

APPROVED

February 27, 2012

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

In Attendance:

Board Members:

Mary Ann Keefe, President  
Donice Jeter, Vice President  
Nancy Dacek, Secretary  
Graciela River-Oven  
Nahid Khozeimeh  
David Naimon

Legal Counsel:

Kevin Karpinski

Staff:

Margaret Jurgensen, Election Director  
Sara Harris  
Betty Ann Lucey, Registration Manager  
Marjorie Roher, Management and Budget Specialist  
Christine Rzeszut, Operations Manger  
Leslie Woods, Election Judge Coordinator  
Lisa Merino, Election Aide II

Guests:

Dolly Kildee  
Adol Owen-Williams  
Barbara Sanders

**Convene Meeting and Declare Quorum Present**

Ms. Keefe called the meeting to order and declared a quorum present at 2:33 p.m.

**Public Comments**

Ms. Keefe asked if anyone had requested to address the Board. Ms Roher stated that no one had called in advance to do so.

## **Additions/Changes to the Agenda**

Ms. Keeffe asked if there were any changes or additions to the Agenda. Ms. Jurgensen requested that an Executive Session be added and Ms. Keeffe agreed. Mr. Karpinski stated that he would give a brief update on the Bylaws during the Board Attorney Report.

## **Approval of January 23, 2012, Minutes**

Ms. Keeffe stated that she and the Board Members appreciate receiving the minutes in advance. She thanked and commended staff on the way the minutes were written, adding that she is pleased with how detailed they are. A motion was made by Mrs. Dacek to approve the minutes. The motion was seconded by Mrs. Khozeimeh and carried unanimously.

## **Board Committee Reports**

No Board committee reports were discussed.

## **Election Director Reports**

### **Budget**

Ms. Jurgensen reported on the personnel budget, stating that permission had been received from the Office of Management and Budget to fill the Deputy Director position. Ms. Jurgensen stated that the position vacancy and job description had been reviewed by the Office of Human Resources and the Equal Opportunity Officer and the job will be posted this Friday or next Monday. She added that the position will be advertised for one month on Electionline.org, Election Center electronic newsletter, IACREOT electronic newsletter, NACRC newsletter, IMdiversity, National Forum Black Public Administrator, Latino site Latpro and the Maryland County Officials newsletter.

Ms. Jurgensen reported on the overtime budget stating that it continues to be a great concern in light of the proposed referendum on the Same Sex Marriage Act. Petitions are expected in late May from the SBE and staff will have twenty days to process them.

Ms. Roher reviewed a handout on the overtime expenditures with the Board. Ms. Keeffe clarified that the total amount remaining in the overtime budget is \$112,130.00, and that it is through June 30. Ms. Roher agreed and noted that the only two large areas of overtime had been in Operations, due to the redistricting process, and in Voter Registration, due to the Petition processing. Ms. Roher stated that the remaining amount should suffice, although it will be tight. Mr. Naimon asked if the budgeted amount for Voter Registration would be enough to process the proposed referendum in May. He also asked if the amount could be dispersed among different sections within the department. Ms. Jurgensen responded that she is not sure if the amount is sufficient. Ms. Roher confirmed that funds may be used in other sections, however, because of

the decrease in funding, we may need to approach the County for assistance should the second Petition present a problem. Ms. Roher added that the overtime is being monitored bi-weekly and Ms. Jurgensen is updated on all changes.

Ms. Roher reviewed the FY12 operating budget through January 31, 2012, noting that the FY11 budget has still not been closed nor have any months in FY12. She added that BOE is running on budget but she will continue to watch things as we get closer to the election.

## **Voter Registration**

Ms. Jurgensen stated that the deadline to register to vote is March 13, 2012, and the BOE will be open until 9:00 p.m. that day. She reported that a list of Montgomery County voters was sent to the sample ballot printer in late December for a National Change of Address match and the Board has received notification of all address changes in their data base. She stated that staff has updated all changes within Montgomery County, and has shared change of address information with other Maryland Counties and provided out of state updated information to the State Board of Elections. Ms. Jurgensen reported that the Board was previously made aware that Election Integrity Maryland (EIM) had testified before the Legislature, stating that Montgomery County had thousands of irregularities on the voter registration database. They did not provide the State Board of Elections or Montgomery County with the list of voters prior to the testimony. She added that a representative of the group provided the list to the State Board and hand delivered the list to Montgomery County following the testimony. The State Board staff instructed Montgomery County to proceed and investigate the voters identified by EIM regarding these irregularities:

