

MINUTES

Erie County Council

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BOARD OF ELECTIONS MINUTES 11/3/2022

Call to Order

Chair Rennie called the meeting to order at 11:00am.

She played the National Anthem and encouraged everyone to join in.

Roll Call

Members Present: Chair Mary Rennie, Vice Chair Terry Scutella, Charlie Bayle, Andre Horton, Ellen Schauerman, Brian Shank, and Jim Winarski (via Zoom)
Others Present: Julie Slomski, Megan Moore, Tom Talarico, Esq., Jim Czerpak, Tonia Fernandez, and Jill Pennsy

Hearing of the Public

Byron Tom Eddy, Republican Committee Chair: Mr. Eddy stated all that they were asking for was a non-verified application process to be open or transparent. He stated they wanted to observe how an individual that did not have a valid ID was contacted, when they were contacted, and what was the resolution to that contact. He disclosed they wanted to look at the 4,000 ballots in Erie County to see how many have been verified. He professed the U.S Supreme Court said that any ballot submitted incorreced cannot be counted and must be separated. He explained he had heard, in some cases, military ballots were sent in to be transcribed to a ballot and then ran through a machine. He thought both parties should be invited to have somebody there to witness that transition during that process. He stated he was informed that on Election Night, you were allowed to have one Candidate that would be allowed in one section where the outside envelopes were being inspected and opened. He explained they want to be able to verify that a signature is there, as well as the proper date. He questioned whether they had to submit a letter or email to that person or individuals. He proclaimed all they were looking for was transparency in regards to that resolution.

Freda Tepfer, Erie: Ms. Tepfer stated she had emailed a few questions in advance but was told they had already been answered. She explained that some of them who weren't neurotypical may have different ways of obtaining information, so when they go through the trouble of sending an email and get told it has already been answered, it left her frustrated. She questioned if she would be able to tape the machine receipts to the glass door at her precinct, as they had done previously, because she felt that people would like that information. She also asked for clarification of the roles of the Constables on Election Day. She stated she did not want to cause any trouble, but she had trouble processing the information that was given to her.

Jim Wertz, Erie: Mr. Wertz stated he wanted to acknowledge that the Courthouse and Election Office would soon be overrun with conspiracy theories masquerading as challenges to the fair and transparent process of the Election Office. He stated he wanted to acknowledge, before the body, that both he and a great number of people across the Commonwealth, look to Erie County as a gold standard for its election process. He stated they look at the office, historically and as a model for other election offices across the state, even before the recent changes. He expressed he felt the office should be congratulated and he looked forward to making their way through Tuesday with all the same fairness and transparency.

Joe Kujawa, State Representative Candidate: Mr. Kujawa stated he talked to Ms. Slomski over the summer and she stated that it would be a fair election and that is all that he really wants. He mentioned when he heard there were 4,000 plus absentee ballots, he questioned whether they were all checked, who they were coming from, and were they legal. He expressed that he believed everyone's voice should count and every vote should count, as long as it was a legal vote. He proclaimed how it was being done and how it was being checked was a concern as a Candidate, because they work hard and they want to make sure everything had been done fairly and the right way. He expressed he hoped the Council would look over the Resolution and pass it.

Karen Kirley, Municipality not stated: Ms. Kirley stated she was a Judge of Elections a few years ago and there was a young man who was inactive but was allowed to vote provisionally. She stated his only form of identification was his Ohio driver's license. She stated she thinks the process for eligibility verification, particularly in Pennsylvania, needs to be looked at carefully, especially since they were so close to Ohio. She explained she felt it was imperative, in the interest of fairness, that they verify whether they were eligible to vote. She requested gold notary seals for poll watcher certificates because she felt it would be helpful to verify that they were legitimate Poll Watchers.

Chairwoman Rennie clarified that some of what had been suggested would be covered during the meeting. She thanked everyone for their suggestions.

Election Update

Ms. Slomski stated that the Leadership Team overseeing the election and wanted each of them to start off with their updates.

