

**STATE BOARD OF ELECTIONS
Board Meeting
Monday, November 17, 2008
Springfield, Illinois**

MINUTES

PRESENT: Albert Porter, Chairman
Bryan Schneider, Vice Chairman
Patrick Brady, Member
John Keith, Member
Wanda Rednour, Member
Jesse Smart, Member
Robert Walters, Member

ABSENT: William McGuffage, Member

ALSO PRESENT: Dan White, Executive Director
Steve Sandvoss, General Counsel
Rebecca Glazier, Assistant to Executive Director

The regular monthly meeting of the State Board of Elections was called to order at 10:30 a.m. with six members present. Chairman Porter, Vice Chairman Schneider and Member Brady were present in the Chicago office and connected via videoconference. Member McGuffage was absent and Chairman Porter held his proxy. Member Keith arrived at 12:15 p.m. and departed at 1 p.m. During his absence Member Rednour held his proxy.

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

The Executive Director presented the minutes of the October 20 regular meeting and discussed revisions to the minutes which had been distributed to the Board. Member Smart moved to approve the minutes. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The Executive Director noted on today's agenda two service awards to be presented to staff. Jim Withers was to receive a 20 year award but his presentation will be postponed as he was out due to a medical procedure. Director White then presented Steve Sandvoss, General Counsel, with a 20 year service award and thanked Steve for serving the Board for 20 years the last four as General Counsel. Chairman Porter also thanked Mr. Sandvoss on behalf of the Board for his hard work these years.

The Executive Director discussed the November 4, 2008 General Election noting a record number of voters turned out in Illinois as well as across the nation. Most of the calls received by staff

on election day were of a routine nature. A record number of 7.7 million voters were registered in Illinois which was up 200,000 from the previous record of 7.5 million in 2004. Director White thanked Mark Mossman who organized all staff for election day, and thanked staff and the election authorities for the time and effort for preparing for the election.

Director White presented a General Election 2008 Pretest Report prepared by Dianne Felts. The jurisdictions tested were Clay County, Marion County and Pike County.

Director White also presented a report on the number of election judges schools conducted for the November 2008 General Election. Chairman Porter expressed his appreciation for all of the hard work of the Executive Director and staff in preparing for the election.

Chairman Porter indicated the agenda order would be changed to accommodate parties present for campaign disclosure matters.

The General Counsel presented agenda item 3.a.17 *SBE v. William Davis for State Representative*, 08JS155. William Davis was present on behalf of the committee. Mr. Sandvoss reviewed the matter indicating he concurred with the hearing officer's recommendation the appeal be granted. Vice Chairman Schneider moved to adopt the hearing officer and General Counsel recommendation and grant the appeal. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented agenda item #3.a.27, *SBE v. People for Laura Fitzpatrick*, 08JS101, an appeal of a campaign disclosure fine the hearing officer recommends be denied. Kevin Fitzpatrick was present on behalf of the committee. Mr. Sandvoss reviewed the matter indicating the report was filed on paper first but was required to be filed electronically. The hearing officer has recommended the appeal be denied and assess a penalty along with lifting the stayed penalty. Mr. Fitzpatrick, Chairman of the committee, admitted a mistake was made and asked for a reduction of the fine. The committee hired a Tax Accountant to ensure mistakes were not made but she was unaware of the requirement of electronic filing. Mr. Fitzpatrick requested a reduction from the \$2,250 to \$1,125. Member Smart moved to deny the appeal. This motion died due to lack of a second, Vice Chairman Schneider moved that the appeal be denied but to accept the settlement offer of \$1,125. Member Rednour seconded the motion which failed by a vote of 4-4 with Members Brady, Keith, Smart and

Walters voting in the negative. Member Smart then moved to deny the appeal. Member Brady seconded the motion which passed by roll call vote of 6-2 with Member McGuffage and Chairman Porter voting in the negative.

