

STATE BOARD OF ELECTIONS
Regular Board Meeting
Tuesday, November 23, 2010

MINUTES

PRESENT:

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

ALSO PRESENT:

Daniel W. White, Executive Director
Rupert Borgsmiller, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Assistant II

The regular meeting of the State Board of Elections was called to order at 10:00 a.m. with seven Members present in the Springfield office. Member McGuffage was absent and Member Porter held his proxy. The meeting was also connected via videoconference with the Chicago office.

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

The Executive Director presented the minutes from the October 19 and 29 meetings with revisions as noted. Member Smart moved to approve the minutes as presented. Member Porter seconded the motion which passed unanimously.

The proclamation of results of the November 2, 2010 U.S. Senate Special Election was presented and the Executive Director and Director of Election Information Mark Mossman both thanked staff for their hard work and also the election authorities for cooperating with the expedited schedule for submitting their canvasses. The Executive Director explained that there were actually two elections conducted. One for the United States Senate seat for the full term and pursuant to a federal court decision, there was also an election to fill the unexpired term of the United States Senator. Congressman Mark Kirk was the declared winner. Member Smart moved to approve the proclamation of results and declare Mark Kirk the winner. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

Member Keith moved to recess to executive session to discuss personnel matters. Member Smart seconded the motion which passed unanimously. The meeting recessed at 10:20 a.m. and reconvened at 1:50 p.m. Another roll call was taken and all Members were present as noted in the initial roll call.

The Executive Director indicated that three staff members were to receive service awards today. The Executive Director presented a 15 year service award to Eric Donnewald and noted that for the last seven years Mr. Donnewald has served as the Director of Election Training and Resource Development. Mr. Donnewald's division is responsible for election judge training schools,

development of election publications and internal training to staff on new rules and regulations. Mr. White thanked Eric for his outstanding 15 years of service, dedication and hard work.

Mr. White introduced Amy Calvin and presented her with a service award for 20 years of service with the State Board of Elections. Mr. White noted that Ms. Calvin began employment at a very young age and has many responsibilities including Board related duties, working with HAVA grants and remarked on her willingness to assist other divisions and take on additional work tasks. Ms. Calvin reports directly to Becky Glazier and Mr. White asked Ms. Glazier to offer her comments as well. Ms. Glazier thanked Ms. Calvin for her hard work, including her assistance in passing the most recent federal audit and commented on what an asset she is to the agency.

The Executive Director presented a 25 year service award to Steve Flowers who is the Director of Information Technology and commented on what a fantastic job Mr. Flowers has done over the years. IT touches every aspect of the SBE and Mr. White remarked on his outstanding leadership, vision and willingness to go the extra mile at all times. The Chairman thanked everyone for their years of outstanding service.

The Executive Director reported on election day activities and indicated the full canvass will be certified at the December 3 meeting. Election day itself was fairly uneventful with no major reports of fraud or irregularities and approximate turnout was fifty percent. He noted that early voting is becoming increasingly popular but unfortunately does not increase voter turnout.

Dianne Felts gave a report on voting system pre-testing and indicated that more problems have been occurring with the memory cards during the uploading process after they are returned to the office. Tazewell County had twenty-three precincts shut down in the morning due to battery malfunctions in the memory cards. The vendor indicated that when those cards were checked the day before they worked accurately and was not sure why something like this occurred. Ms. Felts noted that when voting system pre-test equipment errors occur she does not currently notify other counties that use the same equipment but indicated she would begin this practice. Member Keith discussed the issue of some jurisdictions not reporting some of their precincts until the next day and directed staff to find out which jurisdictions reported late, the reason why they reported late and some possible solutions to prevent this from occurring in future elections.

The election judge training schools schedule was presented for informational purposes and the Executive Director noted that over 7,500 election judges were trained statewide.

The Executive Director discussed the legislative update and said a letter was received from House majority leader Barbara Flynn Currie regarding legislation that was passed and then vetoed by the Governor. The legislation would require the State Board of Elections to publish the voter information web based Voter's Guide for the primary as well as the general election. It is unlikely that it will be overturned; however, Ms. Currie asked if we would voluntarily seek to do this for the primary election even if not required by law. Mr. White indicated that Cris Cray volunteered to take on the project and that no additional funds or resources would be necessary to implement that for the primary election. Without any objections from the Board, Chairman Schneider agreed it would be a good way to inform the voters. Mr. White indicated he would send a letter to Ms. Currie informing her of the decision. Ms. Cray discussed the four pieces of legislation she was tracking in the veto session noting that she would keep the Board informed regarding House Bill 5057 concerning boards and commission members. Senate Bill 362 concerning the Peoria Board of

Election Commissioners deletes a sunset provision from 2007 for their cumulative voting and an amendment to House Bill 1376 ends all county official stipends, including county clerks. House Bill 5727 which is a municipal code amendment concerns the consolidated elections and how many people move from the consolidated primary on to the consolidated general. Ms. Cray indicated that the agency has not taken a position on any of the bills at this time.

