

BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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In Re: :
 :
Regular Meeting. :

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PROCEEDINGS

before Chairman Douglas J. Preisse, Director William A. Anthony, Jr., Deputy Director Dana Walch, and Board Members Gregory K. Haas, Bradley K. Sinnott, and Kimberly E. Marinello, at the Franklin County Board of Elections, 280 East Broad Street, Columbus, Ohio, called at 3 p.m. on Monday, January 13, 2014.

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APPEARANCES:

Franklin County Prosecutor's Office
By Mr. Harold J. Anderson, III,
Assistant Prosecuting Attorney
Civil Division-Environmental
373 South High Street
Columbus, Ohio 43215

On behalf of the Board.

ALSO PRESENT:

Ms. Suzanne Brown,
Executive Assistant to the Board.

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1 Monday Afternoon Session,
2 January 13, 2014.

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4 DIRECTOR ANTHONY: Well, good afternoon
5 to everyone. I would like to call the Franklin
6 County Board of Elections meeting to order. I will
7 do the roll call.

8 Kimberly Marinello.

9 MEMBER MARINELLO: Here.

10 DIRECTOR ANTHONY: Gregory Hass.

11 MEMBER HASS: Here.

12 DIRECTOR ANTHONY: Douglas Preisse.

13 CHAIRMAN PREISSE: Here.

14 DIRECTOR ANTHONY: And Bradley Sinnott.

15 MEMBER SINNOTT: Here.

16 DIRECTOR ANTHONY: Mr. Chair, we are all
17 here and accounted for.

18 And the first item on the agenda would be
19 the approval of the December 9 meeting.

20 MEMBER HASS: I move that the Board
21 approve the minutes of the December 9, 2013, meeting
22 of the Franklin County Board of Elections as
23 submitted.

24 DIRECTOR ANTHONY: Is there a second?

1 MEMBER MARINELLO: Second.

2 DIRECTOR ANTHONY: All those in favor.

3 Motion carries.

4 The next item on the agenda is the
5 machine allocation for the February 4 special
6 election in Minerva Park.

7 DEPUTY DIRECTOR WALCH: We have one issue
8 on the ballot for the February 4 special in Minerva
9 Park. It is one local location covering one
10 precinct, but we still have to do a machine
11 allocation for that as directed so that is what is
12 before you. We are recommending that we place six
13 voting machines in that voting location for the
14 February 4 special.

15 MEMBER SINNOTT: I move that the Board
16 place six voting machines at the single voting
17 location in the February 4 special election in
18 Minerva Park.

19 DIRECTOR ANTHONY: Is there a second?

20 MEMBER MARINELLO: Second.

21 DIRECTOR ANTHONY: All those in favor.

22 The next item on the agenda we have to do
23 a paper ballot allocation for the February 4 special
24 election in Minerva Park.

1 DEPUTY DIRECTOR WALCH: We always do
2 these in packs of 25 so it just seemed rational to do
3 25 paper ballots that can be used for provisional
4 purposes if we have provisionals that come in. So
5 our recommendation is to place 25 paper ballots.
6 There's no difference in ballot style because it is
7 just one single precinct in this so it's all the same
8 but we do recommend placing 25 paper ballots.

9 MEMBER MARINELLO: I move that the Board
10 place 25 paper ballots at the single voting location
11 in the February 4 special election in Minerva Park.

12 MEMBER SINNOTT: Second.

13 DIRECTOR ANTHONY: All those in favor.

14 Motion carries, Mr. Chair.

15 The next item on the agenda is over the
16 last several years the County Commissioners have
17 given a pay raise to all County employees. It is no
18 different this year. So this year the County set
19 aside money for a 2 percent pay raise retroactive to
20 January 1, 2014, and our Board would have to vote in
21 order for the employees here to get the pay raise.

22 MEMBER MARINELLO: I move that the Board
23 accept the supplemental appropriation from the County
24 Commissioners for a two percent pay increase for

1 non-bargaining employees of the Board of Elections
2 and that this pay increase be made retroactive to
3 January 1, 2014.

4 DIRECTOR ANTHONY: Is there a second?

5 MEMBER SINNOTT: There is.

6 DIRECTOR ANTHONY: All those in favor.

7 That motion carries.

8 The next item on the agenda is we also
9 piggyback the County on our health care and there is
10 an increase in our benefits for -- for health care.
11 And so we need a motion from the Board to increase
12 our coverage.

