did not take any action on the withdrawal.

The Executive Director began his report indicating that preparations were well underway for the March 19 General Primary Election. The Election Day staff assignments were included in the Board packet and he noted that two requests for field presence were also received.

Next on the E.D.'s report was a listing of voting system pre-tests which included the jurisdictions that Dianne Felts chose to test prior to the Primary Election. They were Clinton,

Marshall, Piatt and Washington Counties and Mr. Borgsmiller said staff was in the new Springfield office facility preparing for the tests.

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

The Executive Director said that twenty-seven submissions for the Internet Voters Guide were received and one was received after the deadline and would not be included pursuant to the applicable Rules and Regulations.

All 110 election authorities completed the Department of Justice's 55 day survey report and the 30 day survey reports were still coming in. Mr. Borgsmiller noted that the military ballots have been sent out according to the 45 day transmittal requirement and commended the election authorities for doing a fantastic job complying with those provisions.

Mr. Borgsmiller reported on the situation at the East St. Louis Board of Election Commissioners and noted that Illinois Office Supply extended a line of credit to the Board so that they could prepare and purchase the absentee ballots. He also explained that HAVA funds cannot be used to supplement normal on-going election processes as these processes were a requirement prior to HAVA.

Next was an update on the U.S. Government Accountability Office (GOA) report on conducting the General Election on a weekend. Issues that were raised included hiring of additional election judges, ballot security and securing voting locations for two days. Mr. Borgsmiller said the entire report was available if anyone was interested in reviewing it.

Mr. Borgsmiller reported on statewide initiatives that would amend Article IV of the Illinois Constitution and explained that new legislation required the State Board of Elections to develop a random signature verification process for this type of statewide petition. The SBE contracted with Richard Schuldt, Director of the Center for State Policy and Leadership at the University of Illinois-Springfield to help determine the size of the sample. Mr. Borgsmiller asked the Board to listen to the discussions today and that the matter would be placed on next month's Agenda for consideration. Eric Donnewald, Director of Election Training/Resource Development and Mr. Schuldt summarized the law and progress report included in the Board Packet. The proposal is a 5% random sampling of the total signature lines, which is a high confidence level and low error rate. After the discussion, it was suggested that staff research the State of Wisconsin's process for conducting their recounts and report back at the next meeting.

Mr. Borgsmiller discussed the electronic canvass project and said staff attended a demonstration at the office of Catalyst Consulting to visually see how the program will work. Four jurisdictions – City of Chicago, City of Peoria and Cook and Logan Counties – have volunteered to participate in the pilot program for the March Primary Election. If all goes as planned, all jurisdictions will report their canvass from the November General Election through the eCanvass program.

The IVRS update was presented for informational purposes and Kyle Thomas noted that duplicate matches were at a record low due to the jurisdictions' clean up of their voter registration rolls. A few jurisdictions were still over the 100% mark for census data versus registered voters but those jurisdictions will conduct a purge after the Primary Election which should bring those figures down. A couple jurisdictions indicated that a lack of funding has prevented them from conducting purges at this time. Staff will continue to work with those jurisdictions to come to a resolution.

Mr. Thomas said the third meeting of the Joint Committee to discuss the development of a Statewide Election Management System was held on January 24 and was well attended. The Members asked to see a technical diagram of the system which will be presented at their next meeting on February 24 in Bloomington.

Cris Cray gave a legislative update and said all of the bills have been introduced. The House will hold all election bills, which includes the omnibus election bill, until the end of session. Bills to eliminate one hour of voting and one hour of election judge pay are moving through the Senate Executive Committee. Ms. Cray also thanked Ken Menzel for his work on HB 4991 and said because of his pre-work it sailed out of committee without debate. As to the Department of Justice reports, Ms. Cray said that all jurisdictions submitted their reports yesterday and she would send them on to the DOJ today. She also praised the election authorities for their cooperation and hard work in getting the reports completed on time.

Mr. Borgsmiller reported on the Springfield office relocation and said the move went very well and thanked everyone for their cooperation with the movers which allowed everyone to get established in the new location. E-mail was down from 11:00 a.m. on Friday and operational again by 8:00 p.m. Sunday evening and the Agency website was functional during the entire move. Mike Roate noted that only minor issues remained and were being worked out and he also thanked everyone for their hard work. A complete listing of moving expenses will be presented at the next Board meeting.

The fiscal reports and two year plan of activity were presented for informational purposes.

Member Scholz moved to recess to executive session for litigation matters. Member Byers seconded the motion which passed by roll call vote of 8-0. The meeting recessed at 10:25 a.m. and reconvened at 11:25 a.m. with seven Members present as noted in the initial roll call.

The General Counsel presented a motion for reconsideration in the matter of *SBE v. Friends of Stocks-Smith, 23142* and said the respondent committee submitted the required affidavits as ordered by the SBE. He recommended granting the motion for reconsideration, vacate the final Board order and remand to the hearing officer for appeal. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a settlement offer from *Citizens for Spitz, 18183* and recommended to reject the offer of \$225 to settle the original assessment of \$5,525. Past settlement offers which were accepted by the Board were at least half of the original assessed penalty, and in this matter, should be at least \$2,762.50 to be consistent with past practice. Furthermore, since no one was present for the committee he also recommended to include a suggestion in the Board order that if they were to dissolve and remain so for two years that the penalty would be abated. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a settlement offer from *613PAC, 10AG076* and recommended to accept the offer of \$2,600 of which \$1,300 has already been tendered. The remaining \$1,300 will be paid within thirty days of the final Board order. Vice Chairman Smart moved to accept the recommendation of the General Counsel. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel then presented appeals of campaign disclosure fines where the hearing officer recommended the appeals be denied. Agenda item 2.a.8, *SBE v. PCI Political Account*, 12467, 11AS017 was moved to the April Board meeting by request of the attorney on behalf of the respondent committee.

