

BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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In Re: :
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Special Meeting. :

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NOVEMBER 22, 2019

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PROCEEDINGS

before Chairman Douglas J. Preisse, Director Edward Leonard, Deputy Director David Payne, and Board Members Bradley K. Sinnott, Kimberly E. Marinello, and Michael Sexton, at the Franklin County Board of Elections, 1700 Morse Road, Columbus, Ohio, called at 10:13 a.m., on Friday, November 22, 2019.

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APPEARANCES:

FRANKLIN COUNTY PROSECUTOR'S OFFICE
By Timothy A. Lecklider, Esq.
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215
(614) 525-3520,

On behalf of the Board.

Also present:

Mel Fuhrmann, Voter Services Manager
Antone White, Executive Assistant to the
Board, Director, and Deputy Director
Gene Shell, Absentee Voting
Jeffrey Mackey, Petitions & Campaign Finance
Matt Kelly
Alicia Healy

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BOARD EXHIBITS IDENTIFIED

Exhibit A - 13

November 2019 General Final
Provisional Report, 1 page

Exhibit B - 48

Criminal Background Check Policy,
10 pages

Exhibit C - 63

Proposed 2020 Communication Plan,
10 pages

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1 Tuesday Morning Session
2 November 22, 2019
3 10:13 a.m.

4 - - -

5 DEPUTY DIRECTOR PAYNE: Looks like
6 everybody is here. We'll take roll.

7 Kim Marinello.

8 MEMBER MARINELLO: Here.

9 DEPUTY DIRECTOR PAYNE: Mike Sexton.

10 MEMBER SEXTON: Here.

11 DEPUTY DIRECTOR PAYNE: Doug
12 Preisse.

13 CHAIRMAN PREISSE: Here.

14 DEPUTY DIRECTOR PAYNE: And Brad
15 Sinnott.

16 MEMBER SINNOTT: Here.

17 DEPUTY DIRECTOR PAYNE: We have a
18 quorum.

19 The first item on the agenda is the
20 provisional ballots, and I will call on Mel to give
21 us a report.

22 MS. FUHRMANN: Good morning
23 everyone. My name is Melissa Fuhrmann and I am
24 here this morning on behalf of voter services.

25 The first order of business, you
should have in your packet a handout that says

1 November 2019 General Provisional Report that looks
2 like this. And the first thing I need to ask for,
3 I need to let you know that we had a total number
4 of 2,374 provisional ballots cast in the November
5 General Election. Of that number, 2,133 were
6 approved.

7 I would like to ask for permission
8 at this time to proceed with the opening of those
9 ballots so my division can get started opening
10 them, and then I'm happy to go through the rest of
11 the report with you.

12 DEPUTY DIRECTOR PAYNE: I think
13 probably the first thing we need to do is approve
14 the 2,133, if the Board is inclined.

15 DIRECTOR LEONARD: As the Board
16 knows, they're all reviewed by a bipartisan team to
17 confirm they are valid for acceptance.

18 MEMBER MARINELLO: I move that the
19 Board approve the counting of the 2,133 provisional
20 ballots and that all provisional ballots deemed
21 valid will be counted and included in the official
22 canvas results for the November 5, 2019 General
23 Election.

24 CHAIRMAN PREISSE: Second.

25 DEPUTY DIRECTOR PAYNE: All those in

1 favor of the motion signify by saying aye.

2 (Vote taken.)

3 DEPUTY DIRECTOR PAYNE: All opposed,
4 same sign.

5 (No response.)

6 DEPUTY DIRECTOR PAYNE: Motion
7 carries.

8 If we could, could we go through the
9 234 that you are suggesting to be rejected?

10 MS. FUHRMANN: Absolutely.

11 Under the rejected category, eight
12 of those provisional ballots were rejected because
13 the address was invalid.

14 CHAIRMAN PREISSE: Which address?

15 MS. FUHRMANN: The address that the
16 voter listed as their current address on the front
17 of the provisional envelope.

18 134 were rejected because the voter
19 was simply not registered anywhere in the State of
20 Ohio, according to our records. Ten were rejected
21 because there was no signature on the front of the
22 provisional envelope. One was rejected because the
23 date of birth field was missing. Six were rejected
24 because the voter who cast the provisional ballot
25 was deemed to have also voted absentee, and we

1 count the absentee ballot instead and reject the
2 provisional ballot because you can't vote twice.
3 Nine were rejected for the signature that was on
4 the front of the provisional ballot not matching
5 the signature that we had on file. And again,
6 these signatures are reviewed by a bipartisan team
7 and then they're submitted to Alicia and myself for
8 further review, and then the last stop would be
9 they're submitted and reviewed by David and Ed.
10 And if we all agree that the signature is a
11 mismatch, which was the case with these nine
12 ballots, then the ballot is rejected.

13 MEMBER SEXTON: So all of those have
14 been reviewed by you two and then by the Director
15 and Deputy Director?

16 MS. FUHRMANN: That's right. Three
17 different sets of eyes.

18 DEPUTY DIRECTOR PAYNE: The Board is
19 always welcome and encouraged to look at those, as
20 well, if you'd like to do that.

21 MS. FUHRMANN: 39 were rejected
22 because the ID on the front of the provisional
23 envelope either didn't match or it was missing.
24 And when I say ID, there was either the last four
25 of a Social or a driver's license number that did

1 not match what we had on file or it was simply
2 missing. And then 27 were rejected because the
3 voter was in the wrong precinct in the wrong
4 location, what we call a wrong church/wrong pew
5 scenario. And the voter was informed of this fact
6 and directed to where they needed to go, yet still
7 decided to cast their vote in their incorrect
8 polling location. For a total of 234 provisional
9 ballots rejected.

10 DEPUTY DIRECTOR PAYNE: Thank you,
11 Mel. That was a good report.

12 Are there any questions from the
13 Board?

14 MEMBER SEXTON: Just one. So how
15 many are we going to review? Is that here?

16 MS. FUHRMANN: Seven.

17 DEPUTY DIRECTOR PAYNE: There are an
18 additional seven --

19 Is that correct, Mel?

20 MS. FUHRMANN: Yes.

21 DEPUTY DIRECTOR PAYNE: -- that the
22 Board will review later in the meeting.

23 DIRECTOR LEONARD: Yeah. The 15 you
24 mentioned is absentee.

25 MEMBER SEXTON: Okay.

1 MS. FUHRMANN: And just for your
2 information, the seven all have to do with date of
3 birth issues.

4 MEMBER MARINELLO: That's what I was
5 going to ask was about the date of birth.

6 MS. FUHRMANN: Yeah. The seven,
7 they all fall into that category.

8 MEMBER MARINELLO: What about this
9 one that's rejected? Because there's nothing
10 there?

11 MS. FUHRMANN: In that scenario it
12 means that the date of birth field was simply left
13 empty, it was blank. There was nothing.

14 CHAIRMAN PREISSE: So we're going to
15 review some as we have before where the date of
16 birth may be inaccurate or some issue with it, but
17 where it's completely absent in one case we'll
18 reject it?

19 MS. FUHRMANN: Yes, Mr. Chairman.

20 MEMBER SINNOTT: So Mel, in 2019
21 we're counting about 90 percent of all the
22 provisional ballots cast. Is that typical?

23 MS. FUHRMANN: Mr. Sinnott, that's
24 actually slightly higher than what we typically
25 have, about an 80 to 85 approval rate. This time

1 it was slightly higher.

2 MEMBER SINNOTT: Okay. And it looks
3 as though the majority of the rejections are based
4 on the voter not being registered or having already
5 voted absentee.

6 MS. FUHRMANN: It's typically -- In
7 my experience, the most common reason that a
8 provisional ballot is rejected is because the voter
9 is simply not registered anywhere in the state of
10 Ohio. The second most common reason is typically
11 because the voter is in the wrong church and the
12 wrong pew. However, this time around, it turned
13 out that --

14 DEPUTY DIRECTOR PAYNE: No ID.

15 MS. FUHRMANN: Yeah. They simply
16 left that field blank or what they submitted didn't
17 match what we have on file.

18 DEPUTY DIRECTOR PAYNE: And those
19 individuals at the time of voting provisional were
20 given the option and directions that they could
21 come into the Board of Elections to correct that by
22 showing an ID. Is that --

23 MS. FUHRMANN: Yes.

24 MEMBER SEXTON: So when you say
25 those didn't match what we had on file, what would

1 be -- that's the Social Security number?

2 MS. FUHRMANN: Either the last four
3 of their Social or their driver's license number.
4 What they wrote on the front of the provisional
5 envelope did not match what we had on our records
6 here in Franklin County. And --

7 MEMBER SEXTON: Do we know how many
8 of them were Socials and how many were driver's
9 licenses? Or do we just -- do we track it that
10 way?

11 MS. FUHRMANN: I do not have that
12 information for you. However, I will say that
13 because the provisional envelopes additionally
14 count as a registration that those folks that fall
15 into that category will be sent a letter by us here
16 at the Board and we will inform them that the
17 information they submitted on the front of their
18 ballot didn't match what we had on file and could
19 they please clarify that for us. So there is an
20 opportunity for the voter to correct that with us.

21 MEMBER SEXTON: Okay.

22 CHAIRMAN PREISSE: Very well.

23 MS. FUHRMANN: Happy to answer any
24 other questions that you might have.

25 MEMBER SINNOTT: Anybody in the

1 room?

2 How many votes were cast in 2019 in
3 Franklin County?

4 DEPUTY DIRECTOR PAYNE: In 2019 --
5 Was it 184,000? I think 184,000 is what I recall.

6 MS. FUHRMANN: I think Mr. Mackey
7 might have that information for you.

8 MR. MACKEY: 183,329.

9 MEMBER SINNOTT: Thank you. Okay.

10 MEMBER SEXTON: I move that the
11 Board reject the counting of the 234 provisional
12 ballots as identified by category in Exhibit A and
13 that all the provisional ballots rejected will not
14 be counted or included in the official canvas
15 results for the November 5th, 2019, General
16 Election.

17 CHAIRMAN PREISSE: Second.

18 DEPUTY DIRECTOR PAYNE: All those in
19 favor of the motion signify by saying aye.

20 (Vote taken.)

21 DEPUTY DIRECTOR PAYNE: All opposed,
22 same sign.

23 (No response.)

24 DEPUTY DIRECTOR PAYNE: Motion
25 carries.

1 Now I think it would be appropriate
2 to release the staff to open those provisional
3 ballots, if we could get a motion. And then we
4 will need you back later to discuss those seven
5 provisional ballots that require Board action.

6 MS. FUHRMANN: I intend to remain
7 present.

8 DEPUTY DIRECTOR PAYNE: Fantastic.

9 DIRECTOR LEONARD: Do we have the
10 motion to approve the extraction?

11 MEMBER SINNOTT: Yes. There's going
12 to be one right now.

13 I move that the Board authorize the
14 staff to extract the approved provisional ballots.

15 DEPUTY DIRECTOR PAYNE: Is there a
16 second?

17 MEMBER MARINELLO: Second.

18 DEPUTY DIRECTOR PAYNE: All those in
19 favor of the motion signify by saying aye.

20 (Vote taken.)

21 DEPUTY DIRECTOR PAYNE: All opposed,
22 same sign.

23 (No response.)

24 DEPUTY DIRECTOR PAYNE: The motion
25 carries.

1 The remaking of absentee ballots. I
2 believe there are 15. I will turn that over to
3 Matt and to Gene.

4 MR. KELLY: Good morning. We are
5 asking your approval this morning to remake 15
6 ballots that were run through our 850 machines but
7 yet they wouldn't scan, as you can see.

8 MR. SHELL: That is why.

9 MR. KELLY: There's a few that were
10 obviously twisted and torn a bit and there was
11 other ballots that had some of the bars along the
12 side that were skewed. So we're asking that we can
13 go to the back room and remake these ballots so
14 they are scanable and countable. We can let you --

15 MEMBER MARINELLO: They look bad to
16 me.

17 MR. SHELL: I mean, I can give you a
18 closer look if you wish. The post office did a lot
19 of this damage when they went through their
20 automated system at their post office.

21 MEMBER MARINELLO: I move that the
22 Board authorize the staff to remake 15 absentee
23 paper ballots and that the remade ballots shall be
24 tabulated and included in the official canvas of
25 the results for the November 5th, 2019 General

1 Election, with a report to be made to the Board
2 later today.

3 CHAIRMAN PREISSE: Second.

4 DEPUTY DIRECTOR PAYNE: All those in
5 favor of the motion signify by saying aye.

6 (Vote taken.)

7 DEPUTY DIRECTOR PAYNE: All opposed,
8 same sign.

9 (No response.)

10 DEPUTY DIRECTOR PAYNE: The Motion
11 carries.

12 And I believe there are two absentee
13 ballots that need Board adjudication for voter
14 intent.

15 MR. KELLY: We have Exhibit 1 and 2.
16 These are two absentee ballots that we received
17 that we could not obviously scan because of
18 markings; but, number two, we could also not
19 determine voter intent in races. Exhibit 1,
20 specifically, there is tick marks in the bubbles,
21 but yet we can't really determine or we'd rather
22 have you guys determine voter intent in that race
23 specifically. That's Exhibit 1. And then a second
24 ballot there are markings across the ballot we
25 would like you to review and specifically look at

1 the municipal court race where there have been two
2 markings made and we cannot determine which race
3 they were marking.

4 MEMBER SINNOTT: So on Exhibit 1 the
5 question has to do with Columbus City Council?

6 MR. KELLY: Columbus City Council.
7 I believe there's three marks in the bubbles there,
8 but the marks are very light.

9 MEMBER SINNOTT: Well, to get the
10 ball rolling, as I pass this down to my colleagues,
11 on Exhibit 1 I move that the Board count Exhibit 1
12 as votes for candidates Singratsomboune, White, and
13 Baiman.

14 MEMBER SEXTON: Second.

15 DEPUTY DIRECTOR PAYNE: All those in
16 favor of the motion signify by saying aye.

17 (Vote taken.)

18 DEPUTY DIRECTOR PAYNE: All opposed,
19 same sign.

20 (No response.)

21 DEPUTY DIRECTOR PAYNE: The Motion
22 carries.

23 MR. KELLY: Exhibit 2 has a number
24 of races that have been marked outside of the
25 bubble or near the bubble at least. We can tell

1 some of the races the intent, but we'd like you to
2 review the entire ballot.

