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MEETING OF THE MONTGOMERY COUNTY BOARD OF ELECTIONS

18753-210 North Frederick Avenue, Gaithersburg, Maryland

September 16, 2019

In Attendance:

Board Members:

James F. Shalleck, President
Nahid Khozeimeh, Vice President
David A. Naimon, Secretary
Diane Nash Dillon
Elisse W. Barnes
Jacqueline L. Phillips
Alan Banov

Board Attorney:

Kevin Karpinski

Staff:

Margaret Jurgensen, Director
Alysoun McLaughlin, Deputy Director
Kera Bumbray, Management and Budget Specialist
Lisa Merino, Office Services Coordinator
Jessica Newby, Voter Services Manager
Janet Ross, Information Technology Manager
Christine Rzeszut, Operations Manager
Gilberto Zelaya, Outreach Coordinator

Guests:

Anne Augstadt
Jewru Bandeh
Larry Halloran
Daniel Koroma
Jessie Carpenter
Jacqueline Carr
Frank Caruso
Claudia Caruso
Diana Conway
Maria Peña Faustino
Robin Riley
Barbara Sanders
Patricia A Fenati
Samuel J Fenati
Arthur David Olson

Nancy Farrar
Jim Epstein
Fran Rothstein
Rolynno Olson
Josephine Wang
Julie Krieger
Karol Smith
Catherine Heffron
Dolly Kildee
Barbara Oldrayd
Dennis Melby
David Kunes
Ann Hingston
Edward Fischman

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Audio of the meeting may be found on YouTube at the link below:

<https://youtu.be/gfyko3KhBZI>

Convene the Board meeting and Declare a Quorum Present [0:00:03]

Mr. Shalleck called the Board meeting to order and declared a quorum present at 2:31 p.m.

Approval of Minutes [0:00:33]

July 29, 2019, Board Meeting Minutes

Mrs. Khozeimeh moved to accept the July 29, 2019, minutes as amended. Ms. Dillon proposed additional edits to the minutes regarding her comments at the July meeting about non-citizens participating in the Future Vote program.

Ms. Dillon's amendments were approved unanimously. Ms. Khozeimeh's amended motion was seconded by Ms. Phillips and passed unanimously.

Additions/Changes to the Agenda [0:14:06]

Ms. Jurgensen requested that item VII A, 12th Early Voting Site, be discussed after Public Comments, and that item VII B, Wait Times, and VII E, Future Vote, be carried over to the October meeting. Mr. Naimon requested that a short report on wait times be given. Mr. Shalleck and Ms. Jurgensen agreed.

Ms. Dillon requested clarification on the status of the Future Vote program. Ms. Jurgensen stated that outreach is conducted year-round, but registration to enroll in training on-line is currently not active and training will not be conducted prior to the October Board meeting.

Public Comments [0:23:41]

Public comments on a 12th potential early voting site were provided. The following individuals addressed the Board: Larry Halloran provided comments against proposed shuttle bus use for Election Judges at the Potomac early voting center; Daniel Koroma spoke in support of a 12th early voting site in White Oak; Diana Conway spoke in support of a 12th early voting site in White Oak; and Maria Peña Faustino spoke against spending funds for a 12th early voting site.

Director Robin Riley, Department of Recreation, addressed the Board regarding the Wheaton Community Recreation Center. Ms. Riley asked the Board members to consider using the social hall, instead of the gym, for early voting. She noted that there is a lack of power outlets in the gym, that it is connected to the fitness room, and that both the elevated track and the fitness room would be unavailable to the public during early voting. She added that the gym is used by many youths in the community (after school), adding that the gym is packed during extended hours on Friday and Saturday

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nights until 11:00 p.m. Ms. Riley stated that while the gym is being used, the social hall sits vacant.

Mr. Shalleck thanked Ms. Riley for her comments. He stated that the gym is a large area that could accommodate a large volume of voters in the eastern part of the county. Mr. Naimon inquired why the fitness center would be closed. Ms. Riley responded that the fitness room is a component of the gym and cannot be locked as a standalone room, but a lock could be installed. Ms. Riley indicated that if land lines and additional power outlets are needed to be installed, it would not be at the cost of the recreation center. Mr. Banov said he thought there were one or two electrical outlets on the other side of the bleachers, as well as outlets at various places along the other walls.

