

STATE BOARD OF ELECTIONS
Regular Board Meeting
Friday, April 20, 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
Bryan A. Schneider, Member
Charles W. Scholz, 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 10:30 a.m. with all Members present in Chicago. The meeting was also connected via videoconference with the Springfield office.

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

Member Rice moved to approve the minutes from the February 22, March 12 & 19 meetings as presented. Vice Chairman Smart seconded the motion which passed unanimously.

The Executive Director presented the proclamation of results from the March 20, 2012 General Primary Election and said there were 7,304,333 total registered voters and 1,694,317 ballots cast. There were several close races and there was one write-in winner in the 55th Representative District. The Executive Director indicated that the Official Canvass book was not being printed in hard copy but will be available in a printable format on the SBE website and also on a CD format as well. Vice Chairman Smart moved to certify the official results as presented. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage noted that Lance Gough, Executive Director of the Chicago Board of Election Commissioners was present and asked him to give an update on late precinct reporting in his jurisdiction. Twenty precincts were not reported by 2:00 a.m. and he explained that they were mostly election judge errors and bad cartridges. Notice was sent to the affected candidates that the ballots in those precincts were going to be counted the next day at one location so the candidates could be present. Dianne Felts added that the Chicago Board only had twenty late reporting precincts this election which was a decrease from the forty that were late in the last General Election and noted that less than 1% is a very good rate.

The Chairman returned to the report of the General Counsel and presented motions for reconsideration. The General Counsel presented Agenda item 3.a.1, *SBE v. PCI Political Account, 12467*, 11AS017 and summarized the motion. The General Counsel recommended the motion be granted and that the matter be remanded to the hearing officer. Attorney Mike Kasper was present on behalf of the respondent committee and concurred with the General Counsel. Vice Chairman

Smart moved to accept the recommendation of the General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.3, *SBE v. Friends of Miriam Shabo*, 21320, 11MA114 and summarized the motion. The General Counsel recommended the motion be denied because the respondent did not introduce any additional evidence beyond what was contained in the original appeal affidavit. Miriam Shabo was present on behalf of the respondent committee and explained her issues with IDIS on her computer and asked that the fine be waived. The General Counsel said his recommendation remains the same and noted that even if the Board denies the motion the penalty is stayed as a first violation. Chairman McGuffage moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.5, *SBE v. Northwestern Illinois Building & Construction Trades Council*, 23781, 11MA130 and summarized the motion. The General Counsel recommended the motion be granted and that the matter be remanded to the hearing officer. Attorney John Nelson was present on behalf of the respondent committee and said he concurred with the recommendation because there is evidence to be presented to show it was not the intent of the committee to violate the campaign disclosure laws. Chairman McGuffage moved to accept the recommendation of the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 3.a.2 & 4, *SBE v. Friends of Ed Schmidt*, 16350, 11MA101 and *SBE v. Citizen to Elect Cassandra Goodrum-Burton*, 23739, 11MA129. No one was present on behalf of the respondent committees and the General Counsel recommended the motions be denied for lack of adequate grounds. Vice Chairman Smart moved to accept the recommendation of the General Counsel for both matters. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented appeals of campaign disclosure fines where he concurred with the hearing officer recommendation to grant the appeals for Agenda items 3.a.6-14: 6) *SBE v. PE Cross Election Comm.*, 5286, 11SQ019; 7) *SBE v. Coalition of IL Counseling Organizations PAC*, 11428, 11SQ032; 8) *SBE v. Citizens for Carrie M. Austin-Alderman 34th Ward*, 11884, 11AJ093; 9) *SBE v. Coalition for a Better Dolton*, 13550, 11SQ106; 10) *SBE v. Friends of Leslie A. Hairston*, 14216, 11AJ095; 11) *SBE v. Lincoln Republican Club of Bureau County*, 16376, 11JQ270; 12) *SBE v. Kane County Republican Advisory Council*, 18202, 12AD040; 13) *SBE v. Citizens for Bambouyani*, 23243, 11MA125; and 14) *SBE v. Citizens for Jill Bush*, 23274, 11SQ184. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the appeals noted above. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that Agenda items 3.a.23 and 30, *SBE v. Thomas for Illinois*, 14066, 11MA098 and *SBE v. Jane Adams for Carbondale Committee*, 23430, 11SQ211 will be placed on the May Agenda for consideration.

