

FRANKLIN COUNTY BOARD OF ELECTIONS
280 EAST BROAD STREET
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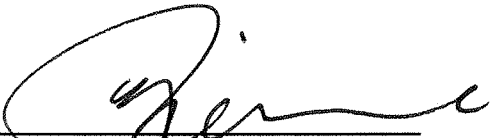
MINUTES OF THE MEETING ON

8/27/09

APPROVED ON

9/25/09

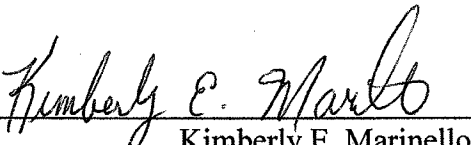
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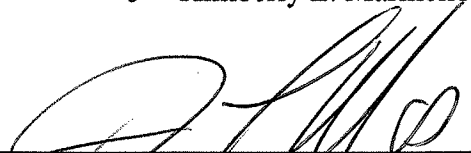
Douglas J. Preisse, Chairman



Michael F. Colley, Esq



Kimberly E. Marinello



William A. Anthony Jr.
JOSEPH L. MAS, ESQ

ATTEST:

Michael Stinziano, Director

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1 APPEARANCES:
 2 Franklin County Prosecuting Attorney
 3 373 South High Street
 4 13th Floor
 5 Columbus, Ohio 43215
 6 By Mr. Patrick J. Piccininni,
 7 Assistant Prosecuting Attorney,
 8
 9 On behalf of the Board.
 10
 11 ALSO PRESENT:
 12 Ms. Karen Cotton
 13 Mr. Brett Harbage
 14 Mr. Brian Shinn
 15 Mr. Pat Wolfe
 16
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1 -----
 2 PROCEEDINGS
 3 -----
 4 MR. STINZIANO: We will begin the
 5 August 27th, 2009 special meeting of the
 6 Franklin County Board of Elections. Roll
 7 call.
 8 Mr. Colley.
 9 MR. COLLEY: Here.
 10 MR. STINZIANO: Chairman Preisse.
 11 CHAIRMAN PREISSE: Here.
 12 MR. STINZIANO: Mr. Mas.
 13 MR. MAS: Here.
 14 MR. STINZIANO: Ms. Marinello.
 15 MS. MARINELLO: Here.
 16 MR. STINZIANO: The first item on
 17 the agenda is the certification of the August
 18 4th, 2009 Special Election. I have Karen
 19 Cotton here to present the official canvass
 20 results.
 21 MS. COTTON: Board staff did the
 22 official canvass of results for the August 4th
 23 Special Election, and the report is in your
 24 folder for you. Both of the issues' results,

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1 one was winning, one was losing, South-Western
 2 was losing, but none of the margins were
 3 within one half of one percent, so we do not
 4 have to have recounts for either of those
 5 races.
 6 I also have prepared signature pages
 7 for you which the Director will pass down for
 8 you to sign.
 9 CHAIRMAN PREISSE: I don't have any
 10 questions. Does anybody else?
 11 MS. MARINELLO: No, Mr. Chairman. I
 12 move the results of the Tuesday, August 4th,
 13 2009 Special Election held for the City of
 14 Columbus and South-Western City Schools be
 15 certified as reported.
 16 MR. COLLEY: Second.
 17 MR. STINZIANO: All in favor?
 18 MEMBERS: Aye.
 19 MR. STINZIANO: No opposed.
 20 We'll move to the next issue, which
 21 is certification of candidates for November
 22 3rd, 2009. There's a variety of exhibits
 23 based on the staff's review of the filings,
 24 and again Ms. Cotton will present those

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1 findings and staff recommendation.
 2 MS. COTTON: The petitions filings
 3 for this particular cycle in the four-year
 4 election cycle is the most active of any
 5 election we had out there, because every
 6 municipality that has a mayor or a council or
 7 trustees in the township and school districts
 8 have something on the ballot, some type of an
 9 office on the ballot, so we processed almost
 10 300 part-petitions to get to this report
 11 today, 1,500 sheets of paper and 17,000
 12 signatures, so that's why we've divided it up
 13 into the various exhibits.
 14 Exhibit A is a listing of candidates
 15 who filed for office for the General Election.
 16 They timely filed their petitions, their
 17 petitions were filled out properly, and they
 18 had the valid number of required signatures to
 19 qualify them for valid access.
 20 So the board staff is recommending
 21 that you certify all of the candidates that
 22 are on Exhibit A to the ballot for November
 23 3rd, 2009.
 24 MR. MAS: Mr. Chairman, I move that

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1 the candidates listed on Exhibit A be
 2 certified to the November 3rd, 2009 General
 3 Election ballot.
 4 MR. COLLEY: Second the motion.
 5 MR. STINZIANO: All in favor?
 6 MEMBERS: Aye.
 7 MR. STINZIANO: Seeing no opposed,
 8 we will move to Exhibit B.
 9 As I'll remind the Board, the
 10 Prosecutor's office has opined that all
 11 motions should be made in the positive, so
 12 even on recommendations from the staff for the
 13 nine certifications to the ballot, we will
 14 need positive motions, affirmative motions,
 15 and then we'll take the Board vote.
 16 MS. COTTON: The second exhibit you
 17 have before you today is Exhibit B. These are
 18 petitions where during the staff's examination
 19 we found that there were problems with the
 20 petitions because there were omissions,
 21 inaccurate information, not enough valid
 22 signatures.
 23 I've broken these down as to the
 24 categories, so you have their headings here at

