

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, June 20, 2017

MINUTES

PRESENT:

Charles W. Scholz, Chairman
Ernest L. Gowen, Vice Chairman
William J. Cadigan, Member
Andrew K. Carruthers, Member
Betty J. Coffrin, Member
John R. Keith, Member
William M. McGuffage, Member
Casandra B. Watson, Member

ALSO PRESENT:

Steven S. Sandvoss, Executive Director
James Tenuto, Assistant Executive Director
Kenneth R. Menzel, General Counsel
Amy L. Calvin, Administrative Assistant II

The meeting convened at 10:30 a.m. via videoconference with all Members present in Chicago. The Chairman opened the meeting by leading everyone in the pledge of allegiance.

Member Keith moved to approve the minutes from the May 15 meeting with one small revision. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

Chairman Scholz recognized outgoing Board Members Betty Coffrin and Ernest Gowen and presented them each with a plaque honoring their service to the State of Illinois and the State Board of Elections.

Chairman Scholz noted that the report of the Executive Director would be next on the agenda because Mr. Sandvoss was traveling to Washington, DC that afternoon to testify in front of the Senate Intelligence Committee. It was noted that the U.S. Senate was covering the costs for the Executive Director's travel to Washington.

Executive Director Sandvoss introduced retiring staff members Darlene Gervase and Jim Tenuto and read Resolutions in their honor.

The Executive Director presented a memo from General Counsel Menzel outlining general policies to conduct apparent conformity reviews of candidate petitions. He explained this was a carryover from the April meeting and reviewed the memo. It is suggested that the Statement of Candidacy should be signed by the candidate and notarized as well. This would avoid a past situation where a group of supporters of Alan Keyes filed a petition for him without his knowledge or consent. It is also proposed that the signature sheets for the candidate contain the minimum amount of signatures required for that office. Mr. Menzel indicated that the Board should take action soon if it planned to have this policy in effect for the 2018 election cycle. He also said that DuPage County conducts an apparent conformity review very similar to his proposal and that other jurisdictions say they conduct apparent conformity reviews but it is more of a pre-filling review. Member Cadigan noted that several election lawyers were in attendance and asked for their thoughts on the matter. John Fogarty indicated he had not read the review but was concerned about the time it would take to count the signatures for independent candidate petitions

that have an extraordinarily high amount of minimum signatures. He suggested to require one tenth of the amount of the minimum required for that office. James Nally indicated he echoed Mr. Fogarty's comments and added that he thought an easily identifiable checklist would be acceptable as well. Ross Seclar agreed with the previous suggestions and thought a provision for biohazardous substances contained on the petition should be addressed. Anthony Jacob felt that through his past experience working at the SBE, the agency was hesitant to perform apparent conformity reviews and allow the election bar and others to work through the process. Discussion ensued amongst the board about the details of the proposal. Member Keith then moved to direct staff to undertake the necessary steps to implement apparent conformity commencing with the 2018 primary and general elections limited to ascertaining whether or not there is, A) statement of candidacy in whatever form; and, B) whether or not there are submitted purported signatures of at least 10 percent of the minimum required for the office which is sought. Member Carruthers seconded the motion which passed by roll call vote of 8-0. The General Counsel verified that staff would send notification to all of the election authorities as soon as possible. Member Keith moved to withdraw the request of opinion on this matter that was submitted to the Attorney General on October 8, 2009. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Cris Cray reported on legislation and said a cheat sheet on the budget bills and listing of all elections related legislation was provided to the Board. She said special session was scheduled to begin tomorrow and hoped that a budget would pass within the next ten days. If any budget bills are added, Ms. Cray indicated she would update the Board. She reported that, in special session, a three-fifths majority in each house is required for a bill to pass. Also in the board packet was a list of our current legislation and its status. Senate Bill 1933, Automatic Voter Registration (AVR) passed both chambers and has not yet gone to the Governor's desk. Once it arrives, the Governor will have sixty days to sign it. Ms. Cray thanked Kyle Thomas, Kevin Turner and Ken Menzel on their hard work on this legislation. She also noted that new hearings were conducted at the State House this year on cyber security and last Friday, Senator Michael Hastings and U.S. Senator Dick Durbin sent a letter out to all Illinois election authorities inquiring about cyber-attacks in their jurisdictions. The Executive Director informed the Board that in addition to a meeting with Senator Durbin in Washington, he will testify in front of the Senate Intelligence Committee to provide information on the cyber-attack that occurred last summer and what steps will be taken going forward to prevent future attacks. He also thanked Mr. Turner and Mr. Thomas for prepping him for the testimony.

