

**BERKS COUNTY BOARD OF ELECTIONS
MEETING MINUTES
May 2, 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.

PUBLIC COMMENT ON AGENDA ITEMS

None.

APPROVAL OF THE MINUTES

The Board approved the minutes for the April 11, 2024, Election Board meeting as presented.

Agenda Items

1. Voting Complaint Discussion

Cody Kauffman, First Assistant County Solicitor, explained that Election Services received a report from a concerned voter that they overheard an individual openly discussing how they completed a mail-in ballot for their spouse and forged the signature since the spouse was out of town. Mr. Kauffman spoke with the complainant and the couple about the claim. The couple in question said they believed it was just a misunderstanding, but also asked hypotheticals about what would happen if it was true.

Mr. Kauffman said that the Election Code is clear that the voter must fill out, date and sign their own ballot and criminalizes filing out a ballot that is not one's own. He also stressed that it is not up to the Election Board to decide guilt or innocence in these types of matters. The Board is only responsible for determining if a complaint should be referred to the District Attorney's Office for further investigation.

Commissioner Leinbach said it is important for the public to understand that when specific complaints are brought to the Election Board, they are investigated and if that investigation leads to the possibility of the law being violated, the matter is referred to the District Attorney. He said the integrity of the vote is very important and that this allegation, if true, would be in direct violation of the law.

On the motion of Commissioner Leinbach, seconded by Commissioner Santoni, the Board approved referring the matter to the District Attorney's Office for further investigation. Further, on the motion of Commissioner Santoni, seconded by Commissioner Leinbach, the Board approved to not count the ballot in question.

2. **Receipt of the Official Computation and Canvassing of Votes Cast at the April 23, 2024 General Primary and Commencement of the Five (5) Day period of Public Inspection**

On the motion of Commissioner Leinbach, seconded by Commissioner Santoni, the Board accepted the official canvass for the 2024 General Primary and announced the start of the five-day review period, beginning at 8 a.m. on Friday, May 3.

3. **Unofficial Returns Reporting Form**

On the motion of Commissioner Santoni, seconded by Commissioner Leinbach, the Board authorized the submission of the Unofficial Returns Reporting Form to the Department of State.

Commissioner Rivera asked Mr. Kauffman to provide an update on the legislation related to undated and incorrectly dated ballots. Mr. Kauffman gave a brief overview of the case thus far and that currently the law is that these ballots cannot be counted. He said that an order came out Tuesday that denied the petition for rehearing. He said the case could go several different directions now, but unfortunately, the matter is still in the courts and will likely remain there for some time.

Election Director's Report

Ms. Norton shared some facts from the 2024 General Primary. She said turnout was low, at 23.73%, with more than 52,000 ballots cast. She said the office sent out about 20,600 mail-in and absentee ballots and that 16,568 were returned and counted, representing a more than 80% return rate. As of the meeting, she said the office had received 141 ballots after the deadline. There were 185 provisional ballots cast at the polls. Of those, 113 were counted (28 partial) and 72 were rejected.

The office received 32 ballots that were not dated, 91 with an incorrect date and 129 that were either not signed or were signed by another person. There were also 35 ballots that were rejected because they were not in a secrecy envelope.

She said a total of 2,383 ballots were collected from the County's three ballot drop boxes. The drop box at the Ag Center had the most, with 1,387 ballots, followed by the box at the Services Center with 576 ballots and then the new drop box at the South Campus with 420 ballots.

Ms. Norton said the Election Services staff is busy sorting through 6,535 write-in votes. She said the snippets of the write-in votes are available on the Election Services website. Candidates can file petitions to cumulate votes that are variations of their registered name during the five-day review period. Write-in votes cast as the person's name appears on their voter registration are counted automatically.

Finally, she said the mandatory 2% audit will be held on Wednesday, May 8, at the SAM Building, 19 N. Sixth Street, Reading. She said the office would find out later Thursday if Berks was chosen to participate in the statewide risk-limiting audit. If chosen, that audit would be conducted at the same time as the 2% audit. She said the office will send notices to the political parties with information for observers and participants.

