

Rockville Board of Supervisors of Elections
Annual Report to the Mayor and City Council, 2013

The Board of Supervisors of Elections (BSE) reviews and evaluates each election to identify issues related to the elections process and procedures for voters and for candidates. As part of this review, a post-election wrap-up meeting is held that is open to the public. Specific invitations to attend are sent to all candidates, campaign managers and other interested parties.

After the 2011 election, the BSE collected information from two post-election meetings held on January 28, 2012 and April 19, 2012, input from citizens and candidates, and observations of the BSE and City staff. The BSE reviewed and deliberated over the information, identified 6 issues, conducted research and analysis, and produced a recommendation for each issue. This report summarizes each of the 6 issues, the research and findings where appropriate, followed by recommendations.

1. Withdrawal of a Candidate. During the 2011 election, a candidate had filed the accepted papers for placement on the official ballot, the candidate requested to withdraw from the election, and yet his name was placed on the official ballot. Currently, there is no legal mechanism for a candidate to officially withdraw or remove his or her name from the ballot. In the 2011 election, the “withdrawn” candidate (who tried to withdraw less than two weeks after officially filing) garnered approximately 300 votes, more than the difference between the 3rd and 4th place winning candidates in the City Council race, and more than the difference between the fourth place winners.

According to the Maryland Municipal League (MML), a majority of municipalities’ charters and codes are silent with regard to withdrawal. The BSE collected and reviewed pertinent election ordinances related to candidate withdrawal in the following Municipal Charters in Maryland: Aberdeen, Annapolis City, Berlin, Bowie, Chesapeake City, Cumberland, Easton, Frederick, Fruitland, Gaithersburg, Greenbelt, Hagerstown, Havre de Grace, Laurel, Ocean City, Oxford, Rock Hall and Sykesville.

Recommendation: Based on this review, the BSE recommends that Chapter 8 of the Rockville City Code should be amended to clarify the process for accepting a withdrawal of a candidate. The following draft language is offered for consideration as Section 8-8 of the City Code to address withdrawal of candidates.

Any candidate wishing to withdraw his or her candidacy must do so in person and in writing by filing a signed affidavit of withdrawal of candidacy with the City Clerk no later than the deadline for filing petitions for candidacy as set forth in Article III, Section 3 of the City Charter. Upon the timely filing of a signed affidavit of withdrawal of candidacy, the name of the person so withdrawing shall not be printed on the ballots unless the person files a new valid petition for candidacy by the deadline set forth in Article III, Section 3 of the City Charter. No

candidate may withdraw his or her candidacy after the last date for accepting petitions has expired.

If a candidate dies prior to the deadline for filing a petition for candidacy has expired, that candidate's name shall not be printed on the ballots if a copy of the candidate's death certificate is filed with the City Clerk by the deadline for filing a petition for candidacy. If a candidate dies after the deadline for filing a petition for candidacy has expired, that candidate's name will remain on the ballot.

2. **Campaign Finance Reports** – The BSE heard a number of suggestions regarding possible improvements to the required campaign finance reports. Examples include: request for a sample of a completed form, clearer instructions, adjust due dates of the forms, create or offer an automated process to complete forms, and redo campaign finance reports. The BSE also reviewed potential changes to campaign finance reporting dates.

Recommendation: No change to the current reporting dates and no action by the Mayor and Council at this time. The BSE will address the concerns by modifying forms and the Candidate manual where possible.

3. **Provision of the Voter Database** – As a courtesy to candidates and other interested citizens, in the past, the City has obtained a voter database from the Montgomery County Board of Elections and distributed it as requested. This database is often not up-to-date and not accurate.

The data file containing the names of the individuals who have registered and are thus qualified to cast a vote is a critical element of the election process. The State of Maryland Board of Elections has the primary responsibility to maintain this data file. The Montgomery County Board of Elections has the responsibility to maintain the County (including the City of Rockville) portion of this file for the State.

The primary function of this file is to validate the credentials of individuals wanting to vote, while the secondary function is to provide candidates with information needed to conduct their election campaign. As a courtesy to the candidates running for the Rockville Mayor and Council offices and other interested citizens, the City has obtained and distributed this County managed database upon request. Unfortunately because of its size and the nature of the normal population movement this file is not accurate. The causes of misinformation are many. Populations move in and out of the City and from one location within the area to another. New voters come of voting age and may or may not register to vote prior to Election Day, and some voters die. While many of these inaccuracies can be corrected at the polling place, these inaccuracies are very costly to candidates relying on the data to mail campaign literature and to make critical strategy decisions. The County is responsible for making corrections initiated by the voter. Unfortunately if the County is not informed of a correction to be made by the voter affected, nothing happens. Some candidates have suggested that the City maintain a local

database. By having the City distribute this list, many are under the false assumption that this is the City's database to modify and keep up-to-date. The cost to do this would be very high as discussed in the section on voting methods

While the City might do a better file maintenance job than the County, the same problems of accuracy would exist. Having two agencies manage the same data could cause more problems and the accuracy of the file could easily become more of a problem. In addition, the City would need to hire a staff of at least three positions to maintain the list and the cost benefits would be difficult to justify.

