

FAYETTE COUNTY ELECTION BOARD MEETING

MONDAY SEPTEMBER 25, 2023 at 10:00 am

FAYETTE COUNTY MEETING ROOM

2 WEST MAIN ST., UNIONTOWN, PA 15401

CALL TO ORDER at 10:03 am by Robert J. Lesnick

MOMENT OF REFLECTION/SILENT PRAYER

PLEDGE OF ALLEGIANCE

ROLL CALL:

- John Kopas III (present)
- Mark Rowan (present)
- Robert J. Lesnick (present)

Also present:

- Jack Purcell, Fayette County Solicitor
- Sheryl Heid, Fayette County Solicitor
- Marybeth Kuznik, Fayette County Director of Elections and Voter Registration

Election Bureau Staff present:

- Nicole Glaze (recorder #1), Tamara Kaufman (written minutes),
Melissa Rexrode (recorder #2), Christina Shanaberger (time
clock)

PUBLIC COMMENT:

- Jon Marietta: gave his thanks and feels that this has all gone on “way too long”, and that something new would be filed shortly. He did not state what “something new” was. He said, “it's about the process” not about him. He said there were discrepancies on Mail-In ballots not given to the his petitioners that came in on Election Day.
- Melonie Lewellen (Pastor): She said she represents Jon Marietta and agrees with him. She says there needs to be more transparency. She wants a recount. She said she was warning the board that repentance is key, it is the will of God and that there is a higher power to consider.

- O Melanie Patterson: She said she is a resident of Fayette County. She said she was happy to see a detailed agenda. She said that at the last meeting there was no detailed agenda and that it was a violation not to have one. She referred to #14 on the agenda list: (Consider and pass, if appropriate, regulations on public inspections of voter records), that this cannot be done because the burden of proof is on you, not us.
- O Cecilia Driscoll: She said she has a desire to see transparency in all government offices. Ethics should be a top priority and there can be no ethics if they are not transparent. She said she wanted to see the Mail-In ballots and envelopes. She said she knows you can't match any ballot to its outer envelope, therefore that would not cause a secrecy issue.
- O Geno Gallo: He said he is a resident of Fayette County, a taxpayer and a candidate. He stated there were legal issues to be handled in the courts, but that Public Perception is a bigger issue. We need transparency and goodwill. In his opinion he said the Election Bureau and the courts need to restore faith in the process. He said PR and Legal need addressed equally.

AGENDA# 6: CONSIDER MOVING HENRY CLAY TWP POLLING PLACE FROM MT. FELLOWSHIP CENTER TO AJ MCMULLEN MIDDLE SCHOOL

Director of Elections Marybeth Kuznik said the Uniontown Area School District's elementary school Marclay was possible, but the better choice is AJ McMullen Middle School because of parking, large gymnasium, ADA. On 9-19-23 a required survey was completed and AJ McMullen passed.

Mark Rowan: I don't see from these photos any handicap parking spots; how will you accommodate? Marybeth Kuznik said that all polling places that need them are given signs to put up so that there are designated handicap parking spaces.

Solicitor Jack Purcell stated that his child went to AJ and it would be a great school to use for a polling location with good access and parking. He noted it is less than one mile from the previous location at the Mt. Fellowship Center.

Robert Lesnick asked for a motion to make the poll location move, John Kopas made the motion, Mark Rowan seconded the motion, motion carried 3-0.

AGENDA #7: REPORT ON WHETHER PROPER NOTICE WAS GIVEN FOR THE AUGUST 30TH MEETING

Director Marybeth Kuznik stated: on 8-29-23 notice was posted in the local Herald Standard Newspaper, and she has a copy available and has a notarized proof of publication.

The posting could also be seen on the bulletin board at the Election Bureau located inside Suite 111, 2 West Main St., Uniontown, PA. Additionally, the county website (Election Board) posted the information.

Robert Lesnick explained to the audience that 24-hour required notice was given.

Mark Rowan asked: (in detail regarding the 24-hour time span for public to know about the meeting) What time do the local newspapers get to the residents' homes?

Marybeth Kuznik said she called, and newspaper said by 8am daily. Mark Rowan stated that if the paper was out by 8 am the public would have had the notification more than 24 hours before the meeting. He agreed all three postings were done properly.

