

## June 7, 2021 POST ELECTION MEETING OF THE DELAWARE COUNTY ELECTION BOARD

**PRESENT:** Gerald Lawrence, Chairman.  
Ashley Lunkenheimer  
James Byrne Board Members  
Manly Parks, Board Solicitor

Also Present: Jim Allen, Director of Elections  
Laureen Hagan, Bureau of Elections Chief Clerk  
Jim Savage, Voting Machine Department  
Crystal Winterbottom, Voter Registration Office

Meeting Called to Order – 1:05 p.m.

Pledge of Allegiance – 1:05 p.m.

Consideration of Agenda. Mr. Allen stated that there were no additions.

Director of Elections Report. Mr. Allen started his report outlining successes of this election which are as follows: Drop boxes accounted for ½ of mail-ballot returns. Newtown Township already has asked to have the drop box reinstalled before November. There were no unstaffed precincts. Pick up and drop off was better but needed improvements. In-person training resumed, and for the first time, an in-depth training guide was mailed to all poll workers. There were more court appointment dates for Election Judges. Approximately 80% of the provisional ballots were approved to be counted. The warehouse completed Logic & Accuracy testing earlier than ever. The pay sheet records are at the Controller's office. He went on to address a shortage of ballots that occurred in certain areas that saw spikes in turnouts. Mr. Allen noted the problem impacted several counties outside Delaware and related to a newer state law that suggests using the turnouts for each precinct from the prior three primaries and adding 10% to that number. When ballot orders were prepared in January 2021, Ms. Hagan and Mr. Barton exceeded that law, adding at least 20% and then rounding up to the next 50. This worked well in all of 39 of Delaware County's 428 precincts. However, in those precincts, turnouts spiked by 40% or more. Mr. Allen expressed kudos to party leaders for getting out the vote. He pointed out that the law to calculate ballot orders fails to account for spikes in turnouts that can occur especially in a Primary where there may be a strongly contested local contest – even with the buffer the staff put in place. Voting was able to continue at the impacted precincts; however, that meant delays for voters in the most impacted precincts. Mr. Allen stated that he would review the numbers, expand the ballot orders and also build a comprehensive contingency plan. Additionally, he said the elections divisions would speak with party leaders about local contests that may be generating more attention ahead of the fall. Delaware County will far exceed what the law requires for November. Ideally, he said, the law will change to prevent this from happening again in any jurisdiction.

Public Comment Mr. Lawrence recognized that it is not fair to have to wait in line and asked Mr. Allen to come up with solutions. Mr. Byrne inquired how many were impacted by this other than Springfield Township and for a reason why the party breakdown and length of response time. Mr. Allen stated that 389 polling locations were not impacted. Ms. Lunkenheimer asked how to solve the problem and Mr. Allen responded to guess the intent of the legislature and spend and store the excess ballots. Mr. Byrne stated that he did not accept all the answers, and this can't happen again. Mr. Lawrence stated more ballots will be printed and we will learn from experience.

### Public Comment

- Doreen McGettigan – Upland 3 – Ms. McGettigan asked the percentage of each party requesting mail in ballots. Ms. McGettigan then voiced concern over the chain of custody. Ms. McGettigan then stated that more workers need to be available to respond to issues as her precinct had to wait 3 hours for a power strip which is too long and had to open late. In response, Mr. Lawrence stated that more voters from the

Democratic Party requested mail in ballots but when the order for polling location ballots is placed it was an inaccurate number due to the timing. It was also suggested that if more ballots are needed over and above initial a request prior to it being an emergency is suggested. The emergency chain of custody was then explained that once the call is received for more ballots they must be created by the Bureau of Elections in Chester City office then given to the delivery person (Sheriff's, Park Police, staff etc.) and then given to the Judge of Elections upon arrival at the polling place who is in charge from the seal being broken in the morning until reseal at end of night.

