

APPROVED

MINUTES

Monday, March 15, 2021

MONTGOMERY COUNTY BOARD OF ELECTIONS

18753 N. Frederick Avenue, Suite 212, Gaithersburg, MD 20879

In Attendance:

Board Members:

James Shalleck, President (on site)

Nahid Khozeimeh, Vice President

David A. Naimon, Secretary

Diane Nash Dillon

Elise Barnes

Jacqueline L. Phillips

Alan Banov

Board Attorney Kevin Karpinski

Staff (all onsite):

Margaret Jurgensen, Director

Alysoun McLaughlin, Deputy Director

Kera Bumbray, Management and Budget Specialist

Boris Brajkovic, Voter Service Manager

Lisa Merino, Administrative Specialist

Janet Ross, Information Technology Manager

Christine Rzeszut, Operations Manager

Guest:

Senator Cheryl Kagan

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

<https://youtu.be/uiuW1OS61MI>

Convene Board Meeting

Mr. Shalleck declared a quorum present and convened the meeting.

Board President's Remarks [:02]

Mr. Shalleck notified the Board members that the wife of Voter Services Manager Boris Brajkovic passed away since the last meeting. Mr. Shalleck shared his condolences.

Additions and Changes to the Agenda [:21]

Ms. Jurgensen noted that there would be a new item for discussion.

Disclosure of Contributions and Donations [1:00]

There were no relevant disclosures.

Public Comments [3:58]

There were no public comments.

Election Director Status Report [4:25]

Ms. Jurgensen reported that the monthly statistics were posted to the website at the beginning of the month. In addition, she reminded the Board members that the State Ethics Commission requires their financial disclosures by April 30, 2021. She shared that Department of Technology Services received the Election Assistance Commission Cleary Award for our SMS texting. Mr. Shalleck requested the award information be posted to the website.

Personnel [05:47]

Ms. Jurgensen reported that temporary IT staff continues to complete the post-election State Board mandated maintenance on voting equipment as well as inventory.

Budget [6:05]

Ms. Bumbray addressed budget spreadsheet details presented to the Board. She stated most of the expenditures continue to be within personnel. She added the department continues to get chargebacks from other departments. Ms. Bumbray noted that the department has received CARES monies and that the private grant has also reduced charges to the budget. In addition, the Board staff received the second quarter State Board of Elections (SBE) invoice in the amount of \$1.6 million; however, there are insufficient funds in the budget to pay it. She noted that SBE provided an estimate for the third and fourth quarter invoices, totaling about \$1.4 million. It is expected that the SBE invoices will total approximately \$3.872 million.

Ms. Bumbray added that a request has been sent to the Office of Management and Budget to lift the department's budgetary constraints to spend beyond the operating budget to pay the SBE invoices. Staff is awaiting a response.

Ms. Jurgensen reported that the County Executive released his recommended budget for the department in the amount of \$8,300,356. She added that staff shared their concerns with the underfunding of the State Board of Election's line item with the Office of Management & Budget, noting that the department submitted notice of the \$3.4 million expected billing for FY22. This will create a \$2 million deficit on July 1, 2021. The Board discussed the long awaited pollbook replacements that will have an expected cost of \$31 million statewide. As of now, the cost will be billed entirely to local boards. Ms. Jurgensen also shared that the Maryland Association of Counties is also concerned about counties having to pay for equipment ordered by the SBE. Ms. Jurgensen noted that she would provide the Board the presentation that the County Executive sent to the County Council.

Legislation [17:00]

Senator Kagan stated that she has introduced legislation to require the State to share the cost of election equipment with counties 50/50, so the pollbooks could be partially paid by the SBE. She also noted that SBE does not consider the pollbooks as part of the "voting system," which is what her legislation would address. Senator Kagan added that her committee spent hours working on election legislation, noting that she introduced election related Bills (Senate Bill 831, Election Reform Act) and Senate Bill 747 (State Board of Elections – Membership, Contract Management, Ballots Drop Boxes and Voting System Financing). She described her bills, including her "kitchen sink" bill, SB831 (which is also explained below). In addition, she pointed out that she had introduced a bill, SB747, which would require the State to share the costs of

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statewide election equipment so that counties paid only 50% of such equipment.

Mr. Naimon shared his concerns that pollbooks are indeed election equipment and that local boards are being required to use specific election equipment with no input from local boards and then being responsible for paying for it.

Ms. McLaughlin reviewed additional legislation concerning elections. The items she discussed can be found [here](#). One change would be to increase the hours of early voting; the houses passed bills with different hours.

On Wednesday, Ms. McLaughlin reported, the Ways and Means Committee approved HB745, increasing the number of early voting sites in several counties. The bill adds two sites in Montgomery County (an increase to 13, with an option for a 14th). As amended, there are specific criteria to be used in selecting the optional +1 sites if selected (accessibility to historically disenfranchised communities; proximity to dense concentrations of voters; accessibility by public transportation; ensuring equitable distribution throughout the county; and maximizing the use of community centers and public gathering places as locations for early voting).

