

VOTE CUYAHOGA COUNTY BOARD OF ELECTIONS

Board Meeting
2/14/2022

Attending:

Jeff Hastings, Chairman
Inajo Davis Chappell, Board Member
Lisa M. Stickan, 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

The Cuyahoga County Board of Elections Meeting began at 9:30 a.m. Hereinafter referred to as the CCBOE/Board.

Chairman Hastings noted that Board Members Davis Chappell and Stickan were in attendance. Board Member Wondolowski was excused from today's meeting.

Chairman Hastings moved to excuse Board member Wondolowski's absence. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 1: Approval of the minutes from the January 11, 2022, and January 25, 2022, Board Meetings

Chairman Hastings moved to approve the minutes from the January 11, 2022, and January 25, 2022, Board Meetings. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 2: Acknowledgment of Secretary of State Directives: Directive 2022-02; Instructions Regarding the Review, Examination, and Verification of the Supplemental Part-Petitions Proposing an Initiated Statute (An Act to Control and Regulate Adult Use Cannabis); Directive 2022-03; House Bill ("H.B.") 93; Directive 2022-04; Updated Election Official Manual; Directive 2022-05; Chapter 1 Introduction; Directive 2022-06; Chapter 2 Board of Elections Organization and Operations; Directive 2022-07; Chapter 3 Security; Directive 2022-08; Chapter 4 Voter Registration; Directive 2022-09; Chapter 5 Ballots; Directive 2022-10; Chapter 6 Precincts, Polling Locations, and Precinct Election Officials; Directive 2022-11; Chapter 7 Absentee Voting; Directive 2022-12; Chapter 8 Provisional Voting; Directive 2022-13; Chapter 9 Election Day Voting; Directive 2022-14; Chapter 10 Canvassing the Vote; Directive 2022-15; Chapter 11 Post-Election Activities; Directive 2022-16; Chapter 12 Voting Systems; Directive 2022-17; Chapter 13 Petitions; Directive 2022-18; Chapter 14 Candidates; Directive 2022-19; Chapter 15 Political Parties; Directive 2022-20; Chapter 16 Statewide Initiative and Referendum; Directive 2022-21;

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

Chapter 17 Miscellaneous Duties; Directive 2022-22; Examination and Verification of Candidate Petitions Filed with the Secretary of State's Office.

Chairman Hastings moved to acknowledge the Secretary of State Directives: Directive 2022-02; Instructions Regarding the Review, Examination, and Verification of the Supplemental Part-Petitions Proposing an Initiated Statute (An Act to Control and Regulate Adult Use Cannabis); Directive 2022-03; House Bill ("H.B.") 93; Directive 2022-04; Updated Election Official Manual; Directive 2022-05; Chapter 1 Introduction; Directive 2022-06; Chapter 2 Board of Elections Organization and Operations; Directive 2022-07; Chapter 3 Security; Directive 2022-08; Chapter 4 Voter Registration; Directive 2022-09; Chapter 5 Ballots; Directive 2022-10; Chapter 6 Precincts, Polling Locations, and Precinct Election Officials; Directive 2022-11; Chapter 7 Absentee Voting; Directive 2022-12; Chapter 8 Provisional Voting; Directive 2022-13; Chapter 9 Election Day Voting; Directive 2022-14; Chapter 10 Canvassing the Vote; Directive 2022-15; Chapter 11 Post-Election Activities; Directive 2022-16; Chapter 12 Voting Systems; Directive 2022-17; Chapter 13 Petitions; Directive 2022-18; Chapter 14 Candidates; Directive 2022-19; Chapter 15 Political Parties; Directive 2022-20; Chapter 16 Statewide Initiative and Referendum; Directive 2022-21; Chapter 17 Miscellaneous Duties; Directive 2022-22; Examination and Verification of Candidate Petitions Filed with the Secretary of State's Office. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 3: Approval to outsource the printing and mailing of Vote-by-Mail ballots for the May 3, 2022, Primary Election

Chairman Hastings moved to approve to outsource the printing and mailing of Vote-by-Mail ballots for the May 3, 2022, Primary Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 4: Hearing on the petitions received 2/1/2022 for the recall of the Mayor of Newburgh Heights

Chairman Hastings stated the petitioners had filed with the CCBOE a recall petition for the Mayor of the Village of Newburgh Heights. Brent Lawler, Candidate and Petition Services Manager, along with the Director and Deputy Director, had reached out to Luke McConville, Newburgh Heights Law Director, and inquired if state law permitted the recall petition to be certified for the ballot. The Law Director issued an opinion stating the recall petitions should not be certified to the ballot because the Charter for the Village of Newburgh Heights does not permit a recall election for the Mayor of the Village of Newburgh Heights. The petitioners hired Attorney Donald Brey, who wrote to Assistant Prosecutor Musson and the CCBOE stating the recall should be certified to the ballot. Chairman Hastings noted this matter is akin to a summary judgment motion. There are no facts in dispute and the Board's decision comes down to a matter of law. After hearing from the attorneys for the recall petitioners, the Village of Newburg and the Board's attorney Assistant Prosecutor Musson, Chairman Hastings moved to not certify the petitions received on 2/1/2022 for the recall of the Mayor of Newburgh Heights. Board Member Davis Chappell seconded. The motion passed unanimously.

