

JANUARY 28, 2004

STATE BOARD MEETING

151 WEST STREET, SUITE 200, ANNAPOLIS, MARYLAND 21401

Attendees: Gilles Burger, Chairman
Joan Beck, Member
Susan Widerman, Member
Linda Lamone, Administrator
Ross Goldstein, Director, Candidacy and Campaign Finance
John Clark, Project Manager, Voter Registration System
Joe Torre, Voting Systems and Procurement
Jan Hejl, Voter Registration Manager
Donna Duncan, Director, Election Management Division
Mary Cramer Wagner, Deputy Director, Election Management Division
Joan Mobley, MARS Manager
Ernestine Blake-Green, Personnel Officer
Nikki Trella, HAVA Coordinator
Beth Buck, Budget Analyst
Judith Arnold, Assistant Attorney General

Also Present: William R. Varga, Attorney, Baltimore City Board of Elections
Armstead B. Crawley Jones, President, Baltimore City Election Board
Barbara Jackson, Election Director, Baltimore City Election Office
Sherri Phillips, Baltimore City Election Office
Ben Barnes, Prince George's County
Mike Curtis, Accenture
Rick Walega, Accenture
Margaret Jurgensen, Election Director, Montgomery County Board of Elections
Robin Downs, Election Director, Prince George's County Election Office
Henry Marshall

DECLARATION OF QUORUM PRESENT

After establishing the presence of a quorum, Chairman Burger called the meeting to order at 1:35 p.m.

APPROVAL OF MINUTES OF MEETING OF DECEMBER 14, 2004

On a motion by Ms. Beck, seconded by Ms. Widerman, the minutes of the December 14, 2004 meeting were approved with amendments.

Mr. Burger reminded Ms. Woodside that he had requested that all approved Board meeting minutes be placed on the website. Ms. Lamone told Ms. Woodside that this was a matter to be handled after more important IT issues were addressed.

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ADDITIONS TO THE AGENDA

There were no additions to the agenda.

ADMINISTRATOR'S UPDATE

MVA

Ms. Lamone asked that Ms. Trella update the Board on the MVA data verification process. Ms. Trella explained the procedures followed in the match program. The Board was given a document (see attached) that explained the MVA data verification process. The document also noted the outstanding issues that must be addressed.

Information Technology Report

Ms. Lamone reported that John Clark is completing the Information Technology Project Request (ITPR) for the new voter registration system. The ITPR is sent to the Department of Budget and Management for review by the State Office of Information Technology. John added that the request will be submitted as a supplemental to the FY 2005 budget. All funds requested for FY 2005 are federal funds. Mr. Burger asked what was in the document, and whether it was mainly a functional document. Mr. Clark agreed that the ITPR was mainly functional, and that it contained information such as the project purpose, business need, project risks and sources of funds. Mr. Burger requested that a copy of the ITPR be sent to all Board members.

Candidate Filings

Ms. Lamone advised the Board that SBE has reached a record in the number of convention delegate candidates who filed for a presidential election. A copy of a chart indicating the interim candidate filing statistics was given to each Board member for review.

Election Preparation

Ms. Duncan explained that the Spanish version of the ballot on the touch screen voting system is being corrected. Final approval on this version is expected today. Ms. Duncan added that the absentee ballots have been approved. The majority of the ballots have been sent to the printers by the local boards. Ms. Lamone asked Ms. Downs to provide an update on issues at the local level. Ms. Downs reported that the main issue is getting the voting units ready for the upcoming primary election.

Election Judge Recruiting

Ms. Downs explained that Prince George's County followed a marketing plan to recruit election judges. She added that they now have approximately 60 students who are serving as election judges. Ms. Widerman asked to see a copy of the brochure used by Prince George's County in this effort.

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Ms. Lamone welcomed back Ms. Jackson who has been out of the office due to medical issues.

ADMINISTRATOR'S REPORT (CONTINUED)

Giant Food Voter Outreach

Ms. Lamone reported that Ms. Wendy Woodside has compiled a list of stores where the voter outreach group will conduct demonstration events in each county, and copies of the list were handed out to the Board members. In response to a question raised by Ms. Wideman as to the locations and dates of the events, Ms. Pam Woodside responded that Giant Voter Day will be February 7th at the listed Giant food stores. Ms. Beck added that she would like to see a few more locations added to the list. Ms. Lamone advised that SBE did not have control over when and where the events would take place.

