

The official canvass and regular monthly meeting of the Erie County Board of Elections was called to order by Chairman Thomas Ferrell on Monday, August 21<sup>st</sup>, 2023 at 3:00 p.m.

Roll Call:	(D) Thomas M. Ferrell, Chairman	Present
	(D) William J. Monaghan, Member	Present
	(R) Lisa M. Crescimano, Member	Present
	(R) Nancy C. McKeen, Member	Present

Guests in attendance: Jason Hinnners from Erie County Prosecutor's Office, Rachel Ruffer from Secretary of State's Office, MaryAnn Groot, Amy Grubbe, Steve Lippert, Hallie Minich-Lippert, Diane Schaefer, and Carolyn Schreck-Mitchell

Adrienne James, Deputy Director, reviewed absentee ballots received after Election Day. Twenty absentee ballots received after Election Day are eligible to be counted. Of those 20, 18 are non-UOCAVA ballots that arrived in the mail within four days of Election Day and had a post-mark of August 7<sup>th</sup> or earlier. One is a UOCAVA ballots that arrived in the mail within four days of Election Day. The last one is a non-UOCAVA ballot that had a deficiency, but the voter submitted the 11-s correction form which arrived in our office within four days of Election Day. The board members took a few moments to review those absentee ballots. Ms. Crescimano motioned to accept the 20 eligible absentee ballots, with Mr. Monaghan seconding. All board members voted yes; motion carried.

Ms. James reviewed the ten absentee ballots received after Election Day that are not eligible to be counted. Of the ten, five are non-UOCAVA ballots that arrived in the mail after four days past Election Day. Two are UOCAVA ballots that arrived in the mail after four days past Election Day. One is a non-UOCAVA ballots that had a deficiency, and the 11-s correction form arrived after four days past Election Day. One is a non-UOCAVA ballot with a postmark past August 7<sup>th</sup>. The last one is a non-UOCAVA ballot with no postmark, and the barcode was unreadable. The board members took a few moments to review those absentee ballots. Ms. Crescimano motioned to reject the 10 ineligible absentee ballots, with Mr. Monaghan seconding. All board members voted yes; motion carried.

Eliza Link, Clerk, reviewed provisional ballots. There were 237 provisional ballots cast this election. Of those, 33 were cast early, in office, 25 were cast Election Day in office, and 179 were cast Election Day at the polling locations.

160 provisional ballots are eligible to be counted, per the Elections Officials Manual. Eight are name changes where the voters were registered in Erie County but did not have proof of their name changes. 66 are address changes within Erie County. 68 are voters who were registered in another Ohio county and did not vote in that county. Six are voters who were mailed an absentee ballot but decided to vote on Election Day, and did not return their absentee ballot. Five are voters who were in a provisional status due to an undeliverable acknowledgement notice. Seven are voters who had no valid ID, but came to the Board of Elections Office within four days of Election Day to present a valid ID.

Next, Ms. Link presented provisional ballots that are not eligible to be counted. 40 are not registered to vote anywhere in the state of Ohio. Both Ms. Link and Ms. James verified this on the statewide portal. Per the EOM, if the provisional voter is not registered to vote anywhere in Ohio at least 30 days before the election, the board must reject the provisional ballot. However, these provisional voters will be registered to vote after this election. 21 provisional voters did not have a valid photo ID, and did not come to the Board of Elections within four days of Election Day to present a valid photo ID. Nine provisional voters did not complete Section 5, which is the ID section, of the 12-B provisional identification envelope, meaning the board must reject their provisional ballot. Finally, one provisional voter left the 12-B envelope completely blank.

Ms. Link then discussed provisional ballots that are pending review. On the first one, the voter wrote the correct month and date of their birth, but wrote their birth year as “23.” Ms. Link indicated the exception for counting a provisional ballot where the DOB is incorrect—if the Board of Elections finds by a vote of at least three of its members that the voter has met all other requirements, then the ballot may be counted. Ms. Link printed the voter’s record from the statewide database, which indicates the voter’s signature and month and date of birth matches with what is on the ID envelope. The board members took a few moments to review.

The second provisional ballot pending review is from a voter who came to our office on Election Day to vote. Staff informed the voter that only provisional voters may vote at the Board of Elections on Election Day; all other voters must go to their polling location. The voter refused to go to their polling location, so we issued the voter a provisional ballot.

The next two ballots pending review are from two voters who did not need to vote provisionally. They came to the Board of Elections during early voting and stated they had moved without updating their address, but they did update their address, so they did not need to vote provisionally.

The next provisional ballot pending review is from a voter who is homeless. The voter stated they no longer reside at the habitation listed in our system. They completed a 12-B provisional ballot ID envelope and wrote a PO Box in Vermilion as their new residence. The voter also wrote some comments on the envelope that they are allowed to use a PO box for voter registration. Staff gave the voter a Vermilion city ballot to vote, then contacted Mr. Hinnners for clarification.

