

LUZERNE COUNTY BOARD OF ELECTIONS AND REGISTRATION

AGENDA

September 13, 2023 at 6:00 P.M.

Council Meeting Room

Luzerne County Courthouse

200 N. River Street Wilkes-Barre, PA 18701

And

Video/Teleconference via ZOOM

CALL TO ORDER

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE

ROLL CALL

ADOPTION OF AGENDA

PUBLIC COMMENT ON AGENDA ITEMS

This is an opportunity for members of the public to address the Board on matters listed on the agenda. (Limited to 3 minutes & one comment time per person) Please refer to the Board of Elections and Registration Online page of County's Website at <https://www.luzernecounty.org/1282/ABC-Meetings-Online> for information on how to participate in Public Comment via technology.

APPROVAL OF MEETING MINUTES FROM: August 16, 2023 Regular Meeting (pp. 3-10)

AGENDA ITEMS

1. Campaign Finance Report Filing -Current Status – Including 2022 Annual Report Filing Status, Committee Registration Filing Status & Website Failed-to-File List: Information, Discussion

2. Electronic Pollbook RFP's: Information, Status

3. Replacement of Pittston Library Ballot Drop Box Site with West Side Annex Location: Information, Discussion, Possible Board Vote

4. Committee Report – Board of Elections & Registration By-Laws (pp. 11-13): Review & Discussion

5. Open Office of District Attorney Ballot Drop Box Investigations (November 2021, May 2022, November 2022) (DW): Information, Discussion

6. Inclusion of Work Sessions for Board of Elections & Registration Meetings (AF): Information, Discussion, Possible Board Vote

7. Motion to Approve the Office of Law’s Retention of Attorney Joseph Cosgrove, from the Selingo Guagliardo Law Firm, to represent the Luzerne County Board of Elections & Registration in “Luzerne County vs. Luzerne County Board of Elections and Registration”: Vote by Board

COMMENT ON NON-AGENDA ITEMS

This is an opportunity for members of the public to address the Board on matters not listed on the agenda but which must be within the subject matter jurisdiction of the Board. (Limited to 3 minutes & one comment time per person) Please refer to the Board of Elections and Registration Online page of County’s Website at <https://www.luzernecounty.org/1282/ABC-Meetings-Online> for information on how to participate in Public Comment via technology.

ADJOURNMENT

LUZERNE COUNTY BOARD OF ELECTIONS
AND REGISTRATIONS MEETING MINUTES
LUZERNE COUNTY COURTHOUSE COUNCIL ROOM
AUGUST 16, 2023

CALL TO ORDER 6:06 PM

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

ROLL CALL

Alyssa Fusaro yes, Jim Mangan yes, Dan Schramm yes, Audrey Serniak yes,
Denise Williams yes

APPROVAL OF AGENDA

Alyssa Fusaro 2nd Jim Mangan, unanimous

PUBLIC COMMENTS (3 minutes)

Mark Rabo, Hazleton-has serious concerns regarding constitutional and charter criteria not being met by the ordinance, changing the chair doesn't require dissolving the Board; thanked the Bureau and Controller for campaign finance work, out of state PACs are required to register with the county, can a process be worked out for registration and complaints?

Robin Kochin, Dallas Township-asked that we return to using paper ballots that are hand counted; like Bradford County, we should call for paper ballots, hand counting, eliminate mail in ballots, require voter ID, have one election day for everyone and actively work for election integrity; regarding drop boxes, they should be eliminated

Claudia Glennan, Salem Township-Board was put into an unfortunate position by Council; question is too convoluted for people to understand and should be returned to Council; drop boxes don't undermine election integrity but reports of the election being stolen do

Alyssa Coleman, Swoyersville-submits that there has been no evidence of voter fraud with machines; priority is to have a many people voting as possible; in Luzerne County there are few drop boxes and they are only available during business hours; hand counting ballots is very labor intensive and requires training and is less accurate; use evidence in making decisions for conducting elections

