

ST. JOSEPH COUNTY ELECTION BOARD

101 S. MAIN ST.
SOUTH BEND, IN 46601

M. CATHERINE FANELLO, CHAIRPERSON
BEN HORVATH, REPUBLICAN MEMBER
RITA L. GLENN, SECRETARY

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May 13, 2022

St. Joseph County
Election Board Meeting
11:00 AM

1. Call to order

It being the appointed date and time, Chairman M. Catherine Fanello calls the St. Joseph County Election Board Meeting to order. Present are Ben Horvath, Republican Member and Ex-Officio Clerk of the Circuit Court, Rita L. Glenn, also present are:

Dave Smith-Machine Technician
Diana Hess - Democratic Party Chair
Debbie Ladyga-Block-Democratic Party
Zach Potts – Republican Part Chair
Susan Baxmeyer-Republican Party Vice-Chair
Mary Ellen Hegedus – LWV
Pete Agostino – Election Board Attorney
Mohammad Shabazz – Democratic Member Voters Registration
Kim Riskovitch – Republican Member Voters Registration
Amanda Govaert Konrath -Democratic Member Voters Registration
Jennifer Bybee-Republican Member Voters Registration
Linda Silcott- SJC Republicans
Randall Figg – County Council District F
Linda Rogers – Indiana State Senator
Diego Morales
Matthew Leming
Chuck Leone
Joe Varga
Amy Rolfes
Mark Roles
Amy Drake
Pat Schafer
Pam Claeys
Lucinda Farwell
Melanie McGuire

Keith McGinnis - RBM
Nick Abernathy - RBM
Lana Cleary-Deputy Clerk

2. Approval of Minutes. Motion to approve minutes from 04/20/22, 04/29/22, 04/30/22, 05/01/22, 05/02/22, 05/03/22 meetings. So moved by Ben Horvath. Seconded by Rita Glenn.

3. New Business

Provisional Ballots. Provisional meeting opens at 11:04 AM. These are all absentee ballots that have a moment to cure. Provisional ballots missing signatures. Two of the provisional ballots did not return affidavit. Motion to reject two provisional ballots that were missing signatures. So moved by Ben Horvath. Seconded by Rita Glenn. Motion to accept the affidavit of the unsigned ballots. So moved by Ben Horvath. Seconded by Rita Glenn. Motion to accept affidavits of the signatures do not match. So moved by Ben Horvath. Seconded by Rita Glenn.

Certification of error for provisional ballots with issues. One voter not on poll list. Two voters merged with other voters.

Provisional ballots. Absentee certificate of error. Two ballots. Voter is believed to be merged. Motion to accept certificate of error provisional ballots. So moved by Ben Horvath. Seconded by Rita Glenn.

Ballots received via mail after the election deadline. Motion to reject the absentee ballots received after deadline. So moved by Ben Horvath. Seconded by Rita Glenn.

Provisionals that didn't cure their ballot. Motion to reject voters that didn't cure their ballots. So moved, by Ben Horvath. Seconded by Rita Glenn.

Five provisional ballots rejected by Election Board on election night.

Voter went to Vote Center to vote. Voter could not surrender ballot at Vote Center. Inspector should have filled out an affidavit. Motion to accept voter's ballot. So moved, by Ben Horvath. Seconded by Rita Glenn.

Voter's ballot did not go through machine at Vote Center. The affidavit was not filled out properly by Inspector. Motion to reject the ballot. So moved, by Ben Horvath. Seconded by Rita Glenn.

Voter not entitled to vote in this county. Voter is inactive. Voter resides in Whitley County. Motion to reject this ballot. So moved, by Ben Horvath. Seconded by Rita Glenn.

Amanda and Jennifer from Voters Registration will process a count before they leave the room of what will be entered manually and added to the total. Each precinct that has a

ballot has been cast and that will match the total before they leave the room. They will be tied back together. There is a total of twenty-four ballots to be counted. Ballot curing is concluded at 12:05 PM.

Amanda and Jennifer came back into the room from processing the twenty-four ballots and say that one of the provisional ballots didn't have initials. The name on the ballot is Charles Barbour. Motion to reject Charles Barbour's ballot for lack of clerk's initials. So moved by Ben Horvath. Seconded by Rita Glenn. The updated count of ballots to be included in the count is twenty-three.

Military/Overseas Ballots. No Military/ Overseas Ballots.

Unofficial total of votes for Primary Election, 2022 is 14,460 all Vote Centers and absentee reporting. The turnout for voting was 7.44%.

