

STATE BOARD OF ELECTIONS
Board Meeting
Monday, May 19, 2008
Springfield, Illinois

MINUTES

PRESENT:

Albert Porter, Chairman
Bryan Schneider, Vice Chairman
Patrick Brady, Member
John Keith, Member
William McGuffage, Member
Wanda Rednour, Member
Jesse Smart, Member
Robert Walters, Member

ALSO PRESENT:

Dan White, Executive Director
Steve Sandvoss, General Counsel
Rebecca Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:40 a.m. with eight members present. Member McGuffage was present in the Chicago office and connected via videoconference.

Chairman Porter presented the minutes of the April regular monthly Board meeting. Director White discussed the revisions which were distributed to the members. Member Smart moved to approve the minutes as amended. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The Executive Director announced that Dennis Hopper will be retiring after 16 years of employment at the State Board of Elections. Director White thanked him for his service and wished him many years of enjoyment in retirement. Chairman Porter presented Mr. Hopper with a framed resolution on behalf of the State Board of Elections and thanked him for his hard work over these years.

The Executive Director introduced Arvin Talwar and Scott Hilkert from Catalyst Consulting. Mr. Hilkert presented an update on the statewide voter registration system and reviewed the progress to date. The original completion date of June 30, 2008 has been moved due to procurement and EMS delays so some jurisdictions won't be finished until late summer. The project is coming in under budget and it was noted that once HAVA funds are depleted General Revenue funds will need to be

appropriated. In response to a question it was noted that the local jurisdictions make the decision to remove a duplicate registration, not the State Board of Elections.

The Executive Director reported on the Advisory Committee meeting held this morning. Chairman Porter, Vice Chairman Schneider, and Members Keith and Smart were present. Discussions took place on pending legislation including the photo ID and straight party voting legislation and many concerns were voiced on the straight party legislation. The issue of the short time period for canvassing and seating of the judicial candidates after the November 2008 election was discussed. The clerks indicated they would work with the State Board of Elections to get these results as quickly as possible if necessary.

The Executive Director presented a legislative update indicating the Legislature is in what is supposed to be the last two weeks of session. Cris Cray discussed the legislative items that are still alive including the straight party voting, a requirement of a photo ID for everyone voting, and the Ethics bill. Dianne Felts indicated that if the straight party legislation passes it will be a tight schedule but she will need to test current systems to determine if straight party voting is possible on them. The Compensation Review Board has a bill that also contains raises for the Board members but Ms. Cray was not sure where that would go.

The Executive Director presented for discussion the FY 09 State Board of Elections meeting schedule. Discussion ensued on the canvassing of judicial candidates and the date they are seated. Member Keith questioned if an injunction can be filed against all candidates from taking office until the State Board of Elections certifies the results of the November 2008 election. The General Counsel indicated he would research this matter and report back to the Board in June.

The Executive Director reviewed the action taken at the April Board meeting in regard to the Populex voting equipment used by Sangamon County. Mr. Sandy Morganstein was present in Chicago. Joe Aiello, Sangamon County Clerk, was present in Springfield. Mr. Aiello indicated that they have reached an impasse because it is clear Mr. Morganstein cannot meet his contract obligations. Sangamon County staff has worked hundreds of hours to find an option for the November 2008 election. Dianne Felts indicated that the current Populex system cannot provide for

mail absentee voting as required by law. Mr. Morganstein does not have the resources to submit the system for the required testing for the modification to the system. Member Smart felt that the county should be given a refund. Ms. Felts indicated that her recommendation was to deny final approval of the system. Discussion ensued on options and the possible of the county purchasing another system just for mail absentee ballots. It was indicated that they could but the results would have to be tallied with the results of the Populex equipment by hand. There is nothing certified to merge the software with another system. The county can rent equipment per election and Mr. Aiello indicated they are researching that option as well. Member Smart moved to not give final approval to the Populex system. Member Rednour seconded the motion which passed by roll call vote of 8-0. Further discussion ensued and Board staff will assist Sangamon County as needed.

The Executive Director presented the FY 08 fiscal status report for the period ending April 30, the FY 08 fiscal report for the Help Illinois Vote Fund and the two year plan of activity for the months of May and June for informational purposes.

Meeting recessed at 11:55 a.m. and reconvened at 12:05 p.m.

The General Counsel presented a motion for reconsideration in the matter of *SBE v. Citizens for Bilota*, noting that Counsel for the Committee has requested that this be held to the June meeting. Member Rednour moved to grant the request. Member Smart seconded the motion which passed unanimously.