Walter Griffith, Trucksville-the ordinance was not drafted properly, question can't mislead the voter, seems only changing appointing all five members by Council unless

they read everything; letting members sit on the Board and be candidates isn't election integrity it's insane; Office of Law telling Board what to do and that Board can't get outside council; challenge and let them sue

Diane Dreier, Dallas Township-shares Walter Griffith's concerns; ordinance restructures the Board to give Council control; politicizes the Board; voters may not be aware the the Bureau and the Board are not the same; voters will not read the information; gives Council control of the Board; now have Republican control of Council, they need to ask if they would be happy with Democrat control

Allen Henniger, Dallas Township-agrees with everyone who has spoken before, the ordinance is confusing, it is not one questions but a series of questions that must be voted on; has yet to prove fraud with ballot marking machines; won't solve the fraud issues with paper ballots; BMD are easy to update, paper ballots are not

Anita Frank, Wilkes Barre-agrees with Walter Griffith on the ordinance; poorly worded; Council making a power grab because they can; hopes the question can be kept off the ballot

Cindy Malkemes, Dallas Township-has attended several Council and Board meetings and hasn't heard anyone speak in support of the ordinance it's not appropriate or clear, people will not know what they are voting for; needs to go away if possible; no fraud with BMD; voting on one day-not everyone will have the opportunity to vote, mail in ballots solve this problem

Katerina Goretta, Kingston-most people won't understand or read the question; amendment confusing

AlishaHoffman-Mirilovich, Fairview Township, Executive Director Action Together NEPA (email)-within 90 days of the election, ballot language is flawed, doesn't include all of the changes, people may not have the opportunity to fully digest the changes; should be broken down into multiple questions; Council put Board in a position of approving a misleading question or redrafting language without a Council vote; eliminating prohibition of members not petitioning for office never discussed; two month old amendment not made public until Board posted their agenda; concerned about potential harm to democratic elections

Joseph Shafer, Dorrance Township (email)-opposes amendment; not easily understood; members should not be able to run for office while on the Board; replaces all Board members in a presidential election year; election integrity doesn't allow for Council control

Jimmy Sabatino, Butler Township (email)-Board should reject; ballot language and content hands voters a group of questions with a vague reference to charter section 8.04; divide into questions; absence of public hearings compromises election processes

Shanna Smith, Dallas Township (email)-amendment is not clear, too long, diminishes non- partisan elements of the Board; compromises and threatens local fair and democratic elections

Beth Calpin, Swoyersville (email)-stop poorly worded and difficult to understand question; power grab by some Council members

Andrea Glod, Wilkes Barre (email)-current Council elected under current Board; DA found big problem is turnover; this increases turnover and will diminish voter participation; why? power grab not a good look

Lisa Napersky, Mountain Top (email)-county residents must be able to understand the question but it confusing and ramifications on elections not spelled out; gives Council power to appoint a Board in a presidential year; Board member could switch parties; need to fund an education campaign prior to election

MINUTES

Jim Mangan moved to approve minutes from July 12, 2023 2nd Dan Schramm, unanimous

AGENDA ITEMS

Jenkins Township Ballot Question

Alyssa Fusaro asked that the general term 'emergency services' be more specific

Attorney Mecadon advised that the tax increase was for police and fire; municipality online; supervisors agreed to add police and fire to the explanation and would email the Board

Paula Radick-advised ok to adjust as long as mulicipaity is ok with the change

Alyssa Fusaro moved to approve the question and plain English explanation 2nd Jim Mangan

Jim Mangan yes, Dan Schramm yes, Audrey Serniak yes, Alyssa Fusaro yes,

Denise Williams yes, motion passes unanimously

Nanticoke Ballot Questions (2)

Denise Williams suggested there be two plain English explanations instead of one

Attorney Finnegan, for Nanticoke, agreed

Denise Williams moved to approve the two ballots questions and plain English explanations

2nd Jim Mangan

Dan Schramm yes, Audrey Serniak yes, Alyssa Fusaro yes, Jim Mangan yes,

Denise Williams yes, motion passes unanimously

Luzerne County Ballot Question

Paula Radick advised that we are not amending the ordinance, ballot question just needs to mirror it; it needs to be in line with the ordinance; Board is responsible for wording

Shannon Crake-Lapansky-proposed language for the ballot question and plain English version was requested; Board is responsible for the language; didn't change ordinance, not content or intent changed; within 75 words by statute

Denise Williams-which do we revise and approve?