Robert Lesnick asked the two solicitors (Jack Purcell and Sheryl Heid) if all the ways for the public to know this information was made available. Sheryl Heid said unequivocally yes.

AGENDA #8: REPORT ON WHERE THE VOTING MACHINES ARE LOCATED AND WHETHER THEY LEFT THE BLDG. SINCE THE LAST MEETING.

Marybeth Kuznik addressed the issue. All machines have been stored in the Election Bureaus office at 2 W. Main St., Suite 111, Uniontown, PA since they were returned the night of the Primary 2023 from the Election Polling places; there has been no movement of them. She said it was idiotic to think the machines were moved out of the election bureau building and put on a plane. These accusations are incorrect. If anyone wants to see that they are here, they are welcome to see. She said Mr. Jones the newspaper reporter saw the machines firsthand and saw that they were all set up and ready to prepare for the upcoming fall election. Jack Purcell shared that he came to the Election Bureau office right away to see for himself that every machine was securely locked up and in the building.

Marybeth Kuznik contacted the airport that was to have the plane, and they told her the plane was for the Governor who came to Connellsville to kick off a project. She also shared that it was an eight-seat plane and there would be no way for it to hold 77 precincts' worth of voting machines.

AGENDA #9: REPORT ON WHETHER THE VOTING MACHINES WOULD NOW BE NEEDED FOR OR RELEVANT TO A POSSIBLE RECOUNT

Mark Rowan stated that a recount would not need to use the machines. Sheryl Heid said there could be a hand count of ballots without the machines.

Marybeth Kuznik addressed paper ballots, ballots of record and number of ballots. She explained the Friday after an election all numbers are reconciled. To do a machine recount, only the large scanners in the ballot room would be used to do tabulation, the individual scanners would not be in play at all. She stated that there is one set of two compact data flash cards for each machine. The two cards are identical. One card comes back to us the night of the election, the second card stays securely sealed in the machines.

Mark Rowan asked about the two cards: Can you pull data from the cards without the use of the 77 machines? Marybeth Kuznik answered yes. Rowan asked how long the memory cards are kept. Kuznik answered that one set of the cards is retained for a set period of time to hold the results. The second set can be reset for future use. They rotate. One set of data cards costs the county \$7000. Mark Rowan asked if we have both identical sets from primary 2023 and Marybeth Kuznik said yes.

Robert Lesnick wanted the audience to know that the recount the board requested and was done was not required by law, but they agreed to do it to help finalize the election. The board felt it was important to do this, stating it was not done for them, it was done to move things ahead. Both John Kopas and Mark Rowan wanted to go on record that they agreed with Robert Lesnick.

Marybeth Kuznik wanted the board to know that the original recount included the service of six staff members, took 1.5 days (4 precincts/day). However, to redo Bullskin 1 and then all 77 precincts would take at least 18 days and we are now 43 days from the Nov. 2023 election. She said that more recounting would destroy the upcoming election.

AGENDA #11: CONSIDER REQUESTING THE COUNTY COMMISSIONERS TO ALLOCATE ADDITIONAL PERSONNEL THROUGH THIS ELECTION CYCLE

Marybeth Kuznik asked to address the issue. She said that each Right to Know request costs the county and the taxpayers time and money. She stated that for each single-sided page copy there is a standard .25 cent fee to the requester.

Mark Rowan asked if the Election Bureau needs more help and Marybeth Kuznik responded yes with Right to Know requests along with normal clerical work.

Mark Rowan asked for a motion to request the commissioners to allocate time and workers to assist and help with the Election Bureau and Right to Know needs. Robert Lesnick made the motion, John Kopas seconded the motion, motion carried 3-0.

AGENDA #12: REPORT ON SAFEGARDS AND PROCEDURES IN PLACE AND STATUTORY REQUIREMENTS FOR MAIL IN VOTING

Marybeth Kuznik addressed this issue. She said that Mail-in or absentee voters who make a request for a ballot and then change their mind and wish to go to polls and vote normally can do so, but they must surrender ballot and envelope to the Judge of Elections at the polling place. If voter has no envelope and ballot to surrender they must vote provisionally. That provisional ballot will count if no other vote comes in for that voter.

