



CUYAHOGA COUNTY
BOARD OF ELECTIONS

Henry F Curtis, IV, Chairman

Anthony W. Perlatti, Director

Inajo Davis Chappell, Board Member

Anthony Kaloger, Deputy Director

Terence M. McCafferty, Board Member

Lisa M. Stickan, Board Member

MEETING AGENDA

September 27, 2023

9:30 a.m.

THE PLEDGE OF ALLEGIANCE

ADMINISTRATIVE

1. Acknowledgment of Secretary of State Directive 2023-18: Revised Form of the Ballot for the November 7, 2023, General Election

BALLOT

2. Certification of the official results of the September 12, 2023, Primary Election
 - a. Authorization to approve the remake of the optical scan ballots from the September 12, 2023, Primary Election
 - b. Authorization to approve absentee ballots from the September 12, 2023, Primary Election
 - c. Authorization to approve provisional ballots from the September 12, 2023, Primary Election
 - d. Acknowledgment of the pre & post-test results of the vote tabulation system from the September 12, 2023, Primary Election
3. Acknowledgment of the date, time, and place of the post-election audit for the September 12, 2023, Primary Election
4. Acknowledgment of the Ballot Proofs for the November 7, 2023, General Election in accordance with the Ballot Proofing Policy approved by the Board at the March 12, 2021, Board Meeting

CANDIDATE & PETITION SERVICES

5. Acknowledgment of candidate withdrawal from the November 7, 2023, General Election
6. East Cleveland Charter Issue #48 Discussion
7. Certification of the East Cleveland Mayoral Recall Election Issue and establishing said recall election on December 5, 2023

ELECTION OFFICIALS

8. Acknowledgment of the PEO Performance Report for the August 8, 2023, Special Election

FISCAL

9. Approval of the voucher and resolution for FIS-V-A) Clear Ballot Group, Inc., for imprinters
10. Authorization for the Director to enter into a Memorandum of Understanding with the Secretary of State's Office (SOS) and County Council and County Executive for the purchase of Tenex Software Solutions electronic pollbook systems pursuant to SOS Advisory 2023-03 and approval of corresponding Resolution

Video of this meeting can be viewed at <https://www.youtube.com/CuyahogaCountyBOE>

¹ Please email mbejjani@cuyahogacounty.gov or dwhite1@cuyahogacounty.gov with your name and the nature of your comment so we can fully assist you.

11. Approval of the 2024-2025 Recommended Biennial Budget

HUMAN RESOURCES

12. Approval of the personnel agenda

NEW BUSINESS

PUBLIC COMMENT¹

EXECUTIVE SESSION

Discussion of personnel issues (to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official) and disputes involving the public body that are the subject of pending or imminent court action.

2023 Board Meeting Schedule

September 2023

Wednesday, September 27th @ 9:30AM Certification of the September 12, 2023 Primary Election

October 2023

Wednesday, October 18th @ 9:30AM October Board Meeting

November 2023

Friday, November 3rd @ 9:30AM Meeting for the November 7, 2023 General Election

Tuesday, November 7th November 7, 2023 General Election

Monday, November 20th @ 9:30AM Provisional Verification for the November 7, 2023 General Election

Tuesday, November 28th @ 9:30AM Certification of the November 7, 2023 General Election

December 2023

Monday, December 18th @ 9:30AM Audit Certification of the November 7, 2023 General Election
Certification of candidates and issues for the March 19, 2024 Primary Election

January 2024

Tuesday, January 2nd @ 9:30AM Certification of remaining issues and charter amendments for the March 19, 2024 Primary Election
Certification of write-in candidates for the March 19, 2024 Primary Election

Agenda Item

#1

RELEASED: September 21, 2023

SUMMARY

- *Directive 2023-18* replaces the certified form of the official ballot included with *Directive 2023-17*, providing the revised language for State Issue 1 that must be used in the November 7, 2023 General Election.
- In all other aspects, Sections I through VI of *Directive 2023-17* remain in effect.
- On September 19, the Ohio Supreme Court issued an opinion ordering the Ohio Ballot Board to make a minor revision to one phrase of the State Issue 1 ballot language. The Ballot Board met on September 21 to adopt the revised language.
- There were no changes to the ballot language for State Issue 2.
- The SOS ID Codes transmitted to the CCBOE through SharePoint on September 7 are still accurate codes.

SUMMARY

This Directive replaces the certified form of the official ballot attached to *Directive 2023-17*, and the revised language for State Issue 1 **must** be used in the November 7, 2023 General Election. In all other aspects, Sections I through VI of *Directive 2023-17* remain in effect. There have been no changes to the ballot language used for State Issue 2.

INSTRUCTIONS

I. REPROGRAMMING OF THE ELECTION MANAGEMENT SYSTEM

The CCBOE must reprogram its election management system to incorporate the revised ballot language for State Issue 1. Once this update is performed, all logic and accuracy testing must be performed on all voting equipment utilized for the November 7, 2023 General Election. Please note that SOS ID Codes transmitted to the county through SharePoint on September 7 are still accurate codes.

II. UPDATING THE BALLOT LANGUAGE FOR STATE ISSUE 1

The CCBOE must revise the ballot language for State Issue 1 to align with the official sample ballot. This includes, but is not limited to, updating the board's:

- Official ballot;
- Sample ballot;
- Remote ballot marking system;
- Website (including 46-day FWAB notice)



DIRECTIVE 2023-18

September 21, 2023

To: All County Boards of Elections
Board Members, Directors, and Deputy Directors

Re: Revised Form of the Ballot for the November 7, 2023 General Election

SUMMARY

On September 19, 2023, the Ohio Supreme Court issued an opinion in *State ex rel. Ohioans United for Reproductive Rights v. Ohio Ballot Bd.* ordering the Ohio Ballot Board to make a minor revision to one phrase of the State Issue 1 ballot language for use in the November 7, 2023 General Election. Pursuant to the Court's order, the Ballot Board met on September 21, 2023 to adopt the revised language.

This Directive replaces the certified form of the official ballot attached to [Directive 2023-17](#), and the revised language **must** be used in the November 7, 2023 General Election. In all other aspects, Sections I through VI of the Directive 2023-17 remain in effect. The attached Official Questions and Issues Ballot form must be used for all voting systems to present voters with the statewide issue.

The attached Official Questions and Issues Ballot form contains the exact ballot language to use for State Issue 1. There have been no changes to the ballot language to be used for State Issue 2. Additional instructions on headings, ballot language, and percentage of votes are found in Chapter 5 of the Election Official Manual.

As a reminder, this Directive must be used alongside [Chapter 5 of the Election Official Manual](#) when preparing ballots for this election. [Chapter 5](#) provides specific instructions on the following relevant subjects:

- Ballot format;
- Voter instructions;
- Ballot stubs;
- Questions and issues ballot;
- Ballot proofs;
- Bid requirements;
- Ballot quantities;

- Logic and accuracy testing; and
- Public test.

INSTRUCTIONS

I. REPROGRAMMING OF THE ELECTION MANAGEMENT SYSTEM

The board must reprogram its election management system to incorporate the revised ballot language for State Issue 1. Once this update is performed, all logic and accuracy testing must be performed on all voting equipment utilized for the November 7, 2023 General Election.

Please note that SOS ID Codes transmitted to the county through SharePoint on Thursday, September 7, 2023 are still accurate codes.

II. UPDATING THE BALLOT LANGUAGE FOR STATE ISSUE 1

The board must revise the ballot language for State Issue 1 to align with the official sample ballot. This includes, but is not limited to, updating the board's:

- Official ballot;
- Sample ballot;
- Remote ballot marking system;
- Website (including the 46-day FWAB notice).

If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

OFFICIAL GENERAL ELECTION BALLOT

A	B	C	
_____ County	General Election	November 7, 2023	
<p>Instructions to Voter</p> <ul style="list-style-type: none"> • To vote: completely darken the oval (●) to the left of your choice. • Note the permitted number of choices directly below the title of each candidate office. Do not mark the ballot for more choices than allowed. • If you mark the ballot for more choices than permitted, that contest or question will not be counted. • To vote for a write-in candidate: completely darken the oval (●) to the left of the blank line and write in the candidate's name. Only votes cast for candidates who filed as write-in candidates can be counted. • Do not write in a candidate's name if that person's name already is printed on the ballot for that same contest. • If you make a mistake or want to change your vote: return your ballot to an election official and get a new ballot. You may ask for a new ballot up to two times. 	<p>CITY OF _____</p> <p>For Mayor (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For President of Council (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Auditor (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Treasurer (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Director of Law (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Member of Council at Large (Vote for not more than _____)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p>	<p>For Member of Council (_____ Ward) (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>VILLAGE OF _____</p> <p>For Mayor (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Clerk-Treasurer (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Clerk (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Treasurer (Vote for not more than 1)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p>For Member of Council (Vote for not more than _____)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p> <p><input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)</p>	
			Page 1 of 4
	A	B	C
	001 _____ TWP A	0001:1	001

This SAMPLE ballot provides the CORRECT TITLE and ORDER OF OFFICES for ballot layout for candidates for offices for the November 7, 2023 General Election. The space for a write-in candidate should be provided only if applicable.

See Directive 2023-18 and Chapter 5 of the Election Official Manual.

D _____ County	E General Election	F November 7, 2023
For Member of Board of Trustees of Public Affairs (Vote for not more than ____)	For Member of Council (____ Ward) (Vote for not more than 1)	_____ COUNTY EDUCATIONAL SERVICE CENTER
<input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)	<input type="radio"/> Print Candidate Name	For Member of Governing Board of Educational Service Center (Vote for not more than ____)
<input type="radio"/> Print Candidate Name (Insert party affiliation or ballot designation, if any)	<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name
_____ MUNICIPAL COURT	VILLAGE OF _____	<input type="radio"/> Print Candidate Name
For Judge of Municipal Court (Full term commencing XX-XX-20XX) (Vote for not more than 1)	For Mayor (Vote for not more than 1)	_____ SCHOOL DISTRICT
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	For Member of Board of Education (Vote for not more than ____)
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name
For Clerk of Municipal Court (Vote for not more than 1)	For Clerk-Treasurer (Vote for not more than 1)	<input type="radio"/> Print Candidate Name
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
CITY OF _____	For Clerk (Vote for not more than 1)	
For Mayor (Vote for not more than 1)	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	For Treasurer (Vote for not more than 1)	
For President of Council (Vote for not more than 1)	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	For Member of Council (Vote for not more than ____)	
For Auditor (Vote for not more than 1)	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	For Member of Board of Trustees of Public Affairs (Vote for not more than ____)	
For Treasurer (Vote for not more than 1)	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	TOWNSHIP OF _____	
For Director of Law (Vote for not more than 1)	For Township Trustee (Vote for not more than 1)	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
For Member of Council at Large (Vote for not more than ____)	For Township Fiscal Officer (Vote for not more than 1)	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
<input type="radio"/> Print Candidate Name	<input type="radio"/> Print Candidate Name	
D 001 _____ TWP A	E 0001:1	F 001

This **SAMPLE** ballot provides the **CORRECT TITLE** and **ORDER OF OFFICES** for ballot layout for candidates for offices for the November 7, 2023 General Election. The space for a write-in candidate should be provided only if applicable. See Directive 2023-18 and Chapter 5 of the Election Official Manual.

OFFICIAL GENERAL ELECTION BALLOT

G	County	H	General Election	I	November 7, 2023
<p>Issue 1 A Self-Executing Amendment Relating to Abortion and Other Reproductive Decisions</p> <p>Proposed Constitutional Amendment</p> <p>Proposed by Initiative Petition</p> <p>To enact Section 22 of Article I of the Constitution of the State of Ohio</p> <p>A majority yes vote is necessary for the amendment to pass.</p> <hr/> <p>The proposed amendment would:</p> <ul style="list-style-type: none"> • Establish in the Constitution of the State of Ohio an individual right to one's own reproductive medical treatment, including but not limited to abortion; • Create legal protections for any person or entity that assists a person with receiving reproductive medical treatment, including but not limited to abortion; • Prohibit the State from directly or indirectly burdening, penalizing, or prohibiting abortion before an unborn child is determined to be viable, unless the State demonstrates that it is using the least restrictive means; • Grant a pregnant woman's treating physician the authority to determine, on a case-by-case basis, whether an unborn child is viable; • Only allow the State to prohibit an abortion after an unborn child is determined by a pregnant woman's treating physician to be viable and only if the physician does not consider the abortion necessary to protect the pregnant woman's life or health; and • Always allow an unborn child to be aborted at any stage of pregnancy, regardless of viability if, in the treating physician's determination, the abortion is necessary to protect the pregnant woman's life or health. <p>If passed, the amendment will become effective 30 days after the election.</p> <p>SHALL THE AMENDMENT BE APPROVED?</p> <p><input type="radio"/> YES</p> <p><input type="radio"/> NO</p>	<p>Issue 2 To Commercialize, Regulate, Legalize, and Tax the Adult Use of Cannabis</p> <p>Proposed Law</p> <p>Proposed by Initiative Petition</p> <p>To enact Chapter 3780 of the Ohio Revised Code</p> <p>A majority yes vote is necessary for the law to pass.</p> <hr/> <p>To enact Chapter 3780 of the Ohio Revised Code, which would:</p> <ul style="list-style-type: none"> • Define adult use cannabis to mean marijuana as defined in Section 3719.01 of the Revised Code and establish the Division of Cannabis Control (the "Division") within the Department of Commerce; • Authorize the Division to regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed; • Legalize and regulate the cultivation, processing, sale, purchase, possession, home grow, and use of cannabis by adults at least twenty-one years of age; • Create additional protections for individuals who engage in permitted adult use cannabis conduct; • Establish the cannabis social equity and jobs program and require the Department of Development to certify program applicants based on social and economic disadvantage; • Define "social disadvantage" to include membership in a racial or ethnic minority group, disability status, gender, or long-term residence in an area of high unemployment; • Shield certain confidential information from disclosure to the public, including but not limited to any information reported to or collected by the Division that identifies or would tend to identify any adult use cannabis consumer and prohibit the Department of Development from releasing certain application information as public records; • Require the Division to provide preferential treatment to applicants who have qualified for the cannabis social equity and jobs program based on social disadvantage when issuing level III adult use cannabis cultivator licenses and dispensary licenses; 	<ul style="list-style-type: none"> • Prohibit certain local government entities from limiting specific research, levying a tax, or charge on adult use operations, their owner, or their property not generally charged on other business, and prohibit certain local government entities from prohibiting or limiting adult use cannabis home grow or prohibiting or restricting an activity authorized by the proposed law; • Authorize a landlord or an employer to prohibit the adult use of cannabis in certain circumstances, and prohibit the operation of a motor vehicle while using or under the influence of adult use cannabis and from using any other combustible adult use cannabis while a passenger in a motor vehicle; • Limit criminal liability for certain financial institutions that provide financial services to any lawful adult use cannabis operator or testing laboratory licensed under the proposed law; • Require the Division to enter into an agreement with the Department of Mental Health and Addiction Services to create a program for cannabis addiction services; • Provide for the creation of five funds in the state treasury: the adult use tax fund; the cannabis social equity and jobs fund; the host community cannabis fund; the substance abuse and addiction fund; and the division of cannabis control and tax commissioner fund; and • Provide for taxation of 10 percent on the sale of adult use cannabis by dispensaries in addition to usual sales taxes and require that all monies collected from the 10 percent tax levied to be deposited into the adult use tax fund and quarterly distributed as follows: 36 percent to the cannabis social equity and jobs fund; 36 percent to the host community cannabis facilities fund; 25 percent to the substance abuse and addiction fund; and three percent to the division of cannabis control and tax commission fund. <p>If passed, the law will become effective 30 days after the election.</p> <p>SHALL THE PROPOSED LAW BE ADOPTED?</p> <p><input type="radio"/> YES</p> <p><input type="radio"/> NO</p>			
G	001 TWP A	H	0001:1	I	001

This **SAMPLE** ballot provides the **CORRECT** ballot format, title, and language for the state issues that must appear on the November 2023 General Election ballot. See Directive 2023-18 and Chapter 5 of the Election Official Manual.

OFFICIAL QUESTIONS AND ISSUES BALLOT

J _____ County	K General Election	L November 7, 2023
<p>Proposed Tax Levy (Additional)</p> <p>_____</p> <p style="font-size: small;">(name of subdivision)</p> <p>A majority affirmative vote is necessary for passage.</p> <hr/> <p>Proposed Municipal Income Tax</p> <p>_____</p> <p style="font-size: small;">(name of subdivision)</p> <p>A majority affirmative vote is necessary for passage.</p> <hr/> <p>Shall the Ordinance providing for a _____ percent levy on income for _____</p> <p style="font-size: small;">(brief description of purpose of the levy)</p> <p>be passed?</p> <p><input type="radio"/> FOR THE INCOME TAX</p> <p><input type="radio"/> AGAINST THE INCOME TAX</p>	<p>Local Liquor Option (By Petition)</p> <p>A majority affirmative vote is necessary for passage.</p> <hr/> <p>Shall the sale of _____</p> <p style="font-size: small;">(Insert above one or more of the following three choices: "beer"; "wine and mixed beverages"; or "spirituous liquor")</p> <p>be permitted by _____</p> <p style="font-size: small;">(Insert name (as submitted to Division of Liquor Control) of liquor permit holder or applicant, or liquor agency store, including, if applicable, trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either does, or intends to do, business at the particular location]</p> <p>a(n) _____</p> <p style="font-size: small;">(Insert "an applicant for" or "a holder of" or "an operator of")</p> <p>a _____</p> <p style="font-size: small;">(Insert name of the type of liquor permit or permits or, if appropriate, "liquor agency store for the State of Ohio")</p> <p>who is engaged in the business of _____</p> <p style="font-size: small;">(Insert general nature of the business in which liquor permit holder or applicant is engaged, or will be engaged, at the particular location)</p> <p>at _____</p> <p style="font-size: small;">(insert address of the particular location within the precinct)</p> <p>in this precinct?</p> <p><input type="radio"/> YES</p> <p><input type="radio"/> NO</p> <hr/> <p>Insert board member signatures</p> 	
<p>J 001 _____ TWP A</p>	<p>K 0001:1</p>	<p>L 001</p>

This **SAMPLE** ballot provides the **CORRECT** ballot format for local questions or issues that may appear on the ballot. See Directive 2023-18 and Chapter 5 of the Election Official Manual.

Agenda Item

#2

September 12, 2023 Primary Election Official Canvass Certification Data

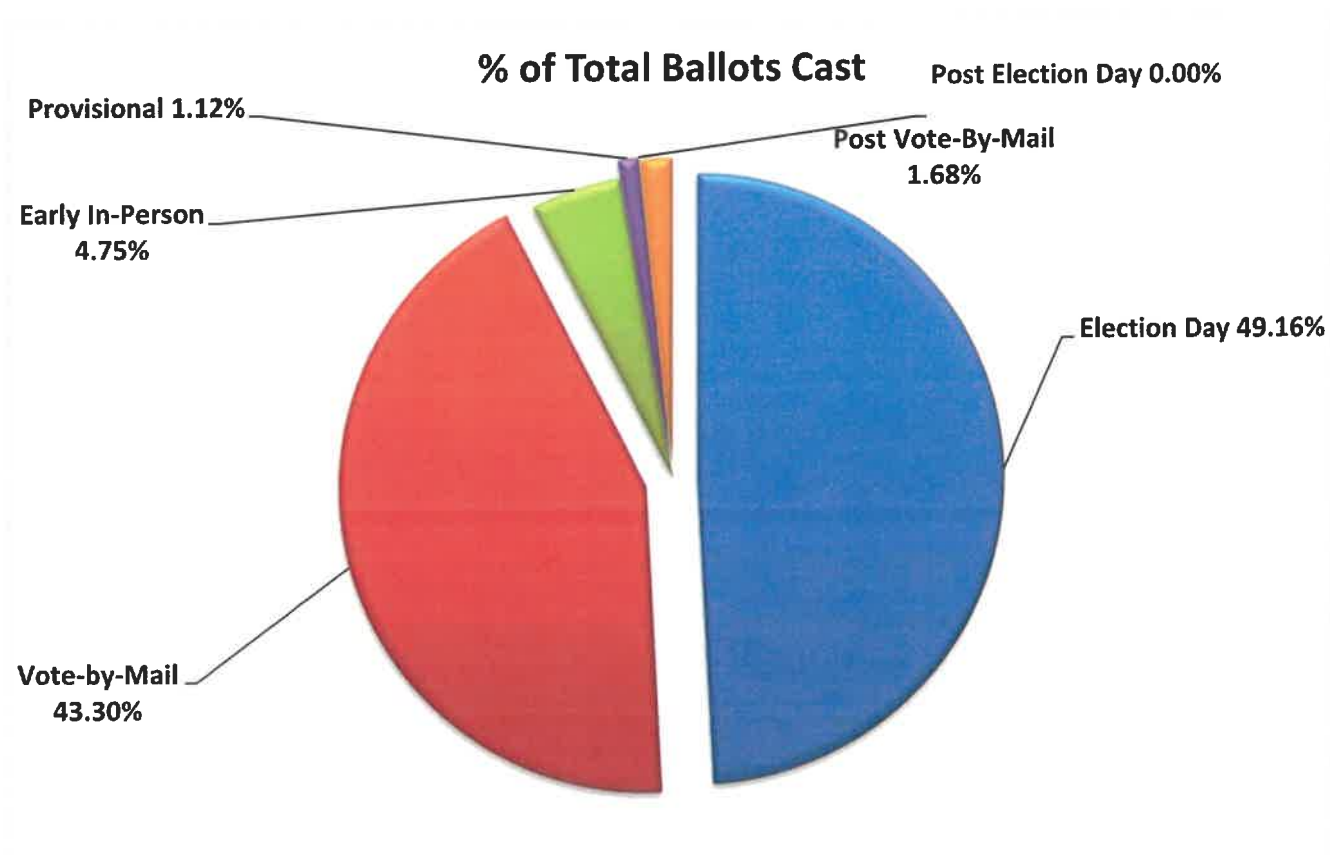
FINAL RESULTS

Official Election Results for the September 12, 2023 Primary Election are attached to the Election Summary Report.

SUMMARY OF OFFICIAL CANVASS

There was a total of 358 ballots tabulated for the September 12, 2023 Primary Election. Below is a breakdown of the ballots counted by category and a percentage of the total vote by category.

Category	Ballots Cast	% of Total Ballots Cast
<i>Election Day</i>	176	49.16%
<i>Vote-by-Mail</i>	155	43.30%
<i>Early In-Person</i>	17	4.75%
<i>Provisional</i>	4	1.12%
<i>Post Election Day</i>	0	0.00%
<i>Post Vote-By-Mail</i>	6	1.68%
Total	358	



VOTE-BY-MAIL/EARLY IN-PERSON SUMMARY

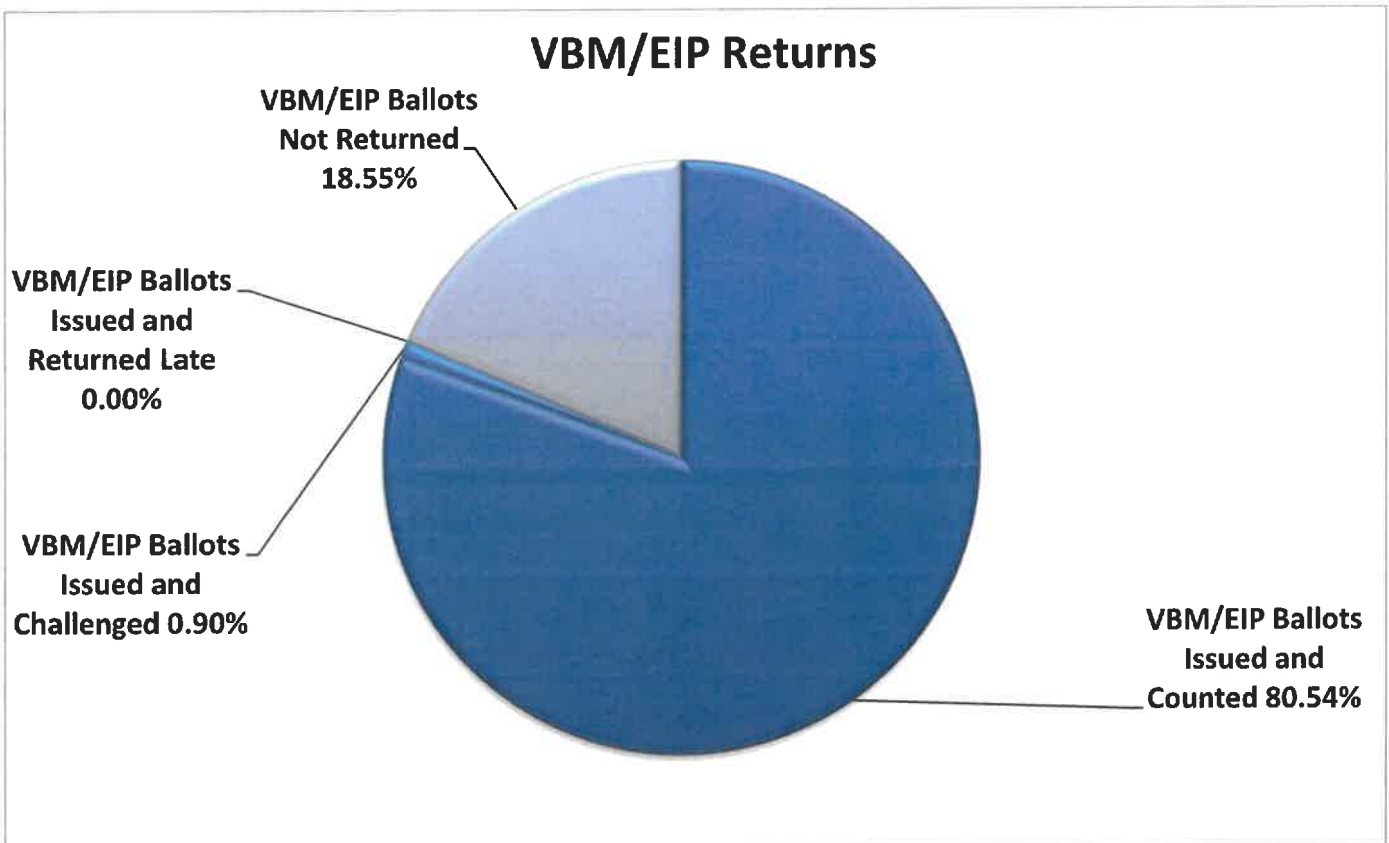
A total of 221 ballots were issued during Vote-by-Mail and Early In-Person voting. Of those ballots, 178 (81.45%) were returned and counted by the Ballot Department. There were 2 challenged or late VBM/EIP ballots, resulting in a 1.11% Challenge Rate for this election.

*The Challenge Rate is 1.11% when voters who returned their ballot late are excluded.

VBM/EIP Data	Vote by Mail	Early In-Person	Military and Overseas	Total
Issued	204	17	0	221
Returned and Counted	161	17	0	178
Challenged	2	0	0	2
Returned Late	0	0	0	0
Not Returned	41	0	0	41

VBM/EIP Data - Challenge Rate	
Overall Return Rate	81.45%
Challenge Rate (Total)	1.11%
Challenge Rate (Late Removed)	1.11%

VBM/EIP Ballots Challenged	Number of Challenged Ballots	% of Total Challenged VBM
ID Invalid	1	50.00%
Signature Not Provided	1	50.00%
Total	2	

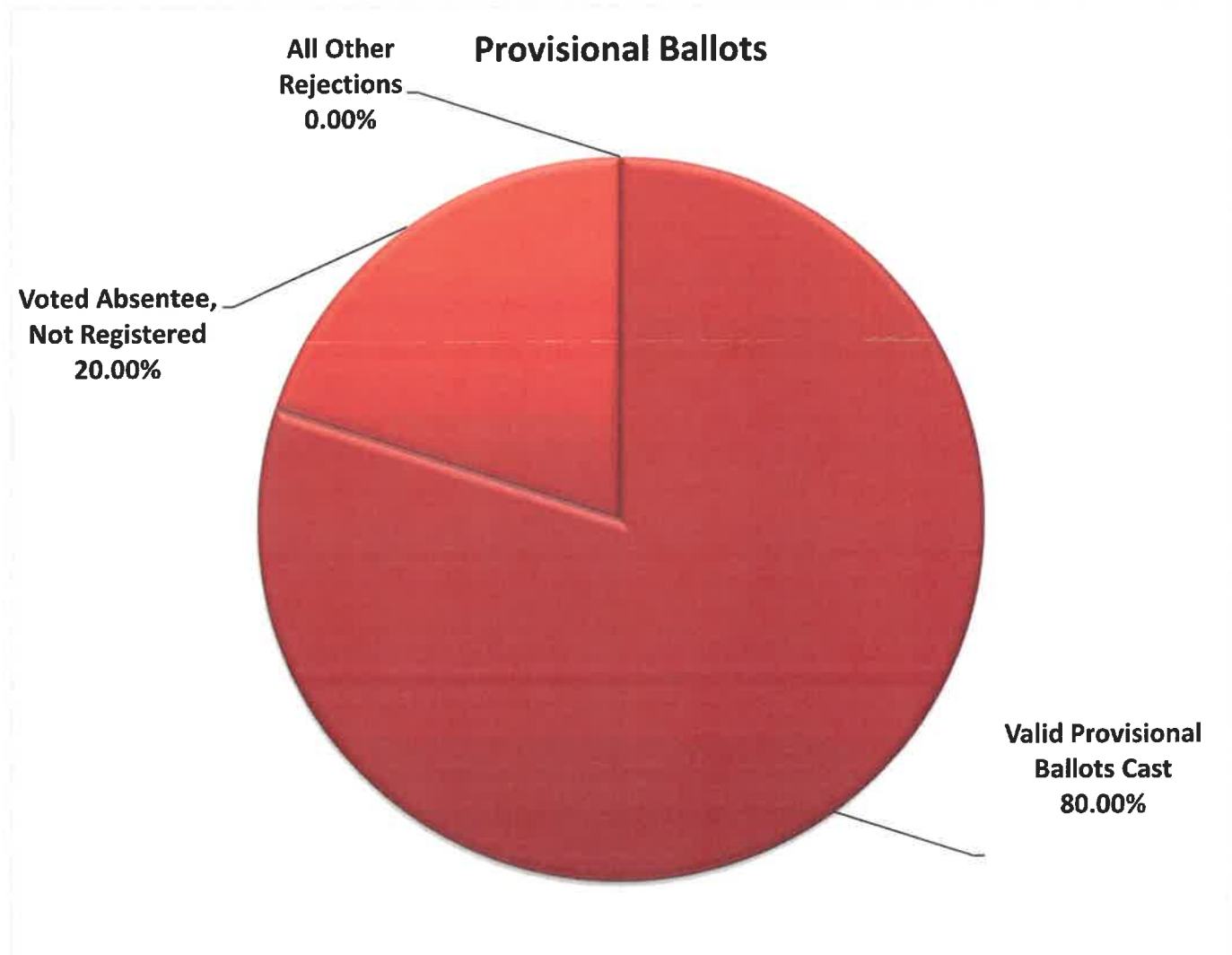


PROVISIONAL VOTING SUMMARY

A total of 5 Provisional Ballots were cast during the September 12, 2023 Special Election. Of those ballots, 4 (80%) were valid and tabulated by the Ballot Department. There was 1 invalid Provisional Ballot, resulting in a 20%* rejection rate for this election.

*The Provisional Rejection Rate is 0% when provisional voters who have already cast a VBM Ballot or are Not Registered are excluded.

Provisional Data		
Total Provisional Ballots Cast	5	
Valid Provisional Ballots	4	80.00%
Wrong Precinct, Correct Location of Valid Provisionals	0	0.00%
Rejected Provisional Ballots	1	20.00%
Rejection Category	Rejected	% of Total Rejections
Not Registered	1	100.00%



BALLOT REMAKES

During the election, 0 ballot sheets were processed in accordance with the CCBOE Adjudication (presented to the Board on August 29, 2023). The overall remake rate for this election was 0%. Excluding UOCAVA & Voted For Ineligible Contest, the remake rate for this election was 0%.

Onscreen Ballot Adjudication	Number of Remakes	% of Total Remakes
1 - Ballot folded, torn, or mutilated.	-	0.00%
2 - Ballot contains indeterminate marks not made by the voter	-	0.00%
3 - UOCAVA Ballot	-	0.00%
4 - Ballot contains votes for ineligible contest(s).	-	0.00%
5 - Inadvertent mark made by the voter, resulting in the scanner detecting an over vote or an indeterminate mark.	-	0.00%
6 - Voter marked entire ballot contrary to the instruction listed at the beginning of the ballot.	-	0.00%
7 - Voter marked part of the ballot according to the ballot marking instructions contained on the ballot, and part of the ballot contrary to the instructions.	-	0.00%
Manual Remake ONLY	Number of Remakes	% of Total Remakes
8 - Voter marked part of the ballot in accordance with the ballot marking instructions contained on the ballot, and part of the ballot contrary to the instructions.	-	0.00%
9 - Over vote, voter marked the ballot more than the permissible number of times for a particular contest, and there is no indication of contrary intent	-	0.00%
10 - Voter filled in an oval next to a candidate for an office and also cast a write-in vote for a vote for a candidate for the same office by filling in the oval of, and the writing in of, the name of a write-in candidate.	-	0.00%
Total	0	0.00%

Category	Remakes Removed	Remake Rate
Regular VBM & Provisional Ballot Scanning	-	0.00%
UOCAVA & Voted For Ineligible Contest	-	0.00%
Total	0	0.00%

OVER VOTES

No over votes were recorded, resulting in a 0% over vote rate for the election.

VOTER HISTORY / BALLOT RECONCILIATION

Four (4) precincts were involved in this election. Voter History is complete.

Ballot Reconciliation is ongoing.

RECOUNTS

There is no automatic recount for this election.

The requested recount deadline is Monday, October 2, 2023 at 4:00 PM.

AUDIT

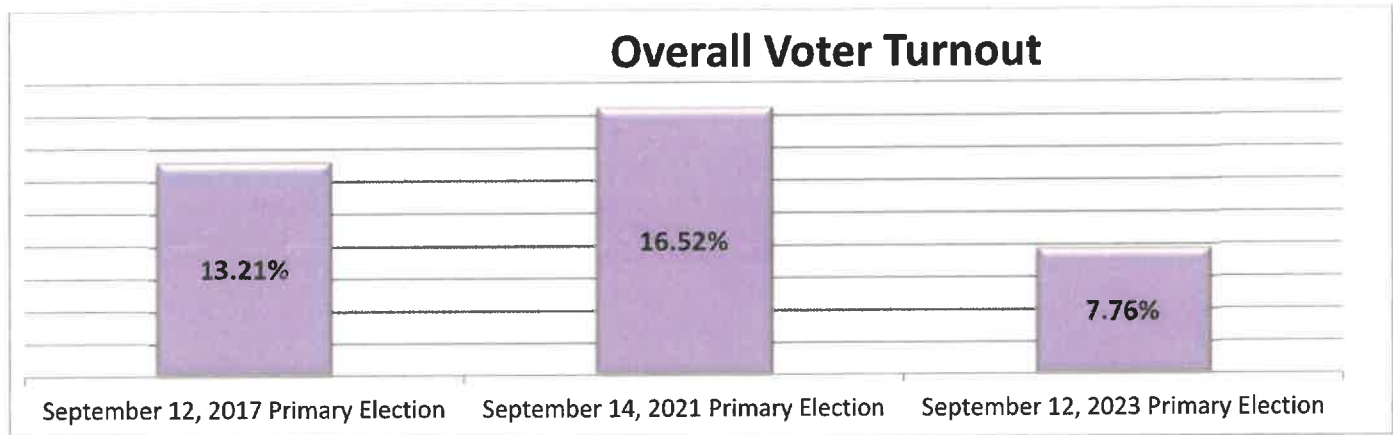
The post-election audit will be conducted in conjunction with the November 7, 2023 General Election post-election audit.