3 MEMBER SINNOTT: As I look at this,
4 I can only see ambiguity as to the municipal court
5 race involving Thomas and Dougherty.

6 MR. KELLY: That's the main race
7 we'd like you to look at and all others as marked,
8 I guess, just to verify that.

9 MEMBER SINNOTT: Well, I think it
10 explains that all others are as marked.

11 On Exhibit 2 I cannot determine what
12 is the voter's intent as to the municipal court
13 race regarding candidates Thomas and Dougherty. So
14 I move that the Board not count the vote cast in
15 that particular contest.

16 CHAIRMAN PREISSE: Second.

17 DEPUTY DIRECTOR PAYNE: All those in
18 favor of the motion signify by saying aye.

19 (Vote taken.)

20 DEPUTY DIRECTOR PAYNE: All opposed,
21 same sign.

22 (No response.)

23 DEPUTY DIRECTOR PAYNE: The motion
24 carries.

25 The next item on the agenda, Mel, is

1 the seven provisional ballots for consideration by
2 the Board.

3 MS. FUHRMANN: Good morning, again.
4 Mel Fuhrmann, still for voter services. I'm back
5 and ready to go over the seven provisional ballots
6 with you.

7 These seven ballots all have in
8 common that there is some discrepancy with the date
9 of birth that the voter put on the front of the
10 provisional ballot and the date of birth that we
11 currently have on file here in Franklin County.
12 Chapter six of the Election Official Manual issued
13 by the Secretary of State states on page 6-5 the
14 following: The month and day of a voter's date of
15 birth on the affirmation statement must match the
16 day -- the month and day of the voter's date of
17 birth in the voter registration database unless one
18 of the following two exceptions applies.

19 CHAIRMAN PREISSE: You're reading
20 from what, again, Mel? Excuse me for interrupting.

21 MS. FUHRMANN: The Election Official
22 Manual, Chapter 6, Provisional Voting, page --

23 MEMBER SINNOTT: Do we as Board
24 members have the text that you're reading from?

25 MS. FUHRMANN: I don't believe so.

1 DEPUTY DIRECTOR PAYNE: We can
2 certainly get that.

3 MEMBER SINNOTT: I think this is
4 sort of tricky. So, you know, yeah.

5 MR. WHITE: Would the Board like a
6 copy of that?

7 MEMBER SINNOTT: Only if it's real
8 handy.

9 MS. FUHRMANN: It is. I apologize
10 for not having that for you.

11 CHAIRMAN PREISSE: That's a good
12 suggestion.

13 (Brief recess taken.)

14 MEMBER SINNOTT: Thank you.

15 MS. FUHRMANN: Again, my apologies
16 for not having that ready.

17 CHAIRMAN PREISSE: That's all right.

18 MS. FUHRMANN: Page 6.5 at the top,
19 the month and day of the voter's date of birth on
20 the affirmation statement must match the month and
21 day of the voter's date of birth in the voter
22 registration database unless one of the following
23 two exceptions applies: One, the voter's date of
24 birth in the database is 1-1-1800; or -- and this
25 is the applicable section -- the Board of Elections

1 finds by a vote of at least three members that the
2 voter has met all the other requirements of
3 Division (B) (3) of Revised Code 3505.183. Note:
4 The requirements of Division (B) (3) of Revised Code
5 3505.183 are: One, the provisional voter is
6 registered to vote; two, the provisional voter is
7 eligible to cast a ballot in the precinct and for
8 the election in which the individual cast the
9 ballot; three, the provisional voter provided all
10 of the information required, i.e., printed name,
11 signature, date of birth, and the current address,
12 and provided identification on election day or
13 during the seven days following the election; four,
14 if the provisional voter provided their Social
15 Security number, driver's license, or state
16 identification number, that number is not different
17 than the number contained in the statewide voter
18 registration database; five, the provisional voter
19 provided their current address; and six, if the
20 provisional voter has been challenged they provided
21 information necessary to resolve the challenge
22 during the seven days following the election or the
23 Board resolved the challenge in favor of the voter
24 at a hearing.

25 So in the seven examples that I have

1 for you this morning, all of those requirements are
2 met and we have a discrepancy in the date of birth.
3 Usually the discrepancy is one digit of either the
4 month, day, or year of the voter's date of birth.
5 There is a discrepancy of typically one digit other
6 than what we have on file.

7 Now, I have two examples this
8 morning for your review in which we have no
9 documentation on file at all to which to compare
10 the date of birth.

11 CHAIRMAN PREISSE: How is that?

12 MS. FUHRMANN: We have no
13 registration document, we have no absentee
14 document, literally no documentation on file to
15 which to compare --

16 CHAIRMAN PREISSE: You mean they're
17 not registered?

18 DEPUTY DIRECTOR PAYNE: Those
19 documents just don't have the date of birth on
20 them.

21 MS. FUHRMANN: That's right.

22 MEMBER MARINELLO: So they got
23 registered without their date of birth?

24 MS. FUHRMANN: We don't have the
25 documents on file.

1 CHAIRMAN PREISSE: How do we know
2 they're a registered voter?

3 MS. FUHRMANN: Because at some point
4 they registered with us, they're in the database,
5 but there are no documents on file. Maybe they
6 never got scanned into the record. But there's
7 simply no -- there's no documents on file to which
8 to compare.

9 MS. HEALY: Can I just add
10 something?

11 So back in 2004 there was a
12 conversion from a different system and some of the
13 information did not convert over. So some of the
14 information that we may have may be on microfiche.
15 We just did not have the opportunity to go to look
16 at the microfiche to see what the original
17 registration is.

18 MEMBER MARINELLO: So will you let
19 this voter know we need this information or have
20 you or anything?

21 MS. FUHRMANN: Well, again, a
22 provisional ballot also counts as a registration.

23 MEMBER MARINELLO: But you don't
24 have a date of birth, so --

25 MS. FUHRMANN: We have the date of

1 birth that they have provided, but we have to take
2 them at their word that this is, in fact, their
3 date of birth. And if I may, I'm happy to show
4 you.

5 CHAIRMAN PREISSE: A provisional
6 ballot constitutes a registration?

7 MS. FUHRMANN: Yes, sir. The front
8 of the envelope does.

9 So they've provided us with a date
10 of birth, but we have to essentially take them at
11 their word that this is in fact their date of birth
12 because we don't have anything to compare it to.

13 DEPUTY DIRECTOR PAYNE: It provides
14 for a registration for future elections, not this
15 election. Does that make sense?

16 MEMBER SINNOTT: Any idea how many
17 registered voters we have on the roster who we
18 don't have a date of birth?

19 MS. FUHRMANN: I do not know the
20 answer to that.

21 MEMBER SINNOTT: Is it common or --

22 MR. MACKEY: I don't remember when
23 it happened, but prior to a certain date the date
24 of birth was not a requirement on the registration.
25 So people that registered before that time, that is

1 not part of the record.

2 MEMBER SINNOTT: A fairly recent
3 change? Decades ago or generations ago?

4 MR. MACKEY: Probably a couple of
5 decades at this point.

6 MEMBER SINNOTT: So presumably we
7 have a bunch of people on the rolls for whom we
8 don't have a date of birth.

9 CHAIRMAN PREISSE: What is the
10 circumstance -- maybe I'm going down a rabbit
11 hole -- whereby the date of birth would be listed
12 1-1-1800?

13 MEMBER SINNOTT: That's a default of
14 some sort.

15 MR. MACKEY: I think that was part
16 of the thing to address the people that didn't have
17 a date of birth when we converted.

18 DIRECTOR LEONARD: It's a
19 placeholder that was put in.

20 MEMBER SINNOTT: Yes.

21 MS. FUHRMANN: So I would venture to
22 say that it is not the norm that we would not have
23 the date of birth on file. For example, if you use
24 these seven provisional ballots as a sample, only
25 two out of the seven did not have a date of birth

1 on file document that we could compare to.

2 MEMBER MARINELLO: That's a lot, two
3 out of seven, though.

4 MS. FUHRMANN: Again, it's just a
5 sample; but I can't venture to say how often that
6 occurs.

7 MEMBER SINNOTT: Okay, Mel. So on
8 all seven of those, they fit within the
9 3505.183(B) (3) exception?

10 MS. FUHRMANN: Yes, sir, they do.
11 They meet all other requirements. There's nothing
12 else deficient about their --

13 MEMBER SINNOTT: And if three board
14 members find that to be true, then these ballots
15 should be counted under the Secretary's directive?

16 MS. FUHRMANN: Yes, sir.

17 MEMBER SINNOTT: And for two of the
18 seven there is no date of birth information in the
19 Board's current records to match what has been
20 placed on the provisional ballot envelope?

21 MS. FUHRMANN: That's correct.
22 There is no document to compare it to.

23 DIRECTOR LEONARD: Post-election
24 that information would be used to update the
25 voter's information.

1 MEMBER SINNOTT: Just so we're
2 seeing, do you want to raise the other five?

3 MS. FUHRMANN: Yes, sir.

4 These other five do have
5 documentation that I've printed out for your review
6 so you can compare it yourself.

7 MEMBER SINNOTT: Okay.

8 DIRECTOR LEONARD: Some were --
9 what? -- a transposition of numbers?

10 MS. FUHRMANN: Sure.

11 It's different variations on the
12 same theme. For example, we may have a month and a
13 day transposed on one of the examples. The rest of
14 the examples I think we just have a variance of
15 like one digit when it comes to the day or the
16 year. We have one example there where somebody
17 forgot the one for the date of birth of 1981. I
18 mean, just about any conceivable scenario you can
19 come up with on a date of birth mismatch is
20 probably in there, but the important point here is
21 that the affirmation statement meets the statute in
22 all other respects under 3505.13(B)(3).

23 CHAIRMAN PREISSE: Just for humor,
24 I'll point out that the manual as you've read says,
25 we can't count or you shouldn't count the votes if

1 the date of birth is inaccurate unless all the
2 other provisions are met, including providing the
3 date of birth. So I think we probably understand
4 the intent of the wise legislators and
5 administrators who created these documents and
6 laws, but it's a little circular.

7 DEPUTY DIRECTOR PAYNE: I think what
8 that means is that they can literally put in
9 anything. If they leave it blank altogether --

10 CHAIRMAN PREISSE: I see what you're
11 saying and I agree.

12 DIRECTOR LEONARD: If the
13 provisional voter provided all the other required
14 information, signature, date of birth, address.

15 MEMBER SINNOTT: As for the seven
16 provisional ballots for consideration, I move that
17 the Board approve the counting of all seven
18 provisional ballots, finding that they meet the
19 requirements of Revised Code 3505.183(B)(3) and
20 that these provisional ballots be deemed valid and
21 counted and included in the official canvas results
22 for the November 5, 2019 General Election.

23 DEPUTY DIRECTOR PAYNE: Is there a
24 second?

25 MEMBER SEXTON: Second.

1 DEPUTY DIRECTOR PAYNE: All those in
2 favor of the motion signify by saying aye.

3 (Vote taken.)

4 DEPUTY DIRECTOR PAYNE: All opposed,
5 same sign.

6 (No response.)

7 DEPUTY DIRECTOR PAYNE: The Motion
8 carries.

9 I would need a motion to authorize
10 the extraction.

11 MEMBER MARINELLO: I move that the
12 Board authorize the staff to extract the additional
13 seven approved provisional ballots.

14 DEPUTY DIRECTOR PAYNE: Is there a
15 second?

16 CHAIRMAN PREISSE: Second.

17 DEPUTY DIRECTOR PAYNE: All those in
18 favor of the motion signify by saying aye.

19 (Vote taken.)

20 DEPUTY DIRECTOR PAYNE: All opposed,
21 same sign.

22 (No response.)

23 DEPUTY DIRECTOR PAYNE: The Motion
24 carries.

25 The next motion would permit the

1 staff to remake any of the ballots that they're
2 opening that would require remakes. We have done
3 that in the past so that they don't have to come
4 back, unless of course they require voter intent.
5 If they require voter intent, they would come back.
6 If it's just a matter of them not being able to run
7 through the machine, the Board could authorize the
8 staff to remake those in a bipartisan effort.

9 MEMBER SEXTON: I move the Board
10 authorize the staff to remake provisional ballots
11 and that these remade ballots shall be tabulated
12 and included in the official canvas results for the
13 November 5th, 2019, General Election, with a report
14 to be made to the Board later today.

15 CHAIRMAN PREISSE: Second.

16 MS. FUHRMANN: Thank you for your
17 consideration.

18 CHAIRMAN PREISSE: All in favor say
19 aye.

20 (Vote taken.)

21 DEPUTY DIRECTOR PAYNE: All opposed,
22 same sign.

23 (No response.)

24 DEPUTY DIRECTOR PAYNE: The motion
25 carries.

1 There are six unscanned ballots from
2 election day that we would like the Board to give
3 approval for.

4 Jeff, you want to address that?

5 MR. MACKEY: So on the night of
6 election six ballots came back to us that were not,
7 to the best of our knowledge, counted at the
8 polling location because of problems with the
9 ballot and the bar codes or code channels or such
10 things that --

11 CHAIRMAN PREISSE: So walk us
12 through physically what we think happened.

13 MR. MACKEY: So we believe that the
14 voter voted their ballot, and when they attempted
15 to scan it there was an issue. Well, with four of
16 them there was an issue with the bar code that
17 prevented it from being scanned at the polling
18 location.

19 CHAIRMAN PREISSE: So the machine
20 kicked it out or --

21 MR. MACKEY: Right. Wouldn't be
22 taken by the scanner, right. What should have
23 happened was that the card got spoiled and the
24 voter voted again using a different ballot to vote.
25 That did not happen in this case, though, and it

1 came back to us.

2 CHAIRMAN PREISSE: So what happened
3 to those pieces of paper?

4 MR. MACKEY: So they ended up, I
5 believe, in most instances in a yellow provisional
6 envelope that the provisional reconciliation
7 determined should not have been, that they were
8 regular voters. These two even got the X in the
9 corner that would indicate the poll worker had
10 given them a ballot because they thought they were
11 a provisional voter. So these couldn't be scanned
12 in the polling location so they came back to us.
13 But they -- upon reviewing all the information we
14 had, I believe that they were regular voters, these
15 should have been counted at the polling location.
16 So we would like to remake those ballots so that
17 they can be included in the official canvas.