Vote and Poll worker concerns. There were complaints from Swanson, Adams, and Washington. All these Vote Centers put the election equipment and workers in the smallest area of the school. Mike Misch to write a letter to each school requesting for teachers to not plan anything on Monday after 12 noon before an election. Schools treating it like a poll place not a vote center. The Election Board needs phone numbers of school's personnel, not just from the facilities manager. The letter to the school should include the Vote Center concept. The Election Board utilize schools as Vote Centers because they meet all the requirements. Ben asked how the Vote Centers handled the shortage of Vote Center technicians. Dave Smith said it was fine. Dave stated that 32 of 41 technicians showed up on election day to work the Vote Centers. Dave stated that the Machine Technicians handled the shortage at the nine sites. Dave Smith gave an equipment reports from the election. He stated that four freedom votes that are with Unisyn. There were a few tablet issues. He stated the same failure rate as the 2020 election. Most of the poll pads worked as needed for the election. It is reported that Voter Registration went smoothly on election day. It was also reported that most Vote Centers want to keep their current poll worker staff.

Certification of election. They have one more ballot for the board's consideration. It was not filled out correctly. The board asks Pete if you deface your ballot, can it be considered. Catherine looks at the ballot to determine the intent of the voter with Ben. Pete states that the voter did vote for a few candidates on the ballot. Motion to accept ballot. So moved by Ben Horvath and seconded by Rita Glenn.

The updated total of votes cast in Primary 2022 election is 14,483. The original number was 14,460 votes. The board recorded twenty-three additional ballots at this meeting. The final number ties out. Motion to accept the final official results of 2022 St. Joseph County Primary Election. So moved by Ben Horvath. Seconded by Rita Glenn. The Election Board signs today's official results along with the minutes, and the May 3rd unofficial results. Rita states the clerk's office will post the results.

4. Old Business

IC 3-11-10-10. Ben Horvath states he would like to address Election Day and absentee ballots. Ben believes that the process should be straightened out before the General Election. Ben Horvath makes a motion to examine Rita Glenn under oath. Seconded by Rita Glenn. Pete Agostino swears in all three Election Board members.

It was stated that keys to the locked room where absentee and mail in ballots for the Primary 2022 Election were designated to each board member in February 2022. Board president Catherine Fanello designated her key to board member and County Clerk, Rita Glenn. Board member, Ben Horvath held onto his key to the locked room. Rita stated that the law was put into place in March 2022. Rita further states that there has always been a room with a locked key for absentee ballots. Rita states the locksmith came to put the new lock in March 2022. The locksmith handed Rita the democratic key and republican key and the set of duplicate keys. Rita stated that she handed the duplicate keys to Penny Stratton. Rita stated she reached out to other Indiana counties, and they do have a duplicate key to their locked room. She states that as the clerk, you take an oath, and have an obligation, to fulfill the election duties including opening the door to process ballots for the election. Ben requests a procedure when one party is not available to open the door. Rita states she reached out three times by phone, to Republican party members, including the Republican party chair, co-chair, and county attorney for direction because the clerk needed access to the room to process ballots from weekend traffic and mail for the primary election. Ben requests after the primary election for Mike Misch to interview Rita Glenn and Brian Davidson, head of County Maintenance. Ben asks Rita if Mike Misch contacted her. She states yes. Rita states she showed Mike Misch the room the ballots are housed in, the cameras that monitor the room and the procedure of how absentee ballots are processed. Ben asks Rita if she had access to the room on the Friday before the election until 4:30 PM. She states yes. Rita states for the record that Ben did not come back Monday night before the election to lock his side of the door. Rita contacted Ben at 5:10 pm on Monday night, May 2, 2022, and told Ben at that time the clerks weren't done yet processing the ballots. At that time, according to Rita, the Republican Party chair said Ben would be coming back that night to lock his side of the door. At 5:45pm that night, Rita contacted Ben via text and let him know the ballots were processed and ready for his side of the door to be locked. On election day, Rita unlocked her part of the door. And with Ben present, she discovered the Republican part of the door was unlocked. He did not show up and lock it the night prior. Only the democrat side of the door was locked when the board members came in Tuesday morning for the start of the Primary Election. This is all on film as stated by Rita Glenn.

