

**State of Maryland**   
**State Board of Elections – April 12, 2018 Meeting**

---

Attendees: David McManus, Chair  
Patrick J. Hogan, Vice Chair  
Michael R. Cogan, Member  
Kelley A. Howells, Member  
Malcolm L. Funn, Nominated Member  
Linda Lamone, Administrator  
Andrea Trento, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Donna Duncan, Assistant Deputy, Election Policy  
Keith Ross, Assistant Deputy, Project Management  
Paul Aumayr, Director, Voting System  
Jared DeMarinis, Director, Candidacy and Campaign Finance  
Mary Wagner, Director, Voter Registration  
Erin Perrone, Director, Election Reform and Management  
Sarah Thornton, Technical Writer, Project Management Office  
Cortnee Bryant, Deputy Director, Election Reform and Management

Also Present: David Garreis, Deputy Director, Anne Arundel County Board of Elections  
Katie Berry, Election Director, Carroll County Board of Elections  
Michael Detmer, President, Dorchester County Board of Elections  
Tom Corkran, Vice President, Dorchester County Board of Elections  
Gwen Dales, Election Director, Dorchester County Board of Elections  
Jessica Noranbrock, Dorchester County Board of Elections  
Kevin Keene, Election Director, Harford County Board of Elections  
Stephanie Taylor, Harford County Board of Elections  
Allison McCord, Harford County Board of Elections  
Margaret Jurgensen, Election Director, Montgomery County Board of Elections  
Meryl Governski, Botes, Schiller Flexner  
Mark Stichel, Astrachan Gunst Thomas  
Ralph Watkins, League of Women Voters – Maryland  
Michael Adams, Republican Governors Association  
Damon Effingham, Common Cause Maryland

**DECLARATION OF QUORUM PRESENT**

Mr. McManus called the meeting to order at 2:00 pm and stated that there was a quorum of four members present. He reported that Gloria Lawlah resigned from the State Board of Elections after the last meeting, and Malcolm Funn has been named as her replacement. Mr. McManus introduced Mr. Funn and stated that, since he has not yet been sworn in, he will not be voting at this meeting. He stated that the meeting was being recorded.

**RATIFICATION OF MINUTES FROM FEBRUARY 2018 MEETING**

Ms. Howells made a motion to ratify the approved minutes from the February 22, 2018, meeting, and Mr. Hogan seconded the motion. The motion passed unanimously.

**ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

## **ADMINISTRATOR'S REPORT**

### **1. Announcements & Important Meetings**

#### League of Women Voters' Legislative Day

On March 6<sup>th</sup>, Ms. Charlson and Ms. Lamone attended the luncheon of the League of Women Voters' Legislative Day. Ms. Charlson was the luncheon speaker and shared information about how Maryland election officials protect elections systems and data. About 50 members of the League were present.

#### Maryland Association of Counties' (MACo) Legislative Committee

On March 7<sup>th</sup>, Ms. Charlson and Shafiq Satterfield provided to the members of the MACo's Legislative Committee an overview of and recent findings from the computer assessments we perform on all computers connected to State election systems and requested each county's support of its local board of elections. We hope to work with MACo and the counties' Chief Information Officers to support the local boards and protect State and county systems and data.

#### Election Directors' Meeting

On March 8<sup>th</sup>, we hosted an in-person Election Directors' meeting. Matthew Weil from the Bipartisan Policy Center discussed the Center's Election Line Data Collection Program and encouraged the local boards to participate in the 2018 General Election. We also introduced the management team for the statewide staffing contract, provided updates on the voting system and electronic pollbooks, demonstrated how individuals working under the temporary staffing contract will be managed, and gave updates on legislation. A summary of this meeting was included in the board meeting folder.

On April 12<sup>th</sup>, we hosted an Election Directors' meeting by conference call. A summary of this meeting will be provided when it is complete.

#### Maryland Association of Election Officials' (MAEO) Annual Meeting

MAEO hosted its annual meeting in Ocean City from March 13<sup>th</sup> - 16<sup>th</sup>. The conference was well attended by State and local election officials. SBE staff members presented a variety of information, including post-election audits, voter registration and absentee voting at nursing homes and assisted living facilities, electronic pollbooks, and legislation being discussed during the 2018 Legislative Session. One of the most talked about sessions was the session explaining the characteristics of different generations and how individuals in each generation obtain and process information.

#### Center for Internet Security - Handbook for Elections Infrastructure Security

On March 15<sup>th</sup>, Ms. Lamone attended an event hosted by the Center for Internet Security and the University of Maryland's School of Public Policy to announce the release of the Center's *Handbook for Elections Infrastructure Security*. This report describes various election systems and the risks associated with using them and offers critical activities and best practices to mitigate the risks associated with these systems. We reviewed the recommended activities and best practices and are pleased to report that we have implemented most of them. We are evaluating the remaining activities and best practices. A copy of this report was provided in the board meeting folder.

