

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

MINUTES OF THE MEETING ON

3/23/06

APPROVED ON 5/1/06

BY:

William A. Anthony, Jr.  
William A. Anthony, Jr., Chairman

Michael F. Colley  
Michael F. Colley, Esq.

Kimberly E. Marinello  
Kimberly E. Marinello

Carolyn C. Petree  
Carolyn C. Petree

ATTEST:

Matthew M. Damschroder  
Matthew M. Damschroder, Director

1                   BEFORE THE STATE OF OHIO  
2                   FRANKLIN COUNTY BOARD OF ELECTIONS

3   - - - - -

4     IN RE:                             :  
5     Board Meeting                   :  
6   :

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8                   Proceedings before Chairman William A.  
9     Anthony, Jr., Board Members Michael F.  
10    Colley, Carolyn Petree, and Kimberly  
11    Marinello, Director Matthew Damschroder, and  
12    Deputy Director Dennis L. White, taken at  
13    the Franklin County Board of Elections, 280  
14    East Broad Street, Columbus, Ohio, on  
15    Thursday, March 23, 2006, at 4:10 o'clock  
16    p.m.

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P R O C E E D I N G S  
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CHAIRMAN ANTHONY: I'd like to call the Franklin County Board of Elections meeting to order. Roll call, please.

(Roll call taken.)

MR. DAMSCHRODER: All members are present, Mr. Chairman.

CHAIRMAN ANTHONY: Okay. The first item on the agenda, the Reynoldsburg referendum.

MR. DAMSCHRODER: Yes. Let's take the Reynoldsburg referendum first because of the public turnout.

CHAIRMAN ANTHONY: All right.

MR. DAMSCHRODER: As you recall from our previous meetings, there was a referendum petition that was circulated in the City of Reynoldsburg last year, late summer or early fall.

The Board of Elections staff checked those signatures and found them to have a sufficient number of signatures.

1           By statute, the next step would be  
2 for the City Auditor to certify the question  
3 to the Board to be placed on the ballot.  
4 That did not happen at that time.

5           There was a recommendation by the  
6 Reynoldsburg City Attorney, as I understand  
7 it, and counsel can correct me if I'm wrong,  
8 but the Reynoldsburg City Attorney at that  
9 time said that the issue was not  
10 referendable and, therefore, should not be  
11 certified to the Board to be placed on the  
12 ballot. Therefore, there was no Board  
13 action at that time.

14           On February 28 of this year, the  
15 new Reynoldsburg City Auditor certified the  
16 question to the Board asking it to be placed  
17 on the November 2006 ballot.

18           At the last Board meeting, the  
19 Board asked its counsel to look into two  
20 specific questions of matters of law. The  
21 first being whether or not the matter in the  
22 first instance was referendable; and also  
23 whether or not there was a time element  
24 relative to the certification of the

1 question to the Board by the City Auditor.

2 I know there are multiple parties  
3 present here today, including counsel for  
4 the City, I believe. Also, counsel for the  
5 Church that is subject -- whose lease and  
6 property purchase is subject to the  
7 referendum. And I think also members of the  
8 organizing committee for the petition drive  
9 are here as well.

10 CHAIRMAN ANTHONY: I think what  
11 I'll do is let both parties speak, and  
12 then --

13 MR. PICCININNI: We'll talk.

14 CHAIRMAN ANTHONY: -- we'll talk.  
15 I guess I'll let the City Auditor -- is it  
16 City Auditor? Who's representing the City?

17 MR. HARRIS: I am.

18 CHAIRMAN ANTHONY: You have to be  
19 sworn in, sir, by our legal counsel or court  
20 reporter.

21 - - - - -

22 RICHARD HARRIS

23 being first duly sworn, testifies  
24 and says as follows:

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CHAIRMAN ANTHONY: Okay. Can you  
give us your name and who you represent.

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MR. HARRIS: Richard Harris,  
Auditor, City of Reynoldsburg. I'm here  
just as a member of the City government to  
explain my part as far as certifying  
petitions.

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I took office January 1 of this  
year. These petitions had been sitting in  
the former auditor's office since, I  
believe, September 7 of last year, when he  
failed to follow 731.29 of the Ohio Revised  
Code to certify the petitions and send them  
to the Franklin County Board of Elections.

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After talking with people at the  
Secretary of State's office and some  
conversations with Mr. Damschroder, I had  
determined that there was a case, Concerned  
Citizens vs. Calarico, which both the  
Secretary of State's office and from my  
discussions with Mr. Damschroder seemed to  
be on point after reviewing those cases.

It said the auditor was not a

1 quasi judge and the auditor should certify  
2 the petitions as it says in 731.29 of the  
3 Ohio Revised Code. On February 28 I did so,  
4 and I brought them to the Board of  
5 Elections.

6 CHAIRMAN ANTHONY: Okay. Any  
7 questions of Mr. Harris?

8 I don't have any questions.

9 MR. HARRIS: Okay. Thank you.

10 CHAIRMAN ANTHONY: Thank you.

11 There are some other folks here to speak. I  
12 am not sure which order I should do it in.

13 MR. PICCININNI: There's a  
14 protest, so they should go first.

15 CHAIRMAN ANTHONY: The protest  
16 should go first. The protest of the --

17 MR. PICCININNI: Church.

18 CHAIRMAN ANTHONY: -- the Church.

19 Okay.

20 MR. INGRAM: Thank you, Mr.

21 Chairman. My name is Bruce Ingram.

22 CHAIRMAN ANTHONY: Are you an  
23 attorney, sir?

24 MR. INGRAM: Yes. I was just

1 about ready to introduce myself.

2 CHAIRMAN ANTHONY: Oh, okay.

3 MR. INGRAM: Bruce Ingram of  
4 Vorys, Sater, Seymour & Pease, an attorney  
5 licensed to practice law in the State of  
6 Ohio. I'm representing Calvary  
7 International Worship Center, Inc., the  
8 protesting party with respect to the  
9 petitions that are before the Board today.

