

State Board of Elections Board Meeting
Monday, June 12, 2006
10:30 a.m.

MINUTES

PRESENT: Jesse R. Smart, Chairman
Wanda L. Rednour, Vice Chairman
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Bryan A. Schneider, Member

PRESENT VIA CONFERENCE CALL: Robert J. Walters, Member

ABSENT: Albert S. Porter, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Rupert Borgsmiller, Director/Public Disclosure
Darlene Gervase, Assistant to the Executive Director

Chairman Smart called the meeting to order at 10:37 a.m. and led everyone in the pledge of allegiance.

Mr. White proceeded with roll call. A quorum resulted with six members present. Member McGuffage held Member Porter's proxy and Chairman Smart held Mr. Walters' proxy until phone connection was established at 1:23 p.m.

The Chairman presented the minutes of the May 22, 2006 regular monthly Board meeting. Vice Chairman Rednour moved to approve the minutes with four amendments proposed by Mr. Keith. Mr. Brady seconded the motion which passed by roll call voter of 8-0.

Director White introduced Paul Green, who has been a long time friend of the board, and the Director of the Institute for Political Studies, the Arthur Rubloff Professor of Public Studies and Director for the School of Policy Studies at Roosevelt University. Professor Green proposed a partnership between Roosevelt University and the State Board of Elections to become a center for political analysis in Illinois and provide non-partisan election information to educate and inform Illinois citizens of state and local election results. Funding for the project would be provided by a grant from AT&T at no cost to the state or board. This endeavor would begin with the Chicago Municipal Election in March, 2007. Professor Green stated that personnel, hardware and software would be paid for by the grant, but acknowledged that the board may have some expenditure of time when in the future the information will be linked to our website. Target date is the 2008 Chicago municipal election. Mr. McGuffage moved to accept the partnership with Dr. Green and Roosevelt University on this study and analysis. Vice Chairman Rednour seconded the motion which passed unanimously.

The Director updated the Board on the next step regarding the Statewide Advisory Petition is sending to all 110 election jurisdictions approximately 10% random sampling of the signatures of the petition for verification in those jurisdictions themselves. The election jurisdictions will verify the signatures and the results returned by June 23rd. As of the date of this meeting 56 jurisdictions have complied and the results are being entered into our database. Mr. White noted that the last day for objections to this advisory question is July 7th and reminded the board that a teleconference call has been scheduled for July 11 at 9:00 a.m. to hear any new objections and conduct the initial meeting for objections filed against the statewide petition. He also presented an abstract of the filing and certification of a statewide advisory referendum petition and submitted a schedule of dates relevant to the November 7th General Election. The Director confirmed that 95% valid signatures would confirm certification of the petition on August 31st.

The Revised HAVA State Plan was submitted for approval. Mr. White noted that comments have been reviewed and the appropriately revised version of the State Plan is ready for discussion. There being no questions or comments Mr. White asked for a motion from the Board to approve the revised HAVA state plan. Vice Chairman Rednour moved and Mr. Brady seconded a motion to approve the Revised State Plan as presented. The motion passed unanimously.

The next item on the Director's agenda was distribution of federal HAVA grants. At the April and May meetings, Mr. Keith asked for a list of election authorities who have not disbursed the HAVA grant funds within 30 days of receipt. Included in the HAVA summary was a response from Lance Gough, Executive Director of the Chicago Board of Election Commissioners regarding the distribution timelines of HAVA grant money. Mr. White advised the board that a total of 10 grants are administered by the Board. He submitted a list with 15 jurisdictions listing the grant name, amount and voucher dates that are outstanding. Of those fifteen, only two have indicated they will be returning the funds and will re-request them at a later date. An email from the Inspector General of the Election Assistance Commission confirmed that the 30-day requirement for disbursement of funds is reasonable and generous. The Director has been in contact with the remaining jurisdictions and each stated that documentation is forthcoming. Discussion ensued among the board members. Mr. Keith moved and Vice Chairman Rednour seconded his motion that if funds are not returned by July 1 that we call upon the county board chairman or whoever is in charge of the funds that we've transmitted that have not been returned to appear at our July meeting in Springfield and show cause why the funds haven't been sent back. The motion passed by roll call vote of 8-0.