- Karen Brayham – Middletown 2-3 Judge of Election – Ms. Brayham stated that upon review on May 19, 2021 the results said 100% and she was up by 2 votes however later she was down by 2 votes and wanted to know how this could be? Mr. Lawrence explained that 100% of the v-drives were read which are the votes of those that voted in person. He went on to explain that there are still after that point various other votes that still need to be counted and have various deadlines (mail in, UOCAVA, provisional) by the statute. It was then explained that it is finalized and official statutorily this day when certified. Mr. Lawrence then explained the Return Board. Mr. Allen asked for her to email. He also noted the legal reasons that provisional and Vote By Mail ballots are added in the days that follow Election Day.
- Margaret Rovinski – Springfield 6-4 – Ms. Rovinski gave copies of complaints to the Board members. Ms. Rovinski mentioned all the ballots and that this year only unused ballots in the cages when she reconciled all the ballots. She went on to compliment the guide and stated that her precinct did use the touch writer as they waited 2 hours for extra ballots. She then discussed a range of other election day issues such as issues setting up the touch writer, need more people on the phone bank, ballot box door relocking issue, ran out of tape and seals etc. Mr. Lawrence thanked her for being a Judge of Election. It was also mentioned that the instruction should start with setting up the scanner before the touch writer and the perforation at the top of the ballots was an issue. Mr. Allen stated that the perforation would be going away. Ms. Lunkenheimer and Mr. Lawrence thanked her for copies of her concerns.
- Michael Straw – Republican Chair of Media Borough- Mr. Straw stated that speaking solely for Media Eastern precinct and had long lines to stand in and there are more Democrats in Media. He then gave his numbers that he thought was the turnout for the last 3 municipal primaries. He then added that he was told at the end of the night that a better system is needed and faster delivery system as well. Mr. Lawrence stated that the number of ballots ordered were pursuant to the law.
- A female voter voiced concern that the voting booth shook.
- Andrea White – Haverford 3-2 – Ms. White stated that the last 2 elections were the worse ones. Some of the complaints were only 1 scanner as well as issues with ballots in November and again this election regarding barcodes. She went on to state that it took 20 minutes to get an answer and the touch writer takes 4-10 minutes to vote. She then suggested using a felt tip pen rather than a ball point pen. She went on to inform the Board that due to the time and only having 1 scanner 4 people left and only 3 came back. It was also mentioned that the County should go back to the old machines. Mr. Allen stated that felt pens were not used when the Hart equipment was certified by the state and could not be used unless there was a new certification with such pens initiated by the equipment manufacturer. Mr. Lawrence added that the law changes did not allow for continued use of the previous voting equipment and the County had to select a certified system.
- Alfred Achtert – Upper Darby 6-11-Mr. Achtert stated that he helps to recruit workers and that is getting harder all the time. He also mentioned that the legislature does not know how it works with the deadline and there should be talks. He went on to ask what illegible write in meant also that an email regarding this should go out and that there should be 1 petitioner needed and 1 accumulating the tape. He then stated that there is a lot of set up and tear down with the new system and that it should be reprogrammed to print the number of copies needed. He went on to say it takes at least 2 people himself working 6-10 and the district leader working in 6-8. He also stated that he was aware that someone had put their ballot in the East Lansdowne drop box 6 days before the election and it wasn't logged in until election day and that returned ballots need to be properly logged in. Mr. Lawrence responded that in a perfect world all the write ins would be recognizable but also asked that it be recognized the difference if 100's or 1000's.

Mr. Lawrence went on to explain regarding the logging in of ballots that the state SURE system interacts with our technology but that the state is replacing it. Mr. Allen also explained that state SURE passes a database along to our system.