10 I would ask the Board's indulgence  
11 with respect to what I'm about to present.  
12 As you may know, I have to create a record  
13 here in the event that the Board of  
14 Elections chooses to certify this to the  
15 ballot.

16 While we do not think that may not  
17 be the appropriate action for the Board to  
18 take, we are nonetheless compelled to create  
19 a record here in the event this matter goes  
20 to court.

21 So with your indulgence -- and I  
22 will move through this as quickly as  
23 possible -- I'm going to have my colleague,  
24 Mr. Stewart, pass out a book of exhibits,



1 which one copy of them needs to stay with  
2 the record.

3 (Pause in proceedings.)

4 MR. INGRAM: Obviously, you folks  
5 don't want to have to haul a notebook around  
6 unless you're really interested in nighttime  
7 reading. So we will take that back from you  
8 if you choose to give that back to us. But  
9 at least for purposes of this hearing, I  
10 would like to be able to refer to that as we  
11 proceed through this. Again, I'll do this  
12 as quickly as possible.

13 It's my privilege to represent the  
14 Calvary International Worship Center. I am  
15 here today with Bishop George Dawson, who is  
16 the minister of the Church, as well as Mr.  
17 Corey Redd, who is the business  
18 administrator for the Church. And they will  
19 have two brief items of testimony.

20 If the Board will look at the very  
21 beginning of this book, there is an index.  
22 And I'd like to refer to that index so it  
23 moves this thing along and gives you some  
24 additional background, which Mr. Damschroder

1 just provided to you.

2           Exhibit 1 in your book is the  
3 special exception use permit application.  
4 The subject of this referendum is the  
5 approval by City Council of the special  
6 exception use permit to operate as a church  
7 within the zoning classification that the  
8 premises has, which is community commerce  
9 district.

10           The Church -- I'll refer to  
11 Calvary as the Church. The Church is under  
12 contract to purchase what used to be a Big  
13 Bear store. Big Bear, of course, has  
14 vacated the premises. The Church is in  
15 contract to purchase the premises and use it  
16 as a place of worship where ancillary  
17 services are pertinent and appropriate to  
18 church use.

19           The special exception use permit  
20 is not a rezoning. I want to emphasize  
21 that. When this Board gets referenda in  
22 front of it relating to zoning decisions,  
23 usually those are certified to the ballot.  
24 When the matter is a rezoning, like rezoning

1 from commercial, or from residential to  
2 commercial, that happens fairly often. That  
3 is clearly a referendable act. No question  
4 about that.

5 Here, however, the action that the  
6 City Council took to approve the special  
7 exception use permit was not a legislative  
8 act as a rezoning would be, but is an  
9 administrative act.

10 And as I will explain further, the  
11 Ohio Constitution permits only those matters  
12 that are legislative in nature to be  
13 referended. If a matter such as this, a  
14 special use exception or the granting of a  
15 special permit is the subject of a  
16 referendum, it cannot legally be certified  
17 to the ballot under the Constitution of the  
18 State of Ohio.

19 The second exhibit in this book  
20 are the minutes of the Board of Zoning and  
21 Building Appeals, which is initially charged  
22 under the Reynoldsburg Zoning Code with a  
23 hearing. And deciding upon the special  
24 exception use permit that was April 21,

1 2005, they unanimously approved this permit.

2 Under the Reynoldsburg City Code,  
3 the matter then proceeds to City Council,  
4 which on July 11, 2005, passed Ordinance  
5 58-05, which approved the action of the  
6 Board of Zoning and Building Appeals in  
7 issuing the permit. So it's Ordinance 58-05  
8 that is actually the ordinance that is the  
9 subject of this referendum.

10 Now, after the petitions were  
11 filed, those petitions were forwarded to  
12 this Board on August 19 in order for the  
13 Board to determine whether there were  
14 sufficient signatures. And that was in fact  
15 done. And the petitions were returned to  
16 the auditor by the Board, the Auditor of  
17 Reynoldsburg.

18 And at that point, the City  
19 Attorney of Reynoldsburg wrote a letter,  
20 which is also on this index; it's Exhibit 8  
21 -- excuse me, Exhibit 7. The City Attorney,  
22 William Underwood, wrote an opinion letter  
23 to Mr. Whitney, the then Auditor of  
24 Reynoldsburg, indicating that the matter was

1 not certifiable to the Board of Elections  
2 because this was an administrative and not a  
3 legislative act.

4 Mr. Whitney then wrote to the  
5 Board of Elections -- this is Exhibit 8 in  
6 the notebook -- indicating that he was not  
7 going to certify this based upon the advice  
8 of counsel, Mr. Underwood.

9 We then on behalf of the Church  
10 filed a protest. It wasn't clear to us  
11 whether, ultimately, the petition was going  
12 to be heard. The petitions were, in fact,  
13 going to be on the agenda here, for  
14 certification to the ballot. So we filed a  
15 notice of protest, which is Exhibit 5, back  
16 on August 23, '05.

17 And then there was a hearing  
18 before this Board on September 7, '05, where  
19 the Board declined to take jurisdiction over  
20 this matter because the petitions had not  
21 been certified to the Board by the City  
22 Auditor.

23 Now, between September 7, '05 and  
24 February 28, '06, a period of about five and

1 a half months, nothing was done by the  
2 petitioners with respect to challenging the  
3 action of this Board in not taking  
4 jurisdiction over the petitions, nor was any  
5 action taken against the City Auditor for  
6 failing to certify the petitions to this  
7 Board.

8           During that five-and-a-half-month  
9 period, my client spent well over \$50,000 in  
10 architect fees, and construction fees, and  
11 other fees. And they gave to the owner of  
12 the premises a \$50,000 nonrefundable deposit  
13 in reliance upon the fact that no action was  
14 taken by these petitioners to challenge  
15 either this Board's action, or the action of  
16 the auditor refusing to certify this matter  
17 to this Board.

18           Now, apparently, because there's a  
19 new auditor and he's determined that he at  
20 least is under an obligation to certify  
21 these petitions to the Board, we're now here  
22 before you today, five and a half months  
23 later, on a renewed protest.