13 DEPUTY DIRECTOR WALCH: Just for the
14 knowledge of the Board the current rate is employees
15 have been paying for individual per month has been
16 \$101, and for a family I believe it was \$207. It is
17 now being increased to \$216 a month.

18 MEMBER HASS: I move that the Board adopt
19 the new standard monthly employee health benefit
20 contribution rate of \$105 per month for employee
21 coverage only and \$216 per month for family coverage
22 as prescribed by the Franklin County Commissioners
23 for the time period April 1, 2014, through March 31,
24 2015.

1 DIRECTOR ANTHONY: Is there a second?

2 MEMBER MARINELLO: Second.

3 DIRECTOR ANTHONY: All those in favor.

4 You know, along those lines they are also
5 looking at getting a disability insurance package as
6 well so they are starting some discussion on the
7 County -- with the County Commissioners on possibly
8 adding disability coverage to our health insurance
9 plan, but it hasn't happened yet so we will be
10 attending some meetings as a work -- as they work
11 that out so I will probably be bringing that before
12 you once that's decided.

13 MEMBER SINNOTT: This would be some kind
14 of long-term disability insurance?

15 DIRECTOR ANTHONY: Yeah. Right now, you
16 can opt to get it on your own through AFLAC, and so
17 I'm not sure what the new policy would be like, but
18 they are looking at offering that to County
19 employees.

20 The next item on the agenda is we've had
21 a request from the -- the parties involved with the
22 two Columbus petition initiatives for us to issue
23 subpoenas. And so we want to come before the Board
24 with the ability -- I'm sorry.

1 Can you hear me now? Everyone? You
2 didn't hear me at all that time?

3 So we want to bring this issue before the
4 Board so that we can -- so we are able to issue some
5 subpoenas for the two Columbus initiatives, one for
6 the I guess it's dealing with the fair campaign
7 finance and the other one is dealing with the arena
8 finance package.

9 So, Dana, do you have anything to add?

10 DEPUTY DIRECTOR WALCH: No. That's it.
11 We've already gotten requests in where -- from one of
12 the parties. We do expect to get requests in from
13 the other party, the petitioners on this, so we were
14 just going to ask the Board for authority to move
15 forward with the help of counsel on the issuance of
16 subpoenas requested by either of the parties involved
17 in these two issues.

18 MEMBER SINNOTT: So the protestor has
19 asked for the subpoena.

20 DEPUTY DIRECTOR WALCH: At this point,
21 yes. We have got in some.

22 MR. ANDERSON: Through counsel.

23 MEMBER SINNOTT: Petitioners have not?

24 MR. ANDERSON: The petitioners have as

1 well. The protestor has and the petitioner has
2 through counsel, I apologize. Through a conversation
3 that I had with their counsel.

4 MEMBER SINNOTT: How many are we talking
5 about at this point for witnesses?

6 DEPUTY DIRECTOR WALCH: The request so
7 far from protestors we have received through an
8 official correspondence here to the office. They
9 will need to be amended because of the dates of the
10 hearing will need to be changed but so far there were
11 six from protestors on the campaign finance issue.

12 MR. ANDERSON: And I understand an
13 additional five on the arena issue will be
14 forthcoming, Mr. McTigue.

15 MR. McTIGUE: Yes. It will -- actually
16 it will be the same group of witnesses on both cases.
17 But there will be an additional five coming by
18 circulators, but the questioning I anticipate will be
19 about 5 minutes on each one --

20 MR. ANDERSON: Okay.

21 MR. McTIGUE: -- basically and on the
22 original six though some of those like, for example,
23 one was to the Director of the Board to bring a voter
24 registration record. That obviously isn't going to

1 be necessary for him to testify, more than likely it
2 won't be, but if he does, it will be short so.

3 MEMBER SINNOTT: Don, did I understand
4 you to say the five on the arena would overlap the
5 six on the finance reform?

6 MR. McTIGUE: No. There is a total --
7 there will be a total of 11, but their testimony
8 relates essentially the same in both cases.

9 MEMBER SINNOTT: Okay.

10 MR. McTIGUE: There might be minor
11 differences because there is a different petition.

12 MEMBER SINNOTT: I understand. And then
13 the petitioners have requested --

14 MR. ANDERSON: Have thus far requested
15 that the named protestor in the fair campaign code
16 protest be called. I'm guessing since there's a
17 different protestor in the arena issue that they will
18 also request that that protestor be subpoenaed for
19 that hearing as well.

