Board Meeting
11/20/2023

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 November 6, 2023, board meeting

Chairman Curtis moved to approve the minutes from the November 6, 2023, board meeting. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 2: Acknowledgment of Secretary of State Directive 2023-20: General Assembly District Maps

Chairman Curtis moved to acknowledge Secretary of State Directive 2023-20: General Assembly District Maps. Board Member Davis Chappell seconded. The motion passed unanimously.

Agenda Item 3: Determination of the validity of provisional ballots and authorization to count provisional ballots from the November 7, 2023, General Election

Hasani Wheat, Registration Department Manager, presented the November 7, 2023, General Election Provisional Report to the Board, as provided in the meeting materials.

Chairman Curtis moved to approve the determination of the validity of provisional ballots and authorization to count provisional ballots from the November 7, 2023, General Election. Board Member Davis Chappell seconded. The motion passed unanimously.

The Board discussed two cases where voters cast two ballots in the November 7, 2023, General Election. In both cases, the voters cast provisional ballots, which were part of the rejected ballots total. The first voter had cast a ballot on Election Day at the polls and had voter remorse. The polling

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

location would not issue the voter another ballot. The voter then came to the CCBOE and demanded to vote another ballot. After CCBOE staff explained the provisional would not count, the voter remained adamant to vote again and was issued a provisional ballot, which the voter completed and submitted.

The second case was a voter who cast and returned an absentee ballot in October 2023 in Ottowa County, where the voter was registered. The voter subsequently moved to Cuyahoga County and came to the CCBOE for Early In-Person voting on November 1, 2023. The CCBOE issued the voter a provisional ballot to the address he had recently moved. Through the provisional verification process, the voter was found to be registered in Ottowa County and voted by mail in that county. Therefore, the CCBOE rejected the provisional ballot.

Chairman Curtis stated the two provisional ballots were rejected and will remain sealed. Board Member Stickan made a motion to refer both voters to the Secretary of State Public Integrity Division. Board Member Davis Chappell seconded. The Board discussed the two matters and determined further investigation is needed before a determination is made to refer the voters to the Secretary of State (SOS) Public Integrity Division. Board Member Stickan stated that knowing the Board would further discuss these two matters at the November 28th board meeting, she withdrew the motion Director Perlatti said with November 23rd and 24th, 2023, being the Thanksgiving holiday, the Board Meeting on December 18, 2023, would be a better date for discussion.

Agenda Item 4: Acknowledgment of intent to retire from elected office

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

NEW BUSINESS
November 7, 2023, General Election Update
Director Perlatti read the following statement regarding the November 7, 2023, General Election. "The Cuyahoga County Board of Elections conducted a successful November 7. 2023, General Election, with the efforts of those who served as poll workers. As can be expected in any election, there were unforeseen challenges staff encountered on election day. Staff and the poll workers put forth their best efforts to navigate through these encounters. On election day and up to this point in time staff learn more about the experiences poll workers and voters experienced on election day and use this knowledge in preparation of the official certification. Bay Presbyterian Church served as a polling location on election day. There were four precincts assigned to this location with three ballot scanners allocated to the location. These three scanners were utilized throughout the day for voters to cast ballots. After the close of polls, the poll workers engaged in the ballot scanner processes to shut down these machines. Two of the three machines shut down without incident. The third machine seems to have had a software freeze at some point near the end of the shutdown process, and did not fully cycle through the shutdown process. The machine results report also did not print correctly, it seems the paper roll became jammed and would not advance. The poll workers remembered their training to not leave the memory devices in the ballot scanners, and placed all three memory sticks in the correct transport case for delivery back to the board offices. The poll workers did make a simple notation that they had problems with closing one of the memory sticks. Upon receiving the memory sticks and physical paper ballots on election night at the board offices, staff were unsure if the memory stick in question would correctly tabulate the ballot scans from the respective machine. Following established board procedures, staff scanned what they believed to be the ballots from all three scanners from Bay Presbyterian Church and uploaded those results on election night for use in the unofficial election results.It was found in the days following election day during the Board's post-election ballot audit that not all the Bay Presbyterian Church poll location ballots were

