

# Documenters

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## Board Meeting

Documenter name: Barbara Phipps

Agency: [Cuyahoga County Board of Elections](#)

Date: Aug. 29, 2023

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## Summary

- Board officials, candidates and their representatives, and members of the public held a lengthy discussion regarding residency requirements for judicial candidates and the number of signatures on nomination petitions.
- Board members sought clarification on whether the Ohio Revised Code had preeminence over the Cleveland City Charter regarding candidate requirements.
- The new Board of Elections budget may include costs for a new operations center, wage increases, and equipment upgrades to iPad 10th generation devices.

## Follow-Up Questions

- What input do Village of Bratenahl residents have in the election process for Cleveland municipal judges?
- Can Bratenahl residents request changes to the Cleveland City Charter?

## Notes

**NOTE: Poor quality of the live streaming from Zoom via [YouTube](#) rendered portions of the meeting unintelligible.**

Present:

Anthony W. Perlatti, director

Inajo Davis Chappell, board member

Anthony Kaloger, deputy director

Terence M. McCafferty, board member

Lisa M. Stickan, board member

Henry Curtis, board chair

Mark Musson, board legal adviser

*[Editor's note: The [board packet](#) contains the agenda and documents related to the agenda items. This Documenter organized the notes according to sections on the agenda.]*

## **ADMINISTRATIVE**

Approval of the [minutes](#) from the Aug. 7 board meeting

Acknowledgment of Secretary of [State Advisory 2023-03](#): Acquiring Electronic Pollbooks with State Funding

Approval of the Ballot Adjudication and Remake Policy (pg. 24 in the board packet)

### **NOTES:**

Brian Cleary (manager, Ballot Services Division) presented to the board. Chappell said, "We are the county that started with the policy and the remake. We should give ourselves a little kudos that we came up with the original guidelines for how to remake these ballots."

**Approved.**

## **BALLOT**

4. Certification of the official results of the Aug. 8 special election
  - a. Authorization to approve the remake of the [optical scan ballots](#) from the Aug. 8 election
  - b. Authorization to approve absentee ballots from the Aug. 8 election
  - c. Authorization to approve provisional ballots from the Aug. 8 election

### **NOTES:**

Chappell requested clarity about tracking any problems regarding compliance with voter ID laws, for example: missing or non-matching identification, etc. Perlatti said the missing ID issue went up substantially on the provisional ballots *[Editor's note: 137 of 786 rejected provisional ballots were tied to missing ID, according to pg. 73 of the [board packet](#). In the November 2022 election, the board rejected 24 provisional ballots for that reason].*

- d. Acknowledgment of the pre- and post-test results of the vote tabulation system from the Aug. 8 special election

5. Acknowledgment of the date, time and place of the post-election audit for the Aug. 8 Special Election *[Editor's note: Sept. 6 at 9 a.m.]*

**Approved.**

## **CANDIDATE AND PETITION SERVICES**

The board reviewed several requests for protest hearings against candidates running for judge and the Clerk of Cleveland Municipal Court in the Nov. 7 election.

Jeffrey Mixon requested a protest hearing about the judicial candidacies of Jeffrey Johnson and Shiela Turner McCall for judge, alleging they did not have enough petition signatures.

Johnson in turn protested Mark Majer's candidacy for judge based on residency requirements.

Cleveland resident Mariah Crenshaw protested against judicial candidates Sydney Strickland Saffold, Joseph Russo, and Heather McCollough, alleging they did not have enough signatures. Crenshaw also petitioned against Jocelyn Conwell based on residency requirements and signature numbers.

Additionally, Crenshaw protested against Martin Sweeney's and Earle B. Turner's candidacies for Clerk of Courts based on signature numbers.

## **NOTES:**

Brent E. Lawler, manager of candidate and petition services at Cuyahoga County Board of Elections, provided an overview of the protests:

- 1.) The number of signatures required (3,000 signatures in the city charter instead of the 50 required by state law)
- 2.) Residency requirement according to the city charter (Eligible to vote in Cleveland for 12 consecutive months). The [Cleveland Municipal Court](#) district comprises the City of Cleveland and the Village of Bratenahl.

He referenced the Ohio Revised Code (ORC): [1901.07\(1\)](#) and Cleveland City Charter, [Section 5](#). The petition shall be signed by 50 electors of the territory of the court,

according to Ohio law. The city charter requires 3,000 signatures for citywide elected officials.

