

State Board of Elections Board Meeting
Monday, October 16, 2006
10:30 a.m.

MINUTES

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

PRESENT VIA PHONE: Robert J. Walters, Member

ALSO PRESENT: Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Rupert Borgsmiller, Director/Public Disclosure
Darlene Gervase, Administrative Specialist II

The regular monthly meeting of the State Board of Elections was called to order shortly after 10:39 a.m. with 5 members present. Mr. Porter held Mr. McGuffage's proxy until his arrival at 11:24 a.m.; Chairman Smart held Mr. Brady's proxy until his arrival at 10:46 a.m. and also held Mr. Walters' proxy until his arrival at 11:15 via telephonic call.

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

At 10:40 a.m., Vice Chairman Rednour moved to recess to the State Officers Electoral Board. Mr. Keith seconded the motion which passed unanimously. The Board returned to regular session at 10:41 a.m.

The Chairman presented the minutes of the August 31 and September 18 regular Board meetings and the September 7, 8, 21 and 28 special Board meetings. Mr. White noted that Member Keith asked for confirmation of the vote on page 4, 5th full paragraph, last sentence. The last line should read that Members Brady, Schneider, Walters and Chairman Smart voted no. With that change accepted by the Board Members, Mr. Keith moved and Vice Chairman Rednour seconded a motion to approve the minutes of the referenced meetings. The motion passed unanimously.

Director White noted that today was the first day for early voting and began his General Election Day activities report with a synopsis of the Pre Election day monitoring meetings to be held in Springfield and Chicago offices and invited the board members to attend.

Public service announcements regarding early voting and grace period registration have been delivered to 320 stations for airing, while video public service announcements have been sent to 60 television outlets across the state; and early voting press release have been sent to over 230 media outlets, including Spanish media. Furthermore, we are very pleased that for the first time we have translated these announcements in Spanish, Mr. White said.

Mr. White presented Election Day Assignments and noted that Alexander County and East St. Louis requested assistance. In response, Kyle Thomas and Mike Heap have been assigned to Alexander County and Eric Donnewald, Bruce Brown, Jeff Berry, and Brent Davis to East St. Louis. Hotline numbers are set up in the Chicago office and we will publish that information next week.

A list of election judge training work shops that the Board is conducting was submitted. The director noted that this is one of the more important functions of the agency and one that is appreciated by the election authorities. He estimates over 7,000 will attend.

The Division of Voting Systems and Standards continues to test new equipment and will conduct pre election testing of Calhoun, Fulton, McDonough, and Putnam counties. In the future, more testing will be conducted. Mr. White stated that Dianne Felts continues to do outstanding job.

Mr. Porter asked for clarification about the election judge training schools attendance. Mr. White responded that attendance records were not available when the board packet was prepared and a complete report will be available at the November meeting.

In conclusion of Mr. White's Election Day report, he declared that the Election Authorities Guide has been updated with current election law, statewide and HAVA procedures. The Guide will be distributed to all Election Authorities this week.

Mr. White brought the withdrawal filed by Kelly Street, Democratic candidate for the 93rd Representative District to the Board for consideration of acceptance. He said that the ballots have been printed and early voting has begun and the jurisdiction indicated that it is impossible to reprint the ballots at this late date. Discussion ensued among the board. General Counsel Sandvoss affirmed that the withdrawal had been time stamped and accepted by the staff on Friday, October 13 and a candidate cannot be forced to run. Further, that if this person wins it would create a vacancy in office which the party managing committee would fill, but the statute provides a time frame of 15 days before the election. Mr. Sandvoss recommended that the board take no action until a notice of a replacement is received. Mr. Porter stated that we have accepted the withdrawal; the candidate has the right to withdraw; and moved that the Board has no option but to accept the withdrawal and no further action will be taken. Mr. Keith seconded the motion which carried 8-0.

