

**Union County Board of Elections met on July 13, 2021. Those in attendance were William Steele, Chairman; Rebecca Pokorski, Board Member; Dean Cook, Board Member; Tina LaRoche, Director; Brandon Clay, Deputy Director; Thayne Gray, Assistant Prosecuting Attorney; Susie O'Brien, SOS liaison; Corey Colombo, Attorney for Protestor; James Lawrenz, Respondent Joanne Rausch, Observer; Sandy Conley, Observer; Bob Chapman, Observer; Lynda Chapman Observer.**

*Chairman Steele called the meeting to order at 1:00 p.m.*

### **Jerome Township Village Fry Referendum Preliminary Matters**

Chairman Steele said the first order of business was to have a preliminary meeting with the parties involved in the Protest filed with the Board of Elections on June 9, 2021. Donald J. McTigue and J. Corey Colombo, McTigue & Colombo LLC, Attorneys-at-Law filed a Protest of the certification on behalf of Jon Hjelm, Glenn Hochstetler and Jerome Village, LLC. Chairman Steele turned the meeting over to Board Member Pokorski who discussed the following specifics of the Protest Hearing.

#### **Background:**

On April 23, 2021, a Township Zoning Referendum was filed with the Union County Board of Elections entitled "Amendment of Zoning Resolution to rezone approx. 163.568 acres from Rural Residential District (RU) to Planned Development District (PD). Application PD20-003, Resolution 21-036 Jerome Township, Union Co., Ohio"

On June 1, 2021, the Union County Board of Elections met in public session to determine, among other matters, if the Referendum should be certified to the November 2nd, 2021 ballot. The staff reported that the number of valid signatures needed on the Referendum was 262. The number of valid signatures on the petitions filed was 296. The Board certified the Referendum to the November 2nd, 2021 General Election ballot.

On June 9, 2021, Donald J. McTigue and J. Corey Colombo, McTigue & Colombo LLC, Attorneys-at-Law filed a Protest of the certification on behalf of Jon Hjelm, Glenn Hochstetler and Jerome Village, LLC.

#### **Hearing Date:**

A hearing on the Protest is scheduled for 10:00 a.m., July 22, 2021 at the office of the Union County Board of Elections, 835 East Fifth Street, Suite A, Marysville, Ohio 43040.

#### **Procedure:**

Jon Hjelm, Glenn Hochstetler and Jerome Village, LLC, who filed the protest will be known as the "Protestor." The party that the protest is filed against will be known as the "Respondent."

The board will be represented by the Prosecuting Attorney. Mr. Thayne Gray is the Assistant Prosecutor assigned to the Board of Elections. The Prosecuting Attorney will have no part in the decision on the protest. Instead, the sole function of the Prosecutor will be to answer any questions the board may have on the correct procedure for handling the protest and to answer any questions the board may have about any statute or case law.

Any party may have an attorney, but it is not required. The Protestor is represented by Donald J. McTigue and J. Corey Colombo, McTigue & Colombo LLC, Attorneys-at-Law. Respondent James Lawrenz stated that he will not have representation. If any Respondents will be represented by counsel, a notice of that representation needs to be filed with the Board of Elections.

Prosecutor Gray reminded Mr. Lawrenz that he will only be able to take such action for himself as a circulator and resident but cannot represent others without having a valid license to do so.

The referendum was certified to the November 2, 2021 ballot and unless the Protestor can show a reason, under the law, that the referendum petitions are invalid, the referendum will appear on the Jerome Township ballot.

The Protestor has the burden of proof. The burden of proof is by a preponderance of the evidence that the referendum should not appear on the ballot.

The Protest Hearing will not be as formal as a court, but the rules of the hearing are being explained so all parties will know what to expect. The court rules of evidence will not be used, but the Board will decide what witnesses and evidence they will consider in order to make a decision on the protest. Keep in mind that whatever is presented to the board needs to be set forth simply.

At the Protest Hearing, the Protestor will present witnesses and evidence first. The Respondent and the Board Members can ask questions of the witnesses after each testifies and the Respondent can object to evidence offered by the Protestor to the Board. After the Protestor is finished, then the Respondent will present any witnesses and evidence. The Protestor and the Board can ask questions of the Respondents' witnesses or the Protestor can object to evidence. Once the Respondent is done with witnesses and evidence, the Protestor will then have a short opportunity to present rebuttal witnesses or evidence, which will be subject to questions by the Respondent and the Board.

The hearing will be transcribed by a stenographer at the cost of the Board but not printed. If any party wishes a copy of the transcript, they will have to contract the stenographer and pay the cost for the preparation.

All witnesses will be sworn before giving testimony.

At the end of the hearing, the parties will be allowed to make summary arguments. These will be oral unless one of the parties asks to submit written summary arguments. The Protestor will go first, then the Respondent. The Protestor will be allowed a short rebuttal statement if desired since the Protestor has the burden of proof.

After oral summary arguments, the board will deliberate and either make a decision at that time or may decide to consider the matter and issue a decision later.