Mr. Hinnners stated that a PO box is not a sufficient address for voting, but it can be used as a mailing address. For someone who is homeless, they don’t need to have an address. They can write “under such and such bypass” or some type of language to identify where they reside, but a PO box is not sufficient.

The last provisional ballot pending review is a provisional ballot due to an address change. The voter voted early, in our office. They should have voted a provisional ballot for Sandusky O, but due to staff error, they were given a provisional ballot for Perkins Township #1.

Ms. Crescimano motioned to count the 160 provisional ballots in the first category of “Acceptable.” Mr. Monaghan seconded the motion. All board members voted yes; motion carried.

Ms. Crescimano motioned to not count the 71 provisional ballots in the second category of “Not Acceptable.” Mr. Monaghan seconded the motion. All board members voted yes; motion carried.

Ms. Crescimano motioned to not count the provisional ballot where the voter wrote the incorrect birth year. Mr. Monaghan seconded the motion. Ms. Grubbe asked if everything else matches, why would it not be counted? Ms. Crescimano asked what the voter used as an ID. Ms. Link stated she used a driver’s license. She also stated the voter was voting provisionally because she changed her last name.

Ms. Crescimano withdrew her motion, then motioned to count the ballot with the incorrect birth year. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.

Ms. Crescimano motioned to not count the provisional ballot where the voter refused to go to the correct polling location. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.

**Ms. Crescimano motioned to count the two provisional ballots that did not need to be provisional. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.**

**Ms. Crescimano motioned to not count the provisional ballot with a PO box listed as the residence. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.**

**Ms. Crescimano motioned to count the provisional ballot that was cast for the wrong precinct due to office error. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.**

**Ms. Crescimano motioned to recess, with Mr. Monaghan seconding. All board members voted yes; motion carried. Board recessed at 3:30 p.m. While in recess, bipartisan board staff opened ID envelopes and scanned eligible absentee and provisional ballots.**

**Ms. Crescimano motioned to reconvene, with Mr. Monaghan seconding. All board members voted yes; motion carried. Board reconvened at 5:00 p.m.**

**Ms. James stated that while scanning eligible absentee ballots, there was one ballot that would not scan due to a hesitation mark. She and Alex Jones, Director, interpreted the ballot to be a no vote and remade the ballot accordingly. The board members took a few moments to review the ballot. Ms. Crescimano motioned to count the remade ballot, with Mr. Monaghan seconding. All board members voted yes; motion carried. The board recessed again at 5:02 p.m.**

**Ms. Crescimano motioned to reconvene, with Mr. Monaghan seconding. All board members voted yes; motion carried. Board reconvened at 5:19 p.m.**

**Ms. James stated that one eligible provisional ballot would not scan due to the timing marks, so she and Mr. Jones remade the ballot. The board members took a few moments to review the ballot. Ms. Crescimano motioned to count the remade ballot, with Mr. Monaghan seconding. All board members voted yes; motion carried. The board recessed again at 5:20 p.m.**

**The board reconvened at 5:45 p.m. Ms. James stated we have finished scanning the eligible absentee and provisional ballots. There were 9,259 yes votes, 12,267 no votes, and 21,531 total ballots cast. Voter turnout was 40.48%. The board members, director, and deputy signed the official certification of results page to send to the Secretary of State's office.**

**Ms. Grubbe commented that there were 163 provisional ballots counted, but 164 provisionals eligible to be counted. Ms. James stated that one provisional voter who voted early in office did not follow instructions and instead of placing their ballot in the yellow provisional ID envelope, fed their ballot through the scanner. Once the ballot was fed through the scanner, there was nothing we could do. The person was voting provisionally due to an address change, so it would have counted regardless.**

**Next, the board discussed the date and time of the post-election audit. Ms. James stated that per the EOM, if there is no recount, the audit may start six days after the official results are declared, and must be complete by the 21<sup>st</sup> day. The earliest we can do it is Sunday, August 27<sup>th</sup>, and the latest we can do it is Monday, September 11<sup>th</sup>. The board decided to conduct the audit on Monday, August 28<sup>th</sup> at 10:00 a.m.**

**The board members then randomly picked flash drives to decide which voting machines to audit. Staff must audit at least five percent of the ballots cast, which is 1,077. The first machine chosen was the Sandusky H and I DS200, where 335 ballots were cast. The second machine chosen was the Vermilion 1-A, 2-A, and 2-B DS200, where 763 ballots were cast. In total, this is 1,098 ballots.**

**Mr. Monaghan motioned to approve the minutes from the July 28<sup>th</sup> and the August 7<sup>th</sup>/8<sup>th</sup> meetings, with Ms. Crescimano seconding. All board members voted yes; motion carried.**