The IVRS update was presented for informational purposes and the Executive Director noted that duplicate registrations rose slightly after the election.

The lump sum update and county clerk's stipend issue was presented and the Executive Director indicated this was a carryover from the October meeting. Sangamon County Clerk Joe Aiello was present in Springfield and Kathy Schultz and Mike Kirchner from McHenry and Cass counties were present in Chicago. Member Keith moved to fund the county clerk stipends in the sum of \$2,708.33 for the period from July 1, 2010 through November 30, 2010 and that those funds be vouchered in December for payment thereafter. Member Brady seconded the motion. Discussion ensued from a few of the clerks and it was the general consensus that the stipends were very much needed, especially in the smaller counties where their salaries are much lower, in relation to the additional election duties they are asked to perform each year and asked the Board to support full stipend funding for the fiscal year. After discussion, roll call was taken and Member Keith's motion passed 8-0.

The Executive Director presented the fiscal reports and two year plan of staff activity for informational purposes. Fiscal spending is being closely monitored and expenditures well within appropriate limits.

The Chairman presented the following appeals of campaign disclosure fines that the hearing officer recommended be granted for agenda items 5.a.1-11: 1) *SBE v. Aurora Township Republican Central Committee*, 768, 10JS011; 2) *SBE v. Citizens for Beiser*, 5757, 10JS028; 3) *SBE v. Lead 300 – IPACE NEA/IEA*, 6376, 10JS030; 4) *SBE v. Women's Voices – Women's Votes*, 10621, 10JS036; 5) *SBE v. Committee to Elect Evan Owens*, 12446, 10JS039; 6) *SBE v. Citizens for Judge Jim Epstein*, 14908, 10JS053; 7) *SBE v. Committee to Elect Fred Morelli Circuit Judge*, 20657, 10JS110; 8) *SBE v. Citizens for Castillo*, 21502, 10JS130; 9) *SBE v. Friends of Jeff Smith*, 21740, 10JS134; 10) *SBE v. Friends to Elect Kevin Turner for Sheriff*, 22423, 10JS175; and 11) *SBE v. Aaron Booker for Sheriff*, 22656, 10JS199. The General Counsel concurred with the recommendation of the hearing officer in all cases and no one present for any of the respondent committees in the matters addressed the Board. Member Brady moved to accept the recommendation of the hearing officer and General Counsel and grant the appeals for agenda items 5.a.1-11. Member Smart seconded the motion which passed by roll call vote of 8-0.

Next on the agenda was appeals of campaign disclosure fines where the hearing officer recommended the appeals be denied. The General Counsel indicated a request from *SBE v. Coalition for Property Rights*, 20951, 10JS117 was received asking if the matter could be heard at the December 3 meeting. Without any objection, the Chairman moved the matter to the December 3 meeting Agenda.

Member Keith noted for the record he believed every Member received an ex parte communication under the Ethics Act making this disclosure a letter dated November 15, 2010 from Mr. Zach Roeckeman regarding *SBE v. Marion County Democratic Central Committee*, 335,

10JS007. Member Keith gave his copy to the General Counsel to make a part of the record and for the ethics officer to use as she deems appropriate relative to ex parte communications to each of the Board Members.

The General Counsel presented *SBE v. Marion County Democratic Central Committee*, 335, 10JS007 and reviewed the case. The hearing officer recommended to deny the appeal and assess a fine because the committee bears the responsibility of communicating both to the State Board of Elections any change in their officers and among themselves from former treasurers to current treasurers regarding their filing obligations. The General Counsel concurred with the recommendation of the hearing officer. Zack Roeckman, Chairman of the respondent committee was present in Springfield and indicated he did send an e-mail to a staff member Mark Petrone indicating the change in committee Treasurer. He also apologized for the late report filing and noted that this committee has been in operation for over 30 years and has never been assessed a fine or appeared before the Board and asked the Board for leniency. Mr. Sandvoss indicated that Mr. Roeckman's defense in his appeal affidavit did not mention lack of communication between the receipt of the information in one division of the agency versus the campaign disclosure division, and felt this was raising a new defense that is not properly before the Board. Member Smart moved to deny the appeal. Mr. Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Coalition for an Honest Government*, 22420, 10JS173 and summarized the matter. The General Counsel agreed with the hearing officer recommendation that the appeal be denied and assess a fine in the amount of \$975. Joseph Sneed, Chairman of the respondent committee was present in Chicago and asked the Board for leniency in the amount of the fine and made a settlement offer of half of the fine paid within sixty days. Member Porter moved to deny the appeal and accept a fine in the amount of \$500 to be paid within thirty days. Member Smart seconded them motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

The General Counsel presented *SBE v. Friends of Joseph W. Sneed*, 22422, 10JS174 and indicated this was almost identical to the previous matter. The General Counsel agreed with the hearing officer recommendation that the appeal be denied and assess a fine. The total amount due and owing would be \$2,650 which includes a previously stayed fine. Joseph Sneed was present in Chicago asked the Board for leniency in the amount of the fine and made a settlement offer of half of the fine paid within thirty days. Member Porter moved to deny the appeal and accept a fine in the amount of \$1,325 to be paid within thirty days. Vice Chairman Rednour seconded the motion which passed by roll call vote of 6-2 with Members Keith and Brady voting in the negative.

