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February 8, 2013

Conference Call

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 River-Oven
Nahid Khozeimih
Jacqueline Phillips
David Naimon

Legal Counsel:

Kevin Karpinski

Staff:

Margaret Jurgensen, Election Director
Alysoun McLaughlin, Deputy Election Director
Marjorie Roher, Management and Budget Specialist
Christine Rzeszut, Operations Manager
Lisa Merino, Election Aide II

Guests

Sara Harris
Michael Subin

Convene Meeting and Declare Quorum Present

Ms. Keeffe called the meeting to order and declared a quorum present at 4:34 p.m.

Additions/Changes to the Agenda

No additions or changes were made to the Agenda.

Discussion of State Legislation

The Board was provided information on House Bill 224/Senate Bill 279 prior to the meeting. The proposed Legislation will expand Early Voting hours and the number of locations. The Bill will allow qualified Maryland residents to register to vote or update their address at Early Voting locations as well as authorizing online requests. The County Executive has requested the position of the Montgomery County Board of Elections. Ms. Keeffe stated the information provided in advance was very helpful, and suggested that Ms. Jurgensen and Ms. McLaughlin go through the Bill. The Board will then decide if they will support, support with comments, or oppose the proposed the legislation.

Ms. Jurgensen reviewed the Bill and stated there were three elements of it.

The Board discussed line *3-305 - Allows same-day registration and change of address during early voting*. Ms Jurgensen stated the legislation specifies that a voter will be required to show a Maryland State Drivers License, a Maryland State Identification Card, or other official documents as established by the State Board of Elections in order to register during Early Voting. Ms. Jurgensen expressed concern that if a voter were to register in person or online, there is no way to verify identification. She supports the process for the proposed same day registration and, if the voter meets the requirements, the election judge shall issue the voter a voter authority card, have the voter sign, and issue the voter a ballot. Mr. Karpinski expressed his legal concern with forgoing the verification process, adding there is no process in place to verify social security numbers or cross reference with the MVA at the polling place. He added there is no apparent method to cancel the vote if a voter votes on a touch screen who should not have been allowed to vote due to improper identification. Mrs. Dacek agreed with Mr. Karpinski's concerns, adding her assumption that they would vote provisional. Mr. Karpinski stated the legislation indicates the voter would vote on the touch screen. Mrs. Jeter stated she did not have a problem with individuals registering and voting on the same day; however, requiring a Driver's License may be an issue since not everyone drives. She asked what other Maryland I.D. is available. She stated that trained personnel, other than an election judge, would have to process same day registrations.

Mrs. Dacek noted her experience with provisional ballots being rejected due to unverified social security numbers and her concerns that this may be an issue with same day registration. She recommended that same day registrants vote by provisional ballot. Mrs. Khozeimeh agreed. Mrs. Rivera-Oven agreed with Mrs. Jeter that it would be necessary to hire additional staff to process registrants, and questioned if legislation required two forms of I.D. to vote. Mr. Karpinski stated that an individual must show either a drivers' license, or Maryland State issued I.D. with their current address, or a copy of an official document that meets the requirements of the State Board, with their name and current address. Mr. Naimon asked if there are current requirements for registering to vote. Ms. Jurgensen responded the applicant must have a valid driver's license or social security number. Mr. Karpinski reminded the Board that social security number verifications are not done instantaneously; however, verification from MVA may have a quicker turnaround. Mr. Naimon said the State Board could change their

requirements for I.D. and would have to if they had same day registration since there is no ability to have a quick turnaround with verifications. Mrs. Jeter asked what the procedures are now and Ms. Jurgensen responded that social security number verification is entered on a daily basis all throughout the United States with a limit of 10,000 Maryland requests a day according to Maryland State regulations. The Board asked how long it takes to verify and Ms. Jurgensen responded from one to six weeks to verify. Mrs. Jeter asked who verifies, the State or the Local Boards. Ms. Jurgensen replied that the State Board batches all of the requests for social security numbers. Mrs. Dacek stated there will have to be an immediate verification; Mrs. Khozeimeh and Mr. Naimon agreed. Mrs. Jeter stated she does not think there will be thousands of people registering the same day.