On Thursday, the Ways and Means Committee approved HB759. As amended, the bill establishes a workgroup, including local election officials, to draft legislation for the 2022 legislative session implementing a risk-limiting statistical audit method for determining the number of ballots to be hand counted prior to election certification.

On Thursday, the Ways and Means Committee also approved HB1068, directing local boards to count the absentee ballot and reject the provisional ballot when both are submitted by the same voter and both are legally sufficient.

On Friday night, the House Ways and Means Committee approved SB831, Senator Kagan's "kitchen sink" bill. Provisions of the bill as amended include requirements for live streaming of local board meetings; meeting materials to be posted on local board websites at least 48 hours prior to each meeting; detailed meeting minutes to be posted within two business days of approval; the writing of ballot questions and summaries in plain language; arrangement of candidates on the same page or screen of the ballot to the extent practicable; a prohibition on unauthorized establishment of ballot drop boxes; designation of specific drop boxes as accessible; allowing voters in line when the polls close to deposit their ballot in a drop box to the extent practicable; envelope design and the use of a privacy sleeve; precinct-level reporting of election results; and curing of absentee ballot applications and oaths. In addition, the bill allows ballots to be opened up 18 days before Election Day and extends early voting through the Sunday prior to Election Day. An amendment, adopted in committee, would set a threshold that a third of voters use the ballot marking device. Provisions related to establishing a debate commission; the composition of local Boards of elections; limitations on web delivery ballots; and permitting unaffiliated voters to cast a ballot in party primaries were deleted from the bill.

Mr. Naimon inquired if what the State estimates of the cost of the pollbooks will be comparable for other States. Ms. Jurgensen responded that she will try to get the information, noting not all local boards in other jurisdictions obtain equipment from the State.

Mr. Banov raised SB10, a bill introduced by Sen. Waldstreicher that passed the Senate (HB 450 is the House companion bill) which would prohibit carrying any firearms at election centers and moved that the Board support SB10 and HB450. The motion was seconded by Mr. Naimon. The

Board members briefly discussed the motion. Ms. Dillon and Mrs. Khozeimeh indicated their opposition to the motion. Mr. Banov stated that he thought prohibiting firearms at the polls would encourage safety for poll workers and voters and would be a bipartisan objective, and that the bill was supported by the Fraternal Order of Police. Mrs. Khozeimeh said she believed we'd never had a problem with guns, and asked Mr. Karpinski to confirm. Mr. Karpinski indicated that to his knowledge there had not been a problem, and pointed out that to some extent this is addressed because guns already are prohibited on school property, and a lot of polling places are at schools, but there also are a lot of polling places that are not schools. Mr. Naimon agreed about the effect on polling places not on school property, pointed out that law enforcement is excepted from the bill, and said he was concerned about how disputes at the polls would be affected in the future if others had firearms at the polls. Mr. Shalleck pointed out that some people lawfully carry guns at all times, and indicated that he thought the Board would not get involved in taking positions on issues that were controversial. Mr. Banov said that he didn't think it was controversial. Ms. McLaughlin agreed to monitor the Bill and share any updates with the Board. The Board members voted on supporting the Bill; Mr. Naimon and Dr. Barnes voted for the motion. Mrs. Khozeimeh and Ms. Dillon voted against the motion. Mr. Shalleck abstained. The motion failed by a 2-2 tie vote, with one abstention.

Voter Registration [51:48]

Ms. Jurgensen reported that Voter Registration continues to work on backlogged documents and quality control of voter records (in accordance with State Board regulations).

State Board of Elections [52:15]

Ms Jurgensen noted that the State Board of Elections items were already discussed. She added that the Pollbook RFP is moving forward, and updates will be shared as it progresses.

Ms. Jurgensen reported that the website was updated per the Board's request. The Board information is right below the center panel. Mr. Naimon thanked her and said it was a big improvement.

Board Attorney [53:09]

Mr. Karpinski reported that he is working with the State Board of Elections on the FOIA request by Gregory Coll to obtain videos of all the ballot drop locations in Montgomery County for the 2020 General Election. An estimate from Montgomery County (\$9600) was provided to Mr. Coll, although the estimate from Montgomery County Public Schools (MCPS) has yet to be provided. Mr. Karpinski expects for it to be costly as it will take more time. Mr. Karpinski noted that MCPS will need to comply with the Federal Educational Rights and Privacy Act ("FERPA") for the privacy of students and review videos prior to providing them. Mr. Coll is starting with seeking the video for the Praisner Center.

Dr. Barnes asked that the Director's report be posted to the website before Board meetings. Ms. Jurgensen noted that the report is provided in advance of the meeting and shared that the report is ever changing. Ms. Jurgensen agreed to post the Director's report on the website on Thursdays, even though the material may change afterwards.

2020 Presidential Election Report [57:24] Information Technology

Janet Ross, Information Technology Manager, reviewed a PowerPoint presentation on the 2020 Presidential Election Information Technology. The full presentation can be found [here](#). A report synopsis is posted to the website. Upon completion of her report, Board members had inquiries.