#### Pre-Primary Table Top Exercise

On March 19<sup>th</sup>, Ms. Lamone and approximately 10 SBE staff members participated in an all-day table top exercise. This exercised provided us with the opportunity to practice

responding to a specific situation - ransomware attack the day before the election and on election day, access to the Internet was restricted - and reviewing how we responded. We intend to conduct another exercise before the 2018 General Election.

#### Belfer Center's Defending Digital Democracy's "TTX Train the Trainer" Conference

On March 27<sup>th</sup> - 28<sup>th</sup>, Ms. Charlson, Ms. Perrone, and Guy Mickley, Election Director for the Howard County Board of Elections, participated in table-top exercise (TTX) and received training on how to conduct this type of an exercise. Based on what they learned, they hope to conduct a statewide TTX for the local boards of elections in August. A summary of the two-day event was provided in the meeting folder.

#### Help America Vote Act - Federal Funds for Election Security

The federal Omnibus Appropriations Act of 2018 included a \$380 million appropriation for election security. Over the next several weeks, we will receive \$7,063,699 to improve election administration, including enhancing election technology and making election security improvements. One of the conditions associated with this funding is that we have to spend \$353,185 of State funds over the next two fiscal years on the same type of expenses.

## **2. Election Reform and Management**

#### Election Judges' Manual

All of the local boards of elections have submitted their customized Election Judges' Manuals, and these manuals have been approved for the upcoming election.

#### Election Judge Training

Most of the larger local boards of elections began training election judges earlier this month with the exception of the smaller local boards who will begin training at the end of April.

#### Supply Orders

Various supplies, such as provisional ballot applications, absentee envelopes, "I Voted" stickers, and contingency supplies, have been ordered and delivered to the local boards in preparation for the upcoming elections. Ms. Perrone stated that, in response to Ms. Howells' questions, she had information about the cost of "I Voted" stickers. Ms. Howells stated that she can obtain that information after the meeting.

## **3. Voter Registration**

#### MDVOTERS - Software Release 6.8

Release 6.8 was moved into production the weekend of April 7<sup>th</sup>. Enhancements were made to the election judge and absentee candidate modules and the module for processing reports from the Electronic Registration Information Center (ERIC).

#### Electronic Registration Information Center (ERIC)

Since joining ERIC in 2012, the total number of voter registration records impacted is:

- Cross State Report (another member state has newer information than MD): 265,585
- Potential Duplicates: 7,754
- In-State Updates (more recent information at MVA): 194,694
- Deceased (according to the Social Security Administration): 46,421
- NCOA (USPS National Change of Address program): 600,433

#### MVA Transactions

During the month of March 2018, MVA collected the following voter registration transactions:

New Registration - 8,602  
Last name changes - 1,464

Residential Address Changes - 10,109  
Political Party Changes - 1,804

#### Non-Citizens

Removal of non-citizens - 15

Removal of non-citizens who voted - In progress

Removal of non-citizens who voted multiple times - In progress

Non-citizens forwarded to the Office of the State Prosecutor – In progress

Corrections from the Office of the State Prosecutor – 4

Ms. Wagner explained that the four individuals in the last category were citizens.

#### **4. Candidacy and Campaign Finance (CCF) Division**

##### Candidacy

The deadline for candidates to file for the 2018 Gubernatorial Primary Election has past. SBE processed 678 candidate filings, and the local boards of elections processed an additional 1,841 candidates. Only petition and non-principal political party candidates can file for the 2018 General Election.

Two candidates, Scott Womer, a Democratic candidate for House of Delegates District 46, and Fernando Luis Raffucci, Jr., a Democratic candidate for House of Delegates District 21, were removed from the primary ballot for failing to file a financial disclosure statement with the State Ethics Commission by the March 1<sup>st</sup> deadline.

##### County Public Financing Programs

As of March 31, 2018, the Montgomery County Public Election Fund has disbursed \$2,432,650 to certified candidates. The aggregate disbursement in February was \$28,244, and the aggregate disbursement in March was \$594,871. Eighteen of the 33 participating candidates have qualified for the program.

SBE reviewed and notified 5 candidates - Shruti Bhatnager, Michele Reiley, Paul Gellar, Tim Willard and Loretta Garcia - that their certification requests failed to meet the minimum requirements for participation in the program. These individuals are no longer eligible to participate.

Committees may file matching fund requests on the first and third Tuesday of every month.

##### Campaign Finance Enforcement

The following committees paid civil penalties:

1. County 1 Now Slate paid a \$850 civil penalty on February 21, 2018, for failing to maintain account books and records; failing to report all contributions received and expenditures made on a campaign finance report(s), failing to remit anonymous contributions and failing to return an over contribution from Laurel Park LLC. The committee also remitted to the Fair Campaign Financing Fund \$5,700 in anonymous contributions and returned \$4,000 to Laurel Park, LLC.
2. (Robert) Danny Farrar for Frederick paid a \$250 civil penalty on March 7, 2018, for an authority line violation.