Mr. Thomas discussed the IVRS program and said the polling place lookup feature on the website was updated to allow individuals who are not registered to vote to find their polling place so they may register to vote during grace period on election-day. Staff is also configuring IVRS to reflect not only the interstate cross-check data, but also the cross-state mover information from the agency's membership in ERIC. Mr. Thomas also reported that staff is in the process of working with the election authorities to identify potential double vote records. Initially, staff identified 1,090 and to date the election authorities have reported back on 786 of those records. So far, 340 records have been found to not be the same person, 82 appear to be the same individual who voted twice and 14 of those have been referred to law enforcement. He hopes to complete this project within the next few weeks. Mr. Turner reported that IT staff processed the most recent file received from the Secretary of State's office to be forwarded to ERIC. He noted that ERIC previously provided an anonymizer program, which is a form of security that the data runs through right before it is sent to ERIC. In addition, the driver's license number and source key were encrypted as another double security feature. He also said staff completed work on the Jet Server Management Tool which enables IVRS users to track file and tables within the system.

In July, work will continue with some additional testing of the translation engine more specifically. Mr. Turner also thanked the Chairman for traveling over Memorial Day weekend to testify before the House Appropriations Committee.

Next on the agenda was the staff compensation update and the Executive Director reviewed the proposals contained in the board packet. Representative Fortner recently introduced a bill that provides for a defined contribution plan that would be optional for existing staff and also because SBE employees pay into Social Security, there was an issue with whether or not new hires could be forced in the plan. Therefore, the plan would be optional for new hires and will hopefully attract young talent that might otherwise be nervous about the pension system due to the state's financial problems. At this time the bill has not been enacted and voted upon yet. The next proposal, called the 4x4 swap, would be optional for current employees. It would discontinue the agency pick-up of the 4 percent retirement, but also give the staff an additional 4 percent salary increase so that the employee would have the additional funds to cover their portion of the pension contribution. Nine potential employees were identified that could see an increase in their health insurance costs ranging from \$8.00 to \$24.00 per month due to their new salary falling into a higher bracket. The final proposal was a merit based non-pensionable bonus with number of staff and amount of bonus ranging from \$1,000 to \$3,000 detailed in Jeremy Kirk's memo. The Executive Director reported that the appropriation based on the 2015 numbers would contain enough money to cover the bonuses. It was also noted that the sub-committee agreed to award the minimum \$1,000 bonus to division directors and executive staff. Member Keith moved to implement the 4x4 swap as proposed for current employees and mandatory for new hires; counseling for employees regarding changes in their insurance premium; and a one-time opportunity to opt in or out. Member Cadigan seconded the motion which passed by roll call vote of 8-0. Member Keith moved to implement the proposed merit-based bonus plan and also include the division directors and executive staff as noted. Member Cadigan seconded the motion which passed by roll call vote of 8-0.