Mr. Burger asked for an explanation of the staff allocation shown on the list. Ms. Trella explained that this indicates the staff that will be allocated by the counties to assist at the stores during the voter outreach events.

Ms. Trella added that Diebold was originally going to provide staff but later asked the counties to provide staff. Mr. Burger asked if the SBE contract with Diebold specifies that SBE provide staff. Mr. Torre responded that the contract states that Diebold would provide staff, but it is a small number. Ms. Woodside added that Diebold verbally agreed to provide staff. Ms. Lamone indicated that even if Diebold is staffing the events, there is a question of quality of the staff.

Campaign Finance Report

Ms. Lamone reported that the deadline to file the Annual Campaign Finance report was January 21st. She stated that the filing period went very smoothly, with minimal help desk calls. Mr. Goldstein added that another report is due on Feb. 3^d.

Collection of Late Fees

Ms. Lamone briefed the Board on the collection of late fees issue. Mr. Goldstein has learned that the state has a central collection unit within the Department of Budget and Management. However, according to their attorney, they do not have the authority to make collections for SBE. It is clear that collections cannot legally be referred to private attorneys.

HAVA Expenditures Report

Ms. Lamone reported that Leslie Reynolds, Executive Director of NASS, sent out an email reminder to all of the states that the deadline for reporting HAVA expenditures to the General Services Administration was January 21, 2004.

New Employees

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Ms. Lamone advised the Board that two new employees have been hired to assist Ms. Trella with the HAVA Projects. Jaime Jacobs will serve as the Election Reform Deputy Director, and Mary Dewar will serve as Communications Director, both effective Monday, February 2nd.

ADMINISTRATOR'S REPORT (CONTINUED)

Mr. Burger asked what is the role of the Communications Director. Ms. Trella explained that she would be responsible for managing HAVA statewide communications, outreach, and training.

Ms. Lamone further advised the Board that, effective January 14th, Deborah Moore was hired as the new receptionist for SBE.

Miscellaneous

Ms. Lamone complimented the staff on their work with ballot preparation for the primary election. She added that the process was painful, but was a much more streamlined process than in the past. Mr. Burger asked if the process went well because SBE is using the GEMS system. Ms. Lamone answered in the affirmative. Mr. Burger added that he is pleased to hear that and that it is great news for all. Ms. Duncan stated that Mr. Allen Craig from CSC was present at SBE during the import process and was able to do any fine tuning that was not picked up earlier. He made clear notes and has gone back to further refine the system. Ms. Duncan advised the Board that an after-action report was provided and offered to provide a copy, if necessary.

Ms. Duncan reported that she is now fine-tuning the Spanish translations with Montgomery County.

Mr. Burger asked if all counties have the capability to show the ballot in Spanish. Ms. Duncan responded that Prince George's County also has this capability. Mr. Burger also asked if law requires this. Ms. Duncan responded that only Montgomery County is required to provide a Spanish ballot under the Voting Rights Act.

Ms. Duncan thanked Michelle Gonda from the Montgomery County Board of Elections officer for her efforts in providing timely information in connection with the Spanish ballot.

Ms. Lamone reported that Ms. Cramer has sent out a legislative schedule which she will be doing every week.

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The report of the Department of Legislative Services on the new voting system will be presented to the legislative committees at 2:00 p.m. in the Senate; 3:30 p.m. in the House on January 27, 2004.

Change of Party Affiliation Deadline

The Board was given a copy of the voter registration figures as of December 8, 2003, the deadline to change party affiliation.

ASSISTANT ATTORNEY GENERAL'S REPORT

Ms. Arnold submitted a written report on her activities since the last Board meeting. (See attached)

Ms. Arnold reported that she filed a monthly status report on January 2nd in the *Poole v. Lamone* (U.S.D. Ct.) litigation

Maryland Green Party v. Maryland Board of Elections (Green Party I) - On January 12, 2004, the Circuit Court for Anne Arundel County signed a Declaratory Judgment Order invalidating nominating petition requirements for minor party candidates and declaring the right of an inactive voter who resides in Maryland to sign a petition and have the signature counted. The order left open the possibility of further proceedings regarding voter registration list maintenance procedures. A scheduling conference is to be held at an unspecified future date.

Ms. Arnold reported that the *Libertarian Party v. SBE* suit challenges the verification of signatures on party-forming petitions. Teresa Elguezabal is representing SBE. Ms. Arnold added that the problem with the Libertarian Party petitions is a large number of signatures collected by out of state circulators did not include the year in the date on the signature page (i.e., 9/11). Mr. Burger asked why a different Attorney General is representing SBE in this case. Ms. Arnold responded that litigators in the Attorney General's Civil Division handle all SBE litigation.