24           Our renewed protest is Exhibit 6

1 in this book, in which we lay out chapter  
2 and verse why this protest should be  
3 sustained. And the two bases for sustaining  
4 the protests are, number one, I mentioned  
5 the fact that this subject matter of the  
6 referendum is not a referendable issue under  
7 Ohio law; it is an administrative act.

8           There are numerous cases, which  
9 I've cited in that memorandum, holding that  
10 special permit, special exception permit.  
11 Those kind of permits have routinely been  
12 held by the Ohio Supreme Court to be issued  
13 as administrative actions, not legislative  
14 actions.

15           In addition to that, in the  
16 renewed notice of protest, we set forth  
17 legal authority to the effect that where  
18 there is unreasonable delay by the  
19 petitioners in attempting to have the  
20 petition certified to the ballot, they are  
21 barred by laches and by waiver from pursuing  
22 any attempt to get this matter certified to  
23 the ballot.

24           And we submit to the Board of

1 Elections that the petitioners have not  
2 been, nor has the City been diligent in  
3 certifying these matters to this Board, and  
4 as a result, they have waived any right to  
5 have this matter on the ballot.

6 Now, in my book of exhibits there  
7 is a reference to Exhibit 10, to RC 731.29,  
8 which lays out the requirements for  
9 referendum petition under Ohio law. As well  
10 as Chapter 3501, which I'm sure the Board is  
11 familiar with, and it's Chapter 3501  
12 specifically .11(K) and .39(A)(2), which  
13 require this Board to determine the validity  
14 and sufficiency of referendum, actually, all  
15 petitions as they come before this Board.

16 And it's pursuant to that  
17 delegated authority under the Revised Code  
18 that we ask you to grant our protest and  
19 deny placement of this matter on the ballot  
20 as being both invalid and inefficient.

21 There is also under Exhibit 11 a  
22 portion of the Reynoldsburg City Charter  
23 relating to initiative and referendum, as  
24 well as portions of the Reynoldsburg



1 Planning and Zoning Code which show that  
2 church use is a semi-public use within a  
3 commercial -- excuse me -- a commercial  
4 district such as this, which indicates  
5 clearly on its face that it is not a change  
6 in zoning, it's a permitted use under the  
7 current zoning classification, and it meets,  
8 therefore, all of the standards for being an  
9 administrative act under Ohio law not  
10 subject to referendum.

11 I would now like to -- unless  
12 there are questions, I would now like to  
13 move directly to Mr. Corey Redd, the  
14 business administrator for the City. And  
15 I'd like to have him give a brief testimony  
16 with respect to the expenditures by the  
17 Church after this Board declined to take  
18 jurisdiction last December. Mr. Redd?

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COREY REDD

21

being first duly sworn, testifies

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and says as follows:

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DIRECT EXAMINATION

1 BY MR. INGRAM:

2 Q. Move right up there, Corey, if you  
3 would. Would you please state your full  
4 name and address for the record.

5 A. Corey Redd, 2433 Brookwood Road,  
6 Columbus, Ohio 43209. I'm the Business  
7 Administrator for Calvary International  
8 Worship.

9 THE REPORTER: Could you spell  
10 your last name, please.

11 THE WITNESS: Redd, R-e-d-d.

12 BY MR. INGRAM:

13 Q. And Mr. Redd, would you please  
14 tell the Board here, what items of  
15 expenditure the Church has expended since  
16 September 2005; that is, after the Board met  
17 and declined to take jurisdiction over these  
18 petitions.

19 A. Number one, we gave a \$50,000  
20 nonrefundable deposit to the owner of the  
21 Kellough Group. That was in February of  
22 '06. We started construction completed by  
23 Liberty Construction Group in February, and  
24 we were billed \$4,000 for that.

1           We had spent approximately \$6,000  
2     for associates up to date. We have spent  
3     approximately \$2,000 for insurance on the  
4     building with O'Dell Insurance Agency.  
5     We've spent another \$300 in chair rentals  
6     when we had a dedication ceremony in  
7     February 2006. And we paid \$575 to the City  
8     of Reynoldsburg for a building permit in  
9     February 2006 also.

10           MR. INGRAM: All right. Thank  
11    you. Lastly, I would like to have Bishop  
12    George Dawson to testify briefly.

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14

GEORGE E. DAWSON, JR.

15

being first duly sworn, testifies

16

and says as follows:

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DIRECT EXAMINATION

19

BY MR. INGRAM:

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Q.           Would you please, Bishop Dawson,

21

state your full name and address for the

22

record.

23

A.           Bishop George E. Dawson, Jr., 707

24

Fairway Boulevard, Whitehall, Ohio.

1 Q. Now, Bishop Dawson, with respect  
2 to the Church's activities -- I'm going to  
3 short-circuit a lot of this. With respect  
4 to the Church's activities after September  
5 7, 2005, at which time the Board declined to  
6 take jurisdiction over these petitions, can  
7 you describe for the Board, what activities  
8 the Church carried out on the premises that  
9 are the subject of the special use exception  
10 that was granted by the City of  
11 Reynoldsburg?

12 A. Well, we went over and had a  
13 dedication service. And, I believe, the  
14 dedication service was on Thursday. We  
15 purchased -- well, we rented close to about  
16 500 chairs. Had them delivered. Went in  
17 and had a service.

18 And after communicating with the  
19 owners, the owners gave us the right to come  
20 in. We went in and had a service. We had  
21 somewhere around 200 or 300 people show up.

22 Q. Now, I understand that service was  
23 sometime in early February, approximately  
24 February 9, 2006?

1 A. Yes, sir.

2 Q. And was the construction that Mr.  
3 Redd testified to, can you describe what  
4 construction you have carried out at the  
5 Church since September 7, '05?

6 A. Dean Baumgardner is our architect.  
7 Dean Baumgardner -- and a matter of fact, I  
8 delivered it myself. Me and one of the  
9 Deacons delivered the monies for the special  
10 use permit to have a wall built as soon as  
11 you enter the big door entrance to the left.

