

STATE BOARD OF ELECTIONS
MONTHLY BOARD MEETING
December 20, 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
James Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Assistant III

Chairman McGuffage called the meeting to order at 10:04 a.m. and led everyone in the Pledge of Allegiance to the flag.

The Chairman asked for a motion to recess to the State Officers Electoral Board. Member Smart so moved and Member Scholz seconded the motion which passed unanimously by roll call vote.

The Board recessed at 10:06 and returned to open session at 10:16 a.m. Attendance was taken to ensure a quorum. All members were present.

To accommodate Attorney Richard Means, who had another case before hearing examiners in another area, the Board called Item #26, *SBE v. Friends of Sherman C. Jones*, 22764, 11AJ069. General Counsel Sandvoss agreed with the hearing officer's recommendation to deny the appeal. Mr. Means indicated that the committee is willing to raise additional funds to pay the previous \$5,000 penalty for failure to comply with the Board Order. Member Smart moved to adopt the recommendation of the hearing officer and general counsel and fine the committee 10% or \$152. Member Scholz seconded the motion which passed unanimously by roll call vote. As to the Appeal of a Board Order from the committee, Vice Chairman Smart moved to continue this matter to the January 12th Regular Board Meeting. Member Byers seconded the motion which passed 8-0 by roll call vote.

Member Smart moved to adopt the minutes from the November Board meeting as presented. Member Byers seconded the motion which passed by 8 ayes in unison.

General Counsel Sandvoss recommended in *SBE v. Citizens for Blair*, 22735 to grant the Motion to Reconsider and rescind the final order assessing a penalty as the committee made a timely return of the contribution received in excess of the limits. Vice Chairman Smart so moved and Member Byers seconded the motion. Leave for attendance roll was requested, and hearing no objection, the leave is granted.

Mr. Andrew Finko's appearance was recognized in *SBE v. Citizens to Elect Richard A. Wooten*, 23114. This matter involved receipt of contributions in excess of limits and the corresponding escheatment under the new law. Mr. Finko requested a reduced escheatment amount. Mr. Sandvoss explained that escheatment is automatic and if the contribution had been returned within 15 days, this would have had a different outcome. However, the Board lacked jurisdiction to give any relief on the escheatment since it is a statutory mandate.

Mr. John Farrell, Treasurer for the respondent in *SBE v. Friends of Stocks-Smith*, 23142, was present in the Springfield office via videoconference and submitted a Motion to Reconsider a previous Board order assessing a civil penalty. He indicated his situation was very similar to the previous matter, but added that the treasurer and candidate did not receive notice of the assessment or final order. Mr. Sandvoss indicated that if a sworn affidavit from the chairman, treasurer and candidate stating under oath that they did not receive any notice whatsoever regarding this penalty until the November ballot forfeiture letter, he would recommend the Board consider those affidavits in their decision on whether or not to grant the motion to reconsider. If the affidavits are in order, he would recommend granting it. He suggested continuing this matter to the February meeting as the January agenda was very full. Mr. Farrell thanked the board and indicated he would get the affidavits and have them available at the February meeting. He added that the staff helped him immensely and that Tom Newman and the rest of the staff were patient, professional and outstanding.

Chairman McGuffage called Anthony Jacob, attorney for the respondent in *SBE v. Friends of Terry Marketti*, 18102. He indicated that the committee had the same problem as the previous complaint, not receiving the notices from the Board, and stated that the committee would like to settle the fine. Mr. Jacob offered a settlement of 50% or \$3,956.50; and added that this represents 20% of all the committee's funds. The General Counsel recommended considering the settlement offer. Member Byers moved to accept the offer and Member Coffrin seconded the motion. The motion passed unanimously by roll call vote.

Item #5) *SBE v. Friends of Dale Berman*, 18528 was continued to February.

