

State of Maryland 

State Board of Elections Meeting – October 24, 2012

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Attendees: Bobbie Mack, Chair  
David McManus, Vice Chair  
Rachel McGuckian, Member  
Chuck Thomann, Member  
Patrick Murray, Member  
Linda Lamone, Administrator  
Ross Goldstein, Deputy Administrator  
Jeffrey Darsie, Assistant Attorney General  
Donna Duncan, Election Management Director  
Nikki Charlson, Election Reform Director  
Paul Aumayr, Director, Voting Systems  
Keith Ross, Assistant Deputy for Project Management  
Mary Wagner, Voter Registration Director  
Victorica Smith, Campaign Finance

Also Present: Barbara Sanders, League of Women Voters of Maryland  
Holly Joseph, Montgomery County  
Lynn Garland, Montgomery County

#### **DECLARATION OF QUORUM PRESENT**

Chairman Mack called the meeting to order at 2:10 pm and declared that a quorum was present.

#### **APPROVAL OF THE PRIOR BOARD MEETING MINUTES**

The minutes of the September 27, 2012, board meeting were presented for approval. Ms. Mack asked staff to correct the minutes to properly reflect the fact that Ms. McGuckian was not in attendance at the September meeting. The minutes as amended were approved unanimously.

#### **ADMINISTRATOR'S REPORT**

Ross Goldstein presented the Administrator's Report.

##### **1. Meetings and Important Dates**

###### MEMA Conference Call

On Tuesday, October 23<sup>rd</sup>, the Maryland Emergency Management Agency coordinated a conference call with State and local emergency managers, Homeland Security, weather service, and State and local election officials. A threat assessment was provided along with a report from the National Weather Service on the forecast for early voting. A future meeting was not scheduled, but close communications will be maintained – especially in light of the potential for a significant weather event.

###### LBE Attorneys – Pre-Election Conference Calls

Before each election, SBE schedules a series of conference calls with attorneys for the local boards of elections. To date, SBE hosted two conference calls and the final one is scheduled for October 31<sup>st</sup>. Participation has been good, and we discussed electioneering on private property, ballot questions, challengers and watchers, and post-election requirements.

###### Election Directors' Meeting

On October 16<sup>th</sup>, SBE hosted an election directors' meeting by conference call. All local boards participated, and we discussed reminders related to the voter registration deadline, the voting system, and challengers and watchers regulations, absentee ballot mailing issues, and the importance of local board member attendance and participation in the canvasses. A copy of the meeting summary was provided in the board meeting folder.

###### International Observers

As election day approaches there are many groups of foreign visitors interested in U.S. election procedures. Representatives from the Organization for the Security and Cooperation in Europe (OSCE) had meetings with SBE staff over the past week to discuss a broad range of election administration topics – including voter registration, re-districting, campaign finance, and voting technology. The OSCE representatives also visited several local boards of elections to observe pre-election preparations. The OSCE will also have a team of

observers in Maryland on election day. They will be provided authorization from SBE to enter polling places for observation purposes only. The United States is a member of the OSCE and is bound by the organization to permit election day observation.

#### Swedish Association of Local Authorities and Regions

On Wednesday, October 24<sup>th</sup>, nineteen members of the Swedish Association of Local Authorities and Regions came to Annapolis for an overview of our election procedures and technology. Paul Aumayr provided a demonstration of the voting units and pollbooks. Linda Lamone and Mr. Goldstein provided an overview of the structure of Maryland election administration and answered questions about election practices in the United States.

## **2. Election Reform & Management**

### Election Judges' Training Observation

Rick Urps completed his observation of election judges' training classes for the 2012 General Election. In total, he observed trainings in nine different counties. All of the trainings have been sufficient, and he has provided feedback (where needed) to the local boards conducting these trainings. These visits are also part of SBE's post-election LBE audit and will be referenced in the audit reports after the general election.

### Voter Services Website

The voter services website – the voter look-up, polling place locator, online voter registration, and the online ballot delivery system – are working well. Over 10,000 military voters, their spouses and dependents, and voters who live outside of the United States are using the online ballot delivery system for this election. About two-thirds of the voters are using the online ballot marking wizard to make selections with the remaining voters downloading the blank pdf documents and marking the ballot by hand.

