

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, August 20, 2013

MINUTES

PRESENT:

Jesse R. Smart, Chairman
Charles W. Scholz, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
William M. McGuffage, Member
Bryan A. Schneider, Member
Casandra B. Watson, 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 10:35 a.m. via videoconference with all Members present in Chicago. Member Coffrin left the meeting at 3:00 p.m. and Member Schneider held her proxy.

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

Member Scholz moved to approve the minutes from the July 1 meeting as presented. Member Coffrin seconded the motion which passed unanimously.

Chairman Smart indicated that Agenda item 3.b, certification of voting equipment – ES&S DS200, and modifications to M100 and M650 would be considered first. Representatives from ES&S were present, Judd Ryan in Chicago and Herb Deutsch via teleconference. Kyle Thomas began with a review of the extensive testing process, noting that staff simulated three separate elections, two of which tabulated without any errors. During testing for the General Primary staff encountered some programming errors made by the vendor in the set-up and design of the election. Two human errors were also discovered in the individual machine set-up and maintenance of the machine. To correct the first error, it was recommended that the ‘jumper cables’ used inside the M100 must be unhooked. The other error was related to debris entering the M100. Mr. Thomas recommended that the machines be cleaned at a minimum after each election or after 4,000 ballots have been tabulated, that jurisdictions using M650 machines review their reports in summary and by precinct, and that the supplemental ballot boxes for the DS200 not be used because it layers the ballots in sequential order. He noted that the additional precinct capacity on the M100 was a feature the larger election jurisdictions would benefit from and recommended approval of the voting systems. In response to an inquiry from the Board, Mr. Ryan verified that if the equipment and modifications were approved he will make sure the election jurisdictions would adhere to the additional recommendations included in Mr. Thomas’ report. Member Scholz moved to grant a two year interim approval for certification of the DS200 and modifications to the M100 and M650 machines. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.1, a request for settlement offer for *SBE v. Vernon Township Republican Central Committee, 19724* and reviewed the matter. He

recommended the settlement offer be rejected and the \$250 penalty stand because the committee did not offer at least 50% of the fine and has more than sufficient funds to pay the penalty. No one was present on behalf of the respondent committee. Vice Chairman Scholz 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 items 2.a.2-3, which were settlement offers for *SBE v. Committee to Elect Steven G. Watkins*, 22358, 11SQ141 and *SBE v. Progressive Citizens Party*, 25105, 13MA055. He recommended both offers be accepted because they were 50% of the original penalty. Member Byers moved to accept the recommendation of the General Counsel. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented appeals of campaign disclosure fines for Agenda items 2.a.4-24:

- 4) *SBE v. Tazewell County Democratic Central Committee*, 33, 13MQ001;
- 5) *SBE v. Illinois Republican Party*, 292, 12AS02;
- 6) *SBE v. Illinois Home Builders Pol Education Committee*, 295, 13AD016;
- 7) *SBE v. Macon County Republican Central Committee*, 366, 13MQ010;
- 8) *SBE v. North Suburban Teachers Union Cope*, 450, 13AM008;
- 9) *SBE v. Fayette County Democratic Central Committee*, 5254, 13DQ235;
- 10) *SBE v. Moultrie County Democratic Central Committee*, 5667, 13MQ021; (pg
- 11) *SBE v. Citizens for Sidney Mathias*, 13894, 13AD003; (pgs.46-52)
- 12) *SBE v. Citizens for Healy*, 14960, 13DQ237; (pgs.53-55)
- 13) *SBE v. Citizens for Gulledege*, 15962, 13MQ054; (pgs.56-58)
- 14) *SBE v. Friends of John Fulgenzi*, 18278, 13MQ067; (pgs.59-61)
- 15) *SBE v. Naperville Township Democratic Organization*, 18389, 13AM019;
- 16) *SBE v. ActBlue Illinois*, 19891, 13AM022; (pgs.79-82)
- 17) *SBE v. Maine Teachers Association PAC*, 20579, 12JQ194; (pgs.83-85)
- 18) *SBE v. Citizens for Matt Bogus*, 21498, 13AD074; (pgs.86-90)
- 19) *SBE v. Informed Suburban Voters*, 21834, 13MQ095; (pgs.91-93)
- 20) *SBE v. PAC 34 of IBEW Local 34*, 22824, 13MQ110; (pgs.94-96)
- 21) *SBE v. Julie Morrison for State Senate*, 23762, 13AD036; (pgs.97-103)
- 22) *SBE v. Friends for Marty Moylan for State Representative*, 23798, 12AS036;
- 23) *SBE v. Catherine Adduci – Continue the Progress*, 24692, 13AD096;
- 24) *SBE v. Friends of RVC PAC*, 25178, 13AM045.