### Financial Disclosure Statements

This is a reminder that financial disclosure statements are due to the State Ethics Commission for the Board members on April 30th.

## **5. Project Management Office (PMO)**

### Inventory: Excess Equipment Disposal

The PMO continued to work with the Department of General Services (DGS) and the State's contract recycler to dispose of the TS-R6 voting system and other legacy equipment and supplies. To date, 12,484 out of 18,940 TS-R6 units have been picked up by the recycler.

During this reporting period, SBE sold 29 Accuvote Optical Scan units to election officials in the State of Alaska.

### Inventory System Updates

During this reporting period, the PMO facilitated three regional training sessions and one GoToWebinar training session on the inventory mobile app. The mobile app will be used by the local boards of elections to conduct the FY2018 Inventory Audit. DGS requires the FY2018 Inventory Audit, and SBE and the local boards of elections must complete the audit by June 30<sup>th</sup>.

### Staffing

The PMO continues to lead the staffing contract, with one Administrative Assistant, one Training Coordinator, and 23 Trainers now onboard. By May, we expect that we will have between 400 - 450 temporary resources supporting the 2018 Primary Election.

### Other

During this reporting period, SBE procured the services of an electromagnetic field tester to test the proposed 5,000 square foot warehouse facility for the Worcester County Board of Elections. Based on the final test results, no issues were found. The Worcester County Board of Elections is expected to move into the facility in May.

Most of Worcester County's equipment and supplies are stored at SBE's Central Warehouse. The equipment and supplies will be transported to the new warehouse facility when it is ready to receive the equipment. The uncleaned equipment will be disposed of according to DGS' disposal requirements.

The PMO is actively working on other efforts in support of the 2018 Primary Election, including the setup and support of the helpdesk system and managing the temporary resource time-tracking application.

## **6. Voting Systems**

### Electronic Pollbooks

Following extensive software testing, SBE has signed off on the latest release and is preparing to update all the pollbooks in the state's inventory. This software version will be the same for both early voting and election day, and the software packets are being prepared for distribution to the local boards.

### Additional Voting Equipment

For the 2018 Elections, SBE is leasing additional voting equipment from ES&S. This includes 465 precinct-based scanners, 6 additional DS850 high-speed central scanners, and associated

ballot boxes, bins and memory drives. This equipment has undergone acceptance testing at the central warehouse, and has been delivered to the local boards. An additional 20 scanners have also been ordered for Baltimore City.

SBE has also procured replacement ballot on demand printers, and additional network equipment, such as firewalls for the new early voting centers.

#### Transportation

The transportation vendor, Interstate, has been conducting planning meetings with all the local boards, as well as their subcontractors, in preparation of delivery and pickup of equipment for the primary and general elections, and these are complete with the exception of two local boards.

#### Ballots

The 2018 Primary Election ballots have been created and certified. There are 745 different ballot styles for this upcoming election. In comparison, there were 645 in the 2014 primary and 587 in the 2010 primary. Natasha has done great job and has worked very closely with the local boards during the proofing process.

### **7. Legislation - 2018**

Ms. Duncan recognized Ms. Wagner and Mr. DeMarinis and Stuart Harvey, Chair of the Maryland Association of Election Officials' Legislative Committee, for their hard work during the 2018 Legislative Session. A chart of the legislation we tracked was provided in the meeting folder. Noted below are several of the election specific bills that passed.

*HB 532 - Secure and Accessible Registration Act (SARA)* - Redesignates electronic voter registration agencies - Motor Vehicle Administration, Maryland Health Benefit Exchange, local department of social services and Mobility Certification Office in the Maryland Transit Administration - as automatic voter registration agencies. Effective July 1, 2019, these agencies must inform the applicant that the applicant shall be registered to vote or the applicants' voter record will be updated unless the applicant declines. In response to a question from Mr. McManus, Ms. Wagner explained that the agencies will be telling clients that they are registered to vote unless they want to decline, instead of asking them if they wish to register to vote.

*HB 981/SB 875 - Online Electioneering Transparency and Accountability Act* - Requires online platforms to create a public database of purchasers of online ads. Additionally, the act allows for the State Administrator to investigate and subpoena witnesses and records for violations of the authority line requirements on the Internet. At the conclusion of the investigation, we could seek an injunction for removal of the online political ad if the purchaser fails to comply with disclaimer requirements. Finally, the act bans the use of foreign currency in the purchase of campaign material. Effective July 1, 2018. In response to questions from Mr. Cogan, Mr. DeMarinis explained that SBE's authority is limited to an administrative subpoena and that it is yet to be determined whether additional resources will be needed to implement these requirements.

