

**BERKS COUNTY BOARD OF ELECTIONS
MEETING MINUTES
October 17, 2024 – 11:00 A.M.**

**Michael S. Rivera, Chair
Christian Y. Leinbach, Vice Chair
Dante Santoni, Jr., Commissioner
Anne Norton, Chief Clerk
Christine M. Sadler, County Solicitor – not present
Cody L. Kauffman, First Assistant County Solicitor**

CALL TO ORDER: 11:00 A.M.

APPROVAL OF THE MINUTES

The Board approved the minutes for the September 26, 2024, Election Board meeting as presented.

PUBLIC COMMENT ON AGENDA ITEMS

None.

Agenda Items

1. Discussion of issue regarding a voter's return of another voter's mail-in ballot

First Assistant County Solicitor Cody Kauffman explained that last week a voter went into the Election Services office to return their ballot and also had a family member's ballot they wished to return. The voter did not have a completed designated agent form to return the ballot. A staff member explained that the voter could only return their own ballot and would need a completed designated agent form to return the family member's ballot. The voter appeared to understand and took a form, but then when the voter left the office, the voter deposited the family member's ballot into the Mail Room's mail slot.

Mr. Kauffman said elections does not generally police mailboxes, however this violation of the Election Code was done directly in the sight of the Election Services staff. He recommended that the Board refer the matter to the District Attorney's Office for further investigation.

Commissioner Leinbach noted that the Mail Room is utilized for interoffice mail and is not a US post office box.

On the motion of Commissioner Leinbach, seconded by Commissioner Santoni, the board approved to defer the matter to the District Attorney's office for further investigation.

2. Discussion about correspondence from Republican National Committee

Mr. Kauffman explained that the County received correspondence from the Republican National Committee highlighting various Election Day issues and the RNC's interpretation of various election laws. The correspondence asked the County to confirm

its compliance with these laws. Mr. Kaufmann noted three main points. The first was a request to conduct the 2% audit by a manual hand count. Mr. Kauffman said the Board previously discussed and decided to do this audit manually. The second item was to complete a reconciliation process at the precinct and county level. Mr. Kauffman said this is a statutory process and the County follows the law. The final point was in regard to providing meaningful access to observers attending prec canvassing and canvassing activities. Mr. Kauffman said that the County's procedures at the SAM building provides great access to observers while also maintaining safety and security of the process.

Mr. Kauffman said he believed it would be appropriate to acknowledge receipt of the correspondence and outline that the Election Board already discussed the 2% audit at a public meeting, that the County follows the law with regards to reconciliation and the County does a great job allowing observers access to observe the process.

On the motion of Commissioner Santoni, seconded by Commissioner Leinbach, the board approved responding to the correspondence, based on the Solicitor's recommendation.

Commissioner Leinbach added that the County has increased access for observers since 2020, specifically during the prec canvassing process. He also noted that the County records video of the entire process to provide a record of everything that takes place.

3. Counting of mail-in/absentee ballots that are missing a day in the required date

Mr. Kauffman explained that the Election Board previously approved the correct date range for mail-in and absentee ballots as Sept. 20 to Nov. 5. He said some ballots that have been returned thus far have the month portion completed as October, but do not include a specific date. In the past, when a voter did not include a date, the Board did not count the ballot. However, Mr. Kauffman noted that every day in October is in the acceptable date range.

After reviewing the law, Mr. Kauffman said that he believes the absence of a day would violate the dating requirement, as outlined in Ball v. Chapman.

Commissioner Santoni said his general philosophy is that the Election Board must operate within the constraints of the law, but he believes this situation presents a gray area. He said that since all days in October are in the range, the ballots should be counted.

Commissioner Leinbach said he thinks it's a shame that the dating requirement remains an issue. He said that while he believes it is frustrating and confusing to voters, he believes the acting law is crystal clear on the matter, and therefore the ballots cannot be counted.

Commissioner Rivera said the ballots were clearly received and returned in the correct time frame, but that based on the language of the law, the date matters, and therefore he would vote to not count the ballots.

On the motion of Commissioner Leinbach, seconded by Commissioner Rivera, the board voted 2-1 to reject the ballots that were missing a specific day. Commissioner Santoni dissented. The board further unanimously approved to send legally appropriate correspondence to the House of Representatives, Senate and Governor's office to outline what the lack of clarity in the law was forcing the Election Board to do.

