

# VOTE CUYAHOGA COUNTY BOARD OF ELECTIONS

Board Meeting  
5/10/2023

**Attending:**

Henry F Curtis, IV, Chairman  
Inajo Davis Chappell, Board Member  
Terence M. McCafferty, Board Member  
Lisa M. Stickan, Board Member  
Anthony Perlatti, Director  
Tony Kaloger, Deputy Director

Mary Bejjani, Clerk to the Board  
Skip White, Clerk to the Board

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

Chairman Curtis noted that all Board Members were in attendance.

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**Agenda Item 1: Determination of the validity of provisional ballots and authorization to count provisional ballots from the May 2, 2023, Primary Election**

Brad Boyda, Registration Department Supervisor, presented the May 2, 2023, Primary Election Provisional Report to the Board as provided in the meeting materials.

Board Member Davis Chappell asked about the distinction between missing and proper identification in the report, and asked if there were any issues with proper identification among the statistics? Director Perlatti stated that the statistics in the report table are the official document that shows why provisionals are rejected, which corresponds with the reporting done for the Secretary of State (SOS). Missing identification is a person who did not show identification. The new photo identification requirement affected two individuals reflected in the report as missing identification. The chart portion of the report is supplemental and shows why people voted provisionally. Board Member Davis Chappell stated there could be numerous scenarios where there are provisional votes. The concern is tracking, at least initially, to see how the photo identification law is impacting voting. The CCBOE should know how many people were compliant or not compliant with the photo identification law. The language should be consistent to avoid confusion if there is no difference between missing and proper identification on the report. Director Perlatti stated of the 134 provisional ballots, 132 had photo identification, and two provisionals did not have photo identification.

Director Perlatti stated the May 2, 2023, Primary Election was a good start due to its size to see what can be anticipated. The CCBOE plans to discuss with the SOS hypothetical situations to get clarity for upcoming elections. The CCBOE may reach out to the neighboring counties to see their experiences and where there are overlaps and common themes to address with the SOS.

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

Board Member McCafferty asked if any voter came to the CCBOE post-election with their identification. Mr. Boyda stated no voters came to the CCBOE during the cure period.

Chairman Curtis moved to approve the determination of the validity of provisional ballots and authorization to count provisional ballots from the May 2, 2023, Primary Election. Board Member Davis Chappell seconded. The motion passed unanimously.

**Agenda Item 2: Challenge of voter residency filed by Eric Brewer against Brandon King**

**Agenda Item 3: Challenge of voter residency filed by Eric Brewer against Stephanie Marie McCarroll-King**

**Agenda Item 4: Challenge of voter residency filed by Eric Brewer against Norma King**

**Agenda Item 5: Challenge of voter residency filed by Eric Brewer against Cecil King, Jr.**

**Agenda Item 6: Challenge of voter residency filed by Eric Brewer against Norman King**

Chairman Curtis stated the Board had received voter challenges file by Eric Brewer against Brandon King, Stephanie Marie McCarroll-King, Norma King, Cecil King, Jr., and Norman King. Additionally, the Board has received a Motion to Dismiss the voter challenges filed by Attorney James Alexander, Jr., representing the respondents Brandon King, Norma King, Cecil King, Jr., and Norman King. Mr. Alexander addressed the Board remotely regarding the Motion to Dismiss. Then, Mr. Eric Brewer addressed the Board regarding his filing to challenge the voters' residency of Brandon King, Stephanie Marie McCarroll-King, Norma King, Cecil King, Jr., and Norman King, and the Motion to Dismiss the voter challenges.

Assistant Prosecutor Musson stated the Motion to Dismiss is based on the timing deadlines in Statute 3503.24, which says the challenges to voter registrations must be filed no later than the 30<sup>th</sup> day before the day of the election. The Statute does not qualify what election it is referring to. Mr. Musson said Mr. Alexander's Motion is based on the understanding that it would be the last election; in that case, a voter challenge would never be timely. The Statute is referencing the perspective upcoming election. Additionally, Mr. Musson stated there is no election within 30 days in which these voters would be eligible to vote. Mr. Musson said the Motion to Dismiss does not have any merit.

Board Member Davis Chappell asked Counsel if the Board has a duty to investigate the challenges and any voter irregularity? She asked if the Board has an overarching duty to investigate these matters? Mr. Musson stated that is correct, the Board has the duty to investigate the qualifications of voter's residency, not necessarily in a hearing, but generally, there is the ability to investigate. Board Member Davis Chappell said the Board could call for a hearing. Mr. Musson said yes if the administration called for a hearing.

Board Member Davis Chappell said there is a duty for the Board to investigate the challenges, and the Board acts in a quasi-judicial capacity for these hearings. In terms of fundamental fairness, courts grant motions to continue because of the potential due process issue. Board Member Davis Chappell acknowledged Mr. Brewer's argument that there was the same short time frame for the respondent and challenger. These voter challenges have raised significant issues, with a lot of evidence submitted in connection with the challenges, and as a Board Member, she would want to consider them carefully. She further stated she would want the respondents fully represented to respond to the significant

challenges that Mr. Brewer has raised. The charges and evidence are significant, and to avoid any due process issues, the Board should allow to continue the hearings and deny the motion to dismiss. Board Member Davis Chappell would be in favor of not granting the motion to dismiss and discuss a motion to continue for all parties to know in advance that the hearing will be continued and a deadline with all documents would have to be submitted. The Board can then move forward with a full hearing.

Chairman Curtis moved to deny the Motion to Dismiss. Board Member Davis Chappell seconded. The motion passed unanimously.

