

APPROVED

April 16, 2012

MEETING OF THE MONTGOMERY COUNTY BOARD OF ELECTIONS
18753-210 North Frederick Avenue, Gaithersburg, Maryland

In Attendance:

Board Members:

Mary Ann Keeffe, President
Donice Jeter, Vice President
Nancy Dacek, Secretary
Graciela Rivera-Oven
Nahid Khozeimih
David Naimon
Jacqueline Phillips

Legal Counsel:

Kevin Karpinski

Staff:

Margaret Jurgensen, Election Director
Sara Harris
Betty Ann Lucey, Registration Manager
Brian McKeivitt, Principal Administrative Aide
Lisa Merino, Election Aide II
Barbara Payne, Absentee Coordinator
Marjorie Roher, Management and Budget Specialist
Christine Rzeszut, Operations Manager
Shafiq Satterfield, Information Technology Technician
Alan Vinh, Information Technology Manager
Leslie Woods, Election Judge Coordinator
Gilberto Zelaya, Outreach Coordinator

Guests:

Dolly Kildee
Barbara Sanders

Convene as Board of Canvassers

Ms. Keeffe called the Board of Canvassers meeting to order and declared a quorum present at 2:30 p.m.

Ms. Jurgensen stated that five absentee ballots arrived at the BOE past the deadline and are identified as untimely. A motion was made by Mrs. Dacek to reject the five untimely absentee ballots. The motion was seconded by Mrs. Jeter and carried unanimously.

Certification of April 3, 2012, Presidential Primary Election

A motion was made by Mrs. Khozeimeh to accept the Certification of Election at the local board level. The motion was seconded by Mrs. Jeter and carried unanimously. The Board Members signed the required documents to certify the election results.

A motion was made by Mrs. Khozeimeh to adjourn as the Board of Canvassers and convene in Regular Session at 2:34 p.m. Mrs. Rivera-Oven seconded the motion and it carried unanimously.

Public Comments

There were no public comments.

Additions/Changes to the Agenda

No additions or changes were made.

Approval of March 19, 2012, Minutes

Minutes from the March 19, 2012, Board meeting were distributed for review. A motion was made by Mrs. Khozeimeh to approve the minutes. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

Board Committee Reports and Follow Up Issues from March Board Meeting

Ms. Keeffe requested that follow up issues be added to the Board Committee Reports so that follow up issues/concerns may be identified from the previous meeting.

Ms. Keeffe referred to a previous discussion on the review and storage of comment cards, asking if they will be summarized and made available to the Board. Ms. Jurgensen responded that staff reviews election judge performance, comment cards, success of training, and adherence to state regulations in detail after every election, and a summary will be available by the July Board meeting.

Ms. Keeffe referred to a previous discussion on Early Voting, asking if dates, time, and locations for Early Voting Centers could be placed permanently on the top of the BOE website and the State's link eliminated. Ms. Jurgensen stated she would consult with Mr. Satterfield to update the website.

Ms. Keeffe referred to a previous discussion on certificates being presented to the volunteers who assisted with the Nursing Home Program. Ms. Jurgensen stated that Ms. Payne will be preparing the certificates.

Ms. Keeffe requested that a letter be sent to the Blair High School students affected by the late submission of their voter registration applications. Ms. Jurgensen noted that every person that registers late receives an "untimely" letter and there were close to 1,000 letters sent out within days of the Primary Presidential Election. She stated that the letter includes the date registration reopens for the Presidential General Election. Ms. Keeffe expressed her concern, requesting that a letter be sent specific to the Blair students not being able to vote for the first time due to the improper actions of a voter registrar. She asked staff to prepare the letter for her review.

Ms. Keeffe commented on a previous discussion on the selection of random precincts chosen for the 10% verification, asking when the list would be made available to the public. Ms. Jurgensen stated that the report would be available today (April 16).

