

MARCH 29, 2007

STATE BOARD MEETING
151 WEST STREET, SUITE 200, ANNAPOLIS, MD 21401

Attendees: Bobbie Mack, Vice Chairman
Andrew Jezic, Member
Robert L. Walker, Member
Linda Lamone, Administrator
Mark Davis, Assistant Attorney General
Ross Goldstein, Deputy Administrator
Donna Duncan, Election Management Director
Mary Wagner, MDVOTERS Project Sponsor
Joseph Torre, Director, Procurement and Voting Systems
Jessica Jordan, Budget Director
Nikki Trella, Election Reform Director
Jared DeMarinis, Candidacy and Campaign Finance Director
John Clark, Voter Registration Project Manager
Patrick Strauch, Voting System Project Manager

Also Present: Mary Kiraly, MD – Election Integrity Coalition

DECLARATION OF QUORUM PRESENT

Vice Chairman Mack called the meeting to order at 1:40 p.m. and declared that there was a quorum present. Ms. Mack noted that there were no Republican members present and confirmed with Mr. Davis that the Board could still take actions. Mr. Davis noted that, since the Board is currently comprised of four members, three members constitute a quorum.

Ms. Mack welcomed Bob Walker. Mr. Walker stated that he was honored to be appointed by Governor O'Malley to the State Board of Elections. Mr. Walker noted that he looks forward to serving on what he considers the most important Board in the State. Staff introductions were made, and Ms. Lamone noted that Mr. Walker, in his role as Chief Administrative Officer for the Anne Arundel County Executive, was instrumental in assisting the Anne Arundel County Board of Elections meet the challenges of the recent election.

APPROVAL OF February 27th, 2007 BOARD MEETING MINUTES

Ms. Mack made a motion to approve the minutes as submitted, and Mr. Jezic seconded the motion. The minutes of the February 27, 2007, board meeting were approved unanimously.

ADDITIONS TO THE AGENDA

Mr. Jezic requested that the selection of a new chairman be added to the agenda. Ms. Mack stated it would be added under New Business.

ADMINISTRATOR'S REPORT

1. Meetings

Lessons Learned

Ms. Lamone reported that on March 14th the second lessons learned session was held. The topic of pre-election activities was discussed. Specifically, the election directors and staff shared information and best practices on the ballot proofing process, absentee ballot distribution, voting unit deployment, and electronic poll book use and deployment. The minutes from that meeting are in the meeting folders. Ms. Lamone noted that spreading out the lessons learned sessions during a series of meetings has proven to be more effective than a day long session. Ms. Lamone

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also stated that the next meeting is scheduled for April 11th at 10:00 a.m. and that the Board members were invited to attend.

Korean Delegation

Ms. Lamone informed the Board that on March 19th four members of the Korean National Assembly, staff from the Korean national election administration office, and a representative from the Korean Embassy came to the State Board office to learn about the Maryland voting system and different implementation issues. The Korean delegation members explained that they are in the process of implementing an electronic voting system and were therefore interested in learning about the success of electronic voting here and the public and political responses to electronic voting. In response, they were informed that the electronic voting system in Maryland has met the intended goals of reducing voter errors, increasing accuracy, and providing a uniform statewide approach to voting. They were further informed that there has been public and political debate about the security of the system, but that public approval of elections remains high in Maryland. Ms. Lamone noted that Korean voting system was very advanced. It contained a lot of interesting features and was being produced by the government.

2. Voter Registration

Voter Merge

Ms. Lamone reported that the Voter Registration Division provided training and oversight to the 24 Local Boards on the MDVOTERS Merge Voters function. The merge voter function allows election staff to locate potential duplicate voter registrations in the database, analyze the data and determine what action is required. Ms. Lamone noted that this process has been very productive so far but also recognized that oversight is important to ensure against incorrect merges.

Software Release

Ms. Lamone reported that the Voter Registration Division has begun testing the next release of MDVOTERS software. This is the first set of improvements to MDVOTERS based on the feedback from local board participants in the February Joint Application Design (JAD) sessions. Following user testing, the software will be installed the week of April 15. This software release focuses on the area of petitions, election workers and statewide reports.

3. Help America Vote Act

EAC Standards Board Meeting

Nikki Trella, the State representative on the U.S. Election Assistance Commission's Standards Board, attended the Standards Board's February 20-23, 2007, meeting in Atlanta, Georgia. (The Standards Board reviews voluntary voting system guidelines and other voluntary guidance and best practices recommendations issued by the EAC.) In addition to significant discussion about and subsequent adoption of by-laws, the Standards Board received an update on the work of the Technical Guidelines Development Committee (TGDC) and its upcoming voting system standards and the EAC's new voting system testing and certification program. The Standards Board also visited Kennesaw State University, the home of Georgia's Center for Election Systems, and received information on the Center's structure and work. Various resolutions were adopted by the Standards Board, many of which related to the upcoming version of the Voluntary Voting System Guidelines, the work of the TGDC, and full funding of the Help America Vote Act.