Shannon Crake-Lapansky-either or both or can use our own language

Denise Williams-what goes on the ballot?

Shannon Crake-Lapansky and Paula Radick-advised the plain language explanation is for advertising and posting in the polling places, doesn't go on the ballot; Council following PA law

Denise Williams-can we put the plain language on the ballot; has been done with previous questions; believes that both the question and explanation go on the ballot and always has gone on the ballot

Paula Radick-law states the plain language does not have to go on the ballot

Denise Williams-the plain language has always gone our ballots; done before

Shannon Crake-Lapansky-can't use including plain language on the ballot to reject the question

Alyssa Fusaro-Pittston questions were sent back because they combined two questions into one;

current question has nine changes in one question; not changing the entire form of government but amending part of the Charter; send back to Council

Eryn Harvey-checked previous ballots that had questions and plain language did not appear on the ballots

Denise Williams-there are multiple questions, why only one detailed; ordinance spells everything out but is too long for the ballot; eight questions: changing appointment of fifth Board member to Council, change of fifth member's term from 4 years to 2 years, changing process to select Chair, reduces requirement of same party membership from 5 to 3 years, reduces eligibility requirements from 4 years to 2 years, removes language preventing members from running for office while serving, plain language uses 'poll workers' not the broader term 'previously paid election workers', vacated Board members have to wait a year to reapply; not comfortable with approving the question

because of one questions changing multiple things; stands corrected-the plain language explanations have not appeared on the previous ballots

Jim Mangan-voters would just skip over it; can't fit on the ballot; fails in that it doesn't create a simple explanation for Luzerne County voters; our role is to review

Dan Schramm-items should come up separately; state government attempting to put 4 questions under one and was challenged; some items are good and some bad but forced to reject or vote for all; no reason to disband the Board of Elections

Alyssa Fusaro-members told to reapply but if Board is vacated current members would need to wait a year to reapply; new Board with no experience

Audrey Serniak-torn because our role is to review; agree with some changes but not others, against deleting language to suggest Board members can run for office; there are too many questions under one

Shannon Crake-Lapansky-Charter can be convoluted; municipal charters are simple, Charter isn't; amendments are not going to be simple; happy to help with language; language is Board's purview; if rejecting it don't just send it back send a proposal of what is wanted to Council

Alyssa Fusaro-one change allowed; there are 7-9 changes in one question; skating the issue by putting all the changes in one question

Denise Williams-agreed convoluted; if sent back they can listen to the meeting recording

Shannon Crake-Lapansky-Board not allowed to change or create a question[drafted because requested to submit language, Board's responsibility to construct the language

Denise Williams-opening us up to litigation if we create or change questions

Paula Radick-Board can review and make suggestions regarding ballot question; now is the time to propose adjustments to the question; Council's ordinance can't be changed by the Board;

ca n change the ballot question language and plain language explanation; no budget for outside legal council; no power to keep off the ballot, can only review and frame the language

Alyssa Fusaro-moved to send question back to Council to separate out all of the questions

No second to motion

Paula Radick-can't be sent back to Council because they have passed the ordinance; now at the point where the Board frames language to go on the ballot

Denise Williams-contends the form of the ordinance is not correct; 8 changes in one question

Alyssa Fusaro-moved to send question back to the Office of Law to review and edit and to separate the eight questions and revise the plain language explanation changing poll workers back to paid election workers 2nd Jim Mangan

Shannon Crake-Lapansky-this is not in accordance with the law; need to discuss this with Council; may not be able to return anything to the Board