*HB 1278 - Postelection Tabulation Audit* - Requires an automated software audit for the primary and general and a manual audit for the general. Effective June 1, 2018. In response to questions from Ms. Howells, Ms. Charlson explained that there is a contract in place for Clear Ballot, the only vendor offering the required solution, to perform the automated

software audit and the contract includes an additional requirement to provide public access to the audit data. Ms. Howells asked for the purpose of conducting a manual audit after certification, to which Ms. Charlson stated that the legislature determined the audit schedule.

*HB 1331 - Election Law - Cybersecurity* - Requires the State Administrator to report certain significant security violation attempts. Requires that if an Election Service Provider knows that a security violation or significant attempt has occurred to notify the State Administrator. Requires that certain information be provided by certain voters using the online absentee ballot system. Also codifies the SBE contingency policy process for a paper or electronic backup copy of the list of voters. Effective July 1, 2018.

*HB 1717 - State Government - Protection of Information - Voter Registration Numbers* - Excludes a voter registration number from the definition of personal information under the State Government Article. Emergency bill effective April 9, 2018. In response to a question from Mr. Cogan, Mr. DeMarinis stated that the legislation did not cross reference the criminal section. Mr. Trento stated that there were no risks associated with the voter registration number being classified as personally identifiable information and increased the difficulty of election administration.

*SB 281 - Maryland Cybersecurity Council - Membership* - This designates the State Administrator of Elections or designee as a member of the Council effective Oct 1, 2018.

There are also two Constitutional Amendments that will appear statewide on the 2018 General Election ballots.

1. *HB 532 - Elective Franchise - Registration and Voting at Precinct Polling Place*. This will ask voters if they want to have same day registration on election day.
2. *SB 1122 - Education - Commercial Gaming Revenues*. Nicknamed the “lockbox” bill.

The Secretary of State will write and certify to this office the language for these ballot questions. This certification is required no later than the 3rd Monday in August.

## **ASSISTANT ATTORNEY GENERAL'S REPORT**

Mr. Trento submitted the following report:

1. *Benisek v. Lamone*, No. 17-333, October 2017 Term (Supreme Court). This case involves claims that the State's congressional districting map is an unconstitutional political gerrymander. Oral argument took place on March 28, 2018. Solicitor General Stephen M. Sullivan argued the case in the Supreme Court. Questioning focused on both procedural and substantive elements of the case. The Court is expected to issue its ruling by the end of June.
2. *In re Petition of the Maryland State Board of Elections*, No. 24-C-17-005677 (Cir. Ct., Baltimore City). This matter relates to a petition for judicial review of a decision of the Board of Contract Appeals holding that SBE had breached its contract with Star Computer Supply ("Star") when it sought to recover money it had paid Star through an offset against other amounts payable to Star by the State of Maryland under unrelated contracts. In connection with this petition for review, the Central Collections Unit also sought to intervene in the case, in light of what it believed was the Board of Contract Appeals' exceeding the scope of its authority on certain issues that affected CCU's practices. On March 18 the Board of Contract Appeals' ruling was affirmed by the Circuit Court, and CCU's motion to intervene was denied. SBE and CCU are considering whether to appeal the Circuit Court's ruling.