- 1) Voters registered in counties outside of Montgomery County
- 2) Identified address issues such as shelter for women of Domestic Abuse, Pre-Release Center, and Clarksburg Correctional Facility (legitimate addresses)
- 3) Twins (legitimate voters)
- 4) Deceased voters – the receipt of a death certificate will create an automatic deletion, as well as a letter from a relative that is signed and identifies the deceased voter's information. Ms. Jurgensen added that a death notification through the Jury Commissioner creates a status of inactive voter – staff then sends a Deceased Verification Form Notice and if no response is received the voter is deleted after two weeks. She noted that when the Nursing Home Program goes out to facilities, and a voter has died, it is not sufficient for a director or employee to say that the individual has passed. HIPAA prevents the Nursing Home from providing any information to the Board of Elections. A nursing home administrator may request a death notification in two ways, they reach out to a family member to request that they notify the Board of Elections or they may notify the BOE the resident has moved and there is no forwarding address. Both events result in the Board of Elections moving the voter to an inactive status and then deleting the name after they fail to vote in two federal elections, in accordance with SBE regulations.

- 5) UOCAVA Voters (Military and Overseas voters) – Federal Law states that voters, spouses, and dependents who no longer maintain a residence in the USA are eligible to register and vote by absentee ballot in the jurisdiction of their last residence even if someone else currently lives there.
- 6) Voter is no longer a resident at the address of record – the BOE is required by law to mail a sample ballot to every voter every election. If the sample ballot is returned for two general elections the voter is put in an inactive status. The BOE cannot delete the voter unless specific procedures are followed.

Ms. Jurgensen stated the investigation was completed and a report sent to the State Board of Elections. Mrs. Dacek expressed concern with the UOCAVA mail going to houses where they don't live, even if people send them back. Ms. Jurgensen agreed. Ms. Jurgensen added that in previous years it was suggested that UOCAVA voters use the Board of Elections, or a government address, but be issued a ballot according to their last known address. She noted that this is a continuous problem all over the United States and there is model legislation that is available through the NCSL. Mrs. Dacek stated that in the future the Board should consider mentioning this issue to our legislators at the State. Mrs. Jeter stated that it is a legal requirement that you have a state address in the U.S. to vote. Mrs. Dacek responded that it could be a post office or the local Board of Elections. Ms. Jurgensen noted that other states use court houses or the local Board of Elections, adding again that there is model legislation that Maryland could adopt. She agreed to send the model to the legislature and copy the Board.

### **State Board of Elections**

Ms. Jurgensen stated that Linda Lamone's January 31, 2012, statement to the Senate Committee on Education, Health and Environmental Affairs was previously distributed to the Board. She added that MDVoters had been uploaded with software for the new MVA online application for voter registration and staff was trained on Wednesday, February 22, 2012. Ms. Jurgensen stated that the next several months will be a slow implementation of the online voter registration/MVA form. She added that issues have already occurred with balancing usage on the two state servers, which could just be a capacity issue.

Ms. Jurgensen reported that mock election results were successfully uploaded in quasi-real time from the county board of elections during the testing of State Board of Elections results software. Ms. Jurgensen announced that the Maryland State Government is changing to a Google e-mail system which will change all current email addresses for SBE staff. She added that the State has adopted new regulations for challengers and watchers, confidential voters, and changing polling places for voters with disabilities to include assistance from a helper or spouse.

Ms. Jurgensen informed the Board that she needed a motion authorizing her to conduct Logic and Accuracy testing on the voting equipment. Mrs. Khozeimeh made a motion to appoint the Election Director to conduct the Logic and Accuracy testing for the April 3, 2012, election on equipment used for both Election Day and Early Voting. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

Ms. Jurgensen stated that the Logic and Accuracy testing started today and all participants have been sworn in.

