

Attendees:

Bobbie S. Mack, Vice Chairman
David McManus, Member
Charles E. Thomann, Member
Andrew Jezic, Member
Linda Lamone, Administrator
Ross Goldstein, Deputy Administrator
Sandy Brantley, Assistant Attorney General
Donna Duncan, Election Management Director
Jared DeMarinis, Candidacy and Campaign Finance Director
Michael Kortum, Chief Information Officer
Nikki Trella, Election Reform Director
Mary Wagner, Voter Registration Director
Paul Aumayr, Voting System Project Manager
Rick Urps, Election Reform Division
John Clark, MDVOTERS Project Manager
Roger Stitt, Voter Registration Division
Janet Smith, Voter Registration Division
Donna Wiltshire, Voting System and Procurement Director

Also Present: Jerrold Garson, Montgomery County Board Member

DECLARATION OF QUORUM PRESENT

Vice Chairman Bobbie Mack called the meeting to order at 2:40 p.m.

APPROVAL OF THE OCTOBER 23 BOARD MEETING MINUTES

The minutes of the October 23, 2008, board meeting were presented for approval. Mr. Thomann made a motion to approve the minutes, and Mr. McManus seconded the motion. The minutes were approved unanimously.

ADDITIONS TO THE AGENDA

Chairman Walker stated that there were no additions to the agenda.

ADMINISTRATOR'S REPORT

Ms. Lamone provided the Administrator's Report.

1. Announcements

Ms. Lamone reported that Mary Heath has accepted a marketing/advertising position at the Maryland Department of Transportation. Her last day with SBE was November 14th. Ms. Lamone wished her well in her new position.

Ms. Lamone also announced that Karen Simpson has accepted a new position with the State Retirement Agency. Although SBE is sad to see her leave, Ms. Lamone wished her the best in her new endeavor and hopefully get a better return on our retirement funds. Her last day was Thursday, November 13th.

Ms. Lamone stated that the local boards of elections deserve acknowledgment and thanks for a job well done. Their tireless efforts resulted in an election that served Maryland voters very well. Ms. Lamone also acknowledged the support and assistance provided by the Governor and his staff. Having access to their time and resources proved to be invaluable. Assistance from other State agencies was also helpful to this office being able to provide a high level of assistance to LBEs. In particular the Comptroller, Secretary of State, the Department of Legislative Services, and the Office of the Attorney General all provided needed staff assistance. Ms. Lamone also thanked the vendors for their effort and support.

2. Meetings and Important Dates

LBE Conference Calls

Ms. Lamone reported that SBE hosted two conference calls for the election directors in the 1st Congressional District. The first call was held on the day of the first absentee canvass and included reminders about canvassing absentee ballots, and the second call was held on the day of the provisional canvass. The election directors were appreciative of the conference calls particularly given the close congressional contest and the number of provisional and absentee ballots. For some, this was their first election in the position as election director.

Certification of Election

Ms. Lamone reported that on Monday, November 24, 2008, the Board of State Canvassers met to certify the results of the 2008 Presidential General Election. The members of the Board included the Secretary of State John McDonough, the Comptroller Peter Franchot, the State Treasurer Nancy Kopp, the Clerk of the Court of Appeals Bessie Decker, the Attorney General Douglas Gansler and the Secretary to the Board, State Election Administrator Linda H. Lamone. The State Board of Elections Vice Chairman Bobbie Mack was also present. Mr. Gansler was elected to chair the board. Ms. Lamone served as secretary. The Board reviewed the tabulation of results and signed the official Declaration of the Results.

Meeting of the Presidential Electors

Ms. Lamone reported that the Presidential Electors of the Democratic Party will meet on Monday, December 15, 2008 at 10:00 a.m. in the Miller Senate Office Building to cast their votes for President and Vice President of the United States. This event is usually held in the State House, but due to the State House construction, it had to be moved to another facility. Preparations for this event are underway by the staff, and the media is expected to cover the event.

Board of Public Works

Ms. Lamone reported that SBE will have several contracts for approval before the Board of Public Works on Wednesday, December 17th. The contracts include a renewal of the Saber contract for support and maintenance of the MDVOTERS system and a bridge contract with Premier to provide staff support for the voting system as needed until the new system is procured and implemented. Ms. Mack asked if any problems are anticipated. Ms. Lamone stated that no problems are anticipated.

3. Election Management and Reform

Ms. Lamone reported that election judge recruitment efforts for this election were enormously successful. SBE's efforts to recruit election judges included posting a job announcement on the Department of Budget and Management's State job website, promoting State employees to serve, and postings on Craigslist, MySpace, and Facebook. In total, 2,638 individuals indicated to this office an interest in serving as an election judge. This included almost 1,000 voters through SBE's and DBM's website and information on State employee's paychecks, about 400 voters from Craigslist, MySpace, and Facebook, and over 650 voters attributing their interest to information they received from family and friends. More information about the results of SBE's recruitment efforts was included in the meeting folder.

