

Union County Board of Elections met on July 22, 2021. Those in attendance were William Steele, Chairman; Rebecca Pokorski, Board Member; Dean Cook, Board Member; Gary Lee, Board Member; Tina LaRoche, Director; Brandon Clay, Deputy Director; Thayne Gray, Assistant Prosecuting Attorney; Susie O'Brien, SOS Liaison; Corey Colombo, Attorney for Protestor; Donald McTigue, Attorney for Protestor; James Lawrenz, Respondent; Gary Smith, Witness; Andrew Diamond, Observer; Janie Gresk, Observer; Paula Sloan, Observer; Gina Ormond, Observer; Sandy Conley, Observer; Bob Chapman, Observer; Lynda Chapman Observer; Barbara Lawrenz, Observer; Laura Hoffman, Observer; Kenneth Hoffman, Observer; Brandi Downs, Observer.

Chairman Steele called the meeting to order at 10:00 a.m.

Protest on Jerome Township Village Fry Referendum

Chairman Steele welcomed everyone and introduced the Board Members and staff. The Chair stated that the purpose of the special meeting was to hold a hearing on the Protest of the Jerome Township Village Fry Zoning Referendum filed by Jon Hjelm, Glenn Hochstetler and Jerome Village, LLC. Chairman Steele said that since the meeting was a hearing, and the board will be acting in quasi-judicial capacity he was turning the meeting over to Board Member Pokorski who has more experience with the rules of a court room.

Board Member Pokorski takes over as acting Chair. The Chair reminded the parties that the Assistant Prosecuting Attorney would have no part in the decision on the protest. Instead, the sole function of the Assistant Prosecutor would 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. Mr. Gray is counsel for the Board.

The Chair introduced the stenographer, Terri Tisch, and explained for the record that everything will be taken down by the stenographer. The Chair also reminded the parties that no written transcript would be made of the proceedings unless the parties requested that from the stenographer and the expense for the transcript would be at their cost.

The Chair then stated what had taken place that led up to the hearing on the protests.

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"

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.

June 9, 2021

Donald 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.

July 13, 2021

The Board held a preliminary meeting to provide all parties of the rules and procedures for the protest hearing.

July 16, 2021

James Lawrenz filed 20 exhibits with the Board.

July 19, 2021

The protestors filed a Memorandum of Law, Exhibits A – F, and a subpoena request.

The Chair stated that it is not an issue for the board to determine if the change in zoning is good or bad, but only if the Respondents followed the Ohio Revised Code in bringing a proper referendum of that change to zoning.

The Chair reminded all present, that the Protestor has the burden of proof and must show by a preponderance of evidence that the referendum should not appear on the ballot. If the Protestor fails to meet that burden, the referendum will appear on the November 2, 2021 general election ballot.

The witnesses were then sworn in, at the request of the Board. The Chair asked if there was a need for a separation of the witnesses. Mr. McTigue said there was no need.

The Chair stated that the Protestor's will go first with opening statements, followed by the respondents.

Mr. McTigue started with an opening statement. Statue gives us the right to referendum. The statue also offers protection to property owners. One of the protections is that the petition needs a summary, so petition signers know what they are signing. That summary cannot be misleading, contain omissions or contain ambiguity. There are 5 defects to this summary, 1 being inaccurate and 4 being misleading material omissions.

The Protestor submitted Exhibits A, B, C, D, E, F, G, and H.

Mr. Lawrenz - started with an opening statement. The petition was not misleading, and this protest is an attempt to keep the voters from having a say in the development of the township. The protest should be denied.

The Respondents submitted Exhibits 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19, and 20

The Protestor presented Gary Smith as a witness. Assistant Prosecuting Attorney, Thayne Gray informed circulator, James Lawrenz, would be the only one allowed to ask questions.

The Respondent, James Lawrenz, testified to the Board.

The Board admitted into evidence Board Exhibit 1,2, and 3

After all testimony was presented, the Board allowed the parties to make summary arguments. Both the Protestor and the Respondent presented arguments to the Board. The Protestor was then given an opportunity to give a rebuttal statement.

Board Member Cook made a motion to go into executive session to deliberate on the evidence presented. It was seconded by Board Member Pokorski.

Roll Call

Gary Lee	Aye
Dean Cook	Aye
Rebecca Pokorski	Aye
William Steele	Aye

Board Member Cook made a motion to come out of executive session. It was seconded by Board Member Lee.

Roll Call

Gary Lee	Aye
Dean Cook	Aye
Rebecca Pokorski	Aye
William Steele	Aye

The Chair stated that the Board had deliberated, and no vote was taken.

Board Member Lee stated that it was a complicated case. If I look at each item that was inaccurate or incomplete individually it's wasn't that big a deal. When I add all of them together and look at the number of issues brought forward today. I don't believe it was a complete application.

Board Member Cook stated that he agreed with Board Member Lee's comments and would add that he had an issue with the number of lots stated and the difference that would make in the number of cars.

Board Member Pokorski stated that the motives for putting something in the petition or not putting something is not for the Board's consideration. We also do not determine if a change in zoning is beneficial to one side or another. We must determine if the petition contained material omissions or if the petition contained sufficient language for a signer to make an informed decision. Also remembering that the language on the petition is the language that will be used for the ballot. The petition failed to include the regulation text or a summary of the regulation text. The petition talks about attachment 1 which refers to the regulation text. That is not attached or summarized in a sufficient way. It is not sufficient if the signers must go somewhere else to get the information. This is the language that is going to be on the ballot. Would someone looking at this petition who knew nothing, know what was in the resolution?

Board Member Steele stated that the average person is not going to read through all the pages. The summary needs to be concise. He wished there was more room on the petition for the summary. With the limited space it almost forces the petitioner to add on several attachments.

Board Member Pokorski made a motion to uphold the protest and remove the issue from the November 2, 2021 General Election ballot. It was seconded by Board Member Cook.

Roll Call

Gary Lee	Aye
Dean Cook	Aye
Rebecca Pokorski	Aye
William Steele	Nay

Chairman Steele thanked everyone for coming today and thanked Board Member Pokorski for running the meeting. These cases are complicated, but I want to acknowledge citizens being involved in democracy. He also wanted to acknowledge Board Staff for doing a wonderful job in providing materials and going above and beyond for everyone's needs.

Meeting adjourns

A motion to adjourn the meeting at 2:34p.m. 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