

ELECTION BOARD REORGANIZATIONAL MEETING
March 20, 2019

Judge Farley Toothman called the meeting to order at 10:59 a.m.

Attending the meeting in addition to Judge Toothman were Attorney Jeffry Grimes, Magisterial Judge Dave Balint, Chief Clerk Jeff Marshall, Election Director Tina Kiger, Clerk of Elections Rachel Gillispie, Assistant Solicitor Kevin Freyder, Commissioners Blair Zimmerman, Dave Coder and Archie Trader, and in attendance were several members of the public.

Judge Toothman, acting as convener of the Election Board meeting, reported that the previous Board of Elections members have resigned due to running for Office, and he as, President Judge, was tasked with appointing a new Board. Jeff Marshall, Chief Clerk, swore in the new Board Members – Attorney Jeffry Grimes, Magisterial Judge Dave Balint and Judge Farley Toothman.

MINUTES: Mr. Grimes stated he believed the meeting was properly advertised. Judge Toothman asked Mrs. Kiger, Director of Elections, if the minutes reflect the February 21st meeting. She agreed they did reflect the meeting. Judge Toothman moved to recognize the minutes, Mr. Balint seconded, all in favor, minutes approved.

ADMINISTRATION:

1. Reorganization of elected officers.
 - a. Judge Toothman made the motion and Dave Balint the second, to appoint Jeffry Grimes Chairman of the Election Board. Vote unanimous.
 - b. Judge Toothman made the motion and Jeffry Grimes the second, to appoint Dave Balint as Vice Chairman of the Election Board. Vote unanimous.
 - c. Motion made to appoint Judge Farley Toothman as Secretary of the Election Board. Vote unanimous.
- a. Scheduling of Election Board Meetings were put on hold until the April 3, 2019 Meeting.

OLD BUSINESS

Voting Equipment:

Mr. Grimes acknowledged that his understanding was, at the previous meeting a decision was made to purchase machines from a certain vendor. The new Board Members are unfamiliar with the new voting equipment. He wanted to know if the equipment had been purchased, is the equipment here, do we have equipment for all of the Precincts in the County?

- Mrs. Kiger reported that the equipment will be delivered on April 2, 2019.
- We will have all of the equipment needed when it is delivered.
- Software training for the new system would start next week, the week of the 25th.

Mr. Grimes wanted to know if the hardware was the same across the board and different software for each? **Discussion followed**

- Mr. Marshall explained in depth about the settlement the State had in place, stating the machines have to be implemented by the April 2020 Presidential Primary using paper verified systems. He explained how the machines operated. Mr. Marshall stated the Board looked at three systems: ES&S, Dominion and Unisyn; all three were certified by the State and Federal government and all paper verifiable.

Greg Hopkins questioned the difference between the paper ballots coming from the Express vote or Hand marked? Discussion followed

- Mr. Kelley explained the ballot marker; if you are using a piece of paper, opposed to a hand marked printed ballot which has a barcode that is read by the scanner. The choices are written in plain English on the printed ballot. The hand marked ballots are read through by the timing marks.
- Mr. Kelley stated there will be no calibration issues, which has been the biggest issue over the years.

Mr. Grimes expressed he didn't think anyone thinks the machines are a bad idea, it is a mandate. The question has become implementation, how to implement and when to implement. He understood that was discussed at the previous Board meeting, where the decision was made on what machines to purchase and also when to focus on the implementation. The decision was made at that time to implement in the May Primary of this year. Kevin Freyder, Assistant Solicitor, informed the board that the contract with ES&S included a provision for the old machines to be returned to ES&S. It was his understanding that they would not be available for this Election. The current Board was unaware of this provision.

Discussion Followed

Judge Toothman questioned the timing on the previous Election Boards resignation: **Discussion Followed**

- Department of States interpretation; the Commissioners must resign by the last day to file petitions. (March 12, 2019)
- Two weeks earlier the Commissioners voted to buy the machines
- Apparently, not only being declared candidates, all active an in the newspapers – Commissioner Coder disputed this fact. He waited until after the vote to go to the Newspaper and put in his announcement.
- The decision to buy these machines was made at the last second by the prior Board. What was the hurry? He said they could have been done last year at any time. Mrs. Kiger disputed this, the machines were not available to be purchased last year, because they were not certified.
- Judge Toothman had a meeting, prior to appointing the Board, to understand how complex the issues might be this year. He was surprised to hear that Greg Ayersman, Democratic Party Chair, had not seen the new machines. Mrs. Kiger stated she did not know that Greg Ayersman was the Democratic Chairman and still has not been informed of such. Lynne Snyder was the chairman at the time of the Demonstrations, and was invited.

