

STATE BOARD OF ELECTIONS
MONTHLY BOARD MEETING
August 16, 2011

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 Scholz, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Assistant III

Chairman McGuffage called the meeting to order at 10:06 a.m. and led everyone in the Pledge of Allegiance to the flag.

Seven members were present in Chicago. Member Rice arrived via telephone at 10:31 and Member Schneider at 10:34 a.m.

Orientation for new board members regarding Campaign Disclosure was provided by General Counsel Steve Sandvoss and Campaign Disclosure Director Sharon Steward and was open to the public. Matters discussed are available in the certified transcript of the meeting.

Member Byers moved to approve the Minutes from the June 14 and July 1 meetings. Vice Chairman Smart seconded the motion which passed unanimously.

The Report of the General Counsel began with summaries of two appeals of campaign disclosure fines that were carried over from June and July wherein the hearing officer recommended the appeals be denied.

The first appeal was considered in June and continued to allow the committee to secure counsel. Attorney Courtney Nottage appeared in *SBE v. Citizens for Lightford*, 13872, 11MA004 and contended that the public was not harmed because the required report, although filed on paper and not filed electronically, was faxed and immediately put on the Board's website. Mr. Nottage indicated that there is no provision for imposing a penalty for failing to file electronically. Further, that the late A-1 filings were an unintentional mistake as reflected in the hearing officer's report. Mr. Sandvoss concurred with the hearing officer's recommendation to deny the appeal, but reducing the Schedule A-1 assessment 90% down to \$3,025. The applicable rule provides that when a committee files on paper when it is required to file electronically, it is given an additional 30 days to file electronically, and if it is not filed electronically it is considered a non-filing. Mr. Sandvoss was troubled that the filing history of the committee began in 1999 and continues to the present with a continuous record of late reports and assessments. He noted that although these are unintentional, the committee should make a more concerted effort to file their reports timely. Mr. Nottage responded that he was not involved in the previous proceedings and agreed that the validity of said rule might be a question for the Court. Member Smart moved to accept the recommendations of the hearing officer and General Counsel. Member Byers seconded the motion which passed unanimously by roll call vote.

As to the second matter, *SBE v. Cuba Township Republican Club*, 4880 11DS024, Attorney Bob Hanaford appeared for the respondent. Mr. Hanaford summarized the activities of the committee including information that the treasurer was 85 and had dementia when she retired. He indicated that new officers would ensure that all future filings would be timely and asked the Board to consider the report of the hearing examiner but limit the fine to the available assets of the committee at that time. The Board considered this a settlement offer in the amount of \$1,345. Member Scholz moved and Member Schneider seconded the motion to accept the settlement offer and the recommendations of the hearing officer and General Counsel. The motion passed unanimously by roll call vote.

Items 3. a. 3 through 19; new appeals of campaign disclosure fines, were considered together. Vice Chairman Smart moved to grant appeals to: *SBE v. Peoples Energy-PAC*, 611, 11AM008; *SBE v. North Central IL Laborers Council PAC*, 630, 11AM009; *SBE v. IL Machinist Non-Partisan Political League*, 758, 11AM013; *SBE v. IUOE Local #649 PAC*, 1155, 11AM016; *SBE v. Dan Rutherford Campaign Committee*, 6752, 11AM074; *SBE v. Builders Association PAC*, 6830, 11AM075; *SBE v. FOP Action IL State Lodge*, 11793, 11AM003; *SBE v. Friends for Hultgren*, 13611, 11DS288; *SBE v. Friends of John Sullivan*, 16708, 10AG073; *SBE v.*

Friends of District 214, 20059, 11DS295; *SBE v. Friends to Elect Toni L. Foulkes*, 20107, 11AJ011; *SBE v. Friends of Stanley Moore*, 20715, 10JS235; *SBE v. Citizens for Kay*, 20925, 10AG077; *SBE v. Indian Prairie Education Assn. PAC for Education*, 21085, 11AM113; *SBE v. Citizens for Circuit Judge Diane Winter*, 22079, 10AG080; *SBE v. Citizens to Elect Steve Egan*, 22615, 10GE035; and *SBE v. Gery Chico for Mayor*, 22977, 11AM126. Member Schneider seconded the motion which passed unanimously. Member Scholz recused himself as to *SBE v. John Sullivan*, and concurred on all others. It was noted that Michael Reed was present on behalf of the People's Energy PAC.

