

Marion County Election Board Meeting Minutes November 12, 2008

Members Present: Chairman Mark Sullivan; Vice Chairman Robb Greene as proxy for Patrick Dietrick; Secretary Elizabeth "Beth" White

Others Present: Andy Mallon, Director of Elections; Tenley Drescher-Rhoades, Counsel to the Election Board, Myla Eldridge, Deputy Director of Elections; Angie Nussmeyer, Jenny Troutman, Program Coordinator, Michael Weiseman, Deputy Director of Elections, Joe Shestak, Lead Election Clerk, Sandra Mowell, Rick Dawson, Cindy Mowery, Nick Hess, Terry Burns, Allison Gritton.

- I. Call to Order:** Chairman Sullivan calls for this meeting to take place

- II. Provisional Ballots Issue:** Chairman Sullivan addresses the absentee provisional ballot issue to Andy Mallon. Director Mallon discusses the process in which the board agreed to. The provisional ballot is reviewed in two stages. It starts with the absentee ballots which got returned in provisional ballot envelopes. These returned ballots fall in 4 categories. Those absentee ballots that bi-partisan teams reviewed and determined unanimously that they should count (the challenge was invalid). Other ballots came back as sent to the wrong precinct (14 ballots). Madame Clerk states the ballots will be counted that got sent to the wrong precinct by Judge Carroll's court order. Mr. Mallon goes on to discuss other ballots that were sent to the correct precinct and the voter was in the poll book, but the voter received the wrong ballot style (5 ballots would not feed into the voting machines). Court order allows these ballots to be counted. Other absentee ballots that got returned were ballots that poll workers could not match the signatures from the poll book to the signature on the application (15 ballots affected). Mr. Mallon states that if there is no signature on the ballot (3 ballots), then the ballot will not be counted. All other ballots that fall into the 4 categories will be counted. Mr. Mallon states there are some ballots that bi-partisan teams could not come to any agreement on and it is suggested to wait and do individual reviews on them. The second step is the review of the provisional ballots presented at the precincts. There are several categories to this issue. Ballots that the bi-partisan teams determine that should count. There are a great number of provisional ballots returned where no challenges have been filled out by the challenger (about 400 ballots). Mr. Mallon states the next step for these ballots to check to see if the voter was in the right precinct. Chairman Sullivan believes this is a huge concern where 400 voters have not been properly challenged. Mr. Mallon notes that our training has not been changed on how to fill out a provisional ballot. Chairman Sullivan pledges that all of these provisional ballots that are allowed to be voted will be casted. Mr. Mallon discusses the provisional ballots that where the voter did not show proper ID. These voters can go to the clerk's office by Friday (10 days after

election) and show proper ID to the EB and your vote will be counted. Mr. Mallon discusses voters who went to the wrong precinct to vote. They were not in the poll book and by law; we can not count these votes. There are also a set of ballots of people who went to vote and were not registered at all. We can not count their votes. Another set of ballots are of people who were registered in other counties other than Marion County. We can not count their votes. There are about 50 ballots with odds and ends where the bi-partisan team can not come to an agreement. The board will review those individually.

III. Provisional Ballots to be individually challenged by the board: Mr. Mallon addresses the board there are 11 absentee ballots that were challenged at the precincts. According to Judge Sosin's order, they now have a public hearing.