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1 the top, and all of the petitions that fall
 2 into that particular category are listed
 3 there, and then we have a second category.
 4 So do you need any further
 5 explanation on Exhibit B before you take any
 6 action?
 7 CHAIRMAN PREISSE: What was your
 8 reference to the second category? Restate
 9 that.
 10 MS. COTTON: The first category,
 11 circulator's statements of the following
 12 part-petitions were left blank, had omissions
 13 or were invalid. Said deficiencies caused
 14 whole part-petitions to be invalid. Begins
 15 with Larry Heiser, goes all the way down
 16 through the New Albany-Plain Local School
 17 District, Joanne Williams. Those were all of
 18 the same category.
 19 And the next category, the candidacy
 20 from Melissa J. Albright for Grove Ward 3
 21 council. The specific problem there is that
 22 the charter of City of Grove City requires a
 23 sponsoring committee of five to be listed on
 24 each part-petition, and the candidate only had

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1 that five-member sponsoring committee listed
 2 on one of her two part-petitions. So that
 3 petition would be an invalid petition.
 4 The third category there is, the
 5 following petitions were not valid because
 6 candidate is not a qualified elector. These
 7 individuals were either not registered at the
 8 address they provided or we could not find
 9 them registered at all. There were three
 10 individuals there.
 11 We had a gentleman who did not sign
 12 -- or did not date his statement of candidacy.
 13 That was for candidate in Minerva Park,
 14 candidate David M. May.
 15 Then the following part-petitions
 16 were insufficient valid signatures in order to
 17 qualify for the ballot. There's a threshold
 18 of valid signatures that you need. In the
 19 case of Doug Smith in Worthington, he needed
 20 50, we could only find 49, and those were
 21 listed there. There were seven candidates
 22 under that category.
 23 We had several candidates who did
 24 not sign their statement of candidacy, and

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1 then we had the candidates where the
 2 signatures that they obtained in their
 3 petition predated the date that they declared
 4 themselves to be a candidate.
 5 So everything on Exhibit B staff
 6 considers to be fatal errors, and we are not
 7 recommending the Board to certify these
 8 candidates to the ballot.
 9 MS. MARINELLO: I have a question,
 10 Karen. So even if, like the statement of
 11 candidacy, it's stamped on it with a date and
 12 time, if they turn it in or not?
 13 MS. COTTON: We do time-stamp it,
 14 but they have to declare themselves to be a
 15 candidate before they gather signatures.
 16 MS. MARINELLO: So just because he
 17 didn't put the date, that's a fatal flaw on
 18 that, even though it's stamped?
 19 MS. COTTON: It's a
 20 fill-in-the-blanks type of form. Yes.
 21 MS. MARINELLO: I don't know why
 22 they don't read this better. Okay.
 23 MR. STINZIANO: And these
 24 individuals will have the opportunity to

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1 appeal and come before the Board if they would
 2 like to do so.
 3 MS. MARINELLO: In that case, I move
 4 that the candidates listed on Exhibit B be
 5 certified to the November 3rd General Election
 6 ballot.
 7 MR. COLLEY: Second the motion.
 8 MR. STINZIANO: All in favor?
 9 MEMBERS: No.
 10 MR. STINZIANO: The motion does not
 11 pass.
 12 We'll move to Exhibit C. Karen will
 13 present Exhibit C.
 14 MS. COTTON: Exhibit C is again from
 15 Grove City. Mr. Rutherford circulated the
 16 petition to run for city council in the City
 17 of Grove City. Nowhere on his part-petition
 18 did he specify that he was running for Ward 3;
 19 however, he is a resident of Ward 3. City of
 20 Grove City has an at-large seat up at this
 21 time, a Ward 1 seat and a Ward 3. He would be
 22 eligible to run for both the at-large seat and
 23 the Ward 3 seat.
 24 He did submit enough signatures to

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1 run for the at-large seat as well as the
 2 Ward 3. He needed 50 signatures to run for
 3 the at-large seat, and we were able to
 4 validate 60 signatures. It is unclear --
 5 would be unclear for the voters if they were
 6 looking solely on the face of the petition to
 7 determine what office he was seeking.
 8 MR. STINZIANO: So because it was
 9 unclear, it's the staff's recommendation that
 10 the Board certify him to the at-large seat and
 11 not for the Ward 3 seat.
 12 MR. DAMSCHRODER: We did that in
 13 2007, I think it was in Gahanna -- or it was
 14 actually an incumbent ward council
 15 representative. I think it was Grove City.
 16 But in either case, the incumbent failed to
 17 indicate on his petition that it was really
 18 ward-specific as opposed to the at-large, and
 19 the Board, because he had met the other
 20 thresholds for at-large, same petition form,
 21 the Board certified the individual to the
 22 at-large contest.
 23 MR. MAS: And, Mr. Chairman, I guess
 24 I have a question, this being my first year on