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

The General Counsel presented a settlement offer for agenda item 5.a.1) *Friends of Lynn Gray*, 32205, 17DQ124 and reviewed the matter. He said the committee offered about \$475 which is about 25% of their fine. Since this was a small dollar committee of the type which the settlement policy contemplates offers of less than 50%, he recommended the offer be granted. Member Keith moved to accept the proposed settlement offer to be paid in full by 5:00 p.m. on July 24, 2017. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a motion to reconsider for agenda item 5.a.2) *Cooke v. Committee for Frank J. Mautino*, 16CD093 and recommended the motion be denied. He explained the complainant was seeking reconsideration of the Board's order entered last month asserting that the Board did not rule on the merits of the allegations that the committee's reporting failed to comply with 10 ILCS 5/9-8.10. The respondent opposes the motion. The General Counsel also noted that the May 18, 2016 board order following closed hearing and paragraph twelve of the final order from May of 2017 both found the committee's reporting violated that section. The Board fined the committee for its failure to correct the reporting rather than impose fines for individual reporting errors. Jeffrey Schwab was present on behalf of the complainant and Anthony Jacob was present on behalf of the respondent committee. Mr. Schwab reviewed the details of the motion and the findings in the board orders. He felt that the Election Code and Administrative Code require the Board to consider and rule on the merits of the complainant's

charges against the committee. Furthermore, the complainant respectively requests that the Board rule on the merits of the complainant's charges that the committee made expenditures prohibited by Section 9-8.10 and impose an appropriate penalty. In the alternative, he asked that the hearing officer be directed to hold a public hearing on the merits of the complaint. Mr. Jacob said that the Board considered all the allegations of the complaint, made findings, and assessed a civil penalty against the respondent committee. The complainant raised allegations in the complaint about the accuracy of the reported expenditures. The Board through preliminary hearings, through various meetings over a 12-month period, and through the public hearing process addressed all those issues. Mr. Jacob felt the Board did, in fact make findings and resolve these matters, maybe not to the satisfaction of the complainant or respondent, and made record of such over the past twelve months. In response to a question from the Board, Mr. Schwab indicated he requests that the Board find on the merits that the committee violated Section 9-8.10 for making prohibited expenditures in the form of payments to Happy's and payments to the bank both in excess of fair market value and also for prohibitive expenditures by paying for gas of vehicles that weren't owned or leased by the committee. After discussion, Member Carruthers moved to grant the motion to reconsider; readopt the same order that the Board made last month except find additionally that the committee violated Section 9-8.10 by making payments to these vendors, Happy Super Service and Spring Valley City Bank, in excess of the fair market value for the goods and services received; and that it further violated this section by making payments for gas and other services for vehicles not owned or leased by the committee; that for these violations impose an additional fine of \$5,000 to run concurrently with the fine that was imposed last month. Member Cadigan seconded the motion which failed by roll call vote of 4-4, with Members Keith, McGuffage, Watson and Chairman Scholz voting in the negative.

The General Counsel presented the following appeals of campaign disclosure fines for agenda items 5.a.3-7 & 9-10:

- 3) *SBE v. IL Automobile Dealers Association – CAR of Illinois*, 283, 17AD007;
- 4) *SBE v. Citizens for Pamela J. Althoff*, 15673, 17AD017;
- 5) *SBE v. Friends of John Bradley, Inc.*, 17626, 17AD019;
- 6) *SBE v. Committee to Elect Robert J. Lovero*, 19202, 17AD021;
- 7) *SBE v. Citizens for Williams*, 23271, 17DQ053; (pgs.47-49)
- 9) *SBE v. Committee to Elect Jim Haselhorst*, 27340, 17DQ088;
- 10) *SBE v. Friends of Brooke Shupe*, 31870, 17AD042.

He concurred with the hearing officer recommendation to grant the appeals. Member Carruthers moved to grant the above noted appeals. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented an appeal of campaign disclosure fines for agenda item 5.a.8) *SBE v. Citizens for Curtis*, 26065, 16JQ105 and concurred with the hearing officer recommendation to grant the appeal. Member Keith noted the committee reported a negative funds balance and moved to grant the appeal but also order the committee to file an amended report within 30 days to correct the negative balance last reported. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Agenda item 5.a.26) *SBE v. Laurie Nowak for County Board*, 24205, 16SQ132 was presented and Ms. Nowak was present on behalf of the committee. It was agreed to consider this item later in the meeting so Ms. Nowak could discuss settlement options with Andy Nauman.