scanned on election night. This was found through a comparison of the number of electronic pollbook (EPB) signature check-ins from the location, the unofficial results, and the number of pages counted during the post-election ballot audit scan. Upon finding out this information, staff sent an email to the contested candidates impacted by this finding to make them aware that additional ballots will be included in the official results for their contests. Since election night, at no time has the Board of Elections not been in custody of all the ballots and memory sticks from the Bay Presbyterian Church polling location. It is the Board's regular operating procedures to scan the paper ballots from election day if there is, or appears to be, a problem with a ballot scanner on election day. It is also the Board's regular operating procedures to conduct a post-election audit scan on as many polling locations as time allows during the official certification process. Absolutely nothing nefarious transpired during this process and the Board's staff and poll workers conducted their duties with integrity. There are no internal bad actors in this matter. Further, the board was and continues to be transparent with the impacted candidates from the onset of identifying this issue. Staff answered questions of the candidates or their representatives during last week's public test of the automatic tabulating equipment to what we believe to be their satisfaction. The unofficial results are just that, unofficial, and serve as preliminary results for the election. By statutory design there is a multiple weeks long period of time for Boards of Elections to conduct their post-election duties, and have all items in place for the official certification of results. Per Ohio election law, no intermediate election results can be published between the unofficial election results and the official election results. Official certification of the November 7th General Election will occur on November 28th with all ballots from the Bay Presbyterian Church poll location included in addition to valid provisional ballots and valid post-election ballots. Also on election day, there were a few of the 289 polling locations that exceeded election day turnout predictions and needed additional ballots. These poll locations were primarily located in Lakewood, Walton Hills, and Valley View. To create the November 7, 2023 ballot order, staff looked to the election day turnout in the August 2023 Special Election and November 2022 Gubernatorial General Election. Whichever turnout was larger on a per precinct basis, 105% of that number was ordered, plus an additional 25 ballots per precinct, and 115% of the number of provisional ballots cast. This formula was sufficient for 97-98% of the precincts in the election. In the 2-3% of precincts where it was not sufficient, these locations were voting at near presidential year turnout levels. And in cities such as Lakewood, the ballot matter was not uniform across the city with about half of the polling locations being impacted with higher turnout. Throughout the day staff monitored election turnout and identified that some precincts were turning out higher than expected. At approximately 1:30pm an order for additional ballots for select locations was placed with Midwest Direct. These order determinations were primarily made looking at the morning turnout. Staff expected this ballot order to make it out into the field around 5:00 pm. Around 5:00pm I was informed by Midwest that the supplemental ballot orders were delayed in getting out into the field and were being dispersed as quickly as possible on a rolling basis as printing completed. A little before 6:00pm Board staff began to print supplemental ballots at the board's office and prepare them for delivery into the field. Board staff were dispatched into the field to deliver either preprinted supplemental ballots and/or blank ballot stock for use in the ADA voting machine which is also a ballot on demand printer. While the supplemental ballots and ballot stock were being printed and transported, staff spoke with poll workers teaching them how to print ballots on demand from the ADA machine if needed and until supplemental ballots arrived. Staff instructed poll workers to not send anyone away from the polling locations while the on-demand ballots were being printed and until supplemental resources could be delivered. The poll workers did an excellent job during this challenging situation. Staff have already met to discuss improvements to the supplemental ballot printing process. We are trying to determine a more efficient way to monitor ballot usage and will be proactively training voting location managers on the ballot on demand process. When ordering election day ballots, staff are balancing not overloading the ballot bags so they weigh more than 40 pounds, logistically can be delivered to and from the polling locations with reasonable effort, and be cognizant of tax dollars spent on these materials that are stored

between 3 to 22 months post-election. The board staff will be taking the necessary steps to ensure that 100% of poll locations have the ballots they need to execute an election."

