

**HAMILTON COUNTY BOARD OF ELECTIONS
SPECIAL MEETING HELD
MARCH 12, 2021 at 8:30AM**

The special meeting of the Hamilton County Board of Elections was called to order at 8:30am. Present were members Ms. McFarlin, Mr. Triantafilou, Mr. Gerhardt and Mr. Mallory. Also present: Sherry Poland and Sally Krisel; David Stevenson and Jesse Daley with the Hamilton County Prosecutor's office. Due to Social Distancing and limited space in the Board Meeting Room, the meeting was live streamed for public viewing from the board's website and an overflow room in the board's multi-purpose room.

It was noted that proper notice was duly provided as required by O.R.C. 121.22. The meeting opened with the Pledge of Allegiance.

I. APPROVE BOARD MEETING MINUTES: MARCH 2, 2021

Mr. Triantafilou made a motion to approve the Board meeting minutes and accompanying transcript for March 2, 2021; Mr. Mallory seconded. The motion passed unanimously.

II. REVIEW: INSUFFICIENT CINCINNATI MAYORAL CANDIDATES PETITIONS

Protest Hearing: Adam Koehler *A transcript of this hearing is attached hereto for reference*

A Hearing on the Protest filled by Adam Koehler regarding the Staff recommendation which found the petitions filed by Mr. Koehler to have insufficient number of signatures, not meeting the requirement of 500 valid signatures. Mr. Adam Koehler was present; Attorney Donald Brey presented on behalf of Mr. Koehler.

Chair McFarlin reminded the Candidate and Counsel that the Board may not accept or consider evidence that constitutes an alteration, correction or addition to the petitions or any of their part petitions pursuant ORC 3501.38-1.

Ms. Poland provided an overview summary for the Board:

The initial review found 439 valid signatures. There were an additional 17 on part petitions in which the circulator was not a resident of the City of Cincinnati; legal guidance is requested regarding the 17 signatures.

Mr. Stevenson stated that the City Charter states that circulators must be residents of the city of Cincinnati and that staff sought guidance from the City Solicitor's office. Mr. Stevenson stated that the Sixth Circuit Court of Appeals has said that circulator residency requirements are not acceptable and State law has been changed in that regard since this decision. Mr. Stevenson recommends adding the 17 signatures to the original count.

Ms. Poland continued, stating this brings the number to 456. Staff reviewed other portions of the protest and agrees that 4 more signatures may be added to the count, bringing the number to 460 valid signatures. Mr. Triantafilou clarified that this number is still short of the required 500 signatures.

Mr. Koehler provided a statement and was sworn for testimony. Donald Brey, counsel for Mr. Koehler submitted evidence which was marked as exhibits. Mr. Brey continued with his presentation. The Board engaged at length with questions and discussions (see attached transcript).

At the conclusion, Mr. Triantafilou made a motion to enter Executive Session indicating the necessity due to engaging in a quasi-judicial proceeding; Mr. Mallory seconded. Ms. McFarlin -aye; Mr. Triantafilou -aye; Mr. Gerhardt- aye; Mr. Mallory -aye; the motion passed unanimously whereupon the Board entered Executive Session at 3:55pm.

Mr. Triantafilou made a motion to return to regular session; Mr. Mallory seconded. Ms. McFarlin -aye; Mr. Triantafilou- aye; Mr. Gerhardt -aye; Mr. Mallory -aye. The motion passed unanimously whereupon the Board returned to regular session at 4:24pm.

Mr. Mallory deferred to Mr. Stevenson for an opinion on substantial compliance. Mr. Stevenson stated that Section 3A of the City Charter provides that the form of the petition is a substantial compliance section; Substantial compliance is with the form not with the requirements.

Mr. Triantafilou indicated that he was inclined to find there was substantial compliance and uphold the protest and allow Mr. Koehler to proceed to the ballot.

Mr. Mallory indicated he was not inclined to support the protest.

Mr. Stevenson reminded the Board that they were voting on the Staff's recommendation to reject the petitions; basically, the same as voting to either uphold or deny the protest.

Ms. McFarlin indicated she was not inclined to support the protest.

Mr. Mallory made a motion to deny the protest; Ms. McFarlin seconded. The motion carried with Mr. Triantafilou dissenting; the remainder in favor.