Mrs. Rivera-Oven agreed, adding only a hand full of people will register the same day and not have the required I.D. She stated that the voters should still be able to vote on the touch screen and then verify social security numbers. Mrs. Khozeimeh disagreed; she stated once the vote has been accepted on a touch screen it is gone, Mrs. Dacek agreed. Mr. Naimon asked if the legislation defines "ballot" on the summary or Bill. Mr. Karpinski responded it does not; however, the Bill states "ballot". Mr. Naimon stated the summary may be wrong, and a provisional ballot may be interpreted as a "ballot". Mrs. Jeter suggested that BOE use one specific machine for first time registrants and Mr. Naimon added they could also choose to vote by provisional ballot. Mr. Karpinski stated the machine automatically scrambles the votes, they are untraceable once cast. Mr. Naimon stated that the type of ballot be specified and suggests Ms. Keeffe note there needs to be a definition of "ballot" or the ability to verify identification instantaneously. Ms. Keeffe agreed. Ms. Keeffe also agreed with Mrs. Jeter and Mrs. Rivera-Oven regarding the need for additional staff to focus on Early Voting Registration. Mr. Naimon and Mrs. Rivera-Oven agreed that needing a definition of ballot should not be commented, Ms. Keeffe agreed. Ms. Jurgensen recommended that the provisional ballot be called an optical scan ballot so that the votes don't need to be held for the Provisional Canvass.

The Board discussed line 9-305(a) – *Eliminates the requirement that a voter sign their absentee ballot request.* Ms. McLaughlin briefly described the proposed process and compared it to the current process used for the Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) which does not require a signature. Ms. McLaughlin stated it is unclear how the State would implement the new process. Mrs. Jeter stated she has no problem with the proposed legislation and compared it to making on-line purchases where no signature is required when using a credit card. There could be electronic signature capabilities if a signature is needed. Mrs. Jeter stated that the absentee ballot request would recommend the use of the voter identification number which would be like a credit card number. Ms. Phillips asked if the current process requires a social security number. Ms. Jurgensen responded that it did not. Mrs. Jeter reminded the Board that the absentee request would come from a previously registered voter. Ms. McLaughlin stated that articles have been written regarding concerns with the security of the software program. Mrs. Dacek disagreed with the proposed legislation, adding that thousands of local requests may be received and technology may not be prepared for such an overwhelming load. Mrs. Jeter stated her company has completed many paperless contracts for purchases where a signature is not required,

and other systems are in place to verify the individuals. Ms. Keeffe stated a comment should be noted regarding the need for proper technology to be put in place to verify requests. Mr. Naimon asked how we justify using the process for UOCAVA but not for local requests. Mr. Naimon referred to an Ohio State Law where military personnel had different Early Voting rules than others and the Court ruled it unconstitutional for them to be treated differently, and asked Mr. Karpinski if he had an opinion on whether different voting rules for military and non-military voters would be constitutional. Mr. Karpinski indicated that he had not reviewed the Ohio decision. Mr. Karpinski noted a signature is not currently required and is currently not verified. Mr. Naimon stated perhaps it should be a requirement and noted a signature can be verified by comparing the ballot signature and the voter registration card. Mr. Karpinski responded that the staff does not have a handwriting expert who could verify signatures since a signature can change over time. Mrs. Rivera-Oven asked what the current issues were with the no signature requirement. Ms. Jurgensen reminded the Board of concerns and issues discussed at the January Board meeting regarding Online Voter Registration (OLVR) with lost on-line applications, overwhelming number of duplicates, absentee requests arriving before registration applications, and applications combined together. Ms. Jurgensen stated she is not opposed to on-line requests; however, the technology may not be ready to launch to accommodate what may be an overwhelming response. Mr. Naimon responded that the State would have to find another vendor and upgrade the system. Ms. Keeffe again stated a comment will need to be added that the technology must be in place to accept the proposed legislation. Mrs. Rivera-Oven proposed the comment state the Board accepts the proposed legislation as long as the technology is available to support the additional volume created. Ms. Keeffe and Mr. Naimon agreed.

The Board discussed line 9-310 (B) – *If an Absentee Ballot is sent by an internet or facsimile transmission, the local board shall provide the voter with an envelope template, the oath prescribed by the State Board of Elections, and instructions for marking and returning the absentee ballot.* Ms. Jurgensen briefly explained the current process. She added there had been security controversy in the past regarding the online ballot marking tool as well as the ballot being sent via internet. Mrs. Dacek asked if the process were used anywhere else and Ms. Jurgensen responded that internet ballots were used recently for voters in New York and New Jersey during the Hurricane disaster with mixed reviews. The Emergency Internet Ballot was also used in Colleges throughout the United States - she added it is a fairly new process. Ms. McLaughlin reminded the Board these on-line ballots were used in the Presidential General Election and were printed on an 8 x 11 paper, adding all requests will have to be duplicated. Mr. Karpinski stated in 2010 domestic email ballots were received and criticism was received from a member of the Montgomery County delegation because the canvass took too long, primarily due to the time needed to duplicate the emailed ballots. Mr. Karpinski expressed his concern and suggested the Board take into consideration the effects the process may incur, noting the duplication process will increase and ballots will be duplicated not only for voters living outside of the Country but those living in Gaithersburg as well. Ms. Phillips recommended that a comment state the technology is not sophisticated enough at this time, but leave the door open for future use of the process. Mr. Naimon stated the technology is available for the current limited extent process, noting the issue is how much time and resources will be put in. He noted if the process is currently used for military and overseas voters, it should be used for everyone