Board Member Davis Chappell asked if other polling locations reported the same software issue. Board Member Stickan asked if the incident was a machine or user issue. Director Perlatti stated the machine did not shut down correctly. The machine did not get to the point where it told the poll workers to unmount the stick. The poll workers eventually pulled the stick out and returned it to the CCBOE with a note. The Clear Ballot technicians were on site, and they were not familiar with any unmounting issues. The CCBOE has over 700 scanners in the field, and this is the only scanner that came to the CCBOE's attention. The CCBOE will send Clear Ballot the stick to analyze the encrypted information and see precisely what happened with the shutdown process. Board Member Davis Chappell asked if any other scanners had that issue. Director Perlatti stated no. Board Member McCafferty said if there were issues, the polling location would not have been able to balance how many voters came through, how many ballots were issued, soiled, etc. Director Perlatti explained the processes between the unofficial and official results. Board Member Stickan asked if the updated Bay Village results could be published. Director Perlatti stated the SOS Directive states there can not be any partial or intermittent results reported between the unofficial results and official results. The Board discussed the internal processes for the initial ballot orders, printing election day ballots in-house and at the polling locations for the 2024 Presidential elections. Director Perlatti stated the CCBOE is already working with Clear Ballot regarding election night reports that will help the CCBOE do checks and balances, similar to the reporting features available through the previous vendor ES&S. Those reporting features will be available for the March Presidential Primary. Board Member Davis Chappell asked if there were any disenfranchised voters. Director Perlatti said no. Polling locations were told not to turn anyone away, and the locations were telling voters to pause and wait. Poll workers did a great job relaying that information to voters. Board Member Davis Chappell asked how long it takes to print the ballots from the ADA ballot on-demand printer. Director Perlatti stated it takes one minute to print a two-page ballot. Deputy Director Kaloger said further poll worker training will be done, and a quick reference guide will be provided regarding the ballot on demand for the 2024 elections. Director Perlatti will report back to the Board regarding an upcoming meeting with Midwest Direct, the print vendor, regarding the delay in providing the election day ballots to the locations and better communications if there is a reason for any delays. Director Perlatti stated the CCBOE finished uploading the results later than usual, not due to any problems, but because now the CCBOE takes images of the scanned ballots. Due to the high voter turnout, the CCBOE uploaded 40 to 120 memory sticks every half an hour, totaling almost one million images. Board Member Davis Chappell asked when saving the images became an issue. Director Perlatti stated it is a new 2023 Directive, and the CCBOE did not need to save images with the ES&S equipment other than write-in images. Director Perlatti has spoken with the SOS Director of Elections regarding pushing the vendors to see what can be done to increase the speed of data uploading. In conversations between the CCBOE and Clear Ballot, there is a way to upload the numeric results first and then go back and upload the images separately. The CCBOE and Clear Ballot will work on this process in a test environment. Board Member Davis Chappell asked if the changes would need to go through the Ohio Board of Voting Machine Examiners. Director Perlatti said what he explained currently exists, so a certification change would not be needed. The CCBOE will work on uploading the results, reporting the results, and then going back to upload images. Board Member Davis Chappell asked about the rationale for the new requirement to upload the images since the CCBOE has a verified voter paper trail, which is the evidence. Board Member Stickan asked if this is the first time with the new Directive did the CCBOE have a discussion with Clear Ballot before and if the CCBOE anticipated it would take so long to upload the images. The CCBOE needs to get ahead of any new changes in a directive. Board Member Davis Chappell asked if the CCBOE could get a waiver as large counties will not be able to report the results in a timely manner. Assistant Prosecutor Musson stated the change in the state law requires boards of elections to retain the images for as long as the paper ballots are retained. He said