Director White presented a report from Mark Mossman, Director of Election Information regarding forty-three resolutions to fill vacancies for the General Election for failure to nominate at the March General Primary. He added that no objections were received that the State Officers Electoral Board would hear, but that eleven objections were filed and will be heard by the respective electoral boards.

Mr. White presented a report and agenda from Rupert Borgsmiller, Director of Campaign Disclosure on the Heartland Conference that he and Sharon Steward attended in St. Louis from May 21 to the 23rd and noted that Mr. Borgsmiller is very active with the group.

The Director presented the fiscal status reports and noted that the board is in good shape for the remainder of FY06 and that a lesser amount of money will be returned to the state this year due to vacancies in staff and unfilled positions.

Mr. White ended his report with a reminder of the conference call to be held on July 11th at 9:00 a.m.

General Counsel Sandvoss began his report with a short history of an outside complaint, *Great Ideas, Inc., v. Hill, Hoffman and Grant for Harper College Trustee, 06CD001*. He noted that a motion would be appropriate to dismiss the matter as having been satisfied by filing the amended report. After assurance that the motion would not preclude staff auditing the reports and generating any appropriate inquiries based upon the report, Mr. Keith's motion to determine that no further action is necessary based on the filing of the amended report was seconded by Mr. Brady. The motion passed 6-0. Mr. McGuffage was out of the room and did not vote his or Mr. Porter's proxy on this matter.

The General Counsel continued with presentation of appeals of campaign disclosure fines listed at 3.a.2-6 and concurred with the Hearing Examiners' recommendations. Mr. Robert D. Spriggs was the only respondent present at the meeting. Mr. Keith moved to adopt the recommendations of the Hearing Examiner and General Counsel and grant the new appeals in the matters of *SBE v. Aurora Township Republican Team, L1732, 06DS115*; *SBE v. Friends of Steve Carlson, L10839, 06GP033*; *SBE v. Committee to Elect Robert Spriggs, L11764, 06DS042*; *SBE v. Pro Life Victory Committee, S7292, 06GP046*; and *SBE v. Committee to Elect Anthony C. Scrementti, S8107, 06AP022*. Vice Chairman Rednour seconded the motion which passed 6-0. Mr. McGuffage was out of the room and did not vote on this matter.

Agenda items 3.a. 7, 13, 18, 19, 24, 25, 26, 27 and 29 were removed from the group for further discussion

Mr. Sandvoss presented new appeals of campaign disclosure fines wherein the Hearing Examiner recommended and the General Counsel agreed that the appeals be denied. No one appeared on behalf of the respondent committees. Mr. Keith moved to adopt the recommendations of the Hearing Examiner and General Counsel. Vice Chairman Rednour seconded the motion which passed unanimously. The committees are: *SBE v. Citizens for Helander, L5592, 06GP005*; *SBE v. Committee to Elect Don Lamps, L11024, 06GP024*; *SBE v. Friends of the Schools, L11115, 06DS120*; *SBE v. Friends for Len Gassmann, L11820, 06GP061*; *SBE v. Together Everyone Achieves More, L11965, 06AP006*; *SBE v. Friends of ECC, 06AP008*; *SBE v. Friends of the Park, L13297, 06GP034*; *SBE v. Citizens for Education, L13406, 06MA007*; *SBE v. Pecatonica Education Refere dum Committee, L13411, 06MA008*; *SBE v. Barrington Township Republican Org., S823, 06DS116*; *SBE v. Illinois Food Distribution PAC, S2545, 06AP013*; *SBE v Chicago Association of Realtors, PAC, S4064, 06GP053*; *SBE v. Carpenters Local Union #181, S5050, 06GP002*; and *SBE v. Friends of Michael D. Nardello, S8955, 06MA15*.

General Counsel Sandvoss summarized the matter of *SBE v. Committee to Re-elect Richard Randall Sheriff of Kendall County*, L2207, 06GP027. No one appeared for the Respondent. Mr. Keith moved to grant the appeal in this case based upon the affidavit of the person who mailed it. Mr. Schneider seconded the motion which passed 8-0.