18 CHAIRMAN PREISSE: You just held up
19 two different versions of the ballot. The thinner
20 one is the one that goes into the --

21 MR. MACKEY: They all get read in
22 the scanner, but this one would have been cast on
23 the voting machine.

24 CHAIRMAN PREISSE: The other two --

25 MR. MACKEY: Are paper ballots.

1 CHAIRMAN PREISSE: Gotcha.

2 DEPUTY DIRECTOR PAYNE: So for all
3 practical purposes, it was poll worker error in
4 putting them in a provisional envelope. That
5 should not have occurred.

6 MR. MACKEY: Right. Yeah

7 DIRECTOR LEONARD: Right.

8 What should have occurred -- and the
9 machine could not read. It should have been
10 treated as a spoiled ballot. The voter would get
11 another ballot blank and cast their vote using the
12 ballot marker or make their selections, print it
13 again, and put it into the ballot counter. But it
14 appears in this instance that the poll worker
15 simply treated it -- put in envelope and the system
16 processed it.

17 MEMBER SEXTON: So we just simply
18 need to rescan them?

19 MR. MACKEY: Well, we need to remake
20 them so that they will scan and then we'll scan
21 those. They've all ended up on full-face ballots
22 now.

23 MEMBER SINNOTT: I guess this is a
24 category of spoiled ballot that we would have seen
25 before we adopted the new machines?

1 DEPUTY DIRECTOR PAYNE: That is
2 correct.

3 MEMBER SEXTON: I don't think we had
4 anything like this in the primary.

5 DIRECTOR LEONARD: In the primary
6 you wouldn't had have that because the paper ballot
7 is in the machine.

8 MEMBER MARINELLO: Are you happy
9 there's only six? I mean, do you think that --

10 DIRECTOR LEONARD: Yes. I would say
11 we would like to see none, but --

12 MEMBER MARINELLO: That will happen.

13 DEPUTY DIRECTOR PAYNE: We'll
14 address that in training, as well, to our poll
15 workers to make sure that they treat those
16 correctly the next time.

17 MEMBER SEXTON: With that, I move
18 the Board authorize the staff to remake six
19 unscanned election day ballots and that each remade
20 ballot shall be tabulated and included in the
21 official canvas results from the November 5th,
22 2019, General Election with a report to be made to
23 the Board later today.

24 DEPUTY DIRECTOR PAYNE: Is there a
25 second?

1 CHAIRMAN PREISSE: Second.

2 DEPUTY DIRECTOR PAYNE: All those in
3 favor of the motion signify by saying aye.

4 (Vote taken.)

5 DEPUTY DIRECTOR PAYNE: All opposed,
6 same sign.

7 (No response.)

8 DEPUTY DIRECTOR PAYNE: The motion
9 carries.

10 The next item is the purchase of
11 firewall protection. The Secretary of State gave
12 each board of election \$50,000 for cyber security
13 upgrades, and we are required to spend that \$50,000
14 on cyber security upgrades. One of those items
15 that we would like to purchase is a firewall
16 protection.

17 Do we have -- I believe in here we
18 have --

19 DIRECTOR LEONARD: Well, Carolyn
20 Gorup from our office and David and I coordinate
21 with the data center on a pretty regular basis
22 about what needs exist to upgrade the network
23 system and ensure that we're in compliance with the
24 Secretary of State's directive.

25 And the data center is recommending

1 that we acquire an additional at firewall. And
2 again, we've been in contact with the Secretary of
3 State's office, as well. But our data center feels
4 the need that this firewall is needed, again, in
5 order to help us be in compliance with the
6 Secretary of State's cyber security directive and
7 that it is something that we can use to use the
8 Secretary of State's \$50,000 grant to purchase.

9 The data center went through -- they
10 sought price quotes for the equipment, and three
11 companies were approached. Again, the data center
12 utilizes different purchasing avenues that they
13 have. They sought quotes from three companies.
14 Two responded with quotes, one responded that they
15 were not going to quote this equipment. And the
16 purchase order that you have in front of you is the
17 purchase order for the lowest price solution.
18 Let's see. It's done off of a state term
19 purchasing cooperative. It's not state term
20 pricing in the normal sense. The county belongs --
21 the county data center belongs to different
22 contracting or cooperatives so that they give us
23 the best pricing operations, and these were
24 purchased through one of those purchasing
25 cooperatives.

1 MEMBER SINNOTT: This sounds like an
2 unusual situation where the Secretary is saying,
3 here's \$50,000 to spend on cyber security and do
4 with it what you think most important.

5 How did we go about prioritizing?

6 DEPUTY DIRECTOR PAYNE: The
7 Secretary of State helps us prioritize, too. We
8 run these by the Secretary of State, Diane Grosso.
9 She's in charge of the program. And she either
10 tells us, yes, that's a legitimate spending of the
11 \$50,000 or we'd like to see you spend it on this
12 first. And actually, that is the case in this
13 situation, they suggested the firewall and then the
14 next, the multi-factor authentication.

15 MEMBER SINNOTT: So we're not only
16 getting authorization from the Secretary's office,
17 but we're getting a recommendation of what
18 priorities should be?

19 DEPUTY DIRECTOR PAYNE: That is
20 correct.

21 CHAIRMAN PREISSE: So in laymen's
22 terms what is this?

23 DIRECTOR LEONARD: It's essentially
24 a defensive mechanism in terms of preventing
25 external bad actors from penetrating the county's

1 system, a firewall. I mean, what a firewall does
2 in a forest fire is it's that break.

3 DEPUTY DIRECTOR PAYNE: We do have
4 firewalls already, but this is an additional
5 firewall between the Board of Elections and the
6 data center.

7 MEMBER SINNOTT: And then what is
8 the multi-factor authentication?

9 DIRECTOR LEONARD: Multi-factor
10 authentication is essentially a dual password.
11 Right now every employee in order to access the
12 Integrity software system has to input a password,
13 and also it's utilizing the existing password that
14 you put in when you log into the computer. What
15 this does -- Many of you may be familiar with
16 multi-factor authentication when it comes to your
17 credit cards, your banks. When you go in to input
18 your information or you put your log-in first and
19 then it requires you to go through a second step
20 before it will actually allow you to access your
21 account. In the same manner, Board of Elections
22 employees will have to not just input their
23 password, but they'll have a second authentication
24 factor that they're going to have to input in order
25 to access the system.

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DEPUTY DIRECTOR PAYNE:

Interestingly enough, I asked the same question of Carolyn, what is multi-factor authentication. She explained it to me. That evening I heard on the news that Disney had been hacked and the reason that they were able to be hacked was because they didn't have multi-factor authentication. I was, like, wow, I never even heard of it until that day, and then that night literally last week they are hacked.

MEMBER SINNOTT: It looks as though we'll spend 29,000 and 50,000.

DIRECTOR LEONARD: So far. There will be an additional approximately about 1,600 that we'll use to do the background checks through BCI, and then there's --

DEPUTY DIRECTOR PAYNE: There's possibly some caging.

DIRECTOR LEONARD: Possible caging, as well. But then also there are five UPS essentially backup battery units we would utilize for our servers, and that's -- we are the process of getting price quotes for that. And Carolyn expressed to me that without question we'll be able to utilize. If we use the Secretary of State's

1 funding for that type of equipment that we will
2 easily be able to make sure that we utilize all the
3 funds that are available from the Secretary of
4 State's office. That battery backup essentially
5 makes sure that -- We actually had an incident on
6 election day where our servers went down and
7 failure of the UPS, the backup battery.

8 MEMBER SINNOTT: So there will be
9 additional proposals in the future.

10 I move that the Board authorize the
11 staff to purchase firewall equipment in the amount
12 of \$17,754 from CDW-G to increase network security
13 and comply with Secretary of State Directive
14 2019-08.

15 DEPUTY DIRECTOR PAYNE: Is there a
16 second?

17 MEMBER SEXTON: Second.

18 DEPUTY DIRECTOR PAYNE: All those in
19 favor of the motion signify by saying aye.

20 (Vote taken.)

21 DEPUTY DIRECTOR PAYNE: All opposed,
22 same sign.

23 (No response.)

24 DEPUTY DIRECTOR PAYNE: The motion
25 carries.

1 MEMBER MARINELLO: Mr. Chairman, I
2 move the Board authorize the staff to engage EMCS
3 to create a multi-factor authentication capability
4 for Integrity login at a cost not to exceed \$11,550
5 to increase voter database security and comply with
6 Secretary of State Directive 2019-08.

7 CHAIRMAN PREISSE: Second.

8 DEPUTY DIRECTOR PAYNE: All those in
9 favor of the motion signify by saying aye.

10 (Vote taken.)

11 DEPUTY DIRECTOR PAYNE: All opposed,
12 same sign.

13 (No response.)

14 DEPUTY DIRECTOR PAYNE: The motion
15 carries.

16 The next item on here is the
17 Prime 3SG contract which involves election night
18 web application.

19 Director, do you want to address
20 that?

21 DIRECTOR LEONARD: The second
22 document you have that references contract
23 amendment number one is what is asked for approval.
24 3SG Prime has been providing us with support for
25 the last several years, developed the application

1 for the election night display that all of you see
2 and we've gotten a lot of compliments on the
3 functionality of that web application. We're at
4 the point where they were seeking to no longer
5 support it and -- but they want to give us that web
6 application, donate it to Franklin County, and they
7 want to take the tax write-off for it. I
8 approached Harold Anderson who handles reviewing
9 contracts and he indicated it was not something out
10 of the ordinary, that there had been other
11 instances. So the agreement simply is that they're
12 going to donate the software and we agreed to
13 accept that donation of the software application.
14 The data center has been working with us over the
15 last couple of elections. And actually during the
16 time that Prime 3SG was working with us directly on
17 the application the data center was working side by
18 side with them so that the data center is able to
19 take over supporting us with this application going
20 forward.

21 DEPUTY DIRECTOR PAYNE: And that
22 happened this last election, we operated without
23 3SG and it went seamlessly.

24 MEMBER SINNOTT: Sounds like a fine
25 idea. As long as we're talking about what people

1 see on election night, I notice that in 2019 we had
2 a 22 percent turnout. We didn't have our votes
3 counted until about 11 o'clock or so. In 2020
4 there will be a whole lot more people voting. Are
5 we concerned about 2020, given the speed of
6 counting in 2019?

7 DEPUTY DIRECTOR PAYNE: Yes. And
8 you what was great about that, if I can say, is
9 that everybody in past elections because setup and
10 take-down, closing the polling locations, took
11 longer for larger locations, they came in
12 staggered. This election, because it was so easy
13 for the Board because of our new machines to close,
14 literally all the cars got here at the same time
15 and we weren't prepared for it.

16 CHAIRMAN PREISSE: So what happened
17 when all those cars were lined up?

18 DEPUTY DIRECTOR PAYNE: They backed
19 up all the way to Karl Road.

20 DIRECTOR LEONARD: What happens is
21 the drive-thru area is located on the east side of
22 building. There are two drive-thru passageways.
23 And the VLMs, the two-person teams that come back
24 from each polling location, they are queued up
25 behind the building. And so it starts -- well, it

1 was starting at Karl Road coming in. And
2 essentially once you get past the Kroger, the
3 backup at Kroger, it splits into two lines and
4 starts forming to queue up into the drive-thru
5 area. We've got ten teams of people who work to
6 get all that material out and --

7 CHAIRMAN PREISSE: So what are you
8 thinking about doing?

9 DEPUTY DIRECTOR PAYNE: More lanes.

10 DIRECTOR LEONARD: More lanes.

11 DEPUTY DIRECTOR PAYNE: More tents
12 to break up people, more staff.

13 DIRECTOR LEONARD: Antone has been
14 working on that already. We've been looking at it,
15 what happened, how we improve it. I mentioned the
16 idea of we simply start sending teams of people out
17 between the lines of cars and simply getting the
18 sticks with the results and verifying with the poll
19 workers in the car that you have everything you're
20 supposed to have. So if you didn't bring back the
21 ballot box, if you didn't bring back the chute from
22 the ADA compliant machines or you didn't bring back
23 the USB sticks from the ballot counters, then we
24 know that as soon as possible so we can start
25 sending them back to get that information. But if

1 they have the book -- there's a binder that we get
2 from everything voting location manager that has
3 all those USB sticks in it -- that we start working
4 the line to get that ahead of time so that
5 somebody's not sitting in line for 45 minutes.

6 CHAIRMAN PREISSE: When you can walk
7 out and get it?

8 DIRECTOR LEONARD: Yeah. When we
9 can walk out and get it and bring it back. And we
10 can give some kind of receipt so that when they get
11 to that point in drive-thru line they can show
12 somebody that I gave that to somebody already.

13 CHAIRMAN PREISSE: Why do they need
14 to say in line?

15 DIRECTOR LEONARD: Because there's
16 other stuff that needs to come back. But what that
17 does is when they get to that point then you're
18 just taking it out. Right now what we do is we
19 take it out and we're sorting through to pull out
20 the things that we need right away.

21 DEPUTY DIRECTOR PAYNE: Which worked
22 in past elections because they were staggered and
23 we weren't rushed. This time it's, like, holy cow,
24 we're a victim of our own success. Because the
25 machines, the close-down, we heard from all of our

1 poll workers how easy it is so they all got here at
2 the same time.

3 DIRECTOR LEONARD: We are looking at
4 ways to improve that election night drive-thru and
5 exploring different options that are available to
6 us to move that quicker. And again, the other
7 part, too, is if somebody doesn't have everything
8 that we start that process of sending them back out
9 sooner. Because sometimes what will happen is if
10 you have a late arrival and you find out they've
11 been sitting in line for 20 minutes or a half hour
12 only to get to front of line to be told you need to
13 go back and get something.

14 CHAIRMAN PREISSE: Yeah. But aren't
15 the machines being collected, as well?

16 DIRECTOR LEONARD: No. The machines
17 don't get collected until the next day or -- Well,
18 we spend the next two weeks after post-election
19 sending our trucks out to pick up the machines.
20 The thing they bring back election night is the box
21 from the ballot counter, that big ballot scanner.
22 There's a box underneath that. There's a chute
23 that attaches to the ADA machine and then there's a
24 binder with all of the USB drives and then there's
25 a whole bunch of other stuff, workbooks and --

1 There's a lot of other material that comes back
2 that's brought back by the poll workers. So we are
3 definitely working on that.