The General Counsel presented *SBE v. Peoria County Republican Women*, 10527, 10JS035 and reviewed the case. The General Counsel concurred with the hearing officer recommendation the appeal be denied and a fine assessed. Carol Hornickle, the president of the committee was present in Springfield and indicated the report was mailed on time but was lost in the mail for a considerable amount of time. Member Smart moved to grant the appeal. Vice Chairman Rednour seconded the motion which passed by roll call vote of 6-2 with Members Brady and Keith voting in the negative.

Member Porter felt the *SBE v. Marion County Democratic Central Committee*, 335, 10JS007 should be reconsidered because it was similar to a couple of other cases heard where the respondent committee was able to offer a settlement for a reduced fine. Member Porter moved to

reconsider the matter, seconded by Member Keith which passed unanimously.

The Board returned to *SBE v. Marion County Democratic Central Committee*, 335, 10JS007 and Mr. Roeckman had previously been asked to remain in the room prior to the motion to reconsider the case. Mr. Roackman offered to pay a fine in the amount of \$500 within thirty days. Member Porter moved to accept the settlement offer. Vice Chairman seconded the motion which passed by roll call vote of 5-3 with Members Brady, Keith and Walters voting in the negative.

The Chairman presented the remaining appeals of campaign disclosure fines that the hearing officer recommended be denied for agenda items 5.a.13, 15, 16, 18, 21, 22, 23: 13) *SBE v. DuPage County Democratic Central Committee*, 1029, 10JS015; 15) *SBE v. Northwest Tax Watch PAC*, 14694, 10JS051; 16) *SBE v. Dundee Township Democratic Central Committee*, 18097, 10JS075; 18) *SBE v. Friends of Wauconda School District 118*, 22359, 10JS167; 21) *SBE v. City and South Suburban Citizens for Cook County Improvement*, 22468, 10JS179; 22) *SBE v. Committee to Re-elect Susan Loving Gravenhorst*, 22620, 10JS193; and 23) *SBE v. Costin for Schaumburg*, 22743, 10JS212. The General concurred with the hearing officer recommendation that the appeals be denied and no one was present for any of the respondent committees. Member Smart moved to accept the recommendation of the General Counsel and hearing officer and deny the appeals for agenda items 5.a.13, 15, 16, 18, 21, 22, and 23. Member Keith seconded the motion which passed by roll call vote of 8-0.

The Chairman presented the following complaints following public hearing for agenda items 5.a. 24, 25, 27, 28, 29, 30, 31, 33, 35, 36, and 38: 24) *SBE v. 22nd Ward Independent Political Organization*, 10CD012; 25) *SBE v. 16th Ward Regular Democratic Organization*, 10CD013; 27) *SBE v. Citizens for Pam Cap*, 10CD017; 28) *SBE v. Citizens to Elect Alvin Parks Jr.*, 10CD021; 29) *SBE v. Citizens United for Change in the 20th Ward*, 10CD024; 30) *SBE v. Committee to Elect James Larry Karraker*, 10CD027; 31) *SBE v. Wakefield for Waukegan*, 10CD029; 33) *SBE v. Friends of Murfin and Sarkees*, 10CD038; 35) *SBE v. Friends of Frank McPartlin*, 10CD043; 36) *SBE v. Realtors PAC of IL*, 10CD045; and 38) *SBE v. Citizens to Elect Tracy McLeMore*, 10CD067. The General Counsel concurred with the hearing officer recommendation for the Board to issue an order to the committees to file the required reports. Member Keith moved to issue an order that the respondent in question in each case file the required report on or before December 30, 2010. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Friends of Zenovia G. Evans*, 10CD015 and *SBE v. Moving Forward for Riverdale*, 10CD040 and indicated these two cases were represented by the same Treasurer, Frances Richard Bey, who was present in Chicago. The General Counsel concurred with the hearing officer recommendation that since the reports were filed no further action be taken other than referral to the appropriate campaign disclosure staff for assessment of appropriate penalties. Member Keith moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Friends for Booker*, 10CD036 and noted that prior to today's meeting the committee had filed one of the two required reports. The General Counsel recommended the committee be ordered to file the unfiled report and as far as the report that was filed, to refer to staff for the assessment of appropriate penalty. Member Smart moved to accept the recommendation of the General Counsel and Member Keith amended the motion to add that the