Mr. Naimon asked Ms. Riley about the elevator and ADA issues at the Marilyn Praisner Community Recreation Center. Ms. Riley responded that it is classified as a lift and not an elevator, noting that there are different qualifying standards for ADA. Ms. Jurgensen stated that the lift does not meet the SBE requirement as an ADA accessible elevator.

Barbara Sanders spoke in favor of the previously used 11 sites for the 2020 election as well as the Wheaton Community Recreation Center and in support of a 12th center and expanded voter education. Patricia Fenati spoke against a 12th site and stated concerns about voter fraud. Fran Rothstein spoke in favor of a 12th early voting site at the East County Community Recreation Center to maximize the voting opportunity for all demographics. Jim Epstein, who served as center manager at the previous Wheaton site, expressed concerns about using a room on the second floor, due to difficulties with accessibility, line management and staffing.

Written comments submitted are available on the Board Meeting page under [Public Comments](#).

Early Voting Location Presentation [0:57:04]

Ms. Jurgensen stated that public notice of early voting site selection was distributed August 6, 2019, and again on September 12, 2019. Correspondence requesting whether there would be funding for a 12th early voting site was sent to the County Executive on August 1, 2019.

Ms. Rzeszut provided a presentation outlining the staff's recommendation to use the social hall and classrooms at the Marilyn Praisner Community Recreation Center. Mrs. Rzeszut indicated that if the gym, which is on a lower level, were to be used, the lift, whose door is 32 inches wide, would not meet the ADA requirements for an elevator at an early voting site.

Ms. Rzeszut also provided a staff recommendation to use the Wheaton Community Recreation Center as an early voting site. She added that staff recommends that the upper level social hall be used as the polling place and a hallway area be cordoned off for provisional voting, with a compliant ADA elevator to access the second floor. She indicated some concern that if the gym is used, there are limited electrical sockets for the election equipment and security concerns with locking doors. Mr. Naimon asked how many electrical sockets are needed; Ms. Jurgensen responded about the numbers of election units that would probably be utilized at the Wheaton EV site. Mr. Naimon asked what does the social hall have that the gym does not. Ms. Ross indicated that every scanner must be plugged into the wall, not an extension cord. Mr. Naimon commented that there were electrical sockets on both sides. Ms. Rzeszut said that scanners in the gym would be spaced out in the whole room in the gymnasium. Mr. Banov asked if Ms. Rzeszut had taken photos of the Wheaton gym; she responded in the negative.

Ms. Jurgensen reported that the City of Gaithersburg has authorized the Board of Elections to use the gym for the Wednesday and Thursday of the Primary Presidential Election during Early Voting (the last 2 days). She noted that the gym will also be used the length of early voting for the General Presidential Election.

12th Early Voting Site [1:21:23]

Ms. Jurgensen stated that at 2:25 p.m., a letter from County Executive Marc Elrich was received regarding a 12th early voting site. Mr. Shalleck stated that three letters were received that day: one from seven of the nine council members supporting White Oak as a 12th early voting site; one from Marc Korman, Chair of Montgomery County Delegation to the House of Delegates, supporting White Oak; and the letter from the County Executive. Mr. Shalleck noted that a letter had previously been sent to the Executive asking whether the county would fund a 12th early voting site if the Board were to select one.

Mr. Shalleck read the letter for the record:

"Turnout is expected to be high for the 2020 general election, therefore, I support adding a 12th early voting site for the general election. This additional convenient voting opportunity will hopefully increase turnout and help reduce lines on election day which was a problem in 2018. I have concerns about the cost and additional benefit of implementing another early voting site for the primary election in this fiscal year. As you know, Maryland's primary is on the back end of the primary calendar. If the presidential nominations are already determined by the time of our primary, turnout might be very low for the whole primary as there

are no other competitive races in our county. Thank you for your role in making our democracy work".