Ms. Lamone reported that review of election-related data has begun. This includes comparing data from the voting system, electronic pollbook, MDVOTERS, polling place evaluation forms and compiling data for post-election surveys that SBE will be completing over the next couple of months. The results of this review often require the local boards of elections to make corrections to MDVOTERS and generally improve the quality of the data submitted. Preliminary absentee and provisional statistics should be ready by the end of December. Other reports and analysis will be completed in a couple of months.

4. Candidacy and Campaign Finance

Campaign Finance Reporting

Ms. Lamone stated that November 25th was the deadline to file the 2008 Presidential Post-General campaign finance report for presidential election designated political committees. The transaction period covered October 20, 2008, to November 18, 2008. As of today, 78% of the committees have filed the report. The Candidacy and Campaign Finance Division will send fee running notices and bills to political committees who filed late. The Division received expenditure reports from 3 entities expending more than \$10,000 for the slot machine gaming referendum. This was the first and final report for the election.

Enforcement

Ms. Lamone reported that Jared DeMarinis is still working with the State Prosecutor's Office and the Central Collection Unit (CCU) to help streamline the collection of late fees and the referral process. This is not an easy process. Recently, CCU sent the original referrals from the State Prosecutor's office to a collection agency. Again, numerous individuals had wrong fee amounts. It seems some of the Debt Adjustment forms

sent in July and August were not processed timely. Additionally, CCU has collected \$4,951 which mistakenly went into general funds and not to SBE. SBE has requested an accounting of the all the referrals to date and list of the names of the individuals who have paid in order to credit their accounts.

Mr. DeMarinis referred to the State Prosecutor's Office:

- Two individuals for alleged fraudulent voter registration and perjury,
- One individual for fraudulent voter registration, illegal voting and perjury. According to a letter from this individual to SBE, the individual states that she is not an United States citizen; and
- A political action committee for impermissible disbursement of campaign funds; illegal expenditures; failure to report expenditures.

Additionally, Mr. DeMarinis worked with eBay again in preventing 2 more individuals in Henderson, Nevada from selling their votes online. The Nevada Secretary of State office was informed and will take the appropriate action.

5. Voter Registration

2008 Presidential Election

Ms. Lamone reported that, with careful planning and maximum effort, the Voter Registration Division and local boards of elections completed the 2008 voter registration, absentee ballot processing and electronic pollbook interface activities, contributing to the successful 2008 Presidential Election. The participation of Saber Consulting Services for Data Center operations and the Field Support staff at SBE for user training and on-site assistance were critical in this effort. This was a massive job. SBE and LBE staff, as well as many volunteers, pitched in to help.

Local Support during Canvassing

Ms. Lamone reported that immediately following the election, the Voter Registration Division began support of the local boards in their canvassing process. Stacey Johnson worked with Bob Murphy to load the MDVOTERS data and ensure proper voting credit was applied for each voter. Roger Stitt and Christine Oswald provided additional support for Prince George's County this election, by posting their supplemental voter credits.

In addition, voter registration staff assisted the LBE's in answering questions during the absentee and provisional canvass. During the election, LBE's processed over 207,900 absentee ballots and 38,494 provisional ballots. Nikki Trella's and Janet Smith's hard work earlier this year in creating a provisional voting manual and Mary Jo Waite's and Mike Hinton's training on handling provisional voters in MDVOTERS paid off by helping local boards to more effectively process provisional ballots.

Post-Election Audits

Ms. Lamone reported that LBE's are currently performing post-election audits in MDVOTERS. The audits are being reviewed by Ms. Trella and Mr. Stitt prior to certifying the general election in the system.

Opening of Voter Registration

Ms. Lamone stated that voter registration re-opened on Monday, November 17th.

MDVOTERS Development

Ms. Lamone reported that User Acceptance Testing on the next version of MDVOTERS software (Release 2.23) will begin December 9th. On completion of a successful UAT, a mock election will be held starting January 12th. The new release will not only address trouble issues identified but will include enhancements in the following areas requested by the LBEs: reports, absentee ballots and election workers. Mr. Thomann asked who does this work, to which Mary Wagner stated that the work is done by staff in SBE's Voter Registration Division.

6. Voting Systems

Election Day –Voting Units

Ms. Lamone reported that for the November 4th election, a total of 18,678 touchscreen voting units were deployed to 1,822 Precincts (a logistical challenge in itself) and 2.4 million citizens cast their ballots at the polls. The voting units performed very well, and there were no major issues reported with them.