New appeals of campaign disclosure fines wherein the hearing officer recommended the appeals be denied were considered.

Attorney Mike Kasper was present for the respondent in *SBE v. Citizens for Fred Crespo*, 18583, 10AG053 and agreed with the General Counsel's recommendation to grant the appeal. Mr. Sandvoss clarified that he disagreed with the hearing officer as to the imposition of a civil penalty from a due process standpoint and for that reason he recommended the appeal be granted. For the reasons outlined by the General Counsel, the evidence in the record showing that notice was not received, Member Schneider moved to grant the appeal. Member Coffrin seconded the motion which passed 8-0.

The Chairman recognized Mark Deaton, representing the respondent in *SBE v. Illinois Hospital Association PAC*, 675, 11AG066. Mr. Deaton said their violation mirrored the previously considered violations with one exception; his committee's fine was astronomically higher than the others. He said their first, inadvertent late filing involved two of the largest checks they received in one year and proposed a \$2500 fine. The General Counsel advised the Board that the new Schedule A-1 assessment statute allowed the Board to impose a fine not to exceed 50% of the total amount of the contributions that were untimely reported, however it may be less and it is up to the board to determine the appropriate amount. Discussion ensued among the Board. Member Scholz moved to modify the hearing officer and General Counsel's recommendations and waive the penalty as to the Associated Management Resources contribution and impose a \$2500 penalty on the Risk Management Services contribution. Vice Chairman Smart seconded the motion which passed unanimously by roll call vote.

Mr. Habeeb Habeeb, treasurer of the Champaign County Republican Central Committee appeared to explain to the board that they pay expenses out of this committee's funds and the Lincoln Club is used to accept donations on behalf of the committee. He was recently appointed treasurer and has questioned that policy. He assured the Board that they will hire an attorney to assist them and have already taken steps to close the Lincoln Club and transfer the assets to the Champaign County Republican Central Committee; in essence merging the committees. Mr. Habeeb offered a \$300 settlement. Member Byers moved to assess the committee a \$300 penalty and Vice Chairman Smart seconded the motion. The motion passed unanimously.

Member Rice disconnected at 11:55 a.m., with the Chairman holding her proxy.

The Chairman called Item 25, *SBE v. Illinois Trucking Association*, PAC 1021, 11AM014, and recognized Mr. Matt Hart, Executive Director of the committee. Mr. Hart and the treasurer mistakenly thought the complaint was for their quarterly report, which was filed May 4th and were unaware new reporting requirements effective January 1st, 2011 requiring contributions of \$1000 or more being reported within 5 business days or within 2 business days if received within 30 days of an election. He added that the Trucking Industry PAC has a perfect record of reporting on time, this is the committee's first violation which was unintentional, and requested the civil penalty be waived. Member Schneider was persuaded that this was not a willful or wanton violation and moved to adopt the hearing officer and General Counsel's recommendations and impose a fine of \$270, which is due within 30 days. Vice Chairman Smart seconded the motion which passed 8-0.

Three committees requested continuances to future meetings: *SBE v. IL Coin Machine Operators Assoc. PAC*, 712, 11AM012; *SBE v. Naperville Township Republican Org.*, 4987, 11AM073; and *SBE v. ActBlue Illinois*, 19891, 11AM045. Continuances were granted to September and October respectively by order of the Chairman.

The remaining appeals wherein the hearing officer recommended denial were taken as a whole. Mr. Sandvoss concurred with the recommendations and added to item 33 that the penalty be reduced to 10% of the original assessment pursuant to Board policy. Member Schneider noted that no one was present for these committees and moved the appeals be denied subject to the modification with respect to Item. 33. Member Coffrin seconded the motion which passed unanimously. Those matters are: 21) *SBE v. Knox County Democratic Central Committee*, 287, 11AJ002; 22) *SBE v. Illinois Hospital Association PAC (IHA PAC)*, 675, 11AG066; 27) *SBE v. Citizens for Moffitt*, 7982, 11AJ005; 28) *SBE v. Friends for Poe*, 9963, 11AM021; 31) *SBE v. The New Students First Party*, 18578, 11AM096; 32) *SBE v. Citizens to Elect Charles Laskonis*, 18887, 10JS238; 33) *SBE v. 23rd Ward Regular Democratic Organization*, 19167, 11AM100; 35) *SBE v. Arab American Democratic Club*, 20046, 11AM107; 36) *SBE v. Citizens to Elect Diane Seiler*, 21566, 10JS241; 37) *SBE v. Committee to Defeat Judge Kathleen Pantle*, 22971, 11DS321; 38) *SBE v. Citizens for Beverly D. Rogers*, 23107, 11D104; 39) *SBE v. Committee to Elect Jeff Radford, Sr.*, 23393, 11AM146; 40) *SBE v. United for 89*, 23420,