The General Counsel presented agenda item 3.a.28, *SBE v. Greene County Republican Central Committee*, 08JS113, an appeal of a campaign disclosure fine the hearing officer recommends be denied. Dan Arnold was present on behalf of the committee. Mr. Sandvoss reviewed the matter indicating that the hearing officer recommends a penalty of \$50 including a previous stayed penalty of \$175 for a total of \$225. Mr. Arnold indicated he was under the impression as long as the report was postmarked by the due date it would be timely. Mr. Sandvoss concurred with the recommendation of the hearing officer to deny the appeal and assess a penalty of \$225. Mr. Arnold asked the Board to reduce the fine to \$175. Vice Chairman Schneider moved to deny the appeal but accept the settlement offer of \$175. Member Walters seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

The General Counsel presented agenda item 3.a.29, *SBE v. Tazewell County Republican Central Committee*, 08AP030. Lowell Schroeder, Chairman, and Don Gronewald, Treasurer, were present on behalf of the committee. Mr. Sandvoss reviewed the matter indicating the hearing officer recommends the appeal be denied but because there was no indication that the violation was anything other than inadvertent the penalty be reduced as this is a second violation to 50% of the original assessment or \$275 and combined with the stayed penalty of \$130 for a total of \$405. Mr. Schroeder indicated they were not aware of the previous fine and asked for further reduction of the fine. This matter was continued so the parties could confer with campaign disclosure staff on the previous penalty.

Vice Chairman Schneider moved to recess to executive session for the purpose of discussing campaign disclosure matters following closed preliminary hearings, pending litigation and personnel matters. Member Rednour seconded the motion which passed by roll call vote of 8-0. Meeting recessed at 11:15 a.m. and reconvened at 12:00 p.m.

Vice Chairman Schneider moved to ratify action taken in Executive Session on agenda items 3.a. 37-42 as follows: *Pfeifer & Venturi v. Friends of Terry Link*, 08CD040, continued to the December

meeting; *Schaefer v. Citizens for Pamela E. Loza*, 08CD042, found filed on justifiable grounds but there is no need for a public hearing; *Gronewold v. Lutz*, 08CD084, find the complaint was filed on justifiable grounds but no further action be taken due to the disposition of the matter at the hearing; *Kavanagh v. Citizens for Linda Holmes*, 08CD041, dismiss the complaint due to lack of prosecution; *Manser v. Campton the Promise*, 08CD081, the complaint was filed on justifiable grounds but there is no requirement for a subsequent public hearing; *Manser v. Stop Campton Hills*, 08CD083, the complaint was filed on justifiable grounds and there is no need for a public hearing but the committee be ordered to file corrected reports reflecting in-kind contributions and in failing to do so will result in a penalty. Member Brady seconded the motion which passed by roll call vote of 8-0.

Discussion returned to *SBE v. Tazewell County Republican Central Committee*. Mr. Schroeder noted his understanding of the penalties and agreed to the recommendation. Vice Chairman Schneider moved to accept the recommendation of the hearing officer and General Counsel that a penalty of \$405 be imposed and be payable within 30 days of the Board order. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented for consideration JCAR's objection to the obituary rule as proposed. Peggy Ann Milton, McLean County Clerk, was present on behalf of the Illinois Association of County Clerks and Recorders, and acknowledged their support of this proposed rule. Mr. Sandvoss reviewed JCAR's objection but presented their request to amend the language to affect only those counties under Article 4 which pertains to counties with less than 500,000 population. Mr. Sandvoss supported resubmitting the bill with this amendment. Discussion ensued on separating this out from the other jurisdictions and Mr. Sandvoss noted that Article 4 governs jurisdictions under 500,000, Article 5 governs jurisdictions over 500,000 and Article 6 governs the Boards of Election Commissions. This rule would simply track Article 4. Chairman Porter did not feel the jurisdictions under Article 5 and 6 should be omitted from this rule. It was suggested pursuing this through legislation. (Member Keith arrived at 12:15 p.m.) Member Brady moved to amend the rule and resubmit to JCAR and submit legislation to include Article 5 and 6 to conform with Article 4. Vice Chairman Schneider seconded the motion which failed by roll call vote of 4-4 with Members Keith, McGuffage, Walters and Chairman Porter voting in the negative.

