

VOTE CUYAHOGA COUNTY BOARD OF ELECTIONS

Board Meeting
10/18/2023

Attending:

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

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

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

Chairman Curtis noted that all Board Members were in attendance.

Agenda Item 1: Approval of the minutes from the August 21, 2023, August 29, 2023, September 11, 2023, September 20, 2023, and September 27, 2023 board meetings

Chairman Curtis moved to approve the minutes from the August 21, 2023, August 29, 2023, September 11, 2023, September 20, 2023, and September 27, 2023 board meetings. Board Member Davis Chappell seconded and abstained from the September 20, 2023, and September 27, 2023, as she did not attend those meetings. Board Member McCafferty abstained from the August 21, 2023, meeting as he was not in attendance at that meeting. The motion passed unanimously.

Agenda Item 2: Acknowledgment of Secretary of State Directive and Memorandum: Directive 2023-19: November 7, 2023 General Election Canvass Instructions; Memorandum 2023-03: Responsibilities of Sheriffs and Police in the November 7, 2023 General Election (confidential – not for disclosure)

Chairman Curtis moved to acknowledge the Secretary of State Directive and Memorandum: Directive 2023-19: November 7, 2023 General Election Canvass Instructions; Memorandum 2023-03: Responsibilities of Sheriffs and Police in the November 7, 2023 General Election (confidential – not for disclosure). Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 3: Final approval of the ballot order for the November 7, 2023, General Election

Chairman Curtis moved to approve the final ballot order for the November 7, 2023, General Election. Board Member Davis Chappell seconded. The motion passed unanimously.

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

Agenda Item 4: Preliminary approval of the ballot order for the December 5, 2023, East Cleveland Recall Election

Chairman Curtis moved to approve the preliminary ballot order for the December 5, 2023, East Cleveland Recall Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 5: Acknowledgment of deaths in, resignation from, and appointments to elected office

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

Agenda Item 6: Acknowledgment of candidate withdrawals from the November 7, 2023, General Election

Chairman Curtis moved to acknowledge the candidate withdrawals from the November 7, 2023, General Election, as set forth in the board materials. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 7: Authorization to pay: 289 Voting Location Managers x \$275 = \$79,475; 313 Voting Location Deputies x \$275 = \$86,075; 3,165 Precinct Election Officials x \$250 = \$791,250; 150 Election Substitute Officials x \$100 = \$15,000 for the November 7, 2023, General Election

Chairman Curtis moved to authorize to pay: 289 Voting Location Managers x \$275 = \$79,475; 313 Voting Location Deputies x \$275 = \$86,075; 3,165 Precinct Election Officials x \$250 = \$791,250; 150 Election Substitute Officials x \$100 = \$15,000 for the November 7, 2023, General Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 8: Approval to appoint not less than two precinct election officials for each precinct pursuant to ORC §3501.22 for the December 5, 2023, East Cleveland Recall Election

Chairman Curtis moved to approve to appoint not less than two precinct election officials for each precinct pursuant to ORC §3501.22 for the December 5, 2023, East Cleveland Recall Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 9: Authorization to process payment in the amount not-to-exceed \$46,660 for ninety-two (92) private voting locations, four (4) CMHA properties, and one (1) Zone station being used for the November 7, 2023, General Election

Chairman Curtis moved to authorize to process payment in the amount not-to-exceed \$46,660 for ninety-two (92) private voting locations, four (4) CMHA properties, and one (1) Zone station being used for the November 7, 2023, General Election. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 10: Final authorization for the allocation of voting booths for the November 7, 2023, General Election. Allocation quantities are based on one voting booth for every 175 registered voters per polling location. A total of 4,842 voting booths will be allocated + 705 ClearCast Go scanners + 289 ADA ClearAccess voting units, and 1,043 Electronic Poll Books

Chairman Curtis moved to approve the final authorization for the allocation of voting booths for the November 7, 2023, General Election. Allocation quantities are based on one voting booth for every 175 registered voters per polling location. A total of 4,842 voting booths will be allocated + 705 ClearCast Go scanners + 289 ADA ClearAccess voting units, and 1,043 Electronic Poll Books. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 11: Preliminary authorization for the allocation of voting booths for the December 5, 2023, East Cleveland Recall Election. Allocation quantities are based on one voting booth for every 175 registered voters per polling location. A total of 80 voting booths will be allocated + 13 ClearCast Go scanners + 6 ADA ClearAccess voting units, and 15 Electronic Poll Books