3. *Fusaro v. Davitt et al.* (U.S. District Court, D. Md.). Plaintiff Dennis Fusaro has brought a complaint in federal court alleging that Maryland violates the First and Fourteenth Amendments by limiting access to the voter list to Maryland voters and only for purposes related to the electoral process. The State defendants moved to dismiss the complaint in January, and their reply in support of that motion was filed February 23, 2018. The motion is fully briefed and awaiting ruling by the Court. Assistant Attorney General John Grimm is representing the State Board in this litigation.
4. *Claudia Barber v. Maryland Board of Elections*, No. C-02-CV-17-001691 (Cir. Ct. Anne Arundel Cnty.) On January 25, Ms. Barber appealed from the Circuit Court's January 11 dismissal of her complaint. Ms. Barber sought damages and judicial review of, among other things, the State Board's decision not to issue a declaratory ruling permitting her to use campaign funds to pay for litigation costs she incurred in her unsuccessful attempt to retain her position as an administrative law judge in the District of Columbia. Ms. Barber was ruled ineligible for that position due to her candidacy in 2016 for Judge of the Circuit Court for Anne Arundel County, Maryland. Ms. Barber's opening appeal brief should be due in late May. Assistant Attorney General Andrea Trento will represent the State Board in the appeal.
5. *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.). This case involves a challenge under the U.S. Constitution and Maryland Constitution and Declaration of Rights to the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court. Assistant Attorney General Andrea Trento will represent the State Board in this matter going forward.
6. *Kreamer v. Maryland State Board of Elections*, No. C-02-CV-18-000629 (Cir. Ct. AA Cnty.). This case involves a challenge by one of the candidates for the Democratic nomination for Senate District 34 (Harford County) to the eligibility of the other candidate for that nomination. The challenged candidate was not named as defendant in the case. SBE expects to file a motion to dismiss the Petition imminently. Assistant Attorney General Andrea Trento will represent the State Board in this matter.
7. *Riley v. Mathis*, No. 03-C-18-002423 (Cir. Ct. Balt. Cnty.), *Comeau v. Vignarajah*, No. 24-C-18-1309 (Cr. Ct. Balt. City), and *Miller v. Bates*, No. 24-C-18-1310 (Cir. Ct. Balt. City). These cases each involved residency-based challenges by voters, respectively, to the eligibility of a candidate for the Republican nomination for Senate District 42 (Baltimore County), and to the eligibility of both challengers to the incumbent for the Democratic nomination for State's Attorney for Baltimore City. On March 18, 2018, the Circuit Court for Baltimore County held that Mr. Mathis was ineligible as a candidate for election to represent Senate District 42 on the basis of his residency and declared his certificate of candidacy void. On March 22, 2015 and March 24, 2015, respectively, the Circuit Court for Baltimore City held that the Mr. Vignarajah and Mr. Bates were eligible to serve as State's Attorney for Baltimore City on the basis of their residencies. None of these rulings have been appealed.
8. *Lewin v. Lamone*, No. C-02-CV-18-001013 (Cir. Ct. Anne Arundel Cnty). This case involves a challenge by voters in the 41st Legislative District to SBE's refusal to remove Nathaniel Oaks' name from the primary ballot, despite Mr. Oaks' conviction on March 29, 2018 in the U.S. District Court to two counts of wire fraud and honest services wire fraud in connection with misconduct while serving as State Senator. The complaint challenges the



constitutionality of certain statutes that prevent SBE from removing Mr. Oaks' name from the primary ballot on the basis of his almost certain ineligibility following his sentencing hearing, which is scheduled to take place in July. Plaintiffs are expected to file an application for a TRO on April 12, 2018. Assistant Attorney General Andrea Trento will represent the State Board in this matter.

Mr. Trento stated that a second suit on Mr. Oaks' candidacy was filed on April 9, 2018. This lawsuit requested the same relief as *Lewin v. Lamone* but included an affidavit from Mr. Oaks requesting that his name be removed from the ballot. He stated that Mr. Oaks plead guilty after the withdrawal deadline and since he is still eligible to vote, he is still eligible to be a candidate. Mr. Trento advised that State law does not allow for the State Board to remove Mr. Oaks' name from the ballot.

### **APPROVAL OF REQUESTS FOR WAIVERS OF CAMPAIGN FINANCE LATE FEES**

Mr. DeMarinis presented requests from six campaign committees to waive late fees incurred by the committees. The committees requesting a waiver of late filing fees are listed below:

1. Boyd, Jennifer Friends of
2. Brooks Brandy Power Posse
3. Buckey, Robert Citizens for
4. Gottfried, Richard Friends of
5. Hovis, Jeff for Democratic Central Committee
6. Tome, Karin B. Committee to Re-Elect

Mr. Hogan made a motion to approve the waiver requests from the six committees, and Mr. Cogan seconded the motion. The motion passed unanimously.

### **APPROVAL OF REQUESTS FOR WAIVERS OF TITLE 14 LATE FEES**

Mr. DeMarinis presented a request from SETA Consulting, LLC to waive \$500 in late fees incurred by the committee.

Mr. Hogan made a motion to approve the committee's waiver request, and Ms. Howells seconded the motion. The motion passed unanimously.

### **USE OF BALLOT MARKING DEVICES – REQUEST FOR ADDITIONAL DEVICES**

Ms. Charlson presented a request from the Baltimore County Board of Elections for additional ballot marking devices to allow more voters the opportunity to vote in private without a long wait for a machine. The Baltimore County Board of Elections requested two ballot marking devices for each of its 11 early voting centers, which would be 22 total devices. In response to a question from Mr. McManus, Ms. Charlson stated that Baltimore County's request is in compliance with SBE's procedures.

Mr. Hogan made a motion to approve the Baltimore County Board of Elections' request to deploy two ballot marking devices to all 11 early voting centers, and Ms. Howells seconded the motion. The motion passed unanimously.

### **EARLY VOTING SITES – REQUESTS FOR CHANGE**

Ms. Perrone presented replacement early voting centers for Dorchester and Harford Counties for the 2018 elections. The Dorchester County Board of Elections was asked to relocate their early voting center due to noise and fire code reasons. The State Board approved the Dorchester Center for the Arts as the new early voting center; however, after advertising the change, Dorchester County received many social media requests to not relocate the center. In response to a question from Mr. McManus, Gwen Dales, the Election Director for the Dorchester County Board of

Elections, specified that the fire code issue was resolved at the Dorchester County Office Building and the Fire Marshall confirmed that it could be used as an early voting center. Ms. Perrone stated that SBE does not have a recommendation for either approval or rejection of the Dorchester County early voting center change request.