- Terry Johnson – Upper Darby – stated that there were 9 write in for the only person registered in that school district in the right precinct and right address. He went on to state there is no Terry John registered. Mr. Johnson then informed the Board that it does take 2 people an hour to set up and then an hour to take down. He also stated that another reason they are losing workers is due to non-payment.
- Carla Cardwell – Chester City 11-6 – Ms. Cardwell stated that she ran on the Republican ticket for Judge of Election. She stated that she felt it reasonable to expect a response from the Election Board on the day of election as she spoke to a Bill and told someone would be in touch. She had found out that evening that the current Judge prewrote her own name in on the ballots for Judge of Election. Ms. Cardwell stated that a friend of hers contacted her to inform her that she and her daughter could not write her in as names were on the Democratic ballot already. When the judge was asked about this she apologized and stated that she thought she could do this. She then stated that when she asked for a printout she was not given one. She also asked if her district would be certified and stated she received other texts and calls with the same story and had copies of the texts. She stated she had spoken to Mr. Allen and viewed the write-in votes with Ms. Hagan and spoke to the District Attorney. Mr. Allen stated that the matter already had been given to the District Attorney, and that there was a pending and ongoing investigation. Mr. Allen also noted that he was asking the Board to certify all results – except for the Democratic Judge of Election in Chester City 11-6 today. Mr. Parks followed up that as soon as Elections staff were notified, the matter was immediately referred to the District Attorney.
- Carol Fanconi – Nether Providence – Ms. Fanconi stated that she worked in another location and arrived at 5:30am and had to open 3 polls. She continued that her husband was a Judge of Election in 2 precincts and that an 18-hour day is a lot for an 80-year-old and that it would be helpful for ½ days. She then mentioned having to take the results back that night but that she also had to call the hotline 5-6 times, but they were great and quick. She stated there was trouble with the scanner but just needed a minor adjustment and the service was great. Mr. Lawrence stated that per the law there is allowed 1 Judge of Elections but that they can take a break.
- Patricia Orlando – Radnor 4-2 – Ms. Orlando stated that the scanner is temperamental and had 5 voters leave because of them. She stated that she has recruitment classes and discusses, the registration books, drop off etc. but that the Board needs to make it easier perhaps have someone pick up the supplies. Mr. Lawrence thanked her for her service and recruitments.
- Margaret Dee – Rose Valley – Ms. Dee informed the Board that she learned of an incident where the machine had an issue and one of the people at the Election Board table did not work on the Election Board. She then suggested that each person on the Board have a badge with a title.
- Rachel Amdur – Radnor Democrats – Ms. Amdur stated that she feels for the workers who worked the 36 precincts however the older machines were unable to be recounted, where the new voting equipment does allow for recounts. Ms. Amdur then thanked the Board and others for their hard work. It was then suggested that a guide for trouble shooting should be made using a user group of best practices and that more ballots are needed.
- Frank Catania – Upper Darby 2-3 – Mr. Catania mentioned that he was there on behalf of 6 write in petitioners but will wait until then to comment on that issue. Mr. Catania continued that the current Return Board needs to function with each party appointing 1 person for each team and stated that Mr. Savage organized the Return Board, and the Republicans did not have that chance to appoint workers. Mr. Lawrence stated written Return Board policy is needed. Mr. Catania added that he didn't believe there was anything in the code regarding consulting with the parties but would refer that to Mr. Parks. Mr. Catania then spoke on various other issues with the Return Board such as listed Provisionals, mail ins, absentees and election day ballots but they did not look at more than 8 or 9 precincts. Mr. Catania then spoke on the write in issues such as truncated write in that exceeds the box as well as before people go down to The Wharf watch they should be aware that there is counting going on in 3 locations Provisionals (Media), Write In (Wharf Chester City) and Return Board (Voting Machine Warehouse).

Another issue is that no human looks at the actual ballots and such rules are needed. It was then stated that the return needs to be more open and transparent and only 2% are being verified when \$6,000,000 was spent to have a verifiable system. Mr. Lawrence responded that the ballots stay sealed and the statute is followed and perhaps the statute could be looked at. Mr. Catania then mentioned the speaker from Middletown 2-3 and that she should know if she won and it is within the Boards power to correct. Mr. Lawrence stated that Mr. Parks will look into it.