12 We had a wall put up for prayer  
13 vigils so we can go in and have prayer  
14 service. That wall has been constructed.  
15 It was constructed -- well, the permit was  
16 done before the service, and then the wall  
17 was constructed a little after.

18 Q. And you obtained a building permit  
19 from the City of Reynoldsburg in order to do  
20 that construction?

21 A. Yes, we did.

22 Q. Now, I understand, however, that  
23 the City of Reynoldsburg has said they will  
24 not permit any further services in the

1 church building because you need an  
2 occupancy permit; am I correct in that?

3 A. Yes, sir.

4 Q. Okay. So no church services have  
5 actually been held then, since the  
6 dedication service in February?

7 A. Right.

8 Q. And do you know what the reason  
9 is, why the City of Reynoldsburg is  
10 withholding an occupancy permit?

11 A. Well, they say they're withholding  
12 the occupancy permit because we had a  
13 service, and the service was not legit.

14 Q. And what was illegitimate about it  
15 from their standpoint?

16 A. They said that it was not legit  
17 because we came in at a time before we were  
18 supposed to have an occupancy permit.

19 Q. Even though you had permission  
20 from the owner to hold your dedication  
21 service, and you actually paid a \$50,000  
22 nonrefundable deposit, the City of  
23 Reynoldsburg said you needed to have an  
24 occupancy permit to have further services?

1 A. Yes. Even after we pulled the  
2 building permit to start our building.

3 Q. So they refuse an occupancy permit  
4 for you, even though they give you a  
5 building permit to construct a prayer room?

6 A. Yes, sir.

7 MR. INGRAM: All right. Thank  
8 you, Bishop. I appreciate it.

9 Within your exhibits, but not on  
10 the index, is Exhibit 14, which contains  
11 some of the invoices and receipts. We  
12 didn't have enough time to pull up all of  
13 these receipts, but the sworn testimony that  
14 you've received here today indicates that  
15 approximately \$56,000 has been paid by the  
16 Church since September 7, '05, in reliance  
17 upon the fact that no one chose to challenge  
18 the auditor's failure to certify these  
19 petitions to the Board of Elections.

20 In conclusion, I would like to  
21 simply state that the two reasons this Board  
22 should choose to grant the protest are,  
23 number one and most importantly, this  
24 referendum involves not a legislative act,

1 but an administrative act under Ohio law,  
2 and that in and of itself is sufficient  
3 grounds under Ohio Supreme Court Authority  
4 for you to grant our protest.

5           Secondly and alternatively, we ask  
6 that you deny -- grant the protest and deny  
7 putting these petitions on the ballot  
8 because of the delay of the petitioners in  
9 seeking to challenge the auditor's initial  
10 refusal to certify those petitions to the  
11 Board. Thank you.

12           CHAIRMAN ANTHONY: Thank you very  
13 much. Any questions from the Board?

14           CHAIRMAN ANTHONY: Yes, sir.

15

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16

TOM ELLER

17 being first duly sworn, testifies

18 and says as follows:

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20

MR. ELLER: Members of the Board,  
21 my name is Tom Eller, E-l-l-e-r. I live at  
22 6471 Lexleigh Road in Reynoldsburg.

23

REPORTER: Can you spell your last  
24 name, sir.



1                   MR. ELLER: E-l-l-e-r. I am one  
2 of the petitioners. And I was involved with  
3 the petition drive last summer.

4                   I'd like to respond while it's  
5 still fresh in my mind if I can. What you  
6 heard earlier from Mr. Ingram and Mr. Redd  
7 and Mr. Dawson, as to some of the issues  
8 that they've mentioned, we did not receive  
9 the information that you have in front of  
10 you. I did get a chance to see the March 13  
11 letter and protest that Mr. Ingram had  
12 written, and that, I think, outlines pretty  
13 much the arguments.

14                   What I would like to say  
15 initially, regarding what we've heard here  
16 so far is, number one, Mr. Ingram mentioned  
17 the March 21 Reynoldsburg Board and Zoning  
18 Appeals meeting where Mr. Dawson and others  
19 made their initial pitch on what they wanted  
20 to do at the old Big Bear store.

21                   I have a copy of the application  
22 that Mr. Ingram referred to here, and the  
23 attached letter that was submitted with the  
24 application as required by the Zoning Board.

1 And he is correct in saying that the present  
2 zoning of that site is what we call CC, or  
3 community commerce, or commercial zoning.

4 That's part of a major commercial  
5 corridor there in Reynoldsburg along  
6 Livingston Avenue and the Brice Road area.  
7 Some of you may be familiar with it. It's a  
8 major, very important corridor to the City  
9 of Reynoldsburg.

10 And he is right. The existing  
11 zoning at that time, at the time of the  
12 application, was community commerce. On the  
13 very first page, the very first sentence of  
14 Mr. Dawson's letter to our Zoning Board  
15 attached to his application says that we  
16 wish to apply for a special use permit and  
17 rezoning ordinance.

18 Mr. Ingram also -- I don't have  
19 his letter with me, but I think he referred  
20 to like a huge amount of architectural fees,  
21 maybe \$30,000 of architectural fees. Maybe  
22 another \$10,000 of, I can't remember. Mr.  
23 Redd just testified under oath, of what has  
24 been spent on that building since September

1 7.

2           There were no architectural fees  
3 in Mr. Redd's testimony. Yet, it's in Mr.  
4 Ingram's letter of complaint or letter of  
5 protest. To me, that's a substantial amount  
6 of architectural fees.

7           The meeting that was held in that  
8 facility on Thursday night, February 9 was a  
9 media event. Channel 4 TV was there, filmed  
10 some footage, put it on the news that night.  
11 There were local print media reporters  
12 there. That's all that meeting was.

13           The meeting was in violation of  
14 Reynoldsburg Building Ordinances,  
15 Reynoldsburg Codes. It was in violation of  
16 the Fire Code. The meeting took place on  
17 February 9. The special use exception  
18 permit expires six months after it is  
19 approved. The permit expired on February  
20 12, the meeting took place on February 9.