Ms. Keeffe stated that she attended the State Board Meeting and the SBE indicated that the old system for election night results would be running simultaneously with the new system so if there is a problem they would revert back to the old system. Ms. Keeffe asked about the call center that SBE offers and wondered why BOE doesn't participate. Ms. Jurgensen stated that we have our own call center answered by trainers and runners to provide assistance in the field, and that BOE has experienced problems with the State Call Center giving voters incorrect information. She added that we also have bilingual requirements which must be met. Ms. Keeffe stated that there is proposed legislation that removes Carroll County from the recently enacted legislation on electioneering boundaries.

Ms. Keeffe stated that she spoke to a Montgomery County Councilmember about a bill calling for special elections throughout the state to be conducted solely by mail at the discretion of the LBE. She added that the bill specifies that a local Board of Elections would provide a vote by mail ballot to each eligible voter at least 14 days prior to a Special Election, with no application required, and that one voting center in an accessible location would be open for up to six days.

Ms. Keeffe stated that absentee voting will be available online throughout the State and all ballots will contain a bar code. She added that many people from Montgomery County came to speak at the State Board meeting in opposition to the email ballots, stating that this change should require a law change. The State Board disagrees and sees it as procedural change. Ms. Keeffe stated that Florida, California, and Virginia will be, or are, emailing ballots for UOCAVA, and that Maryland would be the first state emailing ballots for all requested absentee applications. Some Board members expressed concern with voter fraud and security. Ms. Keeffe stated that the procedures have not changed; a voter would still need to print out the ballot and mail it with a signed oath. She agrees with the move towards technology as long it facilitates voting and increases voter turnout while ensuring that the voter's privacy is protected from fraud and abuse. Mr. Karpinski asked if this would affect the scanning of ballots. Ms. Jurgensen responded that ballots will have a bar code that identifies information and when the ballots are returned the bar code allows staff to print a scannable ballot, and then verify that the ballot matches the scan. She added that the Board of Canvassers, or canvass staff, still must verify the vote, but the tedious duplication issue is eliminated. Mr. Karpinski added that some people are complaining that the bar code is the identifying mark that links a voter to the ballot.

## **Board Attorney Report**

### **Petitions Cases**

Mr. Karpinski reported that the County Council voted to proceed with litigation against the Montgomery County Board of Elections. After the decision was made to proceed, we filed an answer to the complaint for judicial review and the FOP has moved to intervene in the case. The motion to intervene was granted. He added that a hearing was held last week in front of Judge Johnson to work out a schedule to get the case through the Circuit Court and, if necessary, the Court of Appeals, before the ballots need to be prepared. Mr. Karpinski stated that the county

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would need to identify their experts by March 22, FOP would have to identify theirs by March 29, with a discovery deadline of April 30, and the County's Motion for Summary Judgment would be due on May 10, with our opposition to the County's summary judgment motion due by May 25. A hearing before Judge Johnson would be June 1, and a trial, if necessary, is scheduled for June 25-27. Mr. Karpinski added that the County Attorney's Office is diligently going through every signature that was accepted on the Petition and putting them in different categories to see if they will challenge it. He added that some signature issues relate to SBE'S verification procedures, but that he still has not been told what the issues are or their complaints. Mr. Karpinski stated that we will receive the challenges to the signatures in waves, adding that in the following week we should receive about 35% to go through and review their arguments. Mr. Karpinski briefly explained the date requirements and acceptance guidelines; he added that he would brief the Board as soon as he has more information. Ms. Keeffe asked if this suit is coming from the County Council or the County Executives Office. Mr. Karpinski responded that it is coming from the County Council's Office. He added that it is a very aggressive schedule. The trial Court must issue an opinion by the first week of July, briefing by mid-August in the Court of Appeals and the Court of Appeals would be brought back to hear the case in late August. If judges are not available then retired judges would be assigned. Ms. Keeffe asked how the Petition review affects the staff at BOE. Mr. Karpinski stated that the County Attorney's Office has the Petition as well as the acceptance codes and no staff is needed for review at this time. Election staff will need to review alleged inaccuracies.

Ms. Jurgensen stated that she asked SBE to identify someone to speak with Mr. Karpinski regarding software and verification elements, and noted that the only way to count a Petition is if the name is attached to the registered voter's record.

Mr. Karpinski updated the Board on the Dream Act Case, stating that on February 17, Judge Silkworth found that the question should appear on the ballot because it was not an appropriations Bill but policy legislation and therefore not prohibited by Section 2 of Article 16 of the Constitution. The case will more than likely go to the Court of Appeals within the next several months.

