

MINUTES

Erie County Council

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BOARD OF ELECTIONS MINUTES 12-6-22

Call to Order

The meeting was called to order by Chairwoman Rennie at 4:33pm.

Roll Call

Members Present: Chairwoman Mary Rennie, Vice Chairman Terry M. Scutella, Charlie Bayle, Brian Shank, Ellen Schauerma, and Jim Winarski

Also Present: Julie Slomski, Solicitor Tom Talarico

Hearing of the Public

Mark Sleppy, Summit: Mr. Sleppy stated he has been voting since he was eighteen and his faith in the voting system was at the lowest it had ever been. He asked the Council to ask for Julie Slomski's resignation. He stated her political affiliation made it look bad that she was in this position to be biased or unbiased. He asked the council to take a good look at this.

Sue Weber, Retired Erie County Controller, Millcreek: Ms. Weber stated that in the eight years she was Controller, she witnessed many serious problems with the Voter Registration Office. She stated she tried to audit the process and procedures, but was stonewalled by the people who were on the Erie County Council at the time. She noted that her predecessor, Mary Schaaf, tried to do the same thing but was also stonewalled. She questioned who was in charge of the polling place, and how an 1800 vote district could be missing almost 500 votes and no one noticed it. She also questioned why a man who had asked why there weren't tapes for two machines received no response. She announced something was drastically wrong here, and the whole office needs overhauled. She shared with the Council that something had to be done.

Jim Wertz, Erie: Mr. Wertz acknowledged that, though not ideal, incidents do occur and this was not the first time this had happened since he had been following and involved in politics. He mentioned that this was the third or fourth time a machine had gotten counted after election day. He stated this was not a partisan problem, it was an issue of human error. He noted that our election office was often regarded as the gold standard in the state, despite the occasional error. He also noted, at least twice before, the same issue had happened with the previous Clerk who was a Republican and was now the Director of Administration for the Republican County Executive. He mentioned that these processes could be reviewed and perhaps audited, but this was not an uncommon error that occurs in these analog processes when you were moving a couple of

hundred election machines on election night. He proclaimed that he stood behind the election board, stood behind the election office, and spoke for the vast majority of the public who believe in the integrity of the elections here in Erie County.

Recertification of Results- 2022 General Election

Ms. Slomski noted that during elections, a poll book was scanned for each and every precinct and voter. She stated when scanned, the incorrect number was found. She stated there were 699 votes from Summit 2, but after scanning the poll book realized there were 1,184 votes. She disclosed that this was due to one of the scanners not recording the memory card for the machine. She explained a new safe guard that was put in place where the memory cards were placed in their respective bin, brought to the glass box, and then were plugged in to upload the results. She also stated that a checklist would be put in place that states how many scanners each precinct had, so at the end of the night, all the memory cards were plugged in. She stated the process did work and all 485 votes have now been casted.

Mr. Bayle questioned why this was not caught before it escalated if the process worked.

Ms. Slomski stated that this was the challenge with having physical poll books. She noted that two days after Election Day, they began getting the provisional votes ready for the final count. She stated that in a perfect world, they should have had the scanning done in two days, but with a limited staff, that could not happen. She proposed that , going forward, they would wait to begin scanning.

Mr. Bayle stated they should not certify the vote until every process was followed through with 100%.

Chair Shank questioned whether the ballots could be scanned in a different way or do they have to be scanned one at a time.

Ms. Slomski stated that it was a barcode system, and scanning each individual ballot ensures accuracy and precision.

Mr. Winarski agreed with Mr. Bayle that the final vote should be done after all counting had been resolved.

Mr. Talarico stated that no matter what system was being used, there would always be human error. He noted that we could sit there and think "well what if we went over it a third or fourth time," but when a mistake was made, it can be missed over and over again. He stated what was good about human nature was humans could correct their mistakes and that was what happened here. He explained that it was not questionable under the law that they had to re-certify because the mistake had no legal consequences or legal significance. He recommended that the board recertify after Ms. Slomski did an audit again to see

what happened and to change the vote to the correct number. He stated what the board was doing now was carrying out a ministerial act, it did not have any discretion to not certify and there was no alternative but to certify. He noted that if anyone felt that there was something amiss with the election, they could have their day in court just like everyone else to prove it. He stated the only vote that was being taken was whether the vote should be recertified as corrected.

Mrs. Schauerma motioned to recertify the results from the 2022 General Election, was seconded by Mr. Scutella, and passed 6-0.

Chairwoman Rennie stated there had been nothing she had ever done in her life as an administrator that had not had a certain level of human error. She stated the true measure of integrity of the process was how it caught mistakes, how it corrected them, and or if there was a process in place for correcting them. She noted making a mistake was very different from committing a crime, and sometimes crimes were committed in ignorance. She stated this circumstance was not done with criminal intent and if there was anything intentional, it would not have been something that they transparently revealed to the public. She expressed that she thought this was an affirmation of the process that they were willing to step up and admit that a mistake was made. She noted that it was not that 400 votes were lost, but it was one memory card that did not get uploaded as it should have been and the process was in place for catching that. She stated when there was a problem, you identify the problem, correct it, and set in motion a solution so it would not happen again and that was exactly what had been done there today. She mentioned she would like to set up another meeting regarding two items that were set in place to restrict funding for ballot sorting devices for the 2022 budget, and also the resolution that was passed at the beginning of the year in support of retaining electronic poll books. She stated she would like to bring these items up to the board before the end of the year. She also added that the electronic poll books would be another safe guard in place that would help with accuracy.

Adjournment

The meeting was adjourned on the motion of Mr. Shank at 4:55 pm.