The General Counsel presented appeals of civil penalties that the hearing officer recommends be granted and concurred with the recommendations. Member Smart moved to grant the appeals in *SBE v. Committee to Elect Gary Craig, Sr.*, 08DS106; *SBE v. Committee to Elect Judge Marilyn Johnson*, 08AG014; and *SBE v. Citizens for Madeline O'Neill*, 08AG022. Member Rednour seconded the motion which passed unanimously.

The General Counsel presented appeals of civil penalties that the hearing officer recommends be denied. Parties were present in agenda item #14 and would be heard separate. A request was received to continue disclosure agenda item #8 to the June meeting. Member Keith moved to continue the matter of *SBE v. Citizens to Elect Brenda L. Thompson*, 07AE050. Member

Brady seconded the motion which passed unanimously. The General Counsel concurred with the recommendations of the hearing officer noting that in the recommendation in item #7 the last sentence did not follow previous Board action. He suggested deleting the last sentence which reads "The Final Order of the Board should note any subsequent violations shall result in the assessment of additional penalties being incorporated with any previous assessments." Member Keith moved to adopt the hearing officer's recommendation and the General Counsel's recommendation including the amendment on #7 in the matters of *SBE v. Citizens for Patty Thiede*, 08DS036; *SBE v. Committee to Keep Robin Harper Whitehead*, 08DS041; *SBE v. Friends of Emmanuel Imoukhuede* 08DS049; *SBE v. Friends of Eddie Joe*, 08D1001; *SBE v. Pope County Republican Women*, 08DS144; *SBE v. Citizens for Phil Pritzker*, 08DS121; *SBE v. IVCA PAC*, 08AG011; *SBE v. Ramon Ocasio for Judge*, 08DS204; and *SBE v. Friends for Alex M. Lyons*, 08MA002. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Crete Township Democrats*, 08DS213 and reviewed the activities of the committee. He concurred with the hearing officer recommendation that the appeal be denied for lack of adequate defense. Norena Kuhn, Treasurer of the Committee, was present in the Chicago office. Ms. Kuhn indicated that she is no longer the Treasurer and the new Treasurer is attending the classes to learn about filing procedures. She asked for a reduction in the fine. Member McGuffage asked the committee to make a settlement officer and Member Smart felt rather than a reduction the committee offer a payment plan. Member McGuffage moved to accept a settlement officer. Member Rednour seconded the motion which lost by a roll call vote of 3-5 with Members Brady, Keith, Smart, Walters and Vice Chairman Schneider voting in the negative.

Member Keith moved to deny the appeal and assess the penalty in accordance with the hearing officer and General Counsel's recommendation and if the motion passes the parties can work out a payment plan. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Friends of Terry Link/Peter Couvall explaining that at the last meeting the Board had asked staff to provide a summary of correspondence that existed between State Board of Elections staff and the Terry Link Committee with regard to the involvement of Peter

Couvall. Mr. Sandvoss indicated based on the information received, it was concluded that the issues raised by staff had been answered and no further reporting was necessary. Mr. Peter Couvall had received an amount of \$2,500 as a salary. Member Brady was concerned if Mr. Couvall had made an in-kind contribution to the committee and if so does he have an obligation to make that report to the Committee for full disclosure. Discussion ensued and the General Counsel noted that the payment to Mr. Couvall was to perform services and if he paid others out of his salary to help him perform the job they would be his subcontractors. Member McGuffage moved to accept the recommendation of the hearing officer and General Counsel and end the matter. After further discussion Member Brady moved to hold this issue to the June meeting to determine if there is a motion appropriate to the situation. Member McGuffage withdrew his motion. Member Keith seconded Member Brady's motion which passed by roll call vote of 7-1 with Member Porter voting in the negative.

The General Counsel presented draft correspondence that staff proposes sending to political committees regarding reporting of professional services. Rupert Borgsmiller reviewed the memo indicating that professional services would include payments to a professional for services rendered or as an in-kind contribution from a professional. Discussion ensued that many committees do not realize these kinds of services must be reported. Member Keith suggested a time frame be provided for reporting such services as well as some kind of indication of when the bill was paid, if the work was pro bono or when the professional got paid. After further discussion Member Brady agreed with Member Schneider that a bland reminder be sent that professional services are subject to contribution requirements and committees should be aware of this fact. It was agreed that Mr. Borgsmiller and Mr. Sandvoss will prepare a model draft and send to the Board members to seek comment; if no comment is received staff can send out to the political committees.

