



**LUZERNE COUNTY COUNCIL
AD HOC ELECTIONS INQUIRY COMMITTEE**

Thursday, January 28, 2021
Luzerne County Courthouse
200 N. River Street
Wilkes-Barre, PA 18701

**6:00 PM
VIA ZOOM**

CALL TO ORDER

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

ROLL CALL

ADDITIONS/DELETIONS TO AGENDA

ADOPTION OF AGENDA

AGENDA ITEMS

1. Finalize summary of inquiry and recommendations

PUBLIC COMMENT

This is an opportunity for members of the public to address the Committee on matters not listed on the Agenda, but which must be within the subject matter jurisdiction of the Committee and Council. Speakers are requested to submit a Speaker Card before the first speaker is called and to limit individual comments to three (3) minutes. Speakers may not yield or transfer their time to another speaker.

ADJOURNMENT

2020-21 ELECTIONS INQUIRY SUMMARY

The Luzerne County Council ad hoc Elections Inquiry Committee was established by unanimous vote of Luzerne County Council on October 13, 2020. Council Chair Tim McGinley named the members of the committee: Councilmembers Harry Haas, Linda McClosky Houck, Stephen J. Urban, and Sheila Saidman, with Ms. Houck to chair the committee.

The committee met weekly on Thursdays from October 29, 2020 to January 28, 2021, for a total of 10 meetings. The scope of the inquiry was defined at the first meeting. The committee requested and reviewed numerous documents related to the operation of the Luzerne County Bureau of Elections and Voter Registration and the role of the Luzerne County Board of Elections and Voter Registration, as well as statutory requirements for Elections management in Pennsylvania and examples of Elections management in other similar Pennsylvania counties.

The committee received statements and participated in discussions with Luzerne County Bureau of Elections employees, Luzerne County Division Heads, the Luzerne County Manager, members of the Luzerne County Board of Elections, and representatives from both voting machine and pollbook vendors Dominion Voting Systems and ES&S. The committee also welcomed relevant comments from members of the public at each meeting.

The findings and recommendations of the Luzerne County Council Elections Inquiry Committee now follow.

I. **OPERATING POLICIES, PROCEDURES, AND PRACTICES**

FINDINGS:

- A. There is no written documentation of basic procedures and practices for daily operations in the Bureau.
- B. There is no clear process for handling of complaints or issues at State or Local level.
- C. There is evidence of a serious inability of pollworkers to communicate with Bureau staff on Election Day.
- D. Campaign finance reports are not posted online for public access, despite repeated discussion and requests from Council and public and repeated promises from County management that this information will be posted online.

RECOMMENDATIONS:

- A. The Bureau of Elections should develop a manual of daily operating procedures to provide consistency in regular and exceptional operational practices and procedures and to allow for smooth transitions in staff turnover.
- B. The Board of Elections/Bureau of Elections should develop and formalize a process, including a flowchart with time requirements, to be responsive to complaints and issues. In particular, the process for receiving and responding to complaints submitted at the state level should be addressed.
- C. The Bureau of Elections should have dedicated phone line for pollworkers to facilitate direct and immediate contact during election day.
- D. Post all campaign finance reports online without delay.

II. ROLE OF BOARD OF ELECTIONS AND VOTER REGISTRATION

FINDINGS:

- E. The Luzerne County Home Rule Charter is vague regarding the role of Board.
- F. The Division Head of Administrative Services currently bears the responsibility for Voter Registration.
- G. The Director of the Bureau of Elections did not appear before the Board during the months surrounding the 2020 elections. Interactions and communication between the Board and the Bureau have been inconsistent and limited.

RECOMMENDATIONS:

- E. The Charter provides the master plan for the government; the Administrative Code is intended to provide the details of that plan. The role of the Board of Elections and Voter Registration and its relationship with the Bureau should be defined by County Council within the Administrative Code, informed by Pennsylvania law.
- F. The responsibilities of the Board of Elections and Voter Registration as well as the responsibilities of County employees should be defined by County Council within the Administrative Code, informed by Pennsylvania law.
- G. The Director of Elections should be the link between the Bureau and the Board of Elections.
 - a. The job description for this position should require direct interaction and frequent communication with entire Board of Elections and attendance at each Board meeting.
 - b. The Administrative Code should be revised to identify the Elections Director as the Clerk of the Elections Board.

