MINUTES

Erie County Council

View More at
www.eriecountypa.gov

André R. Horton, Chair
Chris Drexel, Vice Chair
Charlie Bayle
Rock Copeland
Ellen Schauerman
Terry M. Scutella
Jim Winarski

BOARD OF ELECTIONS SPECIAL MEETING MINUTES 03/12/2024

Call to Order

Chairman Horton called the meeting to order at 04:00 PM.

Roll Call

Members Present: Chairman Horton, Vice Chairman Drexel, Mr. Bayle, Mr. Copeland, Mr. Scutella, Mrs. Schauerman

Also, Present: Karen Chillcott, Megan Moore, Solicitor Thomas Talarico; Tonia Fernandez

Hearing of the Public

None

Approval of Minutes of Previous Meeting

Scutella moved to approve the minutes from the February 13, 2024, Regular Meeting. This was seconded by Copeland and carried by a 6 - 0 vote. (Winarski Absent)

February 13, 2024- Board of Elections Meeting

New Business

Mr. Drexel proposed two amendments to the council for two items on the agenda. Firstly, to amend the resolution concerning the L&A Watcher code of conduct by replacing the words 'Watcher' and 'Watchers' with 'Observer' and 'Observers'. After discussions with the solicitor and Clerk of Elections, it was determined that the 'Observer' should be used to avoid confusion.
Copeland seconded the motion. Mr. Drexel then moved to amend the resolution on extending the deadline to register to vote by making the following changes in the 6th and 9th, whereas Clauses change the word Sheriff's Department to Sheriff's Office and strike the paragraph beginning with therefore be it resolved and replaced with the following paragraph, therefore be it resolved by the county of Erie Board of Elections pursuant to the home Rule Charter Article 1, section 2 the Pennsylvania election code in the order of Court dated March 8th 2024 a copy of which is attached here to and Incorporated herein the deadline for the last day of register to vote in the county of Erie for the 2024 primary election shall be extended one day from April 8th 2024 to April 9th 2024 is hereby recommended to council by the Erie County Board of Elections at the time the agenda was published we did not have a court order to reference and this language has since been provided by our solicitor.
Chair Horton asked for discussion.
Schauerman asked for clarification on whether the second amendment to the

agenda needed a second by a member.
Copeland clarified that most amendments are proposed to be voted on with a single vote and asked the record to show that both will be moved together.
Mr. Talarico affirmed the record must be reflected as such.
Roll call vote carried 6-0 (Winarski Absent)

Resolution to Approve the Extension of the Deadline to Register to Vote in the County of Erie to April 9, 2024

Schauerman moved to accept the Resolution to Approve Extension of the Deadline to Register to Vote in the County of Erie to April 9, 2024, As Amended, was seconded by Scutella, and carried 6-0. (Winarski Absent)

Approval of the Contract between Erie County and SOE Software Corporation dba SCYTL

Schauerman moved to the Approval of the contract between Erie County and SOE Software Corporation dba SCYTL, seconded by Scutella.
Horton called for a discussion.
Mr. Talarico highlighted that the current three-year agreement could only be terminated for cause as outlined in the contract. This, he explained, effectively committed the county for a minimum of three years, regardless of the quality of work or the emergence of potentially better contracts from other companies. He proposed an amendment to paragraph 8.3 of the agreement, suggesting the removal of the existing language and its replacement with the following: "This agreement may be terminated by either party by providing the other party with a 30-calendar day prior written notice of their intention to terminate." Mr. Talarico emphasized that this change would offer the board more flexibility, and allowed for the possibility of renewal or termination within a shorter time frame.

Ms. Chillcott provided insight into the decision-making process, highlighting that several companies were considered before arriving at the current choice. The selected company is widely recognized as a leader in its field and is held in high regard. After investigating multiple options, it was noted that there are primarily two major companies offering this particular software service. This software is not within the capacity of our internal IT Department to provide. The chosen company entails an initial upfront cost due to set up requirements. The first year's expense is estimated to be $14,500. Subsequent years will incur costs of approximately $7,500 annually. Feedback from other counties that have utilized this software was also considered. They have reported a positive experience, expressing a higher level of comfort with this specific software. This collective feedback contributes to the reputable standing of the chosen company. Based on these considerations, the decision to proceed with this company was made. This selection reflected the confidence in their services and the positive reputation they held within similar organizations.