The audit will be conducted using the batch-based risk-limiting audit method.

HISTORICAL DATA

The following data sets and graphs include similar election comparisons related to election information and voting method distributions (ballot categories).

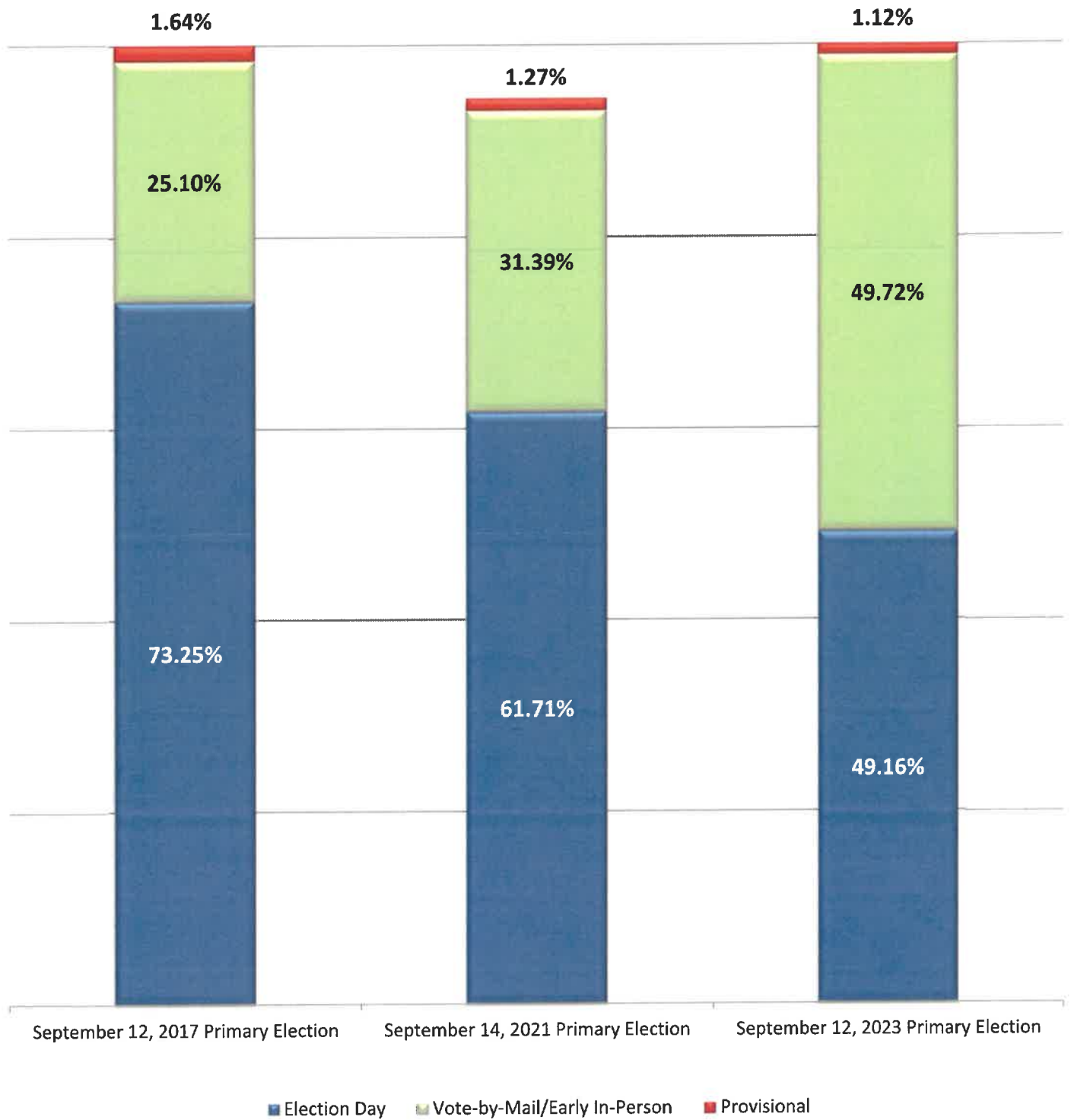
	September 12, 2017 Primary Election	September 14, 2021 Primary Election	September 12, 2023 Primary Election
Precincts	389	442	4
Registered Voters	318,396	353,806	4,614
Ballots Cast - Counted	42,076	58,437	358
<i>Election Day</i>	30,801	35,875	176
<i>Vote-by-Mail</i>	10,447	18,078	155
<i>Early In-Person</i>		3,289	17
<i>Provisional</i>	692	744	4
<i>Post Election Day</i>	21	184	0
<i>Post Vote-by-Mail</i>	115	267	6
Voter Turnout	13.21%	16.52%	7.76%



Ballots Cast by Category - % of Total Ballots Cast

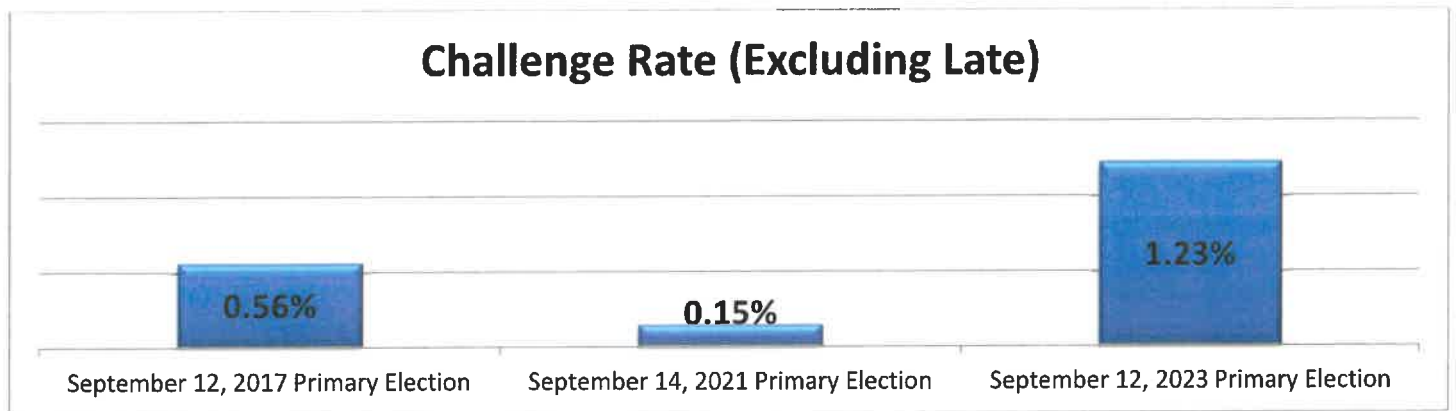
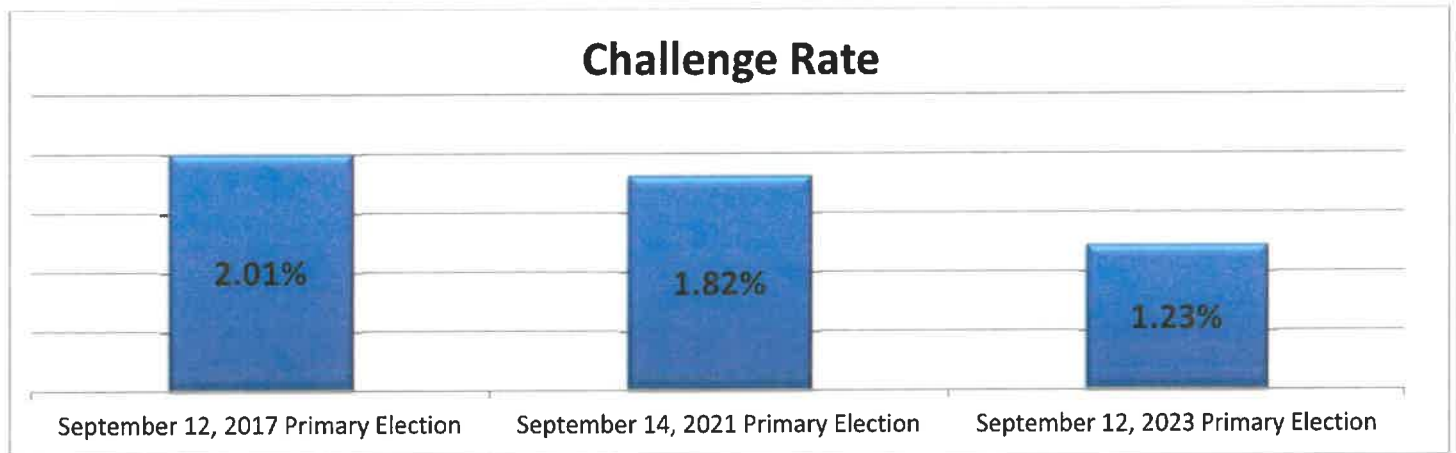
	September 12, 2017 Primary Election	September 14, 2021 Primary Election	September 12, 2023 Primary Election
Election Day	73.25%	61.71%	49.16%
Vote-by-Mail/Early In-Person	25.10%	31.39%	49.72%
Provisional	1.64%	1.27%	1.12%

Voter Turnout by Category



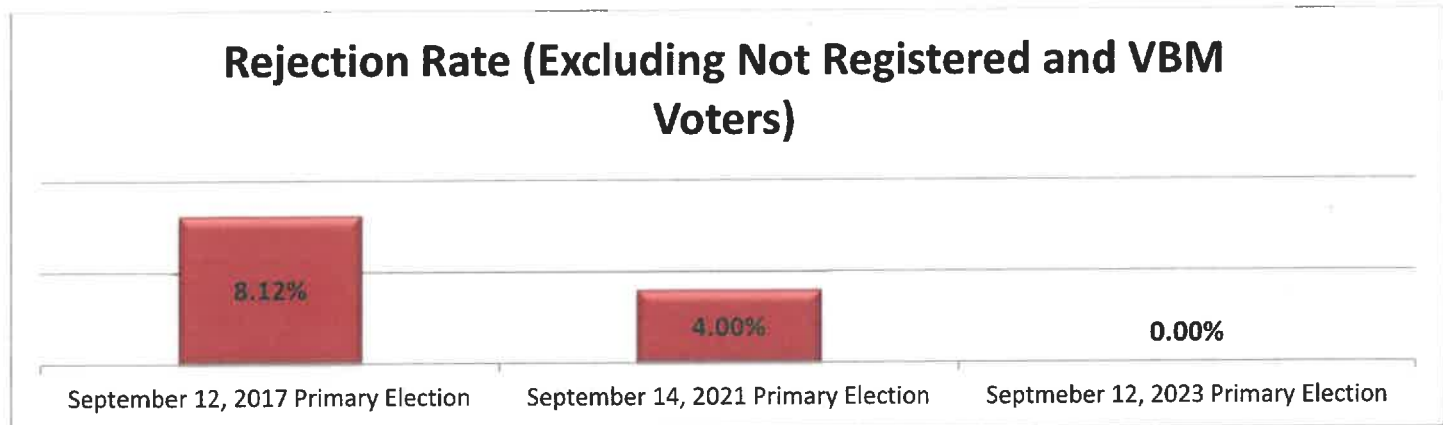
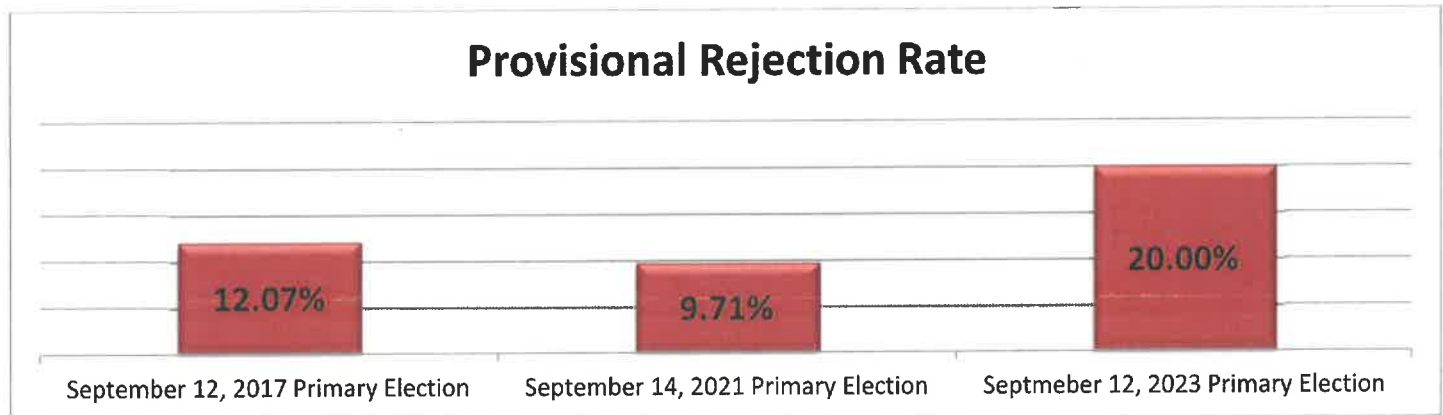
Vote-by-Mail Data

	September 12, 2017 Primary Election	September 14, 2021 Primary Election	September 12, 2023 Primary Election
VBM Ballots Issued	13,052	24,593	204
VBM Ballots Returned	10,621	21,685	163
VBM Ballots Counted	10,532	21,634	161
VBM Ballots Challenged	59	32	2
VBM Ballots Returned Late	154	362	0
VBM Ballots Issued and Returned	81.37%	88.18%	79.90%
VBM Ballots Returned and Counted	99.16%	99.76%	98.77%
VBM Ballots Returned and Challenged	2.01%	1.82%	1.23%
VBM Ballots Issued and Returned Late	1.18%	1.47%	0.00%
VBM Ballots Returned and Challenged (excluding late)	0.56%	0.15%	1.23%



Provisional Data

	September 12, 2017 Primary Election	September 14, 2021 Primary Election	Septmeber 12, 2023 Primary Election
Provisional Ballots - CAST	787	824	5
Provisional Ballots - VALID	693	744	4
Provisional Ballots - REJECTED	95	80	1
Valid Provisional Ballots Cast	88.06%	90.29%	80.00%
Rejected Provisional Ballots	12.07%	9.71%	20.00%
VBM Voters	11	21	0
Not Registered In The State of Ohio	31	26	1
Wrong Precinct, Wrong Location	53	33	0
Correct Location Remakes	19	12	0
Rejected Not Including VBM & Not Registered of Ballots Cast	8.12%	4.00%	0.00%
Wrong Precinct, Wrong Location of Ballots Cast	6.73%	4.00%	0.00%



Official Results

CUYAHOGA COUNTY, SEPTEMBER 12, 2023 PRIMARY ELECTION, Sep 12, 2023
All Precincts, All Districts, All Counter Groups, All ScanStations, All Contests, All Boxes
Total Ballots Cast: 358, Registered Voters: 4614, Overall Turnout: 7.76%
4 precincts reported out of 4 total

Page: 1 of 1
2023-09-22
11:59:20

Choice	Votes	Vote %
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All Precincts

GARFIELD HEIGHTS COUNCIL WARD 02 (Vote for 1)

147 ballots (0 over voted ballots, 0 overvotes, 0 undervotes), 2317 registered voters, turnout 6.34%

Charles F. Donahue Jr	82	55.78%
Mike Dudley Sr	22	14.97%
Tenisha Mack	43	29.25%
Total	147	100.00%
Overvotes	0	
Undervotes	0	

MAPLE HEIGHTS COUNCIL DISTRICT 06 (Vote for 1)

211 ballots (0 over voted ballots, 0 overvotes, 1 undervotes), 2297 registered voters, turnout 9.19%

Ozell Dobbins III	54	25.71%
Tina Stafford-Marbury	66	31.43%
Richard Trojanski	90	42.86%
Total	210	100.00%
Overvotes	0	
Undervotes	1	

Agenda Item

#3

Agenda Item #3:

Acknowledgment of the date, time, and place of the post-election audit for the September 12, 2023, Primary Election

Agenda Item

#4

Agenda Item #4:

Acknowledgment of the Ballot Proofs for the November 7, 2023, General Election in accordance with the Ballot Proofing Policy approved by the Board at the March 12, 2021, Board Meeting

Agenda Item

#5

Candidates Withdrawn from the November 7, 2023 General Election*

<u>Office</u>	<u>Name</u>	<u>Party</u>
Newburgh Heights Mayor	Adam Mazur	Nonpartisan

*Per ORC 3513.30(E) candidates that withdraw after the seventieth (70th) day prior to the election will remain on the ballot, votes cast for these candidates will not be tallied nor reported, and notices to inform voters of the withdrawals will be posted in voting booths and provided with VBM ballots.

VOTE



CUYAHOGA COUNTY
BOARD OF ELECTIONS

Date: 9/18/2023

I, Adam Mazur, withdraw my candidacy for

(check one):

May 2, 2023 Primary Election

September 12, 2023 Primary Election

November 7, 2023 General Election

Other: _____

Party (if applicable): _____

Office: Mayor - Newburgh Heights

Term date (if applicable): 2024 - 2028

Signature: 

Printed Name: ADAM MAZUR

Street Address: 3987 E. 52nd St.

City / Zip Code: Newburgh Heights | 44105

Phone: 330-338-3079

Email: polishlaundry@gmail.com

Agenda Item

#6

a)

“Exhibit A”

- East Cleveland Resolution No. 57-23 submitting to electors a charter amendment changing the Mayoral primary from a partisan to non-partisan primary, *as submitted to the CCBOE for the ballot.*
 - Legislation indicates legislation not vetoed nor signed and goes into effect automatically after seven days.
 - Passed with 4/5 votes of Council on 8/9/2023.
 - Certified by Brewer and signed by Council President Gowdy.

Office of the Clerk of Council
Eric J. Brewer



14340 Euclid Avenue
East Cleveland, OH 44112
Tel: 216-681-2312

Certification of the Clerk of Council

I, Eric J. Brewer, the duly appointed, qualified and oath sworn Clerk of Council for East Cleveland City Council, CERTIFY that Resolution Number 57-23 was approved pursuant to Section 94 of the Charter during a public Special Meeting of the East Cleveland City Council on August 9, 2023; and passed by a four-fifths majority of the legislative authority. The subject of Resolution Number 57-23, that seeks a vote on a change to Section 115 of the Charter of East Cleveland, reads as follows:

A RESOLUTION SUBMITTING A REVISION OF SECTION 115 OF THE CHARTER OF EAST CLEVELAND CHANGING THE MAYORAL PRIMARY ELECTION FROM PARTISAN TO NON-PARTISAN; AND DECLARING AN EMERGENCY FOR THE PRESERVATION OF EAST CLEVELAND'S DEMOCRACY

Respectfully submitted,



Eric J. Brewer, Clerk of Council

Date: 9-05-2023

23 SEP 8 PM 2:24

RESOLUTION NO. 57-23

A RESOLUTION SUBMITTING A REVISION OF SECTION 115 OF THE CHARTER OF EAST CLEVELAND CHANGING THE MAYORAL PRIMARY ELECTION FROM PARTISAN TO NON-PARTISAN; AND DECLARING AN EMERGENCY FOR THE PRESERVATION OF EAST CLEVELAND'S DEMOCRACY

Requested By: Councilor Juanita Gowdy, President of Council
Sponsored By: Councilor Juanita Gowdy, Chair of Contracts & Properties Committee
Placed on the August 9, 2023 Special Council Meeting Agenda as an emergency
Majority passage: 4 yeas. Councilors Gowdy, Blochowiak, Shabazz & Billings
Unsigned by Mayor Brandon L. King and returned to the Clerk of Council within 7 days
The resolution is effective per Section 113(E) of the Charter

WHEREAS, the "Nomination and election procedures" for selecting a Mayor is found at Section 115 of the Charter of East Cleveland and reads, in full, as follows:

Candidates for the office of Mayor or member of Council shall be nominated only by petition. No primary election shall be held for the election of Council members, but a partisan primary election shall be held for the election of the Mayor. No nomination except as prescribed by this section shall be effective. The name of any elector of the city shall be printed as a candidate on the regular municipal election ballot, in the case of candidates for Council, or on the primary election ballot, in the case of candidates for Mayor, if there is filed with the election authorities as prescribed by general law a petition in accordance with the following provisions:

(a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a qualified candidate for the office sought.

(b) Such petition shall be signed by electors of the city equal in number to not less than two percent (2%) of the total number of voters voting at the last regular municipal election.

(c) Such petition shall contain a provision that each signer thereof thereby pledges to support and vote for the candidate whose name is presented on said ballot, and that each signer shall subscribe to a number of petitions for each office no greater than the total number of positions for that office to be filled by said election. Each such elector signing a petition.

(d) The signatures of all petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in the circulator's presence on the date stated therein, and that the circulator believes in good faith that the signature is that of the person whose name it appears to be. Signatures shall be collected on said petitions not earlier than one hundred and ten (110) days prior to the date of the holding of said regular municipal election, in the case of candidates for Council, or said primary election in the case of candidates for Mayor.

(e) All nominating papers comprising a petition shall be assembled and filed with the

election authorities as one instrument not less than ninety (90) days prior to the date of holding of said regular municipal election, in the case of candidates for Council, or the date of said primary election, in the case of candidates for Mayor.

(f) Each petition shall name a committee of three authorized electors to represent the signers of such petition. If the elector nominated by such petition shall, for any reason, cease to be a candidate, a majority of such committee shall select an elector to fill such vacancy and shall thereupon make and file with the election authorities prescribed by law a certificate, setting forth the name of the new nominee, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original petition for nomination. The certificate so made shall be executed, acknowledged and sworn to by the majority of the committee in the manner prescribed for the original petition for nomination, and shall be filed with the election authorities prescribed by general law at least seventy-six (76) days before the date of election and shall have the same force and effect as an original petition for nominations: and the new nominee shall file his or her acceptance of such candidacy with the election authorities along with said certificate, otherwise his or her name shall not appear on the ballot.

(g) In the case of candidates for Council, a non-partisan election of Council shall be held on the date of each regular municipal election. The five candidates each receiving the most votes cast shall be deemed the winners of the election, and shall be entitled to assume their offices pursuant to Sections 36 and 98.

(h) The primary election for the office of Mayor shall be held on the second (2nd) Tuesday of September. The two candidates each receiving the most votes cast in the primary election shall proceed to a runoff election to be held on the date of the first regular municipal election following the primary election. The person receiving the most votes cast in said regular municipal election shall be declared the winner of said election, and shall be entitled to assume the Mayor's office pursuant to §112.

(i) All primary or regular municipal election ballots shall be in conformity with the provisions contained in Section 33: and

WHEREAS, the Council does seek to amend Section 115 of the Charter to remove the word "partisan" from the City's primary election for Mayor; and

Candidates for the office of Mayor or member of Council shall be nominated only by petition. No primary election shall be held for the election of Council members, but a **NON-PARTISAN** ~~partisan~~ primary election shall be held for the election of the Mayor. No nomination except as prescribed by this section shall be effective. The name of any elector of the city shall be printed as a candidate on the regular municipal election ballot, in the case of candidates for Council, or on the primary election ballot, in the case of candidates for Mayor, if there is filed with the election authorities as prescribed by general law a petition in accordance with the following provisions:

(a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a qualified candidate for the office sought.

(b) Such petition shall be signed by electors of the city equal in number to not less than two percent (2%) of the total number of voters voting at the last regular municipal election.

(c) Such petition shall contain a provision that each signer thereof thereby pledges to support and vote for the candidate whose name is presented on said ballot, and that each signer shall subscribe to a number of petitions for each office no greater than the total number of positions for that office to be filled by said election. Each such elector signing a petition.

(d) The signatures of all petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in the circulator's presence on the date stated therein, and that the circulator believes in good faith that the signature is that of the person whose name it appears to be. Signatures shall be collected on said petitions not earlier than one hundred and ten (110) days prior to the date of the holding of said regular municipal election, in the case of candidates for Council, or said primary election in the case of candidates for Mayor.

(e) All nominating papers comprising a petition shall be assembled and filed with the election authorities as one instrument not less than ninety (90) days prior to the date of holding of said regular municipal election, in the case of candidates for Council, or the date of said primary election, in the case of candidates for Mayor.

(f) Each petition shall name a committee of three authorized electors to represent the signers of such petition. If the elector nominated by such petition shall, for any reason, cease to be a candidate, a majority of such committee shall select an elector to fill such vacancy and shall thereupon make and file with the election authorities prescribed by law a certificate, setting forth the name of the new nominee, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original petition for nomination. The certificate so made shall be executed, acknowledged and sworn to by the majority of the committee in the manner prescribed for the original petition for nomination, and shall be filed with the election authorities prescribed by general law at least seventy-six (76) days before the date of election and shall have the same force and effect as an original petition for nominations: and the new nominee shall file his or her acceptance of such candidacy with the election authorities along with said certificate, otherwise his or her name shall not appear on the ballot.

(g) In the case of candidates for Council, a non-partisan election of Council shall be held on the date of each regular municipal election. The five candidates each receiving the most votes cast shall be deemed the winners of the election, and shall be entitled to assume their offices pursuant to Sections 36 and 98.

(h) The primary election for the office of Mayor shall be held on the second (2nd) Tuesday of September. The two candidates each receiving the most votes cast in the primary election shall proceed to a runoff election to be held on the date of the first regular municipal election following the primary election. The person receiving the most

votes cast in said regular municipal election shall be declared the winner of said election, and shall be entitled to assume the Mayor's office pursuant to §112.

(i) All primary or regular municipal election ballots shall be in conformity with the provisions contained in Section 33;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of East Cleveland, Cuyahoga County, State of Ohio, consisting of Juanita Gowdy, President; Patricia Blochowiak, Vice President; Korean Stevenson, Lateek Shabazz and Twon Billings, three-fifths (3/5ths) concurring:

SECTION 1. That Council does hereby instruct the Clerk of Council to submit this proposed change to Section 115 of the Charter to the Cuyahoga County Board of Elections for inclusion on the ballot.

SECTION 2. That it is found and determined that all deliberations of this Council and any of its committees relating to the passage of this Resolution were adopted in an open meeting of this Council, in compliance with all legal requirements.

SECTION 3. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: YES


JUANITA GOWDY, PRESIDENT OF COUNCIL

DATE SIGNED: 08-09-23

ATTEST:


ERIC J. BREWER, CLERK OF COUNCIL

DATE SIGNED: 8-09-23

'23 SEP 8 PM 2:25

	Yea	Nay
Councilor Juanita Gowdy	✓	
Councilor Patricia Blochowiak	✓	
Councilor Korean Stevenson		✓
Councilor Lateek Shabazz	✓	
Councilor Twon Billings	✓	

APPROVED:

BRANDON L. KING, MAYOR

DATE SIGNED _____

VETO: YES _____ NO _____

APPROVED AS TO FORM:

(Vacated by Ord. No. 10-23 1/26/2023)

DIRECTOR OF LAW

DATE SIGNED: _____

'23 SEP 8 PM 2:25

b)

“Exhibit B”

Willa Hemmons Documents

- Email to Mark Musson 9/21/23
- Brewer vs East Cleveland
 - Common Pleas Court Journal Entry and Order
- Nathaniel Martin vs Lateek Shabazz
 - Court of Appeals Journal Entry
 - Extension of time to respond.
 - Granted motion to disqualify Willa Hemmons and Heather McCollough from representing Nathaniel Martin.
- Mayor King veto of Resolution 57-23 submitting to electors a charter amendment changing the Mayoral primary from a partisan to non-partisan primary.
 - No indication of Council vote. No signatures from Clerk Brewer or Council President Gowdy.
- Hemmons email correspondence dated 9/26/2023 to Ballot Department Project Coordinator Alainna Marincic.

Eric Brewer is not East Cleveland Clerk of Council

Willa Hemmons <whemmons@eastcleveland.org>

Thu 9/21/2023 1:30 PM

To: Musson, Mark R. <mmusson@prosecutor.cuyahogacounty.us>; Anthony W. Perlatti <aperlatti@cuyahogacounty.gov>

Cc: Mary L. Bejjani <mbejjani@cuyahogacounty.gov>; Mayor King <mayorking@eastcleveland.org>; Brent Lawler <blawler@cuyahogacounty.gov>; smed.m@hotmail.com <smed.m@hotmail.com>; Heather Mccollough <hmccollough@eastcleveland.org>; Cory Milne <cmilne@cuyahogacounty.gov>

📎 4 attachments (2 MB)

Journal Entry staying the Case.PDF; Ct of Appeals Journal Entry Granting Motion to Disqualify Law Dir & Asst against Council.pdf; RES 57-23 Mayor VETO Mayor Primary Election Charter Change.pdf; Appellate Court Jnl Entry Extending time for E Cleve Council Determination Motion to 8-18-23.pdf;

Please see attached sent pursuant to a conversation I just had with Mgr. Brent Lawler. In that conversation, Mr. Lawler conveyed several misunderstandings that the attached corrects.

- 1) According to the 8th District Court of Appeals, I am the Law Director despite what Mr. Lawler has been told "numerous times" by anonymous persons.
- 2) Eric Brewer is NOT the Clerk of Council for the City of East Cleveland as that is yet to be determined by the attached court case.
- 3) The Mayor did VETO any purported legislation that seeks to have the Mayor's election be non-partisan and the City of East Cleveland Administration is requested that it be struck through on the ballot.
- 4) It is true that there is a pending 8th District Court of Appeals case, COA 23-112477 as to the legal make-up of the East Cleveland City Council, and the City Administration would ask that until such case is decided, that the Board of Elections refrain from allowing any electoral actions on the ballot until its resolution—that includes any upcoming "REcall" actions against the Mayor that Eric Brewer is concocting.

Thank you for this consideration.

Willa Hemmons

Law Director
City of East Cleveland
14340 Euclid Avenue
East Cleveland, Ohio 44112
(216) 681-2169
(216) 681-2199 Facsimile
whemmons@eastcleveland.org





150177046

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

ERIC J. BREWER, ET AL
Plaintiff

CITY OF EAST CLEVELAND, ET AL
Defendant

Case No: CV-23-981131

Judge: TIMOTHY MCCORMICK

FILED
2023 JUN 21 10 3: 15
CLERK OF COURTS
CUYAHOGA COUNTY

JOURNAL ENTRY

88 BANKRPT/C.O.A. STAY - FINAL

TELEPHONE CONFERENCE HELD ON 06/20/2023. THE CASE IS STAYED. ORDER SEE JOURNAL.
PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

Timothy McCormick

Judge Signature

Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Eric Brewer, et al.,)	
)	
Plaintiffs;)	Case No. CV 23 981131
)	
-v.-)	Judge Timothy P. McCormick
)	
City of East Cleveland, et al.,)	Order
)	
Defendants.)	
)	

Plaintiffs Eric Brewer and Justyn Anderson have filed a complaint against the City of East Cleveland, and its Mayor, Brandon King, in his official capacity. Plaintiffs state that the City Council of East Cleveland has lawfully appointed them as the Clerk and Deputy Clerk of Council respectively. They allege that the City, at the direction of the Mayor, has failed to pay their wages and benefits, has not allowed them access to City Hall, and has generally not treated them as though they had lawful appointments.

They are seeking declaratory relief declaring that they are the lawfully appointed Clerk and Deputy Clerk. They seek an injunction to order the Defendants to give them access to City Hall, begin paying their salary and benefits, and to order back pay for the period they have not been paid.

Along with their complaint, the Plaintiffs moved for a Temporary Restraining Order and Preliminary Injunction seeking an immediate order for the Defendants to treat Plaintiffs as lawful appointees, give them City Hall access, and to pay wages and benefits, including back pay.

The Defendants filed a response requesting that the Court decline to rule on the motion and instead stay the case. They assert that that whether the Plaintiffs'

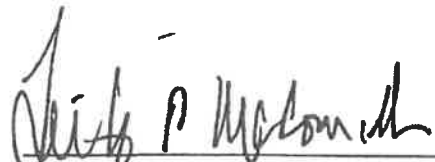
appointment turns on whether the Council majority that signed off on their appointment held their office lawfully. There are three signatures on the purported appointment documents that Plaintiffs provided to the Court. The third is allegedly from Lateek Shabazz. Whether Shabazz is lawfully in office as a City Councilor is currently the subject of a quo warranto action in the Eighth District in *State ex rel. Nathaniel Martin et al., v. Lateek Shabazz et al.*, Case No. CA 23 112477.

The Defendants argue that if the Court grants relief at this time it necessarily requires a determination of whether Shabazz is lawfully appointed. Such a determination could be inconsistent with any order the Eighth District may enter in the quo warranto action.

The Court held a telephone conference on June 20, 2023 to address these issues. Plaintiffs' counsel responded to the Defendants' arguments for a stay by reiterating the harm that Plaintiffs will continue to suffer by not being paid for their work while waiting for a decision of the Eighth District. While the Court acknowledges that Plaintiffs are in a difficult position, it does not change the fact that ruling on the motions at this time could easily conflict with orders that could come from the Eighth District. Indeed entering inconsistent orders may even be to the Plaintiff's detriment as it would lead to piecemeal and confusing litigation rather than an orderly resolution of related issues.

Therefore, the Court will stay the litigation and defer setting a hearing or issuing a ruling on Plaintiffs' motion for a preliminary injunction.¹ The parties may move to lift the stay following a final decision in CA 23 112477.

It is so ordered.


Judge Timothy P. McCormick

¹ Because the Defendants have entered an appearance and responded to the action, the motion for a Temporary Restraining Order is moot.

Court of Appeals of Ohio, Eighth District

County of Cuyahoga
Nailah K. Byrd, Clerk of Courts

STATE EX REL., NATHANIEL MARTIN, ET AL.

Petitioner

COA NO.
112477

ORIGINAL ACTION

-vs-

LATEEK SHABAZZ, ET AL.

Respondent

MOTION NO. 566381

Date 07/31/23

Journal Entry

Motion by relator Mark McClain for extension of time to respond to respondents' motion for summary judgment is granted to August 18, 2023. No additional extension of time, in which to file a response to the respondents' motion for summary judgment, shall be granted absent the demonstration of exigent circumstances. Any additional request for an extension of time, that is based upon alleged health issues, must be accompanied by proof of the existence of a health issue. A simple statement by the relator, of an existing health issue, is not sufficient to establish cause for granting an additional extension of time.

Judge Eileen T. Gallagher, Concur

Judge Sean C. Gallagher, Concur



Frank Daniel Celebrezze, III
Presiding Judge

RECEIVED FOR FILING
07/31/2023 10:32:59
NAILAH K. BYRD, CLERK
Docket ID: 153923859

Court of Appeals of Ohio, Eighth District

APR 26 2023

County of Cuyahoga
Nailah K. Byrd, Clerk of Courts

STATE EX REL., NATHANIEL MARTIN, ET AL.