A transcript of this hearing can be obtained by contacting Mary Bejjani, CCBOE Clerk to the Board, at 216-443-6430/mbejjani@cuyahogacounty.gov.

Agenda Item 5: Acknowledgment of resignations from and appointments to elected office

Chairman Hastings moved to acknowledge the resignations from and appointments to elected office as provided in the meeting materials. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 6: Acknowledgment of intent to retire from elected office

Chairman Hastings moved to acknowledge the intent to retire from elected office as provided in the meeting materials. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 7: Acknowledgment of withdrawal of candidates and issue from the May 3, 2022, Primary Election

Brent Lawler, Candidate and Petition Services Manager, presented information from the board packet concerning the withdrawal of an issue and candidates from the May 3, 2022, Primary Election.

Chairman Hastings moved to acknowledge the withdrawal of candidates and issue from the May 3, 2022, Primary Election as provided in the meeting materials. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 8: Certification of candidates and issues for the May 3, 2022, Primary Election

Prior to the certification of candidates and issues for the May 3, 2022, Primary Election, two candidates requested a Board Review of their petitions.

Brent Lawler, Candidate and Petition Services Manager, presented information from the board packet regarding Shayla L. Davis, Democratic County Central Committee Garfield Heights Ward 4 Precinct C. The petition required five valid signatures, six signatures were filed, four were deemed valid, and two were deemed not genuine by CCBOE staff. Shayla L. Davis addressed the Board regarding insufficient signatures on the petition. Ms. Davis provided a notarized affidavit from petition signatory Shy'aira Lashay Davis clarifying the printing of the name versus the required signature. Chairman Hastings asked Ms. Davis if she saw the signature cards of the signatories in question. Ms. Davis stated yes. Chairman Hastings asked Ms. Davis if she agreed the petition signature for Anthony B. Gamble III did not match the signature card. Ms. Davis said correct. Board Member Davis Chappell asked Ms. Davis if she agreed that Shy'aira Lashay Davis did print her name. The printed signature looks different from the provisional envelope signature the CCBOE has on file. Ms. Davis stated the signature does look different. However, the printed version matches her signature, and Shy'aira Lashay Davis printed her name to clarify the spelling and was not aware that printing the name was unacceptable. Chairman Hastings stated the CCBOE staff properly brought this discrepancy to the Board's attention, however in light of the letter from Shy'aira Lashay Davis and Ms. Davis's testimony under oath Chairman Hastings moved to have Shayla L. Davis certified to the Democratic County Central Committee Garfield Heights, Ward 4, Precinct C, May 3, 2022, Primary Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Brent Lawler, Candidate and Petition Services Manager, presented information from the board packet regarding William Yeung, Democratic County Central Committee, Lakewood Ward 2, Precinct G. The issue which required Board review is Mr. Yeung will not be 18 years of age on the date of the May 3, 2022 and turns 18 years on May 26, 2022. As with State Central Committee candidates, Central Committee candidates are also elected at the May Primary; the positions are not nominated. The CCBOE staff has conferred with Assistant Prosecutor Musson, who concurs that Mr. Yeung's age disqualifies him from continuing as a qualified elector. The ORC Section 3517.02 on the Controlling Committees state that members shall be a resident and qualified elector of the district, and the election manuals state that candidates that are 17 years old could only vote on candidates seeking the election of nomination, they cannot vote on County Central, State Central or Issues so he would not be able to vote for himself. Mr. Yeung addressed the Board Members remotely regarding the interpretation of being a qualified elector. Chairman Hastings asked Assistant Prosecutor Musson to opine on this matter. Assistant Prosecutor Musson stated the CCBOE Board is bound by the Ohio Elections Official Manual and the Directives of the Ohio Secretary of State which holds that a 17-year-old is ineligible to vote for elections at the Primary. Seventeen-year-olds can nominate candidates for the general election, but the actual election of individuals at the primary election is not something a 17-year-old can vote on. Board Member Davis Chappell asked how there is a distinction in the interpretation between voting and running for election. Mr. Musson stated that to run as a Central Committee person, an individual must be 18 years old at the time of the election. Ms. Amelia Yeung, a parent of William Yeung, asked if the May 3, 2022, Primary Election is moved, how would the change in the Election date impact the age qualification for William Yeung. Chairman Hastings stated the CCBOE is currently required to certify Central Committee candidates by 4:00 p.m. on February 14, 2022, so a change in the primary date does not make her son eligible to run for Central Committee regardless of when the 2022 primary is held.