Mr. Talarico acknowledged the potential excellence of the chosen company, expressing confidence in their abilities. However, he highlighted a concern regarding the lack of a bidding process. It was noted that the current agreement stipulates a three-year contract without the option to open the project to bids during this period. This limitation was identified as the primary drawback in the decision-making process. While recognizing the merits of the selected company, Mr. Talarico emphasized the importance of considering alternative vendors through a competitive bidding process.

Mr. Drexel sought confirmation from Ms. Chillcott regarding the absence of cost savings.

Ms. Chillcott compared the chosen company with an alternative, noting the latter's slightly lower annual cost of about $200. However, concerns emerged regarding unclear service terms and potential hidden fees. Both options show similar total expenses over three years. The alternative offers a one-year contract at an average of $10,000 annually, resulting in comparable total costs. Ms. Chillcott emphasized the importance of analyzing potential undisclosed fees in the alternative option due to its less transparent terms.

Mrs. Schauerman expressed a desire to provide feedback on item 8.1.
Mr. Talarico noted that he addressed item 8.33, not 8.1.
Mrs. Schauerman brought attention to clause 8.1, which discusses the validity and duration of the agreement. She emphasized the importance of including provisions for termination or an exit strategy, despite the agreement's three-year term.
Mr. Talarico commented that clause 8.1, pertaining to the three-year contract, typically does not require changes. However, he highlighted the need for an exit strategy in the event of unforeseen circumstances or lack of funding, as is common in contracts. Mr. Talarico acknowledged the clarity of the contract's pricing. He inquired about the total cost under consideration.

Ms. Chillcott provided a breakdown of the contract costs: approximately $15,000 for the first year, followed by $7,500 for both the second and third years. She noted that this totals to a similar expense structure as $10,000 per year.

Mr. Copeland expressed support for the notion of allowing flexibility by potentially amending the contract. He directed the question to Mr. Talarico, asking if there is any indication that the service provider would agree to such changes.
Mr. Copeland raised a query about the next steps if the contract is amended and sent back to the service provider, and they declined the changes. He inquired whether this matter would then return to the agenda for further discussion. Ms. Chillcott clarified that the software under discussion is for election reporting purposes. Mr. Copeland expressed concern about the potential impact of contract amendments on the availability of the service for the Primary Election. He highlighted the need to ensure that the service remains accessible and operational.
Mr. Talarico stressed the need to identify contract negotiators and address pertinent questions. He emphasized the Council's responsibility to initiate bidding processes, particularly for this smaller contract. Acknowledging the Council's infrequent bidding in recent years, Mr. Talarico noted the limited pool

of contractors due to specialized election code requirements.

Mr. Horton expressed support for the typical structure of leases in the magisterial districts, noting it as standard practice. He acknowledged the proprietary nature of the software and mentioned the staff's diligence in exploring options with at least two other companies.

Mrs. Schauerman inquired about the service provider's estimated timeline for setup and implementation, considering the upcoming elections.

Ms. Chillcott estimated a setup time of a couple of weeks. Feedback from other election directors indicated 10 to 30 hours for data entry and software navigation. With ongoing election work, Ms. Chillcott stressed the need for a decision before the primary election for timely implementation. However, she also mentioned the option to negotiate further and potentially trial the software before the general election.

Mr. Horton suggested that a phone call and coordination might resolve major concerns. He mentioned the possibility of stating the terms of the three-year contract, with provisions for changes unless they fundamentally alter the agreement. He expressed readiness to entertain any motion put forward, whether to proceed with the contract as is or with amendments.

Drexel moved to accept the Approval of the Contract between Erie County and SOE Software Corporation dba SCYTL, seconded by Copeland.
Ms. Chillcott again restated the decision process for the software. Mr. Horton reiterated his point of wanting more choices, but called for a vote for the motion.
Vote carried in a 6 - 0. (Winarski Absent)

Approval of the Logic and Accuracy Watcher Code of Conduct

Schauerman moved for the Approval of the Logic and Accuracy Watcher Code of Conduct, As Amended, seconded by Scutella, carried 6-0 vote. (Winarski Absent).

