

STATE BOARD OF ELECTIONS  
Regular Board Meeting  
May 23, 2011

MINUTES

PRESENT: Bryan A. Schneider, Chairman  
Patrick A. Brady, Member  
John R. Keith, Member  
William M. McGuffage, Member  
Albert S. Porter, Member  
Jesse R. Smart, Member  
Robert J. Walters, Member

ABSENT: Wanda L. Rednour, Vice Chairman

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

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The meeting convened at 10:30 a.m. via videoconference means with seven Members present. Chairman Schneider and members Brady, McGuffage and Porter were present in Chicago and Members Keith and Smart present in Springfield. Member Walters was connected via telephone. Vice Chairman Rednour was absent and Member Keith held her proxy.

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

The minutes from the April 19 meeting were presented with revisions as noted. Member Brady moved to approve the minutes as submitted. Member McGuffage seconded the motion which passed unanimously.

The General Counsel presented *SBE v. Friends of Jehan Gordon*, 20886, 10AG017, which was a carryover appeal from the April meeting. The General Counsel concurred with the hearing officer's recommendation that the appeal be denied and the penalty be reduced to 10% of the original amount, or \$1,846. The committee Treasurer, Jean Polk, was present in Springfield. Ms. Polk explained that a pro bono accounting firm was handling the reports and that a new person was filing them now and doing a good job. Member McGuffage moved to treat the violations as a single violation and hold the fine in abeyance since it is a first violation. Member Porter seconded the motion which passed by roll call vote of 5-3 with Members Keith, Smart and Walters voting in the negative.

The Chairman presented the following appeals of campaign disclosure fines that the hearing officer recommended be granted for agenda items 2.a.2-5 & 7-11; 2) *SBE v. Sangamon County Democratic Central Committee*, 317, 10AG039; 3) *SBE v. Kankakee County Democratic Central Committee*, 325, 10AG040; 4) *SBE v. Chicago Teachers Union*

PAC, 444, 10AG041; 5) *SBE v. Monroe County Democratic Central Committee*, 1162, 10AG044; 7) *SBE v. Friends of Jim Laski*, 9079, 11DS036; 8) *SBE v. Citizens for Classrooms Plainfield School Dist 202*, 11061, 11DS040; 9) *SBE v. Citizens for Steven Burris*, 15394, 11DS059; 10) *SBE v. Friends of Adam Brown*, 21520, 10AG020; and 11) *SBE v. Citizens for Kevin Horstman*, 21902, 11DS167. The General Counsel concurred with the hearing officer recommendation in all of the matters. Mr. Lewis was present for the committee in 10AG044 and agreed to proceed without pulling the matter for separate consideration. Attorney John Fogarty was present on behalf of the committee in 10AG020 and also agreed to proceed. Mr. Smart suggested inclusion of agenda items: 14) *SBE v. The Committee to Elect Donald G. Wiseman Treasurer*, 19521, 11DS093; and 17) *SBE v. Friends to Elect Patty Gustin*, 21909, 11DS168 because the General Counsel recommended the appeals be granted instead of denied as the hearing officer recommended. Member Brady moved to grant the appeals for agenda items 2.a.2-5, 7-11, 14 & 17. Member Smart seconded the motion which passed by roll call vote of 8-0 on all matters except for item 2.a.2 which passed by 7-0 with Member Keith recusing himself on the matter. Member Keith moved as to items 2.a.2 and 2.a.3 the Board ordered the required amended reports to be filed no later than close of business on June 17, 2011. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented 6) *SBE v. United Party of Justice/Citizens Party*, 4331, 11DS022. The hearing officer recommended the appeal be granted and the General Counsel concurred. No one was present in either office on behalf of the respondent committee. Member Keith felt the appeal should be denied because the SBE had no obligation to send a second notice to the e-mail address. The General Counsel agreed with Member Keith and changed his recommendation to deny the appeal. After discussion it was agreed that proper notice was given to the committee. Member Keith moved to deny the appeal. Member Brady seconded the motion which passed by roll call vote of 8-0.