The Chairman acknowledged Mr. Ed Joyce, chairman of the respondent committee in *SBE v. Citizens to Elect Patrick J. Sherlock*, 20897. Mr. Joyce indicated that they only received the ballot forfeiture notice and not any previously sent notices. He offered a 50% settlement or \$1350 which he said he would pay personally. Vice Chairman Smart moved to accept the settlement offer and Member Byers seconded the motion. The motion carried unanimously by roll call vote.

Mr. Sandvoss indicated that there was an additional item to consider which was not on the agenda: *SBE v. Citizens for Daion Dean*, 11 MA 066. Their counsel, Burt Odelson, offered a settlement offer of 10% of the assessment. Chairman McGuffage moved to deny their request and advise them that anything less than 50% is unacceptable. Member Gowen agreed and seconded the motion. Eight ayes in unison and none opposed carried the motion unanimously.

Member Byers moved to grant the new appeals in *SBE v. Wheaton Warrenville PAC for Education*, 7487, 11 AJ 033 and *SBE v. Friends of Dart*, 19319, 10 AG 093. Member Rice seconded the motion which passed 8-0 on 7487 and 7-0-1 on 19319 with the Chairman voting present.

The Chairman asked for the General Counsel's decision in *SBE v. ILCA PAC*, 19282. Mr. Sandvoss concurred in part and disagreed in part. He agreed to grant the appeal for the assessment for the March quarterly report; but the appeal for the December Semi-annual report should be denied since the committee has been filing for several years and should have been aware of the due date. Mr. Scott Grams appeared for the Illinois Landscape Contractors Association as Chairman of the PAC. He admitted the mistake was made by checking Final on his report and being removed automatically from the IDIS system. He asked the Board to adopt the recommendation of the hearing officer and grant the appeal. The Chairman moved to grant the appeal and the recommendation of the hearing officer should be adopted. Member Coffrin seconded the motion which passed 8-0 by roll call vote.

Mr. Sandvoss presented new appeals of campaign disclosure fines wherein the hearing officer recommended the appeals be denied. He added that Item 10 was to be continued to February.

Vice Chairman Smart moved to accept the hearing officer's recommendation and deny the appeals in Items 11, 12, 13, 16, 21, 22, 23, 25 and 27. Member Scholz seconded the motion which passed 8-0 by roll call vote. Appeals are denied for: *SBE v. IPACE of Alton Education Association*, 5778, 11JQ213; *SBE v. Citizens for Lyle*, 14153, 11AJ043; *SBE v. Citizens to Elect Robert E. Howard*, 19080, 11AJ057; *SBE v. Friends of District 214*, 20059, 11AM165; *SBE v. Friends of Murfin and Sarkees*, 21877, 09JS267; *SBE v. Re-Elect Eric Leys*, 22022, 11MA067; *SBE v. Friends of Russell W. Hartigan*, 22244, 11AJ067; *SBE v. People for Rauschenberger*, 22369, 11AJ068; and *SBE v. Project M PAC*, 23716, 11MA088.

Chairman McGuffage acknowledged Attorney Thomas Jaconetti who was present for items 14 and 70. Mr. Jaconetti summarized the problems these two committee's treasurer had in his professional and personal life and the fact that he had closed their committees in January. A penalty was assessed after the committees filed their final reports. Discussion ensued among the board. Mr. Sandvoss recommended granting the appeal. Member Byers moved to grant the appeal and Vice Chairman Smart seconded the motion. The motion passed 8-0 by roll call vote.

The Chairman called *SBE v. Prairie Greens of East Central Illinois*, 19988, 11JQ240 and recognized the appearance of Kostas Yfantis, acting treasurer of the respondent committee. Mr. Yfantis spoke to the problems with the committee and offered a 50% settlement of the fine or \$388.00. Member Scholz moved to accept the 50% settlement and Member Rice seconded the motion. The offer was accepted by roll call vote of 8-0.