The General Counsel presented the following appeals of campaign disclosure fines for agenda items 5.a.11-16, 18-25 & 27-31:

- 11) *SBE v. Tazewell County Democratic Central Committee*, 33, 17AD001;
- 12) *SBE v. Crawford County Democratic Central Committee*, 90, 17AD002;
- 13) *SBE v. Democratic Central Committee of Stephenson County*, 136, 17AD003;
- 14) *SBE v. Marion County Republican Central Committee*, 280, 17AD006;
- 15) *SBE v. Jo Daviess County Republican Central Committee*, 671, 17DQ004;
- 16) *SBE v. IPACE of Alton Education Association*, 5778, 17DQ015
- 18) *SBE v. Illinois Growth PAC – A Political Action Committee of the Quad Cities*, 15301, 17DQ146;
- 19) *SBE v. Citizens to Elect Michael “Mike” Stuttley*, 16287, 16SQ024;
- 20) *SBE v. Grafton Township Republican Central Committee*, 18434, 17DQ034;
- 21) *SBE v. Phoenix PAC*, 19148, 17DQ037;
- 22) *SBE v. 613 PAC*, 19647, 17DQ040;
- 23) *SBE v. Citizens for Lisa May*, 23330, 17AD028;
- 25) *SBE v. Friends of Tim Whelan*, 24102, 17DQ062;
- 27) *SBE v. NorWest Township Republican Central Committee*, 24579, 17AD032;
- 28) *SBE v. Friends of Charles “Chuck” Givines*, 27330, 16SQ087;
- 29) *SBE v. Friends of Angelica Alfaro*, 31808, 17DQ101;
- 30) *SBE v. Single Votes*, 32158, 17DQ118;
- 31) *SBE v. Citizens for Andrew Cichon*, 32220, 17MA015.

He concurred with the hearing officer recommendation to deny the appeals. No one was present on behalf of the respondent committees. Member Keith moved to deny the above noted appeals. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.17) *SBE v. Oakton Community College Faculty Association PAC*, 14157, 17DQ025, Member Keith moved to deny the appeal and order the committee to file an amended D-1 within thirty days confirming the officers of the committee. Member Watson seconded the motion which passed by roll call vote 8-0.

The General Counsel presented violation of a board order for Agenda items 5.a.32-33: 32) *SBE v. Committee to Elect Jeffrey Baker*, 16CD134; and 33) *SBE v. Friends of Darren Tillis*, 16CD136. He recommended imposition of a \$5,000 fine for each committee. Member Carruthers moved to accept the recommendation of the General Counsel. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented violation of a board order for Agenda item 5.a.34) *Tillman & Patton v. Jones, et al*, 16CD162 and reviewed the matter. He recommended the two Jones committees were in substantial compliance and did not feel a fine was appropriate. However, he felt the Board may want to impose a fine for failure to comply with a Board order with relation to the Calumet City Concerned Citizens Committee. Representative Thaddeus Jones was present on behalf of the two Jones committees and indicated he was not connected to the Calumet City Concerned Citizens Committee. He acknowledged the late reporting and asked for a smaller fine. Member Keith moved to find Calumet City Concerned Citizens to be in violation of Board order and fined \$5,000; find that Thaddeus Jones, Citizens for Thaddeus Jones for 3rd Ward Alderman, Jones for State Representative, appropriate committee, found to be in substantial compliance, that no violation be found, no fine be imposed, but that they be ordered to file amended returns to resolve the loans issue and to somehow just get rid of that 50 cent problem within 30 days. Member Watson seconded the motion which passed by roll call vote of 8-0.