## **3. Voter Registration**

### Data Entry

SBE staff concluded assisting the local boards of elections with data entry of voter registration applications. It was a team effort with staff from all divisions participating.

### MDVOTERS Precinct Pull

On Sunday, October 21, 2012, Stacey Johnson and Janet Smith completed the necessary steps to create the database of registered voters used to load into the poll books for election day and early voting.

### New Voter Registrations

The following is a breakdown of NEW voters from June 1, 2012 through close of registration, October 16, 2012.

- Online voter registration (OLVR) – 46,991 (OLVR went live July 9, 2012)
- MVA – 81,522
- OTHER – 84,084

## **4. Candidacy and Campaign Finance**

### Reports

On Friday October 12<sup>th</sup>, a campaign finance report was due from the ballot issue committees formed to support an issue on the Presidential General Election ballot.

On Friday October 26<sup>th</sup>, the Presidential Pre-General Report is due for committees that are participating in the presidential election. The majority of Maryland committees do not participate in the presidential election. However, all of the ballot issue committees and other committees active with the questions will be required to file the report.

### Training

Ruth Maynard and Jared DeMarinis conducted three online campaign finance seminars during the month of October. The classes were attended by 15 people.

## **5. Voting Systems**

### Logic and Accuracy (L&A) Testing

Logic and Accuracy of the voting units is complete, with 697 voting units prepared for Early Voting and just short of 16,800 voting units prepared for election day. This took place over the past month by the local boards with assistance of additional L&A technicians supplied by Cirdan. SBE has received the local boards' L&A databases for review.

Logic and Accuracy testing of the pollbooks began on Monday, following the precinct pull that occurred over the weekend. Approximately 5,000 pollbooks and printers will be used for the election. Staff has also been extensively conducting pollbook testing prior to this L&A process.

#### Transportation

Delivery of voting equipment for early voting has begun, and will be complete by Friday, October 26<sup>th</sup>. The pickup for the 46 early voting sites will take place on November 1<sup>st</sup>, following the close of early voting. Deliveries for election day will begin on Monday.

#### Election Night Results

There has been further testing on the election night unofficial results reporting process, using Logic and Accuracy results. Staff has also been reviewing the election night procedures for both SBE and the local boards. It is anticipated there will be little change from the 2012 Primary Election procedures.

#### Post Election Audit and Verification

Three online training sessions for the post election audit and verification requirements were provided for the LBE staff during the week of October 15<sup>th</sup>. The training provided an overview of the newly adopted regulations and the procedures for conducting the audit and verification using a spreadsheet developed by SBE.

### **6. Project Management (PM) and Information Technology (IT)**

#### Emergency Generator

An emergency standby generator has been rented for the upcoming Presidential General Election in the rare occurrence of a power outage at SBE. The emergency standby generator will be delivered, installed and tested on October 25, 2012. Within seconds of a power outage, an automatic transfer switch senses the power loss and commands the standby generator to start and then transfers the electrical load to the generator. The emergency standby generator will be returned on November 19, 2012.

#### Disaster Recovery Site Setup at Maryland State Archives

Kurt Snyder setup a client workstation which was imaged by the IT staff at the Maryland State Archives to 4 other client workstations. An Oracle database server was also setup to host the Ballot and Electrack databases and lastly a sealed GEMS server will be taken over to the disaster recovery site on Friday October 26, 2012, in preparedness of any emergencies on election night.

#### SBE General Election Helpdesk

The new cloud-based Election Ally helpdesk system from Dynamic Path, LLC has been implemented and is now in use by SBE staff to manage issues through the election period. Election Ally will be included in the SBE Help Desk/Command Center workflow for early voting and election day.

#### General Election Call Center Support

The call center support began on October 1<sup>st</sup> for SBE and October 8<sup>th</sup> for the five participating local boards (Anne Arundel, Baltimore City, Baltimore County, Harford, and Prince George's). As of October 22<sup>nd</sup>, approximately 50,000 calls came into the call center. The call center volume is greater than expected mostly due to the voter outreach mailing to 1.1 million unregistered individuals at the beginning of the month. However, the calls have now settled back to the normal inquiries regarding voter registration, absentee ballot, and questions pertaining to the content of the ballot. Call center support will continue until the day after election day (Wednesday, November 7<sup>th</sup>).