Commissioner Blair Zimmerman spoke of the time line in which the process has taken.

- 2015, the Commissioners (which were Blair Zimmerman, Chuck Morris and Archie Trader) had put aside \$400,000 to purchase new machines.
- When the demonstrations took place, the party chairs, at that time were invited to attend.
- First demo he believes took place in 2016
- He called CCAP, Solicitor said they did not have to resign until they turned in their petition.
- He called the Department of State to confirm that this was correct – which was confirmed.

Judge Toothman wanted it on the record from his notes with Jonathan from the Department of State and he wanted to confirm that there are 5 systems and 3 of them have yet to be certified.

Judge Toothman also brought up the plan for implementation. **Discussion Followed**

- Memo from Scott Kelley regarding Rovers that was sent out to County Employees.

- He had not seen any advertising in the papers, Facebook or other public media outlets.

Philomena Blaney questioned the contract for the new machines. **Discussion followed**

- Was the contract signed? Yes
- Where was the contract signed? Commissioners meeting on February 21st
- When was the contract signed? February 21, 2019
- And the amount of the contract? Mr. Marshall stated around \$595,000; but he could provide her the exact amount.
- Wanted to know if it was signed in the context of that meeting? She did not see this in the meeting minutes. Jeff Marshall went over the process at said meeting.

Philomena Blaney questioned about the return of the old voting machines to ES&S.

- She asked if we had our current voting machines? Mr. Marshall and Mrs. Kiger replied yes

Mr. Hopkins added that the purchase of the machines was unclear, he read in the minutes that the Commissioners elected to table the motion until after the Election Board meeting. He stated the meeting was adjourned, Archie Trader said “recessed”. Mr. Hopkins said the minutes say adjourned.

Discussion followed

- Mr. Coder stated that the Commissioner meeting was in place
- The Commissioners meeting was recessed
- Held the Election Board Meeting
- Election Board voted on recommendations
- Election Board adjourned their meeting
- Opened the recessed Commissioners meeting
- Voted on the purchase of the new machines
- Mr. Marshall agreed this is how the meeting took place

Mr. Zimmerman went back to the earlier conversation of implementing the machines.

Discussion Followed

- All of the Equipment Companies that we looked at assured us the we could have the equipment here and all training done in time for the May 2019 Primary.

Judge Toothman went back to the issue of the Commissioners meeting and the vote that took place.

Discussion followed

- First of all, if the record shows out – I would confirm that process & procedure, that the Election Board convened, makes the recommendation to the Commissioners

Judge Toothman went back to implementation and training. **Discussion followed**

- Mr. Kelley went over the process we have had and used since 1999.
- Training of poll workers, rovers and the public.
- Mr. Marshall inserted that we will have staff available from ES&S for training
- Mr. Zimmerman, spoke to the State about having to notify the Township Supervisors and Political parties – we do not have to do that (that is above and beyond what we need to do).
- Mr. Hopkins- with new machines being implemented if it does not go flawlessly, it will be flawed for years to come. He feels it is a rush to implement in that time frame and the he does not agree with the manner that it was approached at.

Mr. Hopkins brought up the rovers and the manner in which they were being invited to work.

Discussion Followed

- Email to the county employees inviting them to train and utilize as rovers.
- Does not feel this is an open and fair way to invite all parties to be a part of this process
- Judge Toothman thought that it could be interrupted as an influence. It didn't come from the Director of Elections, it came from Scott Kelley, who works for the Board of Commissioners.
- Feels that the email could have expanded to include the public
- Carol Gooden – Acting Controller gave her opinion as to why it was better for County employees to work as Rovers
- Mr. Kelley went over why he sent the email and why we feel county employees are the best option
- Jeff Marshall explained rolls of rovers.
- Mrs. Kiger clarified with the board that the email Scott sent to the county employees, regarding being rovers, was authorized by her and she knew he was sending the email.

Mr. Marshall said that Tina Kiger has requested to hold poll worker training at the Fairgrounds this year so machines can be set up and they can have hands-on in-depth training.

Commissioner Coder spoke about every Election being important and he trusts in the staff, custodians, poll workers; and all who work the Elections. He spoke of how we always work together and come through to get things accomplished.

- He spoke of being tired of hearing about calibration issues

Mrs. Kiger said that Poll Worker training classes will be held May 6th, 7th, and 8th.

She spoke about the machines being used in May; she agrees that they need to be implemented before the Presidential Election. She also stated she intends to have the machines available for demonstrations.

