



County of Lackawanna

Lackawanna County
Government Center
at The Globe
123 Wyoming Ave
Scranton, Pennsylvania
18503

Meeting Minutes

Board of Elections

Thursday, June 1, 2023

2:00 PM

Courtroom 1, 200 N. Washington Ave., Scranton

Call To Order

Meeting was called to order at 2:04 P.M.

Present 3 - Judge Michael Barrasse, Judge Margaret Bisignani Moyle, and Judge Terrence Nealon

Approval of Minutes

A motion was made by Judge Michael Barrasse, seconded by Judge Margaret Bisignani Moyle, to Dispense with the Reading and Approve as Prepared. The motion carried by the following vote.

Aye: 3 - Judge Michael Barrasse, Judge Margaret Bisignani Moyle, and Judge Terrence Nealon

Opportunity for the Public to Address the Board (Agenda Items Only)

None.

Motions

[23-2011](#)

Motion to consider the Petition for a Manual Recount/Recanvas votes for the Office of Supervisor in the Township of Jefferson.

Attachments: [Jefferson Election Petition.pdf](#)

Attorney Frederickson: Handed to the judges copies of all ballots in question. Attorney Hughes is representing the petitioner.

Attorney Hughes: The three affidavits that were signed were signed by democratic voters in support of the application.

Judge Terrence Nealon: Is there any dispute to that fact?

Director Beth Hopkins: No.

Judge Terrence Nealon: It appears to be as such.

Director Beth Hopkins: They are all registered democrats.

Judge Terrence Nealon: My understanding is that the issue that needs to be addressed is that there were some ballots in which the petitioner, Jason Hollister's name was written in but the oval next to his name was not filled in.

Is that correct?

Attorney Hughes: That is correct. There was nine of those and there was one ballot for Mr. Kotarba who was also a write-in. He also had 47 votes but where it was blackened in, as in Mr. Hollister. There were ten write-in's that the circle was not blackened in, nine for Mr. Hollister and one for Mr. Kotarba. Can we see if we can have them counted and have those votes certified? There is a case on point, I am sure your honor that you would be aware of that would be Ronald vs. Barrett.

Judge Terrence Nealon: Yes.

Attorney Hughes: This is Judge Minora's opinion. It went up to the Commonwealth Court and reserved it on procedure. The Judge Minora felt that the write-in on the ballots even though they did not have the circle blackened, could be counted. On page nine of the opinion that I gave you the Commonwealth Court even though they had reversed, Mr. Rindaldi didn't have his petition presented. They ruled on the issue itself and said if this issue came before us we would definitely vote as long as there was not fraud that the write-in ballot does not have the circle blackened will be counted. In my opinion that is an order from the Commonwealth Court. What we would seek in this case would be that the ten ballots be counted and that Mr. Hollister receive nine and Mr. Kotarba receive one. That would bring the total up to fifty-six for Mr. Hollister and forty-eight for Mr. Kotarba and that the election be certified. Also that Mr. Hollister is the winner of the democratic write-in Jefferson Township, board of supervisor.

Judge Terrence Nealon: For the purposes of the record, I do have the published version of the Commonwealth Court Opinion, which Judge Minora stated that a write in where the oval is not blackened and should have been should have been counted. The matter was appealed on procedural and substantive grounds. Procedural grounds meaning the petition, just like the petition in this instance needed to be supported by at least three voters and verified by affidavit that there was some error in the computation. At least in the Rinaldi case, the petition was accompanied by un-notarized verifications, only by the candidate himself and one other person so the Commonwealth Court held that it was fatally flawed in that regard and did not satisfied the procedural requirements. The court was out of jurisdiction to entertain a petition. To address Mr. Hughes's comment about further rationale and opinion and opinion not being here today because they didn't know at the very outset of the opinion that they were addressing second issue, the substance issue in anticipation of the possible further appeal, and said that judgment is appropriate and relied upon rationale in a Schambach decision of the Supreme Court of Pennsylvania and it concluded their opinion by saying quote in the present case, "where the voter intent is clear, and there is no sign of fraud, we conclude that, absent and express statutory prohibition, the rationale favoring liberal construction will allow counting the ballots, despite the lack of a fully blacken oval". So, I agree with Mr. Hughes that they did indicate on the merits that a write-in unless there is some sign of fraud or some other express statutory prohibition, and I don't see either of those circumstances in play presently, that the votes should be counted because they reflect the voters' intent, notwithstanding the failure to fill in the blank.

Judge Michael Barrasse: So, there is no objection?

Attorney Donald Frederickson: The is correct.

Judge Terrence Nealon: The bureau doesn't find anything with regard to the factual basis that's been presented as being false or incorrect?

Director Beth Hopkins: No

Attorney Donald Fredrickson: The election Bureau takes no position on this because we're a neutral agency just to run the election. Just for explanation, the reason we do not count them, the writings that are not black and that is that's the guidance we received from the Department of State in Harrisburg. And you know, as you indicated on the ballot itself, it says to write in somebody you need to black in the oval and write the name so that's the reason we don't as of course.

Director Beth Hopkins: I just want to say for the record that 16 of those folks that I have given you certified copies of, nine of them are for Mr. Hollister and one is for Mr. Katara, who were in a tie for the right amount of 47 each and then there's other candidates that each had one. Just to point out there were 16 of them.

A motion was made by Judge Michael Barrasse, seconded by Judge Margaret Bisignani Moyle, that this Motion be passed. The motion carried by the following vote.

Aye: 3 - Judge Michael Barrasse, Judge Margaret Bisignani Moyle, and Judge Terrence Nealon

Opportunity for the Public to Address the Board

None.

Member's Other Business

None.

Adjournment

No vote was taken to adjourn. 2:17 P.M.