Vice Chairman Schneider moved to make part of our legislative recommendation for consideration next session the Election Code be amended as necessary to allow for the removal of based on an obituary as through the process presented in our rule to JCAR. Member Brady seconded the motion which passed by roll call vote of 5-3 with Members Keith, Smart and Walters voting in the negative. In response to a question it was noted by submitting this with our legislative package it is being withdrawn from further JCAR consideration.

The General Counsel presented for Board consideration civil penalty assessments for failure to comply with a Board order in the matters of *SBE v. 16th Ward Regular Democratic Org.*, 08CD006; *SBE v. Bellwood Pride Party*, 08CD014; *SBE v. New Lenox Democrats*, 08CD009; *SBE v. Friends of Don Patterson*, 08CD027; *SBE v. Citizens for Catherine Zaryczny*, 08CD028; and *SBE v. 25th Ward Democratic Political Alliance*, 08CD023. Discussion ensued on an appropriate fine to be determined by the Board. Member Keith moved to fine each of the committees \$500 with a \$100 daily fine assessed commencing December 1, 2008 if not filed at that time to a maximum penalty of \$5,000. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented appeals of campaign disclosure fines that the hearing officer recommends be granted and asked that agenda item 3.a.10 be taken separately. The matters are as follows: *SBE v. District 230 Teacher's Association IPACE*, 08JS011; *SBE v. Candlewick PAC*, 08JS017; *SBE v. Citizens to Elect Jim Hursh*, 08AP029; *SBE v. Friends of the 17th Ward*, 08JS089; *SBE v. Chicago Assn. of Realtors PAC*, 08AP037; *SBE v. Citizens for Peraica*, 08AP039; *SBE v. Friends of Tim Schmitz*, 08AP045; *SBE v. Southwestern IL Laborers District Council PAC*, 08AP050; *SBE v. Citizens for Maloney*, 08AP051; *SBE v. Friends of Mattie Hunter*, 08AP055; *SBE v. Citizens to Elect Jackie Marie Portman*, 08AP056; *SBE v. Democratic Leadership for Centreville Township*, 08MA010; *SBE v. Friends of Carol Van Winkle*, 08AP072; and *SBE v. Citizens to Elect Yvette*, 08JS206. No one was present in these matters. Member Smart moved to grant the appeals. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel then discussed 3.a.10 noting his disagreement with the hearing officer's recommendation to grant the appeal. He explained that in this situation no attempt was made to file a report on or by the deadline. The committee made no effort to file until our staff made contact with

them to inform them they had not filed. No one was present in this matter. Vice Chairman Schneider suggested holding this matter over to provide notice to the committee that the General Counsel disagrees with the recommendation. Member Brady moved to hold the matter of *SBE v. Citizens for Judy Fiske*, 08JS056 over to the December meeting and notify the respondent that the General Counsel's recommendation differs from that of the hearing officer. Vice Chairman Schneider seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented appeals of disclosure fines that the hearing officer recommended be denied. Agenda items 3.a.23, 26 and 33 were removed for separate consideration; agenda item 3.a.32 was moved to the category where the hearing officer has recommended appeal be granted and denied in part. No one was present in these matters. Vice Chairman Schneider moved to accept the hearing officer and General Counsel's recommendation and deny the appeals in the matters of *SBE v. Stonewall Democrats – IL*, 08JS027; *SBE v. Citizens to Elect Norman Bolden Alderman of the 4th Ward*, 08JS041; *SBE v. Patchett for Judge*, 08JS191; and *SBE v. Friends of Terry MacCarthy*, 08AP068. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Campton Township Republican Party*, 08JS019 and noted his disagreement with the hearing officer's recommendation. No one was present in this matter. Mr. Sandvoss felt this appeal should be granted because it was a first issue with electronic filing of the report. Member Brady moved to accept the recommendation of the General Counsel and grant the appeal. Member Keith seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. 32nd Ward Republican*, 08JS050, an appeal of a penalty that the hearing officer recommends be denied. No one was present in this matter. Discussion ensued on the possibility of another committee forming after this one would final out. Mr. Sandvoss indicated a committee would be deemed a successor committee depending on the parties that form the committee. Member Schneider moved to accept the hearing officer and General Counsel's recommendation to deny the appeal. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Patrick Dennis Riley Campaign*, 08JS204. No one was present in this matter. Member Keith indicated this is an issue with first time electronic filing and

