

APPROVED

September 16, 2013

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
Nahid Khozeimeh
Graciela Rivera-Oven
Jacqueline Phillips
David Naimon

Counsel:

Kevin Karpinski

Staff:

Margaret Jurgensen, Election Director
Alysoun McLaughlin, Deputy Election Director
Laletta Dorsey, Program Specialist I
Betty Ann Lucey, Voter Services Manager
Ethmahn Peña, Office Services Coordinator
Marjorie Roher, Management and Budget Specialist
N. Christine Rzeszut, Operations Manager
Gilberto Zelaya, Outreach Coordinator
Lisa Merino, Election Aide II

Guests:

Cathy Kelleher
Dolly Kildee
Lewis Porter
Barbara Sanders
Rachel Silberman
Michael Subin
Joyce Temple
Venettia Uarn

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Convene the Board Meeting and Declare a Quorum Present

Ms. Keeffe called the Board Meeting to order and declared a quorum present at 2:34 p.m.

Public Comments

No Public Comments were received.

Additions/Changes to the Agenda

Ms. Jurgensen requested an Executive Session to review previous minutes and discuss a matter with Counsel. Ms. Keeffe agreed.

Approval of July 27, 2013, Public Hearing Minutes

Mrs. Khozeimh made a motion to approve the minutes. Mrs. Rivera-Oven seconded the motion and it carried unanimously.

Approval of the July 29, 2013, Board Meeting Minutes

Mrs. Khozeimh inquired about the letter mentioned in the minutes regarding Silver Spring Precincts 13-03 and 13-34, and requested it be attached to the minutes. Ms. Jeter provided the letter to Mrs. Khozeimh and it was incorporated in the minutes.

Mrs. Jeter made a motion to approve the minutes with the attachment. Mrs. Khozeimh seconded the motion and it carried unanimously.

Election Director Reports

Budget

Ms. Roher reported on the FY13 spreadsheet for the previous fiscal year, noting a \$234,899.00 deficit. Ms. Keeffe asked if the deficit included the State billing. Ms. Roher responded it did. Ms. Keeffe inquired how the deficit is handled; Ms. Roher stated a year end County Council or County Executive transfer of funds will handle the deficit. She stated that the Office of Management and Budget (OMB) is aware of the deficit, noting that the FY13 expenditures were taken into consideration when submitting the FY15 future fiscal impact to OMB in preparation for the FY15 MARC. Mrs. Khozeimh noted the deficit is primarily due to overtime. Ms. Roher agreed, adding that the additional hours were from the Runbeck error, Hurricane Sandy, and the large number of petitions received.

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Ms. Roher reviewed the current fiscal year expenditures through September 16, 2013. Ms. Keeffe thanked Ms. Roher.

Voter Registration

Ms. Jurgensen reported that 11,000 records were transferred to the Board staff to process through the Electron Registration Information Center (ERIC) Project. She reported that the Maryland State Board of Elections conducted, in accordance with Maryland State Law, a data records match with other states - Colorado, Virginia, Delaware, Nevada, Utah, and Washington. The data was examined for death records and duplicate voter registrations with the other state registration data bases. The match is not just a one to one match but a match of various state voter registration, motor vehicle, and Social Security records. Registration records are not removed but confirmation mailings, in accordance to the Federal National Voter Registration Act (NVRA) and SBE regulations, are being conducted. This is the same process used with the National Change of Address (NCOA) data match.

The voters with out-of-state address changes will receive a confirmation mailing. If the card is returned as undeliverable, then the voter will be placed in an inactive status. If the card is delivered to the new address, then the voter needs to return the post card with the corrected address. If the card is not returned after 21 days, then MD Voters will batch the non-responsive data and shift data from active to inactive. Inactive voters are permitted to vote but are required to present identification at the polling place to verify their address or complete a change of address/provisional ballot application. Ms. Jurgensen briefly described the process to the Board. Ms. Phillips requested a further definition of an inactive voter. Ms. Jurgensen provided the information. Ms. Keeffe asked how long a voter is allowed to remain in an inactive status. Ms. Jurgensen responded for two Federal Elections. Mr. Karpinski added that a registered voter must not have voted in a Federal Election nor signed a petition (signing a petition will reactivate an inactive voter). Ms. Jeter asked how many inactive voters are currently on the rolls. Ms. Jurgensen responded about 23,000; Ms. Rivera-Oven asked if it included the 1,200 deceased, Ms. Jurgensen responded yes, and clarified that they may or may not be deceased (awaiting verification).

Ms. Jurgensen reported that a letter from Election Integrity was received and data will be reviewed upon completion of the ERIC project and the NCOA updates to the MDVoters data base in accordance with SBE directive.