Mr. Mallory made a motion to formally reject the candidacy of Adam Koehler; Ms. McFarlin seconded. The motion carried with Mr. Triantafilou dissenting; the remainder in favor.

Protest Hearing: Kelli Prather *A transcript of this hearing is attached hereto for reference*

A Hearing on the Protest filled by Kelli Prather regarding the Staff recommendation which found the petitions filed by Ms. Prather to have insufficient number of signatures, not meeting the requirement of 500 valid signatures. Chair McFarlin reminded the Candidate that the Board may not accept or consider evidence that constitutes an alteration, correction or addition to the petitions or any of their part petitions pursuant ORC 3501.38-1.

Ms. Poland provided an overview summary for the Board:

On January 15, 2021 Candidate filed a set of petitions; Staff review found 441 valid signatures. On January 21, 2021, Candidate withdrew.

On February 2, 2021 Candidate filed a set of petitions; Staff review found 409 valid signatures. On February 18, 2021 Candidate withdrew.

On February 18, 2021 Candidate filed a set of petitions; Staff review found 444 valid signatures. 6 part-petitions filed by the candidate on 2/18/21 were not the original part-petitions. Ms. Poland advised the Board that the originals of the photo copies of the 6 part-petitions were included with the protest filed by Ms. Prather.

Ms. Prather was present, was sworn and spoke on her own behalf.

Mr. Mallory indicated that, prior to his appointment to the Board, he assisted Ms. Prather in the review of her signatures and he would recuse himself from this matter.

Ms. Prather presented an overview of the part-petitions she presented and her thoughts on the processing of same. The Board engaged at length with questions and discussions (see attached transcript).

Ms. McFarlin confirmed with Legal Counsel that the part-petitions that were withdrawn by the Candidate could not be considered; they are null and void. She asked Ms. Poland to provide an overview of the part-petitions filed February 18, 2021. A discussion concerning the 6 part-petitions in which the photo copy of the part-petitions was submitted with the initial filing and the original of the 6 part-petitions was submitted with the protest documents. The Board referred to the Elections Officials Manual Chapter 1, page 11-9.

Mr. Triantafilou indicated his problem with the photo copied part-petitions and that he was not inclined to support the protest.

Ms. McFarlin indicated she also had an issue with the photo copied part-petitions and that she was not inclined to support the protest.

Ms. McFarlin made a motion to reject the petitions as invalid and the candidate not be placed on the ballot for the Primary Election; Mr. Triantafilou seconded. The motion carried with Mr. Mallory abstaining; the remainder in favor.

III. CERTIFICATION: CHARTER AMENDMENT

The Board was advised that the City of Cincinnati Charter Amendment: Affordable Housing Trust Fund required Certification to the Ballot. Ms. Poland advised the Board that the ordinance containing the proposed ballot language was submitted by the City of Cincinnati and staff submitted said language to the Secretary of State for approval. The Secretary of State has approved the ballot language however a law suit has been filed with the Ohio Supreme Court challenging said ballot language.

Emily Smart Warner Deputy City Solicitor from the City of Cincinnati asked the Board to approve the ballot language presently before the Board.

Mr. Triantafilou made a motion to certify the Charter Amendment language pending any additional guidance by the Ohio Supreme Court; Mr. Mallory seconded. The motion passed unanimously.

IV. RESOLUTION: AUTHORIZING EXECUTION OF EQUIPMENT DELIVERY CONTRACT

The Board was advised that the current contract for Equipment Delivery expires at the end of the month. An Invitation to Bid resulted in one vendor; the resolution authorizes the Director and Deputy Director to enter into the contract.

Mr. Triantafilou made a motion to adopt the Resolution; Mr. Mallory seconded. The motion passed unanimously.

V. APPROVAL: FULL-TIME STAFF APPOINTMENT

The following full-time staff appointments were presented for approval:

Kelly McGowan to Elections Coordinator, Operations Department.

Jay Hellebusch to Precinct Election Official Training and Outreach Supervisor, Absentee Voting and Precinct Election Official Department.

Mr. Mallory made a motion to approve the two staff appointments; Mr. Triantafilou seconded. The motion passed unanimously.

There being no further business to come before the Board, Mr. Triantafilou made a motion to adjourn; Mr. Mallory seconded. The motion passed unanimously.

APPROVED:

DATE: April 13, 2021

CHAIR:

DIRECTOR:


GWEN MCFARLIN


SHERRY L. POLAND