The Chairman presented the following appeals of campaign disclosure fines that the hearing officer recommended by denied for agenda items 2.a.12, 13, 15, 16, 18 & 19: 12) *SBE v. Citizens for William J. Mueller*, 9332, 11DS037; 13) *SBE v. Citizens for Francisco Rodriguez*, 19234, 11DS092; 15) *SBE v. Friends of Bud Sous*, 19856, 11MA007; 16) *SBE v. Campaign to Elect Dave Bartley*, 21797, 11DS162; 18) *SBE v. People for Schroeder*, 22047, 11DS170; and 19) *SBE v. Citizens for Jill Bush*, 23274, 11D1003. The General Counsel concurred with the hearing officer recommendation in all of the matters but indicated that a request was received to move item 2.1.19 to the next Board meeting. Without objection the Chairman placed *SBE v. Citizens for Jill Bush*, 23274, 11D1003 on the June Board meeting agenda. No one was present in either office for the other cases. Member Keith moved to deny the appeals for agenda items 2.a.12, 13, 15, 16 & 18. Member Brady seconded the motion which passed by roll call vote of 8-0

The Chairman presented *SBE v. Citizens for Deborah Sims*, 11768, 10AP092 which was an appeal of campaign disclosure fines that the hearing officer recommended be

granted in part and denied in part and the General Counsel concurred. No one was present in either office on behalf of the respondent committee. Member Smart moved to accept the recommendation of the hearing officer and General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The Chairman presented the following matters for failure to comply with a Board order: *SBE v. Citizens for Bassi*, 11481, 10AP037; *SBE v. Citizens for James Michael Bailey*, 22332, 10AP071; and *Marino v. Friends of Sherman Jones*, 11CD012. The General Counsel recommended for 10AP37 and 10AP071 that Board issue a notice to the respondents saying that based upon their failure to comply with the order that they are facing a penalty not to exceed \$5,000 and that they be given the opportunity to appear before the Board at its next meeting to state why they should not be assessed the full \$5,000 penalty for failing to comply with the order. Member Brady moved to accept the recommendation of the General Counsel and issue the order. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel reviewed *Marino v. Friends of Sherman Jones*, 11CD012 and recommended the Board assess a penalty not to exceed \$5,000 since the committee was notified through the issuance of this Board order. Member Brady moved to accept the recommendation of the General Counsel and impose a fine of \$5,000 for failure to comply with a Board order. Member Keith suggested a \$1,000 fine now and order the committee to file the necessary report before the close of business on June 1, 2011. If not, then impose an additional fine of \$100 per day for every business day after June 1<sup>st</sup> that the report is not filed not to exceed a total of \$5,000. Member Brady agreed to Member Keith's amendment to his motion. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a listing of assessments necessitating a final Board order for the committees included on pages 154-160 of the Board packet. Member Keith moved to issue final Board orders for those committees. Member Smart seconded the motion which passed by roll call vote of 8-0.

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

The consideration of the proposed rule, procedures for the internet voter's guide was placed on the June Board meeting agenda and to submit any comments to the General Counsel by June 7, 2011.

The Executive Director began his report with the Lump Sum update and the county clerk stipends. He noted that the county clerks were paid 5/12 of their stipends last November and at that time we did not know how much would remain after the election judges were paid. The figures are now available and the costs for the election judges were considerably less than anticipated. Approximately \$1 million is available and Mr.