The General Counsel presented Agenda item 3.a.18, *SBE v. Bridge Struc. & Reinforc. Iron Work LU#1 IPAL Fund*, 1035, 12DQ018 and summarized the appeal. He concurred with the recommendation of the hearing officer to deny the appeal for lack of an adequate defense. James Gardiner was present on behalf of the committee and said he tried to upload all of the reports at the same time and was unaware that only one went through until he received a letter in the mail. Discussion ensued regarding IDIS download issues and Sharon Steward indicated that a web based

program is in development which will eliminate the current downloading problems with the software. Member Schneider moved to grant the appeal due to electronic filing issues. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.19, *SBE v. Illinois Interior Design Coalition*, 4250, 11AS011 and summarized the appeal. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Frederick Miller was present on behalf of the respondent committee and said that the late filings were inadvertent, all reports were up to date and asked for a reduction of the fine. Member Byers moved to accept the recommendation of the General Counsel and hearing officer and reduce the fine to \$1,325 to be paid within thirty days. Member Scholz seconded the motion which passed by roll call vote of 8-0

The General Counsel presented Agenda item 3.a.21, *SBE v. Friends for Robert B. Donaldson PAC*, 7919, 11AS014 and summarized the appeal. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Robert Donaldson was present on behalf of the respondent committee and said the violation was an honest mistake and offered to pay the \$400 penalty today. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer. Member Byers seconded the motion which passed by roll call vote of 7-0-1 with Chairman McGuffage voting present.

The General Counsel presented Agenda item 3.a.22, *SBE v. Citizens for Duane R. Bradley*, 8368, 11MA094 and summarized the appeal. He concurred with the hearing officer recommendation to deny the appeal of the assessment for the late filing of the March quarterly report. However, he did not concur with the hearing officer recommendation to deny the appeal of the assessment for the late filing of the September quarterly report. No one was present on behalf of the committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel and grant the appeal. Member Rice seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.24, *SBE v. Mark J. Gernigin Campaign*, 18746, 11MQ039 and summarized the appeal. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Mark Gernigin was present on behalf of the respondent committee and said he faxed the report as required and was unaware that it was not received as the machine that was used did not provide a receipt. He asked for abatement or a reduction of the penalty because the committee does not have adequate funding to pay the fines. The General Counsel indicated if the Board is willing to accept Mr. Gernigin's testimony he would recommend to grant the appeal. Vice Chairman Smart moved to grant the appeal in this matter. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.25, *SBE v. Illinois Citizens for Ethics*, 19170, 11MA106 and summarized the appeal. He concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. John Kurey was present on behalf of the respondent committee and said he was unaware of the changes in the law and asked for a reduction of the penalty. After discussion about the violations in question, Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer and reduce the penalty assessment to \$1,450 to be paid within thirty days. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.26, *SBE v. Citizens for Scott*, 20382, 11MQ005 and he concurred with the recommendation of the hearing officer to deny the appeal. The General Counsel further recommended applying the effective date of the October 19, 2011 final order assessing the penalty for the delinquent filing of the June 2011 quarterly report as beginning

the two year dissolution period for purposes of abatement of the corresponding penalty, As to the beginning of the two year dissolution period for the second penalty assessment of the delinquently filed March 2011 quarterly report, he recommended using the effective date of the order that will assess the current penalty. Member Byers moved to accept the recommendation of the General Counsel and hearing officer. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.82, *SBE v. Friends of "AJ" Wilhelmi*, 11MA016 which was a failure to comply with a board order and recommended the committee be assessed a civil penalty not to exceed \$5,000. Attorney Mike Kasper was present on behalf of the committee and said the committee is working on the amended reports and asked for a two week stay of a \$1,000 penalty. Vice Chairman Smart moved to accept Mr. Kasper's offer. Member Scholz 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 deny the appeals for Agenda items 3.a.15, 16, 17, 20, 27, 29, 31 & 32: 15) *SBE v. Maine Township Regular Republican Org.*, 73, 11SQ002; 16) *SBE v. IMSCAPAC*, 652, 11AS056; 17) *SBE v. Wheatland Township Republican Org.*, 704, 11AS009; 20) *SBE v. Greene County Democratic Central Committee*, 5276; 27) *SBE v. Citizens for Collins*, 22191, 11SQ139; 29) *SBE v. Friends for Olmetti*, 22869, 11MA119; 31) *SBE v. Friends of Cabonargi*, 23540, 11AJ120; and 32) *SBE v. Committee to Elect Nicholas G. Grapsas*, 23869, 11SQ242. No one was present for the respondent committees. Member Rice moved to accept the recommendation of the General Counsel and hearing officer for the appeals noted above. Member Gowen seconded the motion which passed by roll call vote of 8-0.

