

STATE BOARD OF ELECTIONS
Regular Meeting
Monday, May 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 at 10:40 a.m. via videoconference with all Members present. Chairman McGuffage, Vice Chairman Smart and Members Byers, Coffrin, Gowen and Scholz were present in Springfield and Members Rice and Schneider present in Chicago.

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

Vice Chairman Smart moved to approve the minutes from the April 16 meeting as presented. Member Scholz seconded the motion which passed unanimously.

The Chairman presented a resolution to retiring Mason County Clerk, William Blessman and asked him to step forward. Vice Chairman Smart commended Mr. Blessman for his service and dedication to improve relations between the election authorities and the SBE and then proceeded to read the resolution aloud. Mr. Blessman thanked the Board and said he was very humbled and also proud that he could assist with improving the relationship between the Clerks and the Board and also thanked the SBE staff for their competency and professionalism.

Chairman McGuffage indicated that Agenda item 4.d, Dominion Voting was going to be considered next and asked Dianne Felts to proceed. For informational purposes, she noted that WinEDS 4.0 has been withdrawn from the Election Assistance Commission's certification and testing program. Only two jurisdictions, Cook County and the City of Chicago, use the system and have been for the past eight elections without any problems. Ms. Felts said the timeline of events was outlined in her memo on pages 178-179 of the Board packet and that this was for informational purposes. She noted that Illinois has adopted the voluntary federal voting system standards that the system must meet the mandatory requirements of the voting system standards promulgated by the EAC and has met the testing requirements by an approved independent testing authority and the rules of the SBE. Ms. Felts introduced Jim Scanlon from the City of Chicago and Noah Praetz from Cook County and both indicated the voting system has been used without incident and have no concerns with continued use of the equipment. Howard Kramer, Vice President of Dominion Voting was present and gave a brief history of their

acquisition of Sequoia and indicated they have two successful test reports that demonstrate compliance and recommendations to the EAC for certification.

Ms. Felts presented Dominion's SSL certificate updates to GEMS 1.18.24D & Ballot Station 4.6.4D and said this was similar to last month's SSL certificate updates in that they did not have to be tested because it is a communication and security feature. Ms. Felts stated that the expiration date has been updated to 2027 and recommended the approval. Vice Chairman Smart moved to approve the updated SSL certificates for two years. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The Chairman returned to the report of the General Counsel and motions for reconsideration. The General Counsel presented Agenda item 3.a.1, *SBE v. Cass County Republican Central Committee*, 5050, 12SQ022 and recommended the motion be denied because it is the responsibility of the committee to provide timely updates of pertinent information to the SBE. No one was present on behalf of the respondent committee. 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.2, *SBE v. Palatine Republican Township Organization*, 22664, 12MA088 and reviewed the matter. He recommended the motion be denied because it was filed beyond the seven day requirement, however, he noted that the two contributions were only reported one day late and recommended the Board consider that fact favorably in its evaluation of the committee's settlement offer. John Fogarty was present on behalf of the respondent committee and said he understands that the motion was not timely filed and was not counsel at the time the Board originally considered the matter. He noted that a good faith effort was made by the committee to meet all disclosure requirements and offered a settlement of \$1,000. Member Schneider moved to deny the motion for reconsideration and accept the settlement offer of \$1,000 to be paid within thirty days. Member Gowen 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 3.a.3-7, 9-13 & 15:

- 3) *SBE v. Democratic Party of Oak Park*, 598, 12AS059;
- 4) *SBE v. Associated Fire Fighters of IL PAC*, 1107, 12AS062;
- 5) *SBE v. Citizens for Joe Shetina*, 4688, 13DQ014;
- 6) *SBE v. Citizens for Tony Arredia*, 15625, 12AM127;
- 7) *SBE v. Dan Kotowski for State Senate*, 19108, 12AJ087;
- 9) *SBE v. Citizens for Andrew Rand*, 20872, 13DQ083;
- 10) *SBE v. Friends of Sue Rezin*, 22250, 12AS068;
- 11) *SBE v. Citizens for Brendan Kelly*, 22425, 13DQ111;
- 12) *SBE v. Southwestern Illinois CLC PAC*, 22895, 13DQ119;
- 13) *SBE v. Miller for Senate*, 24065, 13DQ149;
- 15) *SBE v. Friends of Rob Hanlon*, 24742, 13DQ212.

