

Union County Board of Elections met on September 1, 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; Josh Shaw, Potential Candidate; Steve Cuckler, Taft Law; Joe Pickens, Taft Law; Bill Westbrook, T-Build; Tim Reardon, T-Build; Andrew Diamond, Respondent; Bob Chapman, Observer; Lynda Chapman Observer; Neal Sargent, Observer; Kevin Barney, Observer; Luke Hanks, Observer.

Chairman Steele called the meeting to order at 8:00 a.m.

Candidate Reconsideration Hearing – Josh Shaw/Jarrold Weiss

On August 3, 2021 Josh Shaw and Jarrod Weiss filed a group of candidates petition for township trustee. To be certified to the ballot for township trustee there is a signature requirement of 25 valid signatures. After review of the signatures, it was determined that there were only 24 valid signatures on the nominating petition. On August 16, 2021 the Union County Board of Election met and voted not to certify the petition to the November ballot due to lack of required valid signatures. On August 24, 2021 Josh Shaw and Jarrod Weiss submitted a letter asking for a reconsideration hearing regarding their nominating petition. The letter included affidavits from Chad Sule and Tony Do regarding their signatures.

Josh Shaw informed the board that several people didn't realize they needed to have actual signatures on the petition. He is not disputing that fact. However, he wanted to present 2 affidavits of individuals that he felt has variances in the signature. Mr. Shaw referenced State ex rel. Scott v. Franklin County Board of Elections, 139 Ohio St.3d 171; "if undisputed evidence shows a nonmatching signature to be genuine, then the board must count the signature even if it does not match the elector's legal mark on the voter registration record" State ex rel. Crowl v. Delaware Cty. Bd. of Elections, 144 Ohio St.3d 346 (O'Connor, C.J., concurring); State ex rel. Burroughs v. Summit Cty. Bd. of Elections, 145 Ohio St.3d 220 and asked the board to certify the petition to the ballot.

Board Member Pokorski made a motion to go into executive session to discuss legal matters referenced by Mr. Shaw, seconded by Board Member Cook.

Roll Call

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

Board Member Pokorski made a motion to come out of executive session, seconded by Board Member Cook.

Roll Call

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

Board Member Lee said he doesn't like rejecting petitions but felt that the cases varied.

Board Member Pokorski said that Mr. Shaw referred to variances in the signature. If you look at the petitions their names are printed. The case refers to a non-matching signature or legal mark. In this instance if you look at the signature on file, we have a signature. However, the petition shows printing, not a variance in the signature or legal mark. We need the signature, and these were printed.

Board Member Cook agreed and recommended getting more signatures next time.

Board Member Steele agreed and recommended visiting the office or the candidate workshop to make sure he was getting all the help possible.

Director LaRoche said that we work really hard to make sure potential candidates have access to everything they need. Including putting on the candidate and issue workshops and putting together checks lists in candidate packets. We look through all the voter registration card and poll book signatures to see if signature has evolved though the years to make sure signatures are counted.

Board Member Pokorski made a motion to uphold the prior decision of the board to deny the petition, seconded by Board Member Cook.

- The motion passed unanimously.

Meeting recess

A motion to recess the meeting till 9:00a.m. was made by Board Member Cook, seconded by Board Member Pokorski.

- The motion passed unanimously.

Chairman Steele called the meeting back to order at 9:00 a.m.

Protest on Jerome Township Homestead at Scotts Farm 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 Homestead at Scotts Farm Referendum filed by Steven Cuckler, Taft Law on behalf of T-Bill Development Company, LLC, various Scott family members, and Pulte Homes of Ohio, LLC ("Pulte Homes"),

Chairman Steele said that since the meeting was a hearing, and the board will be acting in a 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 took 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 legal questions the Board may have about statute or case law. Mr. Gray Assistant Prosecuting Attorney 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.

Background:

On June 16, 2021, a Township Zoning Referendum was filed with the Union County Board of Elections entitled "Jerome Township Zoning Case No. PD21-002 commonly known as 'The Homestead at Scotts Farm' or 'The Homestead at Scotts Farm Planned Development District' (Resolution No 21-051"

On July 13, 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 347. The Board certified the Referendum to the November 2nd, 2021 General Election ballot.

On July 28, 2021, Steven Cuckler filed a Protest of the certification on behalf of T-Bill Development Company, LLC, various Scott family members, and Pulte Homes of Ohio, LLC ("Pulte Homes")

On August 2, 2021, Andrew Diamond filed a Rebuttal of Protest for the Petition of Zoning Referendum on Jerome Township Zoning Amendment, PD 21-002, The Homestead at Scotts Farm

Procedure:

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.

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.

Hearing:

The witnesses were sworn in, at the request of the Board.

The Chair brought up the fact that there was a late filing of information and asked that it not be used today, as the filing was too late for Board Members to read and process.

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

Mr. Cuckler started with an opening statement. Petition is flawed for 2 reason 1. Circulators Failed to submit the required map to Jerome Twp. Trustees. 2. Petition Summary is: Inaccurate, ambiguous, misleading, and failed to have the necessary documents attached. Election laws require strict compliance. Petition fails to accurately summarize the rezoning, is missing attachments, and has misleading attachments. This is not Strict Compliance therefor the Petition is bad. We ask that you uphold and sustain the protest and do not place the issue on the ballot.

Mr Diamond started with an opening statement. The petition is accurate, and the maps are clear. The Average voter would know what they are signing. The protest should be denied.

The Protestor presented Bill Westbrook as a witness. Mr. Westbrook gave testimony on the development plan, land use, open space, turn lanes and other issues that the developers have worked with the township and the residents on.

The Respondent, Andrew Diamond, called Bob Chapman, Neal Sargent, Kevin Barney, and Luke Hanks. Mr. Diamond asked each of them if they asked signers if they knew what they were signing. They all responded that people did. Mr. Diamond then asked if any of them forced anyone to sign. They all responded no. Mr. Diamond asked if anyone expressed concern of the attachments or inadequate information. They all responded that no one expressed concern.

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

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 thanked everyone and stated that these are complicated. Looking at everything he did not see that the petition was misleading.

Board Member Cook stated that he agreed and thanked everyone for their time and for keeping things cordial.

Board Member Pokorski stated that she kept asking herself if the average voter was misled. The map is legible, and no proof was provided that anyone was misled or confused. The protest letter says that the petition references that the documents are available at the township hall. This language only forwards them to the township hall if they want to get the copies of documents, not to provide additional information that is not with the petition.

Board Member Steele thanked everyone and is glad people are taking time to be involved and active in their community. He believed that people were not misled.

Board Member Pokorski made a motion to reject the protest and keep the issue on the November 2, 2021 General Election ballot. It was seconded by Board Member Lee.

Roll Call

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

Chairman Steele thanked everyone again 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 11:46a.m. was made by Board Member Cook. It was seconded by Board Member Pokorski.

- The motion passed unanimously.

Attest: Brandon Clay Chairman: William Steele
Brandon Clay, Deputy Director William Steele, Chairman