The Director continued with the Help America Vote Act update and was pleased to report that Rock Island County has returned \$122,247.25 satisfying our request and leaving no outstanding HAVA funds. The Board considered solutions to ensure this would not happen again, and determined that it would be a burden to impose restrictions on all election authorities when only two caused the problem refunding the money. Further, all grant agreements, signed by the election authorities stipulate that the funds must be spent within 30 days or returned to the state. In light of the funds returned by Champaign and Rock Island Counties, Mr. Keith moved to rescind directions previously issued to the General Counsel to institute legal proceedings against those two counties to get the unspent money back and that this motion is not a concession that that the Board lacks the ability to collect the interest from the unspent funds if the audit finding from the federal government directs us to do so. Vice Chairman Rednour seconded the motion which passed 8-0. Mr. Keith then moved to place on the agenda for November either a) that no funds be advanced to Champaign or Rock Island Counties until vouchers showing proof of payment are submitted; and/or b) amend our agreement to include that if the money is not dispersed within 30 day it must be repaid with interest to the Board. Mr. Brady seconded the motion which passed unanimously.

The next item on the Executive Director's report, certification of voting systems, had been addressed at a special conference call on Friday, October 13, 2006. By certifying the voting systems and modifications last Friday, Cook County and Chicago election authorities were able to begin early voting today.

The new constraints of the open meetings act beginning in January, 2007, especially regarding the 7-day campaign disclosure calendar, were relayed to the Speakers Office. We do not anticipate any changes in the veto session Mr. White said. Further, this may be a blessing in disguise, as CMS offers an excellent, state-of-the-art solution for state agencies at an affordable cost. Steve Flowers, Director of Information Technology, researched buying, leasing and utilizing CMS' shared conferencing. He recommended participation in the CMS leasing program as the most cost efficient as it offers excellent quality of video and audio equipment, with upgrading, technical support, network costs, and next day service included in the monthly lease. Mr. White added that CMS' videoconference program offers a plethora of other applications to the agency that couldn't be achieved by purchasing our own equipment or using the shared conferencing. Mr. Porter moved to authorize the Director to proceed to enter into an agreement with CMS for the purpose of being a part of the videoconferencing lease program. Mr. Brady seconded the motion which passed by roll call vote of 8-0.

The Fiscal status reports and the 2-year plan of activities were presented for informational purposes. Mr. White noted that the budget is in good shape and all obligations are met.

On a final note, Mr. White added that a special meeting for approval of ES&S' in-precinct mail county system will be required at a later date, and would advise the board as soon as possible.

The General Counsel's report began with an introduction of a carryover appeal from the June meeting, *SBE v. Friends of Michael D. Nardello*, 06MA15. General Counsel Sandvoss concurred with the Hearing Examiner that the appeal be denied for lack of an adequate defense, but to reduce this Schedule A-1 violation to 10% of the original assessment or \$500. This penalty added to the civil penalty for filing the Pre Election Report 10 days late brings the total amount due and owing to \$1500. Mr. Keith moved to adopt the recommendation of the Hearing Examiner and General Counsel to deny the appeal and assess the civil penalty. Mr. Brady seconded the motion which passed 8-0.

The Chairman called the matter of *SBE v. 25th Ward Independent Democratic Organization*, 06AP031 and noted that Mr. Hector Jaquez was present for the respondent. Mr. Sandvoss summarized the activities of the committee and agreed with the Hearing Examiner's recommendation that the appeal be denied for lack of an adequate defense. She recommended that the penalty be reduced to 10% of the original assessment or \$1250. Mr. Jaquez, who had been appointed assistant treasurer on October 13, 2006, reaffirmed the defense of the treasurer. Mr. Keith moved to uphold the recommendation of the Hearing Examiner and General Counsel to deny the appeal and reduce the civil penalty to \$1250 or 10% of the original assessment. Mr. Brady seconded the motion which passed 7-0-1. Mr. McGuffage voted present.

New Appeals where the Hearing Examiner recommended granting the appeal were considered as a group. Mr. Porter changed a sentence in the Hearing Examiner's recommendation in 06JS043 to remove "this time only". Vice Chairman Rednour moved to grant the appeals in items 3-9 and adopt the recommendations of the General Counsel and Hearing Examiner with the change suggested by Mr. Porter. Mr. McGuffage seconded the motion. The motion passed by roll call vote of 8-0 for: *SBE v. Friends of Tom Pavlik*, 06JS043; *SBE v. Family-PAC*, 06JS077; *SBE v. Citizens to Elect David Erickson*, 06AP064; *SBE v. Downers Grove Township Republican Org.*, 06JS092; *SBE v. Citizens for Stephen Stern*, 06JS097; *SBE v. Friends of Mitroff*, 06JS104. The vote was 7-0-1 in the matter of *SBE v. Citizens for Lance Peterson*, 06AP057 with Mr. Keith voting present on this case.