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

Assistant Attorney General Jeffrey Darsie informed the Board that the Court of Appeals on October 23, 2012, issued its written opinion in *Whitley v. Maryland State Board of Elections*, No. 133 (September Term, 2011), a case challenging certain signatures on a referendum petition to refer the congressional redistricting law to the voters at the 2012 general election. The Court had on August 17<sup>th</sup> affirmed by *per curiam* order the Circuit Court's decision that signatures affixed to an electronically-generated signature page could be accepted and that the requirement that each signature be attested by a circulator under penalty of perjury did not preclude an individual from attesting to his or her own signature, noting that, whether attesting to one's own or another's signature, the circulator's oath under penalty of perjury was protection against signature fraud.

A lawsuit to challenge the write-in laws for presidential candidates of all fifty States was filed September 24, 2012 in federal district court in California. *Draper v. The 50 States Comprising the United States of America*, No. 8:12-cv-01602-SVW-JPR (C.D. Cal.). Plaintiffs seek, in essence, an order requiring every State to accept, count, and report write-in votes for any individual for the office of President, whether or not that individual has officially filed

as a candidate in that State. Because Maryland's laws already require tabulation of all write-in votes, Plaintiffs on October 22<sup>nd</sup> agreed to voluntarily dismiss Maryland and eight other States from the case.

### **WAIVERS OF CAMPAIGN FINANCE LATE FEES**

Victorica Smith presented a recommendation for approval of waiver of late fees for the *Citizens for Mike Phillips* and *Friends of Larry Haines*. A motion to approve the recommended waiver was made by Ms. McGuckian and seconded by Mr. Murray. The motion was unanimously approved.

### **REQUESTS FOR CONFIDENTIALITY**

Ms. Smith presented three requests for confidentiality. Two of the requestors, Robert Peck and William Ryan, are former law enforcement officers and are therefore entitled to have their records kept confidential under COMAR 33.04.02. However, Michael White did not state that he met one of the exceptions for confidentiality. It was concluded that the *Confidentiality Request Form* is confusing and gives the impression that a person can request confidentiality based solely on the fact that he or she is an officer of a committee. Mr. Smith's confidentiality request was tabled, pending clarification on the basis for the request. Mr. Goldstein also stated that he will amend the form to avoid this confusion. Ms. McGuckian made a motion to grant the confidentiality request for Mr. Peck, which was seconded by Mr. Thomann. The motion was unanimously approved.

### **2012 PRESIDENTIAL ELECTION UPDATE**

#### Online Voter Registration

There have been several media reports regarding concerns raised by three computer scientists over the security of Maryland's online voter registration system. The concerns focus on the fact that the Motor Vehicle Administration (MVA) driver's license and identification card numbers are generated using a publicly available algorithm. Mr. Goldstein provided a copy of a memorandum to the Secretary of the Department of Information Technology the facts about this issue and the mitigating factors that cause staff to continue to have a high level of confidence in the system. The safeguard include the following:

1. The system was built in consultation with a security consultant.
2. The system was subject to rigorous penetration testing by a second set of security analysts. The testers were unable to penetrate the system or even determine the type of database being used.
3. During the penetration testing, the firewall demonstrated its ability to delay a denial of service type of attack. An automated attack as described above would be viewed by the firewall as a denial of service attack and it would therefore limit those transactions.
4. The attack would be detected because SBE monitors the daily usage of the system. System usage that exceeds our expected usage would trigger further investigation and any necessary corrective action.
5. The MVA also monitors the number of personal identification numbers being validated against their system and would report an unanticipated high validation rate.
6. For any voter registration change (online or otherwise) State law requires the local board of elections to issue that voter a new voter notification card. For the hypothetical attack described above, when the attacker changes addresses of registered voters, the attacker would have to reassign each voter to a new, good address. Either the attacker will use the same address for everyone (which would easily be detected) or the attacker could randomly assign addresses to voters. Random assignment would result in voter notification cards being sent to addresses at which the voters do not reside. When voter notification cards for people not residing at that address start showing up, people will most assuredly contact the local board of elections.