Mr. Burger asked about the status of the *Antonetti v. Howard County Board et al* case. Ms. Arnold explained that originally the case was filed against the Howard County Board but the Howard County court required that SBE be joined as a defendant. A hearing on SBE's motion to dismiss was held on January 9th. The Circuit Court for Howard County dismissed a tort count without leave to amend and dismissed a contract count with leave to amend to allege a written contract. The Court also denied a motion to dismiss the declaratory judgment count. Ms. Arnold is awaiting an amendment of the complaint.

Ms. Arnold also reported that the Constitution Party is expected to file a party recognition petition momentarily. The law states that a party-forming petition may be filed except when the books are closed. The Constitution Party can file a petition between now and February 10th, which is the close of registration.

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Ms. Arnold has advised the local boards that voter registration records should not be kept confidential if COMAR standards are not satisfied. Some counties have apparently “grandfathered” confidential records and have not properly reviewed their status,

Ms. Lamone announced that Irv Rader, who works at the satellite office at the MVA in Glen Burnie, and is a member of the SBE staff, passed away this morning. A moment of silence was observed in honor of Mr. Rader.

REQUEST FOR WAIVER OF LATE FEES

On a motion by Ms. Widerman, seconded by Ms. Beck, the State Board accepted the Administrator’s recommendation on the following waivers:

- Committee For Curt Anderson
- Campaign To Elect Joyce Beck
- Frederick Broccolino – Personal Treasurer Account
- Committee To Elect David R. Craig
- Friends Of Ken Ulman

Friends And Family Of Cortly C. D. Witherspoon – Following discussion of this account, on a motion by Ms. Beck, seconded by Ms. Widerman, the Board agreed to adopt the recommendation of the Administrator to waive the fee for the former chairman.

M & T Bank State PAC – On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed with the recommendation of the Administrator to waive the late fee.

Committee for Lih Young - On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed with the recommendation of the Administrator to waive the late fee.

Lih Young For Comptroller Committee - On a motion by Mr. Burger, seconded by Ms. Beck, the Board agreed to grant the waiver request on the condition that the August 29th report is filed.

The Lawrence Bell Committee - On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed to accept the recommendation of the Administrator to waive the late fee.

Friends Of Joe Curran - On a motion by Mr. Burger, seconded by Ms. Widerman, the Board agreed to accept the recommendation of the Administrator to waive the late fee.

Friends Of John Donoghue - On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed to accept the recommendation of the Administrator to waive the late fee. Mr. Burger abstained.

On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed to accept the recommendation of the Administrator to waive the late fees for the following accounts:

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Friends Of Reginald Dunn
Citizens To Elect James Easter State Senator
Citizens For Robert "Bo" Newsome For Delegate
Friends Of Tom McCarthy Sr.
Citizens To Elect Clark Schoeffield
People For Melvin L. Stukes

Maryland Orthopaedic PAC - On a motion by Ms. Beck, seconded by Ms. Widerman, the Board agreed to accept the recommendation of the Administrator to waive the late fee.

Queen Anne's County Responsible Growth PAC - On a motion by Ms. Widerman, seconded by Ms. Beck, the Board agreed to grant the request to waive the late fee.

FINAL ADOPTION OF REGULATIONS

Mr. Torre presented the following regulations to the Board for final adoption:

Subtitle 07 Election Day Activities – Mr. Torre explained the purpose of the regulation is to define the types of acceptable identification cards required by the Help America Vote Act of 2002. On a motion by Mr. Burger, seconded by Ms. Widerman, the Board approved final adoption of the regulation.

Subtitle 11 Absentee Ballots – The purpose of this action is to provide certain changes and clarifications to the process of absentee ballot administration. On a motion by Mr. Burger, seconded by Ms. Beck, the Board approved final adoption of the regulation.

Subtitle 16 Provisional Ballots – The purpose of this action is to alter the day on which the canvassing of provisional ballots must begin. On a motion by Mr. Burger, seconded by Ms. Beck, the Board approved final adoption of the regulation.

BALTIMORE CITY

Mr. Armstead Jones, President of the Baltimore City Election Board, appeared before the Board regarding the status of Baltimore City's request to upgrade the audio portion of the AVC Advantage Voting System used in Baltimore City. Mr. Jones advised the Board that the City Board has received no feedback on its request. Mr. Jones was advised that Mr. Torre had requested information from Sequoia in reference to costs to upgrade the voting system and costs to install the audio function.

