

APPROVED

**MONTGOMERY COUNTY BOARD OF ELECTIONS' MEETING by
CONFERENCE CALL**

18753-210 North Frederick Avenue, Gaithersburg, Maryland

August 17, 2020

In Attendance Via Phone:

James Shalleck (on site)
Nahid Khozeimeh, Acting President
David A. Naimon, Secretary
Diane Nash Dillon
Elise Barnes
Jacqueline L. Phillips
Alan Banov

Board Attorney

Kevin Karpinski

Staff:

Margaret Jurgensen, Director
Alysoun McLaughlin, Deputy Director
Christine Rzeszut, Operations Manager
Kera Bumbray, Management and Budget Specialist (on site)
Lisa Merino, Administrative Specialist (on site)
Janet Ross, Information Technology Manager (on site)
Dr. Gilberto Zelaya, Outreach Manager

Audio of the meeting can be found on You Tube at the link below:

<https://youtu.be/QhQ0K6FH-o>

BOARD OF CANVASSERS

Convene the Board of Canvassers, Roll Call and Declare Quorum Present

Board President Mr. Shalleck announced to participants that they would first be meeting as the Board of Canvassers because they must deal with some untimely ballots. He called the Board meeting to order and declared a quorum present at 2:33 p.m.

Untimely Ballots

Mr. Shalleck remarked that the Canvassers' meeting was called because the BOE had received untimely ballots from the Primary Election. Ms. Jurgensen and the Board attorney, Mr.

Karpinski, said he had looked through them.

Mr. Shalleck asked whether there was a motion to reject the untimely ballots received by BOE.

Ms. Khozeimeh made a motion to reject the untimely ballots. Mr. Shalleck asked if there was discussion; Dr. Barnes seconded the motion to reject the untimely ballots; Mr. Shalleck called the vote. The untimely votes were unanimously rejected.

Adjournment

Mr. Shalleck asked for a motion to adjourn the Board of Canvassers, Ms. Khozeimeh made the motion to adjourn the Board of Canvassers; Mr. Naimon seconded the motion; the motion was passed unanimously.

Mr. Shalleck declared that meeting adjourned and returned to the Board of Elections meeting with a quorum.

BOARD MEETING

Convene Board Meeting and Declare Quorum Present

Board President Remarks

Board of Elections meeting opened with remarks by Mr. Shalleck on behalf of the Board thanking Ms. Jurgensen and the BOE Staff for working under difficult conditions. He thanked Mr. Karpinski for his assistance, as well.

Additions/Changes to Agenda

Mr. Shalleck noted an addition at the request of Ms. Jurgensen to discuss the election media budget, to be discussed under new business.

Disclosure of Campaign Contributions

Mr. Shalleck said that in accordance with the by-laws, he was making a contribution disclosure --that he attended two separate 'lawn parties' events on July 25th and August 8th and at each one wrote a check for \$25 to the MCGOP - the Montgomery County GOP.

Mr. Shalleck asked whether there are any other disclosures.

Mr. Naimon said that he had understood, after a conversation with Mr. Karpinski, that Board members are not required to disclose contributions to political parties of. Mr. Shalleck said that had also been his understanding, but he was complying with the by-laws second 4.2 Political Activity.

Mr. Naimon said that he wanted to ask Mr. Karpinski again, because he had understood that the newer by-laws did not include political party donations as required disclosures; and if they are, Mr. Naimon has some disclosures to make, but would need time to put a list together. Ms. Phillips said she, too, had understood that these donations are not required and that if this is the case, she will have disclosures to make, too. Mr. Shalleck said that that had been his understanding, too, but he thought the bylaws may require it.

Mr. Shalleck read the sentence in the by-laws that he thought applicable in Section 4.2: 'a member may attend campaign fundraisers held by candidates, political parties and ballot issue committees provided the member discloses this to the Board and does not publicly indicate that he or she is a member of the Board.' Mr. Shalleck went on to say that "I had spoken to Kevin and his view, and I will ask him to speak, that if we go to a fundraiser, even if the party is having it, that we have to make that disclosure, and so I have made it."

