

**State of Maryland** 

**State Board of Elections – February 11, 2021 Meeting**

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Attendees (via conference call):

Michael R. Cogan, Chair  
Patrick J. Hogan, Vice Chair  
William G. Voelp, Member  
Malcolm L. Funn, Member  
Severn Miller, Member  
Linda Lamone, Administrator  
Andrea Trento, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Donna Duncan, Assistant Deputy, Election Policy  
Jared DeMarinis, Director, Candidacy and Campaign Finance  
Keith Ross, Director of Project Management  
Tracey Hartman, Director of Special Projects  
Fred Brechbiel, Chief Information Officer  
Keith Ross, Assistant Deputy, Project Management

**DECLARATION OF QUORUM PRESENT**

Mr. Cogan called the meeting to order at 2:01 pm. After taking roll call and declaring a quorum, Mr. Cogan stated that the meeting was being livestreamed.

**ADDITIONS TO THE AGENDA**

There were no additions to the agenda, however Mr. Cogan stated that he would defer “Chairman’s Remarks” until the end of the agenda. Mr. Hogan stated that he would speak during “New Business.”

**APPROVAL OF MINUTES: JANUARY 12, 2021**

Mr. Hogan made a motion to approve the minutes from the January 12, 2021 open meeting, and Mr. Miller seconded the motion. The motion passed unanimously.

**APPROVAL OF CLOSED MINUTES**

Mr. Funn made a motion to approve the minutes from the closed meetings in 2020 and 2021, and Mr. Voelp seconded the motion. The motion passed unanimously.

**ADMINISTRATOR’S REPORT**

Mr. Cogan stated that only highlights of the Administrator’s Report would be presented verbally, but that the full report is available on the SBE website.

**Announcements & Important Meetings**

Recognition of Election Officials

Ms. Lamone recognized that this was Mr. Cogan’s last meeting as a member of the State Board. She offered thanks for Mr. Cogan’s leadership, especially during the last year. Ms. Lamone read from the Governor’s citation issued to Mr. Cogan: *“Be it Known: That on behalf of the citizens of this State, in recognition of your outstanding service and commitment as Chairman of the State Board of Elections, with grateful appreciation for the integrity and leadership you have demonstrated on behalf of the state and local election officials conducting election during a global pandemic; and as our citizens join in expressing our great respect and admiration for your positive contributions to our state and nation, we are pleased to confer upon you this Governor’s Citation.”*

Ms. Lamone also read from a Governor’s citation to Kelley Howells, who resigned from the State

Board after the December meeting: *“Be it Known: That on behalf of the citizens of this State, in recognition of your outstanding service and commitment as a valued member of the State Board of Elections during the past five years, with grateful appreciation for your dedicated efforts on behalf of the people of Maryland; and as our citizens join together in expressing our admiration and great respect for your positive contributions to our state and nation, we are pleased to confer upon you this Governor’s Citation.”* Ms. Lamone thanked Ms. Howells for her service on the Board.

Finally, Ms. Lamone announced that Garrick Hendricks, a county tech for the Calvert County Board of Elections, passed away on February 5 due to complications of COVID-19. She read the following statement: *“Garrick Hendricks passed away February 5 from Covid-19 complications. Garrick - also known as Gee - was a County Tech for the Calvert County Board of Elections in 2004 and was hired full time in 2005. He was the current chair of the Maryland Association of Election Officials’ Election Technology Committee and a prior recipient of Calvert County government’s Employee of the Month award. According to Gail Hatfield, Election Director for the Calvert County Board of Elections, “Garrick was always there for anyone who needed him and will be missed more than words can say, on both a professional and personal level.” Garrick was a kind man, a dedicated election official, a veteran, and the life of the party at MAEO conferences. He leaves behind his loving partner, Rochelle, children and grandchildren. We at SBE will miss him too.”* Mr. Funn expressed his sadness at Mr. Hendricks’s passing and stated that he had known Mr. Hendricks for many years and always found him to be very helpful and kind.

#### Legislative Briefing

Ms. Charlson stated that at the Senate’s Education, Health, and Environmental Affairs Committee briefing was held on January 14, and the House of Delegates’ Ways and Means Committee briefing was held on January 21. A copy of the presentation, previously provided to the Board members, is part of the meeting materials.

#### Election Directors’ Meeting

Ms. Charlson stated that we hosted an election directors’ meeting on January 21. A copy of the meeting summary will be provided when it is available. The next meeting is scheduled for February 18.

#### National Association of State Election Directors’ (NASSED) Winter Meeting

Ms. Charlson reported that she and Ms. Lamone participated in the NASSED’s winter meeting, which was held virtually from February 1 - 5. The agenda included updates from the Cybersecurity and Infrastructure Security Agency, a briefing on misinformation trends seen in 2020, and election officials presented information sharing best practices, conducting an election in the midst of a natural disaster and global pandemic, election security practices, and election night results.