Approval of the April 23, 2024 General Primary Ballot

Schauerman made the motion for the Approval of the April 23, 2024, General Primary Ballot, and seconded by Scutella.

Chair Horton called for any comments or concerns from members, Clerks, Solicitors or the Election Director.
Mrs. Fernandez, the Election Director, reported that they have been proofing the ballot information for a couple of weeks and will continue to do so. She mentioned potential changes due to two candidates: Parker and Vodvarka. She highlighted the upcoming logic accuracy testing scheduled to begin next week on the 18th, noting the need to proceed with mail ballots despite the potential changes.

*Note that the discussion veered off the topic of the motion prior to a call for the vote.

Mr. Horton mentioned receiving emails indicating that compensation for training may no longer be provided.
Mrs. Fernandez clarified that the clerks are responsible for handling books and sign-ins but have not undergone formal training. She explained that while training sessions are open for clerks to attend if interested, initial invitations are not sent out. Clerks are required to call the office to schedule training sessions. Mr. Horton clarified that the issue does not concern clerks receiving training but rather revolves around payment. He raised questions about the reasons for potential changes in compensation and expressed the need for a clear resolve and who to contact.
Mrs. Fernandez clarified that training clerks would not be an issue but mentioned limited space at the Bayfront Convention Center where the training occurs. She noted that a week was already designated for training and stated clerks could contact her directly to schedule their sessions.

Mr. Horton inquired about any scheduled hearings in March regarding the ongoing litigation.
Ms. Chillcott informed the group of a public hearing scheduled for March 26.
Mr. Horton acknowledged Ms. Chillcott's mention of the public hearing scheduled for March 26, apologizing if the information was previously provided to him. Ms. Chillcott mentioned that the March 26 hearing details are not immediately available, but she believes it involves Judge Ridge. Mr. Horton informed the group about the upcoming March 26 hearing, mentioning that it revolves around pictures from the mailbox. He expressed his intention to share information for awareness, highlighting the importance of resolving the matter during the next hearing. Mr. Horton speculated that similar issues might occur statewide.
Mr. Talarico clarified that the upcoming March 26 hearing centers on a prolonged issue regarding the county's actions. He emphasized that the focus is not on obtaining information but rather on determining whether the county acted appropriately. The main point of contention involves providing access to a video filmed outside the drop box.

Mr. Copeland raised the point that the complex questions being discussed have also been topics of conversation in other settings. He suggested that further exploration or discussion might be beneficial.

Mr. Talarico cut in, stating that the issue discussed is now public record due to the nature of the conversation. He emphasized that this topic has been a recurrent and prolonged issue, particularly regarding the use of voter machines and access to electronic ballot information. He mentioned a recent Commonwealth Court decision that defined the process of scanning handwritten votes into the machines for tabulation. This decision clarified that the electronic information sought in right-to-know requests is considered equivalent to the physical ballot box content. As a result, the court ruled against providing access to this electronic data, impacting numerous right-to-know requests related to the 2020 and 2022 elections. Mr. Horton noted the need to review the recent court case mentioned by Mr. Talarico. He reiterated his practice of sharing information with the group and intended to pass along details regarding the March 26 hearing.

Mr. Talarico requested clarification from Tonia regarding the removal of two candidates from the election. Mrs. Fernandez explained that the removal occurred at the state level, and she does not have detailed information on the matter.

Ms. Chillcott announced a motion from Mrs. Schauerman to accept the ballot, with a second from Mr. Scutella.
Mr. Horton called for the vote on the motion to accept the ballot.
Vote for the Approval of the April 23, 2024, General Primary Ballot carried 6-0 (Winarski Absent).

Questions and Comments from the Board

Mr. Bayle mentioned confusion with the Amendments and the blending of various topics throughout the meeting.
Mrs. Schauerman expressed her gratitude to the attendees.

Adjournment

Scutella moved to adjourn at 04:36 PM.