The General Counsel presented a listing of committees who received assessment letters and did not appeal the penalty and asked the Board to issue final orders assessing the penalties. Member Smart moved to enter Board orders on committees listed on Mr. Borgsmiller's memo of May 15, 2008. Member Brady seconded the motion which passed unanimously.

The General Counsel presented for informational purposes a listing of committees who have paid civil penalties.

The General Counsel presented a complaint following public hearing in the matter of *SBE v. Annual Roosevelt Cocktail Party*, 07CD069. Mr. Sandvoss reviewed the background of the complaint indicating the respondent did not appear at the closed hearing nor the public hearing. Staff has not been able to reconcile the report with the committee's bank statements and the ending balance on one report was significantly different than the subsequent report. Mr. Sandvoss recommended the respondent be ordered to submit an additional amended report that accurately reflect the totals as those that appear on, or at least be consistent with, the bank statements and failure to file the amended report within the time period determined by the Board will result in a civil penalty not to exceed \$5,000 for failure to comply with Board order. After discussion on the recent fining of the committee, Member Keith moved to order the committee to file an amended report for the semi-annual due in the summer of 2007 and any necessary subsequent reports and to correct reporting errors by July 1 and that failure to do so may result in a civil penalty. Discussion ensued and it was clarified the report due would be the June 2006 semi-annual report. Member Smart seconded the motion which passed unanimously.

The General Counsel presented two alternative proposed rulemakings addressing the issue of reporting obligations of Act Blue Illinois and similar organizations. Mr. Sandvoss suggested that this issue be brought to the attention of the legislative leaders and addressed through legislation. Steven Gold, Counsel for Act Blue, believed this was an issue which is resulting in inaccurate reporting and indicated he would like to see accurate reporting and agreed a legislative fix would be the best approach. Mr. Gold explained how the Act Blue website works and in response to a question from Member Keith, stated that a small administrative fee is charged by Act Blue Illinois, but is paid to a separate vendor. Tips are accepted by Act Blue Illinois but are not required. Discussion ensued on how to address the fees being charged. Mr. Sandvoss indicated he would prepare a letter detailing this issue that will be sent to the legislative leaders and suggested that the Board do nothing further at this time.

Wayne Strnad, Citizens for Wayne A. Strnad, was present indicating he has run for State Representative three times and each time has filed freedom of information request with the Chicago Board of Election Commissioners. The Chicago Board has denied all but one of his requests. The Board told Mr. Strnad that it could not order the Chicago Board to comply with his requests, but that if he felt there was something our Board could respond to that he would need to send something in writing asking the Board to address such issue.

Member Keith moved to recess to executive session for the purpose of discussing personnel matters and pending litigation. Member Schneider seconded the motion which passed unanimously. Meeting recessed at 1:45 p.m. and reconvened at 3:20 p.m. Upon reconvening, it was noted that during executive session there may have been a short period of time during discussion of personnel matters that the tape recorder may have ceased operating without the Board being aware of it. It was inadvertent and no votes were taken during that time.

Member Keith moved to make an offer of employment with the duties as discussed for the Assistant Executive Director and authorize the General Counsel and Executive Director to convey the offer and draft a contract for a two year period starting July 1, 2008 as discussed in executive session and to advise the Board at the next meeting that the contract has been agreed upon or if any problems exist, and if the contract is accepted that the Executive Director and Assistant Executive Director make such other personnel changes as are appropriate at the other staff levels. Member Keith added that the contract language would be subject to the approval of the chairman and vice chairman. Member Smart seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to offer the General Counsel a two year extension on his contract at the rate approved in executive session and conveyed to him in executive session. Member Smart seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to offer the Executive Director a two year contract commencing July 1, 2008 at the salary adjustment approved in executive session and conveyed to the Executive Director in executive session. Vice Chairman Schneider seconded the motion which passed by roll call vote of 8-0. Member McGuffage voted aye with the notation "my vote in executive session notwithstanding."

Member Keith moved to approve a merit compensation plan for one time to be implemented in accordance with the outline discussed in executive session with the Executive Director to prepare a notification to staff for the Board approval with funds to be paid from FY 08 funds on a payroll submitted in June at the latest possible date. Member Walters seconded the motion which passed by roll call vote of 7-1 with Member Brady voting in the negative.

Vice Chairman Schneider congratulated Member Brady upon the recent birth of his son, William Carter.

The next regular meeting of the State Board of Elections will be held on Monday, June 9, 2008 at 10:30 a.m. in Chicago.

With there being no further discussion, Member Schneider moved to adjourn until June 9 or the call of the chair. Member Smart seconded the motion which passed unanimously. The meeting adjourned at 3:30 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director