He concurred with the hearing officer recommendation to grant all of the appeals except for Agenda item 2.a.17 where he recommended the appeal be denied for failure to timely file the report in question. No one was present on behalf of the respondent committees. Member Schneider moved to grant the appeals for Agenda items 2.a.4-16 & 18-24 and deny the appeal for Agenda item 2.a.17. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted the following appeals of campaign disclosure fines for Agenda items 2.a.30, 33, 41 & 42 were pulled and would be placed on a future Board Meeting Agenda: 30) *SBE v. Personal PAC, Inc.*, 497, 13AM009; 33) *SBE v. Friends of Mary E. Flowers*, 4261, 12AS064; 41) *SBE v. Friends of Dave Koehler*, 19230, 12AS067; and 42) *SBE v. Friends of Dave Koehler*, 19230, 13AD067.

The General Counsel presented the following appeals of campaign disclosure fines where the hearing officer recommend the appeals be denied for Agenda items 2.a.29, 45 & 61: 29) *SBE v. Brown County Republican Central Committee*, 382, 13MQ012; 45) *SBE v. York Township Republican Women's Organization*, 20602, 13MQ079; and 61) *SBE v. Citizens for Gayle Vandenberg*, 24856, 13MQ181. He did not concur with the hearing officer and recommended the appeals be granted based on the electronic filing defense. No one was present on behalf of the respondent committees. Member Schneider moved to accept the recommendation of the General Counsel in the above noted appeals. 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 deny the appeals for Agenda items 2.a.25-28, 32, 34-39, 43-44, 46-50, 53-59 & 63-67:

- 25) *SBE v. Warren County Democratic Central Committee*, 77, 13MQ002;
- 26) *SBE v. Regular Republican Party of River Forest*, 226, 13MQ006;
- 27) *SBE v. Champaign County Democratic Central Committee*, 290, 13AD053;
- 28) *SBE v. Jackson County Democratic Central Committee*, 303, 13AD018;
- 32) *SBE v. County Clerks & Records Special Action Fund*, 1358, 13MQ013;
- 34) *SBE v. Gene Siegel Political Committee*, 4303, 13AD056;
- 35) *SBE v. Plumbing Council of Chicagoland PAC*, 8546, 13MQ025;
- 36) *SBE v. Italian-American Political Coalition*, 10893, 13AM015;
- 37) *SBE v. Citizens for Classrooms Plainfield School District 202*, 11061, 13MQ028;
- 38) *SBE v. Elect Jody Bernard Coroner*, 11612, 13MQ030;
- 39) *SBE v. Friends to Re-Elect John W. Callahan Grundy County Treasurer*, 15116, 13MQ046;
- 43) *SBE v. Warren Township Democrats*, 19270, 12SQ206;
- 44) *SBE v. Palos Park First*, 20191, 13MQ076;
- 46) *SBE v. Citizens to Elect Carl Evans, Jr.*, 21024, 13MQ085;
- 47) *SBE v. Duffy Blackburn for Will County Auditor*, 21223, 13MQ087;
- 48) *SBE v. The Friends of Jim Schwantz*, 21285, 13DQ087;
- 49) *SBE v. CARE for 113 Schools*, 23302, 13MA016;
- 50) *SBE v. Citizens to Elect Jay Scott*, 23726, 13MQ128;
- 53) *SBE v. Naperville Citizens for Smart Meter Awareness*, 24050, 13MQ133;
- 54) *SBE v. Friends of Ken Snider*, 24140, 13MQ138;
- 55) *SBE v. Thornton Township Young Democrats*, 24243, 13DQ159;
- 56) *SBE v. Friends of John DeBartolo*, 24492, 13MQ158;
- 57) *SBE v. Friends of Theresa Barreiro*, 24523, 13DQ241;
- 58) *SBE v. Our Parks Legacy Supports Park Bond Acquisitions Referendum 2013*, 24633, 13AD095;
- 59) *SBE v. Committee to Elect Bob Trentman*, 24640, 13MQ166;
- 63) *SBE v. Citizens for Terry Vorderer*, 25134, 13MQ225;
- 64) *SBE v. Nigerian-American Political Affairs Committee Illinois PAC*, 25282, 13MQ239;
- 65) *SBE v. Citizens for Better Township Government*, 25295, 13MQ244;
- 66) *SBE v. Friends of Janet Ryan Grasso*, 25298, 13MQ246;
- 67) *SBE v. Friends of George Ruzic*, 25333, 13D1005.