Jim Czerpak, Custodian of Warehouse and Machines: Mr. Czerpak stated that they had successful training for all Poll Workers and they were currently shipping the machines to the 149 precincts. He explained there were a lot of moving parts behind the scenes and the Drivers had a lot of miles to cover but they did a great job and were very reliable. He noted they did place ballot stickers on all the machines; it was clear where the voted ballots should be placed and he felt it would be helpful.

Jill Pennsy, Council and Elections Administrator: Mrs. Pennsy updated the Board

on the pay cards, the new way to pay the Poll Workers. She mentioned that the feedback she had received since the last election had been positive. She advised that most of the cards were distributed during Poll Worker training and the rest would be picked up. She explained that with this process they had been able to replace Poll Workers who are unable to work on Election Day, rather than scramble to find replacements. She stated pay sheets would be submitted at the end of the night, and the workers would be paid. She noted Rapid Financial would be available on election night in case of any issues with the uploading process.

Chairman Shank questioned how many cards were issued.

Ms. Slomski stated about nine-hundred cards were issued, and that included the Poll workers, Constables, and Pre-Canvassers.

Ms. Moore stated the Pre-Canvassers were sent a letter and email about coming in on Election Day, what their hours were, and what to expect. She stated the ballot extractors were installed and the final checks on them were in process to make sure they were ready for Election Day.

Mrs. Fernandez expressed that the Team had been working incredibly hard and were ready for the elections. She touched base on the process of adjudication and explained that on 11/11 after conducting the final canvass of provisional ballots, the election staff would temporarily redact all election results to include adjudication results. She clarified that the whole process would take 3-7 days depending on how many write-in votes were received. She made note that they would be unable to report the write-ins until every ballot had been looked at and adjudicated. She mentioned that throughout the adjudication process, the team would review digital images of every ballot that had been flagged due to over-votes, ambiguous marks, and write-in votes. She asked the Board to approve the write-in adjudication procedure. She mentioned for contests that exceed Erie County, such as state-wide offices or legislative districts that expand through other counties, they would transcribe every write-in vote so they were listed on their results and would be with other county write-in total. She stated contests that did not exceed Erie County, such as legislative districts that do not expand to other counties and local offices, would not be transcribed unless the number of write-in votes were equal to or greater than the number of votes received by any Candidate on the ballot or that contest. She added that, as always, they would continue to reject fortuitous write-in names.

Ms. Slomski stated there were 4,014 individuals whose IDs were questioned and of those 3,116 votes had been recorded. She explained that a ballot cannot be scanned until the ID is verified. She mentioned that there would be votes that were not going to count because people did not verify their ID. She stated that 30,144 mailed ballots had been issued through Erie County and 22,253 of those 30,144 had been recorded in Erie County. She noted that there were 178,778 registered voters but there were also a lot of errors with those, including undated or misdated ballots. She clarified that September 27 was the first day that in-

person voting was allowed for early mail-in. She explained that when a ballot was received, it was time stamped, scanned into the system, and filed. She noted that ballots that were dated before or after September 27th were considered misdated ballots. She stated they went through 143 precincts out of 149, double checking the ballots to see if there were any mistakes. She disclosed that there were 225 incomplete ballots that they were going to hold on to until they have further guidance on curing ballots. She stated Deputy Clerk Moore, reached out to both of the parties to explain the process and was the one handling the Poll Watcher certificates in an organized fashion. She expressed that they always made sure certificates were stamped and encouraged all Judges or Poll Workers to check to see if the Chairwoman's name was on it because if it's not, then it's not a real certificate. She disclosed that on Election Day, they have a special system through air table for Judges that can't call in. She stated they can send them a message and they can answer it. She stated she had never heard of a situation with fake certificates but if it was a problem, she would like to correct it.

Mr. Shank questioned if they were able to internally notarize the seals.

Ms. Slomski stated they did have the raised seals but not the stickers. She explained sometimes crinkling might wear it out a little bit but all of them should look like the regular ones. She expressed her gratitude to the Team.