In addition, there were close to a quarter of a million absentee and provisional paper ballots issued. These were counted after election day through the canvass period. This puts the statewide turnout figure at about 77%.

Ms. Lamone reported that, in addition to providing guidance and assistance to the LBEs on election day and for the canvass, the voting system team has been extremely busy with the results processing of the election, including generating various customized results reports for interested parties. There were requests for reports for specific voting districts regarding the statewide ballot question pertaining to slot machines.

Ms. Lamone stated that now that the election results are certified, the 1,115 voting units that were leased from Premier will be returned.

Ms. Lamone added, looking forward to next year, maintenance will be performed on the voting units, as there are a number of municipal elections taking place, including Frederick, Hagerstown and the City of Annapolis where the current voting system is likely to be used.

Mr. McManus asked whether there were any unacceptably long lines at the polling places. Ms. Lamone stated that there were no unacceptably long lines. One call was received by SBE about a precinct in Annapolis. Ms. Lamone personally visited the precinct and observed that the additional voting units were deployed and people in line were in good spirits. The measures in place to address the potential for unacceptably long lines were effective. The Spare Unit Deployment System (SUDS) was very effective.

Election Day – Electronic Pollbooks

Ms. Lamone reported that 5,642 electronic pollbooks were utilized in 1,808 polling places on November 4th. Of the 1,100 “emergency spare” pollbooks made available by Premier Election Solutions, 89 were used in the election.

Ms. Lamone reported that more than 2,444,000 ballots were issued on the electronic pollbooks, slightly more than double the 1,202,000 ballots issued in the February primary.

Ms. Lamone stated that electronic pollbook problems were for the most part minor and isolated. There were virtually no screen freezes. Analysis of precincts reporting long lines has not been completed, but preliminary indications are that in almost all polling places the number of pollbooks assigned should have been sufficient to handle the volume of voters with no waits of more than 60 minutes. Bob Murphy’s analysis of electronic pollbook deployment confirms that an adequate number of electronic pollbooks were deployed during the election.

Ms. Lamone stated that the detailed error analysis has not been completed, but the overall error rate was 0.249% (one error per 402 voters). This represents a significant improvement over the 0.575% rate (one per 173 voters) experienced in the February primary. Ms. Lamone reported that the improvement can most likely be attributed to the software changes and upgrades installed in September.

Post Election Processing

The electronic pollbook activity report shows that 99.34% of polling places opened on time for this election. The local election boards should be very proud of this accomplishment. The latest a polling place opened was 7:14 a.m.

Mr. Thomann stated that he attended a training session in Anne Arundel County and opined that the training was excellent.

Ms. Lamone stated that 93% of the voter credits were posted to MDVOTERS by the start of the canvass. The day after the election, each LBE was provided with a report comparing for each precinct the number of voters processed through the pollbooks with the number of ballots cast on the GEMS Statement of Votes Cast report. Not all data cards were received timely.

Ms. Mack stated that the pollbooks are an excellent tool.

Mr. Thomann stated that he visited several polling places on election day and was pleased with how well the polling places were operating.

7. Information Technology

Ms. Lamone highlighted some of the activities of the Information Technology Division, including the completion of the annual security and disaster recovery assessments.

Website

In addition to the other ongoing web hosting that University of Maryland, College Park does, they added a post election absentee voter look-up. Similar to the provisional look-up, the absentee look-up allows an

absentee voter to enter his or her name, date of birth, and ZIP Code and find out whether the absentee ballot was received by the local board office.

8. Updates from Prior Meeting

Ms. Lamone provided the following updates:

New Voting System RFP

The new voting system procurement will be released next week.

Election Audit

The election audit project that has been conducted pursuant to a grant from the Pew Charitable Trusts has been completed and submitted to Pew for review. Ms. Lamone reported that staff plans to implement some of the audit procedures in the upcoming weeks.

Call Center

The outsourced election call center ended operations on November 7th, completing a 22 day deployment covering phone lines for SBE, as well as Anne Arundel County, Baltimore City, Baltimore County, and Prince George's County. The call center answered 88,416 calls in total over the 22 days. The largest majority of calls originated from Prince George's County which had 32,489 total calls. The majority of calls focused on verification of registration, polling place location, and questions concerning absentee voting. The call center fielded calls regarding various other topics and also coordinated escalations between SBE, LBEs, and the Attorney General's Hotline for calls requiring additional research or subject matter expertise from election staff. The call center's deployment to cover the SBE toll free and main phone numbers was extended from a November 4th end date until November 7th in order to respond to follow up calls which allowed SBE staff to go into the field to assist LBEs with the commencement of the canvassing process. A summary of call center data was distributed to board members.