By law we cannot begin canvassing the mail-in and absentee ballots until 7 am on Election Day. There is an organized and secure sequence to canvass. All parts get separated throughout the process (ballot, envelopes, etc.) and checked for discrepancies before counting. This keep the ballots secure. Ballots would then be unfolded, flattened, and then tabulated; those numbers do not show until after 8pm.

Jack Purcell shared there have been issues with Mail-In ballots since 2020, two parties pulling each way, and we are stuck in the middle. The issue of misdated ballots is still pending in Federal Court regarding dates that can be counted. He said the right to cure is also still pending in the court system.

Currently Fayette County allows the voter to cure their ballots. Sheryl Heid said most of the curing is due to missing signatures. She said voters have gotten better with signing and dating their ballots. Mark Rowan asked about the receiving date, and Marybeth Kuznik stated that ballots we receive are time-stamped on one of our two machines to confirm delivery to us.

AGENDA #13: CHANGES TO MAIL IN PROCEDURES

Jack Purcell addressed this and said we strive to follow all requirements and changes that occur in every election. We comply with all law guidelines and court orders. Mark Rowan asked Marybeth Kuznik if she had any recommendations. She said not at this time.

AGENDA #14: CONSIDER AND PASS, IF APPROPRIATE, REGULATIONS ON PUBLIC INSPECTIONS OF VOTER RECORDS

Robert Lesnick asked whether this should be done now or not. He asked if the regulations are on the Election Bureau's website and current rules and procedures set forth. Mark Rowan agreed that regulations should be done and posted. John Kopas spoke regarding proposed regulations, past practice policy of the office, post on web similar to other counties, mold them, entertain public comments. Motion was made to table the issue by Mark Rowan. John Kopas seconded the motion. Motion carried 3-0.

AGENDA #15: CONSIDER PUBLIC TEST OF BLEED THROUGH THEORY

Robert Lesnick spoke on the issue of "bleed through." He said the machine picks up nothing outside of the oval and that it is by design that the bleed through does not cause a misread. Sheryl Heid further explained that although markers bleed through, no oval overlaps another oval on the opposite side.

Mark Rowan asked if there should be a public demo done on the machine to address the bleed through concerns. Robert Lesnick said we did do this previously and gave out copies and information. He said we should set a time and date to show people, to look at the ballot, hold it up to the light, note that there is no oval overlap on either side of the ballot.

Mark Rowan suggested running several test ballots through the machine to show the press, the public, concerned candidates, etc. Marybeth Kuznik agreed to do this. She asked if it would be at the next meeting if there is a meeting prior to the General Election. John Kopas asked if this is time effective due to the needs for staff hours. Mark Rowan stated that he wants this put to bed, and no more questions, and made a motion to look at a future date to do the public test. John Kopas seconded the motion, motion carried 3-0.

AGENDA #16: EXECUTIVE SESSION TO DISCUSS ONGOING LITIGATION BROUGHT BY JON MARIETTA AND GREGORY STENSTROM

Executive Session began at 11:27 am (lasted 1 hr., 1 min)

MEETING RECONVENED at 12:38 pm

AGENDA #17: DISCUSS AND CONSIDER A REFERRAL TO THE FAYETTE COUNTY DISTRICT ATTORNEY FOR AN INVESTIGATION INTO WHETHER GREGORY STENSTROM HAS ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW.

Robert Lesnick made reference to AGENDA#17 and his concern is that that state law must be followed. People representing others in court must be in good standing as an attorney licensed by the state of Pennsylvania.

John Kopas moved to table AGENDA #17 due to pending litigation, Mark Rowan seconded the motion. Motion carried 3-0.

Robert Lesnick noted the need to preserve the democratic voting process and to always exercise the right to vote. He said that unsubstantiated allegations about elections are wrong and harmful.

Mark Rowan said over 30 years ago he was an active Republican machine inspector that had legitimate concerns, now somebody brings ridiculous allegations that take away from any true legitimate issues of voter fraud. He said he has seen no facts to support the current claims.

John Kopas moved to adjourn meeting at 12:45pm, Mark Rowan seconded the motion. Motion Carried, 3-0.