Mr. Naimon said that would represent a change of position.

Mr. Karpinski said that he thought the Board had changed the bylaws to reflect that if Members made a contribution to a party, they would not need to disclose it, but that if they did so when attending an event, they have to disclose that.

Mr. Naimon asked Mr. Karpinski if he [Mr. Karpinski] thought that according to the bylaws if one made a donation, but did not attend the related event, one need not disclose it; but if one attends the event it must be disclosed.

Mr. Karpinski said that this is how the rule reads now; if the Board wants it otherwise, they will need to change it.

In discussion other Board members discussed the intent of the altered by-laws. Whether attendance by remote access qualifies as attendance or not was discussed.

Mr. Karpinski reiterated: If a Member merely writes a check to a political party, there is no need to disclose; if one attends an event and *then* writes a check, one must.

Mr. Naimon suggested that the Board review the recording of the meeting last summer at which the bylaws were amended and see what was decided and whether that differs from what Members recollect and whether what was done is what was intended. Mr. Naimon also said that with attendance this year being by Zoom and other apps, they need to decide what it is that triggers disclosure, and in his opinion donations to political parties need not be disclosed.

Mr. Shalleck asked Ms. Merino to add this issue to next month's agenda. Mr. Karpinski said he will review the matter before that meeting. Mr. Karpinski will provide an update before the next meeting.

Public Comments

Ms. Jurgensen said an e-mail and a letter from Council Member Evan Glass were received, and Ms. Jurgensen made it available to the Board members to read.

Senator Cheryl Kagan attended by phone, and thanked the Board and Staff for work, and spoke to discussions with the State BOE. She expressed the advice not to add additional sites other than high schools already in use. She recommends using Bohrer Park and not adding Gaithersburg HS since they are so close. She also suggested we find a better location than the Rockville Executive Office Building as a voting site. She suggested closing the EOB polling place and shifting to Richard Montgomery HS in its place.

Mr. Naimon responded that he disagreed with Senator Kagan about moving from the EOB for the General Election since it is known as an Early Voting site and that he advocated keeping both Bohrer Park and Gaithersburg HS as voting sites in case there were long lines at one or the other. Further discussion is needed about parking and access.

No additional public comments.

Elections Director Status Report [24]

Personnel

Ms. Jurgensen reported that the effort to fill the Voting Service Manager position was moving forward; the budget freeze has been lifted and staff is in the process of hiring recruiters, trainers, and data processing staff. Some existing trainers are assisting the voter services staff to process applications.

Ms. Mc Laughlin added that an appeal has gone out to request that County employees on administrative leave because of COVID closures come to work for BOE.

Ms. Jurgensen: Michelle Gonda was recognized by the County for her efforts in the June Canvass.

Budget

Ms. Bumbray reported that the expenditures for FY 2020 are about \$600,000 over budget; the overage was less than expected because there were fewer early voting sites and because some expenses were lower what was allocated due to COVID adjustments.

A request for additional State billing reduction was rejected, and State charges were higher than expected. CARES funds were used for some equipment and mailing costs, but the CARES funds did not cover the full cost.

Vote-by-mail ballot expenses were above what was budgeted for mailing and printing. Ballots

and mailers already printed had to be replaced when the Governor's emergency declaration changed the Primary Election plan.

Ms. Jurgensen said that In November the County deficit in budgeting for BOE expenses was about \$1.4M.

Ms. Bumbrey presented the draft budget for 2021.

Mr. Naimon asked about the charge from the State BOE for "program management" and requested an effort to get greater specificity about what was being purchased under this heading.

Ms. Jurgensen said that her staff has identified this issue, and that that the County is aware of a structural deficit, and that this policy issue must be dealt with at the legislative level.

The consensus was to address this issue in greater detail after the election.