Mr. Hogan made a motion to replace the Dorchester Center for the Arts with the original early voting center location (the Dorchester County Office Building) for the 2018 elections, and Ms. Howells seconded the motion. The motion passed unanimously.

Ms. Perrone presented Harford County's early voting center change request. In January 2018, the State Board of approved the Aberdeen Senior Center to replace the University Center as an early voting center. However, in March 2018, Winter Storm Riley caused extensive damage to the Aberdeen Senior Center, so the Harford County Board of Elections requested relocating to the Aberdeen Fire Department. Since the proposed replacement center meets the applicable requirements for early voting centers, Ms. Perrone recommended accepting the replacement early voting center proposed by the Harford County Board of Elections.

Ms. Howells made a motion to replace the Aberdeen Senior Center with the Aberdeen Fire Department for the 2018 elections, and Mr. Hogan seconded the motion. The motion passed unanimously.

#### **POLLING PLACES – REQUESTS FOR CHANGE**

Ms. Duncan presented a request from the Allegany County Board of Elections to move the polling place for 14-000 from the dining hall of the former Senior Citizens Center to the Allegany/Garrett Room at the Ramada Inn. This move is requested because a water line at the former Senior Citizens Center broke and damaged the heating system. Ms. Duncan explained that the reason for the request was considered an emergency and recommended moving this polling place.

Mr. Hogan made a motion to move the polling place for 14-000 in Allegany County for the 2018 Primary and General Elections, and Ms. Howells seconded the motion. The motion passed unanimously.

Ms. Duncan also presented a request from the Montgomery County Board of Elections to move the polling place for precinct 04-18 from the Tilden Center to Tilden Middle School, due to scheduled renovations at the Tilden Center. In response to a question from Mr. Hogan, Margaret Jurgensen, the Election Director for the Montgomery County Board of Elections, clarified that the Tilden Center will be demolished and converted into a middle school. The local board of elections was not aware of this construction project, as the Tilden Center was inadvertently excluded from the school system's list of possible renovation projects that may impact the 2018 election cycle. Ms. Duncan stated that the reason for the request was considered an emergency and recommended moving this polling place.

Mr. Hogan made a motion to replace the Tilden Center with Tilden Middle School for the 2018 Primary and General Elections, and Ms. Howells seconded the motion. The motion passed unanimously.

In response to a question from Mr. Hogan regarding a possible polling place change for precinct 04-30, Ms. Jurgensen stated that the Montgomery County Board of Elections is considering changing the polling place for 04-30 from Richard Montgomery High School to B'nai Israel Synagogue. Ms. Lamone stated that because the Montgomery County Board of Elections has not

yet voted on this polling place change and SBE has not provided the required notice, the State Board cannot take action on this possible polling place change.

### **SECURITY BRIEFING – PART 1**

Ms. Charlson provided an overview of the suspicious activity we saw on our online voter registration and ballot request system before the 2016 General Election. The U.S Department of Homeland Security (DHS) notified SBE that Maryland was one of the states with suspicious online activities before the 2016 General Election. In early August 2016, we identified some unusual activity on the online registration and ballot request system and immediately blocked the IP address associated with the activity. We provided log files to three entities, the FBI, one of the State's cybersecurity vendors, and a vendor associated with our web hosting company, and we reviewed transactions in the statewide voter registration database. Two federal cybersecurity teams reported that that "no suspicious artifacts" were identified, and no transactions were submitted from this activity. The State's cybersecurity vendor and the partner of our vendor found similar results. While there is evidence that SBE's online registration and ballot request system was "probed," there is no evidence that the system was breached.

Ms. Charlson provided examples of scanning, probing, and hacking activity. A website scan is the equivalent of an individual driving down your street looking for an open window to get into your house. This type of activity happens regularly with websites, and our websites are designed for to withstand this activity. A "probe" is the equivalent of an individual looking to enter a house and checking whether front doors are unlocked. This is similar to the activity we saw in August 2016 – they were trying to get in but our front door was locked and they moved on. A "breach" or "hack" occurs when the individual finds an open or unlocked front door and enters the house. There is no evidence that Maryland's system was breached or hacked.

Ms. Charlson explained that each of Maryland's election systems are designed differently and therefore are protected differently. For example, the certified voting system is never connected to the Internet so the risks associated with the Internet are not applicable to this system. We use thumb drives to load ballots and transfer election results. As a result, we must mitigate risks associated with the thumb drives. The online voter registration and ballot request system is connected to the Internet so we must manage the risks associated with Internet.