**Mr. Jones presented the August bills to the board. Ms. Crescimano motioned to pay the August bills as presented, with Mr. Monaghan seconding. All board members voted yes; motion carried.**

**For the Director's Report, Mr. Jones stated that the commissioners approved to replenish our funds with the chargeback money from the May election. He also stated he recently did an end-of-year forecast. We will have deficits in some line items, but other line items we will have surpluses. For example, we will be short in full-time salaries, but we should have more than enough to make up for that in part-time salaries.**

**Under new business was approval of candidate petitions for the November General Election. Ms. Crescimano motioned to approve the candidates listed, with Mr. Monaghan seconding. All board members voted yes; motion carried. The candidates approved are as follows:**

- **Joel D. Hagy, Huron City Council**
- **Thomas Harris, Huron City Council**
- **Carolyn Mitchell, Huron City Council**
- **Richard Koonce, Sandusky City Commission**
- **Lisa Maczuga, Sandusky City Commission**
- **Helen Barbara Thompson, Sandusky City Commission**
- **Kate Vargo, Sandusky City Commission**
- **Susan M. Zeier, Sandusky City Commission**
- **Lisa Marcum Tittle, Berlin Heights Village Council**
- **Joseph P. Myers, Berlin Heights Village Council**
- **Scott Stevenson, Kelleys Island Village Council**
- **Tony Rutherford, Bayview Village Council**
- **Barbara E. Weyer, Castalia Village Council**
- **Mary Bruno, Milan Village Mayor**
- **Pamela A. Crosby, Milan Village Mayor**
- **Victoria P. Riddle, Milan Village Council**
- **Orville Saylor, Florence Township Trustee**
- **Raymond Enderle, Huron Township Trustee, Unexpired Term**
- **Jonathan Merkcens, Huron Township Trustee, Unexpired Term**
- **Robert D. Day, Margaretta Township Fiscal Officer**
- **Edward N. Cullen, Margaretta Township Trustee**
- **Chris L. Schaeffer, Margaretta Township Trustee**
- **Phillip M. David, Oxford Township Fiscal Officer**
- **Alexis Lewis, Perkins Township Fiscal Officer**
- **James C. Ommert, Perkins Township Trustee**
- **Paul E. Meisel III, Vermilion Township Fiscal Officer**
- **Keith M. Sexton, Vermilion Township Trustee**
- **Joe Baxter, Vermilion Township Trustee, Unexpired Term**
- **Robert Kurtz, Vermilion Township Trustee, Unexpired Term**
- **Marianne Cheetham, North Point ESC Erie**
- **Daryl L. Deering, North Point ESC Erie**
- **Philip D. Thiede, North Point ESC Erie, Unexpired Term**
- **Judith A. Sander, North Point ESC Ottawa**
- **Brian P. Chase, Edison Board of Education**
- **Patricia Cuthberston, Edison Board of Education**
- **Stephen Berry, Edison Board of Education, Unexpired Term**
- **Brian D. Sutorius, Margaretta Board of Education**
- **Jason Everett Dulaney, Perkins Board of Education**
- **Scott Hart, Perkins Board of Education**
- **Bradley W. Mitchel, Perkins Board of Education**

- William L. Willis IV, Perkins Board of Education
- Mark Harper, Sandusky City Board of Education
- Whitney Pohorence, Sandusky City Board of Education
- Monicia L. Hall, Sandusky City Board of Education
- Mark S. Benson Jr., Vermilion Board of Education
- Christopher Aaron Hinds, Vermilion Board of Education
- Krystal Russell, Vermilion Board of Education
- Sarah Scarvelli, Vermilion Board of Education

Ms. Crescimano motioned to approve the write-in candidate for the November General Election, with Mr. Monaghan seconding. All board members voted yes; motion carried. The write-in candidate approved was Kathryn H. Drewyor for Huron City Board of Education.

Ms. Crescimano motioned to approve the requested candidate name changes for the November General Election, with Mr. Monaghan seconding. All board members voted yes; motion carried. The approved name changes are as follows:

- Mark S. Benson Jr. → Mark Benson
- Edward N. Cullen → Ed Cullen
- Jason Everett Dulaney → Jason E. Dulaney
- Raymond Enderle-> Ray Enderle
- Monicia L. Hall-> Monicia Pearson-Hall
- Alexis Lewis → Alexis Lewis-Koch
- Paul E. Meisel III → Paul Meisel
- Carolyn Mitchell → Carolyn Schreck-Mitchell
- James C. Ommert → Jim Ommert

Next, there were two petitions to vote on individually. Mr. Jones stated that two potential candidates, Connie Ward and Georgia Artrip, filed petitions for Berlin Heights mayor and Castalia Village council, respectively. Both had enough valid signatures, but did not complete the nominating portion of their petition. Mr. Hinnners stated that by statute, the statement of candidacy and nominating portion of the petition are supposed to be substantially compliant. However, with both these petitions there was zero compliance, because the section was left completely blank. Ms. Crescimano motioned to reject the petitions, with Mr. Monaghan seconding. All board members voted yes; motion carried.