Mr. Shalleck then entertained a discussion about the early voting sites and whether the Board would want to add a 12th site for the 2020 general election. Mr. Naimon pointed out that, under the new statute, the County could establish a 12th early voting center if the State Board, in collaboration with the local board, and the "governing body of the county" agree to establish an additional early voting center and there is a question whether the County Executive is the "governing body." Mr. Naimon added that he believes that the County Executive's prognostication about the presidential nomination is very unlikely to be true, but that he doesn't think it's appropriate for the Board to make its decision based on such prognostications. There was further discussion about these issues.

Ms. Khozeimeh moved to adopt the 10 early voting sites used in the 2018 election cycle for the 2020 election cycle, except to replace St. Catherine Laboure with the Wheaton Library and Community Recreation Center social hall for the 11th Early Voting site. The motion was seconded by Ms. Phillips.

Mr. Naimon moved to amend the motion to use the gym instead of the social hall at the Wheaton Library Recreation Center. The motion was seconded by Mr. Banov.

Mr. Karpinski reported that during the earlier discussion about the use of the social hall or the gym, he was asked to step out of the room to try to contact the Deputy State Administrator of the Board of Elections, Nikki Charlson, and that she recommended that the Board approve the preferred location and indicate an alternate space in the facility, in case the primary location is not accessible. He added that the staff would submit documents for both rooms and the SBE needs to know by the end of the year whether the primary location has been made accessible or if the alternative location will be used. The Board members discussed the preferred location for Wheaton's site. Ms. Rzeszut added that if the gym is chosen, the Department of Recreation is requiring that a floor covering be added to protect the floor at our cost. She estimates cost of \$5,000 for the entire gym, though she did not think we would need to cover the entire gym floor.

Ms. Khozeimeh accepted the amendment to her motion, so that the motion would read as follows:

Ms. Khozeimeh moved to adopt the 10 early voting sites used in the 2018 election cycle for the 2020 election cycle, except to replace St. Catherine Laboure with the Wheaton Community Recreation Center, with the gym as the preferred

location and the social hall as backup, for the 11th Early Voting site. The motion was seconded by Ms. Phillips.

Ms. Dillon stated that she is not in favor of the gym. She added that \$5,000 for flooring and an unknown cost of BOE's electrical needs for equipment may not be a wise investment in taxpayers' dollars. Mr. Banov stated that the size of the gym is much larger than the social hall and his recollection is that there were sufficient electrical outlets along all the walls of the gym. Mr. Naimon added that the Department of Recreation may also benefit from having a floor covering for the gym.

Mr. Naimon moved to amend the motion to add a 12th early voting site for the Primary and the General Election at the White Oak Community Recreation Center. The motion was seconded by Mr. Banov.

Indicating his support for an early voting site in the eastern part of the county, Mr. Naimon provided data anticipating a huge turnout in the 2020 election and showing wait times during the 2018 general election on Election Day, particularly in the Route 29 corridor. He also distributed a county map of wait times by precinct on Election Day 2018, and a number of precincts on the Route 29 category are in the highest or second highest wait time category. He added that if more voters vote during Early Voting, it will address voting on Election Day, particularly at peak times. Mr. Shalleck expressed concern about the costs, pointing out the cost to support the State-mandated connectivity for each precinct. He added that on the eastern part of the county there is Early Voting in Burtonsville, Silver Spring, Mid-County and the new Wheaton location. He indicated his opposition to another early voting site.

The Board voted on the amendment. Mr. Naimon and Dr. Barnes voted for the motion. Mr. Shalleck, Mrs. Khozeimeh, and Ms. Dillon voted against the motion. The motion failed.

Dr. Barnes moved to add a 12th Early Voting site for the General Election, in White Oak. The motion was seconded by Mr. Naimon.

The Board members discussed additional equipment leased from SBE to help reduce lines at polling places throughout Montgomery County. Dr. Barnes spoke in favor of her motion and stated that it was consistent with the County Executive's position for an Early Voting site at White Oak for the General Election. The board members discussed the White Oak location.

The Board voted on the amendment. Mr. Naimon and Dr. Barnes voted for the motion; Mr. Shalleck, Mrs. Khozeimeh and Ms Dillon voted against the motion. The motion failed.

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Mr. Naimon moved to add a 12th early voting site for the Primary and General Election at the Bauer Drive Community Recreation Center. The motion was seconded by Dr. Barnes.

Mr. Naimon spoke in support of his motion, noting that there were similar Election Day wait time issues along the Norbeck Road and Route 355 corridors as there was on the Route 29 corridor.