Mr. Goldstein noted that when enhancements are made to the system, additional security measures will be implemented. Mr. McManus asked for assurances that those measures will be made in consultation with security experts to ensure all valid concerns are identified and addressed.

Finally the Board directed staff to submit a letter to the Governor and other appropriate officials outlining the issues associated with the public nature of the MVA identification number algorithm.

#### Missing Page

SBE has received 15 reports from absentee voters that they did not get the second page of their ballot. It should be noted that not all of the voters who reported this problem were fully confident that the second page wasn't delivered or was just misplaced. Of the 15, four of the voters were from Prince George's County and the remaining eleven were from Montgomery County. While there is no reason believe that this is a widespread problem, we are planning to send a team down to Montgomery and Prince George's County to examine (by weighing) the returned absentee ballots in order to determine whether they were returned with both pages. It is certainly reasonable to expect some voters not to return both pages. Based on prior election information, a rate of 10% not returning both pages is within expected ranges. Accordingly, if our examination discovers over 10%

rate of absentee ballots returned with only one page, this would signal a more significant problem (the solution to which is to re-send absentee ballots to those locations).

#### Incorrect Postal Bar Code

In the first set of absentee ballots mailed out during the first week of October, the postal bar code was incorrect (it did not match the written address). This affected close to 10,000 absentee ballots. As a result of the incorrect bar code, the ballots were routed incorrectly. The majority of those ballots ultimately reached the voters, but they took longer to get there and some were returned as undeliverable. When we became aware of this problem, we decided to re-send the ballots to ensure that there were no unreasonable delays for the voters. We provided a very prominent notice with the second ballot that informed the voter that if he or she already received and voted the first ballot to dispose of the second ballot. If they voted the first ballot, but also voted the second ballot – only the second ballot will be counted.

#### Use of a Vendor for Absentee Ballot Mailing

The postal bar code error and the missing ballot page was made by SBE's vendor, Runbeck Election Services. The press also seemed interested in the fact that we have "outsourced" the absentee fulfillment process. While this is SBE's first year doing so, this is a very common practice in the elections community. The rationale for using this type of service is that it saves significant time and resources for the local boards of elections, improves accuracy, and adds mail tracking capabilities.

#### Unregistered Voters

There were approximately 380 online voter registration transactions that had a problem causing those applicants not to be registered. The problem was that, due to a software issue in the voter registration system, the image of the individual's registration application was getting attached to another applicant's record. This resulted in staff not seeing the application and not entering the applicant into the voter registration system. All of those applicants are now registered to vote - but some of them did not get into the system in time for their names to appear in the pollbooks. If these voters show up to vote on election day or during early voting they will have to vote a provisional ballot. The ballot will be counted.

### **APPROVAL OF BYLAWS**

At the last meeting, a new Board was constituted. The new Board was provided with the *Bylaws of the Maryland State Board of Elections* for review. Chairman Mack asked if any of the members had questions or proposed changes to the bylaws. The only noted issue was the need to change the regularly scheduled meeting time to 2:00 p.m. in section 3.1A. With this one change, Mr. McManus made a motion to adopt the Bylaws, which was seconded by Ms. McGuckian. The motion passed unanimously.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

Mr. Goldstein stated that several requests have been received from foreign observers who want access to polling places on election day. Mr. Goldstein noted that under §10-308 of the Election Law Article, the Board may authorize an individual to have access to a polling place on election day. Mr. Goldstein provided a *State of Maryland – Authorization for Access to Polling Place Form* for the Board's approval. The form notes the Board's authority to grant access and provides a list of activities an observer may not undertake, including challenging a voter's right to vote, questioning the decision of an election judge, questioning a procedural requirement, or interfering with the administration of the election. The State Administrator is authorized to sign the form on behalf of the Board. Ms. McGuckian made a motion to approve the form, which was seconded by Mr. McManus. The motion was unanimously approved.

### **SCHEDULING OF NEXT MEETING**

The next meeting is scheduled for December 6<sup>th</sup> at 2:00 pm.

### **ADJOURNMENT**

Ms. Mack adjourned the meeting at 4:00 pm.