“If the board agrees the judicial candidates need the 3,000 signatures, then I guess we would ask that you un-certify every candidate that we certified a few weeks ago,” he said, noting that it is a two-community district. Bratenahl is not a chartered community. He said he doesn’t believe the City of Cleveland charter can override Bratenahl.

Jeffrey Mixon, a Cleveland resident, indicated the reason for his protests was that he believes the candidates (Jeffrey Johnson and Shiela Turner McCall) do not have the required 3,000 signatures.

Mark Musson, the board’s legal counsel, said his office concurred with the opinion of Cleveland Law Director Mark Griffin that Cleveland Municipal Court is established by the Ohio Revised Code and is not a city-charter-created body. The state-created entities are governed by the state that created them, and ORC 1901.07 says that only the 50-signature requirement applies. He said that is true in a two-community district.

Carolyn Kaye Ranke, representing Sheila Turner McCall, said that Ohio Revised Code 1901.07(1) controls on this issue. “The 2019 amendment to the city charter as referenced relates to other matters, not the number of signatures only for purposes of petition.” The previously filed signatures were certified by the board, she said.

**The board denied Mixon’s petitions, meaning the candidates can appear on the ballot.**

Jeffrey Johnson, candidate, submitted exhibits referring to the Cleveland City Charter to support his protest against Mark R. Majer regarding the residency requirement, saying that his opponent has not been a resident for 12 consecutive months. “State law says to look to the charter,” Johnson said.

Musson: The city does not have the authority to pre-empt state law.

Johnson was “troubled by that” idea that the charter’s 12-month requirement -- added by voters in 2019 -- would only apply to the mayor and council, not judges. *[Editor’s note: That is Griffin’s legal opinion, according to a letter beginning on pg. 92 of the [board packet](#)].*

Chappell questioned if the charter explicitly says “judicial candidates.” It does not. She suggested that perhaps there needs to be a call-out of each specific office in the city

charter regarding this. She said that she prefers not to deviate from the opinions of the law director and legal counsel.

**The board denied Johnson's petitions, meaning the candidates can appear on the ballot.**

Mariah Crenshaw said, "I'm the one that started this mess" in questioning the number of signatures obtained by the candidates according to the city charter. She remarked that it's "deflection to bring in Bratenahl." It is her opinion that the city charter rules in "general law" and that "at large" language in the charter applies to judicial candidates. So, the 12 consecutive months of residency is required, as are 3,000 signatures.

Musson: Local governance (Home Rule) does not encompass creating courts or qualifying individuals to run for judge.

An attorney for Saffold requested dismissal of the protest against the number of signatures filed.

Candidate Heather McCollough: "It's not a 'general law. When you pull your petition, you are told that you need 50 signatures." She said she pulled the records and no judicial candidates on the ballot had turned in 3,000 signatures, which would have meant that no one would have been able to go forward in the coming elections. It is her belief "that certain people were targeted by" this protest.

Candidate Jocelyn Conwell, on Crenshaw's premise of [home rule](#): "All municipalities have the right to home rule. However, in this particular instance, we're talking about that it wouldn't extend to the City of Bratenahl." The state law says "territory," not city, which in this case would include Bratenahl.

Musson referred to [ORC 1901.06\(A\)](#) "a resident of the territory of the court to which the judge is elected."

Chappell: The language around residency is "a little nuanced" and worth discussion. It's something for the "charter folks."

Chappell asked: The Ohio law means the candidate "only has to be a resident at the time they take office. Is that correct?" Musson "Correct."

**The board denied Crenshaw's petitions, meaning the candidates can appear on the ballot.**

**New agenda items**

15. Protest hearing filed by Christopher Litwinowicz regarding whether each part of the petition needs to have written acceptance for Kirsten Holzheimer Gail, a candidate for City of Euclid mayor.

16. Protest hearing filed by Christopher Litwinowicz regarding whether each part of the petition needs to have a written acceptance by the nominee and whether the petition circulator must be from the City of Euclid, for Daniel J. Burns, candidate for City of Euclid mayor.

17. Protest hearing filed by Christopher Litwinowicz regarding whether each part of the petition needs to have a written acceptance by the nominee and whether the petition circulator must be from the City of Euclid, for Taneika L. Hill, candidate for the City of Euclid mayor.

18. Protest hearing filed by Christopher Litwinowicz regarding whether each part of the petition needs to have a written acceptance by the nominee for Marcus Epps, candidate for the City of Euclid mayor.