Ms. Keeffe stated an issue regarding 17 year old registrations has been brought to her attention, specifically with Mr. Naimon's son. She explained that Mr. Naimon has twin 17 year olds with birthdays in December. An issue arose when one child pre-registered to vote last year prior to the General Election (early October) and when registration re-opened she received her Voter Notification Card (VNC). His son registered in July of this year and had not received a VNC or a reply. Mr. Naimon then inquired with Ms. Jurgensen who consulted with SBE. According to SBE, it is not processing 17 years olds into the voter rolls due to municipal elections that are currently being held in Montgomery County (Mr. Naimon does not live in a municipality). Mr. Naimon added that, to his knowledge, 16 and 17 year olds may vote in the City of Takoma Park municipal election. He expressed concern with not allowing 16 and 17 year olds to register to vote and its impact on the Takoma Park election, in addition to having no legally valid reason for his son and others like him not being able to register to vote.

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Mr. Naimon stated Ms. Keeffe consulted with Mr. Karpinski who looked at the Federal Law and State regulations and could not find why there would be a delay regarding municipal elections. He proceeded to state that there is a current law that requires the Local Board of Elections' (LBE) Director to respond to a voter application with either a VNC or an explanation as to why someone is not able to be registered. Mr. Naimon stated a letter was sent to his son on Montgomery County Board of Elections' letterhead, unsigned, which stated he was not being registered because he is not old enough to vote in the next election. This is not true since his 18th birthday is this December and the next election is in June 2014. Mr. Naimon expressed his concern with the letter's inconsistency with what the law requires for 17 year olds to be eligible to register if they turn 18 by November 4, 2014. Ms. Keeffe contacted the State and received no satisfactory response regarding the issues, although, in her opinion, it may be related to MDVoters. Ms. Phillips expressed her ongoing concern with the State making decisions for LBEs and the SBE role.

Mr. Naimon noted that according to the statute the Board may advise the Election Director on what should be done and the State may then respond. Ms. Keeffe asked if a State representative would be attending the Board meeting and Ms. Jurgensen responded someone would attend the October 21, 2013, meeting. Ms. Phillips questioned the reason for the State representative's visit and how beneficial it would be. Mr. Karpinski stated that when an application is received it is the obligation of the Board to notify the applicant that the application has been received; the statute indicates the notification may be made via the issuance of a VNC. Ms. Rivera-Oven expressed concern with the 17 year old registrants being held "hostage" until the municipal elections are over.

Ms. Jurgensen stated "The logic of MDVOTERS is to look at the election dates listed in the system to determine whether or not an individual will meet the age qualification for that election. SBE staff puts in the state elections but once a LBE puts in a municipal election, the dates of municipal elections then shift to that election, county wide, to determine qualification for eligible voters. Local Boards of Elections are notified in January of each year to enter into the local board data base all the municipal elections to be held and the date of the election."

Ms. Keeffe inquired as to how many 17 year olds fell into this category of having filled out registration form, were found to be eligible, but have had no notification from the Board of Elections. Ms. Jurgensen responded that there was 2,942 16 and 17 year olds.

Mr. Naimon suggested that one letter be sent to individuals notifying them of receipt of their application and their eligibility to be registered to vote, and another requesting a legal opinion from the Attorney General's office regarding the legality of delaying the 17-year-olds' voter registration due to the municipal elections being held elsewhere in the county. Ms. Keeffe and the Board agreed and also requested that a letter be sent to the SBE formally asking for legal requirements and if there is possibly a "work around." Staff agreed to draft the letters. Ms. Keeffe stated she would like a response from the SBE and requested that this issue be placed on their next agenda. The Board agreed there was no further reason for a State representative to attend the October Board meeting. Mr. Naimon thanked the Board and Ms. Jurgensen.

*** Ms. Kildee left the room at 3:15 p.m. ***

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State Board of Elections

Ms. Jurgensen reported that staff has participated in regional training on the new audit process that the SBE staff developed for the local boards of elections to enact. The changes were triggered by the latest State Legislative Audit and will be tied to the overall audit for future elections. The local boards of elections are expected to comply with State and Federal regulations. She added that the BOE will need to perform the certification of the election simultaneously with the audit. In the past, the audit was done eight to ten weeks after certification.

Ms. Jurgensen reported that she attended a National Certification Course: Resource Management - Understanding the True Cost of Elections. Both she and Ms. McLaughlin attended Election Center committee meetings and their Annual Conference.

Board Attorney Report

Mr. Karpinski reported that the MOUs for the early voting sites (not site specific) have been forwarded to the County. Once the Board has made a final decision on the locations, the MOUs will be personalized and forwarded to the County.

Mr. Karpinski stated notification was sent to the Board regarding the FOP filing for a petition for *writ of certiorari* in the Court of Appeals, which has been denied. The case will proceed in the Court of Special Appeals with no involvement from the Montgomery County Board of Elections. We are still waiting for the Court of Appeals to render its decision regarding the petition case argued one year ago.

Mr. Karpinski corrected his statement regarding motions made by substitute Board members given at the July Board meeting – his statement, “Substitute Board members can make a motion and second motions” was incorrect. According to the Montgomery County Board of Elections Bylaws enacted by previous board members in 2007, substitute Board members do not have the right to make or second a motion. Mr. Karpinski apologized for his error. Ms. Keeffe asked how other Board’s Bylaws read. Mr. Karpinski responded that he has researched other County websites, but no other Board placed their Bylaws on the website. He will provide the process used by other Boards to Ms. Keeffe. Mrs. Jeter inquired if this error affected any motions passed by the Board, Mr. Karpinski responded that since a majority of the voting members of the board adopted the past motions made by substitute members, there was no need for the Board to revisit its previous actions. Ms. Keeffe thanked Mr. Karpinski.