Mr. Karpinski updated the Board on the *State Board of Elections vs. the Green Party* case, stating that it will be argued before the Court of Appeals this Friday and the Court of Appeals will web cast their oral arguments.

### **Redistricting**

Mr. Karpinski stated that the redistricting case is in a procedural posture as an appeal was noted. He noted that Plaintiffs have filed an appeal with the United States Court of Appeals for the Fourth Circuit in Richmond. However, they have not filled anything before the Supreme Court. He stated that the Fourth Circuit does not have jurisdiction on this case.

Mr. Karpinski stated that there is a companion case to the *Fletcher* case - - *Olsen vs. O'Malley*, which is pending in Federal Court. He noted that there are individuals from the *Fletcher* case, whom the Court refused to let intervene as a matter of right in *Fletcher*. They have filled a similar lawsuit that should be dismissed by Federal Court since the issues are the same that the 3 judge panel heard regarding the redistricting case.

## **Bylaws**

Mr. Karpinski reported that Ross Goldstein from the State Board of Elections has approved the Bylaw amendments requested by the Board. He added that the changes can be made and posted to the website.

## **2012 Presidential Primary Election**

### **Media Outreach**

Ms. Roher reported that media advisories have been distributed on the winter voter registration drive, election judge recruitment, alternate accessible polling places, Spanish Election Judge recruitment, voter registration deadline, party affiliation change deadline, early voting public testing, early voting, voting unit demonstrations, and the absentee ballot deadline. She stated that in the next several weeks media advisories will be distributed on early voting, Election Day preparation, Election Day public testing and sample ballots.

Ms. Roher stated that the County Office of Public information has created two PSA's – one involves voter registration and absentee deadlines and the other deals with the need for voters to be prepared on Election Day and provides information on Early Voting. Ms. Roher added that she has the PSA's available on CD if anyone would like to view them. She stated that there is a third PSA, targeted specifically at Early Voting, being worked on for airing on the County's PEG channels, and she will contact Comcast and Telemundo to fit the airing into their schedule as well. Ms. Roher stated that the first two PSA's were delivered to Comcast last week and will begin airing within the week, in both English and Spanish, and will also be imbedded in the internet for additional viewing. She stated that she has signed a contract with Telemundo for the PSA's and is still negotiating air dates and times. Ms. Keeffe asked if Ms. Roher could find out when her media spot on Comcast would run. Ms. Roher agreed and will send the information to the Board.

Ms. Roher reported that legal ads were placed in the Gazette for election judges and polling place accessibility as required and bilingual posters have been provided to Ride-On for placement by March 1<sup>st</sup>. She added that beginning March 9<sup>th</sup> ads will be placed on Google directing appropriate individuals to our website. These ads will be targeted to various demographics and will appear when key words are entered in the Google search engine.

Ms. Roher reported on the Corporation and Union Advertisement, stating that Ms. Merino made telephone calls to 100 corporations in Montgomery County requesting their assistance in distributing a flier to their employees with information on Early Voting. She stated that of the 100 telephone calls, 29 agreed to participate and the fliers were sent out February, 17, 2012. She added that over the summer months staff will reach out to additional corporations for the General Election. The flier is in the process of being sent to all local unions for distribution among their membership. Mr. Naimon suggested that the flier be distributed to the Federal Government for their Montgomery County locations. Ms. Jurgensen requested that Mr. Naimon provide a contact person. She stated that because of the depreciated advertising budget BOE has been trying to utilize "free" options for advertising. Ms. Jurgensen added that if the Board had contacts the flier could be sent electronically and they should notify her by March 15. Mr. Naimon said he would

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think about appropriate contact people. Ms. Keeffe stated that since both central committee members were attending the meeting, the flier could be added to their newsletter. Ms. Rivera-Oven suggested sending the flier to recreation centers and clubs. Ms. Merino commented that the calls she made to the corporations were always directed to someone in the Human Resource Department, or the Vice President of Media, and the flier had to be approved by someone "higher" before it was distributed. Ms. Khozeimeh thanked Ms. Jurgensen and Ms. Roher on a job well done with the media.

