

MINUTES

Erie County Council

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REGULAR MEETING MINUTES

Call to Order

Chairman Rennie called the meeting of the Erie County Board of Elections to order at 2:30pm.

Roll Call

Members Present: Chairwoman Rennie; Mrs. Schauerman;

Also Present: Douglas R. Smith; Thomas Talarico; Nicole Inan; Tonia Fernandez

Hearing of the Public

No one to be heard.

Approval of Minutes of Previous Meeting

February 25, 2021 Meeting Minutes Ellen Schauerman moved to approve the minutes from the February 25, 2021 Regular Meeting and the March 24, 2021 Emergency Meeting. This was seconded by Mary Rennie and carried in a 2 - 0 vote.

March 24, 2021 - Emergency Meeting

Possible Board Action

Chairwoman Rennie discussed the possibility of appointing a Vice-Chair. She stated that while there are enough members of the Board to meet the requirements per the Administrative Code, there may be reason to explore this in light of the last few months of situations.

Attorney Talarico advised that the agenda could be amended to include the possibility of appointment of a vice-chair, then a motion to appoint.

Mrs. Schauerman referenced a prior discussion regarding waiting until the

Primary Election was over before appointing a vice-chair.

Chairwoman Rennie agreed that it had been discussed previously to wait; however, with the number of issues that have come up she voiced her concern. Her larger concern is that in lack of Election Board members.

Mrs. Schauerman made a motion to name a vice-chair, Seconded by Mrs. Rennie; passed 2 to 0. Mrs. Schauerman motioned to nominate herself for vice-chair of the Erie County Election Board, Seconded by Mrs. Rennie; carried 2 to 0.

Mrs. Rennie discussed the possibility of voting in a fourth Election Board Member. They would need to have a suggested nominee. This will be discussed at a future meeting.

Election Report

Change of Polling Locations

Official relocation of Millcreek 2nd District to Church of Christ 2317 West Grandview Blvd, Erie PA 16506. The Kearsarge Fire Company no longer wishes to make its facility available. The Church of Christ was used in 2020 and in some previous elections.

Mr. Smith clarified that two elections ago, Kearsarge Fire housed that district. Last year, four days prior to the election, they notified the Election Department that they would not wish their location to be used as a poll. The Board made an emergency change, without the benefit of formal vote, so this action formalizes the move from the fire company to the Church of Christ. It is less than half a mile away from the Fire Company. Elections has utilized this location in the past, and the Church is eager to participate in the election process. They have been easy to work with, and Mr. Smith recommended approval by the Board.

Corry 2 relocation back to the YMCA of Corry, 906 North Center Street from Evangelical United Methodist. The prior move was temporary due to gymnasium floor reconstruction at the YMCA.

This formalizes a move returning back to the YMCA of Corry. November 2020, notified by the YMCA that due to construction that facility would be unavailable. Made a move to the Evangelical United Methodist Church, across the street from the Y. Because of its close proximity, voters utilize the church for parking. The church has been cooperative with that. Mr. Smith recommended a "yes" vote.

Relocation of Erie 6th Ward 11th District to Mount Calvary Lutheran Church, 1603 W 32nd Street from the New Vision Church (1761 West 26th Street).

Mr. Smith apologized that on the Agenda it read backwards as 11th Ward 6th District. That is correctly reflected in the current agenda. Mount Calvary has been used prior, it is close to the border of 6-11. The location is closer than the prior, and will be a good fit for voters. It was necessary to split the districts up once again to maintain CDC guidelines and offer less crowding. Jim Czerpak has looked at the facility, it is ADA compliant.

Mrs. Schauerma motioned to accept the proposed Election Polling Location change, as outlined by Mr. Smith. Mrs. Rennie Seconded the motion. Vote carried 2 to 0.

Possible Certification of the 2021 Erie County Primary Election Ballot

Mrs. Rennie stated that if the Commonwealth Court upholds the decision by Judge Brabender, the names of Mr. Andrezeski & Mr. Hershey would be placed on their respective ballot. Should the Commonwealth Court overturn the Judge's ruling, Andrezeski and Hershey will not appear on the ballot. All other areas of the ballot are certified, or will be certified with the potential vote. Should the Judge uphold the Common Pleas order, a lot draw will have to occur. To vote on the Primary Election ballot, 2021, it will be done without names under appeal.

Attorney Talarico asked Mr. Smith to confirm there were additional trails. Mr. Smith did such - there is a race for Harborcreek Supervisor, and an additional individual for Clerk of Records. Attorney Talarico stated that the Election Board does not have any choice in publishing the ballot without Mr. Andrezeski and Mr. Hershey appearing on the ballot. The same would go with anyone who filled an appeal with the Commonwealth Court. When you file an appeal, the decision of the lower Court is suspended. If the Commonwealth Court decides to affirm, and file electronically. There is no choice to place individuals who filed an appeal with the Commonwealth Court. If there is still an outstanding petition they will not appear on the ballot.

Elections Supervisor, Tonia Fernandez stated that Judge Brabender made a ruling in favor of Pearson to be on the Ballot. He made the effort. Pearson's lawyer brought up case law where other parties were challenging petitions. Attorney Talarico asked where those petitions were; Mrs. Fernandez offered that the Election Dept. still had that information. Attorney Talarico clarified with Mrs. Fernandez that it was the Board's action to accept the petitions; she confirmed. Pearson claimed he was not served and was not aware of the Court Hearing. Mrs. Fernandez clarified that the initial issue was that Mr. Pearson did not take his ethics form to the governing body. The Judge affirmed that both May and Pearson would be on the ballot. Attorney Talarico suggested there may be an appeal with Ed DiMattio's case.