Petitioner

COA NO.

112477

-vs-

ORIGINAL ACTION

LATEEK SHABAZZ, ET AL.

Respondent

MOTION NO. 562994

Date 4/26/2023

Journal Entry

The respondents have filed a motion to disqualify Willa Hemmons ("Hemmons"), law director of the city of East Cleveland, and Heather McCollough ("McCollough"), assistant law director of the city of East Cleveland, from representing the relators in the original action for quo warranto filed in *State ex rel. Martin, et al. v. Shabazz, et al.*, 8th Dist. Cuyahoga No. CA-23-112477. We grant the respondents' motion to disqualify for the following reasons.

The court of appeals is generally not a trial court except with respect to the five types of original actions allowed by Article IV, Section 3(B), Ohio Constitution. With regard to complaints for mandamus, procedendo, prohibition, habeas corpus, and quo warranto, this court acts as a trial court and is bound by the Ohio Rules of Civil Procedure. *State ex rel. Kirtz v. Corrigan*, 61 Ohio St.3d 435, 575

CA23112477

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N.E.2d 186 (1991); *State ex rel. Russell v. Shaker Hts. Mun. Court*, 87 Ohio App.3d 511, 622 N.E.2d 697 (8th Dist.1983); Loc.App.R. 1(B); and Loc.App.R. 45(A)(3).

This court possesses the inherent authority to supervise all members of the bar that appear before us, which includes the power to disqualify counsel. *Kala v. Aluminum Smelting & Refining Co.*, 81 Ohio St.3d 1, 688 N.E.2d 258 (1998); *In re E.M.J.*, 9th Dist. Medina No. 15CA0098-M, 2017-Ohio-1090. Supervision of the members of the bar, appearing before this court, includes determination of an attorney's compliance with the Code of Professional Responsibility. *Royal Indemn. Co. v. J.C. Penney Co.*, 27 Ohio St.3d 31, 501 N.E.2d 617 (1986); *Mentor Lagoons, Inc. v. Rubin*, 31 Ohio St.3d 256, 510 N.E.2d 379 (1987); *Wynveen v. Corsaro*, 2017-Ohio-9170, 106 N.E.3d 130 (8th Dist.); and *Fried v. Abraitis*, 2016-Ohio-934, 61 N.E.3d 545 (8th Dist.). Also, this court enjoys broad discretion when considering a motion to disqualify counsel. *Phillips v. Haidet*, 119 Ohio App.3d 322, 695 N.E.2d 292 (3d Dist.1997). An abuse of discretion is more than an error of judgment; it means that this court's judgment is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 450 N.E.2d 1140 (1983).

Initially, we find that the judgment to disqualify Hemmons and McCollough from representing the relators is premised upon a violation of Ohio Prof.Cond.R. 1.7(a)(1), which provides that a "lawyer's acceptance or continuation of representation of a client creates a conflict of interest if * * * the representation of that client will be directly adverse to another current client * * *." The Comment

to Prof.Cond.R. 1.7 states in part that “[t]he concurrent representation of clients whose interests are directly adverse always creates a conflict of interest.” See Comment 10 to Prof.Cond.R. 1.7. See also Comment 11 to Prof.Cond.R. 1.7.

In addition, Prof.Cond.R. 1.7(a)(2) provides that a conflict exists if there is a substantial risk that the lawyer’s ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer’s responsibilities to another client. Comment 17 discusses a “material limitation” conflict when a lawyer represents a current client in different matters, also known as “simultaneous representation in unrelated matters”:

* * * if there is a substantial risk that a lawyer’s action on behalf of one client in one case will materially limit the lawyer’s effectiveness in concurrently representing another client in a different case. For example, there is a material limitation conflict if a decision for which the lawyer must advocate on behalf of one client in one case will create a precedent likely to seriously weaken the position taken on behalf of another client in another case. Factors relevant in determining whether there is a material limitation of which the clients must be advised and for which consent must be obtained include: (1) where the cases are pending; (2) whether the issue is substantive or procedural; (3) the temporal relationship between the matters; (4) the significance of the issue to the immediate and long-term interests of the clients involved; and (5) the clients’ reasonable expectations in retaining the lawyer.

Herein, Hemmons is the law director for East Cleveland and McCollough is the assistant law director for East Cleveland as clearly demonstrated on the website maintained by the city of East Cleveland.¹ Hemmons and McCollough have also

¹ A court may take judicial notice of appropriate matters, including judicial opinions and public records accessible from the internet. *State ex rel. Ohio Republican Party v. Fitzgerald*, 145 Ohio St.3d 92, 2015-Ohio-5056, 47 N.E.3d 124; *State ex rel. Womack v. Marsh*, 128 Ohio St.3d 303, 2011-Ohio-229, 943 N.E.2d 1010; *State ex rel.*

signed and represented themselves, in each pleading filed in this court in the pending original action for quo warranto, as law director for East Cleveland and assistant law director for East Cleveland.

Hemmons, the current law director for East Cleveland, is appointed by the mayor, serves as the prosecuting attorney for the city and legal counsel for the mayor and other city officials, and has supervision and control over the law department. *See East Cleveland City Charter, Section 23.* McCollough, the current assistant law director is designated by the law director to serve as the prosecuting attorney for East Cleveland. R.C. 733.51 and 733.53. The East Cleveland City Charter is otherwise silent as to the duties and responsibilities of the law director and the assistant law director.

Hemmons has served in her position as law director for 15 years.² McCollough has served as assistant law director since 2018.³ During their tenure as law director and assistant law director, as mandated by R.C. 733.51 and 733.53, Hemmons and McCollough have represented the various interests of East Cleveland, including attending East Cleveland council meetings, and have briefed

Nyamusevya v. Hawkins, 10th Dist. Franklin No. 19AP-199, 2020-Ohio-2690, citing Evid.R. 201(B); Giannelli, 1 *Baldwin's Ohio Practice Evidence*, Section 201.6 (3d Ed.2015).

² *See East Cleveland Resolution: Ordinance No. 02-03*, passed by East Cleveland council on January 26, 2023, and contained in an internet news story published by WKYC-TV on January 27, 2023.

³ *See internet page of LinkedIn at <https://www.linkedin.com/in/heather-mccollough-48b0767>.*

the East Cleveland council on legal issues and pending legislation. In fact, in the brief in opposition to disqualify counsel, it is stated that “[a]s attorneys for the city, Ms. Hemmons and Ms. McCollough may be called upon by the council to give legal opinions on issues and assist the council in drafting legislation. *From time to time, the law department may be called upon to represent a councilor in a court matter.*”⁴ (Emphasis added.) Review of the various exhibits attached to the complaint for quo warranto, the brief in opposition to the motion to disqualify counsel, and the reply in response to the brief in opposition to the motion to disqualify counsel, also clearly demonstrate that Hemmons and McCollough have provided legal advice to East Cleveland Council.

Accordingly, we find that the continued representation of the relators by Hemmons and McCollough would violate Prof.Cond.R. 1.7(a)(1) and 1.7(a)(2). The decision to disqualify Hemmons and McCollough is further based upon an exercise of our judicial discretion and the need to prevent any appearance of impropriety. *State v. Keenan*, 81 Ohio St.3d 133, 689 N.E.2d 929 (1998); *State ex rel. Keenan v. Calabrese*, 69 Ohio St.3d 176, 631 N.E.2d 119 (1994); *State v. Johnson*, 2022-Ohio-1479, 187 N.E.3d 1071 (4th Dist.).

The disqualification of Hemmons and McCollough prevents both attorneys from surreptitiously representing the relators in prosecuting their complaint for a writ of quo warranto. Any clandestine, hidden, covert, or deceptive efforts on the

⁴ See p. 5 of relators’ “Brief in Opposition to Motion to Disqualify Counsel.”

part of Hemmons and McCollough to provide additional and future legal services to the relators, with regard to the relators' complaint for quo warranto, shall result in the imposition of sanctions and/or referral for disciplinary actions.

Finally, Hemmons and McCollough are forewarned that the continued filing of any original action with this Court, that in reality constitutes an attempt to litigate and settle political infighting, shall result in a finding of frivolous conduct pursuant to Civ.R. 11 and R.C. 2323.51. A plain reading of R.C. 2323.51 and Civ.R. 11 reveals that both the statute and the rule impose the same requirement on an attorney: to prosecute only claims having merit under existing law. Frivolous conduct, with regard to the improper filing of an original action, shall result in the imposition of court costs, reasonable attorney fees, other reasonable expenses, and sanctions. *Almasoodi v. J. Harris Constr. Inc.*, 5th Dist. Delaware No. 22 CAE 06 0053, 2023-Ohio-895; *Martell v. Martell*, 5th Dist. Stark No. 2018CA00017, 2018-Ohio-4927; *Lansky v. Brownlee*, 2018-Ohio-3952, 111 N.E.3d 135 (8th Dist.); *Bikkani v. Lee*, 8th Dist. Cuyahoga No. 89312, 2008-Ohio-3130; *Sigmon v. S.W. Gen. Health Ctr.*, 8th Dist. Cuyahoga No. 88276, 2007-Ohio-2117.

The relators are granted 30 days in which to obtain new counsel or proceed pro se. New counsel, if obtained, shall file a notice of appearance with this Court. New counsel shall be permitted to refile a response to the respondents' motion to dismiss, motion no. 563301, within 21 days of making an appearance on behalf of the relators or rely upon the briefs previously filed by disqualified counsel. If the relators do not obtain new counsel, the relators shall proceed pro se and this court

will render judgment with regard to respondents' motion to dismiss based upon the various filed briefs.

Judge Eileen T. Gallagher, Concur
Judge Sean C. Gallagher, Concur



Frank Daniel Celebrezze, III
Presiding Judge

FILED AND JOURNALIZED
PER APP. R. 22(C)
APR 26 2023
CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By GRF6 HERKLE Deputy



The City of East Cleveland

14340 EUCLID AVENUE • EAST CLEVELAND, OHIO 44112 • PHONE (216) 681-2208 • FAX (216) 681-2650

Brandon L. King
Mayor

August 10, 2023

Korean Stevenson, President
East Cleveland City Council
14340 Euclid Ave.,
East Cleveland, Ohio 44112

Juanita Gowdy, Vice President
East Cleveland City Council
14340 Euclid Ave.,
East Cleveland, Ohio 44112

RE: Veto of Resolution 57-23

Dear City Council President Stevenson/Vice President Juanita Gowdy:

On 8/9/23, certain Council Members and Council Pretenders purport to have 'passed' Resolution No. 57-23:

A Resolution submitting a revision of Section 115 of the Charter of East Cleveland changing the Mayoral Primary Election from Partisan to Non-Partisan; and Declaring an Emergency for the Preservation of East Cleveland's Democracy.

First of all, **RULE 8 LEGISLATION AND LEGAL OPINIONS: REQUESTS, PREPARATION AND TRANSMITTAL; TEMPORARY LEGISLATION NUMBER** states:

(a) Assignments of legislation preparation; temporary number designation. All legislation shall be prepared by the Administration as directed and assigned by the Mayor and in accordance with the form prescribed by the Law Director. The Mayor shall notify the Law Director of such legislative assignments in writing as the same are made and the Law Director shall promptly acknowledge such assignments to the Mayor and Clerk of Council in writing designating... Italics added.

As this step was not followed, this piece of legislation is null and void from the outset. And, Pursuant to Section 113 (E) of the East Cleveland City Charter, I am writing this letter to hereby affirm my Veto of this legislation:

Section § 113 POWERS OF THE MAYOR; Charter of the City of East Cleveland, provides critical insights:

E. Mayor's Veto Powers: Every ordinance and resolution passed by the Council shall be signed by its President or Vice President and shall be presented forthwith to the Mayor by the Clerk. If the Mayor approves such ordinance or resolution, he or she shall sign and return it. But if the Mayor does not approve it, he or she shall return it with a statement of his or her objections to the Council who shall enter the Mayor's objections in its Journal. The Council may then reconsider the vote on the passage of such legislation not later than at its next regular meeting. If upon reconsideration, it is approved by four-fifths (4/5) of the members of Council, it shall become effective. If any ordinance or resolution shall not be returned by the Mayor within seven days after it was presented to him or her, it shall become effective in the same manner as if the Mayor had signed it on the last day of the seven-day period. The Mayor may approve or disapprove the whole of any item or part of any ordinance or resolution appropriating money, and the whole item or part so disapproved shall be void unless repassed by the Council in the manner herein prescribed. (Amended 11-7-00). Italics & Bold added.

My Veto is due to these Charter and ECMC Code violations. I cannot in good faith, approve this legislation.

Sincerely,


Brandon L. King, Mayor

Rebuilding East Cleveland Together
www.EastCleveland.org

RESOLUTION NO. 57-23

A RESOLUTION SUBMITTING A REVISION OF SECTION 115 OF THE CHARTER OF EAST CLEVELAND CHANGING THE MAYORAL PRIMARY ELECTION FROM PARTISAN TO NON-PARTISAN; AND DECLARING AN EMERGENCY FOR THE PRESERVATION OF EAST CLEVELAND'S DEMOCRACY

Requested By: Councilor Patricia Blochowiak, Vice President
Sponsored By:

WHEREAS, the "Nomination and election procedures" for selecting a Mayor is found at Section 115 of the Charter of East Cleveland and reads, in full, as follows:

Candidates for the office of Mayor or member of Council shall be nominated only by petition. No primary election shall be held for the election of Council members, but a partisan primary election shall be held for the election of the Mayor. No nomination except as prescribed by this section shall be effective. The name of any elector of the city shall be printed as a candidate on the regular municipal election ballot, in the case of candidates for Council, or on the primary election ballot, in the case of candidates for Mayor, if there is filed with the election authorities as prescribed by general law a petition in accordance with the following provisions:

(a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a qualified candidate for the office sought.

(b) Such petition shall be signed by electors of the city equal in number to not less than two percent (2%) of the total number of voters voting at the last regular municipal election.

(c) Such petition shall contain a provision that each signer thereof thereby pledges to support and vote for the candidate whose name is presented on said ballot, and that each signer shall subscribe to a number of petitions for each office no greater than the total number of positions for that office to be filled by said election. Each such elector signing a petition.

(d) The signatures of all petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in the circulator's presence on the date stated therein, and that the circulator believes in good faith that the signature is that of the person whose name it appears to be. Signatures shall be collected on said petitions not earlier than one hundred and ten (110) days prior to the date of the holding of said regular municipal election, in the case of candidates for Council, or said primary election in the case of candidates for Mayor.

(e) All nominating papers comprising a petition shall be assembled and filed with the election authorities as one instrument not less than ninety (90) days prior to the date of holding of said regular municipal election, in the case of candidates for Council, or the date of said primary election, in the case of candidates for Mayor.

(f) Each petition shall name a committee of three authorized electors to represent the signers of such petition. If the elector nominated by such petition shall, for any reason, cease to be a candidate, a majority of such committee shall select an elector to fill such vacancy and shall thereupon make and file with the election authorities prescribed by law a certificate, setting forth the name of the new nominee, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original petition for nomination. The certificate so made shall be executed, acknowledged and sworn to by the majority of the committee in the manner prescribed for the original petition for nomination, and shall be filed with the election authorities prescribed by general law at least seventy-six (76) days before the date of election and shall have the same force and effect as an original petition for nominations: and the new nominee shall file his or her acceptance of such candidacy with the election authorities along with said certificate, otherwise his or her name shall not appear on the ballot.

(g) In the case of candidates for Council, a non-partisan election of Council shall be held on the date of each regular municipal election. The five candidates each receiving the most votes cast shall be deemed the winners of the election, and shall be entitled to assume their offices pursuant to Sections 36 and 98.

(h) The primary election for the office of Mayor shall be held on the second (2nd) Tuesday of September. The two candidates each receiving the most votes cast in the primary election shall proceed to a runoff election to be held on the date of the first regular municipal election following the primary election. The person receiving the most votes cast in said regular municipal election shall be declared the winner of said election, and shall be entitled to assume the Mayor's office pursuant to Section 92.

(i) All primary or regular municipal election ballots shall be in conformity with the provisions contained in Section 33: and

WHEREAS, the Council does seek to amend Section 115 of the Charter to remove the word "partisan" from the City's primary election for Mayor; and

Candidates for the office of Mayor or member of Council shall be nominated only by petition. No primary election shall be held for the election of Council members, but a **NON-PARTISAN** ~~partisan~~ primary election shall be held for the election of the Mayor. No nomination except as prescribed by this section shall be effective. The name of any elector of the city shall be printed as a candidate on the regular municipal election ballot, in the case of candidates for Council, or on the primary election ballot, in the case of candidates for Mayor, if there is filed with the election authorities as prescribed by general law a petition in accordance with the following provisions:

(a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a qualified candidate for the office sought.

(b) Such petition shall be signed by electors of the city equal in number to not less than two percent (2%) of the total number of voters voting at the last regular municipal election.

(c) Such petition shall contain a provision that each signer thereof thereby pledges to support and vote for the candidate whose name is presented on said ballot, and that each signer shall subscribe to a number of petitions for each office no greater than the total number of positions for that office to be filled by said election. Each such elector signing a petition.

(d) The signatures of all petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in the circulator's presence on the date stated therein, and that the circulator believes in good faith that the signature is that of the person whose name it appears to be. Signatures shall be collected on said petitions not earlier than one hundred and ten (110) days prior to the date of the holding of said regular municipal election, in the case of candidates for Council, or said primary election in the case of candidates for Mayor.

(e) All nominating papers comprising a petition shall be assembled and filed with the election authorities as one instrument not less than ninety (90) days prior to the date of holding of said regular municipal election, in the case of candidates for Council, or the date of said primary election, in the case of candidates for Mayor.

(f) Each petition shall name a committee of three authorized electors to represent the signers of such petition. If the elector nominated by such petition shall, for any reason, cease to be a candidate, a majority of such committee shall select an elector to fill such vacancy and shall thereupon make and file with the election authorities prescribed by law a certificate, setting forth the name of the new nominee, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original petition for nomination. The certificate so made shall be executed, acknowledged and sworn to by the majority of the committee in the manner prescribed for the original petition for nomination, and shall be filed with the election authorities prescribed by general law at least seventy-six (76) days before the date of election and shall have the same force and effect as an original petition for nominations; and the new nominee shall file his or her acceptance of such candidacy with the election authorities along with said certificate, otherwise his or her name shall not appear on the ballot.

(g) In the case of candidates for Council, a non-partisan election of Council shall be held on the date of each regular municipal election. The five candidates each receiving the most votes cast shall be deemed the winners of the election, and shall be entitled to assume their offices pursuant to Sections 36 and 98.

(h) The primary election for the office of Mayor shall be held on the second (2nd) Tuesday of September. The two candidates each receiving the most votes cast in the primary election shall proceed to a runoff election to be held on the date of the first regular municipal election following the primary election. The person receiving the most votes cast in said regular municipal election shall be declared the winner of said election, and shall be entitled to assume the Mayor's office pursuant to §112.

(i) All primary or regular municipal election ballots shall be in conformity with the

provisions contained in Section 33;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of East Cleveland, Cuyahoga County, State of Ohio, consisting of Juanita Gowdy, President; Patricia Blochowiak, Vice President; Korean Stevenson, Lateek Shabazz and Twon Billings, three-fifths (3/5ths) concurring:

SECTION 1. That Council does hereby instruct the Clerk of Council to submit this proposed change to Section 115 of the Charter to the Cuyahoga County Board of Elections for inclusion on the ballot.

SECTION 2. That It is found and determined that all deliberations of this Council and any of its committees relating to the passage of this Resolution were adopted in an open meeting of this Council, in compliance with all legal requirements.

SECTION 3. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

COPY

PASSED: _____

JUANITA GOWDY, PRESIDENT OF COUNCIL

DATE SIGNED: _____

ATTEST:

ERIC J. BREWER, CLERK OF COUNCIL

DATE SIGNED: _____

Yea Nay

- Councilor Juanita Gowdy
- Councilor Patricia Blochowiak
- Councilor Korean Stevenson
- Councilor Lateek Shabazz
- Councilor Twon Billings

APPROVED:



BRANDON L. KING, MAYOR

DATE SIGNED 8-15-23

VETO: YES NO

Re: November 7, 2023 General Election - Issue Public View of Sample Ballots

Willa Hemmons <whemmons@eastcleveland.org>

Mon 9/25/2023 9:19 PM

To:Alainna Marincic <axmarincic@cuyahogacounty.gov>

Cc:Mary L. Bejjani <mbejjani@cuyahogacounty.gov>;Musson, Mark R.

<mmusson@prosecutor.cuyahogacounty.us>;Anthony W. Perlatti <aperlatti@cuyahogacounty.gov>;Brent Lawler <blawler@cuyahogacounty.gov>;Cory Milne <cmilne@cuyahogacounty.gov>;Charles Tyler <charles.tyler@tylerlawoffice.com>;Heather Mccollough <hmccollough@eastcleveland.org>

📎 8 attachments (2 MB)

SAMPLE East Cleveland-02-A.pdf; Journal Entry staying the Case.PDF; Eighth District Denied Hemmons Writ of Procedendo.pdf; 2023-ohio-976 Opinion Denying Writ of Mandamus.pdf; TRO Vacated Motion to Stay Granted Journal Entry Stevenson v McClain.pdf; Jnl Entry Completing Breifing Schedule.pdf; Legal Opinion on Clerk and President Positions in City Council.docx; Affidavit of Mayor King with Stevenson email.pdf;

Hello Ms. Marincic,

I am out of town working remotely due to a family member's upcoming surgery, so I welcome this opportunity to now comment on what the Board has titled, East Cleveland Issue 48:

48 Proposed Charter Amendment City of East Cleveland A majority affirmative vote is necessary

Shall Section 115 of the Charter of the City of East Cleveland be amended to change the Mayoral primary election from partisan to non-partisan?

Because the legality of the composition of two of the five members of East Cleveland City Council is pending before the courts, ie., *Martin v Shabazz*, Case No. COA 112477: and, consequently, its putative Clerk and Deputy Clerk have yet to be determined, *Brewer v. East Cleveland*, Case No. 23-981131, the City requests that any electoral issues, including ISSUE 48, dependent upon a purported Clerk of Council's actions be deferred until the Court of Appeals decision in *Martin v. Shabazz*, above.

Despite one of the 8th District Court cases reliance upon dicta in the *Richardson* Ohio Supreme Court case, the Ohio Supreme Court, itself indicated, it did not make a determination of the legitimacy of the 2023 Clerk of Council issue (see **bold, below**):

Slip Opinion No. 2023-Ohio-976 *The State ex rel., Richardson v. Gowdy, et al.*:

"{¶ 15} The board of elections has filed in this court a notice of additional litigation pending in the Cuyahoga County Court of Common Pleas and the Eighth District, in which Gowdy's authority to appoint Brewer as clerk of council has been challenged. The board points in the notice to a legal opinion written by Hemmons, in which she states that Gowdy is not the council president and lacked authority to appoint Brewer as clerk of council. Richardson acknowledges these disputes but concedes that Brewer was duly appointed as clerk of council on March 12. **Any questions about the legitimacy of Brewer's appointment, therefore, are not properly before us.**" 'Bold added'

ALSO SEE

IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO *Eric Brewer, et al., Plaintiffs v City of East Cleveland, et al.*; Case No. CV 23 981131:

"Plaintiffs Eric Brewer and Justyn Anderson have filed a complaint against the City of East Cleveland, and its Mayor, Brandon King, in his official capacity. Plaintiffs state that the City Council of East Cleveland has lawfully appointed them as the Clerk and Deputy Clerk of Council respectively. They allege that the City, at the direction of the Mayor, has failed to pay their wages and benefits, has not allowed them access to City Hall, and has generally not treated them as though they had lawful appointments.

...

Therefore, the Court will **stay the litigation** and defer setting a hearing or issuing a ruling on Plaintiffs' motion for a preliminary injunction. The parties may move to lift the stay following a final decision in CA 23 112477. It is so ordered." **'Bold added.'**

AND

Stevenson v. McClain, Case No. CV 23-976134, "This case is STAYED pending resolution of the Eighth District Court of Appeals in the quo warranto case."

Thank you for your time and attention to this important matter.

Sincerely,

Willa Hemmons

Law Director

City of East Cleveland

14340 Euclid Avenue

East Cleveland, Ohio 44112

(216) 681-2169

(216) 681-2199 Facsimile

whemmons@eastcleveland.org

From: Alainna Marincic <axmarincic@cuyahogacounty.gov>

Sent: Monday, September 25, 2023 4:30 PM

To: Alainna Marincic <axmarincic@cuyahogacounty.gov>

Subject: November 7, 2023 General Election - Issue Public View of Sample Ballots

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Issue Petitioner,

Thank you for participating in the November 7, 2023 General Election. The Cuyahoga County Board of Elections would like to give issue petitioners the opportunity to review and verify the ballots prior to printing.

Please take a moment to review the attached file, find your numbered issue, and examine the appearance of the language of the issue submitted. The ballot proofing process is still ongoing. If you find any errors or have any questions regarding the appearance of the ballots, please contact me directly by September 27th at 4:30 p.m.

Please note that the ballots contained in the file you are receiving may not be the first precinct listed alphabetically in Cuyahoga County in which your issue will appear.

Thank you and best of luck,



Alainna Marincic
Program Coordinator
Ballot Department
2925 Euclid Avenue | Cleveland, Ohio 44115
216.698.2952 (o) | www.443vote.us

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

Issue 1

A Self-Executing Amendment Relating to Abortion and Other Reproductive Decisions

Proposed Constitutional Amendment

Proposed by Initiative Petition

To enact Section 22 of Article I of the Constitution of the State of Ohio

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Establish in the Constitution of the State of Ohio an individual right to one's own reproductive medical treatment, including but not limited to abortion;
- Create legal protections for any person or entity that assists a person with receiving reproductive medical treatment, including but not limited to abortion;
- Prohibit the State from directly or indirectly burdening, penalizing, or prohibiting abortion before an unborn child is determined to be viable, unless the State demonstrates that it is using the least restrictive means;
- Grant a pregnant woman's treating physician the authority to determine, on a case-by-case basis, whether an unborn child is viable;
- Only allow the State to prohibit an abortion after an unborn child is determined by a pregnant woman's treating physician to be viable and only if the physician does not consider the abortion necessary to protect the pregnant woman's life or health; and
- Always allow an unborn child to be aborted at any stage of pregnancy, regardless of viability if, in the treating physician's determination, the abortion is necessary to protect the pregnant woman's life or health.

If passed, the amendment will become effective 30 days after the election.

Shall the amendment be approved?

Asunto 1

Una Enmienda Autoejecutable Relacionada con el Aborto y Otras Decisiones Reproductivas

Propuesta de Enmienda Constitucional

Propuesta por Petición de Iniciativa

Promulgar la Sección 22 del Artículo I de la Constitución del Estado de Ohio

Se requiere un voto afirmativo por mayoría para la aprobación de la enmienda.

La propuesta de enmienda haría lo siguiente:

- Establecer en la Constitución del Estado de Ohio el derecho individual al propio tratamiento médico reproductivo, incluido, entre otros, el aborto;
- Crear protecciones legales para cualquier persona o entidad que ayude a una persona a recibir tratamiento médico reproductivo, incluido, entre otros, el aborto;
- Prohibir que el Estado gravar, penalizar o prohibir directa o indirectamente el aborto antes de que se determine que el feto es viable, a menos que el Estado demuestre que está utilizando los medios menos restrictivos;
- Otorgar al médico tratante de una mujer embarazada la autoridad para determinar, caso por caso, si el feto es viable;
- Solo permitir el Estado prohibir un aborto después de que el médico tratante de una mujer embarazada determine que el feto es viable y solo si el médico no considera que el aborto sea necesario para proteger la vida o la salud de la mujer embarazada; y
- Permitir siempre que un feto sea abortado en cualquier etapa del embarazo, independientemente de su viabilidad si, a juicio del médico tratante, el aborto es necesario para proteger la vida o la salud de la mujer embarazada.

Si se aprueba, la ley entrará en vigor 30 días después de la elección.

¿Deberá aprobarse la enmienda?

Yes / Sí

No / No

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

0518EAST CLEVELAND -02-A [ECL02A1] ED (CS 220) - EC:1187271

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

Issue 2

To Commercialize; Regulate, Legalize, and Tax the Adult Use of Cannabis
Proposed Law

Proposed by Initiative Petition

To enact Chapter 3780 of the Ohio Revised Code

A majority yes vote is necessary for the law to pass.

To enact Chapter 3780 of the Ohio Revised Code, which would:

- Define adult use cannabis to mean marijuana as defined in Section 3719.01 of the Revised Code and establish the Division of Cannabis Control (the "Division") within the Department of Commerce;
- Authorize the Division to regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed;
- Legalize and regulate the cultivation, processing, sale, purchase, possession, home grow, and use of cannabis by adults at least twenty-one years of age;
- Create additional protections for individuals who engage in permitted adult use cannabis conduct;
- Establish the cannabis social equity and jobs program and require the Department of Development to certify program applicants based on social and economic disadvantage;
- Define "social disadvantage" to include membership in a racial or ethnic minority group, disability status, gender, or long-term residence in an area of high unemployment;
- Shield certain confidential information from disclosure to the public, including but not limited to any information reported to or collected by the Division that identifies or would tend to identify any adult use cannabis consumer and prohibit the Department of Development from releasing certain application information as public records;
- Require the Division to provide preferential treatment to applicants who have qualified for the cannabis social equity and jobs program based on social disadvantage when issuing level III adult use cannabis cultivator licenses and dispensary licenses;
- Prohibit certain local government entities from limiting specific research, levying a tax, or charge on adult use operations, their owner, or their property not generally charged on other business, and prohibit certain local government entities from prohibiting or limiting adult use cannabis home grow or prohibiting or restricting an activity authorized by the proposed law;
- Authorize a landlord or an employer to prohibit the adult use of cannabis in certain circumstances, and prohibit the operation of a motor vehicle while using or under the influence of adult use cannabis and from using any other combustible adult use cannabis while a passenger in a motor vehicle;
- Limit criminal liability for certain financial institutions that provide financial services to any lawful adult use cannabis operator or testing laboratory licensed under the proposed law;
- Require the Division to enter into an agreement with the Department of Mental Health and Addiction Services to create a program for cannabis addiction services;
- Provide for the creation of five funds in the state treasury: the adult use tax fund; the cannabis social equity and jobs fund; the host community cannabis fund; the substance abuse and addiction fund; and the division of cannabis control and tax commissioner fund; and
- Provide for taxation of 10 percent on the sale of adult use cannabis by dispensaries in addition to usual sales taxes and require that all monies collected from the 10 percent tax levied be deposited into the adult use tax fund and quarterly distributed as follows: 36 percent to the cannabis social equity and jobs fund; 36 percent to the host community cannabis facilities fund; 25 percent to the substance abuse and addiction fund; and three percent to the division of cannabis control and tax commissioner fund.

If passed, the law will become effective 30 days after the election.

Shall the proposed law be adopted?

Asunto 2

Comercializar, Regular, Legalizar y Gravar el Consumo de Cannabis en Adultos
Propuesta de Ley

Propuesta por Petición de Iniciativa

Promulgar el Capítulo 3780 del Código Revisado de Ohio

Se requiere un voto afirmativo por mayoría para la aprobación de la

Promulgar el Capítulo 3780 del Código Revisado de Ohio que:

- Definiría el cannabis para consumo en adultos como la marihuana según se define en la Sección 3719.01 del Código Revisado y establecería la División de Control de Cannabis (la "División") dentro del Departamento de Comercio;
- Autorizaría a la División a regular, investigar y penalizar a los operadores de cannabis para consumo en adultos, los laboratorios de pruebas para consumo en adultos y las personas que requieren una licencia;
- Legalizaría y regularía el cultivo, procesamiento, venta, compra, posesión, cultivo doméstico y consumo de cannabis en adultos a partir de los veintiún años de edad;
- Crearía protecciones adicionales para las personas que participan en la conducta de consumo de cannabis permitida para adultos;
- Establecería el programa de empleo y equidad social del cannabis y exigiría que el Departamento de Desarrollo certifique a los solicitantes del programa en función de sus desventajas sociales y económicas;
- Definiría "desventaja social" de manera que incluyera la pertenencia a un grupo minoritario racial o étnico, el estado de discapacidad, el sexo o la residencia a largo plazo en un área de alto desempleo;
- Prohibiría cierta información confidencial de la divulgación al público, incluyendo, sin carácter limitativo, cualquier información reportada o recopilada por la División que identifique o tienda a identificar a cualquier consumidor adulto de cannabis y prohibiría al Departamento de Desarrollo divulgar cierta información de la solicitud como registros públicos;
- Exigiría a la División que brinde un trato preferencial a los solicitantes que hayan cumplido los requisitos del programa de empleo y equidad social del cannabis en función de la desventaja social al emitir licencias de cultivador de cannabis y licencias de dispensario para consumo en adultos de nivel III;
- Prohibiría a ciertas entidades gubernamentales locales limitar investigaciones específicas, imponer un impuesto o cargo en las operaciones para consumo en adultos, a su propietario o su propiedad que generalmente no se cobran en otros negocios, y prohibiría a ciertas entidades gubernamentales locales prohibir o limitar el cultivo doméstico de cannabis para consumo en adultos, o prohibir o restringir una actividad autorizada por la ley propuesta;
- Autorizaría a un propietario o empleador a prohibir el consumo de cannabis en adultos en determinadas circunstancias, y prohibir la operación de un vehículo de motor mientras se consume cannabis o estando bajo la influencia del consumo de cannabis en adultos, y prohibiría fumar cannabis en adultos siendo pasajero en un vehículo de motor;
- Limitaría la responsabilidad penal de ciertas instituciones financieras que brindan servicios financieros a cualquier operador autorizado de cannabis para consumo en adultos o laboratorio de pruebas con licencia de cannabis para consumo en adultos según la propuesta de ley;
- Requeriría que la División celebre un acuerdo con el Departamento de Servicios para Salud Mental y la Adicción para crear un programa de servicios para la adicción al cannabis;
- Disponería la creación de cinco fondos en el tesoro estatal: el fondo del impuesto sobre el consumo en adultos; el fondo de empleo y equidad social del cannabis; el fondo de cannabis de la comunidad anfitriona; el fondo para el abuso de sustancias y adicciones; y la división del fondo del comisionado fiscal y de control del cannabis; y
- Establecería un impuesto del 10 por ciento sobre la venta de cannabis para consumo en adultos por parte de dispensarios, además de los impuestos sobre las ventas, y exigiría que todo el dinero recaudado del impuesto del 10 por ciento se deposite en el fondo del impuesto sobre el consumo en adultos y se distribuya trimestralmente de la siguiente manera: el 36 por ciento para el fondo de empleo y equidad social del cannabis; el 36 por ciento para el fondo de instalaciones de cannabis de la comunidad anfitriona; el 25 por ciento para el fondo para el abuso de sustancias y adicciones; y el tres por ciento para la división del fondo de la comisión de impuestos y control del cannabis.

Si se aprueba, la ley entrará en vigor 30 días después de la elección.