Mr. Grimes asked about county employees being paid as rovers. **Discussion followed**

- If they are paid by the county or partly funded by another source, how are they paid that day?
Mr. Kelley stated they would be paid by the Election Office.

Philomena Blaney asked how many County employees there were and how many registered voters there were? And she spoke of transparency and inclusion of all citizens and voters **Discussion Followed**

- Mr. Kelley said there were around 270 County employees
- Mrs. Kiger said there were 21,000 + voters
- She did not like that the use of the term outsiders
- Believes we should open the Rover position to all Greene County Voters
- Went back to the fact that the minutes from the Commissioners meeting minutes says that it was adjourned and not recessed and was a violation of the Sunshine Law

Mr. Grimes asked if there was a way to confirm the Commissioner meeting minutes from February 21st. Mr. Marshall said that he had the recording.

Motion to recess that meeting was made by Dave Balint at 12:00 p.m. and seconded by Jeffry Grimes to get the audio of the Commissioner's meeting held on February 21, 2019

Meeting was called back to order at 12:10 p.m.

Judge Toothman made a motion to publicly advertise for rovers. Dave Balint seconded it.

Rovers will be paid the rate of the Judge of Election plus mileage.

Jeff Marshall asked to amend the notice to be sent to include poll workers as well. Motion passed

Judge Toothman questioned when the equipment would arrive? Jeff Marshall questioned whether the machines could be shipped separately or one shipment? Mrs. Kiger said the machines are expected to arrive April 2, 2019 and they were being shipped as one for cost. Employees from ES&S and William Penn would be arriving with the machines for testing.

Jeffrey Grimes questioned software training without machines? Tina Kiger explained that the software training only includes programming the ballots, reports, etc. and can be done without the machines.

Jeffrey Grimes inquired about any more delays on equipment arrival. Blair Zimmerman agreed that if the new machines are delayed, we would use old machines.

Doug Murray played the recording of the Commissioners meeting to address the question whether the meeting was recessed or adjourned. The recording validated the Commissioners, did in fact recess the meeting to pursue the Election Board meeting and not adjourned.

Scott Kelley explained in detail the Election process and preparation in the 4 weeks leading up to an Election.

Judge Toothman made a motion to table the implementation of the new equipment and allow for the Director of Elections to continue with the informal preparation for the implementation of the new voting equipment while the Board reserves for a formal decision on the implementation, subject to delivery on April 2 and to convene on that day to make the decision. Mr. Grimes asked to amend that to convene on April 3. Dave Balint, seconded. All in favor. Motion passed

Discussion followed

Judge Toothman asked if there was a credit being received on the old pieces of equipment. Scott Kelley informed the Board it was considered a trade in

DUNKARD TOWNSHIP MERGE

Mr. Grimes informed the public this involved the merging of the 4 precincts in Dunkard township.

Discussion Followed

- A petition was filed in the courts on March 11, 2019. This petition will be referred to Judge Dayich
- Jeff Marshall spoke of precincts and thought consolidating to one location would be best due to voters driving past one precinct to vote at another. There is no place to serve as a Polling Precinct for Dunkard Lower and Dunkard Upper. They were both being held in the Dana/Mepco Mining Training Center, which filed bankruptcy and recently sold the building.
- Judge Toothman spoke about the voters impacted and they weren't given enough notice. He said the State told him that it has to be done in a census year, which would mean time is of the essence. He also said the supervisors were unaware of any merge.
- Mrs. Kiger has spoken to the township Supervisors and secretary on many occasions asking for adequate places to hold an election to no avail. The law does not state that the office needs to inform the supervisors or public. This is done once the petition is filed with the courts, it must then be posted in 5 public places in the township for 10 days prior to a hearing.

Judge Toothman made a motion to authorize Tina Kiger to call polling locations to discuss storage options and a longer lease of the polling location for storage. Dave Balint Seconded. All in favor. Motion passed

NEW BUSINESS

Sheriff's Office:

Judge Toothman spoke about the passing of Sheriff Brian Tennant and the vacancy for Sheriff. Judge Toothman said according to Election code and process, First Deputy Marcus Simms was sworn in as Sheriff and not acting Sheriff. He stated according to Election Code each party will nominate a candidate to be placed on the November Municipal Election Ballot and they will be sworn in to finish Sheriff Tennant's term.

ANNOUNCEMENTS:

- Mrs. Kiger announced that the software training is to begin the week of March 25
- The new voting equipment will be delivered April 2, 2019

PUBLIC COMMENT:

ADJOURNMENT:

Dave Balint made the motion to adjourn the meeting at 12:51 p.m. Jeffrey Grimes seconded. Vote unanimous.

Respectfully Submitted,

Tina Kiger
Director of Elections