Mr. Sandvoss presented Item 19, *SBE v. Friends of Terry Stephens*, 21582, 11MQ060 and the Board acknowledged the presence of respondent's Attorney Dan McGrath and the candidate Terry Stephens. Respondents summarized the activities of the committee and Mr. McGrath offered a settlement offer of 50% of the fine, or \$2,012.50. General Counsel Sandvoss agreed with the hearing examiner's recommendation, but said this was the first he heard of a settlement offer. Member Coffrin moved to accept the settlement offer. Member Byers seconded the motion which included payment within 30 days of the order. The committee was cautioned about

paying the settlement using personal funds as the committee filed a final report in July, 2011. The motion passed 7-0-1 with Chairman McGuffage voting present as he disagrees with payment using personal funds.

The Chairman recognized Mr. Gerald Williams, treasurer for the respondent in *SBE v. Committee to Elect Steven G. Watkins*, 22358, 11MA069. Mr. Williams indicated that the filing in question in February of 2010 was due after the campaign ended and no further activities took place after February 2010. He spoke of problems with the electronic filing and the software and that the committee had approximately \$300. General Counsel Sandvoss concurred with the hearing officer's recommendation and advised the committee of problems that would arise if the committee dissolved and reopened within 2 years as the fine would then be due and owing. Mr. Williams offered \$500 as a settlement offer. The Board discussed several scenarios with Mr. Williams. Vice Chairman Smart moved to accept the remainder of the funds of the committee; accept the dissolution of the committee and if they remain inactive for 2 years they can re-establish their committee without penalty. Member Coffrin seconded the motion which passed unanimously by roll call vote.

The Board returned to Item 18, *SBE v. Zalewski for State Representative*, 21222, 11AJ064, and acknowledged Michael Kasper for the respondent. Mr. Sandvoss recommended lowering the amount indicated by the hearing officer by \$500, making the total penalties \$1500 and \$75, totaling \$1575; Attorney Kasper had no objection. Vice Chairman Smart moved to accept the recommendation of the General Counsel and Member Scholz seconded the motion. Member Schneider said that cautionary observance in the future regarding re-submitting contributions will be necessary, but he would support the motion. The motion passed 8-0 by roll call vote.

Mr. Kasper disagreed with two issues in *SBE v. Preckwinkle for President*, 21644, 10AG091. The first issue involved an in-kind contribution and the difficulty in estimating the ultimate cost of a breakfast. He indicated that it was difficult to get a value from a vendor and asked for a reduction of \$134 regarding estimating the ultimate cost of the breakfast. Second, a number of contributions were deposited the day before the election and the A-1 report would not have been due until the day after the election. The committee thought the A-1 requirement expired on Election Day and did not continue past the election. A waiver of those fines would be \$925. Member Byers moved to grant the appeal as to the issues raised by Mr. Kasper and deny the remainder of the appeal, which would result in the committee being assessed \$1420. Member Rice seconded the motion which passed unanimously by roll call vote.

Three new appeals of contribution limit fines were presented wherein the hearing officer recommended the appeal be granted. Vice Chairman Smart moved the appeals be granted in *SBE v. Citizens to Elect Anthony Bealt*, 14556, 11MQ-CL001; *SBE v. Friends of JoAnn Thompson*, 16425, 11MQ-CL002; and *SBE v. Houston for Mayor*, 17280, 11MQ-CL003. Member Byers seconded the motion which passed 8-0 by roll call vote.

The Board considered the failure to comply with a board order in *SBE v. Cook County Democratic Women*, 945. No one appeared for the respondent. Mr. Sandvoss recommended the committee be ordered to make the payments that were due in September, October, November and December before December 30, 2011, and if they fail to make that payment, the full outstanding balance be paid no later than 5 p.m. January 17, 2012. If the committee does not have the funds to make these payments, Mr. Sandvoss' alternative recommendation was to submit a final report, turning over any money in their balance to the SBE in payment or partial payment and if they stay inactive for two years, the remaining penalty would be abated. Vice Chairman Smart so moved and Member Byers seconded the motion. The motion passed unanimously.

Mr. Sandvoss asked for a motion to impose the civil penalties on the committees that did not appeal their assessments, after which staff will issue a final order to that effect. Member Scholz so moved and Member Byers seconded. The motion passed 8-0 by roll call vote.