¿Deberá adoptarse la propuesta de ley?

Yes / Sí

No / No

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

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EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

5

Proposed Tax Levy (Renewal and Increase) Cuyahoga Community College District
A majority affirmative vote is necessary for passage.

A renewal of 2.1 mills and an increase of 0.4 mill for each \$1 of taxable value to constitute a tax for the benefit of the Cuyahoga Community College District for the purpose of providing for payment of operating costs for educational services that the County Fiscal Officer estimates will collect \$74,067,000 annually, at a rate not exceeding 2.5 mills for each \$1 of taxable value, which amounts to \$67 for each \$100,000 of the County Fiscal Officer's appraised value, for ten years, commencing in 2023, first due in calendar year 2024.

Propuesta para Recaudación de Impuestos (Renovación y Aumento) Distrito del Colegio Comunitario de Cuyahoga

Se requiere un voto afirmativo por mayoría para su aprobación.

Una renovación de 2.1 milésimos y un aumento de 0.4 milésimos por cada \$1 de valoración tributaria para constituir un impuesto que beneficiará al Distrito del Colegio Comunitario de Cuyahoga con el fin de financiar los costos operativos de los servicios educativos que el Oficial Fiscal del Condado estima recaudará \$74,067,000 anualmente, a una tasa que no exceda los 2.5 milésimos por cada \$1 de valoración tributaria, lo cual representa \$67 por cada \$100,000 del valor tasado por el Oficial Fiscal del Condado, por diez años, comenzando en el 2023, con su primer vencimiento en el año calendario del 2024.

- For the Tax Levy / A Favor de la Recaudación de Impuestos
- Against the Tax Levy / En Contra de la Recaudación de Impuestos

49

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for off-premises consumption only be permitted within this precinct, East Cleveland Ward 2 Precinct A?

Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse la venta de cerveza, tal como se define en la sección 4305.08 del Código Revisado bajo permisos que autorizan la venta para el consumo fuera de los locales solamente dentro de este distrito electoral, East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

52

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall the sale of wine and mixed beverages, under permits which authorize sale for on-premise consumption only and under permits which authorize sale for both on-premise and off-premise consumption, be permitted in East Cleveland Ward 2 Precinct A?

Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse la venta de vino y bebidas combinadas, bajo permisos que autorizan la venta para el consumo dentro de los locales solamente, y bajo permisos que autorizan el consumo tanto dentro como fuera de los locales, en East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

50

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for on-premises consumption only, and under permits which authorize sale for both on-premises and off-premises consumption, be permitted in this precinct, East Cleveland Ward 2 Precinct A?

Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse la venta de cerveza, tal como se define en la sección 4305.08 del Código Revisado bajo permisos que autorizan la venta para el consumo dentro de los locales solamente, y bajo permisos que autorizan el consumo tanto dentro como fuera de los locales, en este distrito electoral, East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

53

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall the sale of spirituous liquors by the glass be permitted in East Cleveland Ward 2 Precinct A?

Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse la venta de licores destilados por copa en East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

48

Proposed Charter Amendment City of East Cleveland
A majority affirmative vote is necessary for passage.

Shall Section 115 of the Charter of the City of East Cleveland be amended to change the Mayor primary election from partisan to non-partisan?

Propuesta de Enmienda a los Estatutos Ciudad de East Cleveland

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá enmendarse la Sección 115 de los Estatutos de la Ciudad de East Cleveland para cambiar la elección primaria de alcalde de partidista a no partidista?

- Yes / Sí
- No / No

51

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall the sale of wine and mixed beverages by the package, under permits which authorize sale for off-premise consumption only, be permitted in East Cleveland Ward 2 Precinct A?

Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse la venta de vino y bebidas combinadas, bajo permisos que autorizan la venta para el consumo dentro de los locales solamente, y bajo permisos que autorizan el consumo tanto dentro como fuera de los locales, en East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

54

Special Election by Petition Local Liquor Option
A majority affirmative vote is necessary for passage.

Shall state liquor stores or liquor agency stores for the sale of spirituous liquor by the package, for the consumption off the premises where sold, be permitted in East Cleveland Ward 2 Precinct A?

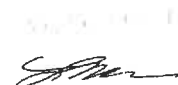
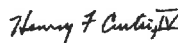
Elección Especial por Petición Opción Local de Licor

Se requiere un voto afirmativo por mayoría para su aprobación.

¿Deberá permitirse a las licorerías o agencias de venta de alcohol la venta de licores destilados por paquete, para el consumo fuera de los locales donde se venden, en East Cleveland Distrito 2 Distrito Electoral A?

- Yes / Sí
- No / No

Thank you for voting!
¡Gracias por votar!


Jason M. McAffety

Nancy F. Cantelero

Members of the Board of Elections
November 7, 2023
Miembros de la Junta Electoral
7 de noviembre de 2023

EAST CLEVELAND -02-A 01 NON

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EAST CLEVELAND -02-A 01 NON



150177046

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

**ERIC J. BREWER, ET AL
Plaintiff**

**CITY OF EAST CLEVELAND, ET AL
Defendant**

Case No: CV-23-981131

Judge: TIMOTHY MCCORMICK

FILED
2023 JUN 21 10 3: 15
CLERK OF COURTS
CUYAHOGA COUNTY

JOURNAL ENTRY

88 BANKRPT/C.O.A. STAY - FINAL

**TELEPHONE CONFERENCE HELD ON 06/20/2023. THE CASE IS STAYED. ORDER SEE JOURNAL.
PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.**

Judge Signature

Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Eric Brewer, et al.,)	
)	
Plaintiffs;)	Case No. CV 23 981131
)	
-v.-)	Judge Timothy P. McCormick
)	
City of East Cleveland, et al.,)	Order
)	
Defendants.)	
)	

Plaintiffs Eric Brewer and Justyn Anderson have filed a complaint against the City of East Cleveland, and its Mayor, Brandon King, in his official capacity. Plaintiffs state that the City Council of East Cleveland has lawfully appointed them as the Clerk and Deputy Clerk of Council respectively. They allege that the City, at the direction of the Mayor, has failed to pay their wages and benefits, has not allowed them access to City Hall, and has generally not treated them as though they had lawful appointments.

They are seeking declaratory relief declaring that they are the lawfully appointed Clerk and Deputy Clerk. They seek an injunction to order the Defendants to give them access to City Hall, begin paying their salary and benefits, and to order back pay for the period they have not been paid.

Along with their complaint, the Plaintiffs moved for a Temporary Restraining Order and Preliminary Injunction seeking an immediate order for the Defendants to treat Plaintiffs as lawful appointees, give them City Hall access, and to pay wages and benefits, including back pay.

The Defendants filed a response requesting that the Court decline to rule on the motion and instead stay the case. They assert that that whether the Plaintiffs'

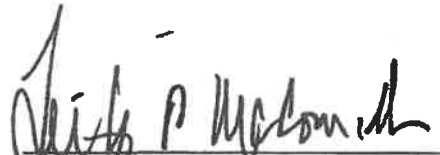
appointment turns on whether the Council majority that signed off on their appointment held their office lawfully. There are three signatures on the purported appointment documents that Plaintiffs provided to the Court. The third is allegedly from Lateek Shabazz. Whether Shabazz is lawfully in office as a City Councilor is currently the subject of a quo warranto action in the Eighth District in *State ex rel. Nathaniel Martin et al., v. Lateek Shabazz et al.*, Case No. CA 23 112477.

The Defendants argue that if the Court grants relief at this time it necessarily requires a determination of whether Shabazz is lawfully appointed. Such a determination could be inconsistent with any order the Eighth District may enter in the quo warranto action.

The Court held a telephone conference on June 20, 2023 to address these issues. Plaintiffs' counsel responded to the Defendants' arguments for a stay by reiterating the harm that Plaintiffs will continue to suffer by not being paid for their work while waiting for a decision of the Eighth District. While the Court acknowledges that Plaintiffs are in a difficult position, it does not change the fact that ruling on the motions at this time could easily conflict with orders that could come from the Eighth District. Indeed entering inconsistent orders may even be to the Plaintiff's detriment as it would lead to piecemeal and confusing litigation rather than an orderly resolution of related issues.

Therefore, the Court will stay the litigation and defer setting a hearing or issuing a ruling on Plaintiffs' motion for a preliminary injunction.¹ The parties may move to lift the stay following a final decision in CA 23 112477.

It is so ordered.


Judge Timothy P. McCormick

¹ Because the Defendants have entered an appearance and responded to the action, the motion for a Temporary Restraining Order is moot.

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

APR 4 2023

STATE OF OHIO, EX REL.,
WILLA HEMMONS,

:

Relator,

:

No. 112403

v.

:

CUYAHOGA COUNTY BOARD
OF ELECTIONS, ET AL.,

:

Respondents.

:

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: April 4, 2023

Writ of Procedendo
Order No. 563279

Appearances:

Willa M. Hemmons, *pro se.*

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Mark R. Musson, Assistant Prosecuting
Attorney, *for respondents.*

EILEEN T. GALLAGHER, J.:

{¶ 1} On February 14, 2023, the relator, Willa Hemmons, commenced this writ action against the respondents the Cuyahoga County Board of Elections and its

CA23112403

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board members, Jeff Hastings, Imajo Chappell, Terrence McCafferty, and Lisa Stickan (“the Board”). The gravamen of this action is to compel the Board to schedule a special recall election for three city of East Cleveland council members, Korean Stevenson, Patricia Blochowiak, and Juanita Gowdy. The specific claims stated in the complaint are for (1) declaratory judgment that the Board violated Hemmons’s due process rights under the Ohio and United States Constitutions, (2) a Title 42 United States Code § 1983 claim for deprivation of equal protection and selective enforcement, and (3) a § 1983 claim for deprivation of substantive and procedural due process. Hemmons claims that she is seeking a writ of procedendo to have the Board schedule the recall election. She further seeks to have this court declare that the recall petitions are valid and that the Board erred in denying the signatures of over a thousand registered voters to have recall elections for the three council members. In paragraph 41, she includes the sentence: “a writ of mandamus is appropriate.”

{¶ 2} This court set a briefing schedule ordering the parties to submit evidence and briefs by March 3, 2023, and reply briefs by March 10, 2023. The parties have complied with the order and have also filed notice of the outcome of ancillary litigation. This court has reviewed the filings, the evidence, the briefs, and the decision resolving the ancillary litigation, *State ex rel. Richardson v. Gowdy*, Slip Opinion No. 2023-Ohio-976. This case is ripe for resolution.

Factual and Procedural Background

{¶ 3} The city of East Cleveland is a charter municipality, and Charter Sections 49 through 54 govern recall elections. The recall procedure is started by a qualified elector of the city obtaining from the Clerk of Council blank recall petitions. The elector must make and submit to the Clerk of Council an affidavit stating the name of the council member whose removal is sought. Upon issuing the petitions, the Clerk of Council shall record the name of the elector to whom the petitions were issued and the date of issuance. In order for the recall election to be held, the petition must be signed by East Cleveland electors who voted in the last regular election of each municipal officer whose recall is sought, equal in number to at least 25 percent of the total number voting at the last regular election of each such municipal officer in which his or her office was contested.

{¶ 4} Upon obtaining sufficient signatures within 30 days, the elector must file the petition with the Clerk of Council, who must then certify upon the petition whether the signatures amount to at least 25 percent of the voters voting in the last regular municipal election of officers. If sufficient valid signatures are obtained, then the Clerk of Council must notify the subject council member and deliver to the election authorities a copy of the original petition with the certificate that the petition has at least 25 percent of the voters voting in the last municipal election, i.e., that it is a valid recall petition. If the subject council member does not resign within five days of being presented with the recall petition, the Clerk of Council shall notify the elections authorities of the fact, and the election authorities shall forthwith

schedule the recall election. Such election shall be held not less than 60 days nor more than 90 days after the expiration of the five-day period.

{¶ 5} Charter Section 111.03(a) provides that the President of Council shall appoint and/or terminate the Clerk of Council, and Council may also elect such other officers and employees of Council, as it deems necessary. Subsection (b) provides that an assistant Clerk of Council may also be appointed in the same manner as specified in subsection (a). Subsection (c) allows Council to appoint a Clerk Pro Tempore or Deputy Clerk, in the absence of the Clerk upon such terms and conditions as Council may determine.

{¶ 6} On December 21, 2022, Clerk of Council Tracy Udrija-Peters issued blank recall petitions to electors seeking to recall the three council members. On January 3, 2023, the East Cleveland City Council elected Korean Stevenson as Council president, and he terminated Udrija-Peters as Clerk of Council and the Deputy Clerk of Council. This left the Council without a clerk. On January 4, 2023, Council Member Nathaniel Martin solely on his own initiative named Law Director Willa Hemmons as temporary Clerk of Council. This appointment was ineffective because it was contrary to the Charter provisions.

{¶ 7} On January 20, 2023, Hemmons accepted the recall petitions. She reviewed the petitions for valid signatures and certified that the three petitions had a sufficient number of valid signatures to hold a recall election. She so notified the three subject council members pursuant to the requirements of the charter and submitted the petitions to the Board of Elections along with her certification that

there were sufficient, valid signatures, so that the Board should schedule the recall elections.

{¶ 8} On February 13, 2023, the Board of Elections conducted a hearing on whether it should schedule the recall elections. During the hearing, Hemmons admitted that she was not the Clerk of Council. (Tr. 5.) Accordingly, the Board of Elections did not schedule the recall elections, because the recall petitions were not processed and presented as required by the East Cleveland Charter. Hemmons then commenced this action.

Legal Analysis

{¶ 9} This court first notes that the specific claims Hemmons avers to are not appropriate. Her first claim is for a declaratory judgment that the Board of Elections' selective action is unconstitutional as applied as alleged in the complaint. However, this court does not have jurisdiction to issue such declaratory judgments. *State ex rel. Hogan v. Ghee*, 85 Ohio St.3d 150, 707 N.E.2d 494 (1999), and *State ex rel. Williams v. Trim*, 145 Ohio St.3d 204, 2015-Ohio-3372, 48 N.E.2d 501. Similarly, this court has original jurisdiction only over the five extraordinary writs. It does not have jurisdiction to adjudicate § 1983 actions. *State ex rel. Rodgers v. Corrigan*, 8th Dist. Cuyahoga No. 55503, 1988 Ohio App. LEXIS 4993 (Dec. 5, 1988).

{¶ 10} The claim for procedendo is also problematic. The writ of procedendo is merely an order from a court of superior jurisdiction to one of inferior jurisdiction to proceed to judgment. *Yee v. Erie Cty. Sheriff's Dept.*, 51 Ohio St.3d 43, 553 N.E.2d

1354 (1990). Procedendo is appropriate when a court has either refused to render a judgment or has unnecessarily delayed proceeding to judgment. *State ex rel. Watkins v. Eighth Dist. Court of Appeals*, 82 Ohio St.3d 532, 696 N.E.2d 1079 (1998). However, the writ will not issue to control what the judgment should be, nor will it issue for the purpose of controlling or interfering with ordinary court procedure. Thus, procedendo will not lie to control the exercise of judicial discretion. In the present matter, even assuming that the Board of Elections was exercising judicial power at the February 13, 2023 hearing, it has already reached a decision.

{¶ 11} Viewing Hemmons's complaint in a favorable light, she does plead mandamus. The requisites for mandamus are well established (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief, and (3) there must be no adequate remedy at law. *State ex rel. Harris v. Rhodes*, 54 Ohio St.2d 41, 374 N.E.2d 641 (1978). A relator must establish the elements for mandamus by clear and convincing evidence. *State ex rel. King v. Cuyahoga Cty. Bd. of Elections*, Slip Opinion No. 2022-Ohio-3613. Against a board of elections, the first two elements require a court to determine whether the board engaged in fraud, corruption, or abuse of discretion or acted in clear disregard of applicable law. *Id.* Mandamus is an extraordinary remedy that is to be exercised with caution and only when the right is clear. It should not issue in doubtful cases. *State ex rel. Taylor v. Glasser*, 50 Ohio St.2d 165, 364 N.E.2d 1 (1977).

{¶ 12} The East Cleveland Charter requires the Clerk of Council to certify the sufficiency of the recall petitions and issue certificates of the petitions' sufficiency to the Board of Elections. The Clerk of Council did not perform those functions. Willa Hemmons was not the Clerk of Council and could not perform them. The Board of Elections did not abuse its discretion in declining to schedule the recall elections because the required procedure was not fulfilled.

{¶ 13} Hemmons invokes East Cleveland Charter Section 87, which provides that all general laws of Ohio applicable to municipalities and not inconsistent with the Charter shall apply to East Cleveland. Thus, she argues that when there is no Clerk of Council, R.C. 705.92 becomes the default provision for recall elections in East Cleveland and requires the Board of Elections to schedule those elections. The Supreme Court of Ohio rejected this argument in *State ex rel. Richardson v. Gowdy*, Slip Opinion No. 2023-Ohio-976.

{¶ 14} Hemmons's final argument is that Stevenson obstructed the electoral process by firing the Clerk of Council and the Deputy Clerk of Council. She continues that the three subject council members then further obstructed the electoral process by failing to appoint a new Clerk of Council. Hemmons concludes that because the recall petitions have a sufficient number of signatures, the Board is collaborating with the obstruction and abuses its discretion by failing to schedule the recall elections.

{¶ 15} This argument was presented to the Ohio Supreme Court in *Richardson*, that the circumstances of this case warrant bypassing the clerk's duty

under the charter and permitting the Board of Elections to certify the sufficiency of the petitions and to schedule the recall elections. The Supreme Court rejected this argument by ruling that the Board did not have the duty to certify the petitions. The Court also noted that a new Council President in March 2023, appointed a new Clerk of Council and instructed the clerk to make the recall petitions the top priority. It was not an abuse of discretion for the Board of Elections not to disregard the stated law and proceed on what some may think was a just course of its own making.

{¶ 16} Accordingly, this court denies the application for an extraordinary writ. Relator to pay costs. This court directs the clerk of courts to serve all parties notice of the judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶ 17} Writ denied.



EILEEN T. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
MARY EILEEN KILBANE, J., CONCUR

FILED AND JOURNALIZED
PER APP = 22(C)

APR X 4 2023

CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By GR6 Malik Deputy

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Richardson v. Gowdy*, Slip Opinion No. 2023-Ohio-976.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

Slip Opinion No. 2023-Ohio-976

THE STATE EX REL. RICHARDSON v. GOWDY ET AL.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Richardson v. Gowdy*, Slip Opinion No. 2023-Ohio-976.]

Elections—Mandamus—Writ sought to compel city council president to appoint clerk of council to complete recall-petition process or for board of elections to certify sufficiency of petition signatures—By appointing new clerk of council, council president performed the action relator sought to compel—A writ of mandamus will not issue to compel action that has been performed—Council president had no legal duty to certify number of valid signatures on recall petitions—R.C. 705.92 inapplicable under facts of the case—Writ denied.

(No. 2023-0295—Submitted March 21, 2023—Decided March 24, 2023.)

IN MANDAMUS.

SUPREME COURT OF OHIO

Per Curiam.

{¶ 1} In December 2022, East Cleveland electors began circulating petitions to recall three members of the East Cleveland city council. Under the city’s charter, signed petitions had to be filed with the clerk of council within 30 days after filing with the clerk the affidavit stating the names of the council members whose removals were sought, East Cleveland City Charter, Section 52, and on filing of the petitions, the clerk had to certify whether a sufficient number of electors had signed the petitions, *id.*, Section 53. But by the time the electors had finished collecting signatures, the clerk-of-council position was vacant—the council president terminated the former clerk’s employment in early January 2023. Relator, Terrie Richardson, filed this lawsuit to compel the council president to appoint a new clerk of council to complete the recall-petition process in time to place the recall elections on the May 2, 2023 primary-election ballot. Alternatively, Richardson asserts that the circumstances of this case warrant bypassing the clerk’s duties under the charter and permitting the board of elections to certify the sufficiency of the petition signatures.

{¶ 2} After this lawsuit was filed, the city council elected a new president, who then appointed a new clerk. The new council president instructed the clerk to process the recall petitions within one week. The appointment of the clerk of council moots part of the claims in this case. As to the rest, Richardson has not shown any right to relief in mandamus. Accordingly, we deny the requested writ.

{¶ 3} Richardson also seeks awards of attorney fees and costs. Richardson has filed a motion to establish the amount of security for costs. We deny the request for attorney fees, but we grant the request for costs. We grant Richardson’s motion to establish the amount of security for costs and waive the provision of security for costs.

I. Background

{¶ 4} We recently explained the process for attempting to recall an East Cleveland officeholder:

East Cleveland’s city charter establishes procedures for a recall against a municipal officeholder. The charter requires the clerk of the city council to keep a supply of blank recall petition forms on hand. East Cleveland City Charter, Section 50. The clerk must issue blank forms upon receipt of an affidavit “stating the name of the member or members of the Council whose removal is sought.” *Id.* From the time the affidavit is filed, the petition circulators have 30 days to gather signatures and file the part-petitions with the clerk. *Id.*, Section 52.

The recall process is formally initiated by the filing of the petition, signed by a sufficient number of electors, with the clerk. *Id.*, Section 49. The clerk must then “certify * * * whether the signature of electors [on the petition] amount in number to at least twenty-five (25) percent of the voters voting at the last regular municipal election of officers.” *Id.*, Section 53. If the petition contains enough signatures, the clerk must “serve notice of that fact upon” the officeholder designated in the recall petition and deliver a copy of the petition to “the election authorities” along with the certification regarding the percentage of voters who cast ballots at the last municipal election. *Id.*, Section 54.

The officeholder designated in the recall petition may resign within five days of the clerk’s certification. *Id.*, Section 54. If the designated officeholder does not resign within that five-day period, “the election authorities shall forthwith order and fix a day for holding

SUPREME COURT OF OHIO

a recall election,” with the fixed day being no later than 90 days after the expiration of the five-day resignation period. *Id.*

(Ellipsis and brackets sic and footnote omitted.) *State ex rel. King v. Cuyahoga Cty. Bd. of Elections*, __ Ohio St.3d __, 2022-Ohio-3613, __ N.E.3d __, ¶ 2-4.

{¶ 5} On December 21, 2022, Richardson and two other East Cleveland electors obtained blank petitions for the recall of East Cleveland city council members Korean Stevenson, Juanita Gowdy, and Patricia Blochowiak. At that time, Tracy Udrija-Peters was the clerk of council. On January 3, 2023, the city council elected Stevenson as its president. That same day, Stevenson terminated Udrija-Peters’s employment.

{¶ 6} On January 20, Richardson and others submitted recall petitions for the three challenged council members to East Cleveland’s law director, Willa Hemmons. Richardson claims that they delivered the petitions to Hemmons because no one was serving as the clerk of council at the time. Hemmons took the petitions to respondent Cuyahoga County Board of Elections. According to Hemmons, the board’s director told her to certify whether the petitions contained a sufficient number of valid signatures. Hemmons certified that the petitions contained sufficient valid signatures and filed the petitions with the board on January 24.

{¶ 7} On February 13, during a board-of-elections meeting, Hemmons stated that she was not the clerk of council when she filed the petitions. Based in part on that representation, the board voted not to place the recall elections on the May 2023 ballot. Hemmons then filed an original action against the board in the Eighth District Court of Appeals, seeking a writ of procedendo and a declaratory judgment that the recall petitions were properly submitted. Hemmons argued that the board erred in refusing to place the recall elections on the May ballot.

{¶ 8} Under R.C. 733.58, when a municipal officer fails to perform a clear legal duty, the city law director “shall apply to a court of competent jurisdiction for

a writ of mandamus to compel the performance of the duty.” If the law director fails to do so on written request of any taxpayer of the municipality, the taxpayer may initiate a suit in her own name, on behalf of the municipal corporation. R.C. 733.59. On February 21, Richardson asked Hemmons to file a mandamus action to compel Stevenson to appoint a new clerk of council to complete the recall-petition process in time for placement of the recall elections on the May 2023 ballot. Hemmons declined to do so, citing her direct involvement in the dispute.

{¶ 9} On February 28, Richardson, citing R.C. 733.59, filed this action, seeking a writ of mandamus to compel the council president to appoint a clerk of council to complete the recall-petition process. When Richardson filed her complaint, Stevenson was the council president. But on March 6, Stevenson was replaced as president by Gowdy. Because Gowdy is the current council president, she is automatically substituted for Stevenson as a respondent in this action. *See* S.Ct.Prac.R. 4.06(B).

{¶ 10} On March 12, Gowdy appointed Eric Brewer as the clerk of council and instructed him “that his first priority as Clerk will be to review and process all pending petitions for recall and to certify to the Cuyahoga County Board of Elections whether there are sufficient valid signatures to justify a recall election.” Gowdy told Brewer that “he [was] to complete this process within one week.”

{¶ 11} Richardson also named the board of elections as a respondent in this action. If Richardson cannot obtain a writ of mandamus against the council president, she seeks a writ of mandamus compelling the board to certify the number of valid signatures on the petitions.

II. Analysis

A. *Mandamus standard*

{¶ 12} To be entitled to a writ of mandamus, Richardson must prove by clear and convincing evidence (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of respondents to provide that relief, and (3) the lack of an adequate remedy in the ordinary course of the law. *See State ex rel. Waters v. Spaeth*, 131 Ohio St.3d 55, 2012-Ohio-69, 960 N.E.2d 452, ¶ 6, 13.

B. *Claim against the council president*

{¶ 13} Richardson seeks a writ of mandamus compelling the council president to “immediately appoint a Clerk of Council to perform the ministerial task of certifying the number of valid signatures in each Recall Petition.” Richardson’s claim against the council president is thus twofold: she seeks (1) to compel the council president to appoint a clerk of council and (2) to compel the clerk of council to certify the number of valid signatures on the recall petitions.

{¶ 14} The first part of Richardson’s claim is moot. By appointing Brewer as the clerk of council, Gowdy has already performed the action Richardson seeks to compel. A writ of mandamus will not issue to compel action that has been performed. *See State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶ 15} The board of elections has filed in this court a notice of additional litigation pending in the Cuyahoga County Court of Common Pleas and the Eighth District, in which Gowdy’s authority to appoint Brewer as clerk of council has been challenged. The board points in the notice to a legal opinion written by Hemmons, in which she states that Gowdy is not the council president and lacked authority to appoint Brewer as clerk of council. Richardson acknowledges these disputes but concedes that Brewer was duly appointed as clerk of council on March 12. Any questions about the legitimacy of Brewer’s appointment, therefore, are not properly before us.

{¶ 16} The second part of Richardson’s claim against the council president is not moot, but it fails for another reason: the council president has no legal duty to certify the number of valid signatures on the recall petitions. Under Section 53 of the East Cleveland City Charter, the clerk of council must certify whether the signatures on the petitions are valid and sufficient in number. *See King*, __ Ohio St.3d __, 2022-Ohio-3613, __ N.E.3d __, at ¶ 32. Indeed, in her reply brief, Richardson argues that this court should “order * * * Brewer to immediately certify the number of valid signatures on the Recall Petitions.” Richardson is not entitled to the relief she seeks, because she is not actually attempting to enforce a legal duty belonging to the council president, and Brewer is not a party in this case.

{¶ 17} For these reasons, we deny the writ of mandamus as to Richardson’s claim against the council president.

C. Claim against the board

{¶ 18} Richardson also seeks a writ of mandamus compelling the board of elections “to comply with the East Cleveland Charter and R.C. 705.92 to immediately perform the ministerial task of certifying the number of valid signatures in each Recall Petition.”

{¶ 19} Under R.C. 705.92(A), a recall petition “shall be filed with the board of elections.” Richardson argues that R.C. 705.92 applies when the recall procedure established by East Cleveland’s city charter becomes “inoperable.” According to Richardson, R.C. 705.92 applies by virtue of East Cleveland City Charter, Section 87, which provides, “All general laws of the State applicable to municipal corporations now or hereafter enacted, and which are not in conflict or inconsistent with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the Council, shall be applicable to this city and all officers and departments thereof.” Richardson contends that R.C. 705.92 is a general law of this state that applies in East Cleveland whenever there is a vacancy in the clerk-of-council position.

SUPREME COURT OF OHIO

{¶ 20} Richardson’s argument lacks merit. R.C. 705.92 is not a law that is generally applicable to municipalities. R.C. 705.91 provides that when a municipality’s electors are voting on a plan of government pursuant to R.C. 705.03, the question whether to adopt the requirements of R.C. 705.92 “shall be submitted * * * to the electors of the municipal corporation * * *.” R.C. 705.91 further provides that R.C. 705.92 “shall go into effect and form part of any such plan of government *only to the extent to which such section has been adopted under [R.C. 705.03].*” (Emphasis added.) We have stated that “[t]he clear meaning of R.C. 705.91 is that provisions of R.C. 705.92 go into effect only to the extent that they have been adopted by the voters of a municipal corporation as part of a home-rule charter.” *State ex rel. Lockhart v. Boberek*, 45 Ohio St.2d 292, 294, 345 N.E.2d 71 (1976).

{¶ 21} Richardson relies on *State ex rel. McVey v. Banks*, 12th Dist. Clermont No. 83-06-051, 1983 WL 4431, *2 (July 21, 1983), in which the Twelfth District Court of Appeals concluded that R.C. 705.91 does not require a municipality’s electors to expressly adopt R.C. 705.92 when the electors have adopted a plan of government other than one described in R.C. Chapter 705. According to *McVey*, R.C. 705.92 “provides the statutory procedures and standards for municipal recall elections in cities governed by home rule city charters and other forms of government beyond the scope of R.C. Chapter 705.” *McVey* at *2.

{¶ 22} The analysis in *McVey* is not persuasive. R.C. 705.91 provides that R.C. 705.92 shall become effective in a municipality “only to the extent to which such section has been adopted under [R.C. 705.03].” It is undisputed that East Cleveland’s city charter was not adopted under R.C. Chapter 705.03. Moreover, in *McVey*, the court of appeals held that R.C. 705.92 applied because the city charter at issue authorized recall elections while stating that “[t]he procedure for such recall shall be that provided by law.” *McVey* at *1. East Cleveland’s city charter does not use similar “provided by law” language.

{¶ 23} Section 87 of the East Cleveland City Charter provides that general laws of the state apply to the city and its officers when they “are not in conflict or inconsistent with the provisions of [the] Charter.” Richardson acknowledges that the recall procedures in the East Cleveland City Charter conflict with R.C. 705.92. The clear conflict between the city charter and R.C. 705.92 further supports the conclusion that the statute does not apply to recall petitions involving East Cleveland municipal officeholders. Accordingly, we deny the writ of mandamus as to Richardson’s claim against the board of elections.

{¶ 24} In her reply brief, Richardson suggests that she may be entitled to a writ of mandamus if the board refuses to accept any certification of the petitions submitted by Brewer based on the board’s possible determination that Brewer was not properly appointed. We do not address this concern, because it is speculative and beyond the scope of Richardson’s claim against the board.

D. Attorney fees and costs

{¶ 25} In her claim against the council president, Richardson has requested awards of attorney fees and costs “on the basis of R.C. 733.59 and [the council president’s] bad faith actions.” We deny Richardson’s request for attorney fees, because judgment is not being ordered in her favor. *See* R.C. 733.61 (allowing a court, in its discretion, to award reasonable attorney fees to a taxpayer *receiving judgment in her favor*).

{¶ 26} Richardson, however, is entitled to an award of costs. Richardson asserted a taxpayer action against the council president under R.C. 733.59. R.C. 733.61 provides:

If the court hearing a case under [R.C. 733.59] is satisfied that the taxpayer had good cause to believe that his allegations were well founded, or if they are sufficient in law, it shall make such order as the equity of the case demands. In such case the taxpayer shall be

SUPREME COURT OF OHIO

allowed his costs, and, if judgment is finally ordered in his favor, he may be allowed, as part of the costs, a reasonable compensation for his attorney.

This statutory language entitles Richardson to an award of costs, even without a judgment in her favor, if we determine that she “had good cause to believe that [her] allegations were well founded,” *id.*

{¶ 27} As discussed above, Richardson’s non-moot claims were not well founded. But it is not necessary for us to decide whether Richardson would have prevailed on her moot claim. For purposes of the request for costs under R.C. 733.61, Richardson need only show that she had good cause to believe that her claim was well founded. We conclude that she has met that burden and therefore grant her request for an award of costs. We grant her motion to establish security for costs and waive the provision of security for costs. *See State ex rel. Harris v. Rubino*, 155 Ohio St.3d 123, 2018-Ohio-3609, 119 N.E.3d 1238, ¶ 36.

III. Conclusion

{¶ 28} We deny the writ of mandamus and deny Richardson’s request for attorney fees. We award costs to Richardson, grant her motion to establish security for costs, and waive the provision of security for costs. Costs are taxed to the council president.

Writ denied.

KENNEDY, C.J., and FISCHER, DEWINE, DONNELLY, STEWART, BRUNNER, and DETERS, JJ., concur.

Mendenhall Law Group, Warner Mendenhall, and Logan Trombley, for relator.

Kenneth D. Myers, for respondents Korean Stevenson and Juanita Gowdy.
Michael C. O’Malley, Cuyahoga County Prosecuting Attorney, and Mark

January Term, 2023

R. Musson, Assistant Prosecuting Attorney, for respondent Cuyahoga County
Board of Elections.

142011096

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

KOREAN STEVENSON, ET AL.
Plaintiff

MARK MCCLAIN, ET AL.
Defendant

Case No: CV-23-976154

Judge: DEBORAH M TURNER

JOURNAL ENTRY

DEFENDANTS' MOTION TO STAY TRO & PROCEEDINGS PENDING APPELLATE OUTCOME, FILED 03/12/2023, IS GRANTED. ORDER SEE JOURNAL.

OSJ

Judge Signature

Date

FILED
2023 MAR 17 P 12:56
CLERK OF COURTS
CUYAHOGA COUNTY,

03/17/2023

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

KOREAN STEVENSON, <i>et al.</i> ,)	CASE NO. CV-23-976154
Plaintiff,)	JUDGE DEBORAH M. TURNER
v.)	
MARK McCLAIN, <i>et al.</i>)	<u>OPINION AND ORDER</u>
Defendant.)	

Plaintiffs are four persons asserting to be the council members for the City of East Cleveland. They have filed a Verified Complaint seeking to enjoin Defendants Mark McClain and Nathaniel Martin from holding themselves out or acting as City of East Cleveland council members. Defendants have filed a motion to dismiss asserting that this Court does not have subject matter jurisdiction over this matter.

Subsequent to the filing of this case, Defendants McClain and Martin have filed a writ of quo warranto in the Eighth District Court of Appeals on the same issues. Based upon that filing, a motion to stay was filed by Defendants in this matter again asserting that this Court lacked jurisdiction. The Court ordered expedited briefing of this matter and Plaintiff filed opposition briefs to both motions on March 16, 2023.

A hearing on the jurisdictional issue was held on March 17, 2023. Counsel for all parties appeared. Plaintiffs argued at the hearing that this Court should begin with the premise that the four Plaintiffs are the council members. Defendants assert that this issue is in dispute.

Under R.C. 2733.01(A), "[a] civil action in quo warranto may be brought in the name of the state: [a]gainst a person who usurps, intrudes into, or unlawfully holds or

exercises a public office, civil or military, or a franchise, within this state, or an office in a corporation created by the authority of this state." Quo warranto is the exclusive remedy to challenge the right of a person to hold public office. *Beasley v. City of E. Cleveland*, 20 Ohio App.3d 370, 373, 486 N.E.2d 859 (8th Dist. 1984).