The Board voted on Mr. Naimon's motion. Mr. Naimon and Dr. Barnes voted for the motion. Mr. Shalleck, Ms. Khozeimeh, and Ms. Dillon voted against the motion. The motion failed.

Mr. Naimon moved to add a 12th early voting site at Bauer Drive Community Recreation Center for the General Election only. The motion was seconded by Dr. Barnes. Mr. Naimon and Dr. Barnes voted for the motion. Mr. Shalleck, Ms. Khozeimeh, and Ms. Dillon voted against the motion. The motion failed.

The Board voted on Ms. Khozeimeh's motion to adopt the 10 early voting sites used in the 2018 election cycle for the 2020 election cycle, and replace St. Catherine Laboure with the Wheaton Community Recreation Center for the 11th Early Voting site, with the gym as the preferred location and the social hall as a backup.. The motion passed unanimously.

Election Director Status Report [2:17:00]

Personnel [2:17:10]

Ms. McLaughlin reported that the Program Specialist position in Operations is expected to be posted next week.

Budget [2:17:37]

Ms. Bumbray provided a detailed spreadsheet on the fiscal year 2020 operating budget, noting that most of the expenditures this early in the fiscal year have been in personnel.

Ms. Bumbray briefed the Board on the new outcome-based budgeting process. She requested a meeting with the budget sub-committee to discuss the new program allocation process further. She indicated that there is an opportunity for Board members at one of the budget forums on October 28th or 29th at Black Rock or the Wheaton Library to present BOE priorities. Board members indicated that they will confirm their availability with Ms. Bumbray.

Voter Registration [2:24:43]

Ms. Newby had provided monthly voter registration statistics in advance, and updated statistics were provided at the meeting. There are 664,004 active voters and 59,780 inactive voters, a total of 723,784. Ms. Newby added that she had been asked to provide a briefing on the possible withdrawal of the U.S. from the Universal Postal Union, which would affect overseas voters using mail. A memo regarding the Universal Postal Union issue was provided to the Board at the meeting and can be found on the Board's website under Board meeting materials.

State Board of Elections [2:27:31]

Ms. Jurgensen circulated the preliminary agenda for the October 17th SBE Biennial Meeting, which Board members are required to attend.

Ms. Jurgensen stated that prior to the meeting she provided correspondence from SBE indicating that the 5 largest jurisdictions would be required to install and pay for networking for Election Day. She expressed concerns about the cost, adding that that the network is not required for same day voter registration. The proposed network would be required to be installed in all polling places. She added that SBE could not guarantee that the equipment would be compatible with pollbooks that would be purchased in 2022 and that there has not been wireless testing with the data. She stated that the estimated cost for the network is \$349,000, and that if the system is kept, there would be a \$60,000 data package for each year. Ms. Jurgensen recommended that the Board weigh in on the issue. Mr. Karpinski added that the networking is not statutorily required, and not part of the 50/50 split (as with most SBE charges for equipment). He added that the purpose of the system seems to be to allow SBE to monitor wait times. Mr. Naimon noted that BOE already tracks wait times for Montgomery County. The Board members agreed to write a letter to SBE to inquire about the need for the networking, why it is only needed for large jurisdictions, and why there is no 50/50 split of the cost. Mr. Naimon stated that security in the transmission through the network should also be raised as a concern in the letter. The Board decided that Mr. Karpinski will draft the letter objecting to paying 100% for the networking and circulate it to the Board members.

Ms. Phillips asked about the status of opening ballots earlier in preparation for canvassing. Ms. Newby responded that a legislative change is required.

Ms. Jurgensen reported that the upgrade to the Voting System (for the DS 200 scanner and the Ballot Marking Device (BMD)) remains on the calendar for certification by the Federal Election Assistance Commission by the end of October 2019. Ms. Jurgensen indicated that there have been some concerns raised about the upgrade and that preliminary SBE testing concluded that it would take 7 times longer to upload results on Election Day. She expressed concern that this process would impact the goal of timely reporting on election night. She stated that SBE continues to work with ES&S on testing the 6100 series upgrade. She stated that the current software is running on

Windows 7, which is supported only until 2020, and that Election Systems Software (ES&S) does not plan a patch to upgrade it to Windows 10, but is instead seeking federal certification of the new software version by the US Election Assistance Commission (EAC).