The Chairman acknowledges the appearance of Margaret Haywood for the respondent in *SBE v. Citizens for Inclusive Government*, L13029, 05DS020. Ms. Haywood stated that she did not receive notices and requested a new hearing. Mr. Sandvoss agreed. Mr. Keith moved and Mr. McGuffage seconded a motion to send the matter back to the hearing examiner. Mr. Brady suggested ensuring receipt of the proper address from the respondent. The motion passed unanimously.

Mr. Sandvoss noted that respondents in item 18 asked for a continuance until the August 31st board meeting in Chicago and the Chairman granted the continuance.

The matter of *SBE v. 34th Ward Regular Democratic Organization*, S594, 06AP032 was presented and discussed. No one appeared for the respondent. Mr. Sandvoss summarized the complaint and recommendation of the Hearing Examiner. Mr. Keith moved to deny the appeal. Vice Chairman Rednour seconded the motion which passed unanimously.

The Chairman noted that Mr. Wayne A. Strnad filed an appearance in the next case, *SBE v. Wayne Strnad*, S8580, 06DS031 and asked Mr. Strnad to present his appeal. Mr. Strnad was very displeased with the IDIS program as he inadvertently filed the 2006 information on the 2005 semi annual report that had been timely submitted. Mr. Strnad explained his frustration with attempting to correct the problem and the fact that he did not receive notice of the board meeting in time to file a formal response. Mr. Borgsmiller agreed that there are problems with the software and it is currently being reevaluated. Chairman Smart acknowledged that Mr. Strnad made a good case and that the correct information was on the wrong report and there was no attempt to defraud, he just could not work with our system. After further discussion Mr. Sandvoss was asked for his recommendation. The General Counsel reiterated that the issue is whether or not an attempt was made to successfully file in a timely manner and he found that they had, but he filed again on February 3rd because staff advised him to file. He recommended the appeal be granted. Mr. McGuffage moved and Vice Chairman Rednour seconded a motion to grant the appeal. The motion passed unanimously.

Item 25, *SBE v. Citizens for Fred Crespo*, S8813, 06DS016 was called, but continued until later in the day to allow Mr. Borgsmiller time to verify details in question.

The Chairman acknowledged Dr. Linda Shelton, who appeared on behalf of her committee in *SBE v. Committee to Elect Linda Shelton*, S8845, 06CS112. Dr. Shelton echoed earlier testimony that she received the notice on Saturday and could not form a formal reply in such short time. She also requested a copy of the tape recording from the closed preliminary hearing as she had been misquoted by the Hearing Examiner. A new closed preliminary hearing will be scheduled.

Chairman Smart recognized David Epstein who was present in the matter of *SBE v. Chicagoland Apartment Association PAC*, S8908, 06MA001. Mr. Epstein stated that respondent timely filed lobbyist documents and were under the impression that they were in compliance with all regulations until they contracted with a new accounting firm who told them of the requirements to file with the State Board of Elections. Furthermore their actions were not willful and asked that any fine be reduced to 10% of the recommended amount and that the fine be stayed as a first offense. General Counsel Sandvoss concurred with the Hearing Examiner but left the amount of the fine to the discretion of the Board. Mr. McGuffage moved that this is a continuing violation, that has been cured and therefore treat it as a first offense and no fine would accrue. Vice Chairman Rednour seconded the motion. Chairman Smart asked about the settlement offer proposed by Mr. Epstein and Mr. McGuffage withdrew his motion. Mr. McGuffage moved to accept the settlement offer of \$2,550.00 and that the fine is stayed as a first violation. Vice Chairman Rednour recalled her second to the first motion proposed by Mr. McGuffage and seconded the motion to accept the settlement offer and stay the fine as a first violation. The motion passed 5-3 with Members Brady, Keith and Schneider voting in opposition. Mr. McGuffage suggested seeking legislation giving the board authority to reduce and accept settlement offers for pre election and semi annual reports.