Mr. Jones stated there are three issues for the November General Election for the board to approve: Sandusky City Parks and Recreation levy, Castalia Village Police levy, and Castalia Village Natural Gas Aggregate Question. Ms. Crescimano motioned to approve the three issues, with Mr. Monaghan seconding. All board members voted yes; motion carried.

Next, there was one issue for the November General Election for the board to vote on individually. Mr. Jones stated that Jim West Jr. from Jim's Pizza Box in Milan submitted local option petitions for Sunday sales last month. These petitions must have an affidavit attached. The affidavit given to us was signed and notarized but was otherwise incomplete. We asked Mr. Hinnners for clarification. Mr. Jones then spoke with Mr. West and said the way it's submitted right now, it would not count. Mr. West then withdrew his original petitions, recirculated new petitions, and turned in the new petitions and a new, properly completed affidavit. The question now is whether that is allowed.

Mr. Hinnners stated, "The statutory language as it relates to questions and issues says no petition presented to or filed with the Board of Elections for the purpose of the holding an election on a question or issue may be resubmitted after it is withdrawn from a public office or rejected as containing insufficient signatures." He then stated the language is pretty clear that you can't resubmit after it's withdrawn, and they withdrew their first set of petitions because ultimately they weren't compliant.

Mr. Hinnners stated there is no case law on this. There is case law on candidates, because a candidate can withdraw their candidacy and resubmit petitions. Mr. Hinnners stated he contacted the SOS office on Friday, who told him the same. The SOS office also referenced the same statutory code that he did. When he asked how other county BOEs have handled this, the person he spoke with said that some counties allow it and some don't. Some counties perhaps find ways to justify it. Mr. Hinnners stated that the language is clear to him, but ultimately, it's the board's decision. The way the language reads, you're not allowed to resubmit after it's withdrawn, and he believes that is what happened here.

Mr. Ferrell asked when Mr. West withdrew his first petitions. Mr. Jones stated he'd have to go back and look, but he thinks it was maybe the Thursday or Friday before the election. Mr. Hinnners stated he sent his opinion to the board on July 31<sup>st</sup>, so it would have been between the 31<sup>st</sup> and the 9<sup>th</sup>.

Mr. Monaghan stated that when Mr. West came to the Board of Elections to file his first petitions, someone said his affidavit wasn't notarized, so he went upstairs to the commissioners' office to get it notarized. Mr. Jones confirmed that was correct. He stated that there are two affidavits on one page, and which one you need depends on which type of petition you are submitting. Because Mr. West was submitting a 5-R petition, he needed the bottom affidavit complete. One of his contentions was that the individual who notarized his affidavit did not inform him that the affidavit was not complete. Ms. Crescimano stated that is not the notary's responsibility.

Ms. McKeen asked, "So some counties allow this?" Mr. Hinnners replied that is what the SOS office told him. For what reason, he doesn't know. Ms. Crescimano stated that if they allow it, another local business could decide to dispute it. She does not personally foresee that happening, but you never know. Mr. Hinnners stated in his experience at the prosecutor's office, he's found that there are 88 different ways things are done based on the county. Mr. Ferrell stated that it is a relatively small business. Ms. Crescimano stated that they already have a liquor license; this is just for Sunday sales. Mr. Monaghan motioned to approve the local liquor option for Jim's Pizza Box in Milan, with Ms. Crescimano seconding. All board members voted yes; motion carried.

The next item under "New Business" was allocation of voting equipment and poll workers for the November General Election. Mr. Jones recommended one DS200 and one Expressvote per polling location and a full slate of precinct election officials for each precinct. Ms. Crescimano motioned to accept this allocation, with Mr. Monaghan seconding. All board members voted yes; motion carried.

Ms. Crescimano motioned to approve candidate petitions for Caleb A. Stidham for County Treasurer for the March 19<sup>th</sup>, 2024 Primary Election. Mr. Monaghan seconded the motion. All board members voted yes; motion carried.

Ms. James presented the tentative 2024 board meeting calendar to the board. Ms. Crescimano asked to move the December monthly meeting from December 20<sup>th</sup> to December 19<sup>th</sup>. No other changes were requested. Ms. Crescimano motioned to approve the calendar with the one change, with Mr. Monaghan seconding. All board members voted yes; motion carried.

There being no other matters to come before the board, Ms. Crescimano motioned to adjourn, with Mr. Monaghan seconding. All board members voted yes; motion carried. Board adjourned at 6:12 p.m.

Alexander W. Jones, Director

Attest:

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Thomas M. Ferrell, Chairman