The matter of *SBE v. Friends of Michael Stinson*, 11CD205 was continued to be heard in Executive Session later in the meeting.

The Board recessed at 12:25 and returned on the record at 12:48 p.m.

Executive Director Borgsmiller summarized the candidate filing period which worked very well and ran smoothly. He added that all documents were scanned. An order of the court was entered the week before the first date to file where congressional candidates would not be filing under the normal time frame. The order from the Court and our press release was available on our website. Two representatives of congressional candidates were in line to file on the first day of filing and were told that we could not accept their petitions that day. Three additional petitions were received in the mail and were returned to the candidates. Mr. Borgsmiller was very happy with the successful first day of filing. The lottery for ballot placement was held on December 14. The lottery sequence was 6, 4, 3, 1, 2, and 5. As the numbers were drawn, the IT staff was plugging the numbers into the candidate filing system and within minutes of the lottery any candidate in a simultaneous filing was able to look on our website and see their ballot placement. He added that the activity of the staff both in Chicago and Springfield was tremendous. Some people showed up Friday afternoon around 11:00 a.m. to be first in line for Monday's filing. Due to the new law, ensuring that judicial candidates filed for only one vacancy slowed

down the process a little. But, by 10:00 a.m. approximately 400 candidates had been processed. Mr. Borgsmiller asked Jane Gasperin, Acting Director of Election Information, to elaborate on the petition requests.

Mrs. Gasperin said 954 requests for petitions were received. 919 requested a CD and 35 requests were for paper copies. The charge for CDs was \$5 and were available within an hour of ordering. There were 103 viewers in Springfield and this is the first year we offered credit card services and taking orders over the phone with a credit card. She complimented the staff as they all pitched in and did an excellent job and acknowledged Brent, Amy and Gary as doing an excellent job organizing the scanning. She was very happy with the smooth, quick process.

Director Borgsmiller indicated that issues in the next couple of weeks would be a matter of staffing. We will have records checks, petition filing, presidential preference, and campaign disclosure filings all at the same time. He added that another lottery will be held on January 5th for candidates filing in the special judicial filing period and Appellate Court as well as congressional candidates. The final lottery will be for the presidential preference if necessary.

Next on his report was the COGEL conference held in Nashville, TN. Mr. Borgsmiller gave a history of the group and that the SBE has been involved since the late 70's. He found the seminar on donating via text message; boards dealing with directors and staff; social media such as Facebook and Twitter very interesting. Most interesting was using Twitter for campaign disclosure and election information, such as posting a tweet that today is the last day to file. He intends to have further discussions with Kevin Turner, IT Director – after the move. The next COGEL conference is the first weekend of December, 2012 in Columbus, OH. The Chairman asked if Chicago has ever hosted their conference. Mr. Borgsmiller answered in 2008, on the day that former Governor Blagojevich was arrested. The whole conference changed that day. Vice Chairman Smart added that he has attended those conferences as Chairman and that Rupert is a very respected and integral part of that organization. The laws have not caught up to the electronic age and none have been updated dealing with all the different means of communications and dispensing information.

Legislative Liaison, Cris Cray, presented a memo with six pieces of legislation staff would like in the Board's packet for the next session. Since grace period, early voting and no excuse absentee voting, eliminating an hour of voting time is very popular with the election authorities. She added that all the items would be put into memo form and brought to the Board again in January. Other matters of interest are eliminating or lengthening the 7-day calendar for disclosure complaints and tightening the language in 7-61 and 8-17.1, which will be included in that memo. Cris added that the Governor signed our supplemental appropriation bill yesterday which adds 2 million dollars in our bank account.

The Executive Director continued his report with his report on the Governor's Task Force on Campaign Finance. They had meetings on November 28th and December 15 which offered the public an opportunity to give testimony on the public funding of campaigns. They will issue a report by December 31st. They also have two legislative fixes that they agreed to, one dealing with the transfer of money between state political campaign committees and federal campaign committees so that it's going to limit it to party campaign committees. The second piece of legislation dealt with raffles and the records that must be maintained. Other issues the SBE raised were dealing with election cycles for candidates and how it applied to candidate running in the even vs. the odd year elections. It appears there is no consensus agreement with the 11 members, so their report will be of great interest. Their next meeting will be in April.