Under R.C. 2733.03, "[a]n action in quo warranto can be brought only in the supreme court, or in the court of appeals of the county in which the defendant, or one of the defendants, resides or is found, or, when the defendant is a corporation, in the county in which it is situated or has a place of business." The courts of common pleas lack jurisdiction over actions in quo warranto and cannot issue such a writ. *Masjid Omar Ibn El Khattab Mosque v. Salim*, 10th Dist. Franklin No. 12AP-807, 2018-Ohio-2746, ¶ 19.

A plaintiff may not attempt to get around the jurisdictional barrier by labeling the relief sought as declaratory or injunctive relief. *Beasley v. City of E. Cleveland*, 20 Ohio App.3d 370, 373, 486 N.E.2d 859 (8th Dist. 1984). Courts of common pleas do not have the authority to hear actions in quo warranto; only the Supreme Court of Ohio and appellate courts can issue such a writ. *State ex rel. Battin v. Bush*, 40 Ohio St.3d 236, 238, 533 N.E.2d 301 (1988). Thus, courts of common pleas lack jurisdiction over actions that seek quo warranto relief, even when the prayer for such relief is in the form of equitable or declaratory relief. *Conley v. Brown Cty. Rural Water Assn., Inc.*, 12th Dist. No. CA98-04-015, 1998 Ohio App. LEXIS 4840 (Oct. 12, 1998).

To determine whether an action seeks relief in the nature of quo warranto, courts "identify the core issues raised by the parties for judicial resolution." *Islamic Ctr. v. Alkhatib*, C.P. No. CV-19-918704, 2020 Ohio Misc. LEXIS 45, at *14-15 (Mar. 24, 2020)

(quoting *Masjid Omar Ibn Khattab Mosque* at ¶ 20). "If the principal or primary issue is the validity of the election of corporate officers, then the action, no matter how pleaded, is actually a quo warranto action." *Masjid Omar Ibn Khattab Mosque* at ¶ 20 (citing *State ex rel. Babione v. Martin*, 97 Ohio App.3d 539, 544, 647 N.E.2d 168, 647 N.E.2d 169 (6th Dist. 1994)). "Where the core relief sought consists of a declaratory judgment identifying which claimant has a right to office or an injunction ordering the removal of a person, then such relief must be pursued through an action in quo warranto." *Islamic Ctr.*, at *14-15.

Central to Plaintiffs claims in this case is the assertion that Defendants Mark McClain and Nathaniel Martin hold the positions of City of East Cleveland council members. This Court cannot, as Plaintiffs stated in oral argument, enjoin Defendants unless it presumes that the four Plaintiffs are the proper council members. This assertion demonstrates why this Court does not have jurisdiction. Defendants have presented a colorable and good faith claim to the council seats at issue. Without making a determination of who the proper council persons are this Court cannot issue an injunction. But this Court does not have jurisdiction to determine who holds the disputed council seats. While this Court is sympathetic to Plaintiffs pragmatic concerns regarding the operations of council, these concerns do not create jurisdiction where there is none.

This Court VACATES its order of March 7, 2023 granting Plaintiffs Temporary Restraining Order. This case is STAYED pending resolution of the Eighth District Court of Appeals in the quo warranto case. If the Court of Appeals determines the

Defendants are not rightful council persons at that point this Court would have jurisdiction to enjoin them from acting as council persons.

IT IS SO ORDERED.

Deborah M. Turner
JUDGE DEBORAH M. TURNER

3/17/2023
DATE

Court of Appeals of Ohio, Eighth District

County of Cuyahoga
Nailah K. Byrd, Clerk of Courts

STATE EX REL., NATHANIEL MARTIN, ET AL.

Petitioner

COA NO.
112477

-vs-

ORIGINAL ACTION

LATEEK SHABAZZ, ET AL.

Respondent

MOTION NO. 567379

Date 09/01/23

Journal Entry

Motion by respondents to file reply brief in support of motion for summary judgment against relator Mark McClain instanter is granted. No additional briefs shall be filed by any party and this original action is deemed complete for the purpose of disposition of the complaint for quo warranto.

Judge Eileen T. Gallagher, Concur

Judge Sean C. Gallagher, Concur



Frank Daniel Celebrezze, III
Presiding Judge

RECEIVED FOR FILING
09/01/2023 13:58:17
NAILAH K. BYRD, CLERK
Docket ID: 157320818

LEGAL OPINION – CLERK POSITION AND CITY COUNCIL

To: Mayor Brandon King;

March 14, 2023

From: Willa Hemmons, Law Director

Re: Legal opinion –Clerk Position and City Council

FACTS

Councilor Juanita Gowdy purports to be the President of the East Cleveland City Council since March 6, 2023. However, only one legitimate City Council members voted for her at that March 6, 2023 meeting. That was Councilor Patricia Blochowiak. [Lateek Shabazz's assertion that he is a City Council member is in controversy pursuant to a *Quo Warranto* petition in the Eighth District Court of Appeals, COA Case No. 23-112477.] The only legal Councilors not in controversy pursuant to that Writ petition are Korean Stevenson, Patricia Blochowiak and Juanita Gowdy. Korean Stevenson, is still the City Council President until there is a vote of Reorganization per ECMC §113, Rule 23, during an open, public City Council meeting, removing her from that position.. Korean Stevenson has not appointed any Clerk of Council as of this date. Juanita Gowdy avers that she appointed a Mr. Eric Brewer (a former East Cleveland Mayor) on March 12, 2023, as City Council Clerk in an unnotarized 'affidavit,' "Oath of Office," attended only by herself. Thus far, three of five City Council members have not legitimized such appointment.

STATE OF THE LAW

§ 102 ORGANIZATION OF COUNCIL.

At 7:30 p.m. on the 2nd day of January, following a regular municipal election, or if such date be a Sunday, on the day following, the incoming Council members as well as Council members continuing in office shall meet at a mutually agreed upon place by the Mayor and the Council as the legislative body of the City of East Cleveland. The Mayor, or Mayor's designee, shall call this meeting and shall preside as temporary chairperson only until all Council members have been sworn in and the President of Council has been elected. The first official business meeting of the incoming Council shall be within five (5) business days after the commencement of their term. The President of Council, in addition to the Council's obligations, rights, and duties as a Councilperson at large, shall preside at all meetings and shall perform such duties as may be imposed upon him or her by the Council. In the absence of both the President and Vice President of the Council, the senior-most member of Council shall be chairperson of the meeting, provided a quorum is present. The Council shall also choose or appoint a Clerk and such other officers and employees of the sitting Council as it deems necessary, to serve at the pleasure and during the term of the sitting Council. The Clerk shall keep the records of the Council and perform such other duties as may be required by this Charter or the Council but within the scope of the Council's daily business.

(Amended 11-7-00)

§ 111.03 COUNCIL EMPLOYEES.

(a) As authorized and mandated by § 102 of the Charter, in addition to and apart from the five elected public officials who are Council members making up the legislative body of the city consisting of one President of City Council, one Vice President and three members of Council, together with a President Pro Tem who may be elected by Council as deemed necessary in the absence of the President and Vice President, the regular and part-time employees of the city within the organizational structure of Council, the legislative branch of the city government, which may be deemed for purposes of structure discussion as being similar to a "municipal department", the employees may consist of a Clerk who shall be appointed and/or terminated by the President of Council, and Council may also elect such other officers and employees of Council as it deems necessary, to serve at the pleasure of Council. The President of Council shall adjust compensation for the Clerk. In the event that the Council disagrees with a personnel decision that has been made by the President of Council, the decision shall be overturned provided a written letter signed by at least three members of Council is submitted to the President of Council stating the decision that should be overturned and the reasons for overturning the decision.

(b) In addition to the election by Council of one Clerk of Council, the other officers and employees of Council as it deems necessary, to serve at the pleasure of Council, shall not exceed the following: one Assistant Clerk of Council; one Clerk Typist; one Deputy Clerk; and one special legal counsel and any of these positions may be served either on a full- or part-time basis as Council shall so determine. All employees appointed pursuant to this section shall be appointed and/or terminated in the manner prescribed in division (a) above and the compensation for these employees shall be adjusted in the manner prescribed in division (a) above.

(c) Council hereby expressly reserves the authority and right granted to it under § 102 of the City Charter, to designate, elect and to appoint such other officers and employees of Council as it may deem necessary to serve at Council's pleasure; further, in addition to and notwithstanding the provisions in division (b) above, as Council deems necessary, Council may also appoint any officer or employee of the city under its jurisdiction, in its discretion, to serve as Clerk Pro Tempore or as Deputy Clerk, in the absence of the Clerk upon such terms, on such conditions and for such time as Council may determine.

(Ord. 77-08, passed 10-21-2008)

CONCLUSION

The Charter, §102, prevails over Administrative Code, §111.03. As the East Cleveland City Council has not elected a City Council Clerk by majority vote, Mr. Eric Brewer has not been duly appointed to the position of East Cleveland Clerk of Council. Further, until such time as the majority of Council votes in an open, public meeting, Korean Stevenson remains in the position as President of East Cleveland City Council.

STATE OF OHIO)
)
CUYAHOGA COUNTY, OHIO) SS

AFFIDAVIT

I, Mayor Brandon L. King, being first duly sworn according to law, depose and state upon personal knowledge and belief as follows:


1. That I possess personal knowledge in regards to the matters as set forth hereinafter.
2. That I am the Mayor of the City of East Cleveland and have been employed in that capacity as appointed in December 20, 2016; and, then, as elected Mayor, from January 2, 2018 to 2022; and then, for a second term; from January 3, 2022 until December 31, 2025.
3. That, as the Mayor, I supervise the day-to-day operations of the City of East Cleveland, Ohio as well as send and respond to City communications.
4. That on Friday, July 7, 2023, I sent an email to Mansell Baker, who was appointed by Korean Stevenson, City of East Cleveland Councilor for Ward 3, as Secretary for the East Cleveland City Council in February of 2023, and copied Korean Stevenson seeking clarification of what she feels is her position on Council—see attached.
5. That, on Saturday, July 8, 2023, I received an email from East Cleveland City Councilor Korean Stevenson in response to my July 7th email, which is also attached to this Affidavit, containing Councilor Stevenson’s statements on my request for clarification.

FURTHER AFFIANT SAYETH NAUGHT.



Mayor Brandon L. King

SWORN TO BEFORE ME and subscribed in my presence this 14th day of July, 2023.


BALONDRA WALLACE
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Cuyahoga County
My Comm. Exp. 3/28/2024



Notary Public

Willa Hemmons

From: Korean C. Stevenson
Sent: Saturday, July 8, 2023 2:33 AM
To: Mayor King; Mansell Baker; Korean C. Stevenson
Cc: Mansell Baker; Samikia Burton; Willa Hemmons; Heather Mccollough; smed.m@hotmail.com
Subject: RE: East Cleveland City Council

Good evening,

The events surrounding my need to resign are blinding to me but I must respectfully and appropriately respond to your request Mayor.

I have spent more than 100 hours reviewing and analyzing (not second guessing) actions, correspondence, case files, etc. covering actions occurring since March 2023. In doing so what I have come to believe is that an attempted coup was plotted against the city of East Cleveland by a few persons who I do not or will waste time naming here.

That coup resulted in the seating of Lateek Shabazz to replace the removal of Ernest Smith from the council as a result of a recall.

Once Lateek Shabazz was seated the trio responsible for the coup then began to unfold their plan of Tierny. The plan determined and constructed purposefully to shut down the city of East Cleveland and render its residents helpless.

Lateek Shabazz was advised that he would be interviewed in a telephone conversation between he and myself because I was and still am the President of the East Cleveland City Council. In that same conversation Lateek Shabazz was advised that he was an employee of the Cleveland Board of Education and would have to resign that position according to the charter if he wanted me to serve on the city Council in East Cleveland.

Mr. Shabazz replied that he had spoken to his lawyer and was advised that he could serve on council without resigning his employment at the Cleveland Board of Education. I requested the attorney put the information in writing and send it to me. At which time Mr. Shabazz stated he could resign from the Cleveland Board of Education because he could take his \$40,000.00 out of the Cleveland Board of Education savings since he does not use the money he lives on his social security.

I concluded the call as had other interviewees to contact.

From that to the time of this writing I have never received a letter from the attorney of Mr. Shabazz or any other communication from on the subject. With this knowledge and the analyzation of all the aspects and documents involved in this situation. I am still the President of Council. Mr. Shabazz not being a rightful member of council, voting to remove me as President of Council, and attempting to replace me with Juanita Gowdy is not a legal course of action because he remains an employee of the Cleveland Board of Education and has done so since he was sworn.

The charter is clear. Mr. Shabazz must be removed for violating the charter as were several of the appointments during the council process to replace Smith.

No-- I am not going to resign from anything ever because the process utilized was fraught with inconclusive and illegal actions that I have analyzed and dissected to determine the process utilized was inconclusive and could not make Juanita Gowdy the President of the East Cleveland City Council. With all of the indecency that has occurred over the past months and current state of the city as a result of inexperience, poor decision making, a lack of knowledge in governance, and just plain non-caring. I will not stand idly by and let this situation fester. I stand ready for this nonsense to end and the progress of a city to move on to a new existence.

I came here to help this city not terminate its very existence for my own self gain.

PEACE!

From: Mayor King <mayorking@eastcleveland.org>

Sent: Friday, July 7, 2023 1:41 PM

To: Mansell Baker <mbaker@eastclecouncil.org>

Cc: Korean C. Stevenson <kstevenson@eastclecouncil.org>; Mansell Baker <Mansellbaker2@gmail.com>; Juanita Gowdy <jgowdy@eastclecouncil.org>; Samikia Burton <sburton@eastcleveland.org>; Willa Hemmons

<whemmons@eastcleveland.org>; Heather Mccollough <hmccollough@eastcleveland.org>; smed.m@hotmail.com

Subject: RE: East Cleveland City Council

Mr. Baker,

Per our conference call (and your request) – June 23, 2023 – below, please find the email conversation I had with Councilor Stevenson.

In Short; if Korean Stevenson no longer wishes to be President of City Council, Councilor Stevenson needs to resign (in writing, not email).

Also, per your request from that call, you did receive the most recent bank reconciliation and the Rumpke trash contract.

I would like to request a few documents from you as well.

Public Records Request (meeting minutes):

1. 12/27/2022 Special Council Meeting.
2. 12/19/2022 Special Council Interview (10:30 a.m.; changed to 9:30 a.m., during the Regular Council mtng on 6/06/23))
3. 12/20/2022 Special Council Interview 5:30 p.m. (the word Interview was removed during the Regular Council mtng on 6/06/23)
4. 3/06/2023 Special Council Meeting
5. 1/03/2023 Regular Council Meeting

Note: items 1, 2, and 3; were all on the agenda for the June 6, 2023 Regular Council Meeting. Items 1, 2, and 3; were all Moved for Adoption by Councilor Pat Blochowiak, and all passed by Councilors; Pat Blochowiak, Juanita Gowdy, and Korean Stevenson. Councilor P.B., did not have any minutes (documents pertaining to items 1, 2, and 3) in her possession – as many residents and even other Councilors asked for copies of the minutes. Minutes being voted on, that no-one had. As a matter of fact, during the prior regular scheduled Council meeting (May 16, 2023; Council Stevenson stated that she did not have a copy of the minutes (same; items 1, 2, and 3), nor had she seen any minutes and therefor could not vote to accept any of these minutes..

Finally, my Administration is still working on the "other documents" you requested and will submit to you upon completion thereof.

Kind regards,

From: Mayor King
Sent: Tuesday, March 7, 2023 5:01 PM
To: Korean C. Stevenson <kstevenson@eastclecouncil.org>
Subject: RE: East Cleveland City Council

Good afternoon, Council President Stevenson,

Per our conversation, earlier; from a legal perspective, City Council was not re-organized last night (3/06/23). However, if you no longer desire to remain President of City Council – then you must formally step-down (resign), an email stating your desire will suffice.

Please advise,

From: Korean C. Stevenson <kstevenson@eastclecouncil.org>
Sent: Tuesday, March 7, 2023 4:50 PM
To: Mayor King <mavorking@eastcleveland.org>
Subject: East Cleveland City Council

Good afternoon,

Please be advised that there have been changes to city council. Last night in my absence the council re-organized and installed Juanita Gowdy as President and Patricia Blochwiak as Vice President. Join me in wishing this dynamic team good luck!

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

Instructions to Voter
Instrucciones para el Elector

- To vote, completely darken the oval (●) to the left of your choice.

Para votar, oscurezca completamente el óvalo (●) a la izquierda de su elección.



- Note the permitted number of choices directly below the title of each candidate office. Do not mark the ballot for more choices than allowed.

Tenga en cuenta el número permitido de opciones directamente debajo del título de cada cargo para el que se postulan los candidatos. No marque en la papeleta más opciones de las permitidas.

- If you mark the ballot for more choices than permitted, that contest or question will not be counted.

Si usted marca en la papeleta más opciones de las permitidas, no se contará esa candidatura o pregunta.

- To vote for a write-in candidate, completely darken the oval (●) to the left of the blank line and write in the candidate's name. Only votes cast for candidates who filed as write-in candidates can be counted.

Para votar por un candidato por escrito, oscurezca completamente el óvalo (●) a la izquierda de la línea en blanco y escriba el nombre del candidato. Solo se pueden contar los votos emitidos para los candidatos que solicitaron ser candidatos por escrito.

- Do not write in a candidate's name if that person's name already is printed on the ballot for that same contest.

No escriba el nombre del candidato si el nombre de esa persona ya está impreso en la papeleta para esa misma candidatura.

- If you make a mistake or want to change your vote, return your ballot to an election official and get a new ballot. You may ask for a new ballot up to two times.

Si comete un error o desea cambiar su voto, devuelva la papeleta a un funcionario electoral y obtenga una nueva. Puede pedir una nueva papeleta solo dos veces.

East Cleveland Municipal Court
Tribunal Municipal de East Cleveland

For Judge of Municipal Court
Para Juez de Tribunal Municipal

(Full term commencing 1-1-2024)
(Período completo que comienza el 1-1-2024)

(Vote for not more than 1)
(No vota por más de 1)

William L. Dawson

City of East Cleveland
Ciudad de East Cleveland

For Member of Council
(Ward 2)
Para Miembro del Consejo
(Distrito 2)

(Vote for not more than 1)
(No vote por más de 1)

Timothy R. Austin

Charmaine Davis

Juanita Gowdy

East Cleveland City School District
Distrito Escolar de la Ciudad de East Cleveland

For Member of Board of Education
Para Miembro de la Junta de Educación

(Vote for not more than 3)
(No vote por más de 3)

Una H. R. Keeno

Mary E. Rice

Stephanie Steamre-Walls

EAST CLEVELAND -02-A 01 NON

ED

EAST CLEVELAND -02-A 01 NON

0518EAST CLEVELAND -02-A [ECL02A1] ED (CS 220) - EC:1187271

c)

“Exhibit C”

Eric Brewer Documents

- **Email to Brent Lawler & Mary Bejjani 9/22/23**
- **Eric Brewer Clerk of Council Oath of Office**

East Cleveland charter change amendment - mayoral recall

Eric Brewer <clerkbrewer@gmail.com>

Fri 9/22/2023 2:57 PM

To: Brent Lawler <blawler@cuyahogacounty.gov>; Mary L. Bejjani <mbejjani@cuyahogacounty.gov>
Cc: Juanita Gowdy <councilgowdy@gmail.com>; Patricia Blochowiak <pblochowiak@gmail.com>; Korean C. Stevenson <kstevenson@eastclevouncil.org>; Lateek Shabazz <lateek.shabazz@aol.com>; Twon Billings <twonbillinges70@yahoo.com>; Mayor King <mayorking@eastcleveland.org>; Willa Hemmons <whemmons@eastcleveland.org>; Ken Myers <kdmy@aol.com>; Justyn Anderson <councilofficeec@gmail.com>

 2 attachments (2 MB)

Res. No. 57-23 - Charter change from partisan to non-partisan election.pdf; Eric J. Brewer - Oath of office - Clerk of Council.pdf;

Mr. Lawler:

I have attached the official copy of Res. No. 57-23 taken from the original retained in the office of the Clerk of Council as required by Rule 8(B)(b) of Council's Rules of Order. It provides the legislative history for the charter change amendment Council enacted on August 9, 2023.

The Mayor shall transmit legislation to the Clerk of Council, giving priority to items in accordance with their relative importance and urgency, and the Clerk shall thereupon transmit copies of the same to the Council members without undue delay, retaining possession and custody of the originals.

An authentic veto returned to the Clerk of Council is date and time stamped in the council office, and attached to the signed original to authenticate its timely-delivery within 7 days. Mayor Brandon King chose not to sign the original legislation in the Clerk of Council's office, or to enter the office to submit his original veto for attachment within 7 days. There is no section of the Charter or ordinances of East Cleveland giving him the authority to sign a document marked *copy*, that clearly is unsigned by any other official; to attach an alleged veto to it with conflicting dates; and email it to a list of people who are not discharging the duties of the Clerk of Council.

The BOE now has the official signed legislation, and not the fraudulent unsigned legislation private attorney Willa Mae Hemmons is circulating to, once again, misuse a public office to protect Mayor King's personal interests. The 8th District court ruling she's circulating, with her false claim that it's an injunction that prevents me from working, warned her not to "surreptitiously" use the law director's office to engage in King's political battles. Hemmons was determined by that ruling to have violated Disciplinary Rule 1.7 of Ohio's Code of Professional Responsibility for attorneys. It is the conflict of interest rule.

The conflict of interest she's exhibiting in her current communications with the elections board is a violation of the court order she's citing. The March 6, 2023 Court of Common Pleas case Council filed against Nathaniel Martin and Mark McClain, that Hemmons responded to on their behalf as the director of law, after she was fired, pre-dates my March 12, 2023 appointment. None of the facts in it apply to me. The Supreme Court of Ohio accepted my appointment to discharge the duties of the Clerk of Council in the Richardson writ and described Hemmons' assertions as "speculative." Richardson was concerned that the board of elections would not accept my appointment as Clerk of Council regarding the recall petitions.

*"After this lawsuit was filed, the city council elected a new president, who then appointed a new clerk. The new council president instructed the clerk to process the recall petitions within one week. The appointment of the clerk of council moots part of the claims in this case. As to the rest, Richardson has not shown any right to relief in mandamus. Accordingly, we deny the requested writ." State ex rel. Richardson v. Gowdy, Slip Opinion No. 2023-Ohio-976 ... "In her reply brief, Richardson suggests that she may be entitled to a writ of mandamus **if the board refuses to accept any certification of the petitions submitted by Brewer based on the board's possible determination that Brewer was not properly appointed.** We do not address this concern, because it is speculative and beyond the scope of Richardson's Claim against the board."*

Mayor King's unsigned legislation is not authentic. If he and Hemmons persist in using it to obstruct an official proceeding, I would hope the Cuyahoga County Prosecuting Attorney intercedes. The East Cleveland Financial Planning and Supervision Commission and Auditor of State are investigating other examples of fraudulent legislation King is creating and submitting to government entities. Among them is Res. No. 32-23.

Hemmons' has falsely claimed that I have not been appointed to discharge the duties of the Clerk of Council for the legislative authority of the municipal corporation of East Cleveland. She has asserted that she is the municipal corporation's duly-appointed director of law; and that it is in the city's interest to disenfranchise 768 members of the electorate. Here's how we both can prove our claims.

It is a constitutional duty of any person elected or appointed to a public office in Ohio to take an oath of office before they discharge the duties of the office. The requirement is set forth in Article 15, Section 7 of the Constitution of Ohio. Every elected or appointed official has no other duty but to obey it as written. Failure to comply begins a series of criminally derelict acts for elected and appointed officials entering offices without an oath. As an attorney Hemmons has no argument against the following constitutional oath taking mandate.

"Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation, to support the Constitution of the United States, and of this state, and also an oath of office."

The constitutional oath-taking mandate is codified under unsuspended state general laws found at R.C. 3.20, R.C. 3.21, R.C. 3.22, R.C. 3.23, R.C. 3.24 and R.C. 3.30. Combined they reiterate the constitutional oath-taking mandate, describe the content of oaths, who can administer oaths, and what happens when oaths are not taken. R.C. 3.22 reads as follows:

"Each person chosen or appointed to an office under the constitution or laws of this state, and each deputy or clerk of such officer, shall take an oath of office before entering upon the discharge of his duties. The failure to take such oath shall not affect his liability or the liability of his sureties."

The general assembly defined this duty even more specifically for municipal corporations when state legislators enacted R.C. 705.28, and provided the following instructions to elected and appointed persons municipal officers and employees.

"Every officer of a municipal corporation and every employee holding a position upon an annual salary, before entering upon the duties of his office, shall take and subscribe to an oath or affirmation, which shall be filed and kept in the office of the clerk of the municipal

corporation that he will: (A) **Support the constitution of the United States and of this state, and the charter and ordinances of the municipal corporation**; (B) Not be influenced by any consideration except that of merit and fitness in the appointment or discharge of employees; (C) Not make or authorize the expenditure of public money otherwise than for adequate consideration and efficient service to the municipal corporation; (D) **Faithfully, in all other respects, discharge the duties of his position or office.**"

I will note that the oath of office instructions mandated by the Constitution of Ohio and general laws, are also found in Section 92 of the Charter of East Cleveland. It repeats R.C. 705.28's instructions that oaths are to be filed with the Clerk of Council prior to entering a public office.

"Every officer of the city shall, before entering upon the duties of his office, take and subscribe an oath or affirmation, to be filed and kept in the office of the Clerk of the Council, that he will in all respects faithfully discharge the duties of his office."

In full compliance with constitutional oath mandates and laws, I have attached the oath of office I took on March 12, 2023 one day before I entered the office of Clerk of Council on March 13, 2023. My appointing authority is Juanita Gowdy, President of East Cleveland city council. Pursuant to R.C. 733.01, Executive power in cities," she is lawfully authorized to have appointed me to the public office.

"The executive power of cities shall be vested in a mayor, president of council, auditor, treasurer, director of law, director of public service, director of public safety, and such other officers and departments as are provided by Title VII of the Revised Code. Such executive officers shall have exclusive right to appoint all officers, clerks, and employees in their respective departments or offices and remove or suspend any of such officers, clerks, or employees, subject to the civil service laws."

I have satisfied the statutory qualifications for discharging the duties of the Clerk of Council under the Constitution of Ohio, general laws of the state and charter of East Cleveland. There are no additional statutory qualifications imposed on me to discharge the duties of the appointed clerk's position despite whatever fallacious objections King and Hemmons raise. He does not supervise the affairs of the council pursuant to Section 113(A) of East Cleveland's Charter.

"The Mayor shall be the chief executive officer of the city, responsible for carrying out and fulfilling the intent and purpose of any and all legislation duly passed by the Council. The Mayor shall supervise the administration of all the affairs of the city and the conduct and administration of all departments and divisions thereof, except the Council and as otherwise provided by this Charter, and the Mayor shall have all such powers as are conferred upon Mayors by the laws of the State of Ohio. The Mayor shall be the chief conservator of the peace within the city and shall see that all laws, resolutions, and ordinances are enforced therein."

At the September 19, 2023 meeting of Council, Hemmons appeared with King. I have not yet prepared a transcript from the meeting, but I can provide the elections board with a video recording of the meeting that shows Hemmons attempting to speak and being told by the President of Council, Juanita Gowdy, that she is not the director of law for the municipal corporation and to be silent. The President of Council sought to have her removed from the meeting. The police officer discharging the sergeant at arms duties committed dereliction when King directed him not to remove her. It is another example, like their fraudulent legislation, of King and Hemmons misusing public office's to obstruct official proceedings.

The board of elections has in the record of its February 13, 2023 meeting testimony from Hemmons affirming that she had been fired as director of law on January 26, 2023. At that same meeting she claimed to have been appointed to simultaneously discharge the petition verifying duties of the clerk of council to count the signatures that King, Martin, his chief of staff, Michael Smedley, and no-bid vendors had collected to recall three councilors. She claimed that Martin, who was not the president of council, was authorized to appoint a law director for the administrative branch of government, to also discharge the incompatible duties of the clerk of council for the legislative branch of government. Hemmons' entered the duties of the so-called clerk of council appointment without an oath when she appeared before the board to impersonate the appointed office holder. If she called herself discharging the clerk of council's duties before the board, Hemmons didn't even make sure her clerk of council or law director oaths were filed in the office when she, allegedly, controlled it.

Res. No. 10-23 was enacted by council on January 26, 2023 to vacate the office of director of law after Hemmons' misconduct in office was identified. Council enacted two resolutions to remove her. Multiple news outlets published her termination. <https://www.wkyc.com/article/news/local/cuyahoga-county/east-cleveland-city-council-resolution-remove-law-director/95-480a50a5-6be7-4ea2-a4ac-aac380abcfd>

As the record of the September 19, 2023 meeting confirms, Council has not repealed any legislation vacating the office of director of law. In an April 27, 2023 legal opinion, the Ohio Attorney General confirmed to the East Cleveland Financial Planning & Supervision Commission that the 2023 appropriations ordinance does not include wages for a director or deputy director of law. Not only can she not produce an oath of office, she can't produce legislation giving her another contract past the expiration date of her only two-year contract council approved that expired January 4, 2017. Council did not approve two, one-year renewal options to keep Hemmons beyond 2017. King needed council approval to renew or renegotiate a new contract.

As she has asserted in writing, to obstruct an official proceeding on behalf of the "city administration," that she is the municipal corporation's director of law, there are several oaths of office that should be in hers and the city's possession that Hemmons filed with the Clerk of Council before my appointment. Failure to take an oath or supply a bond within 10 days vacates the office. The person is deemed to have refused the office pursuant to R.C. 731.49 - "Failure to take oath or give bond."

The legislative authority of a municipal corporation may declare vacant the office of any person elected or appointed to such office who, within ten days after he has been notified of his appointment or election, or obligation to give a new or additional bond, fails to take the required official oath or to give any bond required of him.

The aftermath for refusing the oath instructions are further repeated and expanded in R.C. 3.30.

"Except as otherwise provided in section 3.061 of the Revised Code, a person elected or appointed to an office who is required by law to give a bond or security previous to the performance of the duties imposed on the person by the person's office, who refuses or neglects to give such bond or furnish such security within the time and in the manner prescribed by law, and in all respects to qualify self for the performance of such duties, is deemed to have refused to accept the office to which the person was elected or appointed. Such office shall be considered vacant and shall be filled as provided by law. A person subject to a policy adopted under section 3.061 of the Revised Code, when the policy is in effect and becomes applicable to the person upon the

beginning of the person's term of office or employment, is deemed to have refused to accept the office or employment when the person fails to take, certify, and file the oath of office as required by law or fails to document proof of insurance coverage as provided in division (D) of section 3.061 of the Revised Code and the office shall be considered vacant and shall be filled as provided by law. A person who becomes subject to a policy adopted under section 3.061 of the Revised Code during the person's term of office or employment is deemed to have vacated the office when the person fails to document proof of insurance coverage as provided in division (D) of section 3.061 of the Revised Code and the vacancy shall be filled as provided by law."

Hemmons has no statutorily-compliant oath of office associated with her 2015 council approved contract. No contract was extended by council beyond January 4, 2017. Mayor King has not sought another contract for Hemmons. He has delivered no oath of office for Hemmons to the Clerk of Council to affirm that she was appointed as an employee drawing an annual salary after Council vacated the office on January 26, 2023. There's no oath of office that is consistently-dated with the beginning of her "term" on January 5, 2015 which would prove that Hemmons met constitutional requirements to take an oath before discharging East Cleveland's law director's duties. When Council vacated the office on January 26, 2023, it had already been refused multiple times by Hemmons, and vacated due to her reckless disregard of Article 15, Section 7 of the Constitution of Ohio.

Hemmons testified on February 13, 2023 before the elections board that she had been fired. She should be able to produce legislation repealing her January 26, 2023 termination, legislation giving her a new contract and term of office approved by the Financial Planning & Supervision Commission, a budget that approves her wages and an oath of office taken after February 13, 2023 if she's claiming to be the director of law on September 21, 2023.. There is no procedure that allows Hemmons to "unfire" herself, or for King, if he's discharging the Section 113(A) mayor's duties, not to enforce a duly enacted ordinance or resolution of council. The admission that she's still on the payroll after being removed and unfunded is the admission of crimes in office.

By her own choice of words when she claims she's representing the "city administration," Hemmons confirms she is not discharging the duties of a municipal director of law found at R.C. 733.51 - "Powers and duties of city director of law." She is representing the interests of King instead of the "several directors and officers" of the municipal corporation as she impersonates the director of law. To represent the city requires Hemmons to obtain council's legislative approval. She did not request a meeting with council to discuss the controversy she presented to the elections board to obstruct the Clerk of Council's enforcement of the city's charter.

"The city director of law shall prepare all contracts, bonds, and other instruments in writing in which the city is concerned, and shall serve the several directors and officers provided in Title VII of the Revised Code as legal counsel and attorney. The director of law shall be prosecuting attorney of the mayor's court. When the legislative authority of the city allows assistants to the director of law, he may designate the assistants to act as prosecuting attorneys of the mayor's court. The person designated shall be subject to the approval of the legislative authority."

As she is using the title of "director of law" to enter the "city," as a municipal corporation, into a controversy that subverts the enforcement of its charter and ordinances, Hemmons was warned by the 8th District Court of Appeals ruling she's citing that she violated Disciplinary Rule 1.7 when she failed to disclose the conflict of interest to the council whose approval she needed to prosecute a city controversy. Even as recently as April 2023, Hemmons asserted herself in another controversy

against the Council to personally defend King and his family's false claims of residency. This was, again, after she told the elections board on February 13, 2023 that she was fired.

R.C. 733.53 - Duties as to suits. The city director of law, when required to do so by resolution of the legislative authority of the city, shall prosecute or defend on behalf of the city, all complaints, suits, and controversies in which the city is a party, and such other suits, matters, and controversies as he is, by resolution or ordinance, directed to prosecute. He shall not be required to prosecute any action before the mayor of the city for the violation of an ordinance without first advising such action.

If Hemmons is offering herself as the director of law, she'll produce an oath of office like I did to confirm her own compliance with Article 15, Section 7 of the Constitution of Ohio prior to every appearance she's made before the elections board proclaiming to be a qualified officer of the municipal corporation. If she cannot confirm her so-called appointment with the appropriate and consistently-dated legal documents, then I ask the board of elections to refer her to the prosecuting attorney and to seek sanctions against her with the Supreme Court of Ohio's disciplinary counsel.

The sole source of the city's legal obstruction is the private attorney discharging the duties of a public office without an oath of office; and who was told she was not the director of law by the President of Council during a regular meeting on September 19, 2023. Neither she nor the mayor can void the President of Council's appointment, void my oath of office or void her constitutional requirement to take one. I will attach my oath of office to the filing with the Cuyahoga County Board of Elections should Mayor King choose not to resign by Monday, September 5, 2023.