Borgsmiller recommended the county clerks be paid the remaining 7/12 of their stipend which would be a total of \$468,000. Member Keith asked if the recommendation were adopted, will the state or the Board be obligated to pay full stipends for the remaining three and a half years of these clerks' terms. The General Counsel indicated the obligation currently exists to pay the stipend even though the SBE is simply a pass through. It was noted that many county clerks were present at the meeting and that all of the Board Members had received a letter from Kerry Hirtzel, Effingham County Clerk and the President of the Illinois Association of County Clerks and Recorders, urging the Board to provide full funding of the clerk stipend. Mr. Hirtzel addressed the Board on behalf of the county clerks to reiterate his letter and asked for full funding of the stipends. He also thanked the Executive Director for his consideration and including the funding in the lump sum chart. Member Porter moved to pay the remaining 7/12 of this year's county clerk stipend but if there was partial service during that time that a pro rata adjustment be made. Member Brady seconded the motion which passed by roll call vote of 8-0.

Member Brady moved to recess to executive session to consider complaints, litigation and personnel matters. Member McGuffage seconded the motion which passed unanimously. The meeting recessed at 11:25 a.m. and reconvened at 12:30 p.m. Upon reconvening, a second roll call was taken with seven Members present as noted in the first roll call.

As to 11CD014, Member Keith moved to dismiss the matter for want of prosecution by the complainant. Member Brady seconded the motion which passed by roll call vote of 8-0.

As to 11CD021, Member Keith moved to dismiss the matter for want of prosecution by the complainant. Member Brady seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to tender a contract to James Tenuto to serve as Assistant Executive Director for a two year period commencing July 1, 2011 in accordance with the terms approved in executive session. Member Brady seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to give a one-time lump bonus to current SBE employees to be allocated \$1,800 to every employee who served for a full fiscal year and did not receive a promotion during that time, \$1,200 gross sum to those employees who served a full fiscal year and did receive a promotion, \$100 per month to those new hires for each full month they were employed during the fiscal year and then the remaining funds be returned to the General Revenue Fund at the end of the fiscal year. Member Smart seconded the motion which passed by roll call vote of 8-0.

The Executive Director returned to his report and presented a brief report on the

Advisory Committee meeting and noted that there was good participation from the clerks. Topics discussed were the county clerk's stipend, database update, legislation, etc. He noted that the next meeting would begin at 9:00 a.m. to allow more time for discussion.

Next was the precinct reporting update from the Consolidated Election and it was noted that only one jurisdiction reported late and that the explanation was included in the Board packet. The Executive Director commended the election authorities for a job well done. Member Keith moved to direct staff to continue to survey and compile precinct reporting information for future elections. Member Brady seconded the motion which passed by roll call vote of 8-0.

The Executive Director discussed the delegate selection for the 2010 Democratic National convention and noted a memo from Ken Menzel outlining staff concerns was included in the Board packet. Mr. Menzel highlighted a few points from his memo and noted that Attorney Mike Kasper was contacted and the issues have been raised with him. After discussion, it was suggested that staff put together a timeline showing Board options, if any, and when action might need to be taken. Also, directed Mr. Menzel to contact the Democratic national committee to discuss the issue and prepare a draft of an attorney general opinion request.

The Executive Director indicated that progress was being made with the electronic canvass and there will be some pilot sites in place for the 2012 primary election.

A report on the meeting with the General Accounting Office (GAO) regarding weekend voting proposal was presented and the Executive Director indicated he received an e-mail from the GAO requesting a meeting with the SBE to discuss the possibility of conducting the November election over a weekend. SBE staff assembled a listing of issues and concerns and discussed them at the meeting. The biggest concern is the security and integrity of the entire process and, in addition, the need for additional staff, overnight security guards, cost, etc.

The Executive Director reported that in the past several years the SBE has counted the ballots for the State Employee Retirement System Trustee election and was scheduled to do so again beginning June 6, 2011. The Board directed staff to compile the costs associated with the project and report back at the June meeting.

The review of the executive session minutes was presented and it was noted that both the Executive Director and General Counsel have reviewed the minutes from October 19, 2010 through March 31, 2011. The General Counsel's recommendation was to release all material contained in the minutes, with the exception of complaints that remained at the closed hearing stage and issues related to the pending labor litigation. Member Smart moved to accept the recommendation of the General Counsel contained in his May 12 memo. Member Brady seconded the motion which passed by roll call vote of 8-0.