No one was present on behalf of the respondent committees. Member Schneider moved to accept the recommendation of the General Counsel in the above noted appeals. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.31, *SBE v. Citizens for Ronald Wait, 885, 12SQ014* and noted he concurred with the hearing officer recommendation to deny the appeal. John Fogarty was present on behalf of the committee and said the late filing was an inadvertent error because Mr. Waite referred to an outdated Campaign Disclosure Calendar from 2011. Member Schneider moved to accept the recommendation of the General Counsel to deny the appeal and stay the penalty. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.40, *SBE v. Rainey for Alderman, 18461, 13MQ069* and noted he concurred with the hearing officer to deny the appeal. Ann Rainey was present on behalf of the committee and said that in 25 years this is only the second time she had a late filing and was one day late with this filing because of issues she experienced with the IDIS software. She indicated the committee has had no activity for years and plans to dissolve it. The General Counsel indicated that the committee could be given the benefit of doubt and the electronic filing defense would be appropriate in this case. Member Schneider moved to grant the appeal. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda items 2.a.51-52, *SBE v. Citizens to Elect William S. Boyd, 23872, 12MA113* and *SBE v. Citizens to Elect William S. Boyd, 23872, 12MQ298* and said he concurred with the hearing officer recommendation to deny the appeals. Linda Crane Boyd and William Boyd were present on behalf of the respondent committee. Both parties explained they were running behind trying to understand the campaign financing rules after the Treasurer was diagnosed with prostate cancer and unable to completely fulfill his duties. A new custodian has been hired to go through all of the filings and manage the fund and it was noted that the committee did not have enough funds available to pay all of the penalties. Discussion ensued regarding options to dissolve the committee or the possibility of the candidate running for office in 2016. Mr. Boyd offered to pay \$4,028.36 toward the fine and then dissolve the committee. Member Byers moved to consolidate both matters into one, vacate the previous Board Order, and order the committee to pay the settlement amount and close the committee for two years. Vice Chairman Scholz seconded the motion which passed by roll call vote of 7-0, with member Gowen recusing himself from the matter.

The General Counsel presented Agenda item 2.a.60, *SBE v. Committee to Elect Beth Sandusky, 24675, 13MA035* and said he concurred with the hearing officer recommendation to deny the appeal. No one was present on behalf of the respondent committee. Vice Chairman Scholz moved to deny the appeal. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.62, *SBE v. Show You Care Kane for the Developmentally Disabled, 25124, 13MA057* and said he concurred with the hearing officer recommendation to deny the appeal. Lynn O'Shea was present on behalf of the respondent committee and explained that the non-profit organization, Association for Individual Development created the committee to place a referendum on the ballot in Kane County. She was misinformed by a consultant who indicated the committee was not required to file since no outside funds were raised and later was told by an attorney there might be a requirement to file.

After several phone calls with staff she was finally told to file and see what happens. Ms. O'Shea said that once notice was received she was diligent with getting the appropriate reports filed and noted the funds balance is zero. Vice Chairman Scholz moved to grant the appeal. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented Agenda item 2.a.68, *SBE v. Citizens for Karen McConnaughay*, 7875, 13AD022 and concurred with the hearing officer recommendation to grant the appeal in part and deny in part. Andrew Raucci was present on behalf of the respondent committee and indicated he agreed with the recommendation. Vice Chairman Scholz moved to accept the recommendation of the General Counsel and assess a \$500 civil penalty. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted that Agenda item 2.a.70, *SBE v. Friends of Sam Yingling*, 23561, 13MA019 was pulled in will be placed on a future Board Meeting Agenda.