Ms. Jurgensen reported that SBE has officially notified the counties of the required number of Early Voting Centers for each jurisdiction and Montgomery County is required to have eleven sites, with the option of a twelfth site.

Ms. Jurgensen indicated that monthly testing of the data connection at Regional Upload Sites continues as best practices for enhanced security implemented by SBE and Montgomery County.

Ms. Jurgensen referenced that the National Federation of the Blind ("NFB") has sued the Maryland State Board of Elections regarding the Ballot Marking Device implementation. NFB requests that all voters use the BMD. The SBE directive to the counties is to deploy 2 BMDs per polling place for Election Day and 4 per Early Voting Center with a 5 voter minimum per device.

Ms. Jurgensen noted that the Montgomery County Board of Elections sent SBE Board members a letter supporting the elimination of the ballot stubs. The State Board members voted at the August Board meeting to allow counties to eliminate the stub and directed SBE staff to work with the vendor to eliminate the ballot stubs.

Ms. Jurgensen stated that the letter from the Montgomery County Board of Elections recommending changes to the provisional ballot envelope language was received by the SBE and a response was in the advance packet. The State Board has changed the language.

Ms. Jurgensen noted that the Board of Public Works supported funding for information security experts for the State Board. The team will be evaluating SBE systems and data to help SBE continue to improve our system infrastructure to mitigate risks, not just for the short-term, but also through the 2024 elections. The lead team member will begin in September.

Ms. Jurgensen stated that pollbook prototypes have been delivered to SBE for testing. Staff will be testing the new software and expected to conduct a mock election test the week of October 7, 2019.

Ms. Jurgensen provided information on a contest that the SBE and the Maryland State Board of Education are conducting to design an "I voted sticker." A copy of the promotional flyer was distributed and information can be found on the BOE or SBE websites.

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Attorney Report [2:45:28]

Mr. Karpinski reported that briefing in the *Judicial Watch* case on whether the SBE has to release the dates of birth of registered voters has been completed, and that he suspects the case will not be concluded for another three or four months. This case is pending in U.S. District Court in front of Judge Hollander.

Mr. Karpinski provided information on the history of the Board's agreement with Takoma Park to share the use of polling places on Election Day, with voting to occur in different rooms except in one location. He circulated the Takoma Park MOU to the Board. Mr. Karpinski confirmed that Takoma Park will use its own equipment and staff, noted that except for Don Bosco Cristo Rey High School, the Takoma Park municipal voting will be in different rooms, and stated that he did not foresee any issues with this procedure. Ms. Dillon expressed concern that provisions in the MOU could allow Takoma Park to use poll books. Mr. Karpinski and staff responded that entirely separate equipment would be used, that Takoma Park has used Montgomery County equipment in the past, but that it was quite unlikely there would be any extra poll books for them to use for this election. Ms. Dillon also requested clarification on the role of the greeter and whether there could be human error in steering voters to the wrong place. Ms. Jurgensen clarified that voters would still have to check in to vote after being directed to the right location by the greeter, and that a voter who was sent to the wrong location would not be able to check in. Ms. Dillon also requested clarification on what information would be included in the sample ballot regarding the Takoma Park election. Ms. McLaughlin stated that the intent was to alleviate confusion and make sure that voters understand that municipal elections are conducted separately. Mr. Karpinski noted that the Board will approve the artwork for the sample ballot. Ms. Dillon also requested clarification on what information would be provided at early voting and stated a concern that staff not be diverted to provide services on behalf of municipalities. Mr. Karpinski explained that the intent is to make sure that voters understand that municipal elections are not being conducted at our early voting site. He stated that he did not expect it to be a major issue since there is no early voting site in Takoma Park. Ms. Dillon also raised concerns about the contract continuing indefinitely. Mr. Karpinski noted that the contract allows for termination with 60 days' notice.

Mr. Naimon moved to approve and move forward with the Takoma Park MOU. The motion was seconded by Ms. Khozeimeh. The motion passed unanimously.