20 MEMBER SINNOTT: Well, I am prepared to
21 make a motion, but I would encourage staff if you see
22 this process is getting out of hand in terms of
23 motion, let the Board members know, and we may need
24 to revisit the subject.

1 But for present purposes I'll move that
2 the Board authorize the issuance of subpoenas in the
3 protests involving the two Columbus petition efforts
4 as requested by either party involved in the protest
5 hearing.

6 DIRECTOR ANTHONY: Is there a second?

7 MEMBER HASS: Second.

8 DIRECTOR ANTHONY: All those in favor.

9 Motion carries.

10 The next item on the agenda would be to
11 set the date for that protest hearing, take a look at
12 the calendars.

13 DEPUTY DIRECTOR WALCH: Original
14 conversations that I've had with counsel we were
15 looking at perhaps the latter part of next week or
16 the early part of the week after. The 20th of next
17 week we would be out, that's Martin Luther King Day,
18 but we originally talked about perhaps either
19 Wednesday or Thursday potentially of next week but --
20 but whatever would work the best for the members of
21 the Board would work from the staff's perspective.

22 MEMBER HASS: Wednesday or Thursday. I
23 think we've got a number of parties involved. It
24 makes sense.

1 DEPUTY DIRECTOR WALCH: And our intention
2 for the members of the Board was to hear both of
3 these issues in a single hearing, the campaign
4 finance issue and the arena issue.

5 MR. ANDERSON: Both separate matters,
6 hear both though on the same afternoon, one after the
7 other.

8 MEMBER SINNOTT: Everything in law takes
9 longer than it seems like it should but what's your
10 best guess as to the length of the two hearings?

11 MR. ANDERSON: That's going to in part be
12 based on counsel for the protestor and counsel for
13 the other side.

14 MEMBER SINNOTT: Indeed. Are you
15 thinking this is two hours or six hours?

16 MR. ANDERSON: I'm going to have to look
17 to Mr. McTigue because he is one of the protagonists
18 in this saga.

19 CHAIRMAN PREISSE: Would you identify
20 yourself because she's been including you in the
21 record here so we might as well go ahead and do that.

22 MR. McTIGUE: I'm Donald McTigue, counsel
23 for the protestor in each of the protests. In terms
24 of the testimony of witnesses, I would expect that it

1 would take about two hours or less from my side,
2 testimony of witnesses.

3 DEPUTY DIRECTOR WALCH: Combined for the
4 two? Combined for the two issues?

5 MR. McTIGUE: Yes. I think it's -- if we
6 are doing one after another, you know, I have to go
7 through making the record again each time so we --
8 there is going to be a bit of repetition but -- but
9 there are -- they are distinct petitions, but I'm
10 going -- so I am going to give myself a little room
11 and say two hours for each to go through the
12 witnesses.

13 And we will have a -- we will file a
14 prehearing brief, okay, because I could spend two
15 hours, as some of you know, doing my argument, but we
16 will keep that short by submitting a brief.

17 MEMBER SINNOTT: So, Don, your prediction
18 it will take two hours per protest for you to get
19 your case in.

20 MR. McTIGUE: Yes.

21 MEMBER SINNOTT: Do you know who your
22 opposite member is going to be at this point? Do you
23 know who is going to be counsel for?

24 MR. McTIGUE: I believe it is

1 Mr. Fitrakis.

2 MR. ANDERSON: That's my understanding as
3 well based on conversations with Fitrakis.

4 CHAIRMAN PREISSE: Greg, you were
5 suggesting the more days we have in anticipation so
6 you were pushing towards Thursday --

7 MEMBER HASS: Yes.

8 CHAIRMAN PREISSE: -- of next week which
9 is the 23rd.

10 DIRECTOR ANTHONY: That's correct.

11 MR. ANDERSON: That's correct.

12 CHAIRMAN PREISSE: Thursday for personal
13 reasons happens to work a little better for me. What
14 were we talking about? Sort of the standard 3 -- 3,
15 3:30 convening time?

16 MEMBER SINNOTT: I think that we are
17 having described to us a hearing on at least four
18 hours. No? You say two and two?

19 MR. ANDERSON: It's about an eight-hour
20 hearing.

21 MEMBER SINNOTT: We are talking about a
22 day's worth of hearing even if we are not hearing
23 oral argument or opening statements from counsel.