else. He stated it should be about the voter's convenience not the local boards'. Ms. Keeffe stated funding should definitely be in place to use the process and most of it will have to go into the technology. She referred to the Election Administration Reports which referenced other counties using the process. Ms. Keeffe stated the comment should be that Maryland move forward and be in the forefront of the process but only with the assurance of technology availability.

The Board discussed line 10-301.1 (5) – *Changes the number of early voting centers (depending on county)*. Ms. McLaughlin stated the Legislation proposes Montgomery County go from five to eight Early Voting locations and be open from Thursday to Thursday for the Gubernatorial Elections and Presidential Primary with hours of 10:00 a.m. to 8:00 p.m. and Thursday to Thursday for the Presidential General Election with hours of 8:00 a.m. to 8:00 p.m. Mr. Naimon asked if it was known why the distinction was made. Ms. Keeffe stated perhaps due to more people voting in a Presidential General. Mr. Naimon expressed concern with the different hours causing voter confusion. Ms. Keeffe stated it would be the local board's responsibility to educate voters with the time changes. Mrs. Khozeimeh expressed concern with additional staff that will need to be hired. Mrs. Dacek expressed concern with voters voting too early and perhaps missing a big event, adding she does not support early voting.

Mr. Naimon made a motion that the Board support the Legislation with comments. The motion was seconded by Mrs. Khozeimeh.

The Board proceeded with discussion. Mr. Naimon stated he is aware of the differences of opinion regarding the acceptability of lines during early voting and there should be something done with regard to voters waiting in line from three to five hours to vote. He added having out additional early voting sites will help with the long lines experienced in the past election. Mr. Naimon understands it will be challenging to staff polls adding the Board of Elections will be up to the challenge. Mrs. Jeter stated she does not agree with the different hours proposed, and believes they should be the same. Ms. Phillips stated if the legislation passes with the on-line absentee request then the extended hours for early voting should be eliminated. Ms. Keeffe stated not everyone can vote the same way and indicated her support for offering a variety of options to voters. Mrs. Dacek stated that voting is a privilege and a duty and added the Bill is full of difficulties. She stated that being in the forefront is where we got in trouble with the machines and has also contributed to the move back to paper ballots. Mrs. Dacek stated she does not support the Bill; there are too many questions and issues that the State Board will have to answer. Mr. Naimon stated he has great respect for Mrs. Dacek's comments and agrees that there are many things that will have to be worked out. However, he disagrees with Mrs. Dacek's comment regarding the privilege and the duty to vote stating that voting is a constitutional right and the Board should do whatever it can to make it easier for a voter to exercise that right so that all people have the opportunity to vote. Mrs. Dacek stated that is why we have no excuse absentee voting and added that she respects Mr. Naimon's opinion. She added the cost will dramatically increase and the State will not pay. Mrs. Jeter stated she has no problem being forward and first, technology is here and we will have to work with technology. Mrs. Jeter stated she is not opposed to any of it. Ms. Phillips stated that voting is not like purchasing a pair of shoes on Amazon, voting is a sacred thing and we must be sure

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that it is secure and verifiable. Mrs. Dacek stated she is in favor of technology; the question remains, why are we going back to paper ballots. Mr. Naimon stated perhaps because the State said so. Mrs. Khozeimeh stated the technology is advanced but the issue is the fraud, the hacking, etc. Mrs. Jeter stated issues regarding fraud did not arise until 2001. Ms. Keeffe asked all those in favor of the motion to support the Bill with comments.

Ms. Keeffe, Mrs. Jeter, and Mrs. Rivera-Oven voted in support of the motion and Mrs. Dacek and Mrs. Khozeimeh voted against the motion. The motion passed three to two. Mr. Naimon requested his vote be noted although not counted and Ms. Keeffe agreed – Mr. Naimon was in favor the Bill and Ms. Phillips was not.

Staff was directed to prepare the position of the Board and distribute it for Board member approval.

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 adjourned at 5:35 p.m.

Respectfully Submitted,



Marjorie M. Roher
Management & Budget Specialist III

APPROVED BY THE BOARD:



Mary Ann Keeffe
President