

FRANKLIN COUNTY BOARD OF ELECTIONS
280 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) 462-3100


MINUTES OF THE MEETING ON

11-14-08

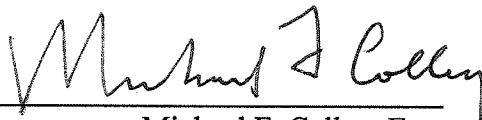
APPROVED ON

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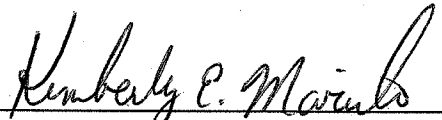
BY:



Douglas J. Preisse, Chairman



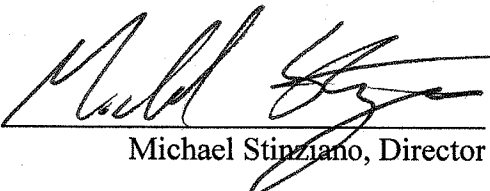
Michael F. Colley, Esq.



Kimberly E. Marinello

William A. Anthony Jr.

ATTEST:



Michael Stinziano, Director

1 APPEARANCES:

2 Mr. Ron O'Brien
3 Assistant Prosecuting Attorney
4 Franklin County Prosecutor's Office
5 373 South High Street
6 13th Floor
7 Columbus, Ohio 43215

8 On behalf of the Board.

9 ALSO PRESENT:

10 Ms. Suzanne Brown, Clerk
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2 P R O C E E D I N G S

3 - - - - -

4 CHAIRMAN PREISSE: It appears that
5 we have a full complement of Board members
6 here, so why don't we call this meeting to
7 order.

8 MR. STINZIANO: Roll call. Mr.
9 Colley?

10 MR. COLLEY: Here.

11 MR. STINZIANO: Chairman Preisse?

12 CHAIRMAN PREISSE: Here.

13 MR. STINZIANO: Mr. Anthony?

14 MR. ANTHONY: Here.

15 MR. STINZIANO: Ms. Marinello?

16 MS. MARINELLO: Here.

17 MR. STINZIANO: This is the Franklin
18 County Board of Elections Special Meeting for
19 Friday, November 14th, 2008.

20 The first item on the agenda is
21 regarding supplemental procedures for the
22 processing of provisional ballots. We have
23 several categories that the staff would like
24 guidance on from the Board in terms of

1 clarification and how we should process them.

2 The first regards the individuals
3 who had mistakenly been designated a
4 three-voter on Election Day. It's the staff's
5 recommendation, those individuals that we can
6 determine should not have been designated a
7 three not be processed as provisional ballots
8 but treated as regular ballots.

9 CHAIRMAN PREISSE: Okay. And do we
10 know how many voters this affects?

11 MR. STINZIANO: I don't think we got
12 a final count, but I believe it was less than
13 -- it was around 50 to 75.

14 CHAIRMAN PREISSE: Okay. Do you
15 want to make a motion?

16 MR. ANTHONY: I think that's a good
17 thing.

18 Mr. Chair, I move that the Board
19 process as regular Election Day ballots the
20 provisional ballots cast by individuals who
21 were mistakenly designated in the Election Day
22 poll book as having had their registration
23 notice by the Board of Elections returned as
24 undeliverable, thus improperly requiring them

1 to vote a provisional ballot.

2 MR. COLLEY: Second.

3 CHAIRMAN PREISSE: Do we have any
4 discussion or questions by the Board members
5 or input from our legal counsel on this
6 matter?

7 MR. O'BRIEN: I think that based on
8 our research and discussion with both the
9 staff and the Board, it's our advice that you
10 vote yes on Mr. Anthony's motion.

11 CHAIRMAN PREISSE: Are there any
12 questions?

13 (No audible response.)

14 MR. CHAIRMAN PREISSE: We have a
15 motion and a second.

16 MR. STINZIANO: Do a vote. All in
17 favor?

18 MEMBERS: Aye.

19 CHAIRMAN PREISSE: None opposed.

20 The second category are those
21 individuals who the staff can determine
22 requested a regular paper ballot by their
23 signing of the poll book or providing other
24 information on the provisional ballot

1 envelope; for example, that they wrote "This
2 is a regular ballot" but for whatever reason
3 the poll workers put in a yellow provisional
4 envelope. It is the staff's recommendation
5 that those ballots be treated as a regular
6 ballots and not processed as provisional.

7 MR. ANTHONY: Mr. Chair, I move that
8 the Board process as regular Election Day
9 ballots those provisional ballots of
10 individuals who staff can determine requested
11 a single paper ballot by the signing in the
12 poll book or other information provided to the
13 provisional ballot envelope or whose ballot
14 was placed in a provisional ballot envelope.

15 MR. COLLEY: Second.

16 CHAIRMAN PREISSE: We have a motion
17 and a second. And I think this is a fairly
18 limited occurrence, and we are endeavoring to
19 correct this limited occurrence. Do we have
20 any questions of the Board or commentary or
21 advice from counsel?

22 MR. O'BRIEN: Yes. We talked to
23 both Mr. Damschroder and Mr. Stinziano and,
24 again, as counsel for the Board would indicate

1 we think that Mr. Anthony's motion should be
2 voted yes.

3 MR. STINZIANO: All in favor?

4 MEMBERS: Aye.

5 MR. STINZIANO: None opposed.

6 The next category of individuals are
7 those that contain a signature but not a
8 written name on the provisional ballot
9 envelope. We provided samples of the
10 envelopes. It would be in step 1, there's no
11 printed name but there is a signature at the
12 bottom in step 1.

13 MR. O'BRIEN: I think those of us
14 that read the newspaper are aware this is the
15 subject of a lawsuit in the Ohio Supreme
16 Court, a writ of mandamus against the
17 Secretary, and the Board itself is named a
18 party. Mr. Piccininni from our office, who
19 regularly represents the Board, entered an
20 appearance in that case.

21 This morning, Secretary of State
22 filed a motion to remove that from the Ohio
23 Supreme Court to the United States Federal
24 Court here in Columbus. It was initially

1 assigned to Judge Frost, who agreed to have it
2 consolidated to a pending case with Judge
3 Marbley, and Judge Marbley has ordered us,
4 attorneys for the plaintiffs, and the
5 Secretary of State's office, represented by
6 Mr. Cogly, who typically handles these
7 election matters, to his office at 9 a.m. in
8 the morning.

9 So in an unusual Saturday morning
10 court proceeding in federal court, these
11 issues are going to be discussed and could be
12 the subject of either a writ or an injunction
13 by Monday.

14 So it's my suggestion that the
15 Board, since it has absentee ballots to count,
16 overseas ballots to count, military ballots to
17 count, that you defer deciding anything with
18 respect to provisional ballots because they're
19 the subject of a lawsuit, and although you're
20 not enjoined right here as we sit in this room
21 today, I think it would be ill-advised to move
22 forward on this with those lawsuits pending.

23 MS. MARINELLO: Any idea how many of
24 those we're talking about?