The Board received a Motion to Continue the voter challenges filed by Attorney Alexander, representing the respondents Brandon King, Norma King, Cecil King, Jr., and Norman King. Mr. Alexander addressed the Board regarding the Motion to Continue. Chairman Curtis asked if the attorneys representing Stephanie Marie McCarroll-King would like to speak to the request for a continuance. Jason Kasunick, co-counsel with Attorney Starke, agreed with the Motion to Continue. Chairman Curtis asked Mr. Brewer if there was a response relative to the request for a continuance. Mr. Brewer had no response to the Motion to Continue.

Board Member Davis Chappell stated given there is no harm and no prejudice to anyone by continuing the hearings. Based on no objections from Mr. Brewer and the arguments of Counsel indicating they need more time to fully and fairly represent their clients. Board Member Davis Chappell moved to grant a continuance of the hearings to the Board Meeting on May 23, 2023, at 9:30 a.m. She asked to set a firm deadline for the submission of any and all documents. Board Member Stickan seconded. Chairman Curtis made a friendly amendment to a firm filing deadline of 4:00 p.m. on May 16, 2023. There would be no further continuances and no further submittals from the Challenger. Any legal briefs in response must be submitted one week in advance, which is May 16, 2023, at 4:00 p.m. There will be no reply briefs allowed. Mr. Musson asked if Mr. Alexander agrees to the date on record. Mr. Alexander understood the date. Mr. Musson also asked Mr. Kasunick if he understood the dates, and he agreed yes. The motion passed unanimously.

Director Perlatti asked to clarify the question to be answered. Chairman Curtis stated the question that will be answered specifically on May 23, 2023, is "Whether the voters who are being challenged are residents of the address and precinct where they offer to vote." Board Member Davis Chappell requested the guidelines be stated in the CCBOE hearing notifications.

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

#### **Agenda Item 7: Acknowledgment of resignation from and appointments to elected office**

Chairman Curtis moved to acknowledge the resignation from and appointments to elected office, as set forth in the board materials. Board Member Davis Chappell seconded. The motion passed unanimously.

#### **Agenda Item 8: Approval of voucher and resolutions**

Shaunquitta Walker, Fiscal Services Manager, presented the vouchers and resolutions summary from the board materials.

Director Perlatti stated that Resolution R2023-5-10-8-1 is for Clear Ballot election equipment and were not part of the negotiations with Clear Ballot and did not qualify under Table A items for State funding,

but County Counsel had pre-funded for the CCBOE. The resolution is for additional on-site support from technicians, additional backup thumb drives, backup servers, etc. The pricing is set on Table B, which is State term pricing that State dollars do not qualify.

Ms. Walker stated that Resolution R2023-5-10-8-2 is for Opex Model 72 and is part of the ballot system setup identified as Table C, Ancillary IT items previously approved for purchase at the September 12, 2022, Board meeting. The Board approved the funds; for transparency, this equipment is part of the expended funds.

Director Perlatti stated that the CCBOE Ballot Department has nine Opex machines that help with the Vote-by-Mail process. Currently, there is no Opex machine in the Hughes Building. With House Bill 458, there are new reporting requirements for the drop box and walk-in ballots. The equipment opens the envelopes and provides a count, which will allow the CCBOE to report the new reporting requirements daily to the SOS. Without the equipment, the counts will be done by hand, which is not the most efficient use of time and resources.

Chairman Curtis moved to approve the voucher and resolutions, as set forth in the board materials. Board Member Davis Chappell seconded. The motion passed unanimously.

#### **Agenda Item 9: Approval of the personnel agenda**

Chairman Curtis moved to approve the personnel agenda, as set forth in the board materials. Board Member Davis Chappell seconded. The motion passed unanimously.

#### **Walk-on Agenda Item: Acknowledgment of ward and precinct boundary modifications for Broadview Heights**

Based on Decennial U.S. Census, the Ohio Revised Code (ORC) requires municipalities to review their population data and rebalance the city wards.

Director Perlatti stated there have been ward and precinct boundary adjustments for municipalities this year, and this acknowledgment is for Broadview Heights. The CCBOE reconfigures the precincts to match up with the new ward boundaries. The CCBOE created and shared the document with the Broadview Heights Clerk of Council, Mayor, and City Council. The Clerk notified the CCBOE that the City Council had reviewed it and had no questions. With Board acknowledgment today, it allows the CCBOE to complete the boundaries, as Broadview Heights is a municipality that has an election in September. The number of precincts stayed the same in the City. However, with the updates, Ward 3 had four precincts, which will now go down to three. Ward 2 previously had three precincts, which will now go up to four precincts. The changes allow for balance in precinct numbers and a reasonable distance from the 1,400 upper limits of precinct size. Broadview Heights is a municipality split into two school districts: the Brecksville-Broadview Heights and the North Royalton school districts. That is why Wards 3 and 4 have smaller precincts; one precinct is in one school district, and the other precinct goes with the other. Board Member McCafferty asked if the changes would be in effect if there were to be an August Special Election. Director Perlatti stated yes; the changes would be ready in time.

Chairman Curtis moved to acknowledge the ward and precinct boundary modifications for Broadview Heights. Board Member Davis Chappell seconded. The motion passed unanimously.

## **NEW BUSINESS**

Director Perlatti stated the poll worker payroll for the May 2, 2023, Primary Election should have the payroll file to the County Fiscal office by Friday, May 10, 2023. Board Member Davis Chappell asked when poll workers would be paid? Director Perlatti stated checks would hopefully go into the mail the week of May 15, 2023.

## **PUBLIC COMMENT**

There was no public comment.

## **EXECUTIVE SESSION**

There was no executive session.

Chairman Curtis moved to recess the meeting at 10:21 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 May 10, 2023.

Henry F Curtis, IV, Chairman

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Inajo Davis Chappell, Board Member

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Lisa M. Stickan, Board Member

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Anthony Perlatti, Director

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