### **2020 General Election Overview**

#### Election Report

Ms. Charlson reported that we posted a [report on the 2020 General Election](#), which is linked under “Press Room” on the SBE website. It memorializes all aspects of the election, including changes made in response to the global pandemic, and also includes considerations for future elections.

#### Manual Audit

Ms. Hartman reported that the manual audit of randomly selected ballots from the 2020 General Election is underway at local boards. As of this meeting, 15 local boards have completed manual

audits, and so far, the audits have verified the accuracy of the voting system. The remaining manual audits are scheduled to be completed this month. Ms. Hartman stated that within 14 days after the conclusion of the audit, we will post a report of the audit which will be available on SBE's website, and will be completed before the March meeting.

## **Voter Registration**

### Joint Application Design (JAD)

Ms. Charlson reported that the 2020 JAD meeting was held from January 25 - 28. The JAD was successful with 17 of the local board's staff in attendance virtually. Some of the topics discussed were redistricting/GIS, flexible voting options, and pollbook integration requirements.

In response to a question from Mr. Cogan regarding ballots that were delivered electronically, Ms. Charlson stated that she could provide that information to the Board members.

## **Candidacy and Campaign Finance (CCF) Division**

### Candidacy

Mr. DeMarinis reported that February 23, 2021 is the first day candidates can file candidacy paperwork for the 2022 Gubernatorial Election cycle. Systems are being prepared to accept the candidate information at the State and local offices, and SBE is developing a process for candidates to make an appointment to file the paperwork. Campaign committees may be established any time prior to filing a certificate of candidacy. No appointment or in-person meeting is required to establish a campaign committee.

### Campaign Finance

Mr. DeMarinis reported that the 2021 Annual campaign finance report was due January 20, 2021 for all political committees and that the CCF Division is currently following up with non-compliant committees with notices.

### Financial Disclosure Statements

Mr. DeMarinis reminded the Board members that they need to file a financial disclosure statement with the Ethics Commission. The deadline is April 30, 2021.

## **Voting Systems Division**

### Voting System Upgrade

Ms. Charlson stated that SBE is in the planning stages to implement an upgrade to the voting system.

## **Project Management Office (PMO)**

### Inventory Management

Mr. Ross reported that the FY21 Inventory Audit started on February 1 and will conclude on June 30, 2021. The early start this year - approved by the Department of General Services - accommodates the local boards so that they do not have to touch the equipment twice - once for the post-election maintenance starting in February and again in April for the inventory audit.

### FY2022 Pollbook Project

Mr. Ross reported that the PMO continued working on tasks related to the project.

- The deadline for the Requests for Proposals (RFP) was January 29, 2021. Five responses were received, one of which was eliminated from consideration. The proposal was deemed not susceptible for award for its failure to meet the requirements of the RFP.
- The evaluation team members have been selected and are working with the project team

- planning for the evaluation phase which started this week.
- An Agile Coach has been selected and will join the project team shortly.

## **Information Technology and Security**

### Information Technology Master Plan (ITMP)

Mr. Brechbiel stated that SBE's ITMP will be submitted to the Department of Information Technology by February 12, 2021.

### Disaster Recovery (DR) Testing

Mr. Brechbiel reported that SBE conducted a full-scale failover test from our primary data center to our secondary data center the week of February 1, 2021, which was successful.

## **Legislation**

Ms. Charlson stated that Ms. Duncan and Mr. DeMarinis were available to answer any questions the members had. Mr. Cogan suggested that SBE provide the members with a weekly email summarizing election related legislation with status updates, to which Mr. Funn agreed would be helpful. In response to a question from Mr. Hogan, Ms. Duncan stated that she can highlight legislation that the members should pay the most attention to. In response to a question from Mr. Voelp regarding if MAEO has taken a stance on any bills, Mr. DeMarinis stated that we work closely with MAEO. MAEO does take positions on some bills, and other time they provide information only. Ms. Duncan offered to provide MAEO's testimony to the members.

## **ASSISTANT ATTORNEY GENERAL'S REPORT**

Mr. Trento gave an update on the following cases:

1. *National Federation of the Blind, Inc., et al. v. Lamone et al.*, No. 1:19-CV-02228-ELH (U.S. District Court, D. Md.). Mr. Trento stated that this case is regarding usage of ballot marking devices in Maryland. On November 12, 2020, the parties filed a joint motion to stay the case for 60 days to allow for a focused period of settlement discussions, which was also granted by the Court. The stay was set to expire on January 11, 2021, however it has been extended by 14 days, and then an additional 21 days. It is now set to expire on February 15, 2021.
2. *Chong Su Yi v. Hogan*, Nos. 480720, 480721, 480722, 480723 (Cir. Ct. Montgomery Cty.). Mr. Trento stated that on January 6, 2021, the Court of Special Appeals dismissed the plaintiff's appeals for failure to pay the filing fee. On February 4, 2021, plaintiff filed a petition for writ of certiorari in the Court of Appeals, and also requested waiver of the filing fees. That request is pending.

