

# VOTE CUYAHOGA COUNTY BOARD OF ELECTIONS

**Board Meeting**

**1/25/2022**

**Attending:**

Jeff Hastings, Chairman  
Inajo Davis Chappell, Board Member  
Lisa M. Stickan, Board Member  
David Wondolowski, Board Member  
Anthony W. Perlatti, Director  
Tony Kaloger, Deputy Director

Mark R. Musson, Assistant Prosecutor, Cuyahoga County  
Mary Bejjani, Clerk to the Board  
Linda Walker, Clerk to the Board

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The Cuyahoga County Board of Elections Meeting began at 1:59 p.m. Hereinafter referred to as the CCBOE/Board.

Chairman Hastings noted that all Board Members were in attendance.

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**Agenda Item 1: Acknowledgment of withdrawal of recall petition**

Director Perlatti provided a summary of the matter regarding the withdrawal of the recall petition. Director Perlatti stated in December 2021, the CCBOE received a petition to recall the Mayor of Newburgh Heights. The Village of Newburgh Heights is a non-chartered statutory village. When there is no charter, determination of the recall process is provided for by the Ohio Revised Code. CCBOE's standard practice is to reach out to the law director of a village or municipality for guidance, along with the CCBOE's legal counsel for a legal opinion. The legal opinion of the Village law director concluded there could under Ohio law there is no authority for the Village to conduct a recall election. The petitioners consulted an attorney who concluded otherwise.

The Board scheduled today's special meeting for a hearing on whether to certify the recall petitions. In the meantime, after the CCBOE provided notice of the meeting, on January 22, 2022, the individuals who circulated the petition emailed the CCBOE requesting the petitions be withdrawn. Therefore, because the recall petitions have been withdrawn, the question whether to certify the recall petitions to the ballot is mute.

Chairman Hastings stated on or about December 20, 2021, after the recall petitions were filed, the CCBOE Director and legal counsel concluded (as did the law director of Newburgh Heights) that the recall petitions are void, as State law does not permit recall petitions for a non-statutory village. APA Musson then wrote the petitioners advising them of same and an attorney for the petitioner's opined differently. While the Board appreciates involvement in this matter, it is the Board that is charged with determining

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<sup>1</sup> Narrative that is underlined in the CCBOE minutes relates to a motion that was acted on by the Board.

whether the recall petitions should be certified to the ballot and that was the reason for today's special meeting and because the petitions have been withdrawn the matter of certification is mute.

The CCBOE did receive an email one hour before today's meeting from Trevor Elkins asking if the CCBOE staff could withdraw petitions through an email attaching a photograph/copy of a withdrawal letter. Brent Lawler, Manager of Candidate and Petition Services, stated the CCBOE routinely accepts withdrawals of candidates and issues via email, and the Board acknowledges those withdrawals. The Statute states a "written notice" and does not go beyond that description. Chairman Hastings stated the past business practice is the CCBOE accepted any notice received electronically, by facsimile, by mail, etc. The CCBOE has acted on those notices, and there is no law that prohibits receiving withdrawal notices via email. Board Member Davis Chappell stated courts routinely accept electronic and facsimile copies, and the CCBOE does have a pattern practice of accepting withdrawals electronically.

Board Member Davis Chappell asked if the petitioners would refile if the Board would reconvene with a special meeting. Chairman Hastings stated the Board does not know whether the petitioners will refile the petition. If they do, CCBOE staff will accept the filing and then make a recommendation on certification.

Director Perlatti then explained the statutory procedure that would have to be followed should the Board certify the recall petitions to the ballot.

Chairman Hastings moved to acknowledge the withdrawal of the recall petition. Board Member Wondolowski seconded. The motion passed unanimously.

## **Agenda Item 2: Hearing on the petitions received for the recall of the Mayor of Newburgh Heights**

Chairman Hastings stated the Board acknowledged the withdrawal of the recall petition, and there is no hearing on the petitions because there is no petition for the recall of the Mayor of Newburgh Heights to be heard.