**NOTES:**

Lawler, the board's manager of Candidate and Petition Services, said this protest is regarding petitions required to have a written acceptance by the nominee and the petition circulator needs to be from Euclid.

Chappell remarked that this issue had come up three times before.

Litwinowicz asked if there was a practicing attorney or legal representative available/present. On the forms, candidates must use their first, middle and last name, he said, adding the petitions are improper. Board officials directed him to speak about the issues on the agenda. There is a problem with the candidates' signatures, he said.

Chappell said, "[Candidates] do not need to sign every single petition." This is how they ruled on every other occasion it has come up, she said.

Daniel J. Burns added that he objected to the protest because it is not specific enough and the language implied that the petitions would be submitted under one signature.

Musson deferred to the City of Euclid law director's opinion.

**Denied.**

19. Acknowledgment of candidate withdrawals from the Nov. 7, 2023, general election

**Approved** (pg. 465 of the [board packet](#)).

## **ELECTION OFFICIALS**

20. Approval to appoint not less than two precinct election officials for each precinct pursuant to ORC §3501.22 for the Nov. 7, 2023, General Election

**Approved**

## **FISCAL SERVICES**

21. Approval of the vouchers to Midwest Direct to print and mail voter information guides, and for Weekley's Mailing Services for vote-by-mail application services through December.

22. Approval of the contracts with Berman Moving and Storage and Midwest Direct for ballot printing.

**Approved.**

## **HUMAN RESOURCES**

23. Approval of the personnel agenda

**Approved.**

## **NEW BUSINESS**

- Biennial Budget Update (would be for 2024 and 2025)

## **NOTES:**

Perlatti talked about four new requests for the upcoming budget:

1) New operations center

2) Another mail ballot machine (about \$350,000)

3) Wage increases for temporary employees (additional .25 cents/hour in 2024 and another .25 cents/hour in 2025; currently at \$15/hr)

4) Work hour adjustments for election workers at county-wide elections.

Kaloger discussed another possible budget item: new electronic pollbooks. The last time the board purchased new ones was 2017. The iPad minis have run their time and gone through multiple updates and custom security patches. New iPad 10th Generations have larger screens to see and sign better. Will include stands, cases, etc.

The Secretary of State's Office and the Department of Administrative Services will determine prices, Perlatti said.

Perlatti on Berman Moving's equipment delivery expectations: They dropped the ball in some regards and it is being addressed. May have to execute penalties. They have been a good partner. Chappell said she hopes that these are anomalies and that the process can be fixed.

## **PUBLIC COMMENT**

Gilda Malone said she is a Cuyahoga County registered voter and a staunch Republican. Malone spoke about Cleveland's illiteracy rates. Malone recounted points of discussion during the meeting with direct quotes from members (some of the audio was unintelligible).

## **Additional resources**

Cuyahoga County Board of Elections

<https://boe.cuyahogacounty.gov/>

<https://boe.cuyahogacounty.gov/about-us>

Brian Cleary



<https://cuyahogaelectionaudits.us/about-us/bios>

[https://boe.cuyahogacounty.gov/docs/default-source/boe/elections/2022-11-08-post-election-information.pdf?sfvrsn=34b1f196\\_0](https://boe.cuyahogacounty.gov/docs/default-source/boe/elections/2022-11-08-post-election-information.pdf?sfvrsn=34b1f196_0)

Ohio Revised Code 1901 - Organization of municipal courts

<https://codes.ohio.gov/ohio-revised-code/section-1901.01>

Ohio Revised Code 1907 - County court

<https://codes.ohio.gov/ohio-revised-code/section-1907.01>

Cleveland City Charter - Elections

[https://codelibrary.amlegal.com/codes/cleveland/latest/cleveland\\_oh/0-0-0-37](https://codelibrary.amlegal.com/codes/cleveland/latest/cleveland_oh/0-0-0-37)

Cleveland Law Director - Mark Griffin

<https://www.clevelandohio.gov/city-hall/departments/law>

Home Rule

<https://case.edu/ech/articles/h/home-rule>

Judge Shiela Turner McCall

<https://clevelandmunicipalcourt.org/general-division/meet-the-judges/judge-shiela-turner-mccall>

Jeffrey Johnson

[https://ballotpedia.org/Jeffrey\\_Johnson\\_\(Ohio\)](https://ballotpedia.org/Jeffrey_Johnson_(Ohio))

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