The General Counsel presented Agenda items 2.a.69 & 71, *SBE v. Friends of James Sexton*, 13255, 13MA039 and *SBE v. Citizens for Edward Pugh*, 24393, 13MA031 and concurred with the hearing officer recommendation to grant the appeal in part and deny in part. No one was present on behalf of the respondent committees. Member McGuffage moved to accept the recommendation of the General Counsel in the above noted appeals. Member Byers seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented an appeal of contribution limits fines for Agenda item 2.a.72, *SBE v. Friends of Mike Jacobs*, 18410, 12DQ-CL001 and concurred with the hearing officer recommendation to grant the appeal. Member Byers moved to accept the recommendation of the General Counsel. Member Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a complaint following public hearing for Agenda item 2.a.73, *Hajer-O'Connor v. Committee to Elect Robert J. Lovero*, 13CD003 and reviewed the matter. He concurred with the hearing officer recommendation that the complaint was filed on justifiable grounds; however, he agreed that no further action is necessary other than referral of the matter to staff for the assessment of civil penalties related to the delinquent filing of the D-2 report and several A-1 violations. He further recommended that the treasurer of the committee be ordered to meet with staff to discuss discrepancies within the committee's reports and determine if additional amendments need to be filed to resolve any discrepancies. Jeanmarie Hajer-O'Connor was present and also concurred with the recommendation. Felix Greco, Treasurer of the respondent committee, also agreed and indicated that the committee treasurer will meet with staff and comply with the necessary filings. Member Gowen moved to accept the recommendation of the General Counsel and hearing officer outlined in his report presented in the board packet, including that if the treasurer fails to meet with staff and resolve the discrepancies, the committee shall be subject to an additional penalty not to exceed \$5,000 for failure to comply with a board order, and the committee's financial records and disclosure reports shall be submitted to an audit, the cost of which shall be paid for by the committee. Vice Chairman Scholz 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. Member Byers moved to issue final board orders for those committees listed on pages 332-339 of the board packet noting the mathematical error on page 338 should be corrected. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

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

After a short break, Member Schneider moved to recess to executive session to consider complaints following closed hearing. Member Coffrin seconded the motion which passed unanimously. The meeting recessed at 12:30 p.m. and reconvened at 2:00 p.m.

As to Agenda item 2.a.76, *Hajer-O'Connor v. Democratic Citizens of Berwyn*, 13CD101, Member Schneider moved to find the complaint was found to have been filed on justifiable grounds with respect to counts one and two. Count three was not filed on justifiable grounds, however the Board ordered the committee to file amended reports showing proper recipients of the four expenditures noted by the hearing officer; and ordered that the committee reports be referred to staff for imposition of civil penalties. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.77, *Hajer-O'Connor v. Committee to Elect Robert J. Lovero*, 13CD102, Member Schneider moved as to count one, the complaint was found to have been filed on justifiable grounds; however, no public hearing was ordered because the amended reports were filed. The Board issued an Order that any repeat violation would subject the committee to a penalty not exceeding \$5,000 for failure to comply with a Board Order. As to count two, the complaint was found to have been filed on justifiable grounds in part and not filed on justifiable grounds in part; however, the Board ordered the committee to file amended reports showing proper recipients of the nine expenditures noted by the hearing officer. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.78, *Jones, Jr. v. Citizens for Dwight W. Welch*, 13CD125, Member Schneider moved to find the complaint was found to have been filed on justifiable grounds in part and the matter was ordered to proceed to a public hearing as to the expenditures of rental, insurance and utility payments, in addition to payments to the Secretary of State's office for vehicle registrations, and the purchase of a sound system. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.79, *Johnson v. McHenry Republican Team 2013*, 13CD130, Member Schneider moved to dismiss the complaint for want of prosecution. Member Byers seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.80, *Trautsch v. Friends of Tim Desmond*, 13CD132, Member Schneider moved to find the complaint was found to have been filed on justifiable grounds; however, no further action was ordered other than referral to staff for imposition of civil penalties. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

As to Agenda item 2.a.81, *SBE v. Citizens to Elect Bridget Healy Ryan*, 13CD023, Member Schneider moved to find the complaint was found to have been filed on justifiable grounds and order that the matter proceed to a public hearing. Member Byers seconded the motion which passed by roll call vote of 8-0.

Agenda item 2.a.82, *SBE v. Friends for Mark Battaglia*, 13CD076 was pulled and will be placed on a future Board Meeting Agenda.