No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above listed appeals. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.8, *SBE v. Citizens for Stephanie D. Neely*, 20063, 12JQ185 and recommended the appeal be denied because of the absence of a satisfactory answer as to why the Treasurer waited so long to file the report. Several attempts have been made to get an answer, with no response from the Treasurer. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel to deny the appeal unless the Treasurer responds with a satisfactory explanation within five business days from the date of the Board order. Member Scholz seconded the motion which passed by roll call vote of 7-0 (Member Rice recused herself from the matter).

The General Counsel presented Agenda item 3.a.14, *SBE v. First Orland Party*, 24649, 13AD047 and recommended the appeal be denied because the electronic filing defense was not appropriate in this situation. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel and deny the appeal. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.28, *SBE v. Hanover Park Progress*, 21267, 13DQ086 and concurred with the hearing officer recommendation to deny the appeal. He also noted that the committee offered a settlement of \$100, however, it is normal practice to accept offers of no less than 50% of the penalty. No one was present on behalf of the respondent committee. Vice Chairman Smart moved to accept the recommendation of the General Counsel to deny the appeal and accept an adjusted settlement offer of \$200. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.21, *SBE v. Citizens to Elect Cheri L. Neal*, 12684, 12SQ205 and concurred with the hearing officer recommendation to deny the appeal. He also recommended that the assessed penalty be based on the report being filed three days late resulting in a \$75 fine. No one was present on behalf of the respondent committee. 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.

In response to a question about electronic filing issues, Sharon Steward stated that a new web-based version of IDIS 3.0 will be rolled out in August and users will no longer have to download software on their computers. Beta testers are currently using the new program and are not experiencing any issues.

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.17-20, 22, 24-27, 29-30, 32-34, 36 & 38-40:

- 17) *SBE v. Concerned Citizens for Education*, 5055, 13DQ016;
- 18) *SBE v. Bremen Township Republican Organization*, 5989, 12AM091;
- 19) *SBE v. Citizens for Peschke*, 6270, 13DQ021;
- 20) *SBE v. Friends of Leslie Sgro*, 6927, 13DQ022;
- 22) *SBE v. Citizens for David E. Miller*, 14923, 13DQ044;
- 24) *SBE v. Vernon Township Republican Central Committee*, 19724, 13DQ068;
- 25) *SBE v. Friends of Rodney S. Craig for Village President*, 20202, 13DQ075;
- 26) *SBE v. Committee to Elect John J. Curry*, 21011, 12MA106;
- 27) *SBE v. Brian Gustafson for Coroner*, 21070, 13DQ085;
- 29) *SBE v. Citizens for Kevin Horstman*, 21902, 12JQ080;

- 30) *SBE v. Citizens to Elect Dan Koukol*, 22899, 13DQ120;
- 32) *SBE v. Friends of Lisa Ciampoli*, 23080, 13DQ123;
- 33) *SBE v. Citizens for Lori S. Yokoyama*, 23123, 12AS070;
- 34) *SBE v. Local 943 PAC*, 23621, 12SQ212;
- 36) *SBE v. Collinsville Township Republicans*, 24482, 13DQ176;
- 38) *SBE v. Citizens for Somonauk Schools*, 24768, 13DQ218;
- 39) *SBE v. Pride in River Forest*, 24790, 13DQ222;
- 40) *SBE v. Rick Lehew*, 24794, 13DQ225.