24 CHAIRMAN PREISSE: What about Thursday

1 convening earlier?

2 MEMBER SINNOTT: If we are going to try
3 to do this in a day, we better get started early in
4 the morning.

5 DEPUTY DIRECTOR WALCH: Would 9 o'clock
6 on Thursday, that Thursday, work for the members of
7 the Board on Thursday, the 23rd?

8 MEMBER SINNOTT: Just like a root canal,
9 Dana.

10 CHAIRMAN PREISSE: I think it can work
11 for me. I've got a notation here of something I
12 can't decipher. I will have to get back to you.
13 Tentatively it works for me.

14 MEMBER HASS: Works for me.

15 MEMBER SINNOTT: Why don't we shoot for
16 9 o'clock and if at all possible, to the extent that
17 the commentary of counsel can be committed to writing
18 as opposed to being offered to the Board, I think
19 that would be commendable.

20 MR. McTIGUE: Mr. Chairman, let me add
21 too that in terms of I was being rather liberal
22 because I notoriously underestimate how long it takes
23 me to question witnesses but I -- so I was being I
24 think very liberal this time. The questions are

1 going to be pretty short. It probably would not take
2 me two hours, but in addition, I'll get together with
3 Mr. Fitrakis and see what we can stipulate to because
4 some of the things I would be asking the witnesses
5 are not really going to be subject to any
6 disagreement, but I have to establish the fact, and
7 so I think we can reach agreement on some facts and
8 just read that into the record in the beginning.

9 CHAIRMAN PREISSE: Well, Brad's
10 prescription gives us time if we go overboard.

11 DEPUTY DIRECTOR WALCH: And with that so
12 we will go ahead and -- go ahead and set 9 a.m. on
13 Thursday, January 23. What would be a good day for
14 us to ask counsel to provide us any additional
15 written materials that they would like to provide to
16 the Board for you to be able to read over prior to
17 the January 23?

18 MEMBER SINNOTT: My suggestion is the
19 Board members leave that to the discretion of staff
20 and the Board's counsel work out sort of a protocol
21 for the submission of prehearing briefs and the like.
22 It may be the case that counsel would reasonably ask
23 for an opportunity to submit a post-hearing writing
24 too. Don't know but none of us know what will

1 transpire during the course of the hearing.

2 MR. ANDERSON: I don't think we have the
3 time because the certification issues -- because this
4 is an election issue I think the Board's decision
5 needs to be rendered that day so that -- because I'm
6 anticipating whether the protest is upheld or it's
7 denied the losing party is going to need to initiate
8 the appropriate legal appeal rather quickly because
9 it's an issue that needs to be placed on the May
10 primary ballot.

11 MEMBER SINNOTT: Well, what's the last
12 day in which we could certify?

13 DEPUTY DIRECTOR WALCH: Well, the
14 certification deadline for the stat -- statutorily
15 under Ohio law is February 18 for candidates and
16 issues is February 18.

17 MR. ANDERSON: It's at the Board's
18 discretion, however, obviously.

19 MEMBER SINNOTT: And that may be -- maybe
20 it will be an issue we don't have to encounter at the
21 hearing. Mr. McTigue and Mr. Fittrakis, they have
22 fully spoken their peace, but we are all guessing
23 about what is the evidence that we are going to hear
24 during the hearing of the 23rd.

1 MR. ANDERSON: Right.

2 DEPUTY DIRECTOR WALCH: We will set a
3 time -- the staff will set a time that we will
4 communicate to counsel on both sides of this issue as
5 to their permitting them to get any prehearing
6 information that they would like the Board to
7 consider.

8 MEMBER SINNOTT: Okay. We will cross
9 that bridge if we have to.

10 CHAIRMAN PREISSE: Sounds fair.

11 DIRECTOR ANTHONY: And for the record our
12 next board meeting will be January 23 at 9 a.m. and
13 plan to be here all day.

14 And with that the next item on the agenda
15 would be adjournment unless there is any matters the
16 Board would like to discuss.

17 MEMBER SINNOTT: Do we need to vote to
18 set the next meeting?

19 DIRECTOR ANTHONY: No.

20 MEMBER SINNOTT: Then I move we adjourn.

21 DIRECTOR ANTHONY: All those in favor.

22 We stand adjourned.

23 (Thereupon, the meeting was concluded at
24 3:38 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, January 13, 2014, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5800)

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