Brent Davis offered a report on the electronic canvass. He said he received confirmation from the city of Chicago that they will participate as a pilot jurisdiction in addition to Cook County and the city of Peoria. He plans to work on recruiting a couple of jurisdictions for the Dominion customers. We will also add ES&S customers that use the Unity system. He intends to meet with the jurisdictions in late January to give them a demo and train them on the system. Mr. Borgsmiller added that he would like this whole task completed by the 2014 election.

The Director said there was a reduction of 700 precincts which gives us a considerable savings in terms of reimbursement costs based on the fact of the consolidation of these precincts and asked Kyle Thomas to continue with the update on the IVRS system. He said jurisdictions continue to update their registrations. We still have several jurisdictions reporting registered voters over 100% of the voting age population. These counties are asking for HAVA money to purge their lists. The Election Management System Project will be meeting in Springfield in January, 2012.

Mr. Borgsmiller updated the Board on the budget and appropriations for next year including the COLA increases for staff, moving the Springfield office, the statewide voting system mandated by HAVA, and the statewide election management system. We asked for \$806,000 for the county clerks stipend and with the additional \$1.3M we should be able to pay the early voting judges. The redistricting has been completed and no money was requested. Since the electronic canvass is mandated, we are trying to get additional money to keep this program running through the end of the fiscal year. Additional money was requested for the infrastructure for the IDIS reporting program. He added that it appears to be a large increase, but the operations are a very small

increase which should be adequately funded by the awards and grants. Mr. Borgsmiller said that \$600,000 was returned but we will have additional costs with moving. Vice Chairman Smart moved to approve the budget request as submitted. Member Coffrin seconded the motion which passed unanimously by leave for the attendance roll call.

Mike Roate, Director of Administrative Service, reported that the Springfield office plans to move February 1st and a moving vendor has been contacted and we expect the movers as well as the finalized map layout postings to be approved by the Procurement Policy Board. He added that Kevin Turner has been working on wiring the facility and moving the generator to the new facility. Illinois Correction Industries cataloged all existing cubicles. The current landlord has been contacted to get a one-month extension on the lease and it has been granted.

Two year plan was presented for informational purposes and there were no follow-up matters.

The January 12th meeting was changed to Chicago in the James R. Thompson Center, Shared Conference Room 9-040 at 10:00 a.m. However, the County Clerk's Advisory Committee meeting will be held in Springfield, videoconferenced with the Chicago conference room, and Cris Cray will chair the meeting.

The Executive Director advised the Board that additional meetings might be necessary due to objections to candidate's petitions. January 3rd, January 9th, January 12th (regular monthly meeting) and January 17th, 2012 at 10:00 a.m.

Vice Chairman Smart moved to adjourn into executive session. The Vice Chairman so moved and Member Coffrin seconded the motion which passed by 8 voices in unison.

The Board recessed into executive session at 2:13 p.m. and reconvened at 2:35 p.m.

Roll call was taken to ensure a quorum with 7 members present and the Chairman holding Member Rice's proxy.

As to *SBE v. Friends of Michael Stinson*, 11CD205, Member Schneider moved to find that the complaint was filed on justifiable grounds and the matter proceed to public hearing. Member Byers seconded the motion which passed unanimously by roll call vote.

Member Schneider moved to renew IVRS Division Director Kyle Thomas' term of appointment for another four years beginning February 1, 2012. Member Scholz seconded the motion which passed unanimously by roll call vote.


Member Scholz moved to adjourn with Member Byers seconding. The motion passed by 8 voices in unison and none opposed.

The meeting ended at 2:38 p.m.

DATED: January 9, 2012

Respectfully submitted,


Rupert Borgsmiller, Executive Director


Darlene Gervase, Administrative Assistant III