Ben states the Election Board isn't in compliance with state statute. Rita says yes that is correct. The order for the dual lock was put in with maintenance and done prior to absentee began in April 2022. Rita states that there has always been a lock on the door that house absentee ballots. Now the law requires there be two locks on the door. Ben asks Rita how many keys were made for the door. Rita states to her knowledge, there are two keys, one for Rita and one for Ben. Rita states Penny has the two duplicate keys, one Democrat and one Republican. Four keys all together. Ben asks who can designate who gets the Republican key. Ben asks what the process is on election morning. Rita states on Election morning she put her key in and the door opened. Ben clarifies what happened on that Monday morning, not Tuesday morning. Rita states on that Monday morning she had

a republican clerk go with her to open the door. Rita states at this time, she sent an email to both parties informing the parties she retrieved a republican clerk to assist in unlocking the door since Ben Horvath was unavailable to open the door. Rita states for the record the name of the Republican clerk is Helen Jojo. Ben asks if there was ever a time the spare key was used prior to the day before the primary election. Rita states no. But did point out, she had to contact Ben on the first day of absentee voting to unlock his side of door, as he hadn't shown up yet to do so. Ben Horvath asks Lana Cleary had access to the key to the locked room. Lana Cleary answers no, she doesn't have access to the key. Rita states that she followed the letter the law and is more proactive than other counties. She states that there are other counties that have duplicate keys to the locked room so that they may be able to perform the duties of their job. Catherine asks Rita how many counties Indiana have duplicate keys. Rita states there are eight counties, and they are all Republican clerks. These include Elkhart, Jasper, Grant, Huntington, and Allen County. They all told Rita they were proactive to perform the duties of their job. Ben asks Rita how she selected her republican. Rita states one of her deputy clerks stated she was a Republican. Rita had this clerk take an oath before unlocking the door.

Next, Ben asks how the room was chosen for the storage of the absentee ballots. Rita states the clerks had outgrown the room that was used for storage of the ballots. She states she had a new door with two separate locks put on the new room. Rita further states the new room that would house the ballots would be away from Lana Cleary's office since Lana is on the ballot this year. Ben states Helen Jojo didn't vote republican in the last election. Ben asks if the Republican party could access to the video. Lana states the Board would have to contact the County IT to assist with this access of the video and that the server is in the room with the ballots. Ben asks what is housed in the locked room. Rita states the ballots, server to video camera monitoring system, and a heater. She states she has ten photos of camera locations. Photo one shows the camera that is down the hallway to the locked room and the ballot room. Photo number two is the locked room housing the absentee ballots and the hallway. Photo three is a different view of the locked room. Photo four is a picture of the IT networks and screen in the room. Photo number five is a picture of the screen monitoring the camera activity. Photo number six is the locked room with camera. Photo number seven is the shelving for equipment. Photo number eight is the room across the hall that houses the Mental Health Clerk, that is the gate keeper to the room. Photo nine is the room opposite to MH clerk and Election room. There are also pictures of where the cameras are in the clerk's office. Ben asks if IT has needed access to this room. Rita states to her knowledge, that only clerks go in that room. Ben asks who gave Rita authority to have additional spare Republican key. She doesn't know. Pete asks who has third republican key. Ben asks Zach Potts, Republican party chair to come forward to the podium. Zach Potts steps forward and is sworn in by Pete Agostino. Catherine states the Election Board needs a policy for these keys. This board needs to know who has keys to these doors. Catherine says that as an Election Board member, she has the authority over this room. Pete states that the commissioners have control over these buildings. Next, Diana Hess takes her oath. She states her recollection is that it was suggested that Brian, head of maintenance, could be someone who could have another key. It was further stated that the question was should the key be held by Republican commissioner, the clerks or Brian Davidson. Zach agrees that at the meeting he agreed to have the keys. Catherine states that the code reads

one way. Catherine states it sounds like other counties are taking it into their own hands. Ben asks Rita to give him the process of how an absentee ballot is processed. Rita invites him to come down to watch the process. Ben asks to tour the room.