VOTER REGISTRATION REPORT [44:45]

Ms. Jurgensen explained:

- Green Party petition is complete; Libertarian petition under process. Nine District County Council Petition will be addressed later in meeting by Mr. Karpinski;
- Our Processing Centers and Vote site proposals are due to SBE by August 24;
- Montgomery County submitted PPE requests consistent with current logistical requirements;
- Our decision to participate in call center and application processing center is due by August 14; we will participate in the call center;
- Pollbook software will be updated in September; to get precinct-based election results will require five weeks of proofing;
- Security costs are to be borne by local governments;
- Montgomery County is requesting additional drop-boxes for all voting centers, for a total of 41, but she is not sure she can obtain 41 boxes; it depends on the manufacturer, though the County is responsible for their cost;
- Ms. Rzeszut is coordinating with local law enforcement for increased security under current conditions;
- Early Voting is now scheduled for October 26-November 3; on the evening of November 2 the scanners and BMDs will be removed and replaced with scanners and BMD's will be programmed for Election Day to enable timely reporting of Early Voting results. The e-pollbook issue has been resolved.

Board Attorney Report [52:52]

Mr. Karpinski reports that agreements for access and use of voting facilities are being revised to reflect the new voting schedule, and will be submitted to the County Council, City of

Gaithersburg, Sandy Spring Volunteer Fire Company, and the City of Rockville for review and approval.

He noted that a question has arisen whether someone can drop another voter's ballot into a dropbox. In his view, the statute governing the use of an agent to pick up and deliver a ballot) is not applicable when the voter does everything himself or herself with the ballot except mail it or deliver it to a dropbox.

Mr. Karpinski was asked for an opinion about whether an individual's ballot can be delivered by another person or organization to a drop box, USPS, or BOE: His opinion is that there is nothing in Election Code Section 9-307 to prevent this from being done on behalf of a voter who does not need assistance in completing his/her ballot, when the voter does everything to complete the ballot process except returning it.

Ms. Dillon asked whether this was improper ballot "harvesting;" Mr. Karpinski said he saw nothing in 9-307 to prevent it, and there is no way even to enforce against such a practice. The signature of anyone who assists a voter continues to be required to be included in the envelope.

There was a discussion of safeguards for voter assistance in nursing homes, and the efforts BOE has made to ensure the integrity of the vote for voters in congregate living situations. Ms. Jurgensen reported that staff has educated nursing home staffs and residents to protect the integrity of the vote, while providing residents with access to the ballot.

2020 Presidential General Election - General Election Plan [1:07]

Mr. Shalleck directed attention to the written election plan Ms. Jurgensen distributed and is about to present. He suggested a procedure: that she present the entire existing plan. He will move to vote on her recommendations and, following a second, the board will discuss and make any changes following the plan.

Ms. Jurgensen reports that the Governor has announced that the Presidential General Election will be conducted by mail; ballot applications will be mailed to each registered voter and returned to BOE to be processed; voting will occur October 26 - November 3.

In November 2019 the Board approved 11 early voting sites in Montgomery County

*See document entitled *Proposed Presidential Election Voting Locations*

<https://www.montgomerycountymd.gov/Elections/Resources/Files/pdfs/Board%20Information/Board%20Meeting%20Documents/2020/Aug/August%2017%202020%20polling%20locations%20PG2020%20rev%2008-15.pdf>

She also proposed that the Election Day voting centers would include those 11 Early Voting centers plus the two alternate Early Voting centers (White Oak Rec Center and Dacek Rec Center in North Potomac), the County high schools; the North Bethesda Conference Center at

the Marriott on Marinelli Road, near Rockville Pike.

Ms. Jurgensen described the COVID-19 sanitation and protection plan for staff, volunteers, and voters as the workspace is prepared for a By-Mail election. Plexiglas has been ordered for the BoE HQ and all EV sites and proposed Election Day centers.

Hiring and training for the election has been resumed since the hiring freeze was lifted, with training including interactive online components.

Runbeck will be mailing ballot applications; Sea Change will be mailing ballots.

Mail intake will be handled by Mary Beth Habel and Chris Rzeszut.

There has been a good response to recruiting for Election Judges. We have received over 200 applications, including some state government employees.

Mr. Shalleck made a motion to approve the plan as presented by Ms. Jurgensen, Election Director, with the exception of the Marriott site which requires 48 hours additional notice before it can be voted on.