4 MEMBER SINNOTT: We had almost
5 12 months to work on this. And from a management
6 perspective, this needs to be a matter of the
7 greatest priority because there is this one
8 particular moment when the eyes of everyone
9 interested in central Ohio politics turns to how
10 well the Board is doing counting votes. And we
11 were stymied in 2019 because of this phenomenon in
12 the parking lot.

13 DIRECTOR LEONARD: That's why I say
14 the idea of going out -- instead of somebody
15 sitting in line in their car with this binder
16 waiting to get to the front of the line, we go out
17 and get it. Because again, number one, to make
18 sure they got it and that they have everything and
19 it allows us to get it processed and we can start
20 processing those results quicker.

21 MEMBER SINNOTT: That is the one
22 moment where we are center stage in our core
23 central function of counting votes. Thank you for
24 that explanation. It was interesting.

25 MEMBER SEXTON: I move the Board

1 authorize the Director and Deputy Director to
2 execute the Prime 3SG agreement and accept the
3 donation to the Franklin County Board of Elections
4 of the election night web application.

5 DEPUTY DIRECTOR PAYNE: Is there a
6 second?

7 MEMBER SEXTON: Second.

8 DEPUTY DIRECTOR PAYNE: I'm going to
9 do roll call.

10 Kim Marinello.

11 MEMBER MARINELLO: Yes.

12 DEPUTY DIRECTOR PAYNE: Mike Sexton.

13 MEMBER SEXTON: Yes.

14 DEPUTY DIRECTOR PAYNE: Doug
15 Preisse.

16 CHAIRMAN PREISSE: I'm going to
17 abstain.

18 DEPUTY DIRECTOR PAYNE: And Brad
19 Sinnott.

20 MEMBER SINNOTT: Yes.

21 DEPUTY DIRECTOR PAYNE: The motion
22 carries.

23 The next item on the agenda is the
24 background check policy.

25 Do you want to address that,

1 Director?

2 DIRECTOR LEONARD: Yes.

3 The Board members at the last
4 meeting discussed the background check policy
5 that's a requirement of the Secretary of State's
6 security directive, Directive 2019-08. And one of
7 the elements of that directive is that each board
8 is required to adopt a policy for conducting
9 background checks. The directive specifies that
10 all permanent employees of the board of elections
11 must be subject to a background check and all
12 vendors that perform sensitive services for the
13 board.

14 After the last meeting we had
15 further conversations with the Secretary of State's
16 office because two questions that seemed to be
17 still outstanding were, one, whether or not we were
18 required to do a background check through BCI, and
19 the second, whether or not felony convictions were
20 an automatic disqualification from employment with
21 the board of elections.

22 With regard to BCI, we have had
23 conversation -- And you may want to interject some
24 of the conversations you've had, Deputy Director,
25 with the Secretary of State's office. But I

1 believe that there is the authority to conduct
2 the -- Well, their information that they provided
3 us at the time, there were some forms that they
4 provided us that did make it clear that the
5 background checks needed to be done through BCI.
6 Then the question became, well, does the Secretary
7 of State have authority to have those background
8 checks done by BCI. And it's my understanding that
9 they believe they do based on the directive.

10 And, then, if you would -- Deputy
11 Director, you had mentioned you talked to Patrick
12 Piccininni, counsel up there.

13 DEPUTY DIRECTOR PAYNE: He mentioned
14 that the reason that BCI was required and that
15 fingerprinting is required is because now, since
16 the 2016 elections, that we are under the
17 auspices -- elections are under the auspices of
18 Homeland Security and they require that level of
19 background check for full-time employees.

20 DIRECTOR LEONARD: As a critical
21 infrastructure.

22 DEPUTY DIRECTOR PAYNE: And we are
23 required by the Secretary of State and confirmed
24 with other boards of election, they're all using
25 BCI, they're all using fingerprints. And then to

1 the other issue of felony convictions, the
2 Secretary of State's office as they sometimes do
3 asked us to talk to our county prosecutor. And I
4 believe -- I don't want to speak out of turn, but I
5 believe our county prosecutor believes that felony
6 convictions are a non-starter and that the Board
7 does not have discretion in that. And we talked to
8 Andrew King who is with the Secretary of State's
9 office and he said I cannot give you advice but I
10 wouldn't disagree with your county prosecutor.

11 DIRECTOR LEONARD: I did reach out
12 to some other counties about their approach with
13 regard to felony convictions. Hamilton County,
14 their policy that they've adopted has a specific
15 prohibition that essentially says all applicants
16 with past felony convictions are not eligible for
17 appointment. Applicants with past misdemeanor
18 convictions will not be automatically disqualified.

19 CHAIRMAN PREISSE: Is that eh ORC on
20 this felony matter or --

21 DIRECTOR LEONARD: As we discussed
22 the last time, there was two statutory provisions
23 that we were looking at, 3501.27, which is the
24 statutory provision that said that election
25 official is geared towards precinct election

1 officials. But it says that an election official
2 shall not be -- a conviction of a felony can't be
3 an election official. Then when you read 3501.10,
4 I believe it is, that specifies -- .01(U) defines
5 election official. 3501.01(U), that section
6 defines what an election official is. And that
7 definition of an election official includes
8 employees of the board of elections. So when you
9 read the two in conjunction with one another, that
10 an election official cannot be a convicted felon
11 and then it defines an election official to include
12 a board of elections employee then that's the
13 requirement. And the conversation with the
14 Secretary of State's office is the logical
15 conclusion is, wait, you can't have a precinct
16 election official with a felony but you could have
17 a full-time employee with a felony. Cuyahoga
18 County, they don't have a written policy, but --
19 they said they don't have a specific written policy
20 but they have a prosecutor's opinion they relied on
21 to not hire convicted felons. Right now Montgomery
22 County still has not stopped it, but they relied on
23 an opinion from 2006 that they received from their
24 prosecutor.

25 DEPUTY DIRECTOR PAYNE: But they

1 will be required to have a policy before the first
2 of the year.

3 DIRECTOR LEONARD: Yeah.

4 Some other counties that -- I was
5 given the policy from a couple of other smaller
6 counties. Suzi O'Brien from the Secretary of
7 State's office provided those to me. And some of
8 those are just ambiguous about it, very brief, very
9 ambiguous about felony convictions.

10 MEMBER SINNOTT: So what we believe
11 is that the secretary has directed that there be
12 the BCI employee background check for all regular
13 board employees?

14 DIRECTOR LEONARD: Yes.

15 MEMBER SINNOTT: And that a felony
16 conviction would preclude board employment. And
17 that if an employee would not submit to the BCI
18 background check that an employee could not
19 continue employment at the Board.

20 DIRECTOR LEONARD: That's correct.

21 MEMBER SINNOTT: We're all in
22 agreement about that.

23 MEMBER SEXTON: There a question in
24 terms of how does this work if someone has a felony
25 convictions? I mean, my concern about this is it

1 seems like if you're 18 years old, you get
2 convicted of a felony, you pay your debt to
3 society, and then sometime later you might get
4 expunged. I mean, is this -- it kind of seems like
5 a lifetime ban from working at the Board of
6 Elections after the conviction. And I'm just
7 curious, are there ways to -- is there expungement?
8 Do we know at all or have any advice on that from
9 the prosecutor's office?

10 MR. LECKLIDER: I'll be honest, I
11 don't know whether a background check captures
12 expunged convictions. Sitting here I don't know
13 the answer to that question.

14 DIRECTOR LEONARD: And I don't know
15 for sure whether an expungement means the offense
16 never occurred. I mean, sealing it, you're simply
17 sealing it from public view. But is an expungement
18 as if the offense never occurred or is it simply
19 not available to view? And to your point -- I
20 haven't considered that -- will a BCI check find an
21 offense expunged.

22 So the other aspect of it is in
23 section two of -- it's on the bottom of page two --
24 for our operational purposes David and I, because
25 we are required by the directive to conduct the BCI

1 background check for all full-time employees, that
2 that's the methodology we will use for full-time
3 employees, but for seasonal staff, part-time staff
4 the directive doesn't require it to be done by BCI.
5 And so for those instances a background check would
6 be done through OPENonline because, again, it
7 doesn't -- from an operational standpoint when we
8 bring in six new seasonals on a particular Tuesday
9 during the election cycle for us to go through this
10 whole process of getting it arranged for
11 fingerprinting, it just -- it becomes cumbersome
12 for us. So to be able to do an OPENonline
13 background check without a fingerprint requirement,
14 we would like to pursue that method for processing
15 seasonals and part-time because, again, it's just
16 operationally more efficient.

17 DEPUTY DIRECTOR PAYNE: And
18 background checks aren't required on those
19 individuals at all.

20 DIRECTOR LEONARD: But we feel we
21 ought to.

22 CHAIRMAN PREISSE: So you're
23 proposing that we add that on top of what the
24 Secretary of State is saying we have to do?

25 DIRECTOR LEONARD: Correct.

1 But that was in the original that I
2 presented at last board meeting except everybody
3 was going through OPENonline. What we've done is
4 just created a different system. For full-time,
5 they're required BCI.

6 MEMBER SINNOTT: Section 6?

7 DIRECTOR LEONARD: Yes. Section 6,
8 paragraph (A) (2) .

9 MEMBER SINNOTT: Okay. Pardon the
10 interruption.

11 DIRECTOR LEONARD: Because the
12 directive requires full-time employees to be
13 background checked through BCI, that's part of our
14 policy. And since we're not required to do that
15 for part-time and seasonal employees, we're going
16 to do the background check through OPENonline
17 because operationally we feel it's a better method
18 for us, it's quicker, and --

19 CHAIRMAN PREISSE: And this has to
20 happen with everybody in both categories in the
21 fourth quarter of every year immediately preceding
22 a presidential year. So that's now.

23 DIRECTOR LEONARD: Right. So that
24 would be the plan.

25 So that being that we update it

1 every four years, because if something happens in
2 the interim. So whether you started with us six
3 months ago or three and a half years ago, you still
4 have to go through another background check.

5 DEPUTY DIRECTOR PAYNE: And that's
6 also a requirement that our background checks be
7 done for full-time employees before the first of
8 the year.

9 CHAIRMAN PREISSE: So when -- I
10 don't want to get too far in the weeds here, but
11 because we've had some inquiries and concerns.
12 When an employee submits to this process, there's a
13 file created at BCI and/or here or where?

14 DIRECTOR LEONARD: We'll get --

15 CHAIRMAN PREISSE: Is that public
16 information?

17 DIRECTOR LEONARD: We will get a
18 report back and that will be part of a file. At
19 this point, it wouldn't be placed in the person's
20 personnel file. There would simply be a file of
21 all the background checks made.

22 CHAIRMAN PREISSE: And that file
23 will probably be maintained at BCI and here?

24 DIRECTOR LEONARD: I would imagine
25 BCI would maintain a copy of it. I don't know what

1 they do.

2 CHAIRMAN PREISSE: Is that public
3 information?

4 DIRECTOR LEONARD: That, I can't
5 answer.

6 MR. LECKLIDER: No.

7 CHAIRMAN PREISSE: We're getting a
8 "no" from counsel.

9 MR. LECKLIDER: Well, the conclusion
10 report that is generated by BCI and provided to the
11 board of elections, I believe that the board of
12 elections can maintain it in a separate file
13 separate from the personnel file and that would not
14 considered a public record. So if someone
15 requested a personnel file of an individual, I
16 believe the Board can legally maintain a separate
17 file within this confidential information and it is
18 not disclosable. And I would have to believe the
19 same applies to the BCI.

20 DEPUTY DIRECTOR PAYNE: And the
21 other thing, that's not coming to Director or I;
22 that's coming to human resources. So we won't have
23 access to it unless human resources finds something
24 that requires them to bring it to the Director and
25 I. And likely, if that happens, we would then

1 bring that to the Board.

2 CHAIRMAN PREISSE: Thank you.

3 MR. LECKLIDER: And if I may add, to
4 the extent that there's information being
5 maintained by the county human resources
6 department, then, of course, they maintain
7 confidential information on every employee that is
8 protected that is not disclosed. I mean, health
9 related information and so forth is a prime
10 example.

11 MEMBER SINNOTT: If we adopt this
12 policy today, by what point would BCI background
13 checks be complete? Do you we know?

14 DEPUTY DIRECTOR PAYNE:
15 December 6th, is that when they're coming in?

16 DIRECTOR LEONARD: December 5th
17 they're going to be here to do the scans. They do
18 not do fingerprint cards, you know, ink and paper
19 fingerprint cards, they will do a fingerprint scan.
20 And so they've reached out to them about how we can
21 do this in a much more orderly fashion since we
22 have 44 full-time employees. And they will come to
23 our facility in the conference room and simply do
24 the fingerprint scan at that point.

25 MEMBER SEXTON: This covers

1 full-time and part-time employees, but not poll
2 workers?

3 DIRECTOR LEONARD: We don't do
4 background checks for poll workers. Poll workers,
5 part of their application is attestation that they
6 are not convicted of a felony. But the background
7 checks, again, full-time employees will get a
8 background check through BCI; part-time and
9 seasonal and temporary employees, they will be
10 through OPENonline.

11 CHAIRMAN PREISSE: And poll workers,
12 not anything other an attestation. What about
13 members of the Board of Elections?

14 DIRECTOR LEONARD: That I'd have to
15 verify. The initial reaction and response I got
16 from our liaison from the Secretary of State's
17 office is that board members would have to, but
18 I -- I want to get --

19 CHAIRMAN PREISSE: We're not
20 employees.

21 MEMBER MARINELLO: We did a
22 background when we --

23 DIRECTOR LEONARD: That's why I want
24 to get clarification from more than just our
25 liaison.

1 CHAIRMAN PREISSE: I thought we
2 already did a background check.

3 DIRECTOR LEONARD: In order to be
4 appointed you would have to undergo it.

5 MEMBER SINNOTT: Have we heard
6 anything about how long it takes BCI take to get
7 back?

8 DEPUTY DIRECTOR PAYNE: Ed had the
9 specific conversation. We were told they would
10 expedite it.

11 DIRECTOR LEONARD: Our counsel was
12 pointing out the fact that the provision does -- we
13 do have a provision in our policy that requires --
14 it's an affirmative duty to report. So employees
15 if are convicted of an offense during the interim
16 period, from the background check conducted now,
17 they are required to notify the Director or Deputy
18 Director they have been.