The General Counsel presented Agenda item 2.a.4, *SBE v. Chicago Assn. of Realtors PAC*, 213, 11AJ015 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense and the penalty assessed as stated in the report. Brian Bernardoni and Carol Wilson were present for the respondent committee and Ms. Wilson offered a settlement of \$1,812.50 which was half of the original assessments. Chairman McGuffage moved to accept the recommendation of the General Counsel and hearing officer but reduce the fine to 50%. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.5, *SBE v. Ford County Democratic Central Committee*, 318, 11SQ004 and summarized the matter. He concurred with the recommendation of the hearing officer to deny the appeal for lack of an adequate defense but stay the penalty as it was a first violation. No one was present for the respondent committee. Member Scholz moved to accept the recommendation of the General Counsel and hearing officer. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals for Agenda items 2.a.6, 9, 10, 11, 13 & 14: 6) *SBE v. Massac County Democratic Central Committee*, 348, 11SQ005; 9) *SBE v. Illinois Roofing Contractors PAC*, 14286, 11SQ041; 10) *SBE v. Kane County Republican Advisory Council*, 18202, 11AS026; 11) *SBE v. Friends of BBCHS in Support of Building Referenda*, 19859, 11SQ149; 13) *SBE v. Committee to Elect Kevin W. Horan*, 23658, 11AJ014; and 14) *SBE v. Kane County Democratic Central Committee*, 711, 11MA091. The General Counsel concurred with the hearing officer recommendation to deny the appeals for items 2.a.6, 9, 10, 11 & 13 and grant in part and deny in part for item 2.a.14. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for those Agenda items. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.7, *SBE v. Illinois Hospital Assn. PAC (IHA PAC)*, 675, 11AJ022 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal, however, the General Counsel further recommended the penalty be reduced to 10% of the original assessment, or \$1,347. Attorney David Hoffman was present for the respondent committee and also agreed with the recommendation of the General Counsel. Member Scholz moved to accept the recommendation of the General Counsel and hearing officer and reduce the penalty to \$1,347. Member Rice seconded the motion which passed by roll call vote of 7-1 with Member Byers voting in the negative.

The General Counsel presented Agenda item 2.a.12, *SBE v. Local 705 Teamsters Political Action Committee B*, 21038, 11AJ062 and summarized the matter. He concurred with the hearing officer recommendation to deny the appeal, reduce the penalty to 10%, or \$720 but stay it as a first violation. Micheal Blanski and Ron Damerjan were present on behalf of the respondent committee. Member Byers 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.15, *SBE v. Save5Acres for Barrington Hills Trustees*, 23119, 11MA036 which was a failure to comply with a Board order. The committee failed to amend its June 2011 Quarterly Report within thirty days of the Board order and to date the report has not been amended. The General Counsel recommended the committee be assessed a civil

penalty not to exceed \$5,000 for failure to comply with the October 20, 2011 Board order. Attorney John Fogarty was present on behalf of the respondent committee and said it was the A-1 that should have been amended and not the Quarterly Report. The committee is now closed and Mr. Fogarty asked that no fine be assessed under these circumstances. The General Counsel then recommended that the committee submit a letter explaining the situation and Mr. Fogarty agreed to do so.

An update on random audits of political committees, itemization of all receipts & expenditures and payment of civil penalties which was included in the Board packet were presented for informational purposes.

Vice Chairman Smart moved to recess to executive session to consider complaints following closed hearings. Chairman McGuffage seconded the motion which passed unanimously. The meeting recessed at 12:05 p.m. and reconvened at 1:25 p.m. with seven Members present as noted in the initial roll call.

Chairman McGuffage moved to adopt the motions to accept the recommendation of the General Counsel and hearing officer that were made in executive session for Agenda items 2.a.21-24, 26-29, 31 & 32: 21) *Zurek v. Citizens to Elect Terry Gallagher*, 11CD175; 22) *Radke v. Fiscal Voices for Orland*, 11CD211; 23) *Zurek v. Democratic Party of Leyden Township*, 11CD212; 24) *Zurek v. Citizens to Elect Terry Gallagher, also known as John T. Gallagher*, 11CD213; 26) *McCoy v. Brian Gabor for State Representative*, 12CD005; 27) *McCoy v. Brian Gabor for State Representative*, 12CD006; 28) *McCoy v. Friends of Tom Bennett*, 12CD007; 29) *McCoy v. Friends of Tom Bennett*, 12CD008; 31) *Wilbat v. Scott Waguespack*, 12CD003; and 32) *Allen v. Zegel*, 12CD010. Also to adopt the motion to not accept the recommendation of the hearing officer and find the complaint was filed on justifiable grounds and that the matter proceed to public hearing for Agenda item 2.a.22, *Radke v. Fiscal Voices for Orland*, 11CD211. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The next item on the Agenda was comments from the general public and the Chairman noted that Sharon Meroni, Executive Director of Defend the Vote was present and wanted to address the Board with some of her organization's concerns. She expressed her thoughts regarding ballot access, apparent conformity, voter registration, early voting, ballot security and voting systems.

With there being no further business before the Board, Member Byers moved to adjourn until March 12, 2012 at 2:00 p.m. or call of the Chairman, whichever occurs first. Member Rice seconded the motion which passed unanimously. The meeting adjourned at 2:13 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director