Ms. Charlson explained that we identify and mitigate risks associated with each system and protect the systems using a multilayer – or "defense in depth" – approach. To protect the integrity of the election results on the thumb drives, we use special thumb drives, the data is encrypted, and printed results and paper ballots are preserved and if needed, can be used to generate a new set of results. With the online voter registration and ballot request system, we work to ensure that it is available to voters and maintain integrity of the data. We use an experienced web hosting firm to manage infrastructure and monitor traffic, the data is encrypted, and transactions are logged and reviewed by election officials before transferring information to the statewide voter registration list.

SBE has taken advantage of services available from DHS. DHS performs weekly vulnerability scans of various websites and has performed risk and vulnerability assessments and in-depth cyber assessments on several election systems. While cybersecurity gets the most attention, Ms. Charlson stated that the physical security of the election facilities – where the voting system and other equipment is stored – is equally important. DHS is working with the local boards of elections to review local election facilities and make recommendations to improve the physical security of the buildings.

Ms. Charlson noted that SBE regularly performs software updates and verifies that local election officials' computers are updated, follows State of Maryland's IT practices, owns vulnerability scanning and penetration testing software and regularly run scans, analyze results, and mitigate findings. We look for patterns in voter registration and absentee voting behavior and conduct post-election audits to verify the integrity of the process. Lastly, we receive, share, and take action on cybersecurity information distributed by DHS, the U.S. Election Assistance Commission, and the Multi-State Information Sharing and Analysis Center (MS-ISAC).

Although we rigorously and continuously protect our systems, Ms. Charlson explained that we also have equally rigorous plans to restore systems and return to "business as usual" if any of the systems become unavailable. We continuously back up IT systems, and both State and local election officials have disaster recovery plans. Contingency plans for early voting and election day are in place to ensure that voting can continue.

Ms. Charlson concluded that Maryland election officials welcome the additional resources DHS has made available to election officials, as they help confirm other findings and identify areas of improvement. We have mature IT systems that are protected and monitored in multiple ways, and we are reviewing and testing our disaster recovery efforts. We are reminding the election community of the need for vigilance to protect the systems from phishing attacks, malware, ransomware and other methods of attacks, and we make sure our vendors are installing updates, have adequate disaster recovery plans and are evaluating how to build cybersecurity measures into contracts.

## **OLD BUSINESS**

### *Follow Up from February 22, 2018, Public Comments*

Ms. Perrone summarized the comments a voter shared at the last meeting about her 2016 voting experience. In response to this voter's comments about the Waxter Center, her voting location, Ms. Perrone contacted the Baltimore City Board of Elections, which confirmed that there were complaints about the Waxter Center in the 2016 Primary Election and they were addressed as they were received. Because of renovation at other voting locations, three precincts were located at the Waxter Center for the 2016 elections. The Baltimore City Board of Elections received few, if any, complaints about this voting location in the 2016 General Election.

Ms. Perrone shared the results of her research on the voter's complaint of many voters registered to vote at her address. According to the statewide voter registration list, there are three individuals registered to vote at her address. One individual registered in January 2018, one individual registered to vote in February 2018, and one individual is currently inactive and will be removed from the statewide voter registration list if he or she does not vote in the 2018 elections. The Baltimore City Board of Elections confirmed that they pay for returned mail and the office receives from the United States Postal Service returned mail daily.

Ms. Perrone explained that she remembered a 2016 phone conversation she had with this voter about her 2016 Primary Election voting experience at the Waxter Center. In response to this conversation, the voter emailed Ms. Perrone a photo of the outside of the Waxter Center. Ms. Perrone distributed a copy of the voter's photo. Ms. Perrone noted that the signs displayed at the entrance to the voting location are permissible as they are sign with election information. Electioneering signs are present but appear to be legally placed.

*Declaratory Ruling – Republican Governors Association*

Mr. McManus gave an overview of the status of the Republican Governors' Association (RGA) petition for declaratory ruling. In October 2017, RGA filed a petition for declaratory ruling concerning the concurrent employment by RGA and the Larry Hogan for Governor campaign of a fundraising firm (Rivet Strategies). In December 2017, SBE requested additional information about Rivet's firewall to prevent the sharing of nonpublic, spending information by the Hogan campaign with RGA and Rivet's role with the Hogan campaign in making spending decisions. RGA subsequently provided an agreement between RGA and Rivet prohibiting the sharing of information and establishing a firewall policy and an affidavit from the Rivet's managing member.

Mr. DeMarinis shared his recommendation that SBE issue a declaratory ruling stating that there is not sufficient evidence of a firewall pursuant to Election Law Article, §13-249(d)(4) and therefore the presumption of a coordinated expense is not rebutted. Mr. DeMarinis stated that RGA retains its legal right to refute any potential violations of Election Law Article, §13-249, and any findings of a coordinated expenditure would require an investigation by the Division of Candidacy and Campaign Finance and a public hearing before issuing any civil penalties. Mr. DeMarinis referenced Mr. Trento's legal memo concluding that there was not sufficient evidence to rebut the presumption of a coordinated expense.