report be filed by December 30, 2010 which was accepted by Member Smart. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *SBE v. Treasurers and Ticket Sellers Union*, 10CD050 and reviewed the matter. The General Counsel concurred with the recommendation of the hearing officer that since the reports in question still have not been filed the Board issue an order that said reports be filed within 30 days of the date of the order. Attorney Michael Dorf was present in Chicago on behalf of the committee and apologized for not responding to the notices. Due to the upcoming holidays, Mr. Dorf asked for a fifteen day extension of time for the committee to comply with the order. Member Keith moved to accept the recommendation of the General Counsel and hearing officer and order the respondent to file the delinquent reports by January 18, 2011. Member Walters seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented a Motion to settle civil penalty assessments in the *SBE v. Citizens for Collins* matter reviewed the motion. In light of the committee having little funds, Mr. Collins is asking the penalty be reduced to \$500 to be paid within ninety days and notes that other civil penalties have been settled with committees that are far more substantial than him. The General Counsel recommended that the Board reopen the case based on precedent. Mr. Sandvoss did not recommend the acceptance of settlement offers for assessments of reports other than Schedule A-1s, noted that the board has accepted such settlements in the past. No one was present on behalf of the committee. After discussion, it was agreed to send attorney Burt Odelson notification that the settlement offer was not acceptable to the Board and the matter continued to a future Board meeting.

The General Counsel presented a listing of civil penalty assessments necessitating a final Board order. Member Keith moved to issue such a Board order to the committees on the listing. Member Brady seconded the motion which passed by roll call vote of 8-0.

Payment of civil penalties was also presented for informational purposes listing the fines paid in the last month and year to date totals.

Member Keith asked to the Chairman to consider case number 10CD001 which has been remanded to the SBE by the appellate court for consideration. The General Counsel reviewed the *Mark Thompson v. Elizabeth Gorman* matter and noted the complaint was found to not have been filed on justifiable grounds. After consulting with the Attorney General's office, the General Counsel recommended that when the matter was being considered it was the intention of the board to adopt the findings of the hearing officer and to base their decision to dismiss the case on such findings which were also concurred by the General Counsel. Each Board Member except Member Brady and McGuffage acknowledged they relied on the report of the hearing officer and the General Counsel's concurrence. Member Brady had voted no in the original motion and the General Counsel will prepare a sworn affidavit for Member McGuffage to attest to his position relative the matter.

Member Keith moved to recess to executive session to consider complaints following closed hearing. Member Brady seconded the motion which passed unanimously. The meeting recessed at 3:35 p.m. and reconvened at 4:00 p.m. Another roll call was taken and all Members were present except for Members McGuffage and Walters. Members Porter and Smart held their proxies respectively.

Member Keith moved to direct the Executive Director to prepare a contract employing Rupert Borgsmiller as Executive Director commencing January 1, 2011 through June 30, 2012 at the salary approved in executive session to be reviewed as of June 30, 2011. Member Smart seconded the motion which passed by roll call vote of 8-0.

Member Keith moved that the *Shepherdson v. Citizens for Tom Morrison*, 10CD075 matter be continued to the December 3 Board meeting as directed by the Chairman. Member Brady seconded the motion which passed unanimously.

Member Keith moved that the *Jenkins v. George W. Dunne Campaign Fund*, 10CD083 matter be continued to the December 3 Board meeting agenda as directed by the Chairman. Member Brady seconded the motion which passed unanimously.

As to *Friends of Vi Daley v. Friends of Michele Smith*, 10CD074, Member Keith moved to find the complaint to have been filed on justifiable grounds and the matter proceed to public hearing. Member Brady seconded the motion which passed by roll call vote of 8-0.

As to *Stern v. Supporters of College of DuPage*, 10CD080, Member Keith moved to find the complaint to have been filed on justifiable grounds, that there is no need for a public hearing and that an order be issued directly to the committee and to its officers individually directing them to undertake no further action in violation of disclosures in political communications, and the same would subject the committee and/or the individuals, whether they're affiliated with this committee or another committee, with a penalty of \$5,000 if violated and said order remain in effect until November 15, 2012. Member Brady seconded the motion which passed by roll call vote of 8-0.

With there being no further business before the Board, Member Keith moved to adjourn until Friday, December 3, 2010 at 2:00 p.m. in Chicago and Springfield via videoconference or call of the Chairman, whichever occurs first. Mr. Brady seconded the motion which passed unanimously. The meeting adjourned at 4:10 p.m.

Respectfully submitted,

Amy Calvin, Administrative Assistant II

Daniel W. White, Executive Director