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Ms. Mack noted her concern about the fact that guidelines are only voluntary. Ms. Lamone noted that for the most part they are mandatory since no voting system vendor would make voting equipment that does not meet the guidelines. In addition, many states, like Maryland, require the voluntary guidelines to be followed. Nonetheless, Ms. Mack noted that certain procedures, like logic and accuracy testing, should be mandatory nationwide. Ms. Mack's concern is that poor administrative practices in one state have an adverse impact on all states, including Maryland. Ms. Lamone noted her agreement.

2006 Election Administration and Voting Survey

Ms. Lamone reported that under the federal Help America Vote Act of 2002, the U.S. Election Assistance Commission (EAC) is required to submit to Congress reports on various election activities, including voter registration, provisional voting, and voting by military and overseas citizens. To complete its reports, the EAC requires each State to provide certain election related data. For its 2006 survey, the EAC combined two previously separate reports - a voter registration survey and an election results survey - into one, fifty-eight question survey. Ms. Lamone stated that a copy of the survey responses is provided in the Board members' folders. The data-related responses to the November 6, 2006, Election questions are posted on our website.

Election Judges' Recruitment and Training

Mary Heath has begun drafting a strategy document for recruiting election judges. This document will identify various strategies to reach individuals who may be interested in serving as election judges and represents the first time the State has taken an active role in recruiting election judges.

In response to the first Lessons Learned meeting, Jaimie Jacobs will be using each county's 2006 election judges' manual as the basis for the 2007 Baltimore City Elections manual and 2008 Presidential Elections manual. Depending on the extent of the changes, Ms. Jacobs will either notify the local boards of the changes that need to be made to the 2006 manual or will insert the changes herself. Ms. Jacobs and the Baltimore City Board have established a June 1, 2007, cut-off date for the manual.

4. Candidacy and Campaign Finance Division

Ms. Lamone reported that the Candidacy and Campaign Finance Division (CCF) is in the process of implementing the legislative changes enacted by the General Assembly last year. The two most important changes are the elimination of non-continuing accounts and the requirement for all committees to designate the election (Gubernatorial, Baltimore City, or Presidential) in which they intend to participate. Due to these changes, all campaign finance entities will be filing with the State Board of Elections and not the local boards.

Currently, there are over 300 active non-continuing campaign finance entities. On March 12th, CCF notified each of the committees to submit a final report and close. These committees were supposed to have closed with the Post-General campaign finance report. The committees have thirty days to comply; otherwise they may be referred to the State Prosecutor's Office. The requirement for all committees to designate the election in which they intend to participate eliminates the need for a committee to file an Affidavit of Non-Participation. Under the new scheme, a committee will expressly designate when it plans to participate in elections; thus

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owing election related campaign finance reports in the designated year. CCF and Computer Sciences Corporation (CSC) are developing a new version of ELECTTrack Electronic Filing Software to handle the change. CSC has released the new version to CCF for testing, which was concluded last week. The problems were reported back to CSC for correction. We are on schedule for an April delivery date. In addition, CCF will mail an Affidavit of Designation to the existing committees so they can select the election that they will participate in. This will also occur in early April.

Ms. Mack asked whether the legislation changing the date of the Presidential Primary Election has passed and what impact it will have. Ms. Lamone responded that both the House and Senate versions of the bill have passed their respective chambers and is likely to be finally adopted. Ms. Lamone noted that the filing dates relating to the Democratic presidential candidates and convention delegates had to be changed and noted that the Maryland Democratic Party is seeking a waiver of the National Democratic Party requirement that these candidates file in the year of the election. Ms. Mack asked whether this would require the LBEs to train election judges during the December holiday season. Donna Duncan responded that it would, but noted that changing the election also meant changing the candidate filing deadline that would have occurred on Christmas Eve. The new candidate filing deadline is now December 3, 2007.

5. Voting System

Equipment Repair

Ms. Lamone reported that the enhanced statewide voting system equipment repair process has been introduced to all but five of the LBEs. The LBEs that still require training are St. Mary's (scheduled for March 28th), Allegany, Frederick, Garrett, and Washington counties. The training initiative will be completed by April 13th.

Post Election Maintenance

Ms. Lamone also reported that the update to the statewide voting system's Post Election Maintenance procedures have been completed. The updated document was expanded to include the Universal Power Supply (UPS) charging procedures, clearing voting unit memory cards and voter access cards. The voting system team is preparing to release the document to the LBEs.