III. OFFICE MANAGEMENT

FINDINGS:

- H. Job descriptions of staff as provided to the committee were vague. Some were generic job descriptions that included inaccurate details not applicable to Bureau of Elections positions.
- I. The questions regarding the procedures and practices of the Bureau and the County, were central to the establishment of this inquiry. The information provided regarding Bureau-specific operation and management was minimal and provided verbally during the course of the inquiry meetings. Although many documents were submitted to the committee, a significant number of them were operating manuals for voting and pollbook machines, or documents from the Pennsylvania Department of State regarding procedures. No written procedural manual describing the management of Bureau operations was provided.
- J. There were no written procedures for seasonal workers or pollworkers.
- K. The Director of the Bureau of Elections did not appear before the Board during the months surrounding the 2020 elections. Interactions and communication between the Board and the Bureau have been inconsistent and limited.
- L. The public response to management's push for mail-in ballots impacted the workflow of the office.

M. CTCL awarded a \$200,000 grant to the Luzerne County Bureau of Elections. The committee was unable to determine the direct chain of command regarding application and management of this grant, including how the funds were spent.

RECOMMENDATIONS:

- H. The job descriptions for each position in the Bureau of Elections should be specific and itemized to the fullest extent possible and committed to writing. Intentional and potential overlap of duties and responsibilities between positions should be noted on each job description.
- I. The management of the Bureau of Elections should commit to writing specific procedures inherent in the operation of the Bureau, along with chain-of-command and supervisory practices, particularly where temporary or seasonal workers are involved in Bureau functions.
- J. It is not reasonable to expect seasonal workers to know the procedures and practices of the Bureau of Elections without some form of documentation of current practices and worker responsibilities. The management of the Bureau should provide seasonal workers with a procedural manual for the tasks they are undertaking.
- K. The Director of Elections should be the link between the Bureau and the Board of Elections.
 - a. The job description for this position should require direct interaction and frequent communication with entire Board of Elections and attendance at each Board meeting.
 - b. The Administrative Code should be revised to identify the Elections Director as the Clerk of the Elections Board.
- L. Office management needs to be competent in assessing the impact of initiatives on the existing staff.
- M. The Budget and Finance Director should provide a report on the CTCL grant to the committee and Council.

IV. ELECTION PROCEDURES

FINDINGS:

- N. Number of pollworkers was insufficient; some locations had less than a full complement of workers.
- O. Problems with setup of machines on Election Day caused a significant delay in the start of voting in some locations. Problems were due to user error (pollworkers) rather than machine malfunction.
- P. Trainings on the use of voting machines and pollbooks were available and pollworkers were paid to attend the trainings, but participation by pollworkers was inconsistent.
- Q. Content of pollworker training was not provided to the committee, despite being requested.

- R. Advance plan for staffing of polling places was requested several times by the committee, but was not provided (spreadsheet or other documents listing which workers were expected to be in which locations), leading the committee to assume that such a document did not exist.
- S. Some pollworkers who had been trained in previous elections were not contacted or scheduled to work for the general election, despite having informed the Bureau of their availability to work.
- T. Voters were not familiar with machines prior to Election Day.
- U. Pollworkers were unable to reach anyone in the Bureau of Elections on Election Day.
- V. Ballots cast by voters who were deceased on or before Election Day were counted.
- W. The County Manager, Division Head, and Elections Director oversaw the ballot counting on Election Night and halted the counting of ballots without consulting the Board of Elections.
- X. Ballots were cured through the intercession of party representatives, but there was no recourse for curing third party or independent ballots.
- Y. There was confusion among voters regarding polling places due to consolidation or changes in polling locations. Voters received mailed voter cards after the Election.
- Z. Ballots appear to have been correct; proofing process appeared to work.