Mr. Jones went on to explain that the funds for the requested changes must be included in the City Board budget. Mr. Jones submitted information to Mr. Torre about a month and a half ago and wants to know the status of the process.

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Mr. Burger asked Mr. Torre for an update with respect to update of the voting system in Baltimore City. Mr. Torre responded that the proposed firmware has not been tested with the election management system. Also, Baltimore City has 316 precincts; they want to upgrade 360 machines. The State Board felt this was not enough. Mr. Torre stated that he has supplied Baltimore City with information on what it would cost to come onto the new statewide voting system.

Mr. Burger stated that he is reluctant to spend money on a system to develop capabilities that will be provided for only the 2004 elections. He added that \$780,000 is a lot of money for something that is going to be replaced by the Diebold system.

Mr. Jones explained that Baltimore City took the initiative to move forward with upgrading its voting system. It wants to upgrade further to include the audio. He advised the Board that Baltimore City has requested an exemption from the uniform statewide system, which is before the legislature. He is concerned that in the first year, Baltimore City will have to come up with \$300,000; in all Baltimore City will have to come up with \$5 million. Mr. Jones further explained that Baltimore City has waited four months for a response that could have been given earlier.

Ms. Widerman asked if it is considered to be discriminatory to have the audio feature only in certain locations where the visually impaired could go to vote as a temporary measure until 2006. Mr. Torre answered that firmware has to be changed in each voting unit because dual systems cannot run; machines cannot be isolated for these purposes.

Ms. Jackson stated that it has been over a year since Baltimore City made the request. She feels that they are being given the run around. Ms. Jackson added that it took two years to get the go ahead to go with the AVC Voting System. Sequoia was going to do the update for free. Ms. Jackson stated for the record that she thinks Baltimore City has been treated poorly.

Mr. Burger stated that he is sensitive to Baltimore City's concerns; there is no local board that is treated differently than any others. He added that the State Board needed some information from Baltimore City. The goal is to have a uniform voting system statewide. Mr. Burger expressed his appreciation that Mr. Jones and Ms. Jackson came before the Board to discuss this issue.

Mr. Jones asked that Mr. Burger state for the record the decision of the State Board of this issue.

After allowing Ms. Widerman and Ms. Beck to express their views, Mr. Burger stated that, with regret, the State Board will deny the request to add audio to the Sequoia Pacific System in Baltimore City.

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Mr. Jones stated that a letter would be appropriate to explain the reason as to why the request was denied. Mr. Burger stated that the Board will write a letter explaining the reasons before the next meeting.

Ms. Jackson asked for clarification on extended poll hours. Ms. Lamone explained that HAVA has a provision that requires the use of provisional ballots during any extended hours. This provision was included in the judge's manual so that all election officials would know the requirement. Ms. Lamone added that all ballots voted after 8 p.m. must be kept separately and counted with the provisional ballots.

OLD BUSINESS

Ms. Widerman raised a question on the late fee issue discussed at the December meeting and included in the minutes. At that meeting Mr. Goldstein stated that SBE needs to follow up with the local boards to make sure that they have been properly entering late fee information. Mr. Goldstein advised the Board that he will wait until after the primary to follow up on this issue.

Ms. Widerman stated, reference Giant voter day, that Chris Hood said he would add a link for voter registration day for the website. Mr. Heller responded that he will confirm that something was added to the home page.

NEW BUSINESS

Paper Trail Issues

At the last meeting Ms. Widerman asked if SBE has someone in the media who could be updated periodically on a proactive basis. She asked again if anyone has made any efforts toward this. Ms. Lamone responded that no one has done so, but she added that Ms. Trella has arranged for a press release to be distributed tomorrow.

Ms. Jurgensen stated that Montgomery County has received at least a half dozen emails and also referrals from the County Executive and County Council. Ms. Jurgensen stated the voters want a piece of paper when they vote. Ms. Woodside responded that there are no requirements for a paper trail. Ms. Downs added that Ms. Woodside has provided a document that deals with a lot of these issues. That document is a good one and Prince George's County is using it when they go out to do demonstrations.

SCHEDULING OF FEBRUARY MEETING

The next meeting of the State Board will be held on Monday, February 23rd at 1:30 p.m.

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ADJOURNMENT

On a motion by Ms. Beck, seconded by Ms. Widerman the meeting adjourned at 4:30 p.m.