If any party wishes to subpoena witnesses or documents, the request must be filed more than 3 business days before the hearing. Do not count Saturdays or Sundays. The Board of Elections has no bailiff like a court, so the parties will have to serve the subpoenas themselves. Please request the subpoenas as early as possible.

A party may submit any briefs, cases, law or other documents to the board before hearing, which must be done more than 3 business days before the hearing.

At the hearing, the Board will have copies of whatever is filed, such as the petitions, protest, response and briefs as a Board Exhibit.

The Board will advertise the Protest Hearing in the local newspaper.

Any party or attorney that wishes to receive notices from the Board of Election concerning the Protest Hearing must file a written request with their name, address, phone number and email, along with their preferred method of contact – email or postal mail. The request can be by email. The Board has already been notified of the representation of the Protestor by McTigue & Colombo LLC, Attorneys-at-Law and the Respondent James Lawrenz.

Any questions should be directed to:

Tina M. LaRoche, Director, tlaroche@unioncountyohio.gov  
Brandon Clay, Deputy Director, bclay@unioncountyohio.gov  
937-642-2836

Mr. Lawrenz ask for some clarification on preponderance of evidence and dates. He asked if someone who wasn't subpoenaed could still give testimony. Mr Gray provided clarification on the issues.

Mr. Lawrenz asked the Board members to watch the March 16 Jerome Township trustee meeting.

Mr. Columbo asked for a delay in the protest until a fourth board member could be in place. Board Member Cook stated that the party would be naming a replacement Wednesday and hope to have a new member in place by the protest. Susie O'Brien, SOS liaison said the Secretary of State would do their best to expedite the process. Board Members all stated that they were concerned about the timeline and additional work for the staff if the hearing was delayed.

Mr. Columbo asked for clarification on who serves subpoenas and due dates for documents and exhibits. Clarification was provided by Mr. Gray and the Board.

Chairman Steele asked the parties if there were any other matters that needed to be discussed. No further questions were raised. Director LaRoche reminded everyone that the hearing on the Protest is scheduled for 10:00 a.m., July 22, 2021 at the office of the Union County Board of Elections, 835 East Fifth Street, Suite A, Marysville, Ohio 43040.

### **Approve minutes**

The minutes from the June 1<sup>st</sup>, Board meeting were presented to the board. No issues or concerns were raised.

A motion to approve the minutes was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

### **Campaign Finance**

Campaign Finance reports were presented for Safer Jerome and Citizens for Senior Services, Better Roads & Safer Bridges.

A motion to approve the campaign finance report was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

### **Approve Bills**

Director LaRoche presented the bills to the Board. Board Member Cook motions to approve the bills. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

### **Budget Review**

Deputy LaRoche presented the board with current and updated budget.

### **Petitions**

Director LaRoche presented the candidate petitions for Mary Lou Morris – Village Council Unionville Center. She needed 10 signatures but only had 9 valid signatures. She submitted 10 signatures, but one signature was printed. She also did not complete the nominating portions of the petition or sign the circulator's signature.

A motion to reject the Candidate petition was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

Director LaRoche presented the candidate petitions for Tim Aslaner – City of Marysville Law Director, Henk Berbee – City of Marysville City Council at large and James Scheiderer – Darby Township trustee.

A motion to certify the Candidate petitions to the November 2, 2021 ballot was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

Director LaRoche presented the Zoning Referendum Petitions for Jerome Township Homestead at Scotts Farm. They needed 262 valid signatures and had 347 valid signatures.

A motion to certify the Referendum petition to the November 2, 2021 was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

### **Remote Meetings**

Director LaRoche informed the Board that we had received a notice from Thayne Gray, Assistant Prosecuting Attorney that as of July 1, 2021 Board members were no longer allowed to participate in meetings remotely. Mr. Gray informed the Board that they could still broadcast meetings remotely and hear from individuals remotely, but members of the Board had to be in-person to participate.

### **August Board Meeting**

Director LaRoche asked the Board if we could move the date of the August meeting from August 10, 2021 to August 16, 2021. This will allow the staff more time to prepare for the meeting with the number of petitions and issues that will need to be certified to the ballot. The

deadline to certify candidates and issues is August 16, 2021, allowing us to still meet the deadline requirements.

A motion to move the August 10, 2021 Board meeting to August 16, 2021 was made by Board Member Cook. Board Member Pokorski seconds the motion.

- The motion passed unanimously.

### **Juneteenth**


Director LaRoche informed the Board of the Juneteenth holiday. Staff was unable to take the day off due to scheduled meetings. The commissioner's office made Juneteenth a floating Holiday. Susie O'Brien, SOS liaison stated that Franklin County as taking the Wednesday before Thanksgiving as a replacement date. The Board asked Staff to give them their recommendation at the next Board meeting.

### **Meeting adjourns**

A motion to close the meeting at 2:08pm was made by Board Member Cook. It was seconded by Board Member Pokorski.

- The motion passed unanimously.

Attest:   
Brandon Clay, Deputy Director

Chairman:   
William Steele, Chairman