Some of the candidates who have received and used the database are of the opinion that the BSE is responsible for the accuracies of the data and can and should take corrective action. The BSE does not own this data file and therefore cannot make any changes to it. Also, campaign management is not a responsibility of the BSE. By having the City distribute this list, many are under the false impression that this is the City's to modify and keep it up to date..

Recommendation: Since the City does not own this voter database and cannot correct it, the BSE recommends that the City stop distributing this voter database. Instead the City should provide existing Montgomery County Board of Elections procedures to interested candidates and citizens on where and how to obtain the voter database.

4. **Voting Methods** – The BSE has heard concerns about the lack of a paper trail from the County voting units. Since 2002, the City partnered with the County to beta test new equipment, i.e. the touch screen voting units and the Electronic Polls Books, and the County assisted with conducting the elections. To carry out the election process, the County provided staff for election judge training, provided the voting units and electronic polls books, and assisted in reconciling the voting unit totals. The County incurred the cost of the maintenance, storage, and delivery of equipment for the City elections. The City has been using the same machines used by the County at great cost savings in terms of money and staff time. The County indicated it will not provide support if the City chooses to use different voting equipment.

If the City chooses to conduct the election without County support, the City would incur the expense to select, lease or buy new equipment, obtain the training and support to operate the equipment, store and maintain the equipment, set up a counting center, and possibly maintain its own voter database if the selected equipment is not compatible with the existing MDVoter database format. The estimates of the cost to the City for additional staff, operation, equipment maintenance/storage, and voter database management would range up to \$250,000 per year. Currently it costs the City about \$50,000 to run an election with the County's support. Given the current fiscal constraints facing all jurisdictions, i.e. federal, state, county, and city, and the County's current review targeted at upgrading election equipment, the BSE does not recommend increasing the cost of conducting the City election fivefold at this time.

Furthermore, the County equipment is scheduled to be updated on a date to-be-determined pending state mandates and equipment contract. It is possible the new County equipment will address the City voter concerns as well as alternative voting methods.

In addition, the BSE examined alternative voting methods in the last several years, such as sending ballots to all City residents and online voting. The BSE concluded the many negatives, problems and costs warranted a negative recommendation.

Recommendation: No change. The City continues to use the Montgomery County Board of Elections' equipment.

5. **Complaints** – For the 2011 election, the BSE received a variety of complaints including complaints regarding the conduct of candidates during the campaign: white outs on the financial report, suspect donor organizations listed on forms, and questionable compliance with campaign contribution limit. Other complaints included: use of the City's flag, seal or logo in campaign literature, how to get someone off the ballot, to enforce penalties for noncompliance with reporting requirements and campaign forums – location and number.

The BSE's philosophy has been, and will continue to be, to encourage citizens to vote and to run for office while upholding the spirit and intent of the City's election code. The BSE carefully reviewed the City's election code and identified no code changes needed at this time.

Recommendation: No changes to the code regarding campaign conduct and no action by the Mayor and Council at this time. However, the BSE will address procedures based upon the current code to address concerns where possible.

6. **Outreach** – Rockville, a City with approximately 62,000 residents and 25,000 households, is an ethnically diverse community. According to the 2010 Census, the population consists of 21% Asian, Native Hawaiian or Pacific Islanders, 14.3% Latino, and 10% Black/African American. It is projected that our ethnic population will continue to increase. This diversity clearly enriches our community, but may offer challenges to increasing voter participation in municipal elections.

According to the Rockville Fact Sheet for the 2011 election, there were 36,840 registered voters, yet only 6,240, or 16.94% cast votes. Review of the Rockville voter turnout from 2006 and 2010, reveals the number of registered voters increased from 27,804 to 32,292, but the votes cast decreased from 6,542 to 5,161. While voter registration may be an issue, the data reveals the decline in voter turnout.

The BSE met with Janet Kelly, Staff Liaison to the Human Rights Commission (HRC) to learn if and how the BSE may complement the efforts of the HRC. HRC seeks to identify new voters within the City, and engages in community outreach to register new City residents at grocery stores, Hometown Holidays, and local ethnic markets

The BSE discussed possible barriers to voter participation such as the lack of an early voting mechanism for municipal elections. In the short term, the BSE members agreed that it should complement the efforts of the HRC at Hometown Holidays.

Recommendation: The BSE participates in Hometown Holidays by working with the HRC.