- Md Hasan – Millbourne – Mr. Hasan addressed his complaint that people voted in Millbourne on election day that he knows are not registered there were able to vote and brought in to vote there on election day. Mr. Parks stated this matter had already been referred to the District Attorney’s office along with the concern Mr. Hassan raised in November.
- Guy Monterio – Concord – Mr. Monterio questioned the number of ballots and why we have not learned that more could be printed at the precinct. He went on to question the seals and chain of custody and when mail in ballot returned and by whom? Mr. Lawrence answered that the touch writer may be used by anyone and that it will be looked into to make changes through the system. Mr. Allen stated that any changes need to be tested out, and that change is not instantaneous. He stated that other factors such as security and chain of custody must be considered. Mr. Allen then explained that the ballots are returned to drop boxes and through the US mail. Once the county employees of the Election Bureau receive the ballots, the envelopes are scanned into the SURE system and left sealed and locked in a secure room until election day. Mr. Allen then explained how the votes are counted on election day when the ballot envelopes, and then secrecy envelopes, are opened and the ballots are then scanned for the votes. Mr. Allen then gave an example of an overvote that may be found when scanning.
- Melissa Maffettone – Thornbury 3 – Ms. Maffettone stated that they also ran out of ballots and inquired how to get their numbers. She went on to state that it was 3 ½ hours to get more ballots and was told that they had to go from Media to Chester. Mr. Allen stated that we are going to try to eliminate that process and gave her their numbers, which saw turnout nearly double compared to 2019, 2017 or 2015 primaries. He then went on to explain how primary turnouts can fluctuate much more than general-election turnouts. Mr. Lawrence stated that the prior results are on the website from 2015 forward. Ms. Maffettone then mentioned that in the General Election last year someone turned off the machine so no tapes could be printed at the end of the night and she felt that this should not have been allowed to happen. Mr. Allen stated that he was only aware that if you close the polls but would be interested in hearing more about that and she agreed to send him an email regarding this.
- Nicole Whitaker – Upper Chichester 2 – Ms. Whitaker stated that she had called the week prior to the meeting inquiring about the accumulation process and sent an email as instructed and had not had a response. She inquired how someone not running with a party would know the process? Mr. Lawrence stated that the legal answer is the process is in the election code however he apologized for her not receiving a response but knows that the staff has been taking many calls about this issue and getting the form that is usually seen for cumulating to the people requesting it.
- Thomas McGarrigle - Springfield 5-2 – Republican Party Chairman of Delaware County – Mr. McGarrigle read a letter that was prepared that started with the concept of the rule of law is foundational for a democratic society and what that means but states that the meaning of this was just violated by Delaware County. The letter then touched on such topics undated ballots, election integrity, the new director’s salary and any moving expenses paid to move him here, lunches for the employees on election day and how it was paid as well as cost, why pay for only 1 office when there are 3,000 more county employee, cost of legal bills from January 1, 2021 – June 1, 2021, total number of employees in Bureau of Elections etc.. He went on to state that he had reached out in 2020 to the District Attorney’s office, Secretary of State and Attorney Generals office concerned about what was going on in Delaware County in the Election Bureau and is still awaiting a response. He then went on to state that he also reached out on election night in the primary this year to Tanner Rouse Chief Deputy to the District Attorney about what happened on election day sent in the information as asked but also sent the information to the Attorney General and the State Department and awaits an answer. He then questioned the functionality of the machines as well as how money is being spent by the office. Mr. Lawrence thanked the him for

his comments and stated that he could not answer for the District Attorney or that office or the Secretary of State, Attorney General or State Department and that he should reach out to them directly for their response. Mr. Lawrence stated that he does not have the exact numbers of employees today but can respond to a Sunshine request. Mr. Lawrence then asked Mr. Parks to speak regarding the undated ballots. Mr. Parks then stated that the guidance that was put into place in November 2020 on how to canvass and pre-canvass remained in effect until last week, when the Department of State sent new comments on those procedures. It was then stated that Delaware County was not the only county to have used the November 2020 guidance before that new guidance came – long after the ballots were already canvassed and therefore could not be undone.