Paula Radick-need to do this now

Denise Williams-Board not given enough time to prepare for this; can have a Special meeting if need be

Audrey Serniak yes, Alyssa Fusaro yes, Jim Mangan yes, Dan Schramm yes,

Denise Williams yes, motion passes unanimously

Update on Consultant's Review of Procedures

Jen Pecora-they are meeting with the consultant on a weekly basis; reviewing and making recommendations as they go; will give public progress reports; talking about how to better assign tasks; two people to oversee each task, a primary and a secondary; better to have two people checking over things

Campaign Finance Reports

Emily Cook-along with the Controller's office created a data base; info will be posted on the website; looking to be able to file campaign finance reports online soon; rechecking the lists as they do the annual reports for failure to file; double checking previous reports for any missing information; will send letters to those committees who have not filed or registered

Audrey Serniak-thanked Mr. Griffith and Controllers Office for all their hard work on the audit process

Emily Cook-process for failure to file is to send text blasts or letters so that we can prevent failure to file; clarified that those groups that are required to file with the state are also to send a 'courtesy copy' to the county

Eryn Harey-we should receive the copy of filing but can't fine them if they don't comply

Alyssa Fusaro-her opinion is that the money should be paid at the Treasurer's Office and a receipt brought to the Bureau

Jen Pecora-not accepting cash, only checks and money orders; will be updating the weekly documentation process with the Treasurer's Office

Electronic Poll Books

Jen Pecora-interviewed both vendors, called references; very close; not ready to make a recommendation at this time

Jim Mangan-attended interviews but not demonstration; both companies are willing to do a pilot program and both companies are knowledgeable and interested in our business; understand our needs

Audrey Serniak-attended interviews and demonstration; very close; leaning towards one vendor; equipment is more straight forward with what we currently have; doesn't want to rush the decision because we will be living with it for years

Alyssa Fusaro-with one vendor didn't like the way the poll books talked to each other if there were two poll books assigned to one poll place, feels they could be hacked; the other is more secure but there is an external device which is one more thing to remember

Jim Mangan-poll books don't effect the BMDs or tabulators

Emily Cook-we use reconciliation reports and numbered voter lists to check poll book accuracy; only two-five polling places use more than one poll book

Alyssa Fusaro-would still like an explanation of the security; Audrey Serniak mentioned surveys obtained a demonstration seemed to lean toward Knowink

Denise Williams, Jim Mangan, Dan Schramm, Audrey Serniak, Allysa Fusaro-like Knowink

Audrey Serniak moved to recommend Knowink 2nd Jim Mangan

Alyssa Fusaro yes, Jim Mangan yes, Dan Schramm yes, Audrey Serniak yes,

Denise Williams yes, motion passes unanimously

Paper Ballots or BMDs

Jen Pecora-Bureau recommends use of the BMDs; all checked, batteries replaced, extra toner will be included; all will be checked during A&L

Jim Mangan moved to use the ballot marking devices for the 2023 General Election

2nd Dan Schramm

Jim Mangan yes, Dan Schramm yes, Audrey Serniak yes, Alyssa Fusaro yes,

Denise Williams yes, motion passes unanimously

Drop Box for West Side Annex

Jen Pecora-this is close to Penn Place and there is a magistrate office at the site; should have a location closer to Pittston; Pittston had over 700 ballots

Denise Williams- annex is county owned and is easier for security; people have been going

en masse to local municipalities and scaring them off hosting boxes

Jen Pecora-suggest we revisit this next meeting

Bylaws

Audrey Serniak-general outline provided; starting point; as next step will make two changes that were just suggested (members should be physically present at meeting and need to state reasons for abstention or recusal) and email to Board members for more suggestions; should be reviewed by Office of Law; needs to be done but is not the highest priority

PUBLIC COMMENTS (3 minutes)