## **APPROVAL OF LATE FEE WAIVERS**

Mr. DeMarinis presented a request from ten campaign committees to waive late fees incurred by the committee. Seven campaign committees were denied waivers of late fees and were presented to the board for informational purposes.

The committees requesting a waiver of late filing fees were:

1. Dvorak, James Friends of
2. Geller, Paul Pals for
3. Get Pamela Turner-Tingle to the BOE
4. Kilmer, Marc Friends of

5. Leadership with Integrity PAC
6. Lindsey, Dawne Citizens For
7. Meffley, (Dale) Bob Friends of
8. Ochs, India Friends of
9. Wheeler, (Wary) Faye for Clerk of the Circuit Court
10. Veterinary PAC MD

In response to a question from Mr. Hogan regarding the waiver request for the Leadership with Integrity PAC and if the organization was required to file paperwork to close the account, Mr. DeMarinis stated that SBE would contact the organization regarding closing the account.

Mr. Voelp made a motion to approve the waiver requests, and Mr. Hogan seconded the motion. The motion passed unanimously.

### **APPROVAL OF ADMINISTRATIVE CLOSURE OF CAMPAIGN ENTITIES**

Mr. DeMarinis presented a request to administratively close two campaign committees. Pursuant to §13-313 of the Election Law Article, the State Board has the authority to administratively close a political committee upon determination that good cause exists and when other criteria are met.

The committees Mr. DeMarinis requested to administratively close were:

1. Ulysses Currie, Supporters of
2. Oatis, Pamela Friends of

Mr. DeMarinis stated, regarding Supporters of Ulysses Currie, the candidate passed away.

Regarding the Friends of Pamela Oatis, the Office of the State Prosecutor (OSP) declined to prosecute because the candidate was a candidate for a central committee and was not required to establish a candidate committee. In response to a question from Mr. Voelp, Mr. DeMarinis stated that a candidate who had a campaign committee administratively closed may open a new campaign committee in the future if they decide to run again. Again in response to Mr. Voelp, Mr. DeMarinis stated that if the Board chose to not close the Friends of Pamela Oatis committee that SBE would forward the account to OSP recommending prosecution. He explained that administrative closure is a method of last resort.

Mr. Voelp requested that Mr. Trento review State law and regulations regarding administrative closures in order to prevent candidates with an administratively closed campaign account from filing a new campaign account in the future.

Mr. Hogan made a motion to approve the administrative closure requests, and Mr. Funn seconded the motion. The motion passed unanimously.

### **APPROVAL OF CONFIDENTIALITY REQUESTS**

Mr. DeMarinis stated that COMAR 33.04.02.02 allows certain individuals to ask that their residence addresses and telephone numbers be designated as confidential. The categories of individuals who may request confidentiality are law enforcement personnel, persons being threatened, victim of or witness to felony and others due to safety or serious invasion of privacy.

Mr. DeMarinis presented a request from one voter to keep this individual's address and phone numbers confidential and stated that the Candidacy and Campaign Finance Division verified that

the requesting individual was eligible to have their residential address and telephone numbers be confidential.

Mr. Funn made a motion to approve the waiver request, and Mr. Hogan seconded the motion. The motion passed unanimously.

## **OLD BUSINESS**

There was no old business.

## **NEW BUSINESS**

### Remarks from Board Members

Mr. Hogan thanked Mr. Cogan for his long and distinguished service on the State Board, adding that Mr. Cogan always served in a non-partisan manner. He stated that Mr. Cogan always led in an honorable and outstanding matter, but to add three elections in eight months during a global pandemic was an unmitigated success. Mr. Funn echoed Mr. Hogan's comments, adding that it has been a pleasure to work with Mr. Cogan. Mr. Voelp stated that it has been an honor and privilege to work with Mr. Cogan, and that his thoughtfulness and thoroughness did not go unnoticed.

## **SPEAKERS**

There were no speakers.

## **CHAIRMAN'S REMARKS**

Mr. Cogan thanked everyone for the kind words. He reflected on the small number of people who know how to run an election, compared to how to run in an election, and that as his time on the Board has gone on, that number has gotten smaller. He expressed his appreciation for the assistance of SBE staff in responding to inquiries from board members. In addition to trusting the results of the election, he reiterated importance of the question, "Does everyone feel that the election was fair and honest?" stating that an election being fair an honest isn't enough, but must also give the image of being fair and honest.