The Board returned to Agenda item 5.a.26) *SBE v. Laurie Nowak for County Board, 24205, 16SQ132*. Ms. Nowak indicated this was a small committee and still had to pay her campaign workers from the \$2,773.16 remaining in the account. She said she would most likely run again and offered a settlement of \$500.00. Member Keith moved to deny the appeal and accept the \$500.00 settlement offer to be paid today. Member Watson seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented complaints following public hearing for Agenda items 5.a.35-42:

- 35) *SBE v. Marshall County Democratic Central Committee, 17CD008;*
- 36) *SBE v. Rey Colon 35th Ward Committeeman, 17CD011;*
- 37) *SBE v. Citizens to Elect Alvin Parks, Jr., 17CD013;*
- 38) *SBE v. Committee to Elect Jennifer Pritchett, 17CD016;*
- 39) *SBE v. Millennial Action Committee, 17CD021;*
- 40) *SBE v. Committee to Elect Jeffrey Baker, 17CD022;*
- 41) *SBE v. Friends of Elizabeth Johnson, 17CD028;*
- 42) *SBE v. Lyon for Judge, 17CD036.*

He concurred with the hearing officer recommendation that the Board uphold the complaints and order the committees to file all of their delinquent reports within 30 days or face a fine of up to \$5,000. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel. Member Watson seconded the motion which passed by roll call vote of 8-0.

Civil penalty assessments necessitating a final board order were presented. Tom Newman indicated there were a couple errors on the listings. On page 164, the total fine should be \$150 fine and page 165 the escheatment should be \$143. Member Keith moved to assess the penalties against those committees listed on pages 164-165 of the board packet with Mr. Newman's revisions. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

A listing of payments of civil penalty assessments was submitted for informational purposes.

Member Keith moved to executive session to consider complaints and personnel. Member Watson seconded the motion which passed by roll call vote of 8-0. The meeting recessed at 12:55 p.m. and reconvened at 2:00 p.m. with the same attendance as noted in the original roll call.

Member Keith moved to reappoint Kyle Thomas to a four year term renewal. Member Cadigan seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.45) *Carlasare v. Citizens for Dollinger, 17CD001*, Member Keith moved to dismiss the complaint for want of prosecution. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.46) *Hemphill v. Berwyn United for Mayor, Clerk, Treasurer & Alderman, 17CD041*, Member Keith moved to adopt the recommendation of the hearing officer and the General Counsel finding that the complaint was filed on justifiable grounds in part, non-justifiable grounds in part and proceed to public hearing as recommended and also be redirected to staff for fines as contained in the recommendation. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.47) *O'Brien v. Prosperity for Lisle*, 17CD044, Member Keith moved to dismiss the complaint for want of prosecution. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.48) *Maher v. Concerned Citizens for Tinley, et al*, 17CD051, Member Keith moved to dismiss the complaint for want of prosecution. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.49) *Gordon v. District 228 School Board Parents for Progress, et al*, 17CD055, Member Keith moved to find that the complaint was filed in good faith but that it was insufficient in a matter of law; therefore, no justifiable grounds, and the matter be dismissed. Member Watson seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.50) *Johnson v. District 228 School Board Parents for Progress, et al*, 17CD056, Member Keith moved to find that the complaint was filed in good faith and adopt all the findings and recommendations of the hearing officer as concurred by the General Counsel as set forth in the written report. Member Watson seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 5.a.51) *Waterworth v. Congressman Darin LaHood*, 17CD057, Member Keith moved to dismiss the complaint for want of prosecution. Member Watson seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented proposed changes to Administrative Rule – Section 125.425 Civil Penalty Assessments and explained that this was the proposed modification to the two-year rule for resetting a committee to first offense status in response to the Board's comments at its last meeting. Member Cadigan moved to direct staff to submit the proposed changes to those rules to the Joint Committee on Administrative Review for appropriate action. Member Carruthers seconded the motion which passed by roll call vote of 8-0.

Proposed changes to Administrative Rule – Section 207.50 Deputy Registrars; Bona Fide State Civic Organization was presented. It was suggested the matter be considered at a later date after it is known how automatic voter registration will play out. Member Cadigan moved to table those rules to a date to be determined. Member Watson seconded the motion which passed by roll call vote of 8-0.

With there being no further business before the Board, Vice Chairman Gowen moved to adjourn until Monday, July 3, 2017 in Springfield. The motion which passed unanimously and the meeting adjourned at 2:15 p.m.

Respectfully submitted,



Amy L. Calvin, Administrative Assistant II



Steven S. Sandvoss, Executive Director