11AM149; 41) *SBE v. Hannah 4 LFHS*, 23484, 11AM155; and 42) *SBE v. New Children's First Party*, 23568, 11MA041. The Chairman continued with new appeals of disclosure fines where the hearing officer recommended that the appeals be granted in part and denied in part. Mr. James G. Burke was present in the Springfield office in the matter of Number 43, *SBE v. Friends of James G. Burke*. Mr. Burke acknowledged that three reports were filed because neither he nor his treasurer was aware that contributions of one thousand dollars or more were to be filed within five days of receipt. The hearing officer recommended a \$175 dollar fine and Mr. Burke asked the Board to agree with that fine. Mr. Sandvoss concurred with the recommendation. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel and impose a \$175 fine. Member Scholz seconded the motion which passed unanimously by roll call vote.

No one appeared for the respondent in *SBE v. Orland Park United Party*. Mr. Sandvoss indicated that proper notice was served and he agreed with the hearing officer's recommendation. Member Byers moved to accept the report that the appeal be granted in part and denied in part. Vice Chairman Smart seconded the motion which passed unanimously by roll call vote.

Item number 45 was a request for a payment plan from the Cook County Democratic Women. Mr. Sandvoss indicated that they made an initial payment of \$450, a subsequent payment of \$413 and will pay the remainder in equal installments within the next 12 months. He recommended the Board accept the plan which is to consist of monthly payments of \$367 to be submitted over the next 12 months. Vice Chairman Smart so moved and Member Scholz seconded the motion. The Chairman asked for leave for the attendance roll call and hearing no objection, leave was granted and the plan accepted.

The Chairman next called the assessments requiring final orders and indicated an appearance by Mr. Andre Thapedi whose committee was on that list. Member Schneider explained that he was premature in his appearance and that he would have to wait for a final order to contest the merits of the assessment. Member Schneider moved to issue final orders regarding the items on pages 248, 249 and 250 of the Board packet. The General Counsel asked that two committees be removed from the category listed as Multi-Assessments. The Friends of Ike Carothers and Committee to Elect Anita Rivkin Carothers submitted appeals and they are before a hearing officer at this point so they should not be on the list assessing a final order. Those two exclusions were included in his motion. Member Byers seconded the motion which passed unanimously.

A list of paid fines was submitted for informational purposes.

Member Schneider moved to proceed into Executive Session for purposes of considering matters following closed preliminary hearing, a personnel issue and pending litigation. Member Coffrin seconded the motion which passed unanimously by roll call vote.

The Board recessed into Executive Session at 12:30 p.m. and returned to open session at 2:30 p.m.

Roll call was taken to ensure a quorum. Chairman McGuffage held Member Rice's proxy.

Due to a technical malfunction of the tape which resulted in only a portion of Executive Session being taped, Member Schneider offered to clarify certain items discussed in closed session. These involved consideration of matters following closed preliminary hearing, personnel and pending litigation.

Member Schneider moved to enter a finding in *Zurek v. Pederson*, 11CD025, that the issues complained of were substantially addressed with supplemental filings and as a result no public hearing need be ordered. Member Byers seconded the motion which passed 8-0 by roll call vote.

Member Schneider, in connection with *Sherman v. Indian Trails Public Library District*, 11CD023, asked leave that the record show by the Chairman's order that the matter is moved to the October meeting.

In the matter of *Sorock v. Citizens for Wilmette Schools*, 11CD026, Member Schneider moved to enter an order that the complaint was not filed on justifiable grounds and the matter be dismissed. Member Byers seconded the motion. Chairman McGuffage called for leave for the attendance roll call and hearing no objection, the motion was granted.

As to *Quinlan v. Friends of Pete Quattrocchi*, 11CD30, Member Schneider moved to dismiss the complaint for want of prosecution. Chairman McGuffage called for leave for the attendance roll call and hearing no objection, the motion was granted.