Mr. Sandvoss summarized items 3.a. 10, 11, 12, 13, and 15 and concurred with the recommendation of the Hearing Examiner to deny the appeals. Mr. Keith moved and Vice Chairman Rednour seconded the motion to deny the appeals in the matters of *SBE v. The Coalition Party aka the Progressive Party*, 06JS 014; *SBE v. Citizens for Gomez*, 06JS017; *SBE v. Village Improvement Party*, 06JS040; *SBE v. Friends for Kimberli Laasch*, 06JS050; and *SBE v. Schwigen for Sheriff*, 06D1-11. The motion passed by roll call vote of 8-0.

The Chairman called the matter of *SBE v. Citizens for Dave Sullivan*, 06MA020 and noted that Mr. Andy Raucci was representing the respondent committee. It was noted that an appeal affidavit and waiver of appearance was submitted by the Treasurer and neither the treasurer, nor Mr. Raucci were present at the appeal hearing. Mr. Raucci argued legislative intent and interpretation of the statutes. The Board agreed that this matter is beyond the scope of a hearing examiner and should be heard by an attorney and that legislative history would be helpful to decide this matter. Mr. McGuffage moved and Mr. Brady seconded the motion to send this matter back to an attorney to be appointed by the General Counsel to include clarification and legislative history. The motion passed 8-0.

The General Counsel presented *SBE v. Friends of Ron David*, 06JS064 and concurred with the recommendation of the hearing examiner to deny the appeal because it dealt with technical problems with their computer rather than a software issue. Mr. Sandvoss stated that committees using the software for the first time are given an exemption for a first time offense if it deals with a software issue, and that he didn't think a distinction should be made between computer issues. However, he noted that the affidavit provided by the treasurer said the problem was corrected on the 8th, but the report was not filed until the 14th. He recommended the board assess a \$200 civil penalty (\$50 per each of the 4 days the report was late after the computer was fixed) rather than the recommended \$500 civil penalty. Mr. Brady moved and Vice Chairman Rednour seconded the motion to grant the appeal in part and deny in part and accept the recommendation of the General Counsel to assess \$200 civil penalty for filing the report 4 days late. The motion passed by roll call vote 8-0.

Mr. Sandvoss summarized the findings of fact in *SBE v. Andy for Illinois*, 06JS0136, following public hearing. He concurred with the recommendation of the Hearing Examiner that the committee be placed under Board Order, given 10 business days to electronically file the Semi Annual Report for the period ending December, 2005, and if the Respondent fails to do so, a fine not to exceed \$5000 will be imposed upon the respondent. Mr. Keith moved and Mr. McGuffage seconded the motion to adopt the recommendations of the hearing examiner and general counsel and that the final order specify the date rather than saying 10 business days so there is no doubt as to what date it must be filed by pursuant to the order. The motion carried 8-0.

The Chairman called *SBE v. Citizens for Theodore Thomas*, 06CD014 and noted that Ms. Harriet Mimms was present for the respondent. Mr. Sandvoss summarized the findings of the committee, noting that at the closed hearing, the respondent asked for a continuance to file the required reports, but failed to appear at the agreed date and time and failed to respond to emails regarding this matter, so a public hearing was conducted. No one appeared on behalf of the respondent. However, Ms. Mimms and the treasurer of the committee contacted board staff and filed the report on October 4, 2006. The General Counsel agreed with the recommendation of the hearing examiner that the complaint was filed on justifiable grounds, the report in question has been filed and a civil penalty has been assessed as a result of the late filing. This penalty is in addition to any other preexisting civil penalties that have been assessed due to previous violations. Mr. Keith moved that the complaint was filed on justifiable grounds and no further action is required due to the civil penalty process. Vice Chairman Rednour seconded the motion which passed unanimously.