Walter Griffith-campaign finance audit was not a one person effort; Bureau is working to implement recommendations; fixing things that need to be fixed is a good thing; offended that people are saying the Charter is convoluted; Charter should be amended properly; last time amended there were several questions, some were accepted and some weren't; need to do this properly; liked Knowink for the poll books; thinks more affordable; regarding drop box, 700 ballots are substantial should have one in Pittston even though he's not in favor of drop boxes

doesn't want to disenfranchise anyone

Allen Heninger-JoE and poll worker, pleased with the votes and discussion; Knowink has fewer connections and is ok with the bluetooth link, will save time on election day, packs are sturdier; as a JoE find that the drop off procedure on election night is held up because lists as to what goes in the bags and what should be handled off are inconsistent

Alyssa Fusaro-input is invaluable; need in person focus groups

Mark Rabo-happy to hear Attorney Crake-Lapansky say Charter is convoluted; respects Mr. Griffith and other drafters but it was never reviewed to see if it conflicted with state law; applauds sending back to the Office of Law because of the form of the ordinance; do not need to reconstitute the Board, can only be justified if form of government is being changed; registration of out of state PACs-is there a process for this? perhaps a form could be online with an online filing system to comply with the I

MOTION TO ADJOURN

Alyssa Fusaro 2nd Jim Mangan, unanimous

ADJOURNED 9:14 PM

BYLAWS

The Board of Elections and Registration

20 North Pennsylvania Ave

Wilkes Barre PA 18701

Purpose-Charter 8.04A

Composition/Terms of Office/Election/Vacancies-Charter 8.04B-H

Officers

The officers for the Board are the Chair, Vice-Chair and Secretary The Board also has a Clerk and a Solicitor.

The Chair sets and posts the agenda, advertises the meetings and convenes and presides over meetings.

The Vice-Chair performs duties of the Chair in absence of the Chair.

The Secretary takes the meeting minutes, sees to the posting of the audio of meetings and can perform the duties of the Chair in absence of the Chair and Vice-Chair.

Clerk-see Admin code

Solicitor-see Admin code

Meetings

Time and Location

Meetings are held in the Council Chamber at the County Courthouse to allow for virtual participation, otherwise at Penn Place or another available advertised location.

Regular meetings begin at 6 PM; usually on Wednesdays.

Special meetings, which allow the Board to conduct business consisting of one agenda item, are held as needed.

Executive sessions will be held as needed and publicly announced during the next Board meeting.

Order of Business

The Board follows Robert's Rules of Order, in but not limited to voting, voting order and abstentions.

Public Comment-Charter 11.07

There are two public comment sections. The first on agenda items and the second on matters under the Board's purview.

Members of Council and Management may participate as members of the public but shall not participate in special manner unless prior a prior request has been made.

Quorums-Charter 8.04I

Virtual

Board members should attend meetings in person. Rare exceptions can be made if there are extenuating circumstances.

Audio of meetings will be posted on the county website

Advertisements, Agendas and Minutes

Advertisement of Board meetings, their agendas and minutes shall comply with the Pennsylvania Sunshine Law and Roberts Rules of Order.

Meeting Conduct

Members are expected to attend all meetings unless excused by the Chair.

If a Member has a conflict of interest in any matter, they will excuse themselves from any discussion or vote and state their reasons for doing so.

If a member abstains from a vote they must state their reasons for doing so.

Members will conduct themselves with courtesy to each other and the public.

Members will refrain from using cellphones for personal matters xcept for emergencies during meetings.

Code of Conduct and Ethics

Members will treat the public, management, Bureau employees and each other with mutual respect and refrain from criticizing each other in public.

Members will file any required ethics forms in time.

Any possible conflicts of interest can and should be discussed with the solicitor.

Resignations are to be addressed to the County Council.

Members are to maintain confidentiality of privileged information. What happens during executive sessions stays in executive sessions.

While members can voice their individual opinions, they shall refrain from speaking for the entire Board.

Members will not direct individual staff but will communicate concerns with Bureau management.

Members will communicate directly with Bureau management when seeking information or assistance.

Amendments

Bylaws can be amended or changed by a majority vote of the Board,