Mr. Banov requested that a copy of the presentation be shared. Ms. Ross agreed. Mr. Banov inquired about the errors in the Logic and Accuracy reports. Mrs. Ross responded that there were errors on the integrity report because of human error. The IT Technician records the seal number for equipment prior to going out. When staff is called out to "fix an issue with equipment," the new number of the seal is recorded on the logic and accuracy report but not the integrity report by the election judge.

Mr. Naimon complemented Mrs. Ross on a job well done, especially with all the adjustments at the Executive Office Building. He inquired if, just like using bigger rooms [poll rooms] at Silver Spring and Praisner, if bigger rooms can be used in other locations. Mrs. Ross responded that if the rooms are available, they could be used. Ms. Jurgensen added that Operations staff is working on securing locations and the availability of rooms, noting that summer camps will be at schools during the primary. The recreation Department is aware that we are coveting their summer camp space. Mr. Naimon further inquired about precinct reporting and logic and accuracy testing. Ms. Ross responded that logic and accuracy testing takes longer to complete when precinct reporting is done. There were 76 ballot styles in the Presidential election. The test decks for precinct reporting are about 2,000 ballots for each of the 255 precincts. Mr. Naimon inquired about the continued use of Marriott Conference Center and a larger room in it. Ms. Jurgensen responded that staff will look into future use of the location, but that its past availability was solely because of the pandemic, which had effectively closed down the conference center.

Ms. Jurgensen discussed the idea of using drop boxes at libraries and other commonly used County locations, assuming the General Assembly passes a law requiring more use of drop boxes. In answer to a question by Mr. Naimon, Mr. Karpinski stated that if schools are occupied at the times drop boxes are employed, there are legitimate issues of student privacy, the availability of parking for voters, and adults roaming around school grounds.

New Item [1:26:25]

Mr. Naimon congratulated staff on the Election Assistance Commission Award.

Mr. Naimon noted that he was viewing the Election Assistance Commission's website and noticed that the Anne Arundel Board of Elections received an award related to cybersecurity. He added that it was intriguing in a number of ways, as it appeared to be a training module for election judges and others regarding how to address cybersecurity issues. Mr. Naimon requested that Mr. Garreis from the Anne Arundel Board of Elections address the Board next month and tell us about its program. Ms. Dillon agreed it was a good idea. Mr. Shalleck stated it would be an action item.

Mr. Naimon added that he wanted to revisit transparency issues. He made a motion that the Board reaffirm its policy that all letters or emails and attachments addressed to the Board President, or all letters or emails addressed to elections@montgomerycountymd.gov that are

shared with the Board President be copied to all Board Members within 24 hours, unless the Board President provides an explanation to the Board Secretary for why a particular communication should not be shared. He further moved that any items deemed to be confidential in nature shall be marked as such when distributed to Board Members and may not be disclosed by the Board Members or staff to others. The motion was seconded by Mr. Shalleck.

Mr. Shalleck and Mrs. Khozeimeh noted that all correspondence is shared with the Board, as far as they know.

In answering a question by Mr. Shalleck about a specific issue, Mr. Naimon added that the recent FOIA request by a candidate was not shared timely, noting that it is to the benefit of the Board members to be aware of ongoing requests.

Mr. Karpinski added that the issue was sent to the Elections Board mailbox and was quickly sent to the State Board of Elections to be addressed. He added that he would do a better job to make sure that everyone is given a copy.

The Board Members voted on the motion. With all voting members in favor, the motion passed unanimously.

Action Items [1:45:24]

- Director Margaret Jurgensen will forward information regarding the County Executive's FY 22 budget when that information is provided.
- Mr. Naimon requested information regarding the EPB spending as it is comparable to other jurisdictions.
- Ms. McLaughlin will keep an eye on Senate Bill 10 and House Bill 450 and provide any updates to the Board.
- The Director's Report will be put on the website the Thursday before the Board meeting, knowing that it may be potentially changed.
- Ms. Ross's PowerPoint will be posted on the website.
- If correspondence, via hard copy or electronic, is received to the attention of the Board President, staff will share such information with the remaining Board members within 24 hours.
- Staff will invite David Garreis to address the Board on Anne Arundel's cybersecurity policies and training.

Approval of Minutes [1:47:32]

Ms. Khozeimeh moved to accept the July 20, 2020 Board meeting minutes as amended. The motion was seconded by Ms. Dillon and passed unanimously.

The next Board meeting will be on April 19, 2021.

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Adjournment

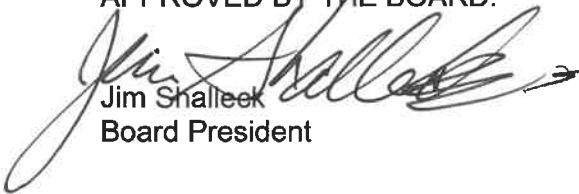
With nothing further to discuss, Mr. Khozeimeh moved to adjourn the meeting. The motion was seconded by Ms. Dillon and passed unanimously.

Respectfully Submitted,



Lisa Merino-Dean
Administrative Specialist II

APPROVED BY THE BOARD:



Jim Shalleek
Board President