Board Attorney Report

Petition Case

Mr. Karpinski stated that the County has been in the process of identifying which signatures are being challenged and as of today he had received 339 batches of contested signatures. Each batch has 25 pages with 5 signatures per page, noting that 91 batches, with a total of 10,000 pages, need to be reviewed by the end of the week. He stated that several hearings were held last week before Judge Johnson and the FOP filed a motion to dismiss for the County's failure to transmit the administrative record. A decision is pending regarding whether Montgomery County is a proper party to the case since the County is not a registered voter and, therefore, cannot seek judicial review.

Mr. Karpinski briefed the Board on the April 10th hearing for discovery disputes between the County and FOP. Judge Johnson granted in part and denied in part the County's motion for protective order, finding it unnecessary for all nine Council members to be deposed. Instead he determined that they may depose one Council member. He stated that the County has moved for reconsideration of Judge Johnson's ruling and requested the deposition be stayed pending appeal. Mr. Karpinski stated that Judge Johnson took under advisement the other discovery disputes and will issue an order by the end of this month. He noted that the County must file its motion for summary judgment by May 10th with other parties filing cross summary judgments by May 25th.

Mr. Karpinski stated that on April 12th, lawyers representing the FOP sent Ms. Keeffe a letter under the Maryland Freedom of Information Act requesting billing records for Mr. Karpinski's fees and time spent on petition cases, with a similar request sent to the County Attorney's Office. He stated that because of attorney client privilege applies, detailed information is not allowed to be provided; however, a redacted version of his bills will be made available to them.

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Mr. Karpinski reported on the Green and Libertarian Parties appeal regarding signatures under section 6-203. The case was argued before the Court of Appeals and a decision from the Court is pending. He added that he has written Chief Judge Bell requesting an expedited opinion in light of the case and upcoming statewide referenda.

Mr. Karpinski stated that an article had been sent to the Board stating that the Court of Appeals granted a Cert Petition in the Dream Act Case and briefing will be expedited with oral argument to be held in June.

Ms. Keeffe asked the status and expected arrival of the Same Sex Marriage Petition; Mr. Karpinski responded that the petition will be filed by the end of May. He briefly explained the process for State wide petitions, noting that it is imperative for the court to provide guidance on what the signature standard is. Mrs. Dacek stated that it is a very difficult to accept or deny signatures based on a voter's registration card signed 30 or more years ago since many people don't remember how they signed their name then.

Mr. Karpinski stated that lawyers from the FOP want to know the cost of Mr. Shurberg's and the BOE expenses. Ms. Keeffe stated that the County Attorney should also be added to their accounting. Ms. Rivera-Oven expressed concern with the timing of the decision. Mr. Karpinski agreed, noting that preliminary motions to dismiss are being taken under advisement. If the parties agree, a Special Master may be appointed (an Attorney in Rockville) who will preside at an additional expense over discovery disputes. Mr. Karpinski stated that Judge Johnson will need to issue an opinion by the middle of July at the latest.

Redistricting

Mr. Karpinski noted that any challenges to the State redistricting plan must be filed with the Court of Appeals by May 1st.

2012 Presidential Primary Election

Board Members Observations

Ms. Jurgensen provided the Board with an opportunity to make comments and share any election concerns. She stated that between now and July, staff will be reviewing training and lessons learned for all election operations so that any answers for the Board may be provided.

Mrs. Dacek expressed her concern with the online-testing requirement for election judges. The option to take on-line or in-house training must be clearer to any potential election judge. She stated that perhaps many of the judges that pulled out were leery of the test. Mrs. Rivera-Oven agreed that the test was a barrier to get election judges especially with 1,000 potential judges not proceeding after their initial application. She added that it was unfortunate that County employees were not able to serve as judges since they were experienced, had former training, and were familiar with precincts and the community. Ms. Jurgensen agreed that it was unfortunate that the County made the decision not to grant administrative leave to County employees. She stated that she had spoken to Tom Street and Mike Subin of the Chief

Administrative Officer's staff and will meet with them to develop a regulation to amend the human resources standards to allow administrative leave. She hopes to have the regulation implemented before the Presidential General Election.