Mr. Sandvoss indicated that Failure to file Raffle Reports; Consideration of Assessments and Final Orders; and Payment of civil penalties were presented for informational purposes. Discussion ensued among the board regarding the civil penalties assessments necessitating a final order. Vice Chairman Rednour moved to issue final orders on all committees under item 20 based on the fact that they did not file semi, pre elections reports, or appeals. Further that the A-1 complaints will be reduced to 10% for first time offenders and 75% for one committee that has a 3rd time A-1 violation. Exception is made to three committees from this list, they are: Citizens to Elect Normal Bolden Alderman 4th Ward and the Illinois Homebuilding Political committee, who paid their fines; and Dan Kotowski for State Senator, who timely filed an appeal. Mr. Walters seconded the motion which passed by roll call vote 8-0. The committees under final order are: Citizens for Jerry "Iceman" Butler; Joliet Township Republican Organization; Edwards County Democratic Central Committee; ETA-IPACE; Friends of Alderman Haithcock; Sangamon County Democratic Minority Caucus; Citizens to Elect Juan Anya Sheriff of Cook County; Committee to Elect Robert "Bob" Shipley; Taxpayers for Charlie Nelson; Bryant for Mayor Committee; Committee to Elect Reece Ebert; General Caucus of School District 53 & 207; Citizens to Re-elect Keith Hunt; Citizens for Huyett; Citizens to Elect Dan Walter; Committee to Elect Marcella Teplitz; Volunteer Organization to Elect David J. Madlener; We the People for Daly; Friends of District 90; Citizens to Elect Lewis Powell III; Citizens to Elect John P. Fahy; Taylor for Treasurer; Citizens for Pat Dowell; Invest in Our Community's Children; People for Pawlowicz; Hinsdale High School Teacher's Association; Citizens with a Vision for District 100; Matt Walzbach for State's Attorney; Citizens for Rage; Friends of Carl Wasco; Citizens for Keith Cunningham; United Republicans of Palatine Township; Don Lockhart for Change Committee; The Progressive Party; Citizens for Grosskopf; Friends of Vito Manola; Friends of Mark William Daniel; Friends of Michele Rosenfeld; 1st Ward Republican Organization; Beitel for Sheriff; Committee to Elect Michael Baxton; Vollmer for Sheriff; SJOHS Referendum Committee; Committee to Elect John Vogt State's Attorney; Elect Ruby Lofton; William Morse Campaign Committee; Empowered DG Taxpayers; Friends of Vanessa Romeo; Citizens for Brian Wilson; Friends of Carrie Melin; Friends of Lee Daniels; Grundy County Women's Republican Club; Marion County Democratic Central Committee; Bremen Township Regular Democratic Organization; Illinois Chamber PAC; Logan County Republican Central Committee; Northern Illinois Homebuilding Association PAC; Waukegan Township Republican Organization; Citizens for Donne Trotter; DuPage Township Democratic Organization; Hispanic Democratic Organization; Citizens for Howard; Committee to Elect Mary A. Mulhern; Friends of Ken Dunkin; Northeast Illinois Federation of Labor: SLOT; Citizens for Lighford; Building owners & Managers Association; Chicago GOP; Chicagoland Southland Chamber of Commerce; 17th Ward Democratic Organization; Committee; Committee to Elect Bernadette Garrison Barrett; Citizens to Elect Milton Patterson'; Citizens for Holewinski; Chicago Latino 100; Citizens for Brumfield; Friends of Mike Jacobs; Citizens for Andre B. Ashmore; Restore Illinois Now; Citizens to Elect Aaron Lawlor; Friends of McCool; Illinois Firefighters Political Action Fund; Friends for David McAloon; Friends for Michelle Chavez; Committee for a Better 7th Ward; Committee to Re-Elect McMillan & Wintermuts; Committee to Elect Bonita Coleman John; Friends of "Bill Dock" Walls/Walls for Mayor; Friends of Dian Powell; Friends of Tom O'Neal; Andy for Illinois; Friends of Thomas TJ Loftus; AARC of Illinois; Friends of Leo Lastre; Committee to Elect Kenneth McNeil; Chicagoans United for Our Future; Citizens for Dasakis; Citizens to Elect Lickiss; Friends of Art Pierscionek; Illinois Citizens for Life PAC; Friends for Eileen Lyons; Friends of Walter Burnett; Friends of the Park Ridge Park District; T&C Library Referendum Committee; Citizens for Tim Simms; Democratic Citizens of Berwyn; Advance 300; Mike Huff for Sheriff; District 96 Referendum Committee; Citizens for Rey Cruz; Friends of Lauren Boswell Loftin Committee; Community BANCAPAC; Illinois CPA's for Political Action; Citizens for John O. Jones; Friends of Clayborne; Illinois Association of Aggregate Producers PAC; Williams Davis for State Rep; Friends of John Bardley Inc.; SPARC; and Friends to Elect Alzetta Bozemann Martin.