Mrs. Rennie entertained a motion to approve the certification of the 2021 Primary ballot, excluding Mr. DiMattio, Mr. Andrezeski, and Mr. Hershey;

would include Mr. Pearson; pending a different outcome from Commonwealth Court. Mrs. Schauerma made the motion as stated, Mrs. Rennie Second; passed 2 to 0.

**Comments or Questions
from the Board**

Mr. Smith assured the Board that the Ballot has been thoroughly checked. The vendor, Dominion, has done an electronic construction. Logic and accuracy testing will occur the week of April 19th at the warehouse. It is a mock election in which the ballots are put thru all 149 scanners to ensure the software is correctly counting votes that are scanned. The poll worker classes are going to be the week of the April 26th. Classes will be 65 people per class, with spacing. The secondary inspectors last time were not invited, and it was seen necessary to expand training; allows more people to know what is going on. Abby Williams and Mrs. Fernandez have been working on simplifying the poll worker books. There will be notices sent out to the voters who were affected by the changes approved today. Local media will be used to advertise those new polling locations, and signage at the old polling location. Will work with political parties to get additional information out. There will be four questions on the ballot this year; it will be a double sided 14 inch ballot; that will some-what impact scanning time at precincts. Ordinarily during the Primary, individuals need to be part of one of the major parties to vote; however, because of the questions, all parties are able to vote. Those of non-partisan preference will receive question-only ballots. Mr. Smith noted that the Election staff will hold up on some matters until hearing from the Commonwealth Court.

Attorney Talarico stated that County Council and the Election Board were provided with a copy of the Commonwealth Court's Order, dated April 1st; this is a scheduling order. Attorney Talarico has ordered transcripts of both hearings. They were first provided to Judge Brabender for any corrections; he released them Monday. He received his transcript order today. Required to file a concise statement of matters complained of with the Judge; those to be filed tomorrow. Judge has opportunity to file argument by Thursday. Briefs need to be filed by this Friday. Similar to the lawsuits that were filed last year, the time period for filing briefs have been squished to give the Court time to issue decisions. He would expect a decision roughly by the 23rd. Attorney Talarico request a time of which ballots would be sent out. Mr. Smith feels that sending them out by the week of the 19th would provide that ultimate time frame to prevent having him seen. Attorney Talarico question what happens on the printer's end if they need sent out a second time -- even if the printer has to print a second time, it will mostly be the same ballot with minimal change. Mr. Smith stated he would be talking to the printer to have both versions ready electronically. 20,000ish to send out, plus the ballots for packing machines.

Chairwoman Rennie asked Attorney Talarico if there was anything that Board could do to expedite the decision. Attorney Talarico stated there are appeals in

67 other counties. They issued the order the same day as the appeal. He talked to the Prothonotary at the Commonwealth and was assured that they are prepared to handle this. There are fifteen judges to address. It's really up to the legislature to deal with these problems. He suspects down the line they will allow the Election Board more time.

Mr. Smith corrected for the record: The ballot is 17 inches long and not 14. Also, he reached out to Mr. DiMattio, and was able to confirm that he has in fact filed an appeal with the Commonwealth Court to be placed on the ballot.

Attorney Talarico clarified that Mr. DiMattio's name will remain on the ballot because the Election Board certified as is, and had accepted his petition. Although Judge Brabender issued the removal of his name, it is suspended because of the appeal, and thus remains.

Election Supervisor Fernandez asked for clarification: Elections will possibly send out one ballot while waiting for the appeal results from the Commonwealth; a second ballot would then possibly be sent out which would have Mr. Hershey and Mr. Andrezeski's names on it. If the office gets a first ballot back from a voter, and then we send them a second one but they don't return their second one, does the first ballot get counted although it doesn't have all of the candidates on it? Mr. Talarico stated only the second ballot would be used. Mrs. Fernandez followed up with clarifying that the first ballots would not be counted; she questioned why even send a first one? Attorney Talarico stated we would be sending out a first ballot because that is the ballot currently, and the ballot is subject to change by the Commonwealth Court. Chairwoman Rennie stated the Board would hold off sending a ballot as long as possible, pending a decision by the Commonwealth Court. Attorney Talarico emphasized the Board will need to use the media and an accompanying mailing to the 20,000 voters who may receive the second ballot. The information would need to be clear that the voter must re-vote and their first vote for the office of Clerk of Records would not count. Mrs. Rennie suggested that the logistic are yet to be determined. She stated that if this drags on for weeks, then a contingency plan would need developed. She is hopeful that a decision would be made in a short time period. Attorney Talarico suggested that maybe the second ballot is a limited ballot only referring to the office of the Clerk of Records. Councilwoman Schauerma emphasized that the Board will wait until the latest day possible, and another meeting could always be called. Mr. Smith suggested considering scheduling a meeting the week of April 10th to come up with a workable plan. He offered looking into some historical situations and whether a limited ballot would be possible. He stated it will depend on what happens in real-time with the Court. Chairwoman Rennie stated at the latest, a meeting to be held the 16th if needed. Attorney Talarico stated that this would only have come up historically in the context of an absentee ballot more than likely military ballots

because of the lack of history with mail-in ballots. The Election Board may only be able to do what is most reasonable and fair, which may be limited to the limited ballot. Mrs. Rennie reiterated the possibility of another meeting, and waiting for the Courts decision.

Adjournment

Mrs. Schauerman moved to adjourn, second by Mrs. Rennie. Meeting adjourned at 3:35pm.