Mr. Cogan gave the following remarks about specific individuals and groups:

Regarding Mr. Trento, Mr. Cogan read a letter that he sent to Maryland Attorney General Brian Frosh:

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*As I finish my term as Chairman of the State Board of Elections, I wish to commend Assistant Attorney General Andrea Trento for his exemplary work for the Board during the period of the 2020 elections. His efforts and counsel were invaluable to me and the administration during the unprecedented and tumultuous period of the 2020 election cycle. I cannot express how greatly I came to depend on him as we went through this period. He not only met, but exceeded, the highest standards for counsel to the Board. I am grateful for the opportunity to have worked with him.*

Mr. Trento thanked Mr. Cogan for the kind words and stated that it has been an honor and pleasure to work together.

Regarding Mr. Hogan, Mr. Cogan stated that very few people are aware of how closely they worked together, particularly in the past year. Mr. Cogan thanked Mr. Hogan for his ideas,

counsel, and myriad of ideas. Mr. Cogan expressed how “you don’t know a person professionally until you have to prevent others from dying” which he stated was a conversation they had regarding elections during the pandemic. Mr. Hogan expressed how Mr. Hogan was always there when needed, was prepared, and put in the work.

Regarding the other board members, including Ms. Howells, Mr. Cogan stated that they were sources of strength for him, and that he has learned from all of them. Mr. Cogan stated that he recently spoke with (former Chairman) Dave McManus and thanked him for his counsel over the years.

Regarding the SBE staff, Mr. Cogan stated that they are knowledgeable, competent, efficient, and a testament to the Administrator. Regarding the local boards, Mr. Cogan stated that they are the front lines and were terrific from the special elections in the 7<sup>th</sup> Congressional District through the general election. He regretted that he was unable to thank all SBE and local board staff individually.

Regarding Ms. Charlson, Mr. Cogan stated that she was the backbone of elections in Maryland, adding that she is smart, articulate, and knowledgeable. He reiterated that he could not overstate what Mr. Charlson brought to the table.

Regarding Ms. Lamone, Mr. Cogan read the following statement that he prepared, but never had the opportunity to read, for a Joint Committee hearing after the 2020 Primary Election, anticipating that he would be asked if he had confidence in the Administrator:

*“I was, at all times, utterly confident that these would not be perfect elections. I was also, at all times, that our state and local boards could accomplish the mission. I will at some point move on from the State Board of Elections, and if, at some future time, I end up as the chairman of the board of directors of an organization and that organization finds itself in a crisis situation, during which their normal procedures are scrambled, their workspaces are evacuated, little control over the crisis, no control over the timing of events but subject to severe time constraints, and they must accomplish their mission- it is my hope that the organization would be led by someone like Linda Lamone, and staffed by people like those at our local and State Board of Elections.”*

Finally, but not least, regarding election judges and voters, Mr. Cogan thanked them and stated that no success was possible without them, and every success was possible with them.

In closing, Mr. Cogan that it is because of everyone he has mentioned today that he was successful as a chairman. He stated that in bookending his career with his military experience and the beginning and Chairman of the State Board of Elections at the end, he has been able to see what the best of us as a society is. Mr. Cogan thanked everyone again for everything, and wished all the best of luck in future endeavors.

## **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

There were no campaign disclosures.

## **SCHEDULE NEXT MEETING**

The next meeting is scheduled for Thursday, March 25 at 2 p.m.

## **CLOSED SESSION- LEGAL ADVICE & SECURITY**

Mr. Cogan requested a motion to close the board meeting under General Provisions Article, §3-305(b) (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending or potential litigation, and (10) and (15), which permits closing a meeting to discuss public security, network architecture, and security of election network without introducing risk to the process.

Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7), (8), (10), and (15), and Mr. Voelp seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(7), (8), (10), and (15) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation and discuss public security, network architecture, and security of election network without introducing risk to the process.

The closed session began at 3:19 pm. Mr. Cogan, Mr. Hogan, Mr. Funn, Mr. Voelp, and Mr. Miller attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting.

Mr. Trento provided legal advice and the board consulted with staff on potential or pending litigation.

No actions were taken.

Mr. Voelp made a motion to adjourn the closed meeting, and Mr. Funn seconded the motion. The motion passed 4-0.

The closed meeting adjourned at 4:11 pm.

#### **ADJOURNMENT**

Mr. Hogan made a motion to adjourn the open meeting, and Mr. Voelp seconded the motion. The motion passed unanimously, and the open meeting adjourned at 3:07 pm.