Chairman Curtis moved to approve preliminary authorization for the allocation of voting booths for the December 5, 2023, East Cleveland Recall Election. Allocation quantities are based on one voting booth for every 175 registered voters per polling location. A total of 80 voting booths will be allocated + 13 ClearCast Go scanners + 6 ADA ClearAccess voting units, and 15 Electronic Poll Books. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 12: Approval of the personnel agenda

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

NEW BUSINESS

December 5, 2023, East Cleveland Recall Election

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

Director Perlatti stated that on October 17, 2023, the Director received an email from Mayor Brandon King protesting the Recall Election and the East Cleveland Charter Amendment. Director Perlatti said the Board has previously had discussions on both of these items. In reviewing the document that Mayor King submitted to the CCBOE with Counsel, it appears the CCBOE is the incorrect jurisdiction to file the protests. Director Perlatti wanted to discuss the matter with the Board prior to providing notice that the CCBOE would dismiss the matter.

Director Perlatti stated that the East Cleveland Charter Amendment is on the November 7, 2023, General Election ballot. The East Cleveland Council Members passed an Issue per their Charter by a four-fifths vote. The Council President and Clerk signed the Resolution, and the East Cleveland Mayor chose not to sign it. The Charter Issue was timely filed with the CCBOE, which the CCBOE certified and placed the Issue on the ballot. Director Perlatti stated the second item is the recall action, which differs from the Charter Issue on the November 7, 2023 General Election. Per the East Cleveland Charter, the residents pulled petitions from the Clerk of Council, and they had a 30-day window to circulate and return the petitions to the Clerk. The East Cleveland Clerk then determined the sufficiency of the signatures. If there are sufficient signatures, the Clerk then provides notification to the impacted individual subject to the recall, giving the individual a 5-day window to resign. In this case, it was the East Cleveland Mayor who elected not to resign. The Clerk of Council then files documentation with the CCBOE and asked the CCBOE to schedule an election. Per their Charter, there is a criteria for the CCBOE to set the election. Upon receiving the notification, the East Cleveland Recall Election was set for December 5, 2023. Director Perlatti stated a recent Ohio

Supreme Court Case dealt with some of these items. Board Member Stickman noted the timing of the protest filing, and stated the Board discussed in the last Board Meeting on September 27, 2023, and the ballots were already out to the voters. Director Perlatti stated there was previous litigation with East Cleveland dealing with the verification of petitions. Director Perlatti said the Charter Amendment is legislation that the East Cleveland Council passed, and the CCBOE does not review East Cleveland petition signatures or anything on the petitions to determine whether a petition was sufficient. No petition was filed with the CCBOE for the CCBOE staff to review the sufficiency of the petitions. The Clerk of East Cleveland did the petition review.