Old Business [3:04:04]

Wait Times [3:04:05]

Ms. Jurgensen reported that plans for the deployment of additional equipment (including 144 additional scanners, 38 BMD's, 148 e-pollbooks, 154 printers, 255 voting booths, 50 ADA booths, and increased seated voting at all locations), reevaluating the use of space, hiring additional election judges and requesting additional funding are in progress to assist in alleviating long wait times. As a result, we will need more election

judges. A more detailed presentation will be provided at the October Board Meeting. Mr. Naimon stated that it would be useful for the Board and public to obtain the information sooner rather than later.

Bylaws [3:07:42]

The model bylaws with edits were circulated for review by the Board. The Board members discussed the provisions, particularly those dealing with political activities.

Mr. Naimon moved to approve the bylaws with the proposed amendments circulated on July 25 that include Mr. Naimon's and Mr. Banov's recommendations. The motion was seconded by Mr. Banov.

Ms. Khozeimeh moved to amend section 4.2.B.3 to state that Board members may attend campaign fundraisers. The amendment was seconded by Ms. Phillips. Mr. Shalleck, Ms. Khozeimeh and Ms. Dillon voted for the motion. Mr. Naimon and Dr. Barnes voted against the motion. The amendment passed.

Ms. Khozeimeh moved to approve the amended section 4.2.B .4 of the bylaws so as to allow Board members to make political contributions, including contributions to candidates and issues on County ballots, provided the member discloses the contributions to the Board. The motion was seconded by Ms. Dillon.

Mr. Naimon moved to amend the motion to add disclosure of contributions to include the date, amount, and recipient of the contribution, at the next public Board meeting. The amendment was seconded by Dr. Barnes. Mr. Shalleck, Mrs. Khozeimeh, Mr. Naimon, and Dr. Barnes voted for the amendment. Ms. Dillon voted against the amendment. The amendment passed.

The Board voted on the Ms. Khozeimeh's motion as amended . Mr. Shalleck, Mrs. Khozeimeh, and Ms. Dillon voted for the amendment. Mr. Naimon and Dr. Barnes voted against the amendment. The amendment passed.

The Board voted on Mr. Naimon's original motion to approve the Bylaws as amended. The motion passed unanimously.

Minutes Committee [3:38:17]

Ms. Phillips and Mr. Naimon reported that the committee is still working on how detailed the minutes should be.

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Future Vote Program [3:38:51]

Ms. Jurgensen noted that this item will be laid over to the October Board meeting.

New Business [3:39:03]

Ms. Jurgensen reported that an advanced determination was provided to Mark Lautman on a County petition regarding the makeup of the County Council.

She added that proposed polling place changes for 2020 were provided in the packet in preparation for the October Board Meeting. Mr. Naimon requested the information electronically. Ms. Jurgensen indicated that she would. Mr. Banov asked whether 4-17 would be voting at Kennedy Shriver Aquatic Center, and Ms. Jurgensen said yes. Mr. Naimon commented that voting there in the past was "really bad."

Mr. Naimon requested that emails received from the public be circulated upon receipt rather than being held and circulated at once, as it would be helpful to review items in advance of the meeting. Ms. Jurgensen noted Mr. Naimon's request.

Mr. Shalleck reminded the Board to be aware of the Open Meetings Act and ensure that items that to be voted on should not be discussed by email prior to the meeting.

Action Items [3:43:40]

- Staff will investigate the electrical outlet situation in the Wheaton gym and options for covering the floor, and include this information in the packet to the SBE on the Early Voting sites
- Mr. Karpinski will draft the letter to SBE regarding networking
- Staff will provide requested documents electronically
- Ms. Jurgensen will check on the status of the request to open mailed ballots earlier
- Future Vote will be discussed in October
- PowerPoint Presentation of the wait times will be provided as soon as it is available
- Future agenda – status of polling room for Wheaton

Future Meetings

The next Board meeting will be held on October 21, 2019.

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Adjournment [3:46:16]

*With nothing further to discuss, Ms. Phillips moved to adjourn the meeting at 6:17 p.m.
The motion was seconded by Mr. Banov and passed unanimously.*

Respectfully Submitted,



Lisa Merino
Offices Services Coordinator

APPROVED BY THE BOARD:



Jim Shalleck
Board President