No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel for the above listed appeals. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.16, *SBE v. Illinois Homebuilders Political Education Committee*, 295, 12MA096 and concurred with the hearing officer recommendation to deny the appeal because the committee failed to explain the late filing for the June quarterly report. Bill Ward and Evelyn Yowell were present on behalf of the respondent committee. Mr. Ward explained that Ms. Yowell worked diligently to re-file reports dating back to 2004 and took approximately 250 hours to accomplish the task. When she went to file the June and October reports the computer would not accept them because they were too large so SBE staff performed overrides to fix the issue. He further claimed that the system would not accept the two current reports at issue, in the absence of filing the past amended reports. Mr. Ward said everything is up to date and felt this penalty was unfair in this situation. Discussion ensued regarding the applicability of the electronic filing defense in this matter. Chairman McGuffage moved to grant the appeal. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.23, *SBE v. Citizens for Leon Rockingham*, 17700, 12AS066 and concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Tameka Wilson was present on behalf of the respondent committee and said she was dealing with the death of her mother (who was the previous Treasurer) and hospitalization of her newborn and was not aware of the changes that occurred in the law. Ms. Wilson apologized for the errors and offered a settlement of \$440. Member Scholz moved to accept the recommendation of the General Counsel and the \$440 settlement offer. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.31, *SBE v. Citizens to Elect Bellar*, 23011, 12AJ075 and concurred with the hearing officer recommendation to deny the appeal because the receipt date and the filing date of the report was more than five business days late. Vivian Porter was present on behalf of the respondent committee and asked the Board to accept the hearing officer's recommendation to abate the fine because the committee is closed and inactive. Member Schneider moved to accept the recommendation of the General Counsel and abate the fine if the committee remains inactive for a two year period. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 3.a.35, *SBE v. Committee to Elect Cathy Cawiezel*, 24131, 13DQ154 and concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Cathy Cawiezel was present on behalf of the respondent committee and said that the late filing was an honest mistake and she misunderstood the deadlines. She asked if the Board would consider a five percent settlement

offer and was informed that the usual practice is no less than fifty percent. Ms. Cawiezel then offered a twenty-five percent settlement offer. After discussion, Member Scholz moved to accept a settlement offer of twenty-five percent which would result in a \$750 penalty. Vice Chairman Smart seconded the motion which passed by roll call vote of 6-2 with Members Coffrin and Gowen voting in the negative.

The General Counsel presented Agenda item 3.a.37, *SBE v. Friends for Warren L. Dixon*, 24528, 12SQ213 and concurred with the hearing officer recommendation to deny the appeal for lack of an adequate defense. Warren Dixon was present on behalf of the respondent committee and said he experienced technical issues while filing the reports and using the electronic filing software. Member Scholz moved to grant the appeal based on the electronic filing defense. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 3.a.41-42, *SBE v. Citizens for Grayeb*, 24753, 13MA036 and *SBE v. Friends of Bill Haine*, 5777, 12JQ-CL001 and concurred with the hearing officer recommendation to grant in part and deny in part item 3.a.41 and grant the appeal in item 3.a.42. No one was present on behalf of the respondent committees. Vice Chairman Smart moved to accept the recommendation of the General Counsel in the above noted appeals. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

A listing of civil penalty assessments necessitating a final board order was presented. Vice Chairman Smart moved to issue final board orders for those committees listed on pages 164-171 of the Board packet. Chairman McGuffage seconded the motion which passed by roll call vote of 8-0.

An update on random audits of political committees and a listing of payment of civil penalties was presented for informational purposes.

Member Scholz moved to recess to executive session to consider a matter following closed preliminary hearing that motion was agreed to unanimously. The meeting recessed at 12:30 p.m. and reconvened at 12:42 p.m.

As to Agenda item 3.a.54, *Zurek v. Village of Franklin Park*, 13CD107, Member Schneider moved to deny the motion for reconsideration. Member Rice seconded the motion which passed by roll call vote of 8-0.

After a short break, Member Scholz moved to recess to executive session to consider complaints, personnel matters and pending litigation. Member Byers seconded the motion which passed unanimously. The meeting recessed at 1:25 p.m. and reconvened at 2:20 p.m.