- Barry Merlino – Darby Township Republican Chairman – Mr. Merlino stated that the 5 wards had the same problems as elsewhere but there were 5 wards in 1 school. Participated via a previous meeting to have polling places moved back to pre-Covid locations. One of the accusations brought up is voter intimidation and he wanted it investigated as he has never heard anything about it. Mr. Merlino wanted to reassure that it is not a problem. He went on to request a response to his May 27, 2021 letter and what the bar is that needs to be met to have the polling places moved back for the residence's convenience. Mr. Lawrence thanked him and stated that he was well aware of his position however has not seen the letter mentioned. Mr. Lawrence then instructed Mr. Merlino to file another petition hopefully not 2 weeks prior for consideration again on this matter as it is a different election and hopefully a difference with Covid. Mr. Lawrence then mentioned there were a number of comments on both sides.
- Carol Miller – Springfield 4-3 – Ms. Miller's first comment was regarding undated ballot return envelopes. Ms. Miller cited Mr. Park's statement that it was too late to determine which ballot came from an undated envelope. Ms. Miller asked if that was the point of paper ballots. Mr. Allen responded that once a ballot is separated from the exterior envelope and then from the secrecy envelope, no one is able to determine which ballots came from which return envelopes, and the state's guidance came long after the ballots had been counted. Ms. Miller also asked about absentee reports. Mr. Lawrence stated he was unsure of why she has yet to receive her final mail in report but that he would make sure she received it. Ms. Miller then read a letter written by Mr. Michael Puppio the Chairman of the Springfield Republican Party. Mr. Puppio states that this primary after a federal cycle is known as a hang over election as it is a municipal cycle with local offices and usually does not receive the same national attention. He went on that he worked with Ms. Iacono and the Democrat party to make sure that all of the polls are fully staffed and as such when the workers needed more paper ballots after calling the Bureau of Election and being unsatisfied with the outcome they would then call him. He stated that he sent the concerns on election day up the chain of command. He went on to say improvements need to be made and people were disenfranchised due to this problem. He then went on to say if it were last year or next year it would be catastrophic and counting undated ballots is a disgrace. He thanked Ms. Iacono and Ms. Baulis. He continued and wanted acknowledgements for these things and would be willing to participate in any bipartisan discussions. Mr. Lawrence asked Ms. Miller to pass along thanks to Mr. Puppio and stated that he was in direct contact with him on election day, and as usual he was helpful in figuring out solutions and looks forward to working with him in the future and whose opinion is valued and respected.
- TJ DeLucca – Springfield 3-1 – Thanked everyone for coming and asking questions but also asked everyone to remember that this new system was not approved by the current Board or County Council but the previous, and that the new Director did not order the ballots. but the Chief Clerk who is still here and did her job per the law. He said it's important to come and ask your questions, and important to seek more information on the new systems. He said what should be celebrated is the increase of participation in the primary elections which are woefully under attended in not just here but throughout the Commonwealth and country. He went on to state that saying that people were intentionally disenfranchised is not the right answer and the Board has recognized the faults we had with State guidelines and how to move forward as to not have this issue in the General Election and answered all of

his questions. He then went on to thank the Board, staff and Bureau for the work they have done and continue to do as well as addressing the concerns and answering the questions.

- Karen McCunney – Springfield 2-3 – Ms. McCunney stated that she worked polls and the system worked after following the instructions and that she called when the ballots were low and that more ballots came quickly.

Accumulations of Write In Votes. Mr. Allen read through the petitions received and would recommend the Board accept all of them but noted there are some that will not meet the threshold to move forward. Mr. Lawrence noted that those were a lot of cumulations this time.

Mr. Catania then spoke and welcomed Mr. Allen to Delaware County and stated that Mr. Allen had allowed it to run as an administrative process, not an adversarial process, and that Mr. Catania worked also with Ms. Hagan, Ms. Winterbottom and staff, Mr. Barton and Ms. Dillon. Mr. Peterson then stood and spoke to clarify that his accumulation is under H. Ross Peterson not Paterson. Mr. Lawrence asked if these were confirmed to be the only person and in the eligible precinct. Mr. Allen stated that not all have been confirmed as to when petitions were received. Mr. Lawrence then stated that once these are cumulated for their number of votes Ms. Hagan can then send them out the letter for accepting. Ms. Lunkenheimer moved to accept these petitioners' accumulations and Mr. Byrne seconded the motion. Motion passed 3-0.

Certification of Results of the May 18, 2021 Municipal Primary. Mr. Allen requested that the Delaware County Board of Elections certify the May 18, 2021 Municipal Primary with the exclusion of the Democratic party Judge of Election contest in Chester City 11-6. Ms. Lunkenheimer moved to certify the May 18, 2021 Municipal Primary with the exclusion of the Democratic party Judge of Election office in Chester City 11-6. Mr. Byrne seconded the motion. Mr. Byrne then asked Mr. Parks additional questions regarding the undated ballot envelopes and Judge Wecht's opinion and the guidance that then came. Also discussed was the June 1, 2021 letter of guidance and while in agreement that the Supreme Court would override a guidance, Mr. Parks again stated that the timing in which it was received to not count undated ballot envelopes was after the ballots already were canvassed and scanned. Mr. Lawrence asked for a vote on the motion to certify the May 18, 2021 Municipal Primary and exclude Chester City 11-6 Democratic Party Judge of Elections vote is 2-1. Motion passed.