Mrs. Jeter expressed her gratitude and thanks for the staff's organization on Election Day and expressed her opinion that things ran very well. Mrs. Jeter stated that she had spoken with some judges who expressed difficulty with the in-house training class as well as receiving many complaints from judges not having any plastic name tag holders. Mrs. Jeter expressed her concern with new Chief Judges being assigned to precincts. She is aware of the shortage, however she would like for precincts that have new Chief Judges to receive frequent visits from roamers and to be identified to Board members. Mrs. Dacek asked if new and returning judges are assigned together. Ms. Woods responded that it is typical procedure; however, due to the loss of election judges, that was not the case in all precincts this election. She added that roamers did receive notification as to which precincts had two new chief judges. Mrs. Jeter stated that the room set-up for some polling places needs to be reviewed, adding that judges claimed the set-up didn't work well. Ms. Jurgensen requested that Mrs. Jeter supply her with a polling place list for staff to review. Mrs. Jeter noted that the form "Chief Judge Log" in the red bag does not have a header, and judges were confused by this.

Mrs. Rivera-Oven commented that a sign should be placed at polling places notifying voters not to drop off absentee ballots at precincts. Ms. Jurgensen stated that this year Runbeck processed ballots and prior mailings had been done through the BOE. She added that she will be recommending that the SBE add an insert indicating the ballot must be mailed or hand delivered to LBE's and also agreed to put a sign up. Mrs. Jeter recommended that a list of do's and don't be placed on the BOE website to avoid invalidating absentee ballots.

Mrs. Khozeimeh noted that judges should be made aware that if poll books arrive at precincts with broken external seals they should still check and verify the equipment since the seals may have been broken during shipping. Mrs. Jeter added that because many of the poll book seals arrived broken judges decided not to use the equipment. Mrs. Rivera-Oven requested that when the Board receives routes for visits for pre-Election and Election Day that they be provided with additional red seals.

Ms. Keeffe stated that she had an opportunity to talk to a guest prior to the meeting today and encouraged them, as well as others, to send any Election Day issues to the Board by the next Board meeting, May 21. She added that in several instances there were no signs posted at the old polling place indicating a change. Mrs. Rzeszut stated that 11X17 posters with bold black writing were placed at the old polling places the Sunday before Election Day. Mrs. Dacek noted that Board members previously used to post the signs. Ms. Keeffe suggested that the signs should be put up by Board members on Monday night and early morning on Election Day to prevent people from pulling them down. Mrs. Rzeszut noted that additional signs on stakes covered with clear plastic wrap with the website and the BOE phone number were also posted. Ms. Keeffe noted that many judges complained about not having the voter access card box.

Mr. Naimon commented that things ran very well on Election Day. He agreed with Mrs. Jeter regarding instructions being available to voters about absentee and provisional voting, adding there is a communication gap between voters and judges. Mr. Naimon stated that he

had received positive comments on the change of electioneering boundaries and asked when a schedule would be available for the public to address any comments for the Presidential General Election. Ms. Keeffe suggested any information and comments should be sent to the Board by May 21st so they may be discussed and finalized in the July Board Meeting. Mrs. Dacek asked how many boundaries were changed and Mrs. Rzeszut responded that approximately 25 were reviewed. Mrs. Dacek added that she found an issue with the electioneering boundary line at the Germantown Recreation Center that should be reviewed. Mr. Naimon suggested that the comment cards box be placed on a separate table to add more privacy. He added that the Building Service Manager at Lucy V. Barnsley Elementary, Precinct 13-46, instructed election judges not to use the main door to prevent the security system from going off all day. The door for handicap access was not to be used and arrangements had been made successfully. Ms. Jurgensen stated that doors are supposed to be unlocked, and any changes done at Precinct 13-46 were done without the authority of BOE.

Ms. Phillips stated that Precinct 13-59, Stephen Knolls School, did not have sufficient area for electioneering and an issue arose between the Democratic and Republican Electioneers. A letter was provided to Ms. Jurgensen stating the issue from the Republican representative at the polling place. Ms. Phillips added that she received complaints from judges saying bags were too heavy.

Ms. Roher provided the Board with a draft form for Observations and Concerns, in response to comments. The Board reviewed the form and made suggestions. She requested that additional changes be forwarded to her by June 1st.

*** Ms. Keeffe left the meeting at 3:30 p.m. ***

Election Director Preliminary Review

Ms. Jurgensen asked managers to give brief comments on their operation.