Mr. Naimon and Ms. Phillips seconded the motion.

Discussion [1:40]

Ms. Jurgensen explained that she proposed using the North Bethesda Marriott Conference Center because it is close to a Metro stop, many high-rise condos and apartment buildings, and the multi-use Pike and Rose development.

Mr. Naimon asked whether COVID measures can be highlighted on the BOE website to assure potential recruits that their health and safety will be protected. Ms Jurgensen said yes, as space allows.

Mr. Naimon referenced the tradition of having election judges hired as canvassers and asked whether it is feasible to hire canvassers who have not been trained as judges, Ms Jurgensen said that would depend on funding.

Mr. Naimon asked how soon the location and number of ballot drop-boxes will be publicized. Ms. Jurgensen said that State Board of Elections approval will determine how soon this can be done; the State Board is waiting to hear from the drop-box manufacturer to know what is feasible.

Ms. Dillon asked that the website and other communications make clear the availability of ballot drop-boxes and voting sites at all locations for all registered voters. Ms. Jurgensen said this is being done.

There was discussion about paying both canvassers and election judges \$100/day hazard

payment or \$100 hazard pay for their entire effort. Mr. Naimon pointed out that canvassers may have a longer period of possible exposure than election judges. Mr. Shalleck agreed that canvassers should be paid \$100/day as hazard pay. On Mr. Karpinski's recommendation, the Board decided to table further discussion of this issue until Thursday, August, 20.

Mr. Shalleck called the vote on the motion to approve the plan as presented by BOE staff; the vote was unanimous to approve the plan for the General Election as presented. [2:04:17]

There will be a call-in meeting on Thursday, August 20 at 4:30 p.m. to vote on Marriott Conference Center and canvassers' hazard stipend.

New Business

Outreach [2:07]

Dr. Zelaya and Ms. Jurgensen presented the proposed budget allocations for outreach. Dr. Zelaya recommended keep the current plan, but re-allocating \$5,000 from Telemundo to Radio America (which has Spanish-language programs) and moving \$4,459 in funds allocated from Twitter to Google Adwords, where the response was quite robust.

Dr. Zelaya responded to questions about how the recommendations were developed, and how diverse communities use digital and broadcast media to access information about Montgomery County elections.

Ms. Phillips stated that she and Dr. Barnes had spent much time in discussion with Dr. Zelaya, and she expressed confidence in the choices Dr. Zelaya presented as an informed and effective use of limited funds.

Dr. Barnes made a motion to accept the media budget proposal as presented; Ms. Phillips seconded the motion.

Mr. Banov asked for further discussion about local ad buys.

Mr. Shalleck called for a vote on Dr. Barnes's motion to accept the media budget as presented; the motion passed unanimously.

Action Items [2:28:34]

There were no action items.

However, Mr. Naimon requested that the Board support a letter sent by Senator Cheryl Kagan to the State Board recommending that the State absorb all the costs of the mail-in ballot requests.

Ms. Khozeimeh made a motion to support this letter from Senator Kagan; Dr. Barnes seconded the motion; the motion passed unanimously.

Approval of Minutes [2:30:26]

The minutes of July 1, 2020 were unanimously approved.

Approval of the minutes of June 29, 2020, was suspended until the meeting on Thursday, August 20.

Future Meetings

Thursday, August 20 at 4:30

Monday, September 21 at 2:30

Adjournment. [2:36:35]

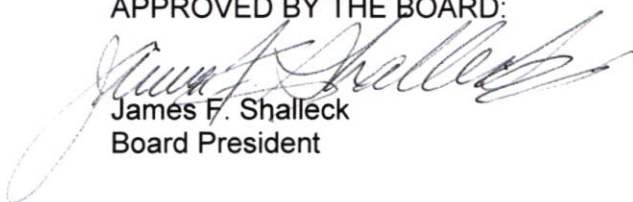
Ms. Khozeimeh made a motion to adjourn; Ms. Phillips seconded it, and the motion was unanimously approved.

Respectfully Submitted,



Lisa Merino
Administrative Specialist II

APPROVED BY THE BOARD:



James F. Shalleck
Board President