Miscellaneous Projects

Ms. Lamone also reported that the voting system team is finalizing the 2007 Baltimore City Mayoral Election schedule. The team has identified the principle tasks and is now working on resource allocation.

The voting system team met with a printing vendor to discuss envelope requirements for absentee ballots. The requirements include ballot size (12-inches, 14-inches, or 18-inches) and the number of cards to be placed in the envelope. Montgomery and Prince George's Counties required 2 cards for their absentee ballots during the last election. The size of the envelope may have a direct impact on mailing cost. The state could have 1 or 6 different envelope styles depending on the postage cost.

Joe Torre reported that he has provided Diebold with five printing vendors to consider for certification for printing Maryland optical scan ballots. Mr. Torre noted that printing optical scan ballots is very complex and requires certification and testing. Based on a question from Mr. Jezic, Mr. Torre clarified that the certification is done by Diebold. Finally, Mr. Torre noted that

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Diebold has hired a new manager for optical scan ballots who is very qualified and proactive in making sure Maryland has a dedicated local vendor.

Ms. Lamone reported that the voting system team has completed the implementation of the new status and timecard reporting system used by the voting system vendor. The new reports will address the findings identified in the 2006 audit report.

6. Procurement - Election Management System Support

Ms. Lamone reported that on March 26, 2007, SBE awarded the CATS TORFP for software enhancements and modifications to EMS, trouble shooting and proactive system maintenance to CSC. During the proposal process, CSC demonstrated their expertise and ability to meet the contract requirements both in capabilities and understanding of the work. Additionally, the review committee agreed the cost was acceptable and the best value. Mr. Jezic asked who was on the review committee. Mr. DeMarinis that he along with Karen Simpson, Ross Goldstein, Jessica Jordan, Joe Torre, and Michael Kortum were on the committee.

7. Municipal Election Support

Ms. Lamone reported that the Voter Registration Division has been providing support for the LBEs as requested with their data and reporting needs for municipal elections. Bob Murphy has also been providing electronic poll book support to the LBEs for municipal elections. Municipal elections have proved to be very useful for the local boards to gain more experience using the electronic poll books in elections.

To date, Bob Murphy provided electronic poll book support for the Annapolis City primary and general elections and the Salisbury primary and general (General is next Tuesday) elections. Stacey Johnson of the Voter Registration Division assisted Local Boards with municipal elections in Annapolis and Salisbury, while Saber Field Support Team Representatives Ginny Boyd and Michael Hinton assisted Local Boards with elections in Centerville and Havre de Grace.

8. Legislation

Ms. Lamone reported on the following legislation that has passed or still has a chance to pass.

SB 1/HB201 – Early Voting Constitutional Amendment – will place a question on the 2008 General Election ballot authorizing early voting.

SB 376/HB 181 – Baltimore County Election Judge Salary – Increases the salary for Baltimore County Election Judges to \$225 for chief and \$162.50 for others.

SB 488 – Voter Registration Protection Act – alters the qualifications for becoming a registered voter following conviction of a disqualifying crime. (Passed) There was considerable discussion about the potential changes in the handling of voter registration of convicted criminals as a result of the passage of this bill. Specifically, the following points were discussed:

- The bill removes the term “infamous crime” from Maryland election law;
- The bill removes the three-year waiting period that currently results from a second conviction;

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- An individual would not be qualified to be a registered voter if he/she was convicted of a felony and was actually serving a court –ordered sentence, including parole and probation;
- An individual would not be qualified to be a registered voter if he/she has been convicted of buying or selling votes;
- The LBEs would continue to be responsible for sending a notification to convicted criminals before removing them from the voter rolls;
- The voter registration application would continue to require the applicant to affirm, under penalty of perjury, that he/she had not been convicted of a felony or had completed the sentence for a felony conviction.

SB 708 – Baltimore City Election Date – changes the Mayoral election to run simultaneous with the Gubernatorial Election cycle.

SB 1025/HB 1434 – Presidential Primary Election Date – changes the date of the Presidential Primary from the 1st Tuesday in March to the 2nd Tuesday in February – for 2008 it will change the date from March 4th to February 12th. We have provided the General Assembly with some technical amendments to alter certain candidate filing deadlines to allow for time to prepare the ballots and voting equipment.

HB 16 – Deadline for Receipt of Absentee Ballot Applications – changes the deadline for receipt of a regular absentee ballot application from 7 days before the election to 10 days before the election.

HB 637 – Prince George’s County Election Judge Salary – Increases the salary for Prince George’s County Election Judges to \$250 for chief and \$200 for others

Many of the election bills have been sent to summer study by the Senate Education, Health & Environmental Affairs Committee’s Election Sub-Committee.