Mr. Thomann stated that the summary was excellent. Ms. Mack stated that she thought the call waiting times were good. Ms. Lamone stated that the large number of calls for some jurisdictions indicates their need to have adequate phone systems in place.

Mr. Jezic asked if other jurisdictions might be interested in participating in the phone bank, including rapidly growing counties. Ms. Lamone stated that other large counties were offered the service but refused.

Mr. Jezic asked about increases in absentee and provisional ballots cast. Ms. Trella stated that she does not expect to see a huge increase in the numbers of absentee and provisional ballots cast during this last election when all of the data is compiled.

ASSISTANT ATTORNEY GENERAL'S REPORT

Assistant Attorney General (AAG) Sandy Brantley reported that she assisted SBE staff on election day by fielding calls referred through the call center and from the Office of Attorney General (OAG) hotline. The OAG hotline received approximately 320 calls on election day. Most calls were handled by the volunteer attorneys but several were referred to AAG Brantley for further action. The following issues currently being reviewed as a follow-up to the election:

1. Complaint from Congressman Ruppberger and others about robocalls placed by the Congressman's opponent. The calls possibly violated the federal Telephone Consumer Protection Act.
2. Complaint by nonprofit organization who wanted to pass out voter rights information within the 100 foot "no electioneering zone" on the grounds that it was not passing out electioneering material. The group agreed not to pursue its claim on election day based on the commitment from AAG Brantley to meet with them after the election to discuss further. A possible solution might be to change the language in regulation or legislation to specify the 100 foot zone as a "safe haven" for voters.
3. Complaints from individuals and groups who were prohibited from placing signs or passing out campaign related information outside a polling place even though they were past the 100 foot no electioneering boundary. The polls in question were private churches and in their agreements to be polling places, the local election board agreed that they could prohibit signs and electioneering activities on the property altogether. The question is whether such agreements are in violation of the First Amendment.

AAG Brantley reported that she assisted SBE in providing support and advice to local election boards during the absentee and provisional ballot canvasses. Particular focus was given to the 1st Congressional District due to the closeness of the race.

AAG Brantley reported that she received a request for advice from both the SBE and the Howard County Local Board of

Elections about whether a charter home county may require additional information on a petition for referendum of a local law than what is required under State law.

AAG Brantley stated that she reviewed three contracts for legal sufficiency (MOU with the University of Maryland; Premier bridge contract; and MOU with local governments regarding warehousing agreements).

Ms. Lamone extended her appreciation to judges for being available during election day. The judges were not needed, but it was good to have the legal systems available.

REGULATIONS

Ms. Trella presented for final adoption proposed changes to Chapters 01 (Definitions) and 05 (Administrative Complaint Procedure) of Subtitle 01 Definitions; General Provisions and Chapters 02 (Initiation of Recounts), 04 (Recount Procedures), 05 (Recount Procedures), and 06 (Recount Procedures) of Subtitle 12 Recounts. These regulations were published in the October 24, 2008 edition of the *Maryland Register*. The public comment period closed on November 24, 2008 and no public comments were received.

Mr. Thomann moved to approve the proposed changes, and Mr. McManus seconded the motion. The board voted unanimously to adopt the proposed changes.

WAIVER OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis reported that there were 14 waivers for the Board's consideration.

1. Garrett County Democratic Central Committee
2. Citizens for Maggie McIntosh
3. Friends to Elect Tony Knotts
4. Friends of Linda Kelley
5. Friends of Paula Hollinger
6. Friends of Bill Frick
7. Prince Georgians for a Better Tomorrow Slate
8. Stop Slots MD 2008
9. Friends of Mary Walkup
10. Friends of Wanda White
11. Friends of Nancy Stocksedale
12. Friends of Kevin Slayton
13. Democratic State Central Committee of Maryland
14. The People for Jim Stavropoulos, Jr.

Mr. Thomann made a motion to accept the recommendations of the Administrator. Mr. Jezic seconded the motion. The motion was unanimously accepted.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

Mr. Thomann related his experience with his visits to ten polling places. He noted that all went very well. The electronic pollbooks worked very well, and the technicians were of great value with making sure the voting units and electronic pollbooks worked properly. Some technicians also relieved greeters. Mr. Thomann also noted that although the lines were large in the morning the process flowed smoothly.

Ms. Lamone reminded the board that the Electoral College will be on Monday, December 15th at the Miller Senate Office Building beginning at 10:00 a.m.

SCHEDULE FOR THE NEXT MEETING

A date and time for the next meeting will be determined and announced by SBE staff.

ADJOURNMENT

Ms. Mack asked for a motion to adjourn. Mr. Thomann made a motion to adjourn the meeting, and . The motion passed unanimously. The meeting adjourned at 3:40 p.m.