19 MEMBER SINNOTT: Do we have an
20 expectation as to when BCI will get back to us,
21 then? We know the process will be complete by
22 first week of December here, but when do we get the
23 reports back?

24 DIRECTOR LEONARD: I don't have that
25 information off the top of my head. They recognize

1 the time frame that we're under, though, and will
2 work with us on that and it will be a priority to
3 them.

4 MEMBER SINNOTT: I move that the
5 Board adopt the employee/vendor criminal background
6 check policy as presented and set up an account
7 with BCI to perform employee background checks as
8 mandated in Secretary of State Directive 2019-08.

9 DEPUTY DIRECTOR PAYNE: Is there a
10 second?

11 MEMBER MARINELLO: Second.

12 DEPUTY DIRECTOR PAYNE: All those in
13 favor of the motion signify by saying aye.

14 (Vote taken.)

15 DEPUTY DIRECTOR PAYNE: All opposed,
16 same sign.

17 (No response.)

18 DEPUTY DIRECTOR PAYNE: The motion
19 carries.

20 At this point, the only item we
21 could discuss -- we're waiting for results -- the
22 only thing we could do at this point is we could
23 either recess or we could discuss the 2020
24 communications plan.

25 CHAIRMAN PREISSE: Do we have a

1 sense of if we were to recess how much time that
2 would --

3 DEPUTY DIRECTOR PAYNE: I can go
4 back and ask.

5 CHAIRMAN PREISSE: I mean, it makes
6 a difference whether any of us want to go downtown
7 for meetings or not.

8 DEPUTY DIRECTOR PAYNE: Let me go
9 ask.

10 CHAIRMAN PREISSE: Thank you.

11 (Brief recess taken.)

12 DIRECTOR LEONARD: Well, again, in
13 terms of the communications plan, I've spent time
14 putting this together. Hopefully all the board
15 members if not today between now and our next
16 meeting will have the opportunity to review it all.

17 But I mean, I don't think it takes a
18 genius to know that our 2020 election is going to
19 be the biggest election this organization has ever
20 faced. Our voter rolls right now for the
21 November 2019 election are what they were in 2016.
22 They are what they were in 2008. So they are --
23 our registration rolls at 843,000 registered voters
24 are going to only grow and they're going to grow
25 substantially between now and the November 2020

1 election. And the turnout is likely to be larger
2 than it was in 2016 or 2008; but even in raw
3 numbers it's definitely going to be larger. And we
4 need to be encouraging voters to use every method
5 available. So, again, not to just advertising, but
6 every communication method that we have. One of
7 the reasons we got to do that is to avoid
8 congestion here at early vote center. We've seen
9 the construction of the Bank of America and the
10 Burger King as well as the fact that Home Buys is
11 occupying the old Kroger space. If that
12 construction took up 256 spaces and then you add to
13 it what Home Buys is taking and even adding back in
14 all the extra spaces that we got from the
15 re-striping and the resurfacing of the parking lot,
16 we're still 163 parking spaces short of where we
17 were in 2016 and even in 2016 we were packed to the
18 gills. We had people parking on the grass, they
19 were parking on service roads, they were parking --
20 they were backed up on Morse Road. Even our CPD
21 representatives are warning against the fact that
22 we could have it backed up all the way to 71.
23 That's how concerned they are. And they are the
24 ones directing the traffic. We've had wait times
25 as long as an hour plus for the early vote center,

1 and we are doing everything we can to improve that.
2 We've done work on the parking lot. We've done
3 work with the mock election that we did to try and
4 find ways to maximize the through put of voters at
5 the Board of Elections, but we still need to be
6 encouraging people to utilize the vote by mail
7 system to its fullest capacity, we need to be
8 encouraging voters to use the entire 28-day period
9 of early vote instead of simply showing up on the
10 weekend before the election. Because, again, if we
11 do, we're going to be swamped. And the Board of
12 Elections has a great reputation for the early vote
13 center and the way it operates and we don't want to
14 spoil that with having it being way too congested
15 at the early vote center. One rationale is to
16 reduce provisional voters. I mean, we were all
17 here when we got criticized about provisional
18 voters and the high number of provisional voters we
19 have. And the three primary reasons people fail
20 to -- or that they end up having to vote
21 provisional is they haven't updated their
22 registration or haven't registered, they fail to
23 bring the correct ID or they fail to go to the
24 right polling location. Those are the types of
25 things that a public education effort and an

1 advertising and communication plan can help
2 rectify. And again, these are -- since the 2016
3 election and now when you include this year -- this
4 election's numbers of provisionals, we have over
5 48,000 provisional voters that have voted since the
6 '16 election. And now over 6,000 of those were
7 rejected. Provisional voters showed up at the
8 polls and wanted to cast their votes and their
9 votes were rejected because either they didn't have
10 the right ID, they hadn't updated or registered, or
11 they were at the wrong location and they were
12 rejected because of that. Since the 2016 election,
13 2017, '18, and '19, we've had 45,000 people vote
14 provisional and of those -- I'm sorry -- 48,000,
15 and of those over 6,000 got rejected because of
16 those reasons, didn't have the right ID, didn't
17 update their registration or register, and they
18 didn't show up at the right voting location. So
19 again, we could be doing better, and part of that
20 is educating the voters. Our voter registration
21 rolls, since 2016 we've 24,000 18-year-olds join
22 the voting rolls. We've had over 16,000
23 naturalized citizens since 2016. So we have new
24 people who are joining the ranks. We had 164,000
25 new registrations in Franklin County and it doesn't

1 even consider all the people who either moved
2 within Franklin County or who moved here from
3 another county into Franklin County. So these are
4 all people who need that information and we should
5 be the ones to be providing that. One of the
6 things about the impact on polling locations is
7 that I think *Steve Buhlen would tell you and many
8 of the folks who train our poll workers is that the
9 biggest thing that gums up the works on election
10 day, some of the biggest issues we have is
11 provisional voters, that they have to kind of take
12 them off to the side, you've got to confirm whether
13 or not they should be voting provisional, and then
14 that whole process, and it slows things up at the
15 polling location and creates headaches at the
16 polling location and it creates headaches for the
17 people who don't have to vote provisional. So by
18 educating the voters about voter ID, by encouraging
19 voter ID and making sure they confirm their voting
20 location, those types of messages we can help
21 reduce and improve the impact at the polling
22 locations so that operations at the polling
23 locations are smoother. And then post-election
24 benefit. Chairman Preisse, you had mentioned you
25 weren't aware that the affirmation is a

1 registration form. That's the end of the process,
2 is having to process all of those. So in the last
3 presidential when we had 23,300 provisionals, those
4 23,000 affirmation envelopes had to be processed so
5 that we updated all that information post-election.
6 We have the election night verification and
7 accounting process to make sure that we've
8 accounted for all the provisional ballots, that we
9 do a very labor intensive verification process.
10 Bipartisan teams have to verify all those
11 provisional ballots. And then after it's all said
12 and done we have to -- that's all got to get
13 compressed within that 21-day period. And then,
14 finally, you have to data enter all that. So the
15 high number of provisional ballots causes a lot of
16 issues for us both at the polling location and as
17 an operational aspect, not to mention the actual
18 impact it has on voters. I mean, people who have
19 to vote provisional feel like somehow it's not
20 getting to get counted, that they aren't sure. And
21 so by reducing that, we can help give greater
22 confidence to people who are coming in to cast
23 their votes.

24 And then one of the other issues
25 that I raise that we ought to be considering as we

1 prepare is the risk of disinformation from a
2 standpoint of protecting the election to combat
3 disinformation. Secretary of State's office has
4 expressed concern about the risk of disinformation
5 campaigns, people being misled about where they
6 vote or other requirements. And the Senate
7 intelligence committee has recommended that public
8 education campaigns be undertaken in order to
9 ensure that voters know where to go to the polls.
10 It's not just about letting them know it's election
11 day, it's about making sure that they're ready for
12 election day with all the right information. And
13 Franklin County has already been targeted twice
14 before. In 2016 we had the viral story out there
15 about the fact that ballots were found in a
16 warehouse in a basement in downtown Columbus that
17 were already filled out for Hillary Clinton. And
18 then in 2018 we had a viral video out there that
19 had to get smacked down by the Department of
20 Homeland Security with the assistance of the
21 Secretary of State's office, a viral video that got
22 out there. So we're already being targeted, our
23 voters have been targeted, and we have to be
24 proactive to prepare our voters to be ready for
25 this upcoming election. So that's why I laid out

1 the four options that I laid out for you. Again,
2 I'm not one option over another. I just wanted to
3 provide you with options.

4 The first funding option is a full
5 funding option for both elections, both the primary
6 and the general election. The idea is that there's
7 a message that needs to be communicated early in
8 the process and that is at the time of early vote.
9 Because, again, we want to encourage voters to show
10 up earlier in the process as opposed to later in
11 the process. That by encouraging people to vote
12 early, earlier, will help take the stress off. So
13 if you look at the funding option on the color
14 spreadsheets, the early vote is in the tan. And in
15 the primary election that early vote advertising
16 campaign would begin February 17th, at the
17 beginning of the early vote cycle, and continue on
18 to March 10th. And again, the idea being you want
19 to start that early in the process so you encourage
20 people to take advantage of early vote as early as
21 possible. Then the components of it include
22 broadcast television, over-the-top, which is a
23 method of advertising in streaming services,
24 there's cost for production, radio, radio
25 production, digital. And then for the primary, if

1 you go down that same column, further down there is
2 the voter ID and voter location campaign,
3 advertising campaign, and that would be beginning
4 March 11th through the morning of election day.
5 And that part of that campaign is a different
6 message, and that message is ensuring voters know
7 where to go and know what to bring, that they know
8 where their voting location is, that they know what
9 they voter ID they need to bring so we can, again,
10 cut down on the number of provisional voters by
11 making sure the voters know as best as possible
12 what voter ID they need to bring and how they can
13 be ready by checking their voting location to
14 ensure they know where they've supposed to go to
15 vote. And then on the far column it has the
16 general vote, the columns on the right of the
17 spreadsheet for option one. Those lay out the same
18 advertising campaigns or the same advertising
19 messages for the period right before early vote
20 starts in the general election. And the period
21 right before election day down below in the
22 right-hand corner is the general election costs for
23 advertising for the same voter identification,
24 voting location message that would be in the
25 primary. And then on the second page of the

1 funding option number one is, again, a separate
2 message for voter registration. And this would be,
3 again, encouraging people to update their
4 registration, get registered to vote, make sure
5 that their registration is updated, and that time
6 frame would be in the period before the close of
7 registration. And so because you have different
8 messages that need to be communicated at different
9 times, that's why it's laid out the way it is.

10 And then funding option two is
11 essentially the same as funding option one, with
12 the exception that newspaper advertisement are
13 reduced -- or eliminated, I should say, which then
14 brings the cost for funding option two down to
15 808,000.

16 Funding option three is the same as
17 one with the exception of in the primary it
18 eliminates the early vote message. I think it's
19 beneficial to communicate to individuals about the
20 need to vote as early as possible and get people in
21 that mindset of taking advantage of the full
22 28 days of the early vote cycle. But if we had to
23 reduce the cost and we had to eliminate a message,
24 the early vote message for the primary may make the
25 most sense to eliminate. Because the idea being is

1 that if you reduce the amount being spent on a
2 message you're essentially watering down the impact
3 of the message. So the better course is not to
4 water down each of your messages by reducing the
5 amount of advertising, that it's of more benefit to
6 simply decide which message you can eliminate and
7 reduced that in total. So option three eliminates
8 the early vote message, but still emphasizes a
9 voter ID message and a voting location message for
10 the primary.

11 And then the fourth funding option
12 is strictly a primary -- or I'm sorry -- a general
13 election message which would have a message about
14 voter registration, making sure people are
15 registered and updated, another message for early
16 vote that would encourage people to take advantage
17 of the full 28 days, and to encourage people to
18 take advantage of the mail. And then the third
19 message -- and again, option four is only for the
20 general election and the same -- another message at
21 the end that would focus on voter ID and voter
22 location. So, again, it provides specific messages
23 for specific time periods that are relevant to
24 those time periods. So there's no sense giving an
25 early vote message at the very end; you want to

1 give the early vote message at the beginning of the
2 cycle to encourage people to utilize it towards the
3 beginning of the cycle.

4 MEMBER SINNOTT: So Ed, to
5 understand the cost of this plan to the taxpayers,
6 in looking at option one, what we would have to do
7 is add together all of the figures in the tan and
8 all of the figures in the blue and all the figures
9 in the green?

10 DIRECTOR LEONARD: Right. The
11 totals appear in the bottom column at the bottom of
12 what is -- at bottom of the green you'll see a
13 total for primary and general, and you go all the
14 way down that column to the very back. Chairman
15 Preisse I think found it on the back of the first
16 page. And so it's the bottom right column of the
17 spreadsheet. And you'll find that the same with
18 option two. With option three it's in the bottom
19 right column that aggregates all of the figures.

20 MEMBER SINNOTT: And again,
21 referring to option one, all of this money would be
22 spent on commercial television time, radio time,
23 social media ads, newspaper, and consultants?

24 DIRECTOR LEONARD: Right.

25 MEMBER SINNOTT: All right.

1 And then, do you envision the
2 advertisements dealing with the requirements of
3 Ohio election law for voting to be recitations of
4 the provisions of Ohio law or that we be
5 encouraging the listener or viewer to go to the
6 Board's website for detailed information?

7 DIRECTOR LEONARD: It would
8 be encouraging people to -- because, again, you're
9 limited to a 30-second message or even on some
10 digital even a shorter period of time. So it
11 really would be directing them to either a 1-800
12 number -- and that's really one of the things I
13 reference in the narrative portion of the
14 communication plan is actually utilizing
15 voteohio.gov, the toll free number for the
16 Secretary of State. Because, again, at the
17 voteohio.gov address a person can update their
18 registration, verify they're registered, check
19 their polling location, they can check their
20 polling location in Franklin County, they can get
21 to it it through voteohio.gov. They can get
22 information about voter ID, essentially all the
23 information that we want to communicate, I think by
24 doing voteohio.gov. Again, it's a lot simpler than
25 saying vote.franklincountyohio.gov. And so from

1 that standpoint. But it would be more directing
2 people. And I think it would give deadlines, and
3 the fact it's easy to do encourages them to do it,
4 to verify that they are registered and making sure
5 they update, probably telling them that when they
6 move they have to update their registration.