4. **Discussion of bulk ballot mailing**

Mr. Kauffman said that the Election Services office recently received two large manilla envelopes from the same address that were filled with mail-in ballots. He said the return address appeared to be from a nursing home type facility. He said the issue is that it appears an individual gathered the ballots and then one individual put them in the mail. He noted again that there is a provision in the Election Code that it is the elector's responsibility to deliver his or her own ballot. Mr. Kauffman said that while the incident is frustrating, he does not believe the Board can accept these ballots because the way they were delivered is a violation of the Election Code.

Commissioner Santoni said he doesn't think the individual involved understood the law and simply made a mistake, but since it is a violation, agreed it should be further investigated.

On the motion of Commissioner Leinbach, seconded by Commissioner Santoni, the board approved to defer the matter to the District Attorney's office for further investigation.

5. **Discussion regarding Make the Road Festival**

Chief Operations Officer Kevin Barnhardt shared that the County recently became aware of a festival being planned by Make the Road for Nov. 2, the Saturday prior to Election Day. He said the advertisements for the festival indicate it will be held at the "Reading Courthouse" and will include food, entertainment, and election experts on hand with a drop box nearby. Mr. Barnhardt said he has been in touch with security and the Sheriff's department about the event in case extra personnel are needed. He said he attempted to contact event organizers for more details, but has been unsuccessful so far.

Commissioner Leinbach said it is important that access to the facility is not blocked by the event since that is the same day poll workers pick up their supplies. He further noted that event organizers should not try to collect ballots from or interfere with any voters going to the drop box.

Mr. Barnhardt said he would keep the Board updated as he finds out more information. He also noted that the County is looking into reports that someone was outside of the Services Center on Monday, Oct. 14, when the building was closed, contacting people who were attempting to come to the building with ballots in their hands.

Commissioner Rivera stressed the only place where voters can drop off ballots is the Election Services office, a County drop box or a U.S. post office mailbox. He said that if a voter gives their ballot to anyone else, they run the risk of it not being counted.

Election Director's Report

Ms. Norton shared that nearly 40,000 mail-in and absentee ballots have been mailed out so far, and about 16,000 voted ballots have been received back. She said the staff continues to process new voter registrations, with the deadline to register approaching on Oct. 21. She said the staff is also continuing to process mail-in and absentee ballot applications. The deadline to apply for a ballot is Oct. 29. She said poll worker positions have been mostly staffed, but there are always some last-minute needs, so anyone willing to be placed last minute and work anywhere in the county is encouraged to contact the office.

General Comments from the Board regarding current election-related issues

None

Public Comment

Jeffrey Wolfe, Brecknock Township, shared his ongoing concerns about non-citizens voting and what he believes to be vulnerabilities that could lead to fraud. He said he lacks confidence in the outcome of the election unless the Board pulls back the curtain to regain his trust.

Sara Torres, Reading, read a letter she received from a neighbor. She said the neighbor had concerns after an interaction with someone in a blue shirt who asked if she was registered to vote. She said the neighbor said the person told her she had to be a citizen for a year to vote and had to vote for the candidate of the party with which she was registered. Ms. Torres said she is concerned about organizations in the city providing incorrect information to voters.

Roxann Curran, Reading, said she is concerned that the Make the Road festival is electioneering and could lead to voter intimidation or confusion. She said she appreciates that the Election Board is looking into the matter further and may provide additional security.

Karl Lampart, Greenwich Township, submitted an online comment: "Can we make sure the Observers Meaningful Access allows them to Observe the total physical number of ballots in central processing & confirm the high speed tabulator counts start at zero and end with a match to the total number of physical ballots being processed?"

Commissioner Leinbach said that based on the information provided by Ms. Torres, he wanted to recommend that the item be further investigated. Mr. Kauffman said he would look into it further and, if appropriate, bring it back to the board for review.

Commissioner Santoni said there are bad actors on both sides who are trying to confuse voters. However, he said the conspiracy that the election is rigged is utter nonsense. He said there is no evidence of any fraud and encouraged anyone with evidence to support their speculation to bring it forward.

ADJOURNMENT 11:57 a.m.

Respectfully Submitted,



Anne Norton, Chief Clerk