### **Mock Election**

Mock Election information was covered earlier in the meeting.

### **Election Judge**

Ms. Jurgensen reviewed the Election Judge Status Report with the Board. Ms. Woods briefly explained the chart stating that the BOE requires 2,904 Election Judges for the Primary Election. There are currently 171 assigned election judges and 1,442 unassigned election judges who will be assigned throughout the week. Ms. Woods stated that they are receiving 30 to 50 applications a day from people interested in being an election judge. Ms. Jurgensen stated that election judge recruitment has sent a mass mailing to Republican households since their representation continues to be low. Ms. Woods stated that last year they had identified precincts that had been low in 2010 and sent mailings. Some responses have come in from the July and August mailings.

Ms. Rivera-Oven expressed concern with the online training quiz, indicating that she had received calls from individuals who signed up to be an election judge but don't have computers readily available. Ms. Woods stated that since the quiz started they have offered in-person testing/quizzing, adding that individuals interested can come in at their leisure and have the chapters provided to them. Ms. Rivera-Oven asked if this was a new procedure. Ms. Woods responded yes; adding that there a couple of reasons why they started online testing. Trainers had been spending between sixty and ninety minutes going over information in each class, and with reduced staff and resources, needed to figure out a way for individuals to receive the information before attending class. She added that it also puts ownership on the judges to prepare in advance. Ms. Woods stated that less than 50 of the 2,100 needed to do the testing in person, with an ethnically diverse group ranging from 40-80 years of age.

### **Electronic Delivery of Absentee Ballots**

Ms. Jurgensen reported that on March 6, 2012, the SBE absentee ballot vendor will mail all domestic ballots to voters that have requested them. She stated that staff will have a conference call to discuss the mail tracking mechanism used with the vendor on February 29. Montgomery County has received 1,853 absentee ballot requests and approximately 300 are emailed ballots including domestic, military, and overseas voters. Ms. Jurgensen briefly explained the email ballot process. Ms. Rzeszut distributed an absentee ballot application for the Board to review.



\*\*\* Recess \*\*\*

\*\*\* Back from recess at 4:07 p.m. \*\*\*

## **Old Business**

### **Redistricting**

Ms. Jurgensen reviewed an email from County Councilmember Phil Andrews regarding Asbury's polling place. Mr. Andrews briefly described his concern with Asbury being open to the public. The Board discussed the email and Mr. Andrews concerns. Mrs. Dacek stated that Asbury is very happy to be used as a public polling place and added that they have been very easy to work with, including their willingness to use extra signage and open the gates on Russell Avenue.

## **2012 Presidential Primary Election (Cont.)**

### **Overview of Canvass Procedures**

Ms. Jurgensen stated that the State legislature has commenced a legislative audit of the State Board of Elections and the State Board of Elections decided to audit every local Board of Elections. Ms. Jurgensen noted that SBE claimed the Montgomery County Board of Elections failed to file Canvass Minutes in 2010; the BOE was able to show documentation that all Canvass Minutes were adopted in April 2011. Ms. Jurgensen noted that all copies were sent to SBE. She stated that because there was a lack of clarity on SBE's behalf, she agreed to hold a separate meeting in the future to adopt all the Canvass Minutes.

Ms. Jurgensen reported that in the past the LBE and the Attorney General's Office disagreed when voter registrations should be cancelled. SBE ordered the BOE to cancel voters in accordance with regulations. She stated that in January 2011 SBE removed all voters they believed should be canceled (32,000), adding that this was something the previous Board did not agree with.

\*\*\* Mrs. Lucey, Mrs. Rzeszut, and Ms. Sanders left the room at 5:20 p.m. \*\*\*

Ms. Jurgensen stated that the Board of Canvassers shall convene at the Board of Elections office, noting that the Board and Board Attorney will be sworn in prior to a public session. She stated that arrangements have been made with the Clerk of the Circuit Court who will deliver the oath of the Board of Canvassers on March 19, 2012 at 2:00 p.m. She then gave a lengthy overview of the Primary Canvass and procedures, showing the Board examples of absentee and provisional file folders they would receive during the Canvass. Ms. Jurgensen also discussed a spreadsheet and configuration of the canvass room and post canvass procedures in detail.