7 Because sometimes people don't realize that, well,
8 I registered to vote. Well, yeah, but you've moved
9 since the last election. So something simple like
10 that that might be a message that would be -- but,
11 again, you have to confine it to essentially a
12 30-second spot.

13 MEMBER SINNOTT: So because of the
14 brevity of the message, necessarily we'd be
15 directing people to go to the Board's website or
16 call the Board?

17 DIRECTOR LEONARD: Yeah.

18 MEMBER SINNOTT: Thank you.

19 I move that we recess until
20 2 o'clock.

21 DIRECTOR LEONARD: And I do want to
22 extend my appreciation for the opportunity to give
23 you a little more insight into this.

24 MEMBER SINNOTT: You're welcome.

25 MEMBER SEXTON: Second.

1 DEPUTY DIRECTOR PAYNE: All those in
2 favor of the motion signify by saying aye.

3 (Vote taken.)

4 DEPUTY DIRECTOR PAYNE: All opposed,
5 same sign.

6 (No response.)

7 DEPUTY DIRECTOR PAYNE: Motion
8 carries. We're in recess until 2 o'clock.

9 (Board recessed at approximately
10 11:49 a.m.)

11 (Board reconvened after recess at
12 approximately 2:11 p.m.)

13 DEPUTY DIRECTOR PAYNE: We are back
14 from recess.

15 I'm going to ask Matt Kelly to give
16 us a report. And then I also believe we have --
17 why don't we do the remake -- or the voter intent
18 first and then we can get that moving. Does that
19 make sense?

20 MR. KELLY: I was just going to
21 report on what we did and then --

22 DEPUTY DIRECTOR PAYNE: Have at it.

23 MR. KELLY: As authorized by the
24 Board, we went into the back scanning room and we
25 scanned and delivered 2,140 ballots to the

1 tabulation room. And out of that we had 40
2 remakes, 13 ballots were from provisional
3 envelopes, 27 of the ballots that we scanned in
4 back had to be remade because it just wouldn't scan
5 through the machine, there were gutter marks and
6 other issues. So with your preauthorization we
7 went ahead and remade those ballots and scanned
8 those. But out of all those ballots we did have
9 one ballot that could not be scanned and we need
10 the Board to adjudicate the intent of the voter.
11 And I will pass this ballot up to you. Because
12 there is unclear intent in a number of races on
13 this ballot. While some of the races there were
14 clear mark-throughs in the bubbles, we would
15 specifically like you to look at municipal court
16 races with a mark under Candidate Thomas and
17 Candidate Green, those two races; the township
18 fiscal officer Shirkey; educational service center
19 candidate Glitt; Groveport Madison school board
20 candidate Snyder; and number seven tax levy, the
21 for. Those are very light markings and they may
22 have been pen pauses or marking pauses. And we
23 would like some answers on those, please.

24 MEMBER SINNOTT: So the ones you say
25 you need --

1 MR. KELLY: The municipal court
2 races.

3 MEMBER SINNOTT: Dougherty, Thomas,
4 Green?

5 MR. KELLY: Correct.

6 MEMBER SINNOTT: Did you say Kirk?

7 MR. KELLY: Township fiscal officer.

8 MEMBER SINNOTT: That's Shirkey.

9 MR. KELLY: Educational service
10 center race, Glitt. Groveport Madison school
11 board, Snyder. And then the number seven tax levy
12 under the for. There are markings there, but we're
13 not sure of intent

14 MEMBER SINNOTT: Well, as to the
15 voter intent on the one ballot in question, because
16 it is the -- I find a clear marking and it is the
17 only marking in each of these races, I move that
18 the Board count that as votes for Thomas, Green,
19 Shirkey, Glitt, Snyder, and for the levy.

20 MEMBER SEXTON: Can you read those a
21 little slower, Brad?

22 MEMBER SINNOTT: Absolutely.

23 I move that the Board as to the
24 questioned races count votes for Thomas, Green,
25 Shirkey, Glitt, Snyder, and for the levy.

1 MEMBER MARINELLO: I will second
2 that.

3 DEPUTY DIRECTOR PAYNE: There's been
4 a motion and a second.

5 All those in favor of the motion
6 signify by saying aye.

7 (Vote taken.)

8 DEPUTY DIRECTOR PAYNE: All opposed,
9 same sign.

10 (No response.)

11 DEPUTY DIRECTOR PAYNE: Motion
12 carries.

13 And if we can have a bipartisan team
14 run that back and then we will --

15 I'm going to run back just to see
16 how long that's going to take to enter that.

17 (Discussion off record.)

18 DEPUTY DIRECTOR PAYNE: Okay. We
19 are waiting for the 49-page report. We have one
20 copy. We need several more.

21 DIRECTOR LEONARD: We've settled on
22 December 9th at 10 a.m. for the rescheduling of the
23 regular board meeting.

24 DEPUTY DIRECTOR PAYNE: The next
25 item is the certification of the November 5th, 2019

1 General Election.

2 Jeff, you want to speak to that?

3 MR. MACKEY: You have before you the
4 official results report. If you have any questions
5 about it, we can go over those; but otherwise, I
6 think we are --

7 MEMBER SEXTON: I have a question
8 starting out because it's different than what I was
9 just told. I asked the question of how many
10 registered voters do we have in Franklin County as
11 of today, and I was told it was 843,000. This
12 report says registered voters total 798,310. So
13 where's the --

14 MR. MACKEY: That would have been as
15 of the close of registration.

16 MEMBER SEXTON: Close of
17 registration?

18 MR. MACKEY: 30 days before the
19 election.

20 MEMBER SEXTON: So this is -- we've
21 registered 45,000 people in --

22 MR. MACKEY: I don't know where that
23 came up. The difference would --

24 DIRECTOR LEONARD: Don't know if
25 that's active voters or total registration, and it

1 looks like it's the active voter rolls. That
2 number looks like it would be active voters and not
3 the total voter registration roll.

4 MEMBER SEXTON: So the
5 registration is -- this is actually the active
6 registered voters, not the registered voters?

7 DIRECTOR LEONARD: I don't know for
8 sure, but the figure looks to me like it would be
9 active registered voters versus all registered
10 voters, inactive and active.

11 MEMBER SEXTON: I don't want to hold
12 this meeting up, but if someone could just explain
13 before I leave today. Because we're getting calls
14 and if you call here and you ask how many
15 registered voters there are, and they'll tell you
16 843,000. Now I'm getting a report that says
17 798,000. I just need clarification. Sorry. Go
18 ahead.

19 CHAIRMAN PREISSE: No. That's a
20 good point. I noticed the same thing and would
21 like to hear the response.

22 MEMBER SEXTON: The second
23 question is -- because I know there's some people
24 here that are interested in this report -- in terms
25 of accounting a city that overlaps into another

1 county, Licking County, let's say. These numbers
2 for -- say, Reynoldsburg, for instance, these are
3 the Franklin County numbers that we are certifying
4 and not what's included in Licking County and
5 Reynoldsburg. Is that correct?

6 MR. MACKEY: That's correct.

7 DEPUTY DIRECTOR PAYNE: It was my
8 understanding that Licking County would have their
9 board meeting tonight at 4:30. Is that --

10 MR. MACKEY: We'll have numbers
11 Monday.

12 DIRECTOR LEONARD: Same hold true
13 for --

14 MR. MACKEY: Delaware is not meeting
15 until Monday, and they also had time scheduled for
16 Tuesday if they needed it.

17 DIRECTOR LEONARD: Delaware, Dublin,
18 Westerville.

19 MR. MACKEY: Dublin, Westerville,
20 council AND school boards.

21 DIRECTOR LEONARD: I'm thinking of
22 our recount watch districts.

23 MR. MACKEY: Yeah. For the gallery,
24 I am making additional copies of this. They should
25 be along shortly.

1 DEPUTY DIRECTOR PAYNE: That number
2 of 798 is active voters, and the total voters is
3 840,564.

4 MR. MACKEY: Make that correction
5 before we post anything.

6 MEMBER SEXTON: We're on
7 certification.

8 Mr. Chariman, I move that the Board
9 certify and declare as final the official canvass
10 of the votes cast at the November 5, 2019 General
11 Election as submitted by staff.

12 CHAIRMAN PREISSE: Second.

13 DEPUTY DIRECTOR PAYNE: All those in
14 favor of the motion signify by saying aye.

15 (Vote taken.)

16 DEPUTY DIRECTOR PAYNE: All opposed,
17 same sign.

18 (No response.)

19 DEPUTY DIRECTOR PAYNE: Motion
20 carries. We're certified.

21 They're passing down a document that
22 requires signatures for certification from the
23 Board members as well as the Director.

24 The next item on the agenda is the
25 selection of voting locations for recounts.

1 And Jeff, if you can go through
2 those that are recounts. And I believe on the
3 overlaps it requires the Ohio Secretary of State to
4 order the recount. And so what we will do in any
5 of those races that we envision could possibly be a
6 recount, once we get Licking County results we will
7 go ahead and select those today just so that we
8 don't have to come back for a subsequent meeting.

9 Jeff, go ahead.

10 MR. MACKEY: I have at this point
11 identified four races where we will require
12 recounts. Do you want to start with our tie or do
13 you want to save that for the end or --

14 The first one would be Worthington
15 City Council, if it we want to turn to page 16. It
16 says vote for three. First place is Bonnie
17 Michael, second place is Peter Bucher, third place
18 is Doug Smith at 1,497 votes, fourth place is a tie
19 at 1,496 votes. There's a one-vote difference
20 between the declared elected candidate and the
21 declared defeated candidate. One half of one
22 percent would have been 55. So it's well within
23 that.

24 And I have here slips of paper for
25 each precinct. And actually, I guess we have to

1 make a motion to conduct the recounting.

2 MEMBER SINNOTT: What are we doing?

3 I'm sorry.

4 MR. MACKEY: Because of the races
5 within the one half of one percent --

6 MEMBER SINNOTT: Got that.

7 MR. MACKEY: -- we are going to have
8 to select the precincts to do the hand count that's
9 equal to five percent of the vote.

10 DIRECTOR LEONARD: A recount is not
11 the entire district involved. It is --

12 MR. MACKEY: Do a hand count of five
13 percent of votes cast and we're going to decide
14 which precinct we're going to choose to do that in.
15 And then as long as that matches, we will scan the
16 rest of the ballots just like we did the first time
17 for the official.

18 MEMBER SINNOTT: So we're doing a
19 recount in a suburban race, but what we're going to
20 do is a hand recount of five percent of the vote?

21 MR. MACKEY: At least five percent,
22 yes.

23 CHAIRMAN PREISSE: And were you
24 telling us that 55 votes constitutes?

25 MR. MACKEY: 55 votes would have

1 been one half of one percent.

2 CHAIRMAN PREISSE: In the
3 Worthington council race?

4 MR. MACKEY: Right. The one vote
5 difference that I've identified there is well
6 within that.

7 MEMBER SINNOTT: And then every vote
8 that is not hand recounted will then be scanned
9 again and that is how we will accomplish the
10 so-called recount?

11 MR. MACKEY: Correct.

12 DIRECTOR LEONARD: That's the
13 statutory method for conducting a recount. The
14 five percent is hand counted and compared to the
15 electronic report of the results. If there's a
16 discrepancy --

17 MEMBER SINNOTT: So as one of us
18 chooses your slips of paper identifying precincts,
19 then you'll be able to tell us how many precincts
20 are needed in order to get to the five percent?

21 MR. MACKEY: Correct.

22 CHAIRMAN PREISSE: If it matches, we
23 go with a full automated recount. If the five
24 percent doesn't match, what happens?

25 MR. MACKEY: I'm not completely

1 clear on that at the moment. It's never happened
2 before, so we've never had to worry about it. I'm
3 sure there is direction.

4 MEMBER SINNOTT: Well, the results
5 from the Worthington city council race require a
6 recount. So I move that the Board conduct a
7 recount in that race by precincts, using the
8 precinct names for each of the precincts in
9 Worthington.

10 CHAIRMAN PREISSE: I think that's
11 what we needed.

12 MEMBER MARINELLO: I second.

13 DEPUTY DIRECTOR PAYNE: All those in
14 favor of the motion signify by saying aye.

15 (Vote taken.)

16 DEPUTY DIRECTOR PAYNE: All opposed,
17 same sign.

18 (No response.)

19 DEPUTY DIRECTOR PAYNE: Motion
20 carries.

21 Let's select our precincts.

22 DIRECTOR LEONARD: Which Board
23 member would like to select?

24 CHAIRMAN PREISSE: We've always
25 deferred to Kim in the past. I don't know if

1 that's sexist or outdated or what.

2 MEMBER SINNOTT: Well, she's been
3 reliable.

4 MEMBER MARINELLO: Worthington 04-A.

5 DEPUTY DIRECTOR PAYNE: So we got
6 what we needed for that race?

7 MR. MACKEY: Yes.

8 MEMBER SINNOTT: Okay.

9 MEMBER SEXTON: For clarity, if the
10 five percent doesn't match then what's the next
11 step?

12 MR. MACKEY: Like I said, we've
13 never had to do that before so I'm not sure.

14 CHAIRMAN PREISSE: You'll let us
15 know.

16 MR. MACKEY: You will know if that
17 happens.

18 MEMBER SINNOTT: Okay. The next
19 one.

20 MR. MACKEY: Village of Urbancrest.
21 Turn to page 21. Nikky Ziglar-Zimmerman had the
22 most votes, 69. Second place in the vote for two
23 was tied at 52 between Henry Warr and Deborah
24 Larkins-Jackson. One half of one percent of the
25 126 total calculation is only sixty-three hundreds

1 of a vote, but because it's a tie it doesn't
2 matter. So what we're going to do first I think is
3 decide who the winner is by a coin toss.

4 CHAIRMAN PREISSE: And then have a
5 recount?

6 MR. MACKEY: And then order the
7 recount.

8 DIRECTOR LEONARD: If then the
9 recount changes anything, then it changes the
10 winner; but if there's no change and it remains a
11 tie, then you've already decided by coin toss who
12 the winner is. And that's the requirement.