would be willing to grant the appeal. Member Keith moved to grant the appeal based on past rulings on electronic filing. Member Rednour seconded the motion which passed by roll call vote of 7-1 with Member Walters voting in the negative.

The General Counsel presented two appeals of campaign disclosure fines that the hearing officer recommends be granted and denied in the matters of *SBE v. Committee to Elect Furmin Sessoms*, 08AP074 and *SBE v. Friends for Mertens*, 08JS195/08AP071. Mr. Sandvoss discussed the matter and concurred with the recommendation of the hearing officer. Member Smart moved to adopt the recommendation of the hearing officer and General Counsel. Member Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a listing of committees who received assessment letters and did not appeal the penalty and asked the Board to issue final orders assessing the penalties. These committees were listed on pages 207 through 212 in the Board packet. Member Keith recused himself from the Committee to Bring Balance to Sangamon County. Mr. Borgsmiller indicated Friends to Elect Eugene "Gene" Staples and Friends of Sandi Jackson should be removed from the list. Member Smart moved to enter Board orders on committees listed on pages 207-212 removing the two as indicated by Mr. Borgsmiller. Member Rednour seconded the motion which passed unanimously with Member Keith recusing from the committee to Bring Balance to Sangamon County.

The General Counsel presented for informational purposes a listing of committees who have paid civil penalties.

Discussion ensued on the need for a special congressional election to fill Rahm Emanuel seat as President-elect Obama will be appointing him as his chief of staff. Mr. Sandvoss indicated we were not sure if Congressman Emanuel will wait until after proclamation of the results of the election and resign both his current seat as well as his new term. Discussion ensued on the resignation and special election requirements. Member Keith left the meeting at 1:00 p.m.

The Executive Director discussed legislative activity. No action was taken on the Board appointments but another Executive Committee meeting is scheduled for November 20 at 9 a.m. Ms. Cray reviewed legislative issues including the \$425,000 supplemental budget request which is on the Governor's desk, and an additional \$450,000 will be required to cover the mandate from the Ethics bill.

Mr. Borgsmiller explained that with no money available there can be no electronic system for filing the registrations for the parties involved. The legislature indicated that manual submission is not acceptable as the legislation requires the reports to be filed electronically. Director White noted that a draft letter will be finalized and sent to the Governor's office, legislative leaders and other legislative staff.

The Executive Director presented the FY 09 fiscal status report for the period ending October 31 and the FY 09 fiscal report for the Help Illinois Vote Fund. Also presented for informational purposes was the two year plan of activity for the months of November and December.

The next meeting of the State Board of Elections is scheduled for Sunday, November 30, 2008 at 5:30 p.m. by videoconference to certify the results of the November 4, 2008 General Election. The next regular meeting of the State Board of Elections will be held on Friday, December 5, 2008 at 10:30 a.m. in Chicago. A Christmas party will follow that afternoon at the same location as last year – Cardoza's.

With there being no further discussion, Member Schneider moved to adjourn until November 30, 2008 or the call of the chair. Member Smart seconded the motion which passed unanimously. The meeting adjourned at 1:09 p.m.

Respectfully submitted,

Assistant to Executive Director

Executive Director