Mrs. Rennie expressed her gratitude to the Team from the Elections Office. She stated they operated within Election Law, and strictly with Election Law so no matter what they had seen or heard, they had a failsafe for every situation. She explained they were happy to show the process and expressed they were inflexible and careful in all aspects of what they said and did. She stated each person represented their constituents fully. She guaranteed they were looking carefully at processes, right in the thick of things to watch how things were done, and doing their due diligence. She disclosed they did not consider taking actions that fell outside the law, and it would be irresponsible of them to do, no matter what side they're on, they act within the law. She mentioned that the issue of the constables was covered within Pennsylvania Election Law and they were utilizing the constables defined.

Ms. Slomski stated they had elected Constables or appointed Constables through President Judge Walsh. She noted that as all Constables were aware that they had to be on the list and had to be certified. She stated there would be more information on Monday, regarding which Constables are elected or appointed to the appropriate districts and precincts. She added that they would then pass the Constables' information to the Judges so they could all have each other's contact information. She stated the Constables were peacekeepers and that was their main goal.

Mr. Horton stated he was sure it was covered by the Constables, as to what their responsibilities were, but he felt that it should be expressed more that the Constables had nothing to do with the election, nor the election process.

Ms. Slomski stated that it was on the policy that the Board approved and each Judge would sign off for the Constable to be paid.

Possible Board Action

Curing Process

Ms. Slomski stated first up was Resolution Number 12 "Notice to Cure Procedure for Absentee and Mail-In Ballots." She explained ballot curing was defining the two-part process that involved notification and correction. She stated the ballots that they were curing were either absentee ballots, misdated ballots, or ballots signed by someone else.

A woman from the public audience asked for clarification on the definition of curing.

Mr. Talarico explained that the procedure to cure ballots was something adopted by the general Elections Boards throughout the state and some counties have procedures, some do not. He stated mail-in ballots come in and a lot of times there were some immaterial defects on the face of the ballot that could be fixed, cured, or corrected. He disclosed that Erie County, since before 2020, had contacted the person whose ballot had a mistake and gave them the opportunity to correct it. He noted the process is the same for absentee ballots. He stated the idea was trying to balance the substance of the intent of the Voter and whether they would be disenfranchised if their vote was eliminated because of technicalities that were not significant. He explained that if there was a mistake that does not affect the substance of the vote itself, then the office will call that person to tell them their vote would not be counted because the face of the ballot was defected, unless they correct it, and the only way they can correct is if they come into the office. He stated it was really just calling a Voter who made a mistake and giving them the opportunity to correct it. He stated the Commonwealth Court rejected and dismissed the lawsuit that was filed by the Republican National Committee and their request for an injunction to stop it immediately. He disclosed that the Commonwealth Court dismissed it and said no they're not going follow that. He stated the Supreme Court issued a decision 3-3 which amounts to an affirmation and now it went back to the Commonwealth Court. He proclaimed the Commonwealth Court had yet to rule on the merits of the petition brought by the Republic Nation Committee, trying to outlaw the use of notice to cure procedures. He noted that as the law stands at the moment, all of the Election Boards across the County were still allowed to notice to cure procedures until there was a decision by a court that said otherwise. He explained that the reason the Supreme Court ordered ballots with undated, difficult to understand dates, or inaccurate dates to be segregated and preserved was to wait for the Commonwealth Court to make the decision.

Mrs. Rennie asked the public to maintain respectful silence for the meeting as they voted on the Resolutions.

A motion was made by Mr. Shank, seconded by Mr. Horton, and passed 7-0.

Mr. Winarski stated his vote approximately five minutes after the initial vote due to technicalities.

Adjudication Process

Mrs. Rennie stated that next was the Adjudication Process Resolution. Ms. Slomski pointed out that Mrs. Fernandez described it in her report, which detailed the entire resolution.

Mrs. Rennie agreed that Mrs. Fernandez read it in its entirety.

Mr. Horton motioned to approve the Adjudication Process, seconded by Mrs. Schauerman, and passed 7-0.

Poll Watcher Process

Ms. Slomski stated the Poll Watcher Process was just following the guidance concerning Poll Watchers and Authorized Representatives issued by the Department of State. She stated this was to help the Judges, as well as the Pre-Canvassers, making sure it specified the Poll Watchers at the polling place, the people inside, and the Authorized Representatives inside during the Pre-Canvassing process. She noted it did specify one individual per Party and one individual per Candidate.