- a. Ballot #1 is about a voter who voted by mail. Mr. Mallon attempted to contact the voter by phone. The voter's information can not be revealed to the public, due to the court order. This is only the mail-in absentee that got casted as a provisional ballot. The address on the ballot did not match the address in the poll book. The ballot was sent to the correct precinct; therefore the voter had the correct ballot style. Madame Clerk mentioned that if the voter presented themselves in person, VRG 4/12 should have been presented to the voter. Madame Clerk motions to have this ballot counted because the voter was in the correct precinct. Chairman Sullivan seconds the motion. It passes unanimously.
- b. Mr. Mallon presents ballot #2. This ballot is from a voter who early voted in the Clerk's office. They were registered in WY022, which is in 4th Congressional district and since moved to 03003, which is in 7th Congressional district. Madame Clerk motions to not accept this ballot because it is not the same county or congressional district. Chairman Sullivan seconds the motion. It passes unanimously.
- c. Mr. Mallon presents ballot #3. This voter is registered in precinct 12002, but has moved to Noblesville (not in Marion County). Madame White motions not to accept this ballot. Chairman Sullivan seconds the motion. It passes unanimously.
- d. Mr. Mallon presents Ballots #4, 5, 6, 7, & 8. The voters of these ballots are not registered any where in Indiana. They can not be found in SVRS. Madame White motions not to accept these ballots because they are ineligible to vote. Chairman Sullivan seconds the motion. It passes unanimously.
- e. Mr. Mallon presents ballot #9. This voter had his father assist him how to vote on his ballot. The voter was challenged to a provisional ballot because you are not allowed to follow a voter to the voting booth. Since the voter was a first time voter and was not his fault, we should honor his vote. Chairman Sullivan motions to count this ballot. Madame Clerk seconds the motion. It passes unanimously.

- f. Mr. Mallon presents ballot #10. The voter is in SVRS but at a different address. It is unclear that the address is in the same precinct or congressional district. It must be reviewed to check the precinct info.
- g. Mr. Mallon presents ballot #11. The vote was attempted in-office. The voter had to change her address and fill out VRG 4/12. The voter never came back with the form. Chairman Sullivan motions that the ballot to be invalid and rejected. Madame Clerk seconds motions. It passes unanimously.

(RECESS BREAK)

- IV. **Campaign Finance Issues:** Chairman Sullivan states there are some campaign finance issues. Director Mallon mentions there was pre-election deadline (Oct 17). Candidates were required to file their CFA-4 form. Some were filed late and some did not file at all. Director Mallon discusses that the board votes to authorize fines to the candidates and then the candidates have a chance to present themselves to board not to be fine. They must present evidence in order not to be fined. There are two candidates who did file at all. Madame White motions to fine these two candidates. Chairman Sullivan seconds motion. The motion passes. Eight filed on Oct. 17, but after the noon deadline. Madame White motions to fine these 8 candidates. It passes unanimously. Lastly, there are eight candidates who filed after the Oct. 17 deadline. Madame White motions to fine these 8 candidates. It passes unanimously. Chairman Sullivan discusses that these candidates have the right to come to the next board meeting to present themselves why they didn't present their fines on time.
- V. **Provisional Ballot Challenges:** Mr. Mallon discusses that bi-partisan teams were unable to come to a conclusion to these provisional ballots. Chairman Sullivan states that there are several ballots that were improperly challenged and need to be accounted for. It is important to check if the voter is in the proper precinct first. All ballots will be reviewed by the board and based on the information given, it will be decided if the vote on the ballot can be counted. Madame Clerk seconds this motion. It passes unanimously.
- VI. **Review of Provisional Ballots:** Chairman Sullivan, Madame White, Director Mallon, and Robb Greene review the provisional ballots that could not be decided if to be voted by bi-partisan teams. Of the ballots review, Chairman Sullivan breaks down the ballots into three categories; ballots with no indication or markings why they rejected the ballot (1 ballot); ballots with names, but with no indication why they were rejected (2 ballots); ballots without names and can't find in the poll book (3 ballots). Madame White motions since the ballots in the first two categories were not properly challenged, that they should be counted. Madame White also motions to allow the EB staff to look up the voters name SVRS to gather more information. Chairman Sullivan seconds the motion. It passes unanimously.

VII. Invalid Provisional Ballots: Director Mallon presents to the board a group of provisional ballots that were reviewed by a bi-partisan team. Mr. Mallon states that these provisional ballots aren't challengeable. Mr. Mallon mentions that these ballots were rejected because the ballots don't have judge's or clerk's initials, no signature can be found, no precinct was indicated, the ballot was sent to the wrong precinct, or the ballot does not have an application to go with the ballot.

VIII. Adjournment: Director Mallon mentions to have an Election Board meeting on Friday, Nov. 14th to discuss the findings on the Provisional Ballots that are reviewable in SVRS. Chairman Sullivan concludes the meeting.

Chairman, Mark K. Sullivan

Vice Chairman, Patrick Dietrick---Robert Vane, as proxy

Secretary, Elizabeth L. White