21           Prior to that meeting, there was  
22 no activity in that building, ever, since  
23 this whole situation developed. There was  
24 no construction. The wall that they had put

1 up that Mr. Redd testified to was put up  
2 after they had their February 9 meeting.  
3 And it was put up after the six-month  
4 special use exception had expired.

5 Now, at the beginning, this issue  
6 for the citizens of Reynoldsburg is a very  
7 important issue. We would much prefer to be  
8 represented by an attorney here today, but  
9 we don't have money for counsel.

10 We do want to cooperate with you  
11 in any way we can. And we will do our best  
12 to answer questions that you may have. And  
13 we have City Councilman, Mr. Clemens here.  
14 I think he has some remarks, and perhaps he  
15 can enlighten you to some things that I  
16 can't mention to you.

17 This referendum clearly violates  
18 nothing in the Ohio Constitution. It  
19 violates nothing in the Ohio Revised Code.  
20 And it violates no Ohio laws.

21 This is absolutely a legislative  
22 issue. It's a matter of law. And these  
23 petitions are sufficient, and they are  
24 valid.

1           As we know now from testimony, the  
2 Church did occupy the premises. They  
3 occupied the premises one time three days  
4 before the special use permit expired. It  
5 was a media event.

6           And, again, the construction that  
7 took place in the facility did not amount to  
8 thousands of dollars. I think Mr. Redd  
9 testified that they spent maybe about \$4,000  
10 on the wall, which is just nothing but some  
11 drywall and some two-by-fours and maybe a  
12 door.

13           There was no activity at the  
14 building before then. There was no activity  
15 since then. And, again, that meeting was  
16 held in violation of City laws. And it was  
17 held in violation of Township Fire Codes.

18           We were told, and Mr. Dawson told  
19 the Zoning Board back on April 21 that they  
20 were going to buy the entire building. A  
21 101,000 square foot building. And they were  
22 going to put facilities in there for maybe  
23 1,500 to 2,000 people.

24           Now, the plan, as I understand it,

1 is they've got authority from the  
2 Reynoldsburg Building Department to lease  
3 about 780 square feet for about maybe 40 or  
4 so people.

5 Had that been the plan going in, I  
6 seriously doubt that the Building Board  
7 would have wanted to do away with a huge,  
8 major piece of the commercial corridor for a  
9 small gathering. That apparently now is  
10 what the plan is to have there.

11 I believe in Mr. Ingram's letter  
12 it says that they have made significant  
13 improvements, and have been having services  
14 at this facility. We now know from Mr.  
15 Redd, the only improvement is a wall and  
16 perhaps a door. And there have been no  
17 services being held at the facility.

18 You've heard of Reynoldsburg  
19 Ordinance 58-05. It was passed last July 11  
20 by City Council after weeks and weeks and  
21 weeks of debate and discussion, and very  
22 much input from the residents. That  
23 Ordinance 58-05 changed the zoning of that  
24 Big Bear store, and that entire site from

1 community commerce to semi-public.

2           Once that change took place, as a  
3 result of Council passing that ordinance,  
4 that building could no longer be used for  
5 commercial activity. It took it completely  
6 out of that entire commercial corridor,  
7 which destroys the community land use plan.  
8 It destroys any chance of the entire area to  
9 be redeveloped. And it is clearly a change  
10 in the zoning for that site and that  
11 commercial corridor.

12           Mr. Ingram gave as one of his two  
13 reasons that this Board should not allow  
14 these petitions to go forward, is the delay  
15 on these petitioners. That is absolutely  
16 false.

17           And you understand now, we had an  
18 auditor transition last fall. The  
19 petitioners worked with Mr. Whitney, our  
20 former auditor, the community -- I'll use  
21 the word "pester." We pestered him. We  
22 just kept pestering him even after he made  
23 his decision not to certify the petitions.  
24 And we continued to pester him. And he's a

1 very nice man. And he put up with us. He  
2 tolerated us.

3 And on October 12, the petitioners  
4 sent Mr. Whitney a letter formally, again,  
5 asking him to please reconsider and certify  
6 the petitions and send them down to this  
7 Board. We heard nothing from Mr. Whitney.

8 So, again, we sent another letter  
9 to Mr. Whitney on October 27, again, asking  
10 him to please reconsider, certify the  
11 petitions, send them on down to the Board.

12 We did get a response from Mr.  
13 Whitney to that letter. He told us that,  
14 no, he's really not comfortable based on the  
15 City Attorney's opinion. He just wasn't  
16 comfortable sending them down, but he would  
17 be willing to meet with any committee or  
18 anybody to discuss the issue.

19 That seemed to indicate to us that  
20 the door was still open and that we  
21 shouldn't give up. We have never, the  
22 petitioners never, and the community never  
23 gave up on this issue. And I don't think  
24 Mr. Ingram has -- he's never talked to me,



1 and I don't think he's ever talked to  
2 anybody in the community. He knows that  
3 we've never given up on this.

4 And we knew we had a new auditor,  
5 Mr. Harris, coming in. So then we began to  
6 pester Mr. Harris. Mr. Harris said, well,  
7 you know, he was open to considering it, but  
8 not until he was in office, at least.

9 So, I believe -- you've heard from  
10 Mr. Harris -- I believe it was shortly after  
11 he got into office that he began to make  
12 some of his calls and do his own research.  
13 And we sent another letter to Mr. Harris  
14 asking him to please certify the petitions  
15 and send them on down.

16 And eventually, obviously, that's  
17 why we're here today. But not by any  
18 stretch of the imagination did the  
19 petitioners, or even the community ever give  
20 up on getting these petitions certified.