Mr. Horton moved to accept Resolution 14, seconded by Mr. Shank, and passed 7-0.

Questions and Comments from the Board

Mrs. Rennie stated there was one more item to be brought to the Board that was not on the agenda. She stated the lease agreement was up for the 12th street location. She made note that the warehouse was large enough that they had invested a lot of money into the warehouse to have electricity installed, security, and shelving for storage. She stated there were many things that made it ideal and hard to beat for the uses of the Elections office. She added that all of the poll machines are stored there, logic and accuracy testing was done from that site, and all of the ballots and envelopes were stored there as well. She stated if the system was moved at this time, it's possible that the logic and accuracy test could potentially fail without the proper electrical voltage. She asked Ms. Slomski if she had anything to add.

Ms. Slomski described that when the logic and accuracy tests were going on, they tested every single scanner and ballot marking device, which pulled a lot of power. She said they could potentially fail the test because there wasn't enough power to keep all 149 machines going. She disclosed there was proper security in place already because that was where all the machines and previous election ballots are stored. She stated the biggest concern was not only moving everything, but the fact that they had already invested approximately \$20,000 in that property.

Mr. Horton stated he supported this because he knew there were specific items that needed specific care. He questioned how much of an increase there was with

the lease. He stated it would be helpful to answer in an informed way when someone inquired about it. He stated his belief that it would be pertinent.

Mr. Talarico stated the previous lease agreement had been traditionally signed by the County Executive, so there would not be a number as far as he knew. He stated the County Executive had not agreed on a number with the lessee and the lease agreement provided the lessee with the right to exercise the option for another three-year term. He mentioned that the lessee had to give the Administration 6 month notice in order to do that. He exclaimed he had no idea if the 6 months' notice was given. He explained that the agreement provided that unless the parties agree on a number, the lease ends, which was why this was pretty serious. He stated the consequences of not renewing the lease could mean they do not have a place to store their machines and materials. He stated if the Board passes this, which he recommended, it should probably be amended to state it was subject to the approval of the Administration.

Mr. Horton motioned for an amendment, "subject to approval of Administration", to Resolution 13, 2022, seconded by Mr. Scutella, and passed 7-0.

Mr. Horton moved to accept Resolution 13, 2022, seconded by Mr. Shank, and passed 7-0.

Mr. Shank expressed his thanks to the Board of Elections office. He thanked them for keeping their i's dotted and t's crossed.

Mr. Scutella expressed his thanks to the Elections office who worked diligently to bring a safe, honest election. He stated they work hard for not enough pay. He expressed that the people in the office were unbelievable.

Mr. Horton thanked the Chairs of both Parties. He stated he knew it had been difficult and he appreciated the cooperation they had, allowing them to work through the process. He stated their office was the gold standard in the Commonwealth and they could rest assured that there was probably not a more transparent office. He stated he was proud of the work they do and expressed his gratitude.

Mrs. Schauerma disclosed she was Judge of Elections for about 20 years before she became a Council Member. She stated that for all those years, she stood by the Elections office for their honesty, trustworthiness, and transparency. She expressed that she was proud of everyone involved.

Mrs. Rennie stated it was important to recognize and realize that everyone there played a role in an intricate process. She noted it was a system of checks and balances. She preached that they were all human, they make mistakes, and catch mistakes. She disclosed they had just recently caught a mistake where an individual had multiple registrations and had to work in conjunction with Venango County to resolve it. She explained that things do come up and they

were responsible for making corrections and acting on them appropriately. She mentioned she was thankful to everyone there watching to make sure they did what was right. She voiced that she believed that it was all a part of the process and should be embraced and welcomed. She thanked everyone for their attention to detail regarding the election because they were also a part of the process as well.

Mr. Horton expressed his thanks to Chairwoman Rennie for sticking right in seamlessly and handling everything that had come down on them so far.

Adjournment

Mr. Horton motioned to adjourn at 12:00pm.