## **Agenda Item 3: Protest hearing pertaining to issues with the circulator clause filed by Mayor Elkins of Newburgh Heights regarding petitions received for the recall of Mayor Elkins of Newburgh Heights**

Chairman Hastings stated the Mayor of Newburgh Heights, Trevor Elkins, has filed a written complaint asking the CCBOE staff to investigate the circulators of the petition that have now been withdrawn. Chairman Hastings asked what the CCBOE's staff recommendations are regarding Mr. Elkins allegations. One of the circulators used his voter registration address to sign the circulatory clause on the petition and then signed the petition using another address where he apparently lives. As a result, Mr. Elkins wants the Board to refer this matter to the Cuyahoga County Prosecutors Office. Director Perlatti stated the documents provided in the complaint do not rise to the level of fraudulent activity on the petition. When the CCBOE receives petitions, the circulator statement is reviewed at face value. The circulator address matches the registration address, and even if the address does not match, the Election Official Manual allows for a different address. All petitions are reviewed for systemic issues and a lot of inconsistencies which these part petitions did not have. If there is a signature on a part petition and that address does not match the registration database, the signature is marked as invalid. Chairman Hastings stated the Ohio Elections Manual (OEM) specifically addresses this type of issue. Deputy Director Kaloger cited the OEM stating, "if the circulator is a qualified elector in Ohio, there is not a requirement that the address of the circulator matches the address on file with the Board of Elections. The Board must not invalidate a part petition solely because the address of the circulator in the circulatory statement differs from the address on file with the

Board of Elections.” Deputy Director Kaloger stated in this case; the address does match the database. However, the circulator did sign as a signatory, but that signature was invalidated because a circulator cannot sign the petition they are circulating. Chairman Hastings stated the petitions had been withdrawn.

Chairman Hastings made a motion that there be no investigation as requested by Mayor Elkins in this matter. Board Member Wondolowski seconded. The motion passed unanimously.

#### **Agenda Item 4: Approval of voucher**

Chairman Hastings moved to approve the voucher. Board Member Wondolowski seconded. The motion passed unanimously.

#### **Agenda Item 5: Approval of the personnel agenda**

Chairman Hastings moved to approve the personnel agenda. Board Member Wondolowski seconded. The motion passed unanimously.

#### **NEW BUSINESS**

Director Perlatti stated the Secretary of State is in contact with the CCBOE and providing updates on the State Redistricting.

Director Perlatti announced he was appointed as Second Vice President of the Ohio Association of Election Official (OAE) at the OAE Winter Conference.

Director Perlatti stated on Thursday, January 27, 2022, the Director and Mike West, Community Outreach Manager, are sitting for depositions regarding a lawsuit regarding ballot selfies.

Deputy Director Kaloger provided an update on the January 25, 2022, observance of National Poll Worker Recruitment Day. The CCBOE’s Election Officials Department invited poll workers to attend a focus group meeting, along with members of the media. The CCBOE will be hiring approximately 4,000 people county-wide for the upcoming 2022 elections.

#### **PUBLIC COMMENT**

There was no public comment.

At 2:19 p.m. Board Member Davis Chappell moved to go into executive session for the purpose of discussing an employment matter and potentially the dismissal and discipline of a public employee. Chairman Hastings seconded, and a roll call was taken, and each Board Member voted in the affirmative.

At 2:47 p.m., after returning from the executive session, Chairman Hastings motioned to come out of the executive session. Board Member Wondolowski seconded, and a roll call was taken, and each Board Member voted in the affirmative.

Chairman Hastings moved to adjourn the meeting at 2:47 p.m. Board Member Wondolowski seconded. The motion passed unanimously.

Certification: I have reviewed the above minutes and certify that they are an accurate summary of the actions taken by the Cuyahoga County Board of Elections at its meeting held on January 25, 2022.

Jeff Hastings, Chairman

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Inajo Davis Chappell, Board Member

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Lisa M. Stikkan, Board Member

A handwritten signature in blue ink, appearing to be "Lisa M. Stikkan", written over a horizontal line.

David J. Wondolowski, Board Member

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Anthony Perlatti, Director

A handwritten signature in blue ink, appearing to be "Anthony Perlatti", written over a horizontal line.