Chairman Curtis asked Assistant Prosecutor Musson for insight. Mr. Musson stated that Mayor King is attempting to protest the East Cleveland Charter Amendment on the November 7, 2023, General Election Ballot, and the December 5, 2023, East Cleveland Recall Election. Mayor King is relying on a passage from a recent Ohio Supreme Court decision, where the Court states, *ex rel—King v. the Board of Elections, Slip Opinion No. 2023-Ohio-3668* at Paragraph 20 and 22. Board Member Davis Chappell noted that Mayor King’s pleading references 2023-Ohio-3608. Mr. Musson confirmed the case is *2023-Ohio-3668, docket numbers 2023-1227*. Mr. Musson cited Court rulings saying this litigation was a prohibition. Previously, Mayor King said the CCBOE acted without jurisdiction to accept the certification. Now, Mayor King is attempting to get the CCBOE to exercise jurisdiction that he previously argued the CCBOE did not have. Mr. Musson stated there is a passage reflective of the prohibition context that the Board did not exercise a quasi-judicial hearing because the Board did not have jurisdiction, and that is based on the last mayoral recall in October 2022. At that time, a mandamus was filed against the Board to accept the law director’s certification of the petitions where the Clerk of Council was vacant. Mr. Musson stated the case was *State, ex rel King v CCBOE 170 Ohio St. 3d 42, 2022-Ohio-3613* at P. 31-32. In the syllabus by the court editor, it said, “This was a writ to compel the CCBOE to remove the recall election from the ballot, that the CCBOE has no authority under the charter to assess the ability of the recall election.” In paragraph 31 of the decision, the court said: “The Board declined to decertify the King recall petition, primarily because it believed it lacked the authority to do so. King argues that the Board was wrong because R.C. 3501.11(K)(1) provides that a board of elections shall review, examine, and certify the sufficiency and validity of petitions.” The Board responds that the City Charter governs the recall process, and the Charter gives the Board only ministerial duties. In paragraph 32, “The Board is correct that it has no authority to assess the validity of a recall petition. Rather, under the Charter, “the Clerk of the Council shall certify upon such petition whether the signature of electors thereto amount in number to at least twenty-five (25) percent of the voters voting at the last regular municipal election of officers.” By using the term “electors” in Section 53, the Charter requires the Clerk to certify the number of valid signatures, not simply to report the gross number of signatures on the petition. And once the Clerk provides her certification, the Charter gives the Board no discretion: the Board “shall forthwith order and fix a day for holding a recall election.” *ID.*, section 54. Mr. Musson stated the 2022 decision is on point to this protest, trying to get the Board to review the sufficiency and validity of the recall petition which the Charter places on the Clerk of Council. Mr. Musson said if Mayor King has an issue with the certification of signatures, whether the signatures are valid or not, properly registered, or a question on the face of the contested petition, he needs to raise the questions with the Clerk of Council. Then Mayor King can invoke the Court’s Jurisdiction to review. Mr. Musson stated that this protest was not within the Board’s jurisdiction and should be dismissed.

Chairman Curtis moved to dismiss the protest for lack of jurisdiction. Board Member Davis Chappell seconded and noted that the actual filing the CCBOE received is captioned as “Recall and East Cleveland Issue 48 Mayoral Primary Charter Amendment Protest”. The motion passed unanimously.

Director Perlatti stated in today's board packet multiple preliminary items for the December 5, 2023, East Cleveland Recall Election were approved by the Board. The Ballot Department has imported the ballot language and created and laid out the ballot. The Ballot Department is completing the proofing process and has started testing election equipment. The start of UOCAVA is Friday, October 20, 2023. The CCBOE has received a request for a UOCAVA ballot from one individual so far and will have a ballot sent to them on Friday. The Election Support department is securing voting locations. Early-In-Person voting begins on Tuesday, November 7, 2023, the same day as the General Election. The CCBOE will have some separation in the Hughes Building for voting. The CCBOE is making efforts to minimize confusion for the East Cleveland voters, which is challenging. The CCBOE does not want those voters to think they will see the Recall Election on the November 7, 2023, General Election Ballot. A Voter Information Guide will be mailed on November 7, 2023, so it will be received the day after the General Election. Chairman Curtis asked if it would be prudent to advise the November 7, 2023, General Election Voting Location Managers if the question arises; they could speak to it. The Board determined the VLM's will be aware of a Recall Election on December 5, 2023, and the CCBOE will not hand any information out regarding the Recall Election to the voters at the polling locations on November 7, 2023. Director Perlatti stated the Board will validate the December 5, 2023, East Cleveland Recall Election provisionals and also certify the Election on December 18, 2023.

November 7, 2023, General Election Update

Deputy Director Kaloger stated the November 7, 2023, General Election is less than 20 days away. There are 583 candidates and 89 issues on the ballot, including two State issues. In reviewing projections, the November 2019 voter turnout was 26%. However, due to the two statewide issues, the turnout will likely compare to the August 8, 2023 Special Election, which was a 39% turnout. Therefore, the November Election is projected to have a 40% - 45% voter turnout. The Election Officials Department is continuing to hire and train Election Day Officials. Currently, about 90% of pollworkers have completed their training. There are presently 90 Cuyahoga County employees participating in the County Precinct Election Day Official Program, and over 60 attorneys earning educational credits for working at the polls. There remains a need for more Republican poll workers to ensure bipartisan teams, with about ten locations still needing a Republican worker. Poll worker training will continue through October 22, 2023, and there will be Zoom sessions and Practice Makes Perfect training. Early In-Person (EIP) voting started one week ago, and there have been 3,100 EIP voters, which is about 10% behind the August 8, 2023 Special Election.