Sara Harris reported on the Primary Election night return of supplies. She stated that the return of supplies for the County's 238 precincts occurred successfully thanks to BOE employees and effective collaboration with, and assistance from, the County's General Services, Security and Police employees; transport and deposit of supplies to designated areas/contacts by both experienced and first-time employees contributed to effective follow-up for each supply group. The first arrival of supplies was at 9:09 p.m., and the last supplies were delivered at 12:45 a.m., in record time.

Alan Vinh, Information Technology Manager, reported a success considering limited staff.

- Quality control checks with serial and tamper tape numbers helped keep the error rate down
- Handled state's mishap of missing candidates on the ballot for CD8; 400+ were tested the 200+ DRE's had to be recovered, processed and retested
- Processed 2420 DRE's and the 200+ DRE's related to SBE ballot error
- Processed 797 EPB's and their related 797 printers

- Packaged electrical equipment and supply bags for 238 district-precincts
- Supported equipment delivery and pick-up to/from 229 voting centers
- Supported setup and breakdown for all 5 early voting sites
- Supported call center (660 calls)
- Supported canvassing (5000 absentee – 1000 provisional)

Ms. Jurgensen reported that the SBE ballot error cost the BOE \$18,088.05 in overtime not including regular pay and supplies, adding she is requesting a cost recovery for that amount. Ms. Jurgensen made a letter to the SBE available to the Board for review.

Mrs. Rzeszut, Operations Manager, reported that the 2012 Presidential Primary Election presented challenges, some anticipated and some new; however, the Board of Elections staff members met issues and assignments with a strong knowledge base, confidence and efficiency. She added that a new challenge for most staff members was redistricting. Based on the 2010 Census, the Maryland State Legislature and the Governor approved newly created districts throughout the State impacting the jurisdictional makeup of Montgomery County. The project involved collaboration and cooperation. Mrs. Rzeszut stated that another test confronting staff members was the lack luster interest in the election paired with the spring vacation season posing a severe deficit in the election judge pool; however with dedication and positive work ethic, recruiters placed a compliment of judges (assigned 2358) who served Montgomery County voters admirably and conducted a successful election. Mrs. Jeter requested that a thank you letter be sent to Office Movers for their assistance.

Leslie Woods, Election Judge Coordinator, reported that the online training quiz and use of the Election Judge Module for training registration continue to be well received. Increased use of email expedited communications between staff and judges. Pre-printed questionnaires for returning judges improved the recruitment process and reduced data entry errors. She added that due to significant loss of judges in the three weeks prior to the election staff explored new recruitment resources, specifically contacting Election Aide I and II applicants and using a temporary staffing agency. She stated that 1,971 judges worked on Election Day and 391 worked during Early Voting. Mrs. Rivera-Oven asked the cost for the 21 temporary staff placed as judges; Ms. Roher responded that it was approximately \$8,900.

Gilberto Zelaya, Outreach Coordinator, reported on bilingual Election Judges.

- 272 certified bilingual election judges served
- Total coverage in "Priority 1 & 2" precincts with highest Hispanic/Latino population as per Census 2010 & MCPS datasets
- The County's ruling on County staff serving as election judges was disappointing
 - Lost approximately 57 certified bilingual election judges (25% of total candidates)

Early Voting

- Larsen antennas had no connectivity issues, worked seamlessly

Future Vote

- 312 total students participated
- Enrollment down due to spring break and college visits

Marjorie Roher, Management and Budget Specialist, reported that the Tech help desk received just over 660 calls between Monday night and Tuesday. She stated that most calls that came through the Call Center were answered immediately by Voter Registration, Absentee, or Call Center staff resulting in the voters receiving their information promptly. The main questions related to polling place location and change, party affiliation, and registration change. Ms. Roher stated that MC311 handled 16 calls on April 2nd and 17 on April 3rd – the majority dealing with polling place location and voting hours. She added that media calls were also minimal with several calls regarding turn out and impact of redistricting.