Member Rice moved to recess to executive session to discuss pending litigation. Member Gowen seconded the motion which passed unanimously. The meeting recessed at 11:55 a.m. and returned to open session at 12:40 p.m. A second roll call was taken with the same attendance as noted in the initial roll call.

The General Counsel presented Agenda item 3.a.28, *SBE v. Chicago Latino Public Affairs*, 22755, 11AS042 and summarized the matter. He did not concur with the hearing officer recommendation to deny the appeal for lack of an adequate defense and recommended the appeal be granted because the committee re-filed electronically within the thirty day period. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel and grant the appeal. Member Rice 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 recommendation of the hearing officer to grant in part and deny in part for Agenda items 3.a.33-35: 33) *SBE v. Citizens for Munoz*, 9487, 11AJ091; 34) *SBE v. Citizens for Pat Dowell*, 16892, 11MA104; and 35) *SBE v. Citizens for Tim Durkee*, 23280, 11MA126. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the appeals noted above. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals of contribution limit fines where he concurred with the recommendation of the hearing officer to grant the appeals for Agenda items 3.a.36-38: 36) *SBE v. Friends of John Pope*, 14501, 11MQ-CL012; 37) *SBE v. Friends of Sheldon Sherman*, 23108, 11MQ-CL002; and 38) *SBE v. Friends of Rick Lesser*, 23769, 11SQ-CL010. No one was present for the respondent committees. Member Scholz moved to accept the

recommendation of the General Counsel and hearing officer for the appeals noted above. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following appeals of contribution limit fines where he concurred with the recommendation of the hearing officer to deny the appeals for Agenda items 3.a.39-40: 39) *SBE v. Friends of Russell W. Hartigan, 22244*, 11SQ-CL008; and 40) *SBE v. Friends of Stocks Smith, 23142*, 11MQ-CL008. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the appeals noted above. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0 for 3.a.39 and 7-0-1 for 3.a.40 with Member Scholz abstaining.

Next were complaints following public hearing where the hearing officer recommended the complaints be dismissed and referred to staff for assessment of civil penalties. The General Counsel noted that Agenda item 3.a.43 was removed and item 3.a.75 should be included in this grouping. He concurred with the hearing officer recommendation for Agenda items 3.a.41, 42 & 75: 41) *SBE v. Morton Quality in Education Committee, 11CD029*; 42) *SBE v. Friends of Mary Schneider, 11CD071*; and 75) *SBE v. Tea Party of Illinois, 11CD182*. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel and hearing officer for the complaints noted above. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented the following complaints following public hearing where he concurred with the hearing officer recommendation to uphold the complaints and issue a Board order requiring the delinquent report(s) be filed within thirty days of the order or face a fine up to \$5,000 per report for Agenda items 3.a.44-58, 60-73 & 76-80:

- 44) *SBE v. Citizens to Elect Eric J. Kellogg, 11CD033*;
- 45) *SBE v. Citizens for Gaughan, 11CD034*;
- 46) *SBE v. 47th Ward Political Fund, 11CD035*;
- 47) *SBE v. 42nd Ward Republican Party, 11CD036*;
- 48) *SBE v. First Ward Organization, 11CD043*;
- 49) *SBE v. Friends for Michelle Chavez, 11CD047*;
- 50) *SBE v. New Lenox Democrats, 11CD049*; (pgs.285-289)
- 51) *SBE v. Citizens United for Change in the 20th Ward, 11CD058*;
- 52) *SBE v. Taxpayers United for Fairness, 11CD061*;
- 53) *SBE v. Friends of Frank Calabrese, 11CD074*;
- 54) *SBE v. Working People's Campaign Committee for Elections of Honest Governors, 11CD084*;
- 55) *SBE v. The Committee to Elect Tracy McLeMore, 11CD085*;
- 56) *SBE v. The Friends to Elect Trenton D. Fedrick, 11CD087*;
- 57) *SBE v. Citizens to Elect Eric Kellogg, 11CD089*;
- 58) *SBE v. Friends of Eric Patterson, 11CD102*;
- 60) *SBE v. Illinois Black Business PAC, 11CD104*;
- 61) *SBE v. Tea Party of Illinois, 11CD106*;
- 62) *SBE v. People for Beachem, 11CD112*;
- 63) *SBE v. Citizens to Elect Bridget Healy Ryan, 11CD120*;
- 64) *SBE v. Pulaski County Republican Boosters Club, 11CD126*;
- 65) *SBE v. First Ward Organization, 11CD132*;
- 66) *SBE v. Friends for Michelle Chavez, 11CD136*;
- 67) *SBE v. Taxpayers United for Fairness, 11CD150*;
- 68) *SBE v. Citizens to Elect Glenn Tienstra, 11CD151*;