the changes were part of the Budget Bill and would not take effect until 2025. However, the Directive is making counties implement it sooner. Director Perlatti said the CCBOE has notified the SOS that something will need to be done for the 2024 elections. The CCBOE could request an extension in reporting the write-in candidates. Board Member Stickan asked if there were any changes to the Ohio Revised Code that will be applicable for 2024 that could be impactful. Director Perlatti said that with every statutory election, the SOS will issue a temporary directive specific to that election. There will be a directive for the unofficial and official canvas directive. A directive will be issued for the March 2024 primary. The Election Official Manual is a permanent directive. That book is outdated and has not been updated to capture any changes in the laws. There are different windows of time in which the SOS can update it. There will probably not be an update to the manual until Summer 2024. Additional temporary directives will likely be issued to address some of the changes to the law. He explained that changes to House Bill 458 are not in the Election Official Manual. Director Perlatti stated the Election Officials Department submitted the poll worker payroll to the County payroll office for an Ohio Public Employees Retirement System review. Then, the payroll file will be passed onto the County Accounts Payable Department. The CCBOE should be able to mail the checks on Tuesday, November 28, 2023. The CCBOE has received 1,904 post-election absentee ballots, and 1,264 were eligible to be counted. Bermans Moving and Storage is completing equipment pick-up today. Bermans provided the CCBOE with excellent service and met every deadline this election. With the unofficial results, not including the provisionals or post-election absentees as of November 20, 2023, there are currently three contests that would qualify for an automatic recount. Any additional recounts will be determined when the Official Certification is completed.

December 5, 2023, East Cleveland Recall Election
Deputy Director Kaloger stated the December 5, 2023, East Cleveland Recall Election is in 18 days. Early In-Person (EIP) voting began on November 7, 2023, and 27 voters have voted at the CCBOE. Thursday, November 23, 2023, is Thanksgiving, and the CCBOE is closed. However, State law requires the CCBOE to be open on Friday, November 24, 2023, for EIP voting. There will be two staff members, one Democrat and one Republican, and security will also be in the building. The CCBOE has processed 18 vote-by-mail ballot applications, and two ballots have been returned. On Election Day, there will be 15 precincts in five polling locations, which CCBOE employees and several poll workers will staff. The CCBOE will be using the new electronic poll books for this election. The Election Support Department will deliver the voting equipment to the five locations. There will be a Monday Night Organizational meeting.

Update on end-of-year projects
Director Perlatti stated there are projects the CCBOE staff are working on in addition to certifying the November 7, 2023, General Election and the upcoming December 5, 2023, East Cleveland Recall Election. The General Assembly Redistricting is Directive 2023-20 for the new State House and Senate District boundaries. By the week of December 4, 2023, the CCBOE should be able to post the Cuyahoga County map on the website. Of the eleven districts in Cuyahoga County, nine districts include a part of Cleveland. The CCBOEs' goal is to have all the proofing and DIMS work entered by December 11, 2023. The SOS deadline is December 20, 2023, which is also the deadline for candidates to file petitions for the offices. Once the DIMS work is completed, the petitions can be verified. The Election Administration Plan is being finalized and will be sent to Assist Prosecutor Musson next week for redaction purposes. The Plan will be sent to the Board for review by December 8, 2023. The Board does not need to take action on the Plan but will need to sign it. The SOS updated the retention schedule. The CCBOE will need to present the retention schedule to the County Archives, and a board will then approve it on December 5, 2023. The SOS retention schedule is then incorporated and accepted by Cuyahoga County. The CCBOE is receiving shipments of EPB materials. Peter James, Election Compliance Administration, is working with County IT to donate the existing EPBs to the Cleveland Metropolitan School District. The Fiscal Department is

also working with County IT to convert the old poll books to new ones for a smooth inventory transition. The goal is to have all the new equipment acceptance tested, labeled, inventoried and ready to enter into the preparation for the March 19, 2024 Presidential Primary. The Election Official Department is working on poll worker training updates. The management team will be meeting this week to review what needs to be incorporated into poll worker training, and by December 8, 2023, the changes need to be locked in for the quick reference guides and training manuals and go to print. Poll worker training starts on January 19, 2024. The deadline to file candidate petitions is December 20, 2023, and certification of candidates will take place on January 2, 2024.

PUBLIC COMMENT
There was no public comment

EXECUTIVE SESSION
There was no executive session

Chairman Curtis moved to recess the meeting at 10:45 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 November 20, 2023.

Henry F Curtis, IV, Chairman

Inajo Davis Chappell, Board Member

Terence M. McCafferty, Board Member

Lisa M. Stickan, Board Member

Anthony Perlatti, Director