Old Business

Follow Up Issues from July Board Meeting

No issues were discussed.

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Early Voting Sites

Ms. Jurgensen reported that the construction date has been changed to November 1, 2014, for the Executive Office Building (EOB) and indicated that the EOB would be available as an early voting site for the 2014 elections.

Ms. Jurgensen stated that staff has received letters from Friendship Heights declining the use of their Community Center for Election Day and Takoma Park declining the use of their facility for Early Voting. If chosen by the Board, the Silver Spring Civic Center would host early voting in the Ellsworth and Spring rooms for the Primary and General Elections. Ms. Jurgensen responded to the suggested use of Holiday Park mentioned in a previous Board meeting, noting it would require unexpected costs and would inconvenience many seniors as it is the "largest senior center" that serves as a nutrition site.

Mr. Zelaya reviewed the signal strength testing for all proposed early voting sites. The Board discussed the poor connectivity found at some of the sites. During the extended discussion regarding Long Branch Community Recreation Center, Mrs. Jeter asked if the connectivity could be boosted; staff responded they cannot jump on to another service due to secure connection requirements.

Mrs. Rzeszut reviewed a presentation of the Wheaton Community Recreation Center as an Early Voting Center. Mrs. Dacek requested an accurate count of the number of parking spaces for the facility. Staff will provide the information.

The Board decided to eliminate the Board of Elections and Upper County Community Recreation Center as early voting sites and instead identify them as alternate sites. Mrs. Jeter stated that she is in favor of keeping all the existing sites; no action was taken by the Board. Mrs. Dacek asked the Board to consider the use of Mid-County instead of Bauer Drive as an Early Voting site, since it is further away from the EOB and the facility is larger and newer - no action was taken by the Board. Mrs. Dacek stated that geographic distribution is very important to her when considering a site and Ms. Phillips agreed. Mr. Naimon stated that Metro access is important to him. Ms. Keeffe commented that it is the very nature of Metro to have stations located near businesses and shopping and, unfortunately, stations don't seem to be located near facilities usable for voting.

New Business

The 2014 Board Election calendar was provided. Ms. Jurgensen stated that the October 7, 2013, County Council meeting has been rescheduled for October 14, 2013. She reported that Ms. McLaughlin will be attending the resolution of voting rights meeting on September 24, 2013.

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Future Meetings

- A. October 21, 2013 – 2:30 p.m.
- B. November 18, 2013 – 2:30 p.m.
- C. December 16, 2013 – *Tentative*

Mrs. Khozeimeh made a motion to move to Executive Session. The motion was seconded by Mrs. Jeter and carried unanimously. The Board convened in Executive Session at 4:05 p.m.

*** Cathy Kelleher, Lewis Porter, Barbara Sanders, Rachel Silberman, Michael Subin, Joyce Temple, and Venettia Uarn left the room at 4:57 p.m. ***

Report on Executive Session

The Montgomery County Board of Elections convened in Executive Session at 4:58 p.m., pursuant to State Government Article, Section 10-508(a)(7) and 10-508(a)(13) to review minutes from a previous Executive Session and consult with legal counsel.

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, Nancy Dacek, Donice Jeter, Nahid Khozeimeh, Graciela Rivera-Oven, David Naimon, Jackie Phillips, Kevin Karpinski, Margaret Jurgensen, Alysoun McLaughlin, Marjorie Roher, and Lisa Merino.

The Board consulted with legal counsel regarding a polling place issue.

The Board reviewed the July 29, 2013, Executive Session minutes.

With no further business, Mrs. Khozeimeh moved to adjourn the Executive Session. The motion was seconded by Mrs. Jeter and carried unanimously. The Board meeting reconvened in regular session at 5:05 p.m.

Executive Session Minutes

A motion was made by Mrs. Jeter to approve the minutes. The motion was seconded by Mrs. Rivera-Oven and carried unanimously.

Ms. Phillips stated she reviewed the DOD Grant and has several concerns. She questioned the SBE's process and whether they consult with the LBEs. Ms. Phillips recommended that the Board take a more active role with SBE.

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Adjournment

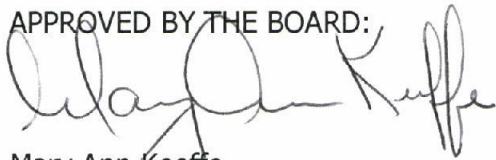
With no further business, Mrs. Khozeimeh moved to adjourn the regular session. The motion was seconded by Mrs. Rivera-Oven and carried unanimously. The meeting adjourned at 5:11 p.m.

Respectfully Submitted,

Marjorie M. Roher

Marjorie M. Roher
Management & Budget Specialist III

APPROVED BY THE BOARD:



Mary Ann Keefe
President