21 Mr. Ingram refers -- there's a lot  
22 of case law in the March 13 letter. I  
23 looked it all up and, frankly, I don't see  
24 how the case law that is being used in that

1 March 13 letter applies to this situation.

2           There's a very interesting case in  
3 there, and it's the same case that our  
4 former City Attorney, Mr. Underwood, used.  
5 It's this Buckeye Community Hope Foundation  
6 versus the Cuyahoga Falls. It's is a very  
7 interesting case. It went to the Supreme  
8 Court and, actually, what makes this case so  
9 interesting is the Court heard this same  
10 case twice.

11           It's a case that involves, simply,  
12 the Cuyahoga Falls City Council reviewed and  
13 approved a set of building plans for a  
14 building project. That's all they did. It  
15 didn't sit well with the community.  
16 Referendum petitions came about and the  
17 local officials refused to certify them.  
18 And it went into the Summit County Court  
19 system.

20           The Summit County Courts heard the  
21 arguments. Keep in mind now, all this was  
22 was City Council reviewing and approving a  
23 set of building plans. Summit County Court  
24 heard this. They said, yes, we agree with

1 this.

2           It was appealed again and went to  
3 the Ohio Supreme Court. The Ohio Supreme  
4 Court heard the case, nothing but reviewing  
5 building plans. They heard the case and  
6 they agreed with the lower courts.

7 Four-to-three vote, and they said this is  
8 okay.

9           And then something really unusual  
10 happened. And I don't understand it. And I  
11 don't know why. But there was a motion  
12 filed, and the Supreme Court agreed to hear  
13 the same case, the same situation over  
14 again. They heard the same case over again.  
15 Another four-to-three ruling. This time,  
16 they shot it down.

17           Same case, same facts, same  
18 situation, same court. Two different  
19 issues. That's how sensitive these issues  
20 are. And this, keep in mind again, I can't  
21 overemphasize all they did, all Council did  
22 was review and approve a set of building  
23 plans. It's nothing like the situation  
24 we're in here right now.

1           And in this case, the first case,  
2 Justice Lundberg Stratton said, after they  
3 heard the case the first time said, I  
4 passionately believe in the rights of the  
5 voter. It is the cornerstone of our system  
6 of justice. The people should have the  
7 ultimate right to decide their own fate, to  
8 be the final arbiters of their communities  
9 course.

10           And then they heard the case  
11 again. And then former Justice Douglas, he  
12 was irate. He was livid to the fact. He  
13 said that we shouldn't be hearing this case  
14 again because nothing has changed. So he  
15 wrote a dissenting opinion on the second  
16 time they heard it. And he said that I  
17 cannot agree with the majority's severe  
18 restriction on the sacrosanct right of  
19 referendum.

20           What is particularly disturbing is  
21 that the majority completely ignored the  
22 clear wording of Section 1F, Article 2, of  
23 the Ohio Constitution, and turns the  
24 enabling provisions into an affirmative

1 limitation on the right of referendum.

2           And then Justice Douglas said, I  
3 continue to believe that our original  
4 decision on Buckeye is correct, it's  
5 supported by law, and most importantly,  
6 reflects the fundamental precepts upon which  
7 our state and country are based.

8           And that's just the one Buckeye  
9 case. There are a number of other cases.  
10 There was a Rulon versus Lunkin in 1992  
11 where the Court said, we have also at times  
12 held that court must avoid unduly technical  
13 interpretations that impede public policy in  
14 election cases.

15           Another case, Rose versus Lorain  
16 County Board of Elections in 2000. The  
17 Court said the policy involved here is the  
18 preeminent constitutional right of  
19 referendum. We must liberally construe  
20 provisions from municipal referendum so as  
21 to permit the exercise of power, and to  
22 promote rather than to prevent or obstruct.

23           And there was a Hazel case. Hazel  
24 versus Cuyahoga County Board of Elections in

1 1994 where the court said the adoption of a  
2 zoning amendment, like the enactment of the  
3 original zoning ordinance, is a legislative  
4 act which is subject to referendum.

5 Now, as I said earlier, this is a  
6 serious issue for the citizens of  
7 Reynoldsburg. This referendum effort  
8 violates nothing in the Ohio Constitution,  
9 the Ohio law, or the Ohio Revised Code. And  
10 we respectfully ask that you please vote to  
11 allow this referendum to go to the ballot.

12 CHAIRMAN ANTHONY: Thank you very  
13 much. Any questions for Mr. Eller?

14 MR. PICCININNI: I have a  
15 question.

16 CHAIRMAN ANTHONY: Oh. You have a  
17 question. Okay.

18 MR. PICCININNI: Was any action --  
19 did anybody answer this question: Was any  
20 action filed against the then auditor of  
21 Reynoldsburg helping to certify the issue?

22 MR. ELLER: Not to my knowledge  
23 there was no formal action, but there was  
24 plenty of community pressure.

1 MR. PICCININNI: Okay. But no  
2 Court action was filed to force the issue?

3 MR. ELLER: Not to my knowledge.

4 MR. PICCININNI: And no action was  
5 filed against the Board of Elections prior  
6 to the November 2005 election to put the  
7 issue on the ballot?

8 MR. ELLER: No. It was not your  
9 issue at that point.

10 MR. PICCININNI: So there was no  
11 Court actions that were filed after this  
12 Court's meeting in August of '05?

13 CHAIRMAN ANTHONY: September.

14 MR. PICCININNI: September of '05.

15 MR. ELLER: None that we're aware  
16 of..

17 CHAIRMAN ANTHONY: Yes, ma'am.

18 - - - - -

19 ANTOINETTE NEWMAN

20 being first duly sworn, testifies  
21 and says as follows:

22 - - - - -

23 MS. NEWMAN: Good afternoon. My  
24 name is Antoinette Newman. I'm a dissenting

1 member of City Council in Reynoldsburg.

2 REPORTER: Can you spell your last  
3 name, please.

4 MS. NEWMAN: N-e-w-m-a-n. I also  
5 was a petition circulator. One thing I  
6 would like to point out in compelling the  
7 auditor to certify those petitions, isn't it  
8 correct that the auditor had up until 75  
9 days before the election, which is the  
10 election to occur next fall, to file these  
11 petitions in a timely manner? Therefore,  
12 why should he have had to do it any sooner  
13 than that?