Chairman Hastings moved not to certify William Yeung to the Democratic County Central Committee, Lakewood Ward 2, Precinct G, May 3, 2022, Primary Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Brent Lawler, Candidate and Petition Services Manager, presented information from the board packet of candidates not to certify for the May 3, 2022, Primary Election.

Chairman Hastings moved not to certify the individuals listed on the Petitions for Board Review, beginning with Luis R. Vizcarrondao, Jr. thru Gretchen Herzberger as listed in the board meeting materials for the reasons set forth in the agenda. Board Member Davis Chappell seconded. The motion passed unanimously.

Brent Lawler, Candidate and Petition Services Manager, presented information from the board packet of candidates and issues to be certified for the May 3, 2022, Primary Election.

As provided in the meeting materials, Chairman Hastings moved to certify the candidates and issues for the May 3, 2022, Primary Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 9: Acknowledgment of the PEO Performance Report

Marlene Robinson Statler, Election Officials Assistant Manager, presented information from the board packet concerning the Precinct Election Official (PEO) Performance Report.

Chairman Hastings moved to acknowledge the PEO Performance Report. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 10: Approval to Renew the Delivery & Return of Voting Equipment to Voting Locations Contract with Midfitz, Inc. dba Berman Moving & Storage, under subdivision (B) Article I., in the amount not-to-exceed \$51,463.50 for the First Renewal Period May 3, 2022, through November 2, 2022

Kendra Zusy, Fiscal Service Manager, presented information from the board packet regarding the approval to renew the Delivery & Return of Voting Equipment to Voting Locations Contract with Midfitz, Inc. dba Berman Moving & Storage. Board Member Davis Chappell asked how any changes to the Primary Election would affect what the Board is acting on today. Ms. Zusy stated that the contract covers the period from May 3, 2022, to November 2, 2022. The moving expense for any additional elections occurring in this time period are included. Director Perlatti stated if there were two primary elections, the CCBOE does not have the money encumbered, but the CCBOE does have the rate structure based on location delivery. Either the State would provide the funding, or the CCBOE would go to the County and ask for the additional funds for a second Primary Election.

Chairman Hastings moved to approve to renew the Delivery & Return of Voting Equipment to Voting Locations Contract with Midfitz, Inc. dba Berman Moving & Storage, under subdivision (B) Article I., in the amount not-to-exceed \$51,463.50 for the First Renewal Period May 3, 2022, through November 2, 2022. Board Member Davis Chappell seconded. The motion passed unanimously.

Board Member Davis Chappell recused herself from approving an internal voucher less than \$25,000 to the Academy of Continuing Legal Education for \$235.00 listed on the January 17, 2022, Voucher Summary.

Agenda Item 11: Approval to Suspend Contract (CM1356) with Tenex Software Solutions providing Online Poll Worker Management Solution Software, Election Force, Under the Authority of Subdivision (I)(3), Article IV. of the Contract

Director Perlatti stated the CCBOE has utilized Tenex Software Solutions Online Poll Worker Management Solutions, Election Force for online poll worker management. The Tenex software was used to collect information for poll worker applications, CCBOE staff also used it to assign poll workers to a polling locations and sign-up for training classes. The product was first used in the November 2020 Election when the Secretary of State allowed online training due to the pandemic. The product worked in 2020 but presented challenges. The CCBOE advised Tenex on what needed to be improved. In 2021, CCBOE staff worked with Tenex to implement an update, and there was some improvement. Tenex then came out with another update before the August 2021 Election, however, because of the proximity of that release and the August election those changes were not implemented during that election cycle. In the Fall of 2021, the CCBOE had four elections. The most significant issues the CCBOE experienced with the software were the speed and the versatility of tracking poll workers. CCBOE staff had weekly calls with Tenex to review the software issues.

Tenex issued another software release in December 2021, CCBOE staff reviewed this update in the test server, and significant performance issues still existed. Tenex were then informed that the Director and Deputy Director would be recommending that the CCBOE suspend the use of the Tenex Online Poll Worker Management Solution Software, Election Force, as the product does not perform to CCBOE standards. Tenex agreed with some of the issues that exist and mutually agreed that the CCBOE will not be using this product. The CCBOE has a plan going forward to replace the software by using DIMS, the voter registration database, MAC software product, and email communications using Constant Contact. The CCBOE will continue using Tenex University, the online poll worker training portal, and CCBOE staff is working with Tenex and Force regarding the necessary credentials. Chairman Hastings stated this is a mutual agreement, and the CCBOE has a plan to replace the Election Force functionalities. Director Perlatti stated yes. Chairman Hastings asked if there is a plan to regroup with Tenex in six months to review its software improvements. Director Perlatti stated Tenex would keep the testing portal open as modifications are made. The CCBOE will continue to test the modifications, and after the Primary Election, the CCBOE will meet with Tenex regarding the Online Poll Worker Management Software. Board Member Davis Chappell stated that there are service level guarantees and warranties under the contract and inquired if there will be a credit to the CCBOE for the performance issues in 2021. Board Member Davis Chappell would like legal counsel to review the contract and advise the Board.