13 MEMBER SINNOTT: Where do we draw
14 the advice of the coin toss?

15 MR. MACKEY: It is in the code.

16 MEMBER SINNOTT: Revised Code?

17 MR. MACKEY: I don't know the
18 statute. Sorry.

19 MEMBER SINNOTT: It's a state
20 statute that tells us to do it like that. Okay.

21 DEPUTY DIRECTOR PAYNE: Should we
22 identify a candidate as heads and another
23 candidates as tails?

24 DIRECTOR LEONARD: The last time I
25 recall reading the minutes of a tie vote, the Board

1 decided which candidate was tails and which was
2 heads and the coin was tossed.

3 DEPUTY DIRECTOR PAYNE: Somebody
4 want to make a suggestion on who is heads and who
5 is tails?

6 MEMBER SINNOTT: I move that for the
7 purpose of the coin toss to determine the winner
8 the council contest in Urbancrest, that Deborah
9 Larkins-Jackson be heads and Henry Warr be tails.

10 CHAIRMAN PREISSE: Second.

11 DEPUTY DIRECTOR PAYNE: All those in
12 favor of the motion signify by saying aye.

13 (Vote taken.)

14 DEPUTY DIRECTOR PAYNE: All opposed,
15 same sign.

16 (No response.)

17 DEPUTY DIRECTOR PAYNE: Motion
18 carries.

19 MR. MACKEY: Silver dollar here.
20 Susan B. Anthony is the head and the eagle is the
21 tail.

22 MEMBER MARINELLO: Do I want to do
23 it?

24 MEMBER SINNOTT: Yeah.

25 MEMBER MARINELLO: The heads is

1 Susan B. Anthony. Right?

2 MEMBER SINNOTT: Yes.

3 MEMBER MARINELLO: So Susan's
4 picture is heads, so it's Deborah Jackson.

5 MEMBER SINNOTT: So the result of
6 the Urbancrest village council race requires
7 recount. I move that the Board conduct a recount
8 in the Urbancrest village council race by precincts
9 using the precinct names for each of the precincts
10 in Urbancrest.

11 MR. MACKEY: Urbancrest is one
12 precinct so we will hand count the whole thing.

13 CHAIRMAN PREISSE: Second.

14 DEPUTY DIRECTOR PAYNE: All those in
15 favor of the motion signify by saying aye.

16 (Vote taken.)

17 DEPUTY DIRECTOR PAYNE: All opposed,
18 same sign.

19 (No response.)

20 DEPUTY DIRECTOR PAYNE: Motion
21 carries.

22 MR. MACKEY: Prairie Township fiscal
23 officer, page 29, Sherry Henning is currently the
24 declared elected candidate. Dan McCardle is behind
25 by ten votes. One half of one percent of that race

1 is 10.04. So ten is within recount.

2 DEPUTY DIRECTOR PAYNE: So we're
3 looking for a motion to do a recount in that race.

4 And again, refresh us, what --
5 Prairie Township is --

6 MR. MACKEY: Prairie Township fiscal
7 officer.

8 MEMBER SINNOTT: The result from the
9 Prairie Township fiscal officer race requires a
10 recount. I move that the Board conduct a recount
11 in the Prairie Township fiscal officer race by
12 precincts using the precinct names for each of the
13 precincts in Prairie Township.

14 MEMBER SEXTON: Second.

15 DEPUTY DIRECTOR PAYNE: All those in
16 favor of the motion signify by saying aye.

17 (Vote taken.)

18 DEPUTY DIRECTOR PAYNE: All opposed,
19 same sign.

20 (No response.)

21 DEPUTY DIRECTOR PAYNE: Motion
22 carries.

23 Does that require a draw?

24 MR. MACKEY: Yep.

25 MEMBER MARINELLO: Prairie H.

1 MR. MACKEY: Good.

2 DEPUTY DIRECTOR PAYNE: And do we
3 have one more, Jeff?

4 MR. MACKEY: Yes. Two more,
5 technically. These are both drawn in the event
6 that a recount is ordered by the Secretary of
7 State.

8 The first one is the Hamilton -- I'm
9 sorry -- the Hilliard board of education.

10 MEMBER MARINELLO: What page are you
11 on?

12 MR. MACKEY: I'm on page 35.

13 Now, unique to this race is even
14 though it is an overlap to Union County there are
15 no voters in Union County. So we do know the final
16 outcome of this race, though the Secretary still
17 needs to order the recount. In the event that that
18 happens, we can draw our tiles here.

19 DEPUTY DIRECTOR PAYNE: So I wrote
20 the motion potentially on both races.

21 MR. MACKEY: With Reynoldsburg and
22 Hilliard?

23 DEPUTY DIRECTOR PAYNE: Yeah.

24 So we could just do, I guess, one of
25 them, the Hilliard city board of education.

1 Correct?

2 MEMBER SINNOTT: Let's see. In
3 Hilliard we have no vote from outside the county.
4 Right?

5 MR. MACKEY: Correct.

6 MEMBER SINNOTT: And then you have
7 two candidates who are within 43 votes of each
8 other?

9 MR. MACKEY: That is correct. The
10 difference between third place and second place is
11 43 votes.

12 MEMBER SINNOTT: So that would be --

13 MR. MACKEY: One half of one percent
14 was 82 votes. So well within that margin again.

15 MEMBER SINNOTT: I think the
16 suggestion is that we do these by a separate
17 motion?

18 DEPUTY DIRECTOR PAYNE: I think so,
19 yes.

20 MEMBER SINNOTT: Kim, you got this
21 or do you want me to give it a shot?

22 DEPUTY DIRECTOR PAYNE: I think
23 we're just dealing with Hilliard city school board.

24 MEMBER MARINELLO: The results from
25 the Hilliard city school board requires a recount.

1 I move that the Board conduct a recount in the
2 Hilliard city school race by precincts using the
3 precinct names for each of the precincts in the
4 Hilliard city school district.

5 DEPUTY DIRECTOR PAYNE: Is there a
6 second?

7 CHAIRMAN PREISSE: Second.

8 DEPUTY DIRECTOR PAYNE: All those in
9 favor of the motion signify by saying aye.

10 (Vote taken.)

11 DEPUTY DIRECTOR PAYNE: All opposed,
12 same sign.

13 (No response.)

14 DEPUTY DIRECTOR PAYNE: Motion
15 carries.

16 MEMBER MARINELLO: Hilliard 01-D.

17 DEPUTY DIRECTOR PAYNE: Do we need
18 another one?

19 MR. MACKEY: Yeah. We're going to
20 need four or five probably. Go ahead.

21 MEMBER MARINELLO: Columbus 69-J.

22 MR. MACKEY: Okay.

23 MEMBER MARINELLO: More?

24 MR. MACKEY: Yeah.

25 MEMBER MARINELLO: Hilliard 01-F.

1 MR. MACKEY: That's four percent
2 now.

3 MEMBER MARINELLO: Columbus 77-E.

4 MR. MACKEY: That's plenty. Thank
5 you.

6 DEPUTY DIRECTOR PAYNE: And then the
7 final race we'll draw for recount is Reynoldsburg
8 City Council, Ward 2.

9 MR. MACKEY: And that you will find
10 on page three. We will have significant numbers
11 from Licking County on this one, so don't use this
12 as a barometer of who has won or lost at this
13 point.

14 MEMBER MARINELLO: We won't have
15 those until Monday?

16 DIRECTOR LEONARD: The election
17 night result showed two votes separating the
18 candidates, if I recall correctly.

19 DEPUTY DIRECTOR PAYNE: Is there any
20 explanation required in that? Are we looking for a
21 motion or --

22 MR. MACKEY: Yeah. So the motion
23 should probably read in the event of a recount.

24 MEMBER MARINELLO: In the event that
25 the Secretary of State orders a recount in the

1 Reynoldsburg, Ward 2 member race, I move that the
2 Board select precincts using the precinct names for
3 each of the precincts in the Reynoldsburg City
4 Council, Ward 2.

5 CHAIRMAN PREISSE: Second.

6 DEPUTY DIRECTOR PAYNE: All those in
7 favor of the motion signify by saying aye.

8 (Vote taken.)

9 DEPUTY DIRECTOR PAYNE: All opposed,
10 same sign.

11 (No response.)

12 DEPUTY DIRECTOR PAYNE: Motion
13 carries.

14 And we do need to draw. Correct?

15 MEMBER MARINELLO: Reynoldsburg
16 02-C.

17 MR. MACKEY: That's sufficient.

18 DEPUTY DIRECTOR PAYNE: Thank you.

19 The final item on the agenda is the
20 post-election audit that's required by Secretary of
21 State Directive 2012-56, and it requires us to
22 select a countywide office race.

23 Is that correct, Jeff?

24 MR. MACKEY: Correct.

25 DEPUTY DIRECTOR PAYNE: So probably

1 one of our judicial races. I don't know if
2 somebody wants to suggest.

3 MR. MACKEY: You'll find those on
4 pages four and five.

5 MEMBER SINNOTT: Use Thomas
6 Dougherty?

7 CHAIRMAN PREISSE: Make a motion. I
8 heard no rumblings.

9 MEMBER SEXTON: This is just for --

10 MR. MACKEY: Once we have completed
11 the recount, we are required now because it's a new
12 system by the Secretary of State to do an audit of
13 the entire election. So we will do that on a
14 countywide basis and --

15 DEPUTY DIRECTOR PAYNE: And we'll
16 start that on December 10th. Correct?

17 MR. MACKEY: Assuming the recounts
18 are completed by then, yes.

19 DEPUTY DIRECTOR PAYNE: Okay.

20 MEMBER SEXTON: One of these four
21 judicial races?

22 MR. MACKEY: Yes.

23 MEMBER SEXTON: Well, I would move
24 that the Board set the post-election audit to begin
25 December 10th until completed and that the audit be

1 conducted in accordance with Secretary of State
2 Directive 2012-56 and be held at the Franklin
3 County Board of Elections, 1700 Morse Road, and
4 would select the race for the judge of municipal
5 court between Stephanie Mingo and William Sperlazza
6 as the audit race.

7 CHAIRMAN PREISSE: Second.

8 DEPUTY DIRECTOR PAYNE: All those in
9 favor of the signify by saying aye.

10 (Vote taken.)

11 DEPUTY DIRECTOR PAYNE: All opposed,
12 same sign.

13 (No response.)

14 DEPUTY DIRECTOR PAYNE: Motion
15 carries.

16 Unless there is any other business
17 to come before the Board --

18 I'm sorry. You're right. I
19 apologize.

20 MR. MACKEY: We're not going to do
21 precincts this time. I think they have to
22 decide --

23 Did that motion include doing it by
24 LID?

25 CHAIRMAN PREISSE: I don't think we

1 need to do it that way. I mean, we don't need a
2 motion, do we?

3 MEMBER SINNOTT: No.

4 MR. MACKEY: If we did it by
5 precinct it would take an hour.

6 MR. MACKEY: Green is the hundreds
7 place, the red is the tens plays, and the blue is
8 the ones place. Each LID has a three digit number
9 assigned to it. It will be the number that's
10 upright there. So the four.

11 MEMBER MARINELLO: Four.

12 And just the bottom number?

13 MR. MACKEY: Yeah, just the bottom
14 number.

15 MEMBER MARINELLO: Red six, and
16 three blue.

17 MR. MACKEY: That one is outside the
18 range of our number of LIDs. So try again, Kim.

19 MEMBER MARINELLO: 105; 170.

20 MR. MACKEY: We're at .37 percent
21 right now.

22 MEMBER MARINELLO: 398; 126; 198;
23 215; 443; 284; 134; 233; 349; 405; 404; 349.

24 MR. MACKEY: That was a duplicate.

25 MEMBER MARINELLO: 418; 364.

1 MR. MACKEY: That's got it. Thank
2 you.

3 DEPUTY DIRECTOR PAYNE: Now am I
4 ready for --

5 Do we have any other business?

6 DIRECTOR LEONARD: I wanted to
7 clarify about the tie vote because one of the Board
8 members had asked about it. The Ohio Election
9 Official Manual provides that the statute provision
10 is a tie vote is to be broken by lot and then it
11 goes on further to define lot to include flipping
12 of a coin, drawing straws, drawing names from a
13 hat, or actually splitting a deck of cards. So
14 just for that clarification.

15 MEMBER SINNOTT: I move we adjourn.

16 MEMBER MARINELLO: Second.

17 DEPUTY DIRECTOR PAYNE: All those in
18 favor of the motion signify by saying aye.

19 (Vote taken.)

20 DEPUTY DIRECTOR PAYNE: All opposed,
21 same sign.

22 (No response.)

23 DEPUTY DIRECTOR PAYNE: Motion
24 carries. We are adjourned.

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Thereupon, the proceedings were
adjourned at approximately 3:08 p.m.

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C E R T I F I C A T E

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THE STATE OF OHIO:

SS:

COUNTY OF FRANKLIN:

I, Carla D. Castle, a Professional Reporter and Notary Public in and for the State of Ohio, do hereby certify that the foregoing is a true, correct, and complete written transcript of the proceedings in this matter;

That the foregoing was taken by me stenographically and transcribed by me with computer-aided transcription;

That the foregoing occurred at the aforementioned time and place;

That I am not an attorney for or relative of any of the parties and have no interest whatsoever in the event of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Columbus, Ohio, this 20th day of January, 2020.

/s/Carla D. Castle
Notary Public, State of Ohio

My Commission Expires: September 29, 2021.

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NOVEMBER 2019 GENERAL FINAL PROVISIONAL REPORT

NAME	CODE	TOTAL	
APPROVED	001	2,104	
REMAKES	600	13	
APRI		23	
			Approved 2,140
REJECTED			
INVALID ADDRESS	006	8	
NOT REGISTERED	200	134	
NO SIGNATURE	300	10	
DOB MISSING/INCORRECT	400	1	
VOTED ABSENTEE	450	6	
SIGNATURE MISMATCH	500	9	
NO ID	520	39	
WRONG LOCATION/PRECINCT	650	27	
			Rejected 234
TOTAL		2,374	

Exhibit A

EXHIBIT B

CRIMINAL BACKGROUND CHECK POLICY

I. PURPOSE/REASON:

The purpose of this policy is to establish standards within the Franklin County Board of Elections (hereinafter the BOE) regarding criminal background checks, and to set uniform procedures for conducting investigations and evaluating investigation results to make suitability determinations for general employment and access to voting equipment and software.

II. AUTHORITIES:

- A. Section IV, Page 5, Ohio Secretary of State Directive 2019-08 issued June 11, 2019
- B. Ohio Revised Code (ORC) Section 3501.11(D), (E), and (P)
- C. ORC Section 3501.01(U) and 3501.27(A)

III. SUPERSEDES:

Any previous policy on background checks.