14 MR. PICCININNI: Because the  
15 petitions needed to be circulated within 30  
16 days of the ordinance taking effect if the  
17 ordinance is referendable. Then the issue  
18 becomes -- on the timing of this issue, did  
19 the auditor then comply with the ten-day  
20 requirement after --

21 MR. ELLER: Yes.

22 MS. NEWMAN: Yes.

23 MR. ELLER: Absolutely.

24 MR. PICCININNI: No. He didn't



1 file. He didn't certify. Mr. Whitney  
2 didn't certify this issue after this Board  
3 dealt with the sufficiency of the petitions  
4 that you had valid signatures, which is a  
5 different issue, than whether the issue of  
6 the ballot.

7 MS. NEWMAN: Yeah. But then don't  
8 we have -- isn't there a period of up to 75  
9 days to file these with the Board under the  
10 Ohio Revised Code?

11 MR. ELLER: Yes. The law reads  
12 they must be submitted 75 days prior to the  
13 election.

14 MS. NEWMAN: So, therefore, why  
15 should we be compelled to be expected to  
16 file them any sooner than that?

17 MR. PICCININNI: Because it was  
18 filed with the Board. This Board sent it  
19 back to your auditor. He had ten days to  
20 get it done for that election because it was  
21 submitted for that election.

22 MS. NEWMAN: No. It was too late  
23 already for that election. We're talking  
24 about the next election next fall.

1 MR. ELLER: It was never eligible  
2 for the 2005 election. The timing didn't  
3 work.

4 MS. NEWMAN: Well, that's all I  
5 have to say.

6 CHAIRMAN ANTHONY: Okay. Yes,  
7 sir.

8 - - - - -

9 MEL CLEMENS  
10 being first duly sworn, testifies  
11 and says as follows:

12 - - - - -

13 MR. CLEMENS: Mr. Chairman, the  
14 Board. My name is Mel Clemens, 6594 First  
15 Drive, Reynoldsburg. I happen to be the  
16 City Councilman in Ward 4 in Reynoldsburg,  
17 where petitioners are petitioning because of  
18 the business, the commercial business  
19 district that they feel we've lost.

20 The east end of Reynoldsburg at  
21 this time needs the commercial district.  
22 This is why the petitioners filed the  
23 petition because this end of the town is  
24 older homes, and they rely on this as one of

1 our biggest box areas, the only big box area  
2 in the east end of Reynoldsburg to get  
3 commercial value out of.

4 They pride this, it used to be a  
5 store. They would like to see other  
6 commercial developments come in to help our  
7 end of town. This is why the petition was  
8 passed to start with.

9 This came before Council. We  
10 debated it for probably three months.  
11 Probably every night 200 people were there.  
12 Probably 60 speakers for both sides. It was  
13 a very tough issue for everyone. It was  
14 passed four to three.

15 That's when they followed the law  
16 to get the petition up to pass the ref  
17 through. I support them 100 percent on this  
18 because I feel that to our district, this is  
19 something that is needed.

20 Now, as far as the issues that  
21 were brought in, it doesn't pertain to the  
22 petition. It was brought up by Mr. Ingram  
23 in his letter of protest to the Board of  
24 Elections. It's more like something to

1 confuse the Board. It's like watching TV.

2 It's a smoke and mirrors situation.

3 All this was brought up pertaining  
4 to the cost that the Church endured. How  
5 things were handled by the City of  
6 Reynoldsburg. The way it handles in the  
7 City of Reynoldsburg. After Reynoldsburg  
8 passed that ordinance, 30 days after the  
9 mayor signed it, 30 days after the mayor  
10 signed it, it became law.

11 Then they had six months to start  
12 construction or have a use in that building.  
13 They were not held up. They could have come  
14 down the next day and applied for a permit.  
15 They could have come down the next day and  
16 got a zoning certificate, which they did not  
17 do.

18 In the interim, they tried to  
19 blame our zone officer for holding it up.  
20 They didn't even contact them. They would  
21 have been given the zoning permit the minute  
22 they applied for it. They took no action as  
23 far as construction or use of the building  
24 within the six-month period.

1           Now, they were ill-advised to go  
2     in there three days before the six-month  
3     period exhausted. They went in and held a  
4     meeting, which violated our codes. They had  
5     no occupancy permit. They were not allowed  
6     to hold a meeting in that building. Not  
7     only did they do that, they stated that they  
8     had over 100 people there.

9           The building -- they only have 780  
10    square feet of a 100,000 square foot  
11    building. They only applied for a permit to  
12    do construction work in 780 square feet, in  
13    that they're only allowed to have 51 people.  
14    By having 100 people or more, as they say,  
15    they violated another code, a Fire Code. A  
16    State Building Code which says, nobody,  
17    period, until you have an occupancy permit,  
18    until the fire extinguishers are inspected,  
19    until the backup generators have been  
20    inspected.

21           Nobody, not even one person in  
22    that 100,000 square foot building, anywhere  
23    in there, can have a meeting. Not only in  
24    780 square feet, but nowhere else. That's

1 the law. Why this was done, I don't know.  
2 I feel it was done to justify the use  
3 permit.

4 Now, I look at these things and  
5 the things that they brought up about the  
6 expenditures and money. That does not  
7 pertain to the petition that sits in front  
8 of you.

9 The law that they broke by going  
10 into the building without an occupancy  
11 permit, that is handled by the City of  
12 Reynoldsburg. The issues they brought up,  
13 the meetings they had, that has nothing to  
14 do with the petition in front of you. The  
15 petition in front of you is the referendum  
16 petition.

17 What they did, and how it will be  
18 handled, will be handled through the City  
19 Council, the Administration of Reynoldsburg  
20 on what happens now, on whether their  
21 six-month period expired. If it expired  
22 they're out. They have six months to wait.  
23 They can apply for it again.