Mr. McManus stated that, after looking at the facts as presented, he believes that the firewall is imposing an appropriate segregation and does not agree with Mr. DeMarinis' and Mr. Trento's recommendation. Mr. Cogan stated that the affiant is competent to make the affidavit and the use of a firewall assumes that both groups have information although under these facts, the parties do not have shared information. He stated that the affidavit is sufficient to establish the firewall if it is needed.

In response to questions from Mr. Hogan and Mr. Cogan, Mr. DeMarinis stated the SBE can find a violation if the parties do not comply with the facts as proposed and there is evidence of a coordinated expenditure. Mr. DeMarinis shared that the history of Election Law Article, §13-249 showed the legislature's intent of including a shared fundraising consultant into the coordinated spending requirements, to which Mr. McManus stated that the law provides a way for a shared consultant to work with a firewall.

Ms. Howells expressed her concern that a ruling that the firewall is not sufficient could preclude participation in the upcoming election. Mr. Trento stated that participation would only be precluded if the fundraising consultant continued to perform services for both entities.

Mr. Cogan made a motion to issue a judgment as requested by RGA, and Ms. Howells seconded the motion. The motion passed unanimously.

**NEW BUSINESS**

*Public Comment - Mark Stichel of Astrachan Gunst Thomas*

Mr. Stichel, an attorney representing individuals seeking to remove Nathaniel Oaks from the 2018 Primary Election, referenced his letter dated April 11, 2018, and stated that the language of the Election Law Article permits the State Board of Elections to remove Mr. Oaks from the ballot as the statutory language is discretionary, not mandatory. He argued that, in this extraordinary situation, it would be in the best interest of the voters for the State Board to remove Mr. Oaks from the primary election ballot. Mr. Stichel intends to seek a temporary restraining order on April 16, 2018, if the State Board does not remove Mr. Oaks' name from the ballot.

Mr. Cogan asked Mr. Trento whether he and Mr. Stichel had discussed whether the law allows the State Board to remove a candidate from the ballot, to which Mr. Trento stated that they had. Mr. Trento does not believe that the current law provides the State Board with this authority.

### **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Mr. Cogan reported that he contributed \$25 and \$5 to the National Republican Congressional Committee, \$25 to Rick for Congress, \$100 to Friends of Fred Paone, \$200 to Friends of Judge Mark Crooks, \$100 to the Maryland Republican Party, \$200 to the National Republican Senatorial Committee, and \$150 to Friends of Andy Harris. Ms. Howells reported that she contributed \$30 to the Southern Prince George's County Republican Club.

### **SCHEDULE NEXT MEETING**

The next meeting is scheduled for Thursday, May 31, 2018, at 2:00 pm.

### **CLOSED MEETING**

Mr. McManus requested a motion to close the board meeting under General Provisions Article, §3-305(b)(1), which permits closing a meeting to discuss a personnel matter that affects a specific individual, and §3-305(b)(13), which permits closing a meeting to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public discussions about a particular proceeding or matter. Meeting in closed session allows the members of the State Board to discuss compensation of employees over whom the State Board has salary setting authority and receive information about and discuss the security of election information systems

Mr. Hogan made a motion to convene in closed session, and Mr. Cogan seconded the motion. The motion passed unanimously. The motion having passed, the Board met in closed session in accordance with exemptions (b)(1) and (b)(13) of Section 3-305 of the Open Meetings Act to discuss compensation for five individuals employed by local boards of elections and receive information about the security of election information systems.

The closed session began at 4:25 pm. In addition to the board members present at the open meeting, the following individuals were present at the closed session: Mr. Funn, Ms. Lamone, Mr. Trento, Ms. Charlson, Mr. Aumayr, Vince Omenka, SBE's IT Director, Kenway Chen, IT Programmer, and Vin Hardick, Senior Vice President, ByteGrid, SBE's webhosting vendor.

During the closed session, Ms. Charlson presented one-time step adjustments for five individuals employed by local boards of elections. Mr. Cogan made a motion to accept the requested one-time step adjustment for the five individuals, and Mr. Hogan seconded the motion. The motion passed unanimously.

During the closed session, Mr. Omenka, Mr. Aumayr, Mr. Chen, and Mr. Hardick described how each the critical election systems are protected, monitored and restored. The election systems discussed were the voting system networks, electronic pollbooks, the statewide voter registration, candidacy and election management system, election results reporting, the online campaign finance system, and SBE's internal infrastructure.

The closed meeting adjourned at 5:04 pm.

### **ADJOURNMENT**

Ms. Howells made a motion to adjourn the open meeting, and Mr. Cogan seconded the motion. The motion passed unanimously. Mr. McManus adjourned the meeting at 5:05 pm.