Member Schneider moved to dismiss for lack of prosecution or in the alternative find the following complaints following closed hearing to not have been filed on justifiable grounds for Agenda items 3.a.47-52:

- 47) *Cicero Voter's Alliance v. Citizens for Juan Ochoa*, 13CD097;
- 48) *Cicero Voter's Alliance v. Citizens for Juan Ochoa*, 13CD100;
- 49) *Zender v. Michael Scott Carter for Illinois*, 13CD105;
- 50) *Mustafa v. Lake Villa Township Baseball League*, 13CD122;
- 51) *Mustafa v. Lake Villa 1st*, 13CD123;
- 52) *Mustafa v. Lake Villa Township Republican Club*, 13CD124.

Member Rice seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 3.a.53, *SBE v. Taking Back America*, 13CD090, Member Schneider moved to find that the complaint was filed on justifiable grounds and order that the matter proceed to a public hearing. Member Rice seconded the motion which passed by roll call vote of 8-0.

Member Schneider moved to appoint Kyle Thomas as the Director of the newly formed Voting and Registration Systems division effective July 1. Member Rice seconded the motion which passed unanimously. Necessary formalities concerning that appointment will be addressed at the June Board meeting.

The Executive Director began his report with an update of the Advisory Committee Meeting that was held prior to the Board meeting. Items discussed included voting systems testing, electronic canvassing, the EAC link report, online voter registration legislation and an update on the statewide database. Advisory Committee reformation will take place in June and July and the newly constituted Committee will convene on September 16. Mason County Clerk Bill Blessman was also recognized by the Committee for his service and pending retirement.

The Executive Director discussed the results from the April 9, 2013 Election and noted that the Board previously gave staff the authority to proclaim those results on May 10 for the 2nd Congressional District and Fox Waterway Agency. The canvasses were submitted early so staff certified the results on May 7.

The Executive Director gave an update on late precinct reporting and indicated only three jurisdictions, Clinton and St. Clair Counties and the Chicago Board of Election Commissioners did not have all of their precincts reporting by 2:00 a.m. He noted that Dianne Felts began this survey approximately six years ago when some jurisdictions were experiencing late reporting and it was agreed that Kyle Thomas would continue this process for each election.

Next was the legislative update and Cris Cray informed the Board that the Senate adjourned for the day without hearing executive appointments but noted that session adjourns in fourteen days so she was confident that it would get done. She reported that language was received for the omnibus election bill and it contained online voter registration and electronic canvass matters. House Bill 226 is on the Governor's desk and it deals with lowering the voting age to seventeen for General Primary Elections provided the voter will be eighteen by the General Election. Finally, an appropriations committee meeting is scheduled for Wednesday at 2:00 p.m., however, the Agency's budget had not been revealed.

A Campaign Finance Reform Task Force Public Hearing and Meeting were held on April 22 in anticipation of a report that is required to be completed. No recommendations were given at that meeting and the next meeting will be scheduled in June.

Kyle Thomas gave a brief IVRS update and noted that no real changes took place from last month but he expects those duplicate matches to decrease over next few months as jurisdictions complete their voter purges. As far as the census data versus registered voters, he indicated that staff is working with Clark County and East St. Louis Board of Election Commissioners to bring down their percentages.

The Executive Director discussed the required review of executive session minutes and said they were reviewed for the period of October 16, 2012 through March 18, 2013. The only portions of the minutes that cannot be released are those involving discussion of personal information of two employees on disability leave. Member Scholz move to adopt the recommendation of the General Counsel outlined in his memo on page 194 of the Board packet. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The fiscal reports and two year plan of staff activity were presented for informational purposes. The Executive Director said that expenditures to date are on target and will continue to be monitored.

Chairman McGuffage indicated that he prepared a letter addressed to the four leaders regarding the procurement policy matter and will be sent to all of the Board Members for their review and comments to be discussed at the next Board Meeting.

With there being no further business before the Board, Member Scholz moved to adjourn until 10:00 a.m. on Tuesday, June 18, 2013 in Chicago. The motion passed unanimously. The meeting adjourned at 2:45 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director