Chairman Hastings moved to approve to suspend the contract (CM1356) with Tenex Software Solutions providing Online Poll Worker Management Solution Software, Election Force, Under the Authority of Subdivision (I)(3), Article IV. of the Contract. Board Member Stickan seconded. The motion passed unanimously.

Agenda Item 12: Challenge of right to vote filed by Delores Gray against Richard Starr

Betty Edwards, Registration Department Manager, provided information from the board packet regarding the challenge of the right to vote filed by Delores Gray against Richard Starr. On January 12, 2022, the CCBOE received Secretary of State Form 257 Challenge of Right to Vote from Delores Gray, challenging Richard Starr's voter registration address. In addition to the written submissions by the parties, the Board took testimony from both Ms. Gray and Mr. Starr who was accompanied by his attorney. At the conclusion of the hearing Board Member Davis Chappell moved to reject the Challenge of Right to Vote filed by Delores Gray against Richard Starr. Chairman Hastings seconded. The motion passed unanimously.

A transcript of this hearing can be obtained by contacting Mary Bejjani, CCBOE Clerk to the Board, at 216-443-6430/mbejjani@cuyahogacounty.gov.

Agenda Item 13: Approval of the personnel agenda

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

NEW BUSINESS

Director Perlatti stated the Election Officials department is reformatting the training manual for poll workers based on input from focus groups. Also, letters have been mailed to people who have previously served as poll workers to update their contact information. The CCBOE has also worked

on incentivizing workers to complete the training. County Council approved an increase of the poll worker stipend. The pay will be increased (with incentives) from the old rate of \$172.00 to \$220.00. Individuals who complete the training within the first two weeks will be paid an additional \$30.00 training bonus. Training between weeks three and four will pay a bonus of \$15.00. By incentivizing individuals, the CCBOE can determine what works and adjust recruitment efforts accordingly. Additionally, an application has been submitted to the Ohio Supreme Court for Continuing Legal Education (CLE) credits. The CCBOE is also working on a continuing education credits program for social workers. Deputy Director Kaloger is working on recruitment efforts to increase the participation of Republican poll workers.

Director Perlatti stated that today's Berman's six-month contract extension, ends just before the November 8, 2022, General Election. There is language in the contract that the contract can be extended by mutual agreement of the parties. He indicated staff would like to extend the contract with Berman's until the end of 2022. In 2023, new bid specifications will be published based on the CCBOE's new voting equipment. Chairman Hastings clarified that if the CCBOE does enter into negotiations with Berman's and the parties come to an agreement that they believe is fair and reasonable, that agreement would be submitted to the Board for approval. Assistant Prosecutor Musson stated yes.

Director Perlatti stated that the CCBOE would be posting job openings in the next two weeks. Also, the CCBOE did receive notice of intent to depart from Mary Hannah Boyer, Database Analyst, as she is relocating. The CCBOE will be posting the IT position now since it can be challenging to fill. There are also reposting for Elections Officials in the Ballot Department, Campaign Finance Auditor, and Fiscal Officer positions. The Election Officials Recruiter position did receive approximately 25 applications, and Human Resources will identify applicants to proceed with an interview and assessment process. Job opportunities are being posted on the CCBOE and County websites, Indeed, social media, and sent to the major political parties. Human Resources is also reformatting the job postings to make the content more user-friendly.

PUBLIC COMMENT

There was no public comment

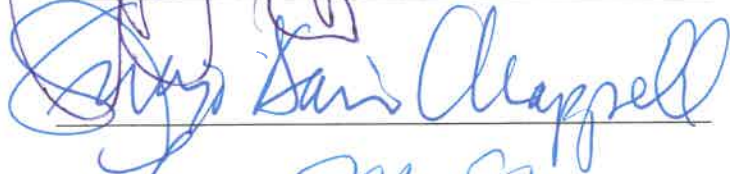
Chairman Hastings moved to adjourn the meeting at 11:46 a.m. Board Member Davis Chappell seconded. The motion passed unanimously.

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 February 14, 2022.

Jeff Hastings, Chairman



Inajo Davis Chappell, Board Member



Lisa M. Stickan, Board Member



David J. Wondolowski, Board Member



Anthony Perlatti, Director