The Chairman returned to *SBE v. Citizens for Fred Crespo*, S8813, 06DS016. No one appeared for Respondent. The General Counsel summarized the appeal and agreed with the hearing examiner that 1) no defense was offered; 2) less than two years ago a previous penalty of \$650 was assessed; and 3) that the appeal of the civil penalty be denied and a civil penalty of \$700 should be assessed against the respondent. Mr. Keith moved and Mr. Brady seconded the motion to adopt the recommendations of the General Counsel and hearing examiner and have the assessment reflect the total fines assessed both prior to and subsequent to the hearing. The motion passed unanimously.

Chairman Smart asked the General Counsel for his recommendation in *SBE v. Black Legislative Lobby*, S8982, 06MA002. Mr. Sandvoss concurred with the recommendation of the hearing examiner. Attorney Michael Kasper was present for the respondent. Mr.

Kasper disagreed with the recommendations as the committee does not accept nor makes contributions as defined by the statute and summarized the activities of the committee. Mr. Brady asked if the rule the board recently approved would address this issue and Mr. Kasper replied that the respondent is not a political committee and did not believe it would cover this matter. Attorney Kasper asked for a stay of the entire amount of the civil penalty and that it be treated as a first offense. After lengthy discussion, Mr. Sandvoss agreed after hearing respondent's defense. Mr. McGuffage moved and Vice Chairman Rednour seconded the motion to stay the fine and treat this complaint as a first offense. The motion passed 7-1 with Mr. Keith voting in the negative.

An appearance request was handed to the Chairman from Mr. Michael D. Nardello, the respondent in item 28 *SBE v. Friends of Michael D. Nardello*, S8955, 06MA15. Mr. Nardello apologized for being late and asked for a continuance to present his case. Mr. Schneider moved to vacate the Board's prior vote regarding this matter, table it until the next meeting in Chicago and set it for August 31st in Chicago. Mr. Keith seconded the motion which passed unanimously.

Shortly after 12:30 p.m. Mr. Keith asked that the record reflect that Member Walters has made arrangements to participate by phone today; and because of problems with the building administration we've been unable to hook that up. He has made several calls in and has been available to participate and his nonparticipation is not reflective of any nonattempt by him. Chairman Smart concurred.

Counsel Sandvoss presented for informational purposes an updated list of candidates with unpaid fines that have the potential to face ballot forfeiture for the November 7, 2006 General Election; committees under final orders or delinquent filings; and committees that have made payment of outstanding civil penalties

At 12:42 p.m., the Chairman called for a 10 minute recess to have the speaker phone installed. Mr. Keith moved to recess to closed session to hear campaign disclosure matters. Vice Chairman Rednour seconded them motion which passed by 8 ayes in unison with none opposed.

The open session of the meeting reconvened at 2:47 p.m. Mr. Keith moved to dispense with the postmark rule and put it over until the next session and then go into executive session to discuss pending litigation and personnel matters. Mr. Schneider seconded the motion and Mr. Brady also seconded the motion. The Motion passed by 8 ayes in unison and none opposed.

The Board returned to open session at 3:00 p.m. with no comments from the Chair or Vice Chair.

Mr. Keith moved to adopt the actions in Executive Session and dismiss Number 33, dismiss number 34 without any reference to any right to refile; dismiss 35, 36 and 37 found to be filed on justifiable grounds, proceed to public hearing; and 38 and 39 be found to be filed on justifiable grounds and the parties orders to file all previous and subsequent reports electronically. Mr. McGuffage seconded the motion. Mr. Keith clarified for the record on Number 33, that voting to adopt the action of the Board is not any change of any one person's votes during the Executive Session, but merely a confirmation of what the Board action was. The motion passed 8-0.

Mr. Brady moved to adjourn and Mr. McGuffage seconded the motion which passed unanimously.

The next regular meeting of the State Board of Elections is scheduled for Monday, July 17, 2006 in Springfield and a conference call is scheduled for July 11, 2006 at 9:00 a.m. to hear any new objections and conduct the initial meeting for objections filed against the statewide petition. The meeting adjourned at 3:02 p.m.

DATED: June 20, 2006

Respectfully submitted,

Daniel W. White, Executive Director

Darlene Gervase, Administrative Specialist II