IV. SCOPE:

- A. This policy applies to all applicants selected for and offered positions with the BOE, including all current BOE employees.
- B. This policy also applies to current employees (full or part-time), seasonal employees, and temporary service personnel who have or will have access to voting equipment and software.
- C. The Human Resources specialist assigned per the BOE contract with County Human Resources Department along with the Director and Deputy Director are responsible for implementing the procedures contained within this policy and ensuring they are equally applied to all final candidates or employees working for the BOE.
- D. This policy also pertains to the requirement of SOS Directive 2019-08 that all vendors and contractors to submit.

V. DEFINITIONS:

Candidate – As used in this policy, a candidate refers to any individual, whether or not currently employed by the BOE, who has submitted an application or resume for a position at the BOE.

Conviction – As used in this policy, a conviction means a finding of guilty, no contest, or the imposition of a sentence by a judge or jury in any federal, state or local court.

Employee – As used in this policy, an individual who is currently appointed to a full-time position at the BOE, a part-time position of less than 30 hours per week, a “seasonal” position of no more than 40

weeks per year, a PEO trainer position that conduct poll worker training on a per class basis or an employee of a temporary service agency used to supplement BOE staff.

Favorable Adjudication – With the exception of a felony conviction by a current or prospective employee as that is defined in this policy, if either the determination that a final candidate or employee has no criminal conviction or record of criminal activity or the outcome of a background check of an individual with a criminal conviction or record of criminal activity when it is determined by the Human Resources Specialist employed by BOE, Director and Deputy Director, or the Board by a majority vote that the conviction or record of criminal activity does not prevent the individual from holding or continuing to hold a position having access to voting equipment and software. This term is used interchangeably within this policy with the concept of suitability.

Final Candidate – A candidate becomes a final candidate at the time the BOE makes this individual a conditional offer of employment.

Voting Equipment and Software – Means voting equipment upon which the BOE conducts logic and accuracy testing (including ExpressVote ballot marking devices, DS 200 ballot scanners and ExpressVote kiosks), ballot production and tabulation software, and voter data management software systems (Integrity and/or Tenex Election Desk software).

VI. PROCEDURES – CRIMINAL BACKGROUND CHECKS:

A. INTRODUCTION:

1. The BOE requires that final candidates submit to a background check which is conducted in accordance with state and federal law. Background checks ensure that the BOE does not employ any individual who is barred from county, state or federally funded employment because of the conviction of certain crimes. The BOE is also responsible for assuring that those individuals who have criminal convictions are suitable for the applied for position with the BOE. Employment in a position with the BOE is contingent upon successful completion and favorable adjudication of a criminal background check.
2. All candidates for full-time, permanent employment/appointment with the BOE or current full-time permanent employees shall undergo a statewide background check conducted through the County Sheriff's office using the Bureau of Criminal Identification and Investigation ("BCII") system. All other candidates or employees (whether part-time, seasonal, PEO trainer or temporary service agency employee) who will have or have access to voting equipment and software are required to have an initial state, local and federal criminal background check conducted by the OPENonline LLC, a Franklin County-based provider. Regardless of when an employee was hired, all employees shall undergo a background check in the manner based upon their employment status in the fourth quarter of every year immediately preceding a presidential election year if remaining in a position that has access to voting equipment and software.

B. REVIEWING A CRIMINAL RECORD:

Except in instances outlined below in Paragraph 1 of this Section or unless otherwise required by law, a record of criminal conviction(s) will not automatically disqualify a final candidate or employee from being appointed to or maintaining a position with the BOE.

If a final candidate or employee has a criminal conviction, the Human Resources Specialist assigned per the BOE contract with the County Human Resources department, with assistance, if required, from County Prosecuting Attorney's Office, will determine whether the final candidate or employee is or remains qualified and suitable to hold the position, given the criminal conviction record. When a full-time employee or a candidate for full-time employment is, based upon the Suitability Chart, subject of an individualized analysis, the final determination regarding qualification or suitability will be made by the Director and Deputy Director or the Board by a majority vote.

1. Disqualifications from employment provided by law or policy: The following will disqualify a final candidate or employee from appointment, working or continued employment at the BOE:

- (a) Refusal to consent to a background check, including unusual delay in executing the consent to conduct a background check;
- (b) Any federal or state felony conviction; or
- (c) Any conviction (felony or misdemeanor) for any federal or state election law violation. See ORC Section 3501.27(A) and 3501.01(U).

2. Misdemeanor criminal convictions considered for positions with access to voting equipment and software:

When a position includes access to voting equipment and software, the BOE will engage in the individualized analysis below when reviewing any misdemeanor conviction involving a crime of theft, dishonesty or fraud, including the following: theft, identity fraud, embezzlement, forgery, burglary, robbery, or any equivalent crime in another jurisdiction.

3. General relevance of misdemeanor criminal convictions to employment at the BOE:

Even when an employee, final candidate or employee will not, in the course of employment, have access to or use voting equipment and software, the BOE will conduct an individualized analysis on a final candidate or employee, as is set forth below.

4. Individualized analysis: (See Suitability Chart)

- (a) Unless otherwise provided by federal or state law, to determine whether a final candidate or employee is or continues to be suitable for a position, the BOE will conduct an

analysis of the duties of the position and the crime(s) committed, along with the following, which is not intended to be an exclusive list:

- i. Relationship of the criminal record to access to voting equipment and software used or accessible in the position;
- ii. The nature of the work to be performed;
- iii. The time that has lapsed since the conviction;
- iv. The seriousness and specific circumstances of the offense, including the type of harm that the final candidate or employee caused, and/or the legal elements involved in the specific crime committed;
- v. The number of offenses;
- vi. Whether the candidate or employee has pending charges;
- vii. Any evidence of rehabilitation or contrition;
- viii. Any other relevant information, including that submitted by or on behalf of the final candidate, employee or other information obtained by the BOE.

(b) Assessing a criminal background check with arrests: Since arrests are not evidence of the commission of a crime, they cannot serve as the basis for a denial of employment or continued employment. However, if the identity of the employee or final candidate is confirmed, and if there is corroborating evidence of criminal activity involving acts identified in section VI (B)(2), above, these may be considered when performing the individualized analysis in determining suitability for a position with access to voting equipment and software.

The Director and Deputy Director or the Board by a majority vote will determine from these factors, and other information deemed appropriate, whether there is a significant relationship between the duties that the final candidate, employee, seasonal employee, or temporary service personnel would perform for the BOE, and the crime(s) committed and/or criminal record and whether this renders this individual unsuitable for the job or access to voting equipment and software as a matter of business necessity. The final decision whether to withdraw a conditional offer of employment or to seek termination of employment based on this analysis will be made by the Director and Deputy Director or the Board by a majority vote.

5. Notification of automatic disqualification or unsuitability.

(a) If the Human Resources Specialist assigned to the BOE, Director and Deputy Director, or the Board by a majority vote determines in accordance with Section VI (B)(1) that a final

candidate, employee, seasonal employee, or temporary service personnel's criminal record automatically disqualifies or renders the individual unsuitable or no longer suitable for the position, the individual will be notified immediately.

- (b) The final candidate, employee, seasonal employee, or temporary service personnel will be provided a copy of the background check information upon which the Director and Deputy Director or the Board by a majority vote relied, a copy of this policy, and will be provided the reason why the criminal record rendered this individual disqualified or unsuitable for employment with the BOE.
- (c) The final candidate, employee, seasonal employee, or temporary service personnel will also be informed of the right to dispute the accuracy and/or relevancy of the criminal record within eight (8) business days. This individual may dispute the accuracy or relevance of the criminal record by providing verified information indicating that the criminal record is inaccurate or by providing information that demonstrates the irrelevance of the criminal record to the duties of the position being sought or maintained.
- (d) Once the BOE has received the final candidate, employee, seasonal employee, or temporary service personnel's dispute and accompanying information, the Director and Deputy Director or the Board by a majority vote shall make a final determination about the disqualification or suitability. After a final decision has been made about the disqualification or suitability of a final candidate, employee, seasonal employee, or temporary service personnel, there is no further appeal.

C. REPORTING OF KNOWN OFFENDERS

Should the results of the criminal background check disclose outstanding warrant(s), violation(s) of probation or parole, or any other similar outstanding actions against a final candidate, employee, seasonal employee, or temporary service personnel any pertinent information supplied as part of the background check process will be forwarded to the County Prosecuting Attorney's Office, for appropriate action on behalf of the BOE.

D. AFFIRMATIVE DUTY TO INFORM

All employees of the BOE, regardless of classification, have the affirmative duty to notify the Director or Deputy Director of any conviction (misdemeanor, felony or traffic) that occurs any time after employment with the BOE commences. This notification requirement includes convictions for offenses that occur between periods of seasonal employment. The BOE may undertake an individualized analysis of the offense and its impact upon continued employment with the BOE. Failure to notify the Director or Deputy Director within 30 days of conviction may result in disciplinary action, including possible termination of employment. This section does not place an affirmative duty upon any employee to notify the Director or Deputy Director of a coworker's conviction.

V. **CRIMINAL BACKGROUND CHECK OF VENDORS AND CONTRACTORS**

The Director and Deputy Director shall be responsible for reviewing on an annual basis the list of all Board of Elections vendors and contractors to determine which vendors perform sensitive services for the Board and therefore required to have criminal background checks conducted. “Sensitive services” is defined by Directive 2019-08 as meaning “those services that (i) require access to customer/consumer/agency employee information, (ii) relate to board of elections or Secretary of State’s computer networks, information systems, databases or secure facilities under circumstances that would permit modification to such systems or (iii) involve unsupervised access to secure facilities.”

Per Directive 2019-08, vendors and contractors may be required to pay for any background check services or may attest that a background check has been completed and that no ineligible criminal offenses have been committed. Such criminal background check attestation shall be completed by January 30, 2020 and, at a minimum, during the 4th quarter of the year immediately preceding each presidential election year thereafter or at any interval required by the Ohio Secretary of State. Any new vendor or contractor providing sensitive services shall be required to submit such criminal background check attestation prior to execution of any contract or engagement of services.

Those vendors and contractors determined by the Director and Deputy Director to perform sensitive services shall be notified of the requirement to submit attestation to the fact that all employees of the vendor or contractor have been subjected to a criminal background checks and that no ineligible criminal offenses have been committed. An “ineligible criminal offense” for purposes of this provision of the background check policy will be interpreted to mean any felony conviction or conviction of any federal, state or local election law violation.

All vendor and contractors that fail to submit the requisite attestation of compliance with this background check policy shall be ineligible to perform work for the Board of Elections. Any vendor or contractor may request exemption from the exclusion from employment with the Board of Elections. The vendor or contractor must supply detailed information regarding the circumstances justifying an exemption from the attestation requirement that “no ineligible criminal offenses have been committed.” Such exemption must be granted by a majority vote of the Board.

All vendor or contractor attestations or other documentation pertaining to criminal background check eligibility shall be maintained by the BOE Fiscal Officer with the all other contract documents for the vendor or contractor.

EMPLOYMENT SUITABILITY CHART

SECTION	ISSUES	ACTION
(B)(1)(a)	Refusal to consent to a background check, including unusual delay in executing the consent to conduct a background check	Disqualification
(B)(1)(b)	A felony conviction (federal or any state)	Disqualification.
(B)(1)(c)	Any conviction of any election law whether federal, state or local.	Disqualification
(B)(3)	General relevance of criminal misdemeanor convictions to employment at BOE.	Engage in individualized analysis (B)(4)

(B)(4)	<p>Tier 1 - Must be misdemeanor offenses</p> <ul style="list-style-type: none"> • Any loyalty or terrorism issue, • Patterns of conduct (alcoholism/drug addiction; financial irresponsibility /major liabilities; dishonesty; unemployability for negligence or misconduct; criminal conduct) • Drug manufacturing/trafficking /sale • Serious violent behavior (e.g., rape, aggravated assault, arson, child abuse, manslaughter, domestic violence) • Criminal sexual misconduct • Illegal use of firearms/explosives • Hatch Act violation • Employment-related misconduct involving dishonesty, criminal or violent behavior • Major honesty issue (e.g., extortion, armed robbery, embezzlement, perjury) • Misdemeanor theft, forgery, deceit 	<p>Engage in individualized analysis</p> <p>(1) If the violation occurred within five years of the employment application to BOE. If older than 5 years from the date of application, the offense is not disqualifying and no further analysis is conducted.</p> <p>or</p> <p>(2) If there is a pattern of criminal violations (three or more occurrences), the conduct must begin prior to last seven years, but the pattern may extend beyond the last seven years. If pattern begins after 7 years from the date of application, the misdemeanor offenses are not disqualifying and no further analysis is conducted.</p>
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	<p>Tier 2 - Must be misdemeanor offenses</p> <ul style="list-style-type: none"> • DWI/OVI/DUI • Drug-related offenses • Disorderly conduct (Assault, Criminal Mischief, Harassment) • Employment-Related Misconduct Involving (Attitude/Personality Conflict/Attendance) • Bad check 	<p>Engage in individualized analysis:</p> <p>(1) If the violation occurred within three years of the employment application to BOE. If older than 3 years from the date of application, the offense is not disqualifying and no further analysis is conducted.</p> <p>or</p> <p>(2) If there is a pattern of criminal violations (three or more occurrences), the pattern of conduct must begin prior to last five years, but may extend beyond the last five years. If the pattern begins after five years from the date of application, misdemeanor offenses are not disqualifying and no further analysis is conducted.</p>
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	<p>Tier 3 – Must be misdemeanor offenses</p> <ul style="list-style-type: none"> • Minor Liquor Law Violation • Minor Traffic Violation • Minor Disruptive Conduct (Trespassing/Vagrancy/Loitering/ Disturbing Peace) 	<p>Engage in individualized analysis</p> <p>(1) If violation occurred within two years of the employment application to BOE. If older than 2 years from the date of application, the offense is not disqualifying and no further analysis is conducted.</p> <p>Or</p> <p>(2) If there is a pattern of criminal violations (three or more occurrences), the conduct must begin prior to last four years, but may extend beyond the last four years. If pattern begins after 4 years from the date of application, misdemeanor offense is not disqualifying and no further analysis is conducted.</p>
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