Mr. Sandvoss presented a proposed Amendment of Rule for Part 100.150, Electronic Filing of Reports and asked Rupert Borgsmiller, Director of Campaign Finance and Disclosure, to summarize the changes. Mr. Borgsmiller indicated that the change involves committees required to file their reports electronically and fail to do so. Presently, a paper report is considered a timely filing. He proposes that committees receive a one-time reminder of their need to file electronically and any subsequent filings on paper, even though they are filed timely, will be considered a non-filing. The civil penalty assessment

would accrue until such time the report is electronically filed and as with any civil penalty, the committee has the opportunity to appeal the assessment. Mr. Schneider moved and Mr. McGuffage seconded a motion to start the rule making process for Part 100.150 Electronic Filing of Reports. The motion passed by roll call vote of 8-0.

The Chairman recognized Lance Gough, Executive Director of the Chicago Board of Election Commissioners. Mr. Gough thanked the board for convening a board meeting last week to certify their voting system. Their action facilitated early voting to begin on time in Chicago. He indicated that people were standing in line this morning to vote early. Accompanying Mr. Gough was Mr. Handschu who also thanked the board for years of cooperation that has been shown to the disabled community. Mr. Handschu said that after a lifetime of having struggled to vote as everyone else, he has been able to cast his vote in secrecy which is a major advance for him. He thanked the board for their time and hard work.

Chairman Smart called Bob Wilson who indicated that he was present on Item 2c Certification of Voting Systems. The Chairman advised Mr. Wilson that the matter had been discussed an hour before he arrived and would not be revisited. Mr. Wilson apologized to the board for the misinformation in their newsletter and assumed that certification was today.

The Chairman called for a motion to recess to executive session to discuss closed campaign disclosure matters, personnel and litigation matters. Mr. Keith complied and Mr. Schneider seconded the motion which passed by 8-0 roll call vote.

The meeting recessed to executive session at 12:14.

At 12:52 p.m., Mr. McGuffage moved to return to regular session. Mr. Porter seconded the motion which passed 8-0.

Member Keith moved to adopt the action taken in executive session in regards to the campaign disclosure complaints 06CD041, 06CD042, 06CD043; and 06CD 044 and to approve the recommendation of the general counsel and the hearing officer that the complaints were filed on justifiable grounds but that no public hearing be held. The motion was seconded by Mr. Schneider and passed 7-0-1. Mr. McGuffage recused himself.

Mr. Keith moved and Vice Chairman Rednour seconded the motion to offer four year term renewal appointments to Steve Flowers and Rupert Borgsmiller. The motion passed 8-0.

Mr. McGuffage recommended that staff invite attorney David Robin to address the Board on Ballot Security issues at the December 1 meeting. He stated that Mr. Robin is an attorney, computer engineer and IT expert and the presentation he gave at the Bar Association meeting was concise and informative.

Vice Chairman Rednour moved to adjourn until November 13, 2006 at 10:30 a.m in Springfield, Illinois or at the call of the Chair. Mr. Brady seconded the motion which passed unanimously. The Board recessed at 1:00 p.m.

DATED: November 6, 2006

Respectfully submitted,

Darlene Gervase, Administrative Specialist II

Daniel W. White, Executive Director