Deputy Director Kaloger said that parking continues to be an issue. Public Works secured the Bryant and Stratton parking garage and Campus International lot for voters to utilize this Election. The CCBOE parking lot is being used for ADA parking. Director Perlatti stated there is a concern for voters' jaywalking across the street, and Public Works be will adding barriers to deter jaywalking and guide voters to the crosswalks. Having voters use the front entrance will divert campaigners from the rear parking lot to the crosswalk area. Board Member Davis Chappell thanked the partners for helping with the parking issue to create some accommodations to alleviate some of the parking issues. She stated there needs to be greater attention from the CCBOE partners at the County to move forward with a new building that provides the CCBOE with ample parking. Board Member Davis Chappell stated that she thought headway and progress was being made, and now there is a holdup. The CCBOE needs to renew the request to the County as the situation will be quadruple times worse for the 2024 Presidential Primary and General Elections. Board Member Davis Chappell said if this is not figured out, there will not be enough time to move into a new building. The CCBOE has made its best efforts to address the issue and needs a new facility. She said there are the same challenges with parking,

voter safety, and adequate space, which need to be addressed. Director Perlatti agreed, and the CCBOE routinely inquires with the County. Public Works is negotiating with the property and trying to work it out through the attorneys. Still, they cannot give the CCBOE a timeline or deadline for when they can bring something forward to the County Council. The budget presentation to the Council is part of the presentation without a dollar amount, but the need for a new building is in there. Board Member Davis Chappell asked when the budget presentation is, and perhaps the Board Chairman or Members could also attend. She stated this impedes efficient operation, and for the voters of Cuyahoga County, this needs to be a priority. The CCBOE is making due and doing a great job, but now there are greater concerns about voter safety. There needs to be movement forward and get the CCBOE in a new space. Soon, there will be holidays and the 2024 Presidential Elections, and there will need to be time to prepare the new site. The CCBOE is getting to a critical time. Director Perlatti stated he is in communication with the County Executive's office and Public Works. He said the CCBOE will be on the docket for the County budget meeting on November 2, 2023.

Deputy Director Kaloger stated the Vote-by-Mail (VBM) department has processed over 72,000 VBM applications, which is about 14,000 applications ahead of the August Special Election and twice the number of applications from four years ago. The CCBOE did meet with the County Information Technology (IT) department regarding an issue with the website tool for printing VBM labels, which candidates use. The Board discussed the issue, and when the County IT becomes involved with the CCBOE website. Deputy Director Kaloger stated the Ballot Department is conducting logic and accuracy testing on all the ballot scanners going to the polling locations. Each machine is tested before going out into the field. The Ballot Department is also performing quality assurance for all the ballots. The ballots then go to the Election Support Department to prepare and send to the polling locations. There are only five polling location changes for the November 7, 2023 General Election. The voters impacted have been notified by letter and on the Voter Information Guide. Board Member McCafferty noted the helpful signage directing traffic around the CCBOE for EIP voters. Deputy Director Kaloger stated Public Works and the Highway Division have helped provide additional signage. The Board discussed the campaigners and traffic patterns around the CCBOE building and the jurisdictions involved to ensure voters have a positive and safe voting experience.

PUBLIC COMMENT

There was no public comment

EXECUTIVE SESSION

There was no executive session

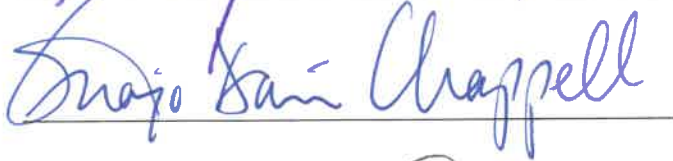
Chairman Curtis moved to recess the meeting at 10:20 a.m. Board Member Davis Chappell seconded. The motion passed unanimously.

Certification: I have reviewed the above minutes and certify that they are an accurate summary of the actions taken by the Cuyahoga County Board of Elections at its meeting held on October 18, 2023.

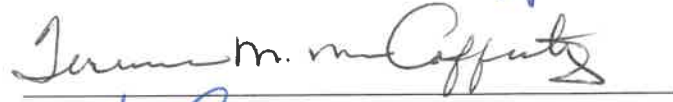
Henry F Curtis, IV, Chairman

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Inajo Davis Chappell, Board Member

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Terence M. McCafferty, Board Member

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Lisa M. Stickan, Board Member

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Anthony Perlatti, Director

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