- 69) *SBE v. Friends of Frank Calabrese*, 11CD160;
- 70) *SBE v. Wakefield for Waukegan*, 11CD161;
- 71) *SBE v. Working People's Campaign Committee for Elections of Honest Governors*, 11CD168;
- 72) *SBE v. The Friends to Elect Trenton D. Fedrick*, 11CD170;
- 73) *SBE v. Friends of Ed Mullen*, 11CD172;
- 76) *SBE v. St. Clair County Constitution Party*, 11CD184;
- 77) *SBE v. All Citizens for Matthew Johnson*, 11CD185;
- 78) *SBE v. Citizens to Elect Chauncey Stroud*, 11CD190;
- 79) *SBE v. Friends of Michael Stinson*, 11CD205; and
- 80) *SBE v. Education First Party*, 11CD208.

The General Counsel noted that items 59 and 74 were removed because the SBE voided the committees. As to item 3.a.51, he recommended the order apply only to the June and December 2010 semi-annual reports. As to item 3.a.70, he recommended the committee be ordered to file all required reports except for the December 2009 semi-annual report. No one was present for the respondent committees. Vice Chairman Smart moved to accept the recommendation of the hearing officer and the General Counsel with his modifications for the complaints noted above. Member Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.81, *SBE v. Friends of John Sullivan*, 10AG073 which was failure to comply with a Board order. Since the committee filed the amended report he recommended no further action be taken. No one was present for the committee. Member Byers moved to accept the recommendation of the General Counsel. Chairman McGuffage seconded the motion which passed by roll call vote of 7-0-1 with Member Scholz abstaining.

The Executive Director discussed the random audits of political committees and indicated that John Levin prepared a memo that was sent to the Board prior to the meeting. Mr. Levin said he has received responses from at least one person from each selected committee and the deadline to submit the audits is April 24. Failure to comply will result in delinquency and assessment notices sent to the committees who missed the deadline and the cases will proceed in the same manner as complaints initiated in response to delinquent campaign disclosure reports.

The General Counsel presented civil penalty assessments requiring a final Board order for the committee listed on page 444 of the Board packet. Member Schneider moved to issue a final Board order for that committee. Member Byers 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 direct the General Counsel to act and, if necessary, direct outside counsel in conformance with the decision made in executive session. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Member Schneider and the Board congratulated Executive Director Borgsmiller on recently being named outstanding alumnus for 2012 from the Political Science Department of Eastern Illinois University.

The Executive Director gave a post-election update and referred to Jane Gasperin's memo on page 446 of the packet. Other than the oversized ballot issues, no other major problems occurred. Many jurisdictions received ballots that were too wide to fit through the tabulators so

those jurisdictions trimmed the wide ballots, remade the ballots or provided new ballots from Ballot-On Demand printers. Dianne Felts referred to her chart on pages 453-456 of the packet and said that Winnebago County opted to remake over 8,500 ballots and those ballots were guarded by a sheriff's deputy through the overnight hours. Ken Menzel showed samples of the wide ballots and said the printer that supplies ballots to GBS and Liberty Systems, who both use AccuVote system, had a portion of their production that came out too wide. Mr. Menzel also noted that there might be another issue with the humidity affecting the ballot size as well and said he hoped to have another report of all of the factors involved by the next meeting.