Betty Ann Lucey, Registration Manager, reported that when MC311 was disconnected, the staff did a good job answering phone calls. She added that Online Voter Registration (OLVR) provided challenges as it began one month before the closing of the books. Voter Registration changed 18,992 addresses within the County and 4,145 out of County shortly after the first of the year which helped minimize provisional ballots. Mrs. Lucey stated that some problems occurred with two sites on MDvoters being balanced, adding that provisionals were successful with the staff doing the input and proofing.

Barbara Payne, Absentee Coordinator, reported that the Absentee Section conducted a very successful election. Each temporary employee stepped-up and took personal responsibility for getting the job done and interdepartmental cooperation was wonderful. Montgomery County participated in the State's pilot program engaging Runbeck to mail ballots and found the program successful. Ms. Payne stated that the absentee canvass ran smoothly with an increased number of audit teams. Ms. Jurgensen noted that the Nursing Home staff was able to recruit volunteers to help with the Nursing Home Program which helped make the program a success. Ms. Phillips stated that she had worked in many operations over the years and has never seen an overall operation run with the level of professionalism and civility that staff has shown.

Ms. Jurgensen reported that the 10% verification showed no variation or change. The audit of the accuracy rate of the GEMS unit tape to GEMS total had 100% verification with no errors. She added that out of 7,532 votes only 5 were in question with an error percentage rate of 0.0006%.

Ms. Jurgensen commended the staff for their efforts and with the success of the Election. Mrs. Dacek commended the staff on provisional ballot research. Their efforts ensured that there were few ballots that could be called to question. Mrs. Dacek, and other Board members, offered a round of applause.

Ms. Jurgensen stated that she has been asked to speak at the Election Center Regional Conference in Atlanta on April 26, 2012.

Ms. Roher notified the Board that a letter was received from Mayor Katz regarding the use of Asbury as a polling place for non-Asbury residents and that staff will be researching and preparing a response.

Board Attorney Observations

Mr. Karpinski stated that everything went well with the election. He noted an issue with Precinct 13-32, Glen Haven Elementary School. The entrance to the polling place was moved to a side exit which did not have handicap access and a woman fell out of her scooter. He added that the entrance should be moved to the main entrance which is handicap accessible.

Old Business

No old business was discussed.

New Business

No new business was discussed.

Future Meetings

Board Calendar

Ms. Roher stated that at the request of the Board President, the September 17, 2012, Board meeting has been changed to September 10, 2012.

- A. May 21, 2012 – 2:30 p.m.
- B. June 18, 2012 – 2:30 p.m.
- C. July 16, 2012 – 2:30 p.m.
- D. August 20, 2012 – *Tentative*
- E. September 10, 2012 – 2:30 p.m.
- F. October 15, 2012 – 2:30 p.m. – Board Meeting and Early Voting Supply Cage Check
- G. October 19, 2012 – Early Voting Public Testing – 10:00 a.m. – 1:00 p.m.
- H. October 27, 2012 – Early Voting – 9:00 a.m. – 11:00 a.m.
- I. October 27– November 1, 2012 – Early Voting (available during voting hours by cell)
- J. October 29, 2012 – Election Day Public Testing – 9:00 a.m.
- K. November 1, 2012 – Review Canvass Procedure – 4:30 p.m. – 5:30 p.m.
Supply Bag Check – 5:30 p.m. – 7:00 p.m.
- L. November 5, 2012 - Polling Place Check – 6:00 p.m. – 9:00 p.m.
- M. November 6, 2012 – Election Day – (phones on at 6:00 a.m. coverage until midnight)
- N. November 8, 2012 – Absentee I Canvass Begins – 10:00 a.m. – 7:00 p.m.
- O. November 9, 2012 – Absentee I Canvass Continued – 10:00 a.m. – 7:00 p.m.

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Adjournment

With no further business Mrs. Khozeimeh moved to adjourn the Regular Session. The motion was seconded by Mrs. Rivera-Oven and carried unanimously. The meeting was adjourned at 4:12 p.m.

Respectfully Submitted,

Marjorie M. Roher

Marjorie M. Roher
Management & Budget Specialist III

APPROVED BY THE BOARD:



Mary Ann Keefe
President