Eric J. Brewer, Clerk of Council

<https://www.cleveland.com/court-justice/2020/05/judge-finds-east-cleveland-law-director-acted-unethically-in-wrongful-imprisonment-case-disqualifies-her-from-representing-police-officers.html>

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author outlines the various methods used to collect and analyze the data. This includes both primary and secondary data collection techniques. The primary data was gathered through direct observation and interviews with key stakeholders. Secondary data was obtained from existing reports and databases.

The third section details the results of the data analysis. It shows a clear trend of increasing activity over the period studied. The data indicates that the majority of transactions occur during the middle of the day, with a significant peak in the afternoon.

Finally, the document concludes with a series of recommendations based on the findings. It suggests that the current processes are generally effective but could be improved by implementing more robust data security measures. Additionally, regular audits should be conducted to ensure the accuracy of the records.

Oath of Office
(R.C. 3.20, 3.21, 3.22, 3.23, 3.24, 705.28)

Pursuant to Section 705.28 of the Ohio Revised Code, I, ERIC J. BREWER, do hereby swear to ...

(A) Support the constitution of the United States and of this state, and the charter and ordinances of the City of East Cleveland;

(B) Not be influenced by any consideration except that of merit and fitness in the appointment or discharge of employees;

(C) Not make or authorize the expenditure of public money otherwise than for adequate consideration and efficient service to the municipal corporation;

(D) Faithfully, in all other respects, discharge the duties of the Clerk of Council office.

Date 3-12-2023

Date 3-12-2023

[Signature]

[Signature]

Sworn Officer's Signature
Clerk of Council

Oath Administrator's Signature

Title

Title President of Council

For Oath of Office Administered By Notary
(R.C. 3.24)

State of Ohio
County of Cuyahoga

Sworn to or affirmed and subscribed before me by _____ on this date of _____, 2023.

Notary Seal

Notary

My Commission Expires
Date: _____

Agenda Item

#7

Office of the Clerk of Council
Eric J. Brewer



14340 Euclid Avenue
East Cleveland, OH 44112
Tel: 216-681-2310

September 20, 2023

Brandon L. King, Mayor
City of East Cleveland
14340 Euclid Avenue
East Cleveland, OH 44112

Mayor King:

In my official capacity as the duly-appointed and oath sworn Clerk of Council, and pursuant to Section 50 of the Charter of East Cleveland, I am delivering this notice to inform you that on September 15, 2023, East Cleveland resident Lateek Shabazz submitted 51 petitions containing 789 signatures of electors that totaled at least 25 percent of the voters voting in the 2021 municipal election of officers.

According to the Cuyahoga County Board of Elections, 1584 residents voted in 2021. The total minimum number of signatures needed were 396.

Pursuant to Section 54 of the Charter, you have five days from the date of this notice to decide if you want to avoid a recall election and voluntarily resign. If you choose not to resign, Section 54 instructs the Clerk of Council to ask the Cuyahoga County Board of Elections to schedule the recall election.

Respectfully,

A handwritten signature in blue ink, appearing to read "Eric J. Brewer", is written over a horizontal line. The signature is stylized and cursive.

Eric J. Brewer, Clerk of Council

Office of the Clerk of Council
Eric J. Brewer



14340 Euclid Avenue
East Cleveland, OH 44112
Tel: 216-681-2310

September 26, 2023

Mr. Anthony W. Perlatti, Director
Cuyahoga County Board of Elections
2925 Euclid Avenue
Cleveland Ohio 44115

Re: Recall Election of Mayor Brandon L. King of the City East Cleveland

Mr. Perlatti:

I, Eric J. Brewer, the duly appointed and oath sworn Clerk of Council of the City of East Cleveland, is hereby notifying the Cuyahoga County Board of Elections to schedule a recall election of Mayor Brandon L. King pursuant to Section 54 of the city's Charter. This letter certifies the compliance with Sections 49, 50, 51, 52 and 53 of the Charter.

Mayor King was notified on September 20, 2023 that 789 signatures had been collected to seek his removal from elected office. 1584 voters voted in the last regular election for municipal officers in 2021. The minimum number of signatures needed to comply with Section 49 of the Charter's 25 percent requirement were 396. I verified that 417 legible signatures were those of registered East Cleveland voters.

Pursuant to Section 54 of the Charter, Mayor King had five days to resign upon receipt of the September 20, 2023 notice of the recall petitions; and did not exercise this right within the deadline established by statute.

Therefore, pursuant to Section 54 of the Charter, I am at once notifying the Cuyahoga County Board of Elections to fix the day of the recall election of Mayor King.

Respectfully submitted,

Eric J. Brewer, Clerk of Council

SEP 26 2023 PM 12:52

Agenda Item

#8

Precinct Election Official Performance Summary

August 8, 2023 Special Election

The standard guidance in conducting the PEO Performance Review requires processes and procedures to be evaluated as directed by the Secretary of State (SOS). The workers demonstrated overall knowledge and participated in an Election Day with few procedural errors. According to the criteria set by the Ohio Election Official Manual, as well as the feedback gathered from the Call Center, post-election surveys from workers and voters, and internal staff we met our benchmarks and accomplished our goals overall.

WORKER STATISTICS

Number of Polling Locations	Minimum Number of PEOs Needed	Goal Number of PEOs	Number of PEOs Worked	% New Workers
291	1,934	3,921	3,404	16.6%

Future Worker Appointments	
Promote	6
Relocate	18
Remove	15
On Watch	39
Demote	10

Training Statistics*	
In Person	3,388
Online Review	216
Zoom	505
Total # Trained	3,388

*Individuals who trained and worked in the August 8, 2023 Election were required to attend in-person training, based on the implementation of new Voting Equipment. Election Officials were given the option for online review and/or to attend a Zoom meeting with BOE staff to review training materials before Election Day.

CRITERIA FROM SECTION 17.05 OF THE ELECTION OFFICAL MANUAL

Opening and Closing of Polls

- Opening and closing on time:
 - All 291 locations opened and closed on time – 100%
- Printing, signing, and packing the zero tapes and summary reports:
 - n/a this election, based on Ballot Scanner report printing issues
- Completing the Oath of Office:
 - 291 locations fully completed the Oath of Office – 100%
 - 0 locations did not fully complete the Oath of Office – 0%
- Correctly opening and closing all voting machines:
 - n/a this election, based on Ballot Scanner reporting issues

Self-Reporting of Problems

- All 291 locations properly self-reported equipment problems and/or low ballot supply. (100%)

Handling of Provisional Ballots

- Properly issuing Provisional Ballots to voters:
 - 210 locations had NO provisional ballots rejected due to PEO error – 72%
 - 81 locations had ONE OR MORE provisional ballots rejected due to PEO error – 28%

Provisional Ballot Rejection % due to PEO error	August 2022	November 2022	August 2023
No Printed Name	0.0%	0.0%	0.0%
No Signature	0.2%	0.3%	0.2%
Missing Date of Birth	0.2%	0.2%	0.3%
No Ballot in Envelope	0.9%	0.7%	0.2%
Missing Address	0.5%	0.2%	0.1%
Wrong Precinct Wrong Location	1.0%	1.2%	2.1%
Totals	2.7%	3.0%	3.0%

- Properly taping the correct EPB slip to each Provisional Envelope:
 - n/a this election, based on Provisional Tally Sheet reports

Reconciliation After Polls Close

- 271 locations completed the Ballot Accounting process. (93%)
- 20 locations did not complete the Ballot Accounting process. (7%)

HISTORICAL DATA COMPARISON

Performance Categories	Aug 2022	Nov 2022	Aug 2023
Overall Score	1.10	1.27	1.12
Properly signed all voting machine tapes	69.0%	60.5%	n/a
Fully completed Oath of Office	100.0%	99.3%	100.0%
Correctly opened/closed all voting machines	91.0%	82.5%	n/a
Followed device issue reporting procedure	100.0%	100.0%	100.0%
Followed low ballot reporting procedure	100.0%	100.0%	100.0%
Processed all Provisional Ballots correctly	96.0%	52.5%	72.0%
Taped all EPB slips to Provisional Envelopes	92.0%	42.0%	n/a
Submitted Ballot Accounting	98.0%	98.5%	93.0%

NEXT STEPS

- Updating the New Equipment Supplemental Guide, based on Lessons Learned in August.
- Created a new training video with processes and procedures for troubleshooting the new equipment.
- Requiring all workers to return to training, either in-person or online.
- Holding required Practice Makes Perfect classes for VLMs and VLDs.
- Continuing to focus on policies impacted by H.B. 458 in training.
- Collaborating with other departments to improve post-election reporting used in this Performance Review.

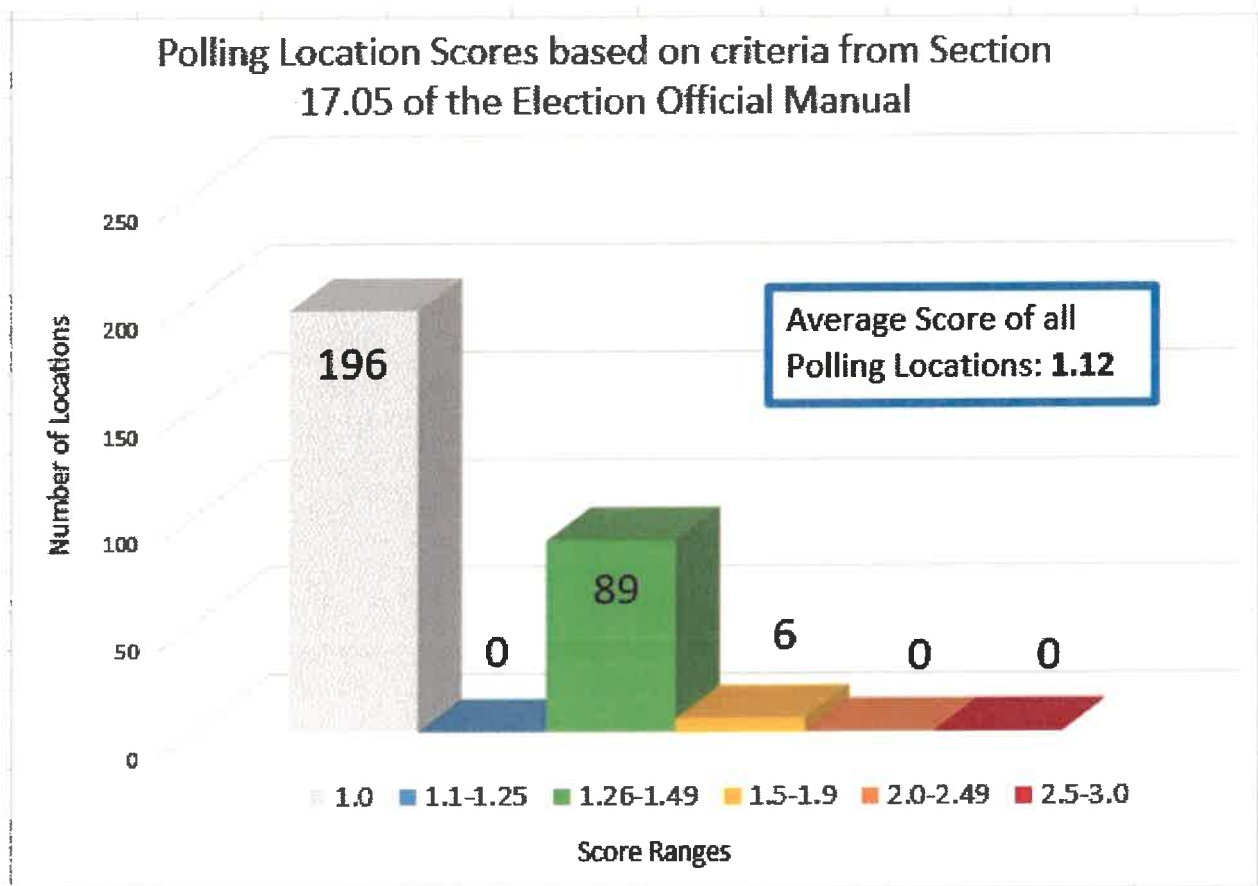
August 8, 2023 Special Election Precinct Election Official Performance Report

FULL RESULTS

The results in this report meet the standards of monitoring and assessing PEOs provided in Section 17.05 of the Election Official Manual. There was a total of **291 Polling Locations** in this election. The complete results of the PEO Performance Report from the August 8, 2023 Special Election can be provided in a separate document if needed.

Polling Locations are graded on a scale from 1 to 3 in each category, 1 being the highest score and 3 being the lowest score. An average score is calculated to indicate the Polling Location's overall performance.

AVERAGE score of each polling location relative to the criteria from Section 17.05 of the Election Official Manual



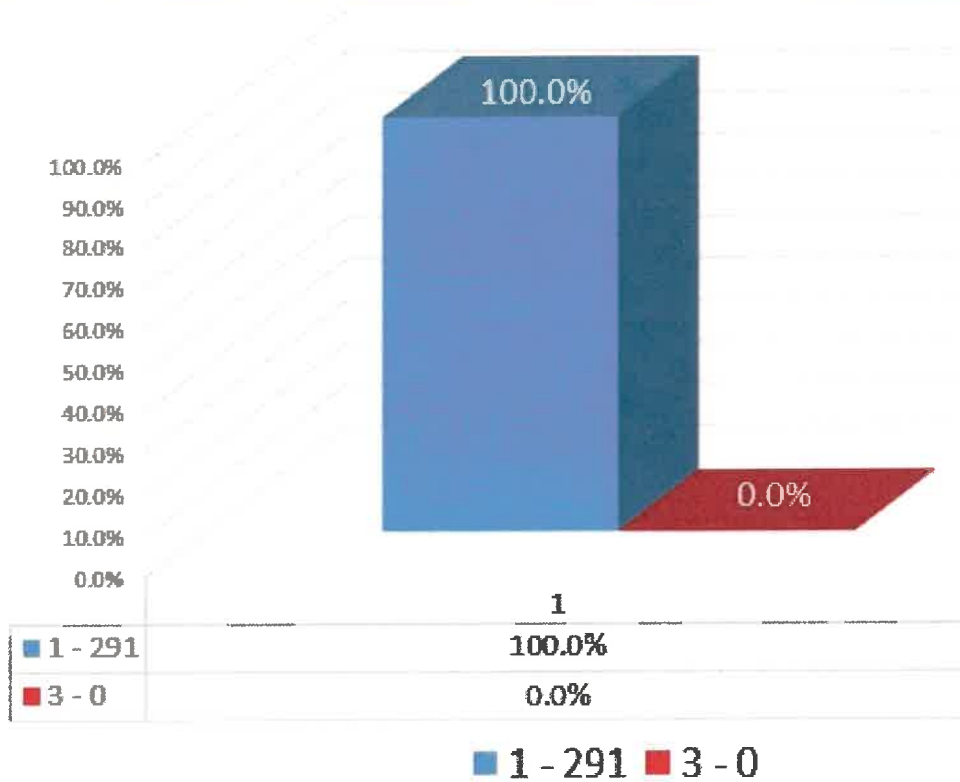
Note: The scores range from 1.0 to 3.0; 1.0 being a perfect score.

A. OPENING AND CLOSING OF POLLING LOCATIONS

What follows is the performance of the PEOs against the criteria set forth by the Secretary of State for properly opening and closing a Polling Location.

1. Did the Polling Location open and close on time?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Location opened/closed on time	291	100%
3 - Location not opened/closed on time	0	0%



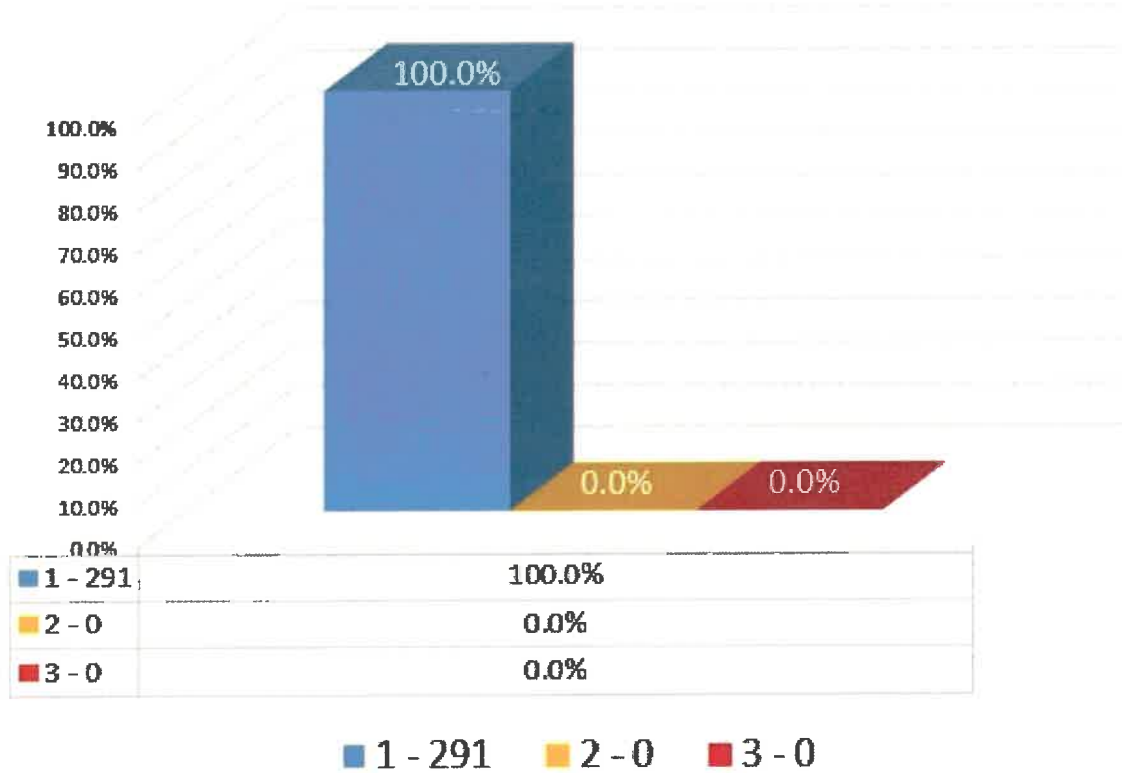
2. Did the PEOs print, sign, and pack the zero tape(s) and summary report(s)?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Completed BOTH zero and summary tapes	n/a	n/a
2 - Completed some but NOT ALL tapes	n/a	n/a
3 - DID NOT complete any tapes	n/a	n/a

- There were documented issues that the ClearCast Go Ballot Scanners had with printing reports on Election Day, both opening and closing.
- Due to these printing issues, Precinct Election Officials will not be assessed on this metric.

3. Did the PEOs sign the Oath of Office?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Fully completed Oath of Office	291	100%
2 - Partially completed Oath of Office	0	0%
3 - Did not complete Oath of Office	0	0%



4. Did the Polling Location correctly open/close all voting machines?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - All voting machines were correctly opened/closed	n/a	n/a
3 - Not all voting machines were correctly opened/closed	n/a	n/a

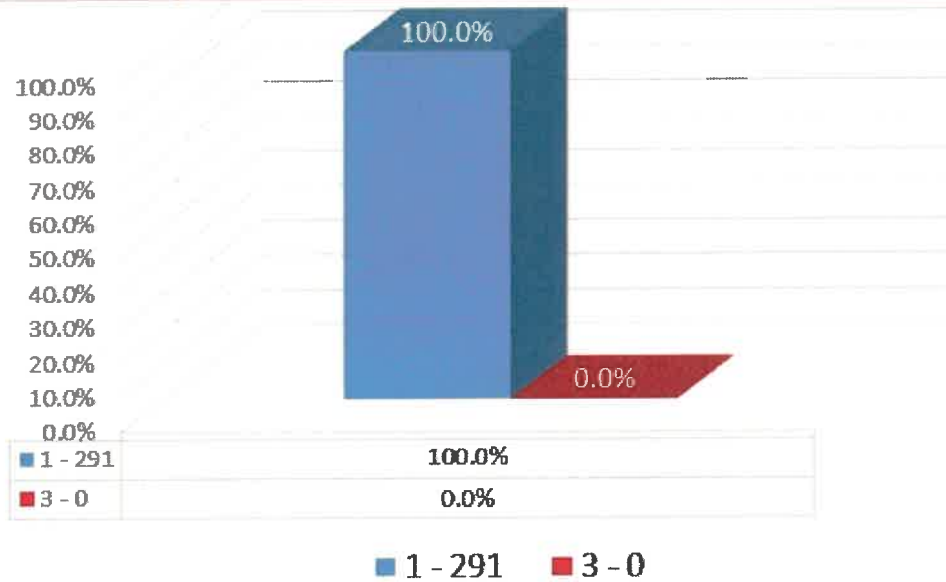
- Due to the equipment issues experienced on Election Day, Precinct Election Officials were not assessed on this metric.

B. SELF-REPORTING OF PROBLEMS

What follows is the performance of the PEOs against the criteria set forth by the Ohio Secretary of State for properly reporting any problems with the voting equipment or ballot supply on Election Day.

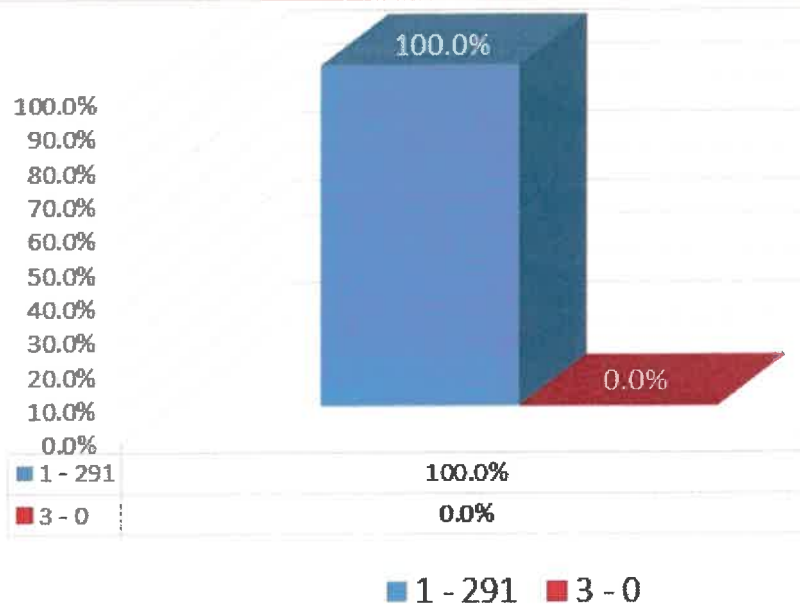
1. Did the PEOs follow required procedures for reporting any voting machine/device issues to the board?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Followed procedures	291	100%
3 - DID NOT follow procedures	0	0%



2. Did the PEOs follow required procedures for reporting if/when the ballot supply ran low to the board?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Followed procedures	291	100%
3 - DID NOT follow procedures	0	0%

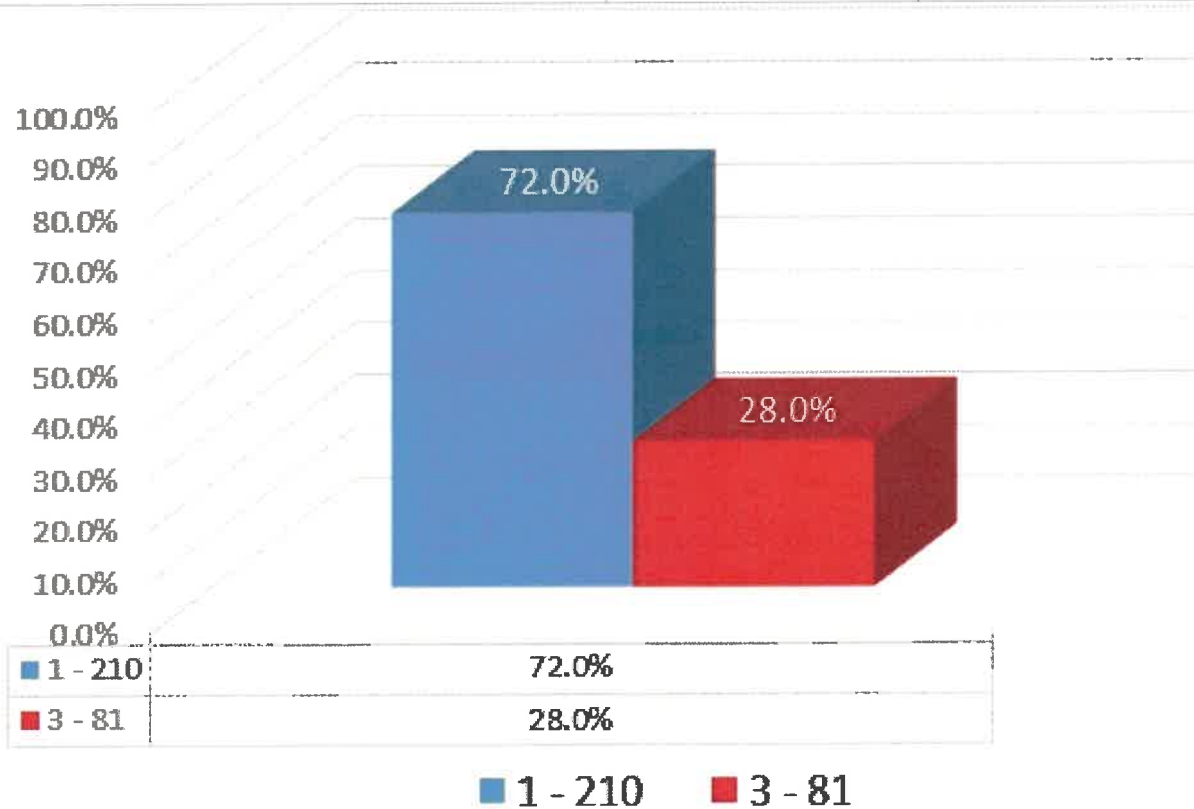


C. HANDLING OF PROVISIONAL BALLOTS

What follows is the performance of the PEOs against the criteria set forth by the Secretary of State for properly handling Provisional ballots.

1. Did the PEOs properly issue Provisional ballots to voters, including directing Wrong-Polling Location voters to the correct Location?

Scoring	# of Polling Locations	% of Total Polling Locations
1 - Had NO Provisional ballots rejected due to PEO error	210	72%
3 - Had ONE OR MORE Provisional ballots rejected due to PEO error	81	28%



2. Did the PEOs properly tape the correct EPB slip to each Provisional Envelope?

Scoring	# of Polling Locations	% of Total Polling Locations
1 – ALL EPB slips taped	n/a	n/a
2 – 50% OR MORE EPB slips taped	n/a	n/a
3 – FEWER than 50% of EPB slips taped	n/a	n/a

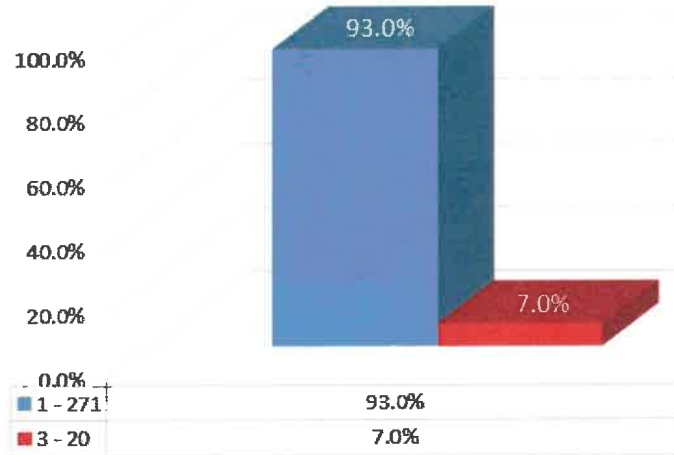
- In many of the Provisional Tally Sheets, we were not able to get an accurate assessment of EPB slips included with Election Day Provisional Ballots.
- Due to this, Precinct Election Officials were not assessed on this metric.

D. RECONCILIATION AFTER POLLS ARE CLOSED

What follows is the performance of the PEOs against the criteria set forth by the Secretary of State for properly closing the polls.

1. Did the PEOs complete their reconciliation duties?

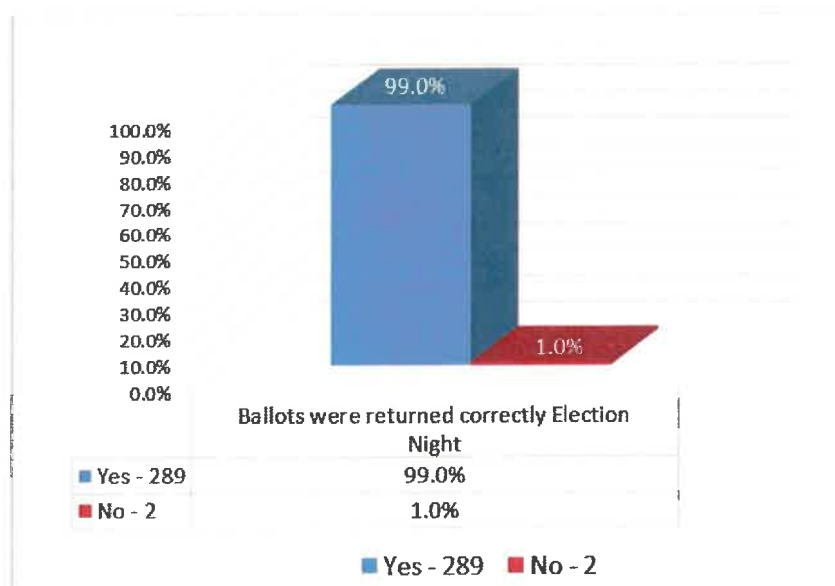
Scoring	# of Polling Locations	% of Total Polling Locations
1 - Completed reconciliation duties (Ballot Accounting)	271	93%
3 - DID NOT complete reconciliation duties (Ballot Accounting)	20	7%



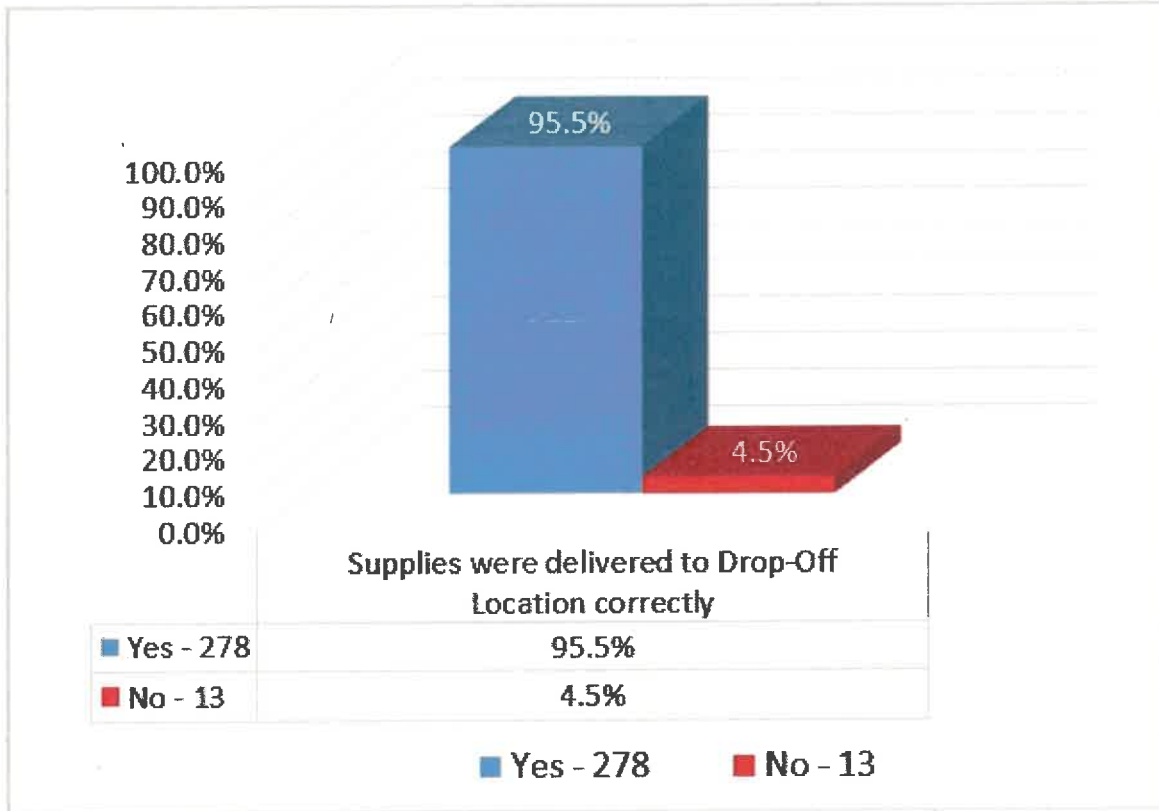
POLLING LOCATION PERFORMANCE REVIEW “GRADE SHEET”

Each PEO is sent a “Grade Sheet” following the election that evaluates the performance of the Polling Location against the criteria from Section 17.05 of the Election Official Manual. In addition, we grade the Polling Locations on other criteria related to Election Day procedures. Below are the criteria that we grade Polling Locations on in addition to those listed in the Election Official Manual.

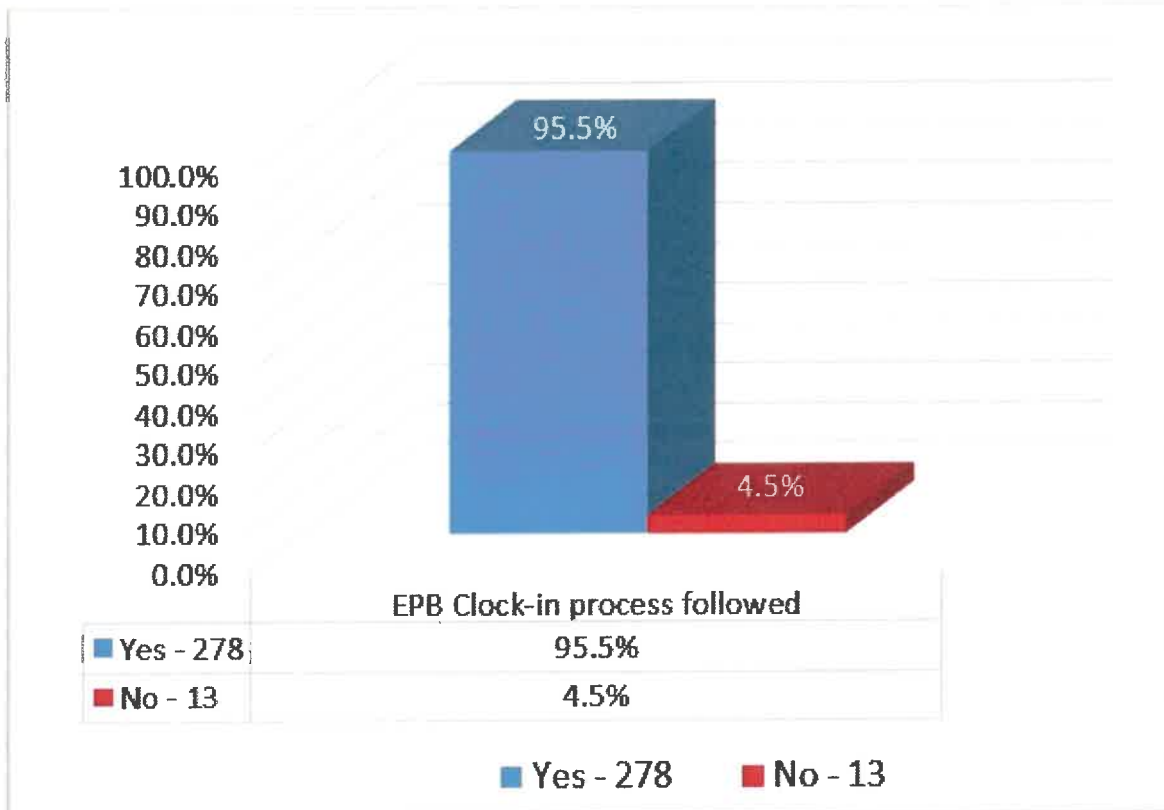
Were ballots returned correctly on Election Night?