The Executive Director reported on the issues in Alexander County and said he was contacted by the Attorney General's office to try and come up with solutions to help Alexander County conduct their voter registration purge. He noted that Alexander County has not complied because they lack the financial resources needed to conduct the purge. After several meetings, Kyle Thomas came up with a plan on pages 458-460 of the packet containing recommendations on how staff can assist Alexander County. Initially, it was suggested to contact the County 911 Board and request use of the MSAG file, however their Board cannot grant permission due to confidentiality laws. SBE staff will mail ID cards to all valid registration addresses and mail re-registration notices to those with only P.O. Box information. SBE staff will also conduct the second mailing and the Alexander County Clerk will update address information where necessary and inactivate those individuals who did not respond to the forwardable ID cards or the non-deliverable R26 forms. Mr. Borgsmiller noted that current fiscal year IVRS lump sum funds will reimburse the SBE for the mailings and should be completed by end of June. After discussion Vice Chairman Smart moved to approve the amended plan B which excludes the 911 portion of the recommendation. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0.

The Executive Director began the legislative update and reported that he and Mike Roate testified before the House Appropriation Committee and were told that the budget request would be cut by 5%. Mr. Borgsmiller and Mr. Roate responded to several questions regarding the \$2.7 million request for a statewide Election Management System and are now just waiting for them to finish their hearings. Cris Cray indicated she had discussions with legislative staff about the SBE request for a lump sum budget again this year. She said the legislature will be back in session in a week and will continue to May 31st. As outlined in her memo included in the packet, seven bills are listed for the Spring Session and two have advanced out of their original Chamber. Ms. Cray said next week there are scheduled House Committee meetings with three bills and Senate Executive Committee meetings with the election bills.

The Executive Director reported on the Campaign Finance Reform Task Force meeting that was held on April 5th and they discussed contribution limits, suggested data request regarding various contributions and the recent U.S. District Court ruling in *Personal PAC v. McGuffage, et al.* The next meeting is scheduled for June 21st.

Next was an update on the electronic canvass project (eCanvass) and Brent Davis said that the four jurisdictions successfully uploaded their data and all numbers were reported correctly. He noted that the time it took to upload was minimal for the number of candidates for each jurisdiction and only a few minor internal errors occurred and were fixed quickly. Mr. Davis said he expects the program to be in place for all jurisdictions for the November General Election.

Kyle Thomas gave the IVRS update and noted that duplicate registrations were at a record low and staff was working with those jurisdictions whose census data versus number of registered voters is over 100%.

The Executive Director presented the FY13 Board Meeting Schedule and noted that judges take office on December 3 so a special meeting would need to be held no later than December 2 to proclaim at a minimum the judges results and the entire election results if the canvass is ready by then. If it is not necessary to meet on December 7th he recommended holding the regular meeting on December 18th and asked that the schedule be approved today with an asterisk on December 7th indicating that date is subject to change. Member Schneider moved to approve the schedule as presented. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The Executive Director said that hotel rooms were not available for the June 12th meeting and suggested moving the meeting to June 19th. Also, due to the deadline for objections to appointments to fill vacancies in nomination, the State Officers Electoral Board would also be required to meet and could conduct this meeting along with the regular Board meeting on June 19th. Vice Chairman Smart moved to change the June Board meeting to the 19th in Chicago. Chairman McGuffage seconded the motion which passed unanimously.

The Executive Director noted that due to the NATO conference scheduled in Chicago for May 20-21, the state plane will not be operating on the day of the meeting scheduled for the 21st and it is likely that the Thompson Center might not be open for staff to attend the meeting via videoconference in the Chicago office. He proposed moving the Springfield meeting date from May 21st to the 22nd and it was agreed by all.

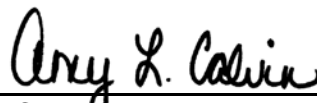
The two year state audit report was presented and Mr. Borgsmiller indicated it was a very good audit with only four material findings that have been corrected. He commended the fiscal department and staff for their hard work and compliance with state policies.

The Executive Director presented the fiscal reports and noted that the agency is on target with projected expenditures three-quarters through the fiscal year. He estimated future spending to be approximately 87% of the operations budget due to employee vacancies during the fiscal year and other lump sum amounts to be very close to 100%.

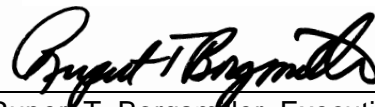
The two year plan of staff activity for the months of April and May was presented for informational purposes.

With there being no further business before the Board, Chairman McGuffage moved to adjourn until Tuesday, May 22, 2012 at 10:30 a.m. in Springfield. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 2:40 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director