In regard to Agenda items 52 through 76, Member Schneider moved to enter orders that the complaints were filed on justifiable grounds and that a public hearing be ordered in those cases. Member Coffrin seconded the motion which passed unanimously by roll call vote. Those matters are: *SBE v. Morton Quality in Education Committee*, 11CD029; *SBE v. Citizens to Elect Eric J. Kellogg*,

11CD033; *SBE v. Citizens for Gaughan*, 11CD034; *SBE v. 47th Ward Political Fund*, 11CD035; *SBE v. First Ward Org.*, 11CD043; *SBE v. Friends for Michelle Chavez*, 11CD047; *SBE v. New Lenox Democrats*, 11CD049; *SBE v. Friends for Peter Garza*, 11CD050; *SBE v. Friends of Mickie Polk*, 11CD055; *SBE v. Citizens United for Change in the 20th Ward*, 11CD058; *SBE v. Taxpayers United for Fairness*, 11CD061; *SBE v. Friends of Mary Schneider*, 11CD071; *SBE v. Friends of Frank Calabrese*, 11CD074; *SBE v. Friends of Jeff Houston for Alderman Ward 6*, 11CD081; *SBE v. Working People's Campaign Committee for Honest IL Governors*, 11CD084; *SBE v. The Committee to Elect Tracy McLeMore*, 11CD085; *SBE v. The Friends to Elect Trenton Fedrick*, 11CD087; *SBE v. Friends of Leo C. Watkins*, 11CD088; *SBE v. Friends of Eric Patterson*, 11CD102; *SBE v. Frederick James for Mayor*, 11CD103; *SBE v. Illinois Black Business PAC*, 11CD104; *SBE v. Tea Party of Illinois*, 11CD106; *SBE v. People for Beachem*, 11CD112; *SBE v. Committee on Home Ownership*, 11CD125; and *SBE v. Pulaski County Republican Boosters Club*, 11CD126.

As to items 77 through 84 and 86, Member Schneider moved to find the complaints were filed on justifiable grounds but no public hearing is ordered in these cases. Member Byers seconded the motion which passed 8-0 by roll call vote. Those matters are: *SBE v. Phillips for Mayor*, 11CD046; *SBE v. New Democracy Fund*, 11CD052; *SBE v. Mary Beth Welch Collins Campaign Fund*, 11CD066; *SBE v. Lakefront Democratic Fund*, 11CD067; *SBE v. Committee to Elect Steven G. Watkins*, 11CD091; *SBE v. Friends of Keith L. Jackson*, 11CD093; *SBE v. Concern Citizens to Build a Better Government*, 11CD094; *SBE v. Friends of Frank McPartlin*, 11CD097; and *SBE v. ERA PAC*, 11CD128.

Item 85, *SBE v. Project Mobilize*, 11CD118, Member Schneider moved to find the complaint was filed on justifiable grounds, no public hearing be ordered and the matter be referred to staff. Vice Chairman Smart seconded the motion and the Chairman asked for leave for attendance roll call, and hearing no objection the leave was granted.

Executive Director, Rupert Borgsmiller, began his report with an update of the electronic canvass, advising the Board that good information was received from Chicago and Cook County and they plan to proceed with gathering information from the other counties. Brent Davis appeared in the Springfield office to answer any questions.

General Counsel Sandvoss was asked to address the judicial petition filing policy statement. He indicated that the statement limited judicial candidates to filing one petition for vacancies in a sub circuit and one petition for vacancies in a circuit. The policy statement further provided that if petitions for nomination are filed for the same person for two or more vacancies in the same circuit or sub circuit, the candidate's name is only going to be certified for the first vacancy for which the petitions were filed. Several scenarios were discussed and Mr. Sandvoss presented two options: First, accept only one petition from the candidate, regardless of how many petitions the candidate attempts to file; or Second, accept all petitions filed by the candidate, but make it clear that the one that is designated as the first is the one that will be certified. A judicial candidate may submit a withdrawal, however additional petitions from that candidate will not be accepted. He added that the first option is easier to administer as there is no ambiguity as to which is the first petition and it is consistent with the statute. The Chairman indicated that option 1 was the more favored one with the party leaders. He then addressed the issue of additional judgeships. He noted that additional judgeships should be treated as vacancies and that should be clarified in our policy statement or rule. Mr. Sandvoss indicated there will be a separate filing station for judicial filings and also noted that the SBE time stamp goes down to a fraction of a second. Member Gowen moved to adopt Option 1 and Member Coffrin seconded the motion which passed unanimously. It was agreed that this policy will be on our website and distributed to the various bar associations and other appropriate organizations.