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1 the Board: Is the candidate then consulted as
 2 to doing this, or do we just do it?
 3 MS. COTTON: We haven't consulted
 4 the candidate as yet, no.
 5 MR. DAMSCHRODER: The candidate then
 6 has the opportunity to either appeal the
 7 Board's decision to the Board, or beyond, if
 8 necessary, and also has the choice to withdraw
 9 from the at-large contest, if that's the
 10 individual's choice, determination.
 11 CHAIRMAN PREISSE: Did you have a
 12 comment on that?
 13 MR. PICCININNI: No. I mean, the
 14 other option is to say, we can't figure out
 15 which one he is, he's off. I mean, that's the
 16 other option, because he didn't specify.
 17 MS. MARINELLO: Pretty nice of us,
 18 actually.
 19 MR. PICCININNI: Yeah, it would
 20 depend on where is this person going to appear
 21 on the ballot, is he going to appear on
 22 Ward 3, is he going to appear citywide, and
 23 that's why you need to designate which one
 24 you're running for.

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1 MR. MAS: In that case, Mr.
 2 Chairman, I move that Mr. Richard C.
 3 Rutherford be certified to the November 3rd,
 4 2009 General Election ballot for Grove City
 5 Member of Council At Large.
 6 MR. COLLEY: Mr. Chairman, I second
 7 that motion.
 8 MR. STINZIANO: All in favor?
 9 MEMBERS: Aye.
 10 MR. STINZIANO: We will move to
 11 Exhibit D. Again, candidate petitions with a
 12 potentially discretionary error or omission.
 13 But in the past, the Board has given different
 14 discretion, and so we've asked that each
 15 individual petition be removed through Karen
 16 to you all to make a determination.
 17 MS. COTTON: We have five candidates
 18 in this category and the nominating portion of
 19 the petition. The top section of the
 20 petitions were properly filled out, indicating
 21 the candidate's name, what office they were
 22 seeking; they declared themselves to be a
 23 candidate on the given date and signed it.
 24 However, the section of the petition

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1 right above the signature lines asking the
 2 people to support them in their candidacy was
 3 left blank in all these cases.
 4 MR. DAMSCHRODER: In the past, the
 5 Board has certified candidates in this
 6 situation to the ballot, because the standard
 7 that the Board used was that the signers of
 8 the petition were not misled because the
 9 candidate's name and the office they're
 10 seeking appears very prominently at the top of
 11 each part-petition. It's just not in the fine
 12 print that appears immediately before the,
 13 where the signers affix their names.
 14 I don't know to the extent that the
 15 Prosecuting Attorney may have input on that,
 16 but --
 17 MR. PICCININNI: Nobody's been
 18 nominated. The paragraph is pretty clear: We
 19 nominate this person. We nominate a blank
 20 line, at this point.
 21 MR. MAS: Can you give us your
 22 conclusion, please?
 23 MR. PICCININNI: It's going to be a
 24 Board call. I mean, if the Board is inclined

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1 to do ballot access --
 2 CHAIRMAN PREISSE: We have precedent
 3 in this very case, in this very same
 4 situation, a couple of years ago. Excuse me
 5 for interrupting.
 6 MR. MAS: And what was the --
 7 MR. DAMSCHRODER: We certified the
 8 individuals to the ballot. And the standard
 9 that the Board used was because there did not
 10 appear to be a fatal error, such as failure to
 11 sign the circulator's statement, that in
 12 deference to ballot access and because the
 13 name of the candidate and the office the
 14 candidate was seeking did prominently appear
 15 on the part-petition before the space where
 16 signers would affix their signatures, that in
 17 favor of ballot access, they would move
 18 forward and put the people on the ballot.
 19 But the Board has the discretion, I
 20 think, to either follow that precedent or
 21 chart a new course.
 22 MR. MAS: And the recommendation
 23 from yourself?
 24 MR. DAMSCHRODER: The staff

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1 recommendation would be that it's in the
 2 Board's discretion. Our recommendation would
 3 be to put the individuals on the ballot.
 4 MR. PICCININNI: To allow them to go
 5 on the ballot.
 6 MR. DAMSCHRODER: Yes, sir.
 7 MR. MAS: To vote in the
 8 affirmative, is what you are recommending?
 9 MR. DAMSCHRODER: Yes, sir.
 10 MR. STINZIANO: Are there any
 11 motions? I concur with the staff's
 12 recommendation. That is my conclusion.
 13 MS. COTTON: And because the
 14 precedent was set before that we allowed them
 15 on there --
 16 MR. STINZIANO: I agree with the
 17 interpretation that all the information is
 18 there. I don't think a person signing the
 19 petition would be unclear. I don't think it's
 20 as blatantly stated, if it was in the
 21 circulator's statement at the top, as Patrick
 22 has pointed out. But all the information is
 23 contained in the face of the document, if you
 24 look at the four corners.