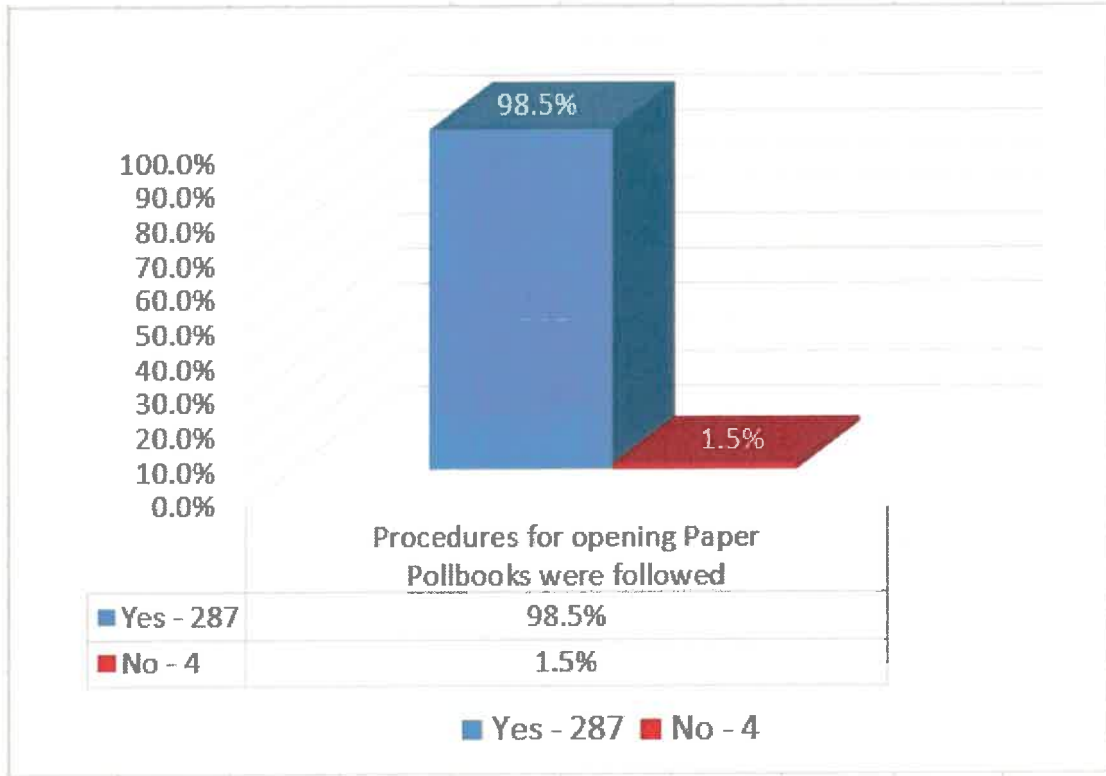
Were supplies delivered to the Drop-Off Location correctly?



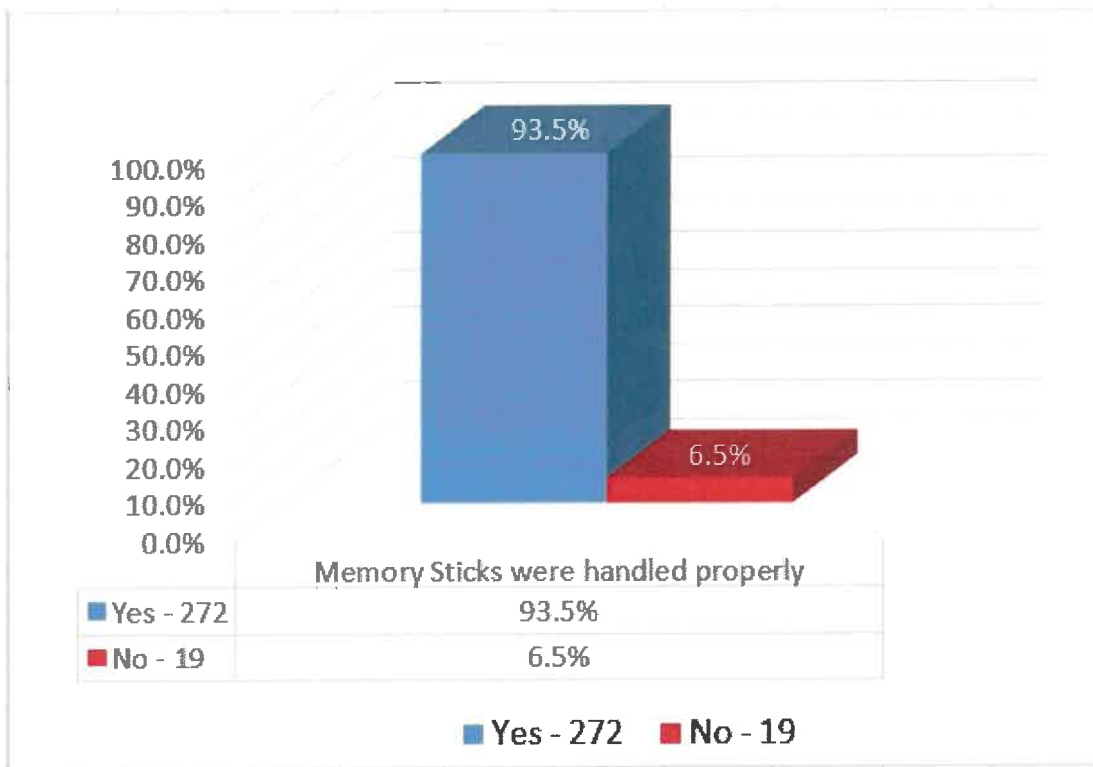
Were the EPB Clock-in procedures followed correctly?



Were procedures for opening Paper Pollbooks followed?



Were memory sticks handled properly?*



*ClearCast Go Ballot Scanners hold two (2) USB Memory Sticks, while the DS200 Ballot Scanners had only one (1) Memory Stick. This led to some confusion as to which Memory Stick was to be removed from the Ballot Scanners and returned to Drop-Off Locations. This is a focus in our training for the November 2023 Election cycle.

Agenda Item

#9

Resolution No. R2023-9-27-FIS-V

WHEREAS, the Cuyahoga County Fiscal Office (CCFO) requires the Cuyahoga County Board of Elections (CCBOE) to provide multiple documents to the CCFO to facilitate the procurement and subsequent accounts payable functions associated with CCBOE contracts for goods and services from vendors. The Resolution is necessary for the CCBOE to continue to provide for the usual operational services critical to election administration.

RESOLVED, that the Cuyahoga County Board of Elections hereby authorizes the Director, on behalf of the Board, to undertake all actions necessary to procure and subsequently pay the items identified as twelve (12) Fujitsu Front Side Post Imprinters for use with the Clear Count high-speed scanning (Fujitsu FI-7900) equipment in an amount not to exceed \$31,920.00 (PO Attached).

RESOLVED, this Resolution shall take effect and be in force immediately upon receiving the affirmative vote of a quorum of members of the CCBOE. All formal actions of this Board relating to the adoption of this Resolution were adopted in an open meeting of the Board, open to the public, and in compliance with all legal requirements of the Ohio Revised Code.

FURTHER RESOLVED, the Director and Chair are authorized to authenticate this resolution upon adoption through their signatures thereon, and the Director is instructed to transmit copies of this resolution to those individuals deemed necessary to effectuate the intent of its adoption.

Board Meeting Date: September 27, 2023

Agenda Item: Fiscal Services A

Vendor: Clear Ballot Group, Inc.

Motion: (as presented on the agenda with any edits made during the meeting)

Motion made by: ----- Chairman Curtis

Motion seconded by: ----- BOARD Member McCafferty

Vote of the Board Members:

Henry F Curtis, IV, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay
Inajo Davis Chappell, Member	<input type="checkbox"/> Yay	<input checked="" type="checkbox"/> Nay <u>Absent</u>
Lisa M. Stickan, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay
Terence McCafferty, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay

Resolution adopted at the Cuyahoga County Board of Elections meeting on 27th
September 2023

Signature of Chairman 

Signature of Director 



Clear Ballot Group, Inc.
Tax ID: 27-0798408
Tel: +1 857-250-4961
info@clearballot.com
https://clearballot.com/

Invoicing Address:

Cuyahoga County, OH, BOE Fiscal Services
2925 Euclid Ave
Cleveland OH 44115
United States

Cuyahoga County, OH, Cuyahoga County
Elections Warehouse
1890 E 40th St.
Cleveland OH 44103
United States

Quotation # S03548

Order Date:

09/18/2023 11:24:56

Salesperson:

Adam Booth

DESCRIPTION	QUANTITY	UNIT PRICE	TAXES	AMOUNT
Part Number: SKU CG01000-531101 Fujitsu Front Side Post Imprinter For Models: fi-6400, fi-6800, fi-7800, fi-7900 Includes: Shipping, Fujitsu Installation 1 Toner - HP C6602A	12.000 Units	2,660.00		\$ 31,920.00
		Subtotal		\$ 31,920.00
		Total		\$ 31,920.00

Options

DESCRIPTION	UNIT PRICE
Additional Fujitsu Imprinter Toner HP C6602A Fujitsu Part Number CA00050-0262	\$ 125.00

There will not be additional installtion charges if ClearCount configuration is included if conducted during an already planned visit. If a tech is require at a different time there will be an added one time charge of \$850.

This quotation is issued pursuant to, is governed by and subject to the terms and conditions of the Clear Ballot Group Master Services Agreement executed by and between the parties (the "Terms"). Capitalized terms used but not defined herein shall have the meaning set forth in the Terms.

The undersigned hereby agree to be bound by the terms and requirements of this quote.

2 Oliver Street, Suite 607
Boston MA 02109
United States



Clear Ballot Group, Inc.
Tax ID: 27-0798408
Tel: +1 857-250-4961
info@clearballot.com
<https://clearballot.com/>

County Representative *Raunert* Date: 9/21/23

DEPARTMENT APPROVAL
CUYAHOGA COUNTY BOARD OF ELECTIONS

Vendor Name: Clear Ballot Group Inc

Vendor Number: 39455

PO Number: 23004242 EXT B

Requested By: Vicki Racette

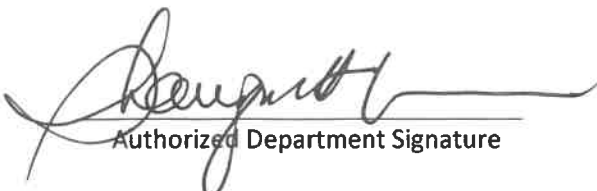
Date: 9/19/23

DELIVER TO:
 Board of Elections Warehouse
 1890 East 40th Street
 Cleveland, OH 44103

Item	Quantity	UOM	Description	Unit Price	Total Price
1	12	EA	Fujitsu Front Side Post Imprinter (includes shipping, installation & toner HP C6602A)	\$ 2,660.00	\$ 31,920.00
PO TOTAL:					\$ 31,920.00

Justification for not receiving three quotes:
 This equipment is connected to the ballot equipment and warranty that the Board of Elections purchased from Clear Ballot Group.

Accounting Unit:	BE100125
Account:	52700
Sub-Account:	0
Type:	X
Asset:	No


 Authorized Department Signature

Agenda Item

#10

Resolution No. R2023-9-27-FIS-V

WHEREAS, the Cuyahoga County Fiscal Office (CCFO) requires the Cuyahoga County Board of Elections (CCBOE) to provide multiple documents to the CCFO to facilitate the procurement and subsequent accounts payable functions associated with CCBOE contracts for goods and services from vendors. The Resolution is necessary for the CCBOE to continue to provide for the usual operational services critical to election administration.

RESOLVED, that the Cuyahoga County Board of Elections hereby authorizes the Director, on behalf of the Board, to undertake all actions necessary to procure and subsequently pay the items identified as the authorization for the Director to enter in a Memorandum of Understanding with the Secretary of State's Office(SOS), Couty Council and the County Executive for the purchase of Tenex Software Solutions electronic pollbook system pursuant to the SOS Advisory 2023-03; in an amount not to expected exceed \$1,046,283.00 (Quote Attached).

RESOLVED, this Resolution shall take effect and be in force immediately upon receiving the affirmative vote of a quorum of members of the CCBOE. All formal actions of this Board relating to the adoption of this Resolution were adopted in an open meeting of the Board, open to the public, and in compliance with all legal requirements of the Ohio Revised Code.

FURTHER RESOLVED, the Director and Chair are authorized to authenticate this resolution upon adoption through their signatures thereon, and the Director is instructed to transmit copies of this resolution to those individuals deemed necessary to effectuate the intent of its adoption.

Board Meeting Date: September 27, 2023

Agenda Item: Fiscal Services _____

Vendor: Tenex Software Solutions

Motion: (as presented on the agenda with any edits made during the meeting)

Motion made by: ----- *CHAIRMAN CURTIS*

Motion seconded by: ----- *BOARD MEMBER McCafferty*

Vote of the Board Members:

Henry F Curtis, IV, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay
Inajo Davis Chappell, Member	<input type="checkbox"/> Yay	<input checked="" type="checkbox"/> Nay <i>Absent</i>
Lisa M. Stickan, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay
Terence McCafferty, Member	<input checked="" type="checkbox"/> Yay	<input type="checkbox"/> Nay

Resolution adopted at the Cuyahoga County Board of Elections meeting on 27th
September 2023

Signature of Chairman *Henry F Curtis, IV*

Signature of Director *[Signature]*

Acquiring Electronic Pollbooks With State Funding

History

In June of 2015, the 131st Ohio General Assembly passed House Bill (H.B.) 64, the state operating budget. This budget included funding for the purchase of electronic pollbooks (EPBs) by boards of elections. The Cuyahoga County Board of Elections (CCBOE) was allocated \$1,460,000. After an exhaustive 17-month search process, the CCBOE chose Tenex Software Solutions to be its EPB vendor in January of 2017. The first election Tenex EPBs were utilized was the May 2, 2017 Primary Election.

The selection of Tenex has proven to be a very prudent one. The EPBs have been reliable and Tenex has listened to feedback from the CCBOE and continually improved its product. In total, Tenex EPBs have been used in 26 different elections, so it has stood the test of time.

State Funding Details

In H.B. 45 of the 134th General Assembly, the legislature appropriated \$7,500,000 for Ohio county boards of elections to procure electronic pollbooks. The legislature, in H.B. 33 of the 135th General Assembly, made changes to the procurement and reimbursement process. The main takeaway from these changes for the CCBOE is it will now notify the Secretary of State (SOS) of its EPB selection but will then purchase the equipment and any ancillary supplies *itself*. The SOS will then reimburse the CCBOE directly (not the county's general fund).

This is a different process than the purchase of new voting equipment (Table A), when boards of elections notified the SOS of their voting equipment selection, but then the SOS, working with the Department of Administrative Services (DAS), would coordinate the payment to the vendor.

Each county is allocated a pro rata share of the \$7,500,000 appropriation based on the number of registered voters in the county as of July 1, 2022. For the CCBOE, its share comes to **\$821,449.00**. The CCBOE is eligible to be reimbursed for 85% of the purchase of EPBs and related equipment up to its allocated amount, whichever is less. Reimbursement cannot exceed \$821,449.00.

Requirements & Timeline

Funding for EPBs expires on June 30, 2024, so the necessary documentation to be reimbursed for the purchase must be received by the SOS no later than **May 1, 2024**. *Advisory 2023-03* states that boards of elections *should* purchase at a minimum one EPB per precinct in the county (for the CCBOE that would be a minimum of 967). The CCBOE will **purchase 1,450 EPBs** to match the number units that are currently covered by our annual maintenance and licensing agreement. This agreement runs through May 31, 2027.

To receive reimbursement, the CCBOE must be an active member of the DAS Cooperative Purchasing Program and enter into a Memorandum of Understanding (MOU) with the SOS and County Council. An MOU template was provided with *Advisory 2023-03*. The CCBOE should work with its county prosecuting attorney to ensure the MOU is executed.

Tenex has informed the CCBOE it needs 90 to 120 days of lead time to secure, deliver, and configure the new equipment for use in an election. The goal is to implement new EPBs at the March 19, 2024 Presidential Primary Election. This places the delivery of new EPBs and accessories as tentatively the middle of January 2024.

Obtaining Reimbursement

To be reimbursed, the CCBOE must provide the following to the SOS by **May 1, 2024**:

- A copy of the completed and signed MOU;
- A copy of the invoice for the contract purchase of EPBs and related equipment;
- A copy of the purchase order for the contract purchase of EPBs and related equipment; and
- Proof of payment of the invoice, if available.

What is New?

The purchase of new EPBs from Tenex will provide the CCBOE with 10th generation iPads, the newest model. This will significantly increase the display screen size of the EPBs from 7.9 to 10.9 inches. The new iPads will allow the CCBOE to have the latest version of iOS (16) installed. The current EPBs, due to their age, have been capped at iOS 12. The advantages of this include faster processing speeds, and a more secure software system.

Just as important is what has not changed – which is the software program poll workers and voters have grown accustomed to. The look, feel, and functionality of the new EPB will be nearly identical to that of the current EPB. In addition, the existing printers that pair with the EPB work with the new software and remain in good operating order.

Next Steps

- The Cuyahoga County Board of Elections approves the purchase of new EPBs from Tenex Software Solutions.
- The Cuyahoga County Council approves the purchase and funding the difference between what the CCBOE is reimbursed for the purchase of new EPBs from the SOS and the total cost of the product and accessories.
 - The purchase will be brought before TAC on October 12th.
 - The purchase will be introduced at the October 24th County Council meeting.
 - The CCBOE will present at the November 14th County Council meeting.

- The County Council will hopefully approve the purchase and the funding of it at the November 28th County Council meeting (if necessary).
- Place the order with Tenex (the CCBOE has already made the Office of Budget and Management aware of this impending purchase).
- Submit to the SOS the required documentation noted in the Obtaining Reimbursement section above.



5021 W. Laurel Street Tampa, FL 33607
 (813) 618-3639 |
 info@tenexsolutions.com

Cuyahoga County, OH Precinct Central Hardware Quote

Date: 9/25/2023

To: Cuyahoga County Board of Elections Office

From: Tenex Software Solutions, Inc.

Item #	Product Description	Quantity	Unit Price		Total
1	Hardware - 10th Generation iPad (10.9" touchscreen, 64GB, charging block, & 3' lightning cable)	1450	\$	449.00	\$ 651,050.00
2	Hardware - Flip & Share Stand (includes stylus & cleaning cloth)	1450	\$	100.00	\$ 145,000.00
3	Hardware - Large Carrying Case & Luggage Tag (holds 2 Touchpads, 2 Epson printers & accessories)	725	\$	200.00	\$ 145,000.00
4	Service - Shipping & Configuration	1450	\$	48.00	\$ 69,600.00
5	Hardware - iMac 24" with Retina Display (M1 chip, 512GB SSD, 16GB memory) with Keyboard and Magic Mouse	2	\$	1,999.00	\$ 3,998.00
6	Hardware - Ubiquiti U6 Enterprise Access Point (supports WiFi 6)	8	\$	350.00	\$ 2,800.00
7	Hardware - Ubiquiti Enterprise 24 PoE	1	\$	1,050.00	\$ 1,050.00
8	Hardware - Ubiquiti Dream Machine Special Edition	1	\$	650.00	\$ 650.00
9	Hardware - SPF+ DAC Cable	1	\$	135.00	\$ 135.00
10	Hardware - Dell PowerEdge R450 Rack Server	1	\$	12,000.00	\$ 12,000.00
11	Hardware - Epson TM-m30iii Bluetooth Receipt Printer	50	\$	300.00	\$ 15,000.00

Total Purchase Price: \$ 1,046,283.00

Terms

This quote is valid for 30 days and subject to change based upon contract terms and conditions or any change in configuration.

Signature	Date	PO# (if applicable)
-----------	------	---------------------

Agenda Item

#11

2024 – 2025

Recommended Biennial Budget

For the Cuyahoga County Board of Elections

Henry F. Curtis, IV
Chairman

Inajo Davis Chappell
Board Member

Lisa Stickan
Board Member

Terence McCafferty
Board Member

Anthony W. Perlatti
Director

Anthony N. Kaloger
Deputy Director

Shaunquitta
Walker
Fiscal Manager

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Executive Summary and Highlights

The 2024 and 2025 recommended biennial budget is sufficient for the Cuyahoga County Board of Elections (CCBOE) to effectively provide election services to all voters, candidates, committees, and political subdivisions in Cuyahoga County, which has 880,000 registered voters – the most out of any county in the State of Ohio.

Recently the CCBOE has seen an increase in voter participation outside of Presidential Election years. This ever increasing voter trend is expected to continue in the two (2) known elections in 2024 and three (3) known elections in 2025. This is partly fueled by the increased likelihood that statewide issues will appear on the ballot over the next couple of years. In addition to overall increased voter participation, more voters are self-opting and are being encouraged by political parties to vote by mail or by early in-person voting at the CCBOE.

The CCBOE's 2024-2025 Recommended Biennial Budget includes a 2% for permanent employees and 1.75% for Board Members COLA in each year. An additional \$83,000.00 overall increase for Seasonal Temporary Employee wages from \$15 per hour to \$15.25 per hour for 2024 and \$15.50 per hour for 2025 is included. The Seasonal Temporary Employees do not receive the permanent staff COLA.

Per ORC Section 3501.17, the CCBOE charges back subdivisions for the wages incurred by election day workers in odd number years and returns those funds to the County general fund making the 2025 seasonal staff increase virtually cost neutral to the general fund.

In addition to wage increases for the staff necessary to conduct all elections, the budget also includes an additional \$345,200 to cover the ongoing maintenance and licensing fees needed to support election administration and voter enhancements realized from the purchase of equipment and software with grant dollars in 2020.

An additional \$200,000 was included in the Administration Budget to fund ongoing maintenance projects (non-routine) that are necessary to maintain a safe environment for staff and the public in our aging buildings. **The CCBOE would like to continue the funding of this initiative in the budget until it is confirmed whether the CCBOE will be relocated or not.**

In the new initiatives you will find the CCBOE would like to continue to enhance operations, streamline processes and most importantly create a redundancy plan by purchasing another Agilis Inbound Mail Ballot Processor and associated software. This purchase of approximately \$350,000 would improve the overall daily absentee mail operations and provide the needed safety net for when this piece of critical election equipment goes offline. The Agilis directly impacts when voters can track that their voted Vote-by-Mail Ballot has been received by the CCBOE.

Part I

Introduction

Background

The Board of Elections is responsible for conducting all official elections in Cuyahoga County, as well as for maintaining the voter registration records of the County’s registered voters and the campaign finance reports of all local candidates and political committees.

With around 900,000 registered voters, Cuyahoga County is one of the **largest election jurisdictions** in the State of Ohio.

The Board of Elections consists of **four Board Members**—two Republicans and two Democrats—who are appointed by the Ohio Secretary of State to serve four-year terms. Board Members are responsible for ensuring that the agency’s duties are carried out in accordance with state and federal law, as well as in accordance with the instructions of the Secretary of State and the policies adopted by the Board Members.

The Board Members appoint a **Director** and **Deputy Director** who must be of the opposite political party and are responsible for the day-to-day operations of the agency. In addition to the Director and Deputy Director, the full-time staff of the Board of Elections includes **90 full-time employees** who serve at the pleasure of the Board Members. Full-time employees are divided into the following **ten departments**:

Ballot Preparation & Tabulation	Prepares ballots for elections and is responsible for ballot tabulation and election results. Tests all election equipment to ensure proper operation on Election Day. Process Vote by Mail ballot application requests and Vote by Mail ballot returns, including voters confined to nursing homes and hospitals.
Candidate & Petition Services	Assists candidates, political subdivisions, or any entity that wishes to have an item placed on the ballot. Processes petition filings for municipalities, candidates, and issues. Accepts, files, and audits campaign finance reports. Facilitates early in-person voting.
Community Outreach	Primary liaison with media and news organizations. Promotes voter registration and provides voter education and information at locations and events throughout Cuyahoga County and via online and social media.
Election Officials	Recruits, hires, and trains all election officials and Election Day workers according to Ohio Law.
Election Support	Responsible for voting location selection and assuring accessibility for all voters. Prepares and delivers voting equipment and supplies to voting locations prior to each election.
Executive Office	Includes the Director, Deputy Director, Elections and Compliance Administrator, and support staff.
Fiscal Services	Manages the budget, accounts payable, contracts, procurement, payroll, and overall building operations.
Human Resources	Manages recruiting, screening, interviewing, and placing Board of Elections full-time, part-time, and temporary staff. Administers comprehensive personnel program.
Information Systems	Manages voter registration database and the Board of Elections website. Draws precinct boundaries according to Ohio law. Ensures voters are assigned to their correct precincts. Provides technical support to all departments. Supports and complies with cyber security initiatives enforced by the Ohio Secretary of State
Registration	Processes voter registration cards. Verifies signatures on petitions for candidates and issues. Mail voter-registration-related notifications. Maintains and updates voter history after each election (party affiliation and voting activity).

Elections in 2024 and 2025

The Board of Elections will conduct two countywide elections in 2024 and three elections (two local and one countywide) in 2025. Additional special elections for various purposes may also be needed.

March 19, 2024 Presidential Primary Election

This **countywide** election will include party nominations for federal, state, and local offices. Voter turnout in Cuyahoga County was **22.93%** for the last Presidential Primary Election in 2020 and was **42.52%** for the 2016 Presidential Primary Election. Note: The 2020 Primary had no voting at the polls on account of the COVID pandemic.

November 5, 2024 Presidential General Election

This **countywide** election will include candidates for the federal, state, and local offices that are nominated in the Primary Election. Voter turnout in Cuyahoga County was **70.99%** for the last Presidential General Election in 2020 and was **69.24%** for the 2016 Presidential General Election.

May 2, 2025 Primary Election

This **local** election will include nominations for local offices in some municipalities and municipal court districts, if required, and can also include local issues such as charter amendments and tax levies. Below are the size and voter turnout for previous odd-year primary elections held in May:

- 2021: 196 precincts (**20.0%** of the county), **18.87%** voter turnout
- 2017: 175 precincts (**17.9%** of the county), **22.68%** voter turnout

September 12, 2025 Primary Election

This **local** election will include nominations for local offices in some municipalities and municipal court districts, if required, and can also include local issues such as charter amendments and tax levies. The City of Cleveland municipal offices are eligible for this election. Below are the size and voter turnout for the September primary election in 2017 and 2021:

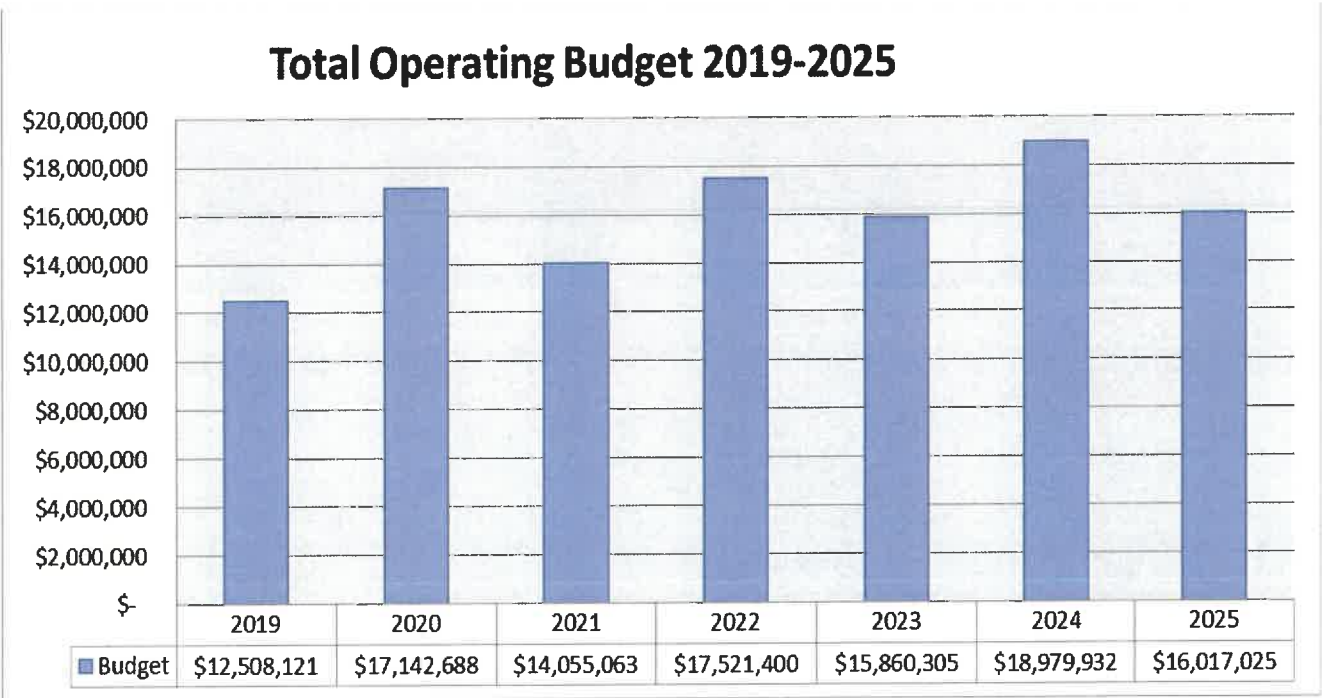
- 2021: 442 Precincts (**45.3%** of the county), **16.52%** voter turnout
- 2017: 389 Precincts (**39.9%** of the county), **13.22%** voter turnout

November 7, 2025 General Election

This **countywide** election will include candidates for local offices in municipalities, school districts, and municipal court districts. Voter turnout in Cuyahoga County was **26.45%** in the 2021 General Election, and **30.90%** in the 2017 General Election.

Impact of Four-Year Election Cycle

The total recommended budget of \$19 million for 2024, a presidential election year, is an increase of \$1.9 million (11%) from 2022, the last gubernatorial election year. The total recommended budget of \$16 million for 2025, a municipal election year, is an increase of \$156,720 (0.99%) from 2023. The nature of the CCBOE’s business model causes the upcoming budgets to be based on both the previous year’s budget as well as the similar election budget from four years prior.



- 2021, 2022 and 2023 does not include the additional appropriations for the unplanned elections.

The yearly fluctuations in the operating budget displayed in the chart above are mostly due to the varying size of the elections (i.e., turnout and total precincts) conducted within a given year.

The annual percentage increases in the 2024-2025 biennium budget recommendations are consistent with the percentage increases the CCBOE has witnessed in the recent past. The landscape and requirements for conducting safe, fair and transparent elections has changed.

The increase or decrease in turnout and total precincts generally corresponds to the **four-year election cycle** described below.

Type	Years	Elections
Presidential Election Year	2020, 2024, 2028, etc.	One countywide primary election (average turnout) and one countywide general election (highest turnout).
Municipal Election Year (including the City of Cleveland)	2017, 2021, 2025, etc.	Two non-countywide municipal primary elections (average turnout) and one countywide general election (average turnout). However, Cleveland Council/Mayor candidates are elected in these years which can result in more precincts/higher turnout than other municipal election years.
Gubernatorial Election Year	2018, 2022, 2026, etc.	One countywide primary election (average turnout) and one countywide general election (average to high turnout).
Municipal Election Year (without the City of Cleveland)	2019, 2023, 2027, etc.	Two non-countywide municipal primary elections (average turnout) and one countywide general election (average turnout).

Budget Overview by Category

As indicated in the chart below, full-time staff payroll and benefits represent approximately half of the budget in both 2024 and 2025. An additional third of the budget consists of funding for election officials, ballot printing, and temporary staff.

Other significant budget categories include county building service charge backs (security, custodial, and maintenance) for the Board of Elections Building, postage and mailing services, county lease and utility chargebacks for the Halle Warehouse, paper and printed materials, voting equipment maintenance, and election-related rentals or other services.

Budget Category	2024	%	2025	%
Full-Time Staff Payroll	\$ 6,172,240	38.58%	\$ 6,233,971	32.92%
Temporary Staff	\$ 1,455,300	9.10%	\$ 2,197,553	11.60%
Election Officials and Election Day Workers	\$ 1,657,450	10.36%	\$ 2,446,750	12.92%
Full-Time Staff Benefits	\$ 2,098,984	13.12%	\$ 2,394,648	12.65%
Ballot Printing	\$ 1,148,740	7.18%	\$ 1,210,928	6.39%
County Building Services	\$ 955,955	5.98%	\$ 1,022,872	5.40%
Halle Warehouse Lease	\$ 556,176	3.48%	\$ 543,853	2.87%
Postage and Mailing Services	\$ 344,181	2.15%	\$ 487,313	2.57%
Voter Equipment Maintenance	\$ 97,100	0.61%	\$ 173,220	0.91%
Supplies and Miscellaneous	\$ 225,000	1.41%	\$ 285,650	1.51%
Paper and Printed Materials	\$ 248,471	1.55%	\$ 220,000	1.16%
Administrative Agreements	\$ 190,528	1.19%	\$ 225,875	1.19%
Rentals and Other Services	\$ 165,951	1.04%	\$ 236,404	1.25%
Electronic Pollbook Maintenance	\$ 10,000	0.06%	\$ 250,000	1.32%
Voting Locations	\$ 64,000	0.40%	\$ 774,000	4.09%
Building Maintenance	\$ 100,000	0.63%	\$ 100,000	0.53%
Furniture and Equipment	\$ -	0.00%	\$ -	0.00%
Miscellaneous Vendor Costs	\$ 22,500	0.14%	\$ 22,500	0.12%
Voter Registration System	\$ 434,440	2.72%	\$ -	0.00%
Cybersecurity Enhancements	\$ 50,000	0.31%	\$ 50,000	0.26%
Electronic Pollbook Supplies	\$ -	0.00%	\$ 61,352	0.32%
Grand Total:	\$ 15,997,015	100.00%	\$ 18,936,888	100.00%

Additional Budget Initiatives

The table below lists a summary of new budget initiatives that are included in the 2024-2025 Biennial Budget.

For additional details regarding each proposed initiative, see Part 3 - New Initiatives and Part 4 -Initiatives.