RECOMMENDATIONS:

- N. Advertise pollworker positions well in advance of election day; contact local high school social studies departments and administer junior pollworker program to tap high school students; contact local colleges for political science classes to close the staffing gap.
- O. Permit setup and testing of machines in polling location as much as possible on Monday evening prior to Election Day. Require 6 AM arrival on Election Day for pollworkers.
- P. Increase contact with pollworkers and offer multiple training opportunities. Offer online or video training with competency assessment at the end of training. Use Remind or other communication app to send mass messages to all pollworkers and facilitate two-way communication between pollworkers and Bureau.
- Q. Include all aspects of duties and responsibilities in training, including proper completion of affidavits. Provide a comprehensive checklist of duties and responsibilities to be covered and a way to evaluate the trainees' understanding of the training.
- R. Prepare an advance plan for staffing of polling places, and develop back-up plans for no-shows and potential issues with machine operation.
- S. Maintain a list of trained and veteran pollworkers and contact them well in advance of Election Day. Provide "refresher" training for returning pollworkers.
- T. Provide videos of election machine operation on the County website for public access well in advance of Election Day.

- U. Dedicate phone lines for direct access by pollworkers on Election Day. Use cellphones for texting and communication apps as well.
- V. Establish and follow a procedure for verifying Election Day life status of voters for all mail-in or absentee ballots prior to processing any mail-in or absentee ballots.
- W. The Board and the Bureau should work together to develop a written plan for the counting of ballots on Election Night, including chain of custody of ballots, administration of oaths to workers, securing ballots, and decision-making.
- X. No third party or independent ballots were found in need of curing in the November 2020 election, making this moot for the instant; however, a plan should be developed to provide for curing of all ballots, not just party-affiliated ones.
- Y. Plan the mailing of information on polling locations and any other information sent by mail to county voters well in advance to anticipate potential mail delivery problems.
- Z. Continue with current procedure for proofing ballots.

V. **PROCEDURAL ISSUES IMPACTING THE CONDUCT OF THE INQUIRY**

FINDINGS:

- A. County Council conducted the inquiry as part of management oversight per the Luzerne County Home Rule Charter. All personnel involved in the inquiry, particularly those tasked with providing materials for the inquiry committee, had a duty to respond to requests in a thorough and timely manner.

The manner in which management responded to the inquiry requests indicates a lack of respect for the role of Council in exercising oversight of County management and inquiring into the specific operation of one of the most important functions of County government: running valid elections.

- B. The questions regarding the procedures and practices of the Bureau and the County, including hiring procedures, were central to the establishment of this inquiry. The flow of information was erratic, inconsistent, and incomplete:
 - a. All information was funneled through the Office of Law;
 - b. the committee was denied access to several items requested in redacted form;
 - c. some information was provided in only partial form;
 - d. information requested during a meeting was frequently provided on the day of the next meeting, allowing the committee little or no time to review it prior to the meeting.
 - e. The first delivery of information requested included a “cover sheet” listing the items included; however, examination of the materials that were actually provided showed that some of the listed items had not, in fact, been provided.
 - f. Questioning regarding the verification of life status of mail-in voters yielded an answer that there were no votes cast and counted by voters who died on or before Election Day; this proved to be untrue.

RECOMMENDATIONS:

- A. **County management should respect the role of Council and cooperate fully with Council inquiries.**
- B. **The flow of information should be uninhibited:**

- a. Information should be provided directly to the inquiry committee, not routed through an additional stop on the way;
- b. Information of a sensitive nature should be provided in an executive session with the committee;
- c. Information provided should be complete and truthful;
- d. Information should be provided in a timely manner;

VI. ITEMS FOR LEGISLATIVE REVIEW

- A. Future of no-excuse mail-in voting in Pennsylvania
- B. Legislation permitting pre-canvassing, canvassing, and procession of absentee, mail-in, and early voting ballots prior to the closing of polls
- C. General need for clarity at the state level and statewide uniformity regarding election procedures – counties can submit plans for approval by the Department of State.