Public Comment

Joseph M. Alexander, Muhlenberg Township, shared concerns he had after being a poll watcher during the 2024 General Primary. He said he arrived at a polling location at 6 a.m. and the doors were locked. He said the Judge of Election arrived at 6:25 a.m. and told him everything was set up the night before so they could get an early start. He said he saw the various voting machines already set up in the voting area and could not see if the seals were still on them. He said he was then told to stay in a hall, where he only could see 50% of the voting room. He said he asked the Judge of Election to see the seals and that after calling for permission, she brought him a bag with the seals and let him view the machine. He said that based on this experience he does not have faith in a secure election.

Jeffrey Wolfe, Brecknock Township, said he believes the Judges of Election have difficult jobs and is afraid they will be blamed if anything goes wrong at their polling locations. He said he believes they should be compensated more than the other poll workers due to the additional responsibilities. He also asked if the observers from the Department of Justice who were presented during the 2024 General Primary provided any type of feedback.

Zelda Yoder, Reading, said voter turnout was low, as expected, and said the parties and candidates will work hard to get more voters out to the polls in the fall. She said she believes that some of the election policies and procedures also factor into the low turnout and specifically mentioned applications for mail-in and absentee ballots that were denied. She noted that the majority were voters who requested absentee ballots when they should have requested a mail ballot instead. She said the Berks County Democratic Committee reached out to several of the affected voters and said they all fully intended to vote and were denied because of the process. She said they reached out to local legislators about it and state Senator Judy Schwank requested a policy hearing about it. She asked for Berks to be as voter friendly as possible.

Mark Yoder, Reading, also shared concerns about mail-in and absentee applications that were rejected, specifically for failed signature matches. He noted that the PA Supreme Court has ruled that signature verification for rejected a ballot is impermissible but noted that the court did not address the issue of rejecting applications based on voter signatures. He said the ruling leaves it up to each County, and that Berks appears to have taken a position to verify signatures on applications. He asked who is making the judgment calls on signatures and their training. He asked the Election Board to reconsider its policies and practices related to rejected ballot applications based on signature tests.

Adrian Jadic, Wyomissing, said that since the issue of dates is being discussed again, he asked the County to take date format into consideration when making rulings on ballots. He said he served as an observer of the precavass of the mail-in and absentee ballots on Election Day and requested that observers be given a flow chart or written procedure of what is occurring. He believes a flow chart would result in less questions and more clarity.

Mr. Kauffman responded to the comment about signatures on ballot applications. He agreed there is clarity from the 2020 Supreme Court case about signature analysis for mail-in and absentee ballots, but there is no clear definitive companion case regarding applications. He read a section of the Election Code related to mail-in ballots that states

the Board shall determine the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained on the applicant's permanent registration card. He said that is the rationale for what the County does but said the County would welcome definitive guidance on the issue.

The Board also asked Ms. Norton to look into Mr. Alexander's concerns about the polling location that had machines set up prior to Election Day. She said she would contact the Judge of Election and noted that they are instructed to not set up machines until that morning.

General Comments from the Board regarding current election-related issues

Commissioner Santoni thanked the Election Services team for all of their hard work. He said he had a chance to observe the staff in action and thought everyone did a great job. He said he also appreciates the comments from the public and said their comments to not fall on deaf ears. He said the Board will look into the various items and make appropriate changes, as the Board is able, to make things better for voters. He also noted that the State House passed a bill the day before that would allow prec canvassing to begin 7 days before Election Day. He said the bill is supported by the County Commissioners Association of Pennsylvania and that Gov. Shapiro has said he will sign it if it gets to his desk, so he's hopeful the state Senate will also pass it.

Commissioner Rivera responded to the comment about the observers from the Department of Justice. He said observers were also in Berks in 2022 and did not provide any type of feedback after that visit. He said the County has not received any feedback thus far from those observers related to the recent Primary. He further noted that the observers are there to ensure the Help America Vote Act (HAVA) is being followed to assure equal access to voting for all. He also noted that the County does consider date format when reviewing mail-in and absentee ballots.

ADJOURNMENT 11:58 a.m.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Anne Norton". The signature is written in a cursive style with a horizontal line underneath the name.

Anne Norton, Chief Clerk