New Initiatives Category	2024 Budget	2025 Budget
Purchase of Agilis® In-Bound Mail Sorting Equipment	\$ 350,000.00	\$ -
Increases for Seasonal Temporary Employee Wages	\$ 41,000.00	\$ 42,000.00
Purchase of Electronic Pollbooks and Ancillary Equipment	\$ 250,000.00	\$ -
Employee Election Cycle Overtime	\$ 100,000.00	\$ 100,000.00
Grand Total:	\$ 741,000.00	\$ 142,000.00

Continued Initiatives Category	2024 Budget	2025 Budget
New Election Systems Maintenance and Licensing	\$ 148,600.00	\$ 148,600.00
Off-Site Retention Material Storage	\$ 22,000.00	\$ 22,000.00
Maintenance Projects	\$ 100,000.00	\$ 100,000.00
Cybersecurity Enhancements	\$ 50,000.00	\$ 50,000.00
Grand Total:	\$ 320,600.00	\$ 320,600.00

In order to recruit Election Day Staff and Temporary Employees to assist in conducting elections, the Board must offer competitive wages. The CCBOE more than doubles the size of its workforce during countywide elections and cannot execute the necessary administrative job functions without this increase in workforce. The CCBOE continues to encounter challenges in meeting its seasonal temporary employee needs and retaining tenured temporary employees. The current hourly rate of \$15.00 is now more competitive with the external job market, but factors such as the cost of gas and time needed to commute downtown impact individuals willingness to take employ with the CCBOE. The CCBOE intends to increase the hourly rate by 1.7% for 2024 and 2025 from \$15.00 to \$15.25 per hour effective January 1, 2024 and from \$15.25 to \$15.50 per hour effective January 1, 2025. This will incrementally aide the CCBOE in maintaining the current employees and remain competitive in the market.

The CCBOE in the current budget cycle has also encountered budgetary challenges in compensating two election day temporary job classifications, Rover and Drop Off Captain. These positions had previously been compensated through pay warrants issued through the Fiscal Office Accounts Payable Division without added pension deductions withheld. These positions now require OPERS wage withholdings resulting in the two job classifications having wages processed through the Fiscal Office Payroll Division. These added withholdings create multiple challenges and make it difficult to recruite and fill these essential election day positions. Going forward, the CCBOE must budget for OPERS and Medicare charges in addition to these classifications hourly rates of pay.

Budget Accounting Units

The operating budget for the Board of Elections is divided into the five budget accounting units listed below.

Budget Name	Accounting Unit	Budget Description
Election Administration	BE100100	Provides funding for full-time staff payroll and benefits; lease chargebacks for the Halle Warehouse space; custodial and security chargebacks for the Board of Elections Main Building; and printing, postage, service, and supply expenditures for administrative (i.e. non-election-specific) purposes.
Primary Election	BE100105	Provides funding for temporary staff, election officials, ballot printing, postage, services, and consumables related specifically to the primary election(s) conducted each year. A countywide primary election is held in March for presidential election years and in May for gubernatorial election years. Municipal primary elections are held in May and September in odd years but typically are not countywide
General Election	BE100115	Provides funding for temporary staff, election officials, ballot printing, postage, services, and consumables related specifically to the annual countywide General Election held in November.
Special Election	BE100120	Provides funding for temporary staff, election officials, ballot printing, postage, services, and consumables related specifically to special elections conducted each year. Regular special elections are held on an as-needed basis in August. Special elections to fill necessary vacant offices or for local communities or subdivisions under fiscal emergency, or can also be held at any time as dictated by state law.
Election Equipment	BE100125	Provides funding for the voting equipment maintenance contract, electronic pollbooks maintenance contract, voter registration system annual license, and various purchases of election equipment and durable goods.

Appropriated funds **cannot** be transferred from one accounting unit to another unless approved by the County Council.

Further, appropriated funds for personnel (payroll and benefits) **cannot** be transferred to non - personnel categories within the same accounting unit (and vice versa) unless approved by County Council.

Part 2

Budget Summary

Budget Overview by Accounting Unit and Category (2019-2025)

Presented below is the recommended operating budget for 2024 and 2025 compared to actual and projected expenditures for 2019 to 2025. The budget is broken down by both accounting unit and category.

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
Election Administration - BE100100	\$ 9,006,218	\$ 8,895,053	\$ 8,566,321	\$ 9,546,813	\$ 9,692,163	\$ 10,956,638	\$ 11,227,828
Administrative Agreements	\$ 164,918	\$ 147,402	\$ 96,374	\$ 55,735	\$ 190,528	\$ 225,875	\$ 236,258
County Building Services	\$ 1,167,090	\$ 1,164,810	\$ 833,082	\$ 1,260,188	\$ 955,955	\$ 1,022,871.85	\$ 1,074,015.44
Full-Time Staff Benefits	\$ 1,937,667	\$ 2,113,683	\$ 1,848,290	\$ 1,969,248	\$ 2,098,984	\$ 2,394,648	\$ 2,506,600
Full-Time Staff Payroll	\$ 4,545,605	\$ 4,667,326	\$ 4,784,479	\$ 5,112,660	\$ 5,386,252	\$ 6,172,240	\$ 6,233,971
Furniture and Equipment	\$ 281,946	\$ 49,728	\$ 14,992	\$ 27,513	\$ -	\$ -	\$ -
Halle Warehouse	\$ 528,220	\$ 454,465	\$ 484,177	\$ 501,765	\$ 556,176	\$ 543,853	\$ 569,750
Paper and Printed Materials	\$ 25,288	\$ 27,250	\$ 128,988	\$ 96,227	\$ 100,000	\$ 100,000	\$ 100,000
Postage and Mailing Services	\$ 124,631	\$ 168,733	\$ 213,504	\$ 183,900	\$ 160,267	\$ 175,500	\$ 180,000
Supplies and Miscellaneous	\$ 230,853	\$ 101,657	\$ 162,435	\$ 144,680	\$ 164,000	\$ 171,650	\$ 177,233
Maintenance Projects	\$ -	\$ -	\$ -	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Cybersecurity Enhancements	\$ -	\$ -	\$ -	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000
Primary Election - BE100105	\$ 752,217	\$ 2,696,140	\$ 1,094,607	\$ 2,377,768	\$ 1,109,980	\$ 3,680,926	\$ 1,626,921
Ballot Printing	\$ 56,130	\$ 607,248	\$ 125,706	\$ 335,313	\$ 545,300	\$ 578,420	\$ 189,999
Election Officials and Election Day Workers	\$ 235,219	\$ 267,247	\$ 518,291	\$ 925,989	\$ 395,250	\$ 1,260,840	\$ 401,390
Paper and Printed Materials	\$ 90,034	\$ 117,815	\$ 81,098	\$ 34,686	\$ 56,171	\$ 60,000	\$ 50,000
Postage and Mailing Services	\$ 89,468	\$ 179,298	\$ 37,667	\$ 173,141	\$ 31,329	\$ 140,222	\$ 52,963
Rentals and Other Services	\$ 21,562	\$ 73,531	\$ 92,915	\$ 161,289	\$ 64,289	\$ 118,202	\$ 93,009
Supplies and Miscellaneous	\$ 35,359	\$ 218,307	\$ 11,162	\$ 16,041	\$ 30,500	\$ 57,000	\$ 57,000
Temporary Staff	\$ 199,185	\$ 1,198,055	\$ 201,307	\$ 682,331	\$ 361,200	\$ 1,080,743	\$ 654,260
Voting Locations	\$ 25,258	\$ 34,639	\$ 26,461	\$ 48,977	\$ 12,000	\$ 385,500	\$ 128,300
General Election - BE100115	\$ 2,038,159	\$ 4,275,171	\$ 2,128,648	\$ 3,177,052	\$ 3,388,785	\$ 3,730,520	\$ 3,152,067
Ballot Printing	\$ 217,239	\$ 815,560	\$ 218,543	\$ 580,328	\$ 603,440	\$ 632,508	\$ 454,990
Election Officials and Election Day Workers	\$ 746,167	\$ 1,498,981	\$ 688,127	\$ 1,028,624	\$ 1,262,200	\$ 1,185,910	\$ 1,185,910
Paper and Printed Materials	\$ 109,389	\$ 124,639	\$ 62,634	\$ 121,384	\$ 92,300	\$ 60,000	\$ 60,000
Postage and Mailing Services	\$ 175,551	\$ 284,774	\$ 80,693	\$ 46,883	\$ 152,584	\$ 171,591	\$ 85,900
Rentals and Other Services	\$ 72,735	\$ 86,184	\$ 179,735	\$ 193,798	\$ 101,662	\$ 118,202	\$ 77,157
Supplies and Miscellaneous	\$ 43,748	\$ 232,340	\$ 45,184	\$ 22,898	\$ 30,500	\$ 57,000	\$ 57,000
Temporary Staff	\$ 597,556	\$ 1,198,055	\$ 821,641	\$ 1,118,892	\$ 1,094,100	\$ 1,116,810	\$ 1,099,810
Voting Locations	\$ 75,774	\$ 34,639	\$ 32,090	\$ 64,246	\$ 52,000	\$ 388,500	\$ 131,300
Special Election - BE100120	\$ -	\$ 20,163	\$ 1,506,766	\$ 2,012,547	\$ -	\$ -	\$ -
Ballot Printing	\$ -	\$ 7,692	\$ 89,827	\$ 191,394	\$ -	\$ -	\$ -
Election Officials and Election Day Workers	\$ -	\$ 9,528	\$ 402,494	\$ 952,171	\$ -	\$ -	\$ -
Paper and Printed Materials	\$ -	\$ 2,943	\$ 49,236	\$ 63,260	\$ -	\$ -	\$ -
Postage and Mailing Services	\$ -	\$ -	\$ 1,218	\$ 145,750	\$ -	\$ -	\$ -
Rentals and Other Services	\$ -	\$ -	\$ 99,685	\$ 137,716	\$ -	\$ -	\$ -
Supplies and Miscellaneous	\$ -	\$ -	\$ 408,795	\$ 18,365	\$ -	\$ -	\$ -
Temporary Staff	\$ -	\$ -	\$ 439,285	\$ 453,008	\$ -	\$ -	\$ -
Voting Locations	\$ -	\$ -	\$ 16,226	\$ 50,883	\$ -	\$ -	\$ -
Election Equipment - BE100125	\$ 711,528	\$ 1,256,162	\$ 758,721	\$ 957,971	\$ 799,290	\$ 874,939	\$ 645,231
Election Equipment and Supplies	\$ -	\$ 557,160	\$ -	\$ -	\$ -	\$ -	\$ -
Electronic Pollbook Maintenance	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 190,313
Electronic Pollbook Supplies	\$ 4,322	\$ 2,750	\$ -	\$ 1,250	\$ 10,000	\$ 250,000	\$ -
Voter Registration System	\$ 61,352	\$ 61,352	\$ 61,352	\$ 61,352	\$ -	\$ 61,352	\$ 64,420
Voter Equipment Maintenance	\$ 297,187	\$ 232,000	\$ 429,440	\$ 462,052	\$ 434,440	\$ -	\$ -
Miscellaneous Vendor Costs	\$ 167,416	\$ 221,650	\$ 24,679	\$ 137,567	\$ 97,100	\$ 173,220	\$ 178,481
Runbeck Agilis - Maintenance	\$ -	\$ -	\$ -	\$ 22,500	\$ 22,500	\$ 22,500	\$ 22,500
Asset Inventory Management System	\$ -	\$ -	\$ 38,000	\$ 38,000	\$ -	\$ 38,000	\$ 38,000
Online Poll Worker Training	\$ -	\$ -	\$ -	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000
Live Results Election Night Reporting	\$ -	\$ -	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000
Opex Model 72 mail extraction desk (10) Ten Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,150	\$ 25,150
Pitney Bowes Folding/inserting machine Halle Warehouse Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,318	\$ 4,318
Pitney Bowes Postage Meter Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,810	\$ 3,810
Pitney Bowes Folding/inserting machine Hughes Building Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,233	\$ 2,233
Pitney Bowes Envelope Slicers Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,097	\$ 1,097
Software license renewal for managing projects and election task calendar	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,235	\$ 2,347
Call center on premises software support for 12 months	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,825	\$ 48,116
Remote Ballot Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,950	\$ 10,448
Grand Total:	\$ 12,508,121	\$ 17,142,688	\$ 14,055,063	\$ 18,072,150	\$ 14,990,219	\$ 19,243,024	\$ 16,652,047

Election Administration Budget Summary

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
Election Administration - BE100100	\$ 9,006,218	\$ 8,895,053	\$ 8,566,321	\$ 9,546,813	\$ 9,692,163	\$ 10,956,638	\$ 11,227,828
Administrative Agreements	\$ 164,918	\$ 147,402	\$ 96,374	\$ 55,735	\$ 190,528	\$ 225,875	\$ 236,258
County Building Services	\$ 1,167,090	\$ 1,164,810	\$ 833,082	\$ 1,260,188	\$ 955,955	\$1,022,871.85	\$ 1,074,015.44
Full-Time Staff Benefits	\$ 1,937,667	\$ 2,113,683	\$ 1,848,290	\$ 1,969,248	\$ 2,098,984	\$ 2,394,648	\$ 2,506,600
Full-Time Staff Payroll	\$ 4,545,605	\$ 4,667,326	\$ 4,784,479	\$ 5,112,660	\$ 5,386,252	\$ 6,172,240	\$ 6,233,971
Furniture and Equipment	\$ 281,946	\$ 49,728	\$ 14,992	\$ 27,513	\$ -	\$ -	\$ -
Halle Warehouse	\$ 528,220	\$ 454,465	\$ 484,177	\$ 501,765	\$ 556,176	\$ 543,853	\$ 569,750
Paper and Printed Materials	\$ 25,288	\$ 27,250	\$ 128,988	\$ 96,227	\$ 100,000	\$ 100,000	\$ 100,000
Postage and Mailing Services	\$ 124,631	\$ 168,733	\$ 213,504	\$ 183,900	\$ 160,267	\$ 175,500	\$ 180,000
Supplies and Miscellaneous	\$ 230,853	\$ 101,657	\$ 162,435	\$ 144,680	\$ 164,000	\$ 171,650	\$ 177,233
Maintenance Projects	\$ -	\$ -	\$ -	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Cybersecurity Enhancements	\$ -	\$ -	\$ -	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000

The Election Administration Budget provides funding for salaries and fringe benefits of the 90 full-time staff and 4 Board members of the Cuyahoga County Board of Elections, as well as building maintenance, lease agreements and other non-election specific operational services.

The current budget proposal includes a 2% Cost of Living Adjustment (COLA) for full-time employees at a cost of \$105,817.35 in salaries and \$46,832.96 in benefits for 2024 and \$107,933.69 in salaries and \$50,956 in benefits for 2025. The budget also includes a statutory salary increase of 1.75% for each Board Member. The increase in funding to full-time staff payroll also includes approximately \$160,000 for retirement vacation payouts for the nine (9) employees eligible to retire during the 2024-2025 budget cycle. Unused funds will be returned to the County general fund.

The lease of the Halle Warehouse space appears in this section at a cost of \$ 543,852.52 in 2024 and \$ 569,750.26 in 2025. Additional County Building Charges at both BOE buildings for utilities, custodial services, security, etc., are projected at \$1,602,719.97 in 2024 and \$ 1,649,401.14 in 2025.

For the first time in the 2022-2023 budget, a \$100,000 per year allowance was included for building Maintenance Projects, performed by Public Works' staff, to address non-routine building repairs and other small projects to improve the building work environment (i.e., new water fountains). **This is reflected in the budget as a continued initiative, contingent upon whether the CCBOE will be relocated. Unused funds will be returned to the County general fund.**

An additional \$100,000 is also included for ongoing Cybersecurity Enhancements. The CCBOE has strong cybersecurity protocols in place and will utilize the new funding for routine enhancements required by the Department of Homeland Security and Secretary of State. This is reflected in the budget as a continued initiative to maintain funding for routine enhancements required by the Department of Homeland Security and Secretary of State.

The remaining items in the Election Administration Budget include administrative postage and mailing services, printed materials, vehicle maintenance, supplies, and other miscellaneous business costs. In addition to routine inflationary cost increases, we are also providing better services to the public such as ADA accessible sample ballots and voting location change letters as opposed to postcards.

Primary Election Budget Summary

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
Primary Election - BE100105	\$ 752,217	\$ 2,696,140	\$ 1,094,607	\$ 2,377,768	\$ 1,109,980	\$ 3,680,926	\$ 1,626,921
Ballot Printing	\$ 56,130	\$ 607,248	\$ 125,706	\$ 335,313	\$ 545,300	\$ 578,420	\$ 189,999
Election Officials and Election Day Workers	\$ 235,219	\$ 267,247	\$ 518,291	\$ 925,989	\$ 395,250	\$ 1,260,840	\$ 401,390
Paper and Printed Materials	\$ 90,034	\$ 117,815	\$ 81,098	\$ 34,686	\$ 56,171	\$ 60,000	\$ 50,000
Postage and Mailing Services	\$ 89,468	\$ 179,298	\$ 37,667	\$ 173,141	\$ 31,329	\$ 140,222	\$ 52,963
Rentals and Other Services	\$ 21,562	\$ 73,531	\$ 92,915	\$ 161,289	\$ 64,289	\$ 118,202	\$ 93,009
Supplies and Miscellaneous	\$ 35,359	\$ 218,307	\$ 11,162	\$ 16,041	\$ 30,500	\$ 57,000	\$ 57,000
Temporary Staff	\$ 199,185	\$ 1,198,055	\$ 201,307	\$ 682,331	\$ 361,200	\$ 1,080,743	\$ 654,260
Voting Locations	\$ 25,258	\$ 34,639	\$ 26,461	\$ 48,977	\$ 12,000	\$ 385,500	\$ 128,300

Funding for the Primary Election Budget is based on one countywide election in 2024 for the statewide presidential primary, and two local municipal primary elections including the City of Cleveland in 2025.

A proposed raise in wages for office temporary staff and election day officials/workers accounts for an increase in the Primary Election Budget compared to past years. Other items including voting location costs, paper and printed materials, and postage costs are seeing slight increases.

It should be noted, most costs associated with the Primary Election Budget are charged back to the subdivisions within Cuyahoga County in odd numbered years (in accordance with Ohio Election Law). This includes the costs of ballots, temporary staff, election day officials/workers, and postage costs. The money will be returned to the Cuyahoga County General Fund. In essence, the increased funding requests for seasonal temporary employee wages and the staff overtime charges in 2025 are cost neutral on the Cuyahoga County General Fund.

During even numbered years, only the cost of ballots and advertising will be charged back to subdivisions placing an issue on the ballot.

General Election Budget Summary

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
General Election - BE100115	\$ 2,038,159	\$ 4,275,171	\$ 2,128,648	\$ 3,177,052	\$ 3,388,785	\$ 3,730,520	\$ 3,152,067
Ballot Printing	\$ 217,239	\$ 815,560	\$ 218,543	\$ 580,328	\$ 603,440	\$ 632,508	\$ 454,990
Election Officials and Election Day Workers	\$ 746,167	\$ 1,498,981	\$ 688,127	\$ 1,028,624	\$ 1,262,200	\$ 1,185,910	\$ 1,185,910
Paper and Printed Materials	\$ 109,389	\$ 124,639	\$ 62,634	\$ 121,384	\$ 92,300	\$ 60,000	\$ 60,000
Postage and Mailing Services	\$ 175,551	\$ 284,774	\$ 80,693	\$ 46,883	\$ 152,584	\$ 171,591	\$ 85,900
Rentals and Other Services	\$ 72,735	\$ 86,184	\$ 179,735	\$ 193,798	\$ 101,662	\$ 118,202	\$ 77,157
Supplies and Miscellaneous	\$ 43,748	\$ 232,340	\$ 45,184	\$ 22,898	\$ 30,500	\$ 57,000	\$ 57,000
Temporary Staff	\$ 597,556	\$ 1,198,055	\$ 821,641	\$ 1,118,892	\$ 1,094,100	\$ 1,116,810	\$ 1,099,810
Voting Locations	\$ 75,774	\$ 34,639	\$ 32,090	\$ 64,246	\$ 52,000	\$ 388,500	\$ 131,300

The General Election Budget is based on one November countywide General Election in 2024 for the statewide presidential election, and one November countywide General Election in 2025.

As with the Primary Election Budget, the proposed raise in wages for office temporary staff and select election day officials/workers accounts for an increase in the General Election Budget compared to past years. Other items including voting location costs, paper and printed materials, and postage costs are seeing slight increases.

It should be noted, most costs associated with the General Election Budget are charged back to the subdivisions within Cuyahoga County in odd numbered years (in accordance with Ohio Election Law). This includes the costs of ballots, temporary staff, election day officials/workers, and postage costs. The money will be returned to the Cuyahoga County General Fund. In essence, the increased funding requests for seasonal temporary employee wages and the staff overtime charges in 2025 are cost neutral on the Cuyahoga County General Fund.

During even numbered years, only the cost of ballots and advertising will be charged back to the subdivisions placing an issue on the ballot.

Special Election Budget Summary

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
Election Equipment - BE100125	\$ 711,528	\$ 1,256,162	\$ 758,721	\$ 957,971	\$ 799,290	\$ 874,939	\$ 645,231
Election Equipment and Supplies	\$ -	\$ 557,160	\$ -	\$ -	\$ -	\$ -	\$ -
Electronic Pollbook Maintenance	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 190,313
Electronic Pollbook Supplies	\$ 4,322	\$ 2,750	\$ -	\$ 1,250	\$ 10,000	\$ 250,000	\$ -
Voter Registration System	\$ 61,352	\$ 61,352	\$ 61,352	\$ 61,352	\$ -	\$ 61,352	\$ 64,420
Voter Equipment Maintenance	\$ 297,187	\$ 232,000	\$ 429,440	\$ 462,052	\$ 434,440	\$ -	\$ -
Miscellaneous Vendor Costs	\$ 167,416	\$ 221,650	\$ 24,679	\$ 137,567	\$ 97,100	\$ 173,220	\$ 178,481
Runbeck Agilis - Maintenance	\$ -	\$ -	\$ -	\$ 22,500	\$ 22,500	\$ 22,500	\$ 22,500
Asset Inventory Management System	\$ -	\$ -	\$ 38,000	\$ 38,000	\$ -	\$ 38,000	\$ 38,000
Online Poll Worker Training	\$ -	\$ -	\$ -	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000
Live Results Election Night Reporting	\$ -	\$ -	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000
Opex Model 72 mail extraction desk (10) Ten Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,150	\$ 25,150
Pitney Bowes Folding/inserting machine Halle Warehouse Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,318	\$ 4,318
Pitney Bowes Postage Meter Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,810	\$ 3,810
Pitney Bowes Folding/inserting machine Hughes Building Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,233	\$ 2,233
Pitney Bowes Envelope Slicers Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,097	\$ 1,097
Software license renewal for managing projects and election task calendar	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,235	\$ 2,347
Call center on premises software support for 12 months	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,825	\$ 48,116
Remote Ballot Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,950	\$ 10,448

No funds will be requested for special elections in 2024 or 2025.

Since special elections are typically infrequent, small, and revenue-neutral—the Board of Elections will request appropriations for special elections on an **as-needed** basis in 2024 and 2025 if a special election is required. This approach will allow the County to divert financial resources elsewhere that would otherwise be reserved for special elections that may not be needed. The CCBOE conducted one (1) special election in 2022 and one (1) special election in 2023. These were unrepresented unique elections created by the state legislature. Requesting the funds on an as needed basis worked well.

It should be noted, special election costs are charged back entirely to the subdivisions holding a special election and the money returned to the Cuyahoga County General Fund.

Election Equipment Budget Summary

Accounting Unit and Category	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Projected	2024 Projected	2025 Projected
Election Equipment - BE100125	\$ 711,528	\$ 1,256,162	\$ 758,721	\$ 957,971	\$ 799,290	\$ 778,939	\$ 905,443
Election Equipment and Supplies	\$ -	\$ 557,160	\$ -	\$ -	\$ -	\$ -	\$ -
Electronic Pollbook Maintenance	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 181,250	\$ 190,313
Electronic Pollbook Supplies	\$ 4,322	\$ 2,750	\$ -	\$ 1,250	\$ 10,000	\$ 250,000	\$ 262,500
Voter Registration System	\$ 61,352	\$ 61,352	\$ 61,352	\$ 61,352	\$ -	\$ 61,352	\$ 64,420
Voter Equipment Maintenance	\$ 297,187	\$ 232,000	\$ 429,440	\$ 462,052	\$ 434,440	\$ -	\$ -
Miscellaneous Vendor Costs	\$ 167,416	\$ 221,650	\$ 24,679	\$ 137,567	\$ 97,100	\$ 24,720	\$ 25,956
Runbeck Agilis - Maintenance	\$ -	\$ -	\$ -	\$ 22,500	\$ 22,500	\$ 68,000	\$ 68,000
Asset Inventory Management System	\$ -	\$ -	\$ 38,000	\$ 38,000	\$ -	\$ 75,000	\$ 78,750
Online Poll Worker Training	\$ -	\$ -	\$ -	\$ 30,000	\$ 30,000	\$ -	\$ 5,775
Live Results Election Night Reporting	\$ -	\$ -	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	\$ 23,625
Opex Model 72 mail extraction desk (10) Ten Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,150	\$ 39,900
Pitney Bowes Folding/inserting machine Halle Warehouse Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,318	\$ 31,500
Pitney Bowes Postage Meter Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,810	\$ -
Pitney Bowes Folding/inserting machine Hughes Building Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,233	\$ 25,200
Pitney Bowes Envelope Slicers Annual Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,097	\$ 26,408
Software license renewal for managing projects and election task calendar	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,235	\$ 4,534
Call center on premises software support for 12 months	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,825	\$ 48,116
Remote Ballot Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,950	\$ 10,448

The overall funding increases by 22% in 2024 and remains flat for 2025. Almost all of the additional expenses are attributed to new software and equipment implemented in 2020 with grant funding to administer the Presidential Elections cycles. The CCBOE and voters realized positive enhancements from these new products that need to continue through the next budget cycle and beyond.

The newly purchased voting equipment includes 5 years of maintenance and licensing, this will need appropriation beginning 2027 and funding will be needed.

Part 3

New Initiatives

New Initiatives

Listed below are new initiatives for 2024 and 2025 that will impact the operating budget for the Board of Elections.

Agilis® In-Bound Mail Sorting Equipment
2024: \$350,000
2025: \$0
The Cuyahoga County Board of Elections (CCBOE) received multiple grant awards in 2020 to improve administrative processes in a pandemic election environment. The CCBOE put emphasis on procuring equipment and software systems that not only enhanced operations in 2020 but would increase operations for several years into the future. The CCBOE would like to continue to enhance operations, streamline processes and create a redundancy plan by purchasing another Agilis Inbound Mail Ballot Processor Equipment and associated software and purchase of two (2) additional Sorting Stackers. Each Stacker contains four (4) pockets for sorting mail, which would provide twelve output pockets. With the one-time purchase of this equipment and installation expenses, the CCBOE would like the funding to include the purchase and ongoing maintenance and licensing fees for this system that is critical to the Vote-by-Mail program.
Seasonal Temporary Employee Wages
2024: \$41,000
2025: \$42,000
The CCBOE relies on seasonal temporary employees to execute the numerous processes in election administration. Where once the CCBOE wage rate for these employees was market leading, it now lags the compensation rate of multiple retail establishments. It has been difficult to recruit new employees and retain existing seasonal temporary employees who can find higher wages in businesses closer to where they reside. Employee retention is critical to maintain institutional knowledge in our operations. The CCBOE intends to increase the hourly rate by 1.7% for 2024 and 2025 from \$15.00 to \$15.25 per hour effective January 1, 2024 and from \$15.25 to \$15.50 per hour effective January 1, 2025. This will allow CCBOE to maintain the current employees and remain competitive in the market.
Electronic Pollbooks and Ancillary Equipment
2024: \$1,046,283.00
2025: \$0
January 6, Governor DeWine signed Substitute House Bill 45, which includes an appropriation of \$7.5 million for county boards of elections to procure electronic pollbooks and ancillary equipment. The Secretary of State's Office is working with the Ohio Department of Administrative Services (DAS) to develop the procurement process. Each county will be allocated a share of the total appropriation based on the number of registered voters in the county compared to the State's total registered voters (as recorded in SWVRD as of July 1, 2022). The payment will be either the County's total allocation, or 85% of the purchase(s), whichever is less. The CCBOE has been awarded \$821,449.00 toward the acquisition of new equipment. The CCBOE is in regular discussions with the Secretary of State's Office regarding purchase and implementation timelines. THE CCBOE will need for County to provide the total cost of \$1,046,283.00 for the purchase and the County will be reimbursed \$821,449.00 of the purchase. It is likely vendor selection will occur in 2023 with implementation and invoicing occurring in 2024.

New Initiatives (Cont.)

Employee Election Cycle Overtime
2024: \$100,000
2025: \$100,000
<p>The normal workweek for full-time employees consists of thirty-five (35) hours usually worked Monday through Friday from 8:30 AM to 4:30 PM. During the election cycle employees are often required to work additional hours.</p> <p>In accordance with the Fair Labor Standards Act (FLSA), employee classifications are defined as exempt or non-exempt based on the nature of the job duties. At the Cuyahoga County Board of Elections (CCBOE) exempt employees accrue non-monetary straight rate Exchange Time for overtime hours worked and non-exempt employees accrue Compensatory Time in a combination of straight rate and time and one-half rate for overtime hours worked. To facilitate reasonable employee time management and to reduce the amount of accrued Exchange and Compensatory Time that often employees have difficulty using because of the demands of multiple election cycles; the CCBOE would like to authorize straight rate paid overtime not to exceed five (5) hours per week for the six (6) weeks (three pay periods) surrounding an election. This authorized straight pay overtime is for the three (3) countywide elections scheduled in calendar years 2024 and 2025. Weekly overtime hours worked above the five (5) hours would be eligible for Exchange and Compensatory Time accrual.</p>

New CCBOE Operations Center
<p>Following the November 2022 Gubernatorial General Election, the CCBOE began working with County Public Works to identify a new CCBOE Operations Center to address the substantial lack of voter parking available to the Cuyahoga County voters. Additionally, the new facility would ideally combine operations into one building to improve operational efficiencies further boosting the integrity of Cuyahoga County elections. Since the CCBOE's initial occupancy at the Hughes and Halle Buildings, election laws have changed which drastically have impacted the space utilization needs of the operation. Most significantly is the expansion of the absentee voting program. A permanent solution is needed for the benefit of the Cuyahoga electorate and candidates.</p>

Part 4

Continued Initiatives

During the previous 2022-2023 budgeting cycle the CCBOE asked for several new initiatives that were approved by the Cuyahoga County Council. The CCBOE would like to request continued funding of the below initiatives to maintain the positive enhancements from these new products that need to continue through the next budget cycle and beyond.

Election Equipment Maintenance and Licensing
2024: \$148,600
2025: \$148,600
The CCBOE received multiple grant awards in 2020 to improve administrative processes in a pandemic election environment. The CCBOE put emphasis on procuring equipment and software systems that not only enhanced operations in 2020 but would improve operations for several years into the future. The CCBOE also used the grant funding to cover the routine annual maintenance costs in 2021. With the one-time purchase of equipment and installation expenses already covered, the CCBOE has included ongoing maintenance and licensing fees for various products that enhance processes such as the Vote-by-Mail program and online Precinct Election Official training. The CCBOE needs this funding to continue that was included in the 2022-2023 budget in order to maintain the ongoing maintenance and licensing fees for various products core to its operations.
Off-Site Retention Material Storage
2024: \$22,000
2025: \$22,000
The CCBOE is required to retain election materials from federal elections for 22-months pursuant to the Secretary of State’s Retention Schedule. This includes voted and unvoted ballots, Vote-by-Mail envelopes, and various other election specific items. The August 2, 2022 Special Election and August 8, 2023 Special Election are unexpected elections that the CCBOE must comply with SOS retention requirements. Additionally the CCBOE is receiving public records requests that require longer retention of materials. The CCBOE will need to rent or lease an offsite facility for these materials until they can be destroyed. The CCBOE would like to continue the funding of this initiative in the budget until it is confirmed whether the CCBOE will be relocated to a space with greater storage capacity.
Maintenance Projects
2024: \$100,000
2025: \$100,000
The CCBOE’s buildings are aging and in need of ongoing maintenance updates in addition to larger capital improvement projects. Adding a specific budget line item for building maintenance facilitates the CCBOE being proactive in planning building maintenance instead of it being a reactive measure to building infrastructure failures. The CCBOE would like to continue the funding of this initiative in the budget until it is confirmed whether the CCBOE will be relocated or not.

Cybersecurity Enhancements

2024: \$50,000

2025: \$50,000

The CCBOE is defined as critical infrastructure by the Department of Homeland Security (DHS). The Secretary of State's and DHS' ever increasing cybersecurity requirements impute unexpected cybersecurity requirements on our systems. The CCBOE needs to continue to plan for and procure hardware and software to comply with cybersecurity initiatives. The Secretary of State recently published its fourth cybersecurity directive in August 2023.

Part 5
**Voter Turnout
Projections**

March 2024 Primary Election

Category	2016	2020	2024 Projection
Registered Voters	849,206	858,057	896,000
Precincts	975	975	967
Voting Locations	390	301	291
Vote By Mail Ballots Cast	81,695	183,182	100,000
Early In-Person Ballots Cast	6,307	10,849	30,000
Provisional Ballots Cast	10,401	2,760	10,000
Election Day Ballots Cast	262,695	NA	263,200
Total Turnout	361,098	196,791	403,200
Total Turnout %	42.52%	22.93%	45%

November 2024 General Election

Category	2016	2020	2024 Projection
Registered Voters	891,568	889,095	896,000
Precincts	975	975	967
Voting Locations	386	295	291
Vote By Mail Ballots Cast	192,761	318,214	200,000
Early In-Person Ballots Cast	38,413	52,826	53,000
Provisional Ballots Cast	16,159	15,739	18,000
Election Day Ballots Cast	370,023	244,420	365,160
Total Turnout	617,356	631,199	636,160
Total Turnout %	69.24%	70.99%	71%

May 2025 Primary Election

Category	2017	2021	2025 Projection
Registered Voters	205,318	203,030	300,000
Precincts	205	196	300
Voting Locations	76	56	291
Vote By Mail Ballots Cast	14,764	16,175	20,000
Early In-Person Ballots Cast	211	202	3,000
Provisional Ballots Cast	265	209	1,000
Election Day Ballots Cast	31,329	21,721	51,000
Total Turnout	46,569	38,307	75,000
Total Turnout %	22.68%	18.87%	25%

September 2025 Primary Election

Category	2017	2021	2025 Projection
Registered Voters	318,396	353,806	500,000
Precincts	389	442	500
Voting Locations	150	138	291
Vote By Mail Ballots Cast	9,320	17,601	20,000
Early In-Person Ballots Cast	1,242	3,289	5,000
Provisional Ballots Cast	692	744	3,000
Election Day Ballots Cast	30,823	36,803	97,000
Total Turnout	42,077	58,437	125,000
Total Turnout %	13.22%	16.52%	25%

November 2025 General Election

Category	2017	2021	2025 Projection
Registered Voters	884,768	877,625	896,000
Precincts	975	975	967
Voting Locations	372	295	291
Vote By Mail Ballots Cast	73,761	74,567	100,000
Early In-Person Ballots Cast	4,805	6,711	10,000
Provisional Ballots Cast	3,009	1,891	5,000
Election Day Ballots Cast	191,818	148,980	198,600
Total Turnout	273,393	232,149	313,600
Total Turnout %	30.90%	26.45%	35%