The Director next presented the door to door canvass that was conducted in East St. Louis. Cheryl Hobson was sent to E. St. Louis for three days. She was not presented with any questions regarding purging of registered voters, but she did explain the proper utilization of the IVRS system and otherwise used her time wisely. The Chairman added that in the future the SBE is willing to send an advisor, but we will not send people on the street to canvass.

A summary of the NASED conference was presented. It was a well attended conference and a very worthwhile event; and the Director noted that it is also a good way to keep up to date with all the federal and HAVA requirements.

Dianne Felts, Director of Voting Systems and Standards asked for approval of the M650 and introduced Mark Mangan of Election Systems & Software, who was present via telephone. This rather large machine is primarily used for tabulating absentee ballots and the three jurisdictions that utilize it are lake, Will and Sangamon. All three jurisdictions like this machine. Vice Chairman moved to grant approval and Member Schneider seconded the motion which passed 8-0 by roll call vote.

Mr. Borgsmiller offered a legislative update. He said that Cris Cray, Director of Legislation, indicated four election bills are on the Governor's desk waiting for his signature or veto. He also noted that the Election Calendar for the 2012 election has been completed and posted on our website.

The Director next presented the Campaign Finance Reform Task Force update. The task force developed a list of issues with the new disclosure law and will decide how to address these individual issues at their September 15 meeting. Their report will be given to the legislature prior to the veto session and an additional report is due by the end of the year.

An amendment to the BEREP Rule was approved by JCAR and has been implemented by the SBE. This rule allows a business to update information through the BEREP website if the business is inactive and no longer is bidding on State contracts.

Kyle Thomas presented an update on IVRS; explaining how the system works and that they were able to show the election jurisdictions how to act on duplicate matches. He noted that once these duplicates are deleted, the number of duplicate matches will drop even further. In response to a question, he stated that Illinois has an agreement with 13 other states to check duplicate matches. Those matches are being addressed by the election authorities.

The Executive Director and Jim Withers, Director of Administrative Services, continued with an update of the relocation of the Springfield office. Mr. Withers summarized the bidding process and stated that Mr. Borgsmiller, Kelley Gray, Kevin Turner and he toured two of the sites. Everyone agreed that the South MacArthur Blvd. office would be a good fit. The other on North Fifth was two floors and would require extensive remodeling, the cooling system did not work and it was very dirty. There were many negatives to that building. A third location bid was rejected due to the building having a severe mold problem. CMS will make a proposal to the SBE as to which location they believe suits our needs and we will have to go through several layers of bureaucracy to get to the final site. The process could take from two to six months.

The fiscal reports were presented for informational purposes and Mr. Borgsmiller noted that approximately \$10,000 remains in awards and grants for FY11 and will be held to pay any interest on bills that will not have been paid in a two-month period. The budget total for operations will lapse about \$900,000 and the majority of this amount was in personal services due to unfilled vacancies.

The two year plan of staff activity for the months of August and September was presented for informational purposes.

Two follow-up items were revisited. 1) The RFI for testing for VOSS was set aside until further notice. 2) The allocation for the weighted votes for the new 18 Congressional Districts is not completed as there are several jurisdictions that have not submitted their information. This should be completed within the next week and hopefully an amended state plan regarding delegate selection by the Democratic National Convention will be awarded.

Mr. Borgsmiller asked the Board to entertain the idea of changing the Board meeting back to September 19th as the first meeting of the County Clerks Advisory Committee is scheduled for that day. He explained the makeup of the committee and that Assistant Executive Director, Jim Tenuto, will conduct both the Advisory Committee meeting and the Board meeting. The Board agreed to the date change.

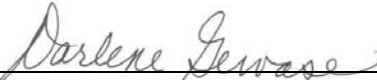
There being nothing further before the Board, Vice Chairman Smart moved and Member Scholz seconded a motion to adjourn.

DATED: August 31, 2011

Respectfully submitted,



Rupert Borgsmiller, Executive Director



Darlene Gervase, Administrative Assistant III