ASSISTANT ATTORNEY GENERAL’S REPORT

Mark Davis noted that his written report was available in the folders. Since the writing of the report, two Court of Appeals decisions have been handed down. The first decision was *Abrams v. Lamone*, which explains the Court’s rationale for declaring Tom Perez as ineligible to be on the ballot as a candidate for Attorney General. Ms. Lamone and Mr. Davis explained that the Court seemed unanimous in the view that, in order to be a candidate for Attorney General, the individual must be admitted to the Maryland Bar for 10 years. The court was divided on whether the individual must have practiced law in Maryland for 10 years or what constituted practicing law in Maryland. The second case was *Liddy v. Lamone*, which raised a similar challenge to Doug Gansler’s candidacy for Attorney General. Mr. Davis noted that the case was decided on laches. Mr. Davis noted that the opinion was helpful to SBE in that it clearly stated that waiting until the last minute to file an election case would not be permitted.

Finally, Mr. Davis noted that most of his time has been spent on the *Schade* case. Seven days of depositions had occurred thus far. Discovery ends on April 30th. Mr. Davis expects a 2 to 3 week trial.

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CAMPAIGN FINANCE LATE FEE WAIVERS

Mr. DeMarinis presented the following sixteen requests for waiver of late fees to the Board:

1. Friends of Belinda K. Conaway;
2. MCI Maryland PAC;
3. Margaret T. Hays- Personal Treasurer;
4. Friends of James Butler;
5. Friends of Jim Smith;
6. Friends of Norm Conway & Jim Mathias Slate;
7. Friends of Leslie Sipes;
8. Bricklayers Local No. 1 Political Action Committee;
9. Caton Health Corporation PAC
10. Comcast Political Action Committee of Maryland;
11. The Democratic Women's PAC of Maryland;
12. Nationwide MD State Political Participation Fund PAC;
13. Friends of Wesley C. Wood (for the chairman only);
14. Citizens for Ed Clarke
15. Laura Graham – Personal Treasurer; and
16. Timothy Galt – Personal Treasurer.

Ms. Lamone informed the Board that a copy of the waiver policy had been provided and that generally a waiver is granted for first time offenders, where compelling extenuating circumstances exist, and instances where little financial activity has occurred.

Mr. DeMarinis stated that the first 12 requests met the standards for granting the waiver of late fees and therefore were recommended for approval. For Friends of Wesley Wood, the recommendation was only to waive the late fee for the chairman. For Citizens for Ed Clarke, approval was recommended only for the Pre-General Report but not for the Post-General Report. Finally, Mr. DeMarinis presented to the Board 2 requests, Laura Graham- Personal Treasurer and Timothy Galt- Personal Treasurer, recommended for granting a waiver by the local boards of elections.

Ms. Mack suggested that the Board vote on each group of requests separately then as a whole. Mr. Walker made a motion to accept the recommendation as presented for requests 1-12. The motion was seconded by Mr. Jezic and passed unanimously. Ms. Mack made a motion to accept the recommendation of granting the waiver for only the chairman of Friends of Wesley Wood. The motion was seconded by Mr. Jezic and passed unanimously. Ms. Mack made a motion to grant the waiver for the Pre-General report and deny the request for the Post-General report for Citizens for Ed Clarke. The motion was seconded by Mr. Jezic and passed unanimously. Finally, Ms. Mack made a motion to grant the waivers for the two local campaign finance committees, Laura Graham- Personal Treasurer and Timothy Galt- Personal Treasurer. The motion was seconded by Mr. Walker and passed unanimously.

REQUESTS FOR CONFIDENTIALITY

Mr. DeMarinis presented to the Board two requests by law enforcement personnel to have their personal and residential information confidential on their candidacy records. Ms. Mack made a motion to grant the requests. The motion was seconded by Mr. Walker and passed unanimously.

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OLD BUSINESS

No old business was discussed.

NEW BUSINESS

Mr. Jezic nominated Mr. Walker to serve as chairman. Ms. Mack seconded the motion. The members voted unanimously for Mr. Walker serve as chairman.

SCHEDULING OF APRIL MEETING

Mr. Walker requested that a set meeting time be established. The members agreed to the fourth Thursday of every month. The Board also agreed to change the meeting start time to 2:30 p.m. The next meeting of the State Board is scheduled for Thursday, April 26, 2007, at 2:30 p.m.

Ms. Lamone noted that the Maryland Association of Election Officials conference is scheduled for June 11th through the 12th. Ms. Lamone suggested that the members may want to consider attending part of the meeting. Ms. Lamone also informed the Board of the bill signing dates and stated that she would inform them of any significant election legislation due to be signed into law by the Governor.

ADJOURNMENT

The meeting adjourned at 2:40 p.m.