As to Agenda item 2.a.83, *SBE v. Friends of Ahmed Khan*, 13CD062, Member Schneider moved to find the complaint was found to have been filed on justifiable grounds; however, no further action was ordered other than referral to staff for imposition of civil penalties. Vice Chairman Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented proposed rules on the counting of provisional ballots and said the amendments were a result of language set forth in the omnibus election bill. It establishes new procedures for counting provisional ballots that are cast in a precinct other than the precinct in which the voter is registered. Statewide offices, as well as legislative, representative, countywide and citywide offices, will be counted if it is determined that said voter would have been entitled to vote for the offices if he or she had voted in the correct precinct. The provisional voter will also have seven days to provide supporting documentation to the election authority instead of the two days previously allowed to provide documentation. The General Counsel indicated that these rules are required to be in place prior to the 2014 General Primary Election and asked for Board approval. Vice Chairman Scholz moved to approve the proposed rules and begin the process for implementation through JCAR. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The Executive Director began his report with a proposed SBE Identity Protection Policy and said this was a result of an immaterial finding from the last external audit. Bernadette Harrington explained the policy was modeled after currently approved policies of other state agencies and is intended to prevent unauthorized access to employee social security numbers and protect private information as required by the Identity Protection Act. Vice Chairman Scholz moved to approve the SBE Identity Protection Policy as presented. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The Executive Director presented the legislative update and referred to Cris Cray's memo outlining highlights of the omnibus elections bill that was recently signed by the Governor. Ms. Cray noted that the establishment of a Lake County Board of Election Commissioners is on hold due to issuance of a judge's order. He also noted that the SBE now has authority to issue pollwatcher credentials and discussion ensued regarding who should sign them. It was agreed by all that the credentials will include signatures of both the Chairman and Vice Chairman.

Next on the Agenda was an amendment to the seven day campaign disclosure calendar and the Executive Director noted that a memo from the General Counsel was included presenting options for a legislative amendment to address the short time frame in which to dispose of campaign disclosure related complaints. The General Counsel said that most complaints that are filed prior to an election are meritless and/or result in no appearance by the complainant and suggested an eleven day blackout period prior to an election where complaints will not be accepted. He also proposed a filing fee of \$250 which is based on a range of filing fees currently charged by the Sangamon County Circuit Court. Discussion ensued and it was agreed that staff will consult with the Campaign Finance Reform Task Force Members and other interested parties and the matter placed on the September Board Meeting Agenda.

The Executive Director reported on the new IDIS3 program and said it is now a web-based program and users will no longer have to install software on their computers, meaning the program will be accessible from any computer with internet access. The program is expected to be released next week and Sharon Steward noted that notice will be sent to committees and also will be posted on the front page of the website. Staff assistance will be

available to transfer users of the old system to the web program and the old system will be operable for six to eight months during the transition.

Next was an update on the eCanvass program and Brent Davis reported that project is on track and moving forward. He noted that programming is ongoing to ensure that the jurisdictions assign the proper ID number to the office and the candidate. Barring unforeseen problems or circumstances, everything is on track and the staff anticipates completion prior to the 2014 General Primary Election.

The Executive Director indicated the staff is making progress on the online voter registration system. Meetings have been conducted with interested groups regarding the functionality of the system. Kyle Thomas said an agreement has been reached with the Secretary of State's office regarding the layout that will be implemented. Several test cases have been submitted to the SOS and staff is waiting for their response.

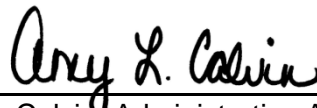
Mr. Thomas presented the IVRS chart for informational purposes and noted that Cheryl Hobson recently provided training to the East St. Louis Board of Election Commissioners. Ms. Hobson reported that their voter purge is going well and expected to be completed by the end of September. As of today, E. St. Louis' census data number versus registered voters is currently 99.29% and the Board of Election Commissioners is working diligently to reduce this number below 100%.

The FY13 fiscal status reports and two year plan of staff activity were presented for informational purposes. It was noted that FY14 fiscal status reports will be included on the September Board Meeting Agenda.

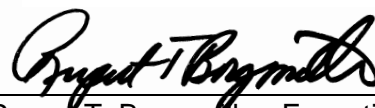
Next on the Agenda was comments from the General Public and the Chairman indicated that Sharon Meroni, Executive Director of Defend the Vote has requested to speak to the Board regarding election integrity. Ms. Meroni expressed her concerns with voting equipment security in Cook County and the Chicago Board of Election Commissioners as well as security seal processes during early and absentee voting. She also referred to a letter from the Argonne National Laboratory regarding vulnerability assessments and advice on election security. Ms. Meroni was asked to provide staff with a copy of the contract and contact information of the researcher who conducted the studies.

With there being no further business before the Board, Vice Chairman Scholz moved to adjourn until 10:30 a.m. on September 16, 2013 in Springfield. Member Byers seconded the motion which passed unanimously. The meeting adjourned at 3:30 p.m.

Respectfully submitted,



Amy Calvin, Administrative Assistant II



Rupert T. Borgsmiller, Executive Director