Brief recess at 1:03 PM while the Board awaits the arrival of Brian Davidson. Mr. Davidson arrives and the meeting resumes. Brian Davidson, St. Joseph County Building Engineer is sworn in. Catherine asks Brian how many keys there are for the absentee ballot room. Catherine's understanding there are two keys from Rita and the two that locksmith brought back. Brian states he has the only one of the Republican keys. Brian states his plan for that door is to lock it utilizing the Best System. He is the only one that can order that style of lock for the door. Brian wanted to put another lock on the door utilizing the Best Lock System and it was going to be two different keys however, Brian was unable to obtain the Best System for the door by the start of the absentee voting. Brian also stated he put a solid fire rated door on the room and utilized the Yale lock system. This was done prior to the second lock being put on. The original lock is the democratic key. Ben asked Brian how many total Republican keys are out there. Brian stated that he has the master key and that there are three total keys for each party. The only lock that was available was a Yale lock, which has its own key. Brian kept the extra key because of a mechanical issue. Brian asks the Board if the issue is that room the right room to store the absentee ballots. Brian states there is a server rack with ethernet in that room for this building. The room also generates a lot of heat and requires additional air conditioning. The code for a contingency plan is not clear. Ben asks how many absentee ballots were received for the primary election. Brian states maybe we should find a different room to place the ballots and is somewhere that is accessible. Pete states the room can be in courthouse or somewhere else convenient. Ben wants to be clear why the clerks need to be in the room that stores the processed absentee ballots daily. Rita explains the process of why the clerks need to be in that room daily during the election season. This includes processing and interfiling ballots in their specific precinct has per state statute. After Ben is done questioning Rita, she states she has questions for Ben. Rita asks Ben why he didn't show up that Monday morning before the Primary Election to open the door. Ben states he had an interview. Rita asks why Ben didn't see the urgency of the clerks obtaining access to that room on that day and processing absentee and walk in ballots for the upcoming Primary Election. She further asks him why he didn't come back that Monday night, May 2, 2022, to lock his side of the door. He stated he didn't think he had access to that part of the building. Rita asks him why he didn't contact her if he thought that was the case. Catherine states that there needs to be policies in place in the future. Rita states there needs to be a plan in place for someone reliable to open the door. County Commissioners have control over all buildings. Catherine asks Pete if he thinks that the Election Board statute overrides the commissioners. The statute is to clearly protect the votes. Ballots should be off limits to the Commissioners. Catherine said the goal is to be as transparent and to raise the level of trust of the Election Board. She believes both sides should come together for public trust. Pam Claeys. Pam comments that if Mr. Horvath was not able to make his commitment, he should not take it out on other members of the Election Board. She said he should be grilled for not making it to the office and fulfilling his commitment.

Zach Potts. Zach states that at no point, should either side have the other side's keys. Mr. Potts thanks everyone for being civil.

Pat Schafer. Pat states she has been an absentee worker for over 10 years. Pat states Rita is the most honest clerk in the state of Indiana and Ben should be ashamed of himself. MaryEllen Hedegus LWV. Mary Ellen asked the number of the ballots that were rejected, how many would have been rejected fewer or same or more. Catherine states they had a chance to correct their defect. So, she believes it gives more of a chance to correct. Debbie Ladyga Block. Debbie would like to thank Catherine Fanello for her service as an Election Board Member. She would also like to thank Muhammad Shabazz and Kim Riskovitch for their service with Voters Registration. Mark Rolfes. Mark states that Rita should have told the Republicans that she had their keys. Mark also states that it was appropriate to ask these questions. Recess the meeting at 1:36 PM. Reconvene at 2:00 PM. Tour of room where the ballots are stored. Also toured the room where the ballots were previously stored. Catherine asks Ben if he has any questions. Ben states the next step he believes is that there needs to be a room they can all agree on to store the ballots. He also stated who has possession of keys to the room and to develop a bi-partisan process. He stated and to be transparent as possible. Rita states she agrees with Ben on this point. Clerks have the same goal as the Board, to run a fair election. Rita believes the ballots need to stay in the vicinity of the clerks that are processing the ballots. Rita invites anyone to come down any day to the clerk's office to observe the processing of absentee ballots. Catherine states it needs to be documented where the keys are kept raising trust in the election process. Rita talks to legislative committees how the law to protect the integrity of the election. And how the clerk is ultimately responsible for the integrity. This will be discussed at clerk's conference in June. It was stated that the statue is not perfect, but the board must live with it. It was noted that the process is made with input from party chairs, and it should reflect each side's interest. It should be done in a bi-partisan process. The Board should review all procedures and communication is key.

5. Public Comment

Mary Ellen Hegedus LWV. Vote certification. Verification of certification.

Catherine Fanello states this will be her last election board meeting and thanks the Board for the opportunity to serve.

Motion to adjourn the meeting at 1:41 PM. So moved by Ben Horvath. Seconded by Catherine Fanello.

Respectfully submitted,



Rita L. Glenn, Secretary
St. Joseph County Election Board
rlg/lrc