Cris Cray discussed legislation and indicated that the General Assembly was scheduled to adjourn on May 31, 2011. Ms. Cray gave a brief update on the budget bill and another bill affecting Board Members and indicated she would keep the Board informed as to the status of that bill.

The IVRS update was presented for informational purposes and there was nothing new to report. Kyle Thomas discussed the census date versus registered voters and indicated that the jurisdictions had been contacted and that most planned on conducting a purge this summer. Discussion ensued concerning the purging procedures and SBE involvement with the jurisdictions during the process.

The final HAVA Audit Report for the period January 1, 2006 through August 31, 2010 was presented for informational purposes. The Executive Director said it was a very good audit with only one finding and that is being corrected. The Board also commended the staff for their hard work.

Sharon Steward reviewed the amnesty proposal for first quarterly report delinquent filers located on pages 214-215 of the Board packet. Ms. Steward indicated that the number of late filings were unusually high because of the new software program and the new reporting system. She then asked for the approval to grant some sort of amnesty and the Board's input to choose a date for implementation and how the process would be handled. Discussion ensued concerning the method of dealing with the late filers and how to make those committees comply with filing the reports. Member McGuffage moved to notify the committees via any means available who have not filed and direct them to file by June 11, 2011 to be granted one-time amnesty. Member Keith seconded the motion which passed by roll call vote of 8-0.

Ms. Steward reported on her memo regarding assessment of civil penalties for exceeding contribution limits and said the law states that if a committee receives a contribution in excess of the contribution limits, they have 15 days to either return it or give it to a charity. If they do not return it or give it to a charity within those 15 days, that amount must escheat to the general revenue fund. The committee is considered to be in violation of the section and may receive a civil penalty assessed by the SBE of up to 150% of the total amount of the contribution. Ms. Steward proposed to initially assess the fine of 150% of the amount in excess and then handle them in the same manner as the A-1 violations, including the appeal process. For the first violation, the fine would be reduced to 10% of the 150%, the second violation would be 50% of the 150% and any third and subsequent violations would be assessed the full 150%. She also said the Board has discretion in the amount of the penalties and that the SBE has the responsibility of returning the amount of the excess contribution to the general revenue fund. After discussion it was determined that Ms. Steward would consider all of the comments and report back at the June Board meeting.

The Springfield office facility update was presented and the Executive Director stated that even if we wanted to stay in our current building after the lease expires we do not have that option due to the terms of our current lease, which is a ten-year, sole source contract. The SBE had to go through the rebidding process or a space need study to see what size building would be necessary. The RFP for the new facility includes 27,000 square feet and CMS will notify the SBE after the bids are opened on June 16 and staff will have an opportunity to review the facility.

The fiscal status reports and two year plan of staff activity for the months of May and June were presented for informational purposes.

The Executive Director indicated staff met to discuss the Request for Information (RFI) for Voting Systems & Standards (VOSS) and he felt the RFI was sufficient and asked for authorization to publish as presented. Member Brady offered a couple minor revisions and the Executive Director said he would incorporate into the language and send to each Board Member. Member Brady moved to authorize staff to publish the RFI with his revisions. Member Keith seconded the motion which passed by roll call vote of 8-0.

The Executive Director indicated that staff will be responding to the letter from Dunmar Security Products that was received by the Chairman and a copy of the response will also be sent to the Procurement Board.

With there being no further business before the Board Member Brady moved to adjourn until June 14, 2011 at 10:00 a.m. in Chicago and Springfield via videoconference or until call of the Chairman, whichever occurs first. Member McGuffage seconded the motion which passed unanimously. The meeting adjourned at 2:15 p.m.

Respectfully submitted,

  
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Amy Calvin, Administrative Assistant II

  
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Rupert T. Borgsmiller, Executive Director