Ms. Jurgensen stated that an E-40 report will be generated to cross check for internal accounting. She added that there is a new process where laptops are linked and, as soon as the

GEM servers reconcile, it will indicate any problems that occur. The Board and staff discussed the canvass procedures.

The Board reviewed and discussed the working draft calendar for canvass member attendance requirements. Ms. Roher stated she would email the calendar to the Board, and they agreed to respond with the dates they are not available to attend by March 6, 2012.

### **New Business**

Ms. Roher reminded the Board that the Maryland State Ethics form needs to be submitted by April 30, 2012.

### **Future Meetings**

- A. March 19, 2012 – Board Meeting and Early Voting Supply Cage Check – 2:30 p.m.
- B. March 21, 2012 – Early Voting and Election Day Public Testing – 10:00 a.m. – 1:00 p.m.
- C. March 24, 2012 – Early Voting – 9:00 a.m. – 11:00 a.m. (Candidate / Media Briefing at 9:00 a.m.)
- D. March 24–29, 2012 - Early Voting (available during voting hours by cell)
- E. March 29, 2012 – Review Canvass Procedure 4:30 p.m. – 5:30 p.m.  
Supply Bag Check – 5:30 p.m. – 7:00 p.m.;  
Early Voting – 7:00 p.m. – 10:00 p.m.
- F. April 2, 2012 – Polling Place Check – 6:00 p.m. – 9:00 p.m.
- G. April 3, 2012 – Election Day – (phones on at 6:00 a.m. (coverage until midnight)
- H. April 5, 2012 – Absentee I Canvass Begins – 10:00 a.m. – 7:00 p.m.
- I. April 6, 2012 – Absentee I Canvass Continued – 9:00 a.m. – 7:00 p.m.
- J. April 11, 2012 – Provisional Canvass Begins – 10:00 a.m. – 7:00p.m.
- K. April 12, 2012 – Provisional Canvass Continued – 9:00 a.m. – 7:00 p.m.
- L. April 13, 2012 – Absentee II Canvass Begins – 10:00 a.m. – 7:00p.m.
- M. April 16, 2012 – Board Meeting and Post Canvass 2:30 p.m.
- N. May 21, 2012 – 2:30 p.m.
- O. June 18, 2012 – 2:30 p.m.
- P. July 16, 2012 – 2:30 p.m.
- Q. August 20, 2012 – *Tentative*
- R. September 17, 2012 – 2:30 p.m.
- S. October 15, 2012 – 2:30 p.m. – Board Meeting and Early Voting Supply Cage Check
- T. October 19, 2012 – Early Voting Public Testing – 10:00 a.m. – 1:00 p.m.
- U. October 27, 2012 – Early Voting – 9:00 a.m. – 11:00 a.m.
- V. October 27–November 1, 2012 – Early Voting (available during voting hours by cell)

A motion was made by Mrs. Khozeimeh to convene in Executive Session. The motion was seconded by Mrs. Dacek and carried unanimously.

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**Report on the Executive Session**

The Montgomery County Board of Elections convened in Executive Session at 5:45 p.m., pursuant to State Government Article, Sections 10-508(a) (l) (iii) and 10-508(a) (13).

The Montgomery County Board of Elections met in closed session on this date. The following members of the Board and staff were in attendance: Mary Ann Keeffe, Donice Jeter, Nancy Dacek, Nahid Khozeimeh, Graciela Rivera-Oven, David Naimon, Kevin Karpinski, Margaret Jurgensen, Sara Harris, Marjorie Roher, Leslie Woods, and Lisa Merino.

Ms. Roher updated the Board on the budget.

The Board discussed an election judge personnel matter.

With no further business, a motion was made by Mrs. Khozeimeh to adjourn the Executive Session. The motion was seconded by Mrs. Rivera-Oven and carried unanimously. The meeting was adjourned at 6:07 p.m.

**Adjournment**

With no further business Mrs. Jeter moved to adjourn the Regular Session. The motion was seconded by Mrs. Rivera-Oven and carried unanimously. The meeting was adjourned at 6:08 p.m.

Respectfully Submitted,

*Marjorie M. Roher*

Marjorie M. Roher  
Management & Budget Specialist III

APPROVED BY THE BOARD:



Mary Ann Keeffe  
Board President