Campaign Finance Issues. Mr. Allen stated that the list of Campaign Finance committees that were prepared and circulated to the Board for waivers to their fines. Mr. Allen went on to state that this is the 1<sup>st</sup> offense for these committees and there was nothing egregious. Mr. Lawrence stated that this has been done in the past for 1<sup>st</sup> time offenders who may not have known what exactly they were getting into but that once it is waived one time they are on notice. Mr. Byrne moved to waive the fines of the list of Campaign Finance Committees distributed to the Board with 1<sup>st</sup> time offenses and Ms. Lunkenheimer seconded the motion. A discussion was had that this action in no way is dismissing the law and each case should be considered on a case by case basis. Motion passed 3-0.

Reimbursement for the Military and Overseas Ballots. Ms. Hagan stated that there were 6 ballots this municipal year for a reimbursement total of \$3.60. Ms. Lunkenheimer moved to seek reimbursement for the 6 Military and Overseas ballots for \$3.60 and Mr. Byrne seconded the motion. Motion passes 3-0.

Ratification of Unofficial Returns Reporting Form. Ms. Hagan requested that the Board ratify the Unofficial Election Returns that needed to be filed and were sent to the Department of State the Tuesday following the election. Ms. Lunkenheimer moved to ratify and approve the unofficial results sent to the Department of State the Tuesday after the election and Mr. Byrne seconded the motion. Motion passed 3-0.

Approval of the minutes from the May 12, 2021 Pre - Election meeting. Mr. Byrne moved to approve the minutes of the May 12, 2021 pre-election meeting and Ms. Lunkenheimer seconded the motion. Motion passed 3-0.

Mr. Allen asked for Mr. Tom Gallagher of the Return Board to be able to give a report. Mr. Gallagher stated that the Return Board was made up of 8 Republicans and 8 Democrats that met for 6 days. Mr. Gallagher stated that things had improved from last year with 420 returning their supplies however 8 precincts had not. He further recommended that those 8 precincts be brought in before the Board and that Darby Borough was by far the worst offender. He went on to state that 278 completed the information of the 428 total precincts. In addition, he stated that the 2% is required by the law and explained answers for where they found inconsistencies. He recommended that a poster instructing voters how to completely fill in the blocks so that the inconsistencies would be fewer. Mr. Gallagher felt there needed to be a number of recommendations to develop sanctions for Judge of Elections who do not complete the return sheet or number list of voters etc. He thanked Mr. Capanelli, Mr. Savage, Ms. Miller and Mr. Allen.

Mr. Catania suggested this might be the opinion of Mr. Gallagher. However, nothing was said regarding how the Return Board was gathered and it was counted. He went on to say that the 8 precincts are per the law however, the other 420 that no human looked at tells us nothing. He went on that there needs to be checks and balances for confidence and that a report for the Return Board should have the entire Return Board here not just one person. He stated this needs to be discussed this summer before the next Board meeting. When Mr. Catania asked if the report was signed by entire Return Board Mr. Gallagher answered yes, it had been circulated among all members of the Return Board for their approval.

Mr. Lawrence stopped the discussion and said he wants an open, transparent and confident process and that he has had confidence in the past and now. He also stated that more discussions will be conducted.

Mr. Savage said there were numerous emails from Return Board members approving the report. Mr. Savage then noted that those who had been authorized by the Parties in the past served again. Mr. Savage stated an observer area was set up, yet no one observed or filed any concerns. Mr. Lawrence addressed the issue of how we will obtain workers from both parties for the Return Board and said it will be reviewed this summer.

Ms. Christine Reuther – County Council member & Chair of Nether Providence Democratic Committee - Ms. Reuther spoke that if the parties are going to have to appoint workers for the Return Board there needs to be a deadline set that if you have not responded by the deadline, the Elections Department will invite past participants. Mr. Catania said he disagreed with some of the statements made by Ms. Reuther but agreed that there needs to be a deadline.

Ms. Miller stated that she has been scheduling tabulators for 30 years and this year never received a letter. However, when she began reaching out to workers they had already been contacted by Mr. Savage. She felt that the answer was make sure that they get a letter, and that she has never not appointed tabulators.

Next Meeting Date. Mr. Allen stated that he would be in touch with the Board for the next date possibly in early July, depending on the need.

There being no further business meeting was adjourned 4:13 p.m.