24 But that will come through the

1 City of Reynoldsburg, through City Council  
2 and the Administration, on how that will  
3 happen. Not through the Board of Elections.  
4 That is not your problem. Your problem is  
5 is that petition a legal petition.

6 I feel that these other issues  
7 were brought up just to confuse the issue.  
8 I don't want to confuse it any more than I  
9 have, other than this is an important issue  
10 for the people of Reynoldsburg.

11 They have collected 2,100  
12 signatures in less than two and a half  
13 weeks. In that 30-day period -- they quit a  
14 week early because they only needed less  
15 than 900. And they knew that they had  
16 double that, three times that. They could  
17 have had over 3,000 or 3,500 signatures just  
18 like that. Everybody wanted to sign it.

19 That's all over Reynoldsburg, not  
20 just in my district. We only have 9,000  
21 voters so that would have been a third.

22 It is an important issue for the  
23 City of Reynoldsburg as far as our  
24 commercial districts are concerned. That's

1 why the petitions were passed. It was  
2 passed by the citizens like me, like the  
3 people that are sitting here.

4 We worked with the Board of  
5 Elections. We felt like we were doing  
6 everything legal. We went through all of  
7 this, and our City Attorney let us do all of  
8 this. Don't get me wrong, everybody felt  
9 they were doing the correct thing until we  
10 got it all done. And then everybody tried  
11 to pull the rug out from underneath us. One  
12 City Attorney tried to pull the rug out from  
13 underneath us with his opinions.

14 City Council doesn't agree with  
15 his opinions now. They hired special  
16 counsel and so forth to look into these  
17 issues. Not the petition, because that is  
18 before you; you're the ones that will rule  
19 on that.

20 We've hired special counsel to  
21 look into the issues pertaining to the  
22 Calvary Church to see whether they got the  
23 proper use in six months. And that is all  
24 the City of Reynoldsburg's matter.



1           Why it was brought up here, I have  
2 no idea, other than to confuse you with  
3 items that do not pertain to that petition  
4 in front of you. And so I'd like to bring  
5 that forward. Those items do not pertain to  
6 that referendum petition.

7           And the only reason I brought it  
8 up is that I got a copy of their letter that  
9 they sent protesting it. And it's in that  
10 letter, all these different little items  
11 that they threw in now and then. Why the  
12 Church should have this because of this,  
13 because of the money, because of the use of  
14 it, things like that, has no bearing at all  
15 on that petition.

16           So I would like to clarify that.  
17 We will handle in Reynoldsburg, we will  
18 handle the problems we have as far as the  
19 use within that six-month period. They can  
20 come out there and discuss that with us. I  
21 just want to make it plain to you that I  
22 support these people 100 percent, the work  
23 that they did.

24           I hope that you will look in their

1 favor as people that really need the  
2 commercial district, and who have worked  
3 hard for this. And I trust your decision.  
4 Thank you.

5 CHAIRMAN ANTHONY: Thank you very  
6 much. Any questions for Mr. Clemens? Thank  
7 you, sir.

8 Yes, ma'am. Yes.

9

10 BARBARA STRUSSION

11 being first duly sworn, testifies  
12 and says as follows:

13

14 MS. STRUSSION: Thank you for  
15 letting me speak. I'm an eight-year -- I'm  
16 sorry. Barbara Strussion, 1730 Graham Road,  
17 Reynoldsburg, Ohio.

18 THE REPORTER: Can you spell your  
19 name, please.

20 THE WITNESS: Sure.

21 S-t-r-u-s-s-i-o-n. I'm an eight-year  
22 trustee with Truro Township, and we oversee  
23 the fire department and the inspections in  
24 town. We have two senior lieutenants in

1 fire prevention that are very concerned  
2 about the safety issue in this situation.

3 The inspections have not been  
4 done. The sprinklers have not been  
5 inspected. And if they try to tell you that  
6 a church does not need the sprinklers --  
7 they contacted the State Fire Marshal's  
8 Department, and once sprinklers are in  
9 place, they must be maintained. And those  
10 have not been inspected.

11 The two lieutenants have heard  
12 that the generator does need maintenance.  
13 Maybe to the cost of \$8,000. That's for  
14 backup lights, the emergency lighting and  
15 all that. And just like Mr. Clemens,  
16 Councilman Clemens said, the fire  
17 extinguishers also have not been inspected.

18 The night that they were in there,  
19 it is not just one door that has to be  
20 unlocked. Even though they only have the  
21 small space, all exits must be unlocked.

22 So that's why the occupancy permit  
23 for one of the things has not been granted  
24 because none of this has been addressed. I

1 just wanted to bring that to your attention.

2 Thank you very much.

3 CHAIRMAN ANTHONY: Thank you very

4 much. Any questions for Ms. Strussion?

5 Anyone else wish to do a

6 presentation before us?

7 Yes, sir. Do you want to get some

8 advice while we go through counsel here?

9 MR. PICCININNI: Yes. There's

10 only one issue before this Board, whether

11 the petition is valid under the law. The

12 issue is, and it's my understanding from the

13 Reynoldsburg Planning and Zoning Code, that

14 in a CC community commerce district a

15 semi-public use is a permitted use within

16 the district. And a semi-public use is

17 defined as a place of worship.

18 Therefore, they have to apply for

19 that. That becomes an administrative act as

20 provided in the Zoning Code. No special

21 zoning ordinance needs to be passed. The

22 Reynoldsburg City Attorney has found that

23 this was an administrative act. Therefore,

24 under the case law, it is not subject to

1 referendum.

2           Therefore, it is the opinion of  
3 the prosecuting attorney's office, and it is  
4 the advice of the Board, that the issue is  
5 not probable. The petition should not be  
6 certified to the ballot because it is not  
7 referendable to the ballot. It is not an  
8 issue that is subject to referendum.

9           CHAIRMAN ANTHONY: All right. Any  
10 questions, or anybody else?

11           All right. Well, hearing  
12 everybody and everyone talking, are the  
13 Board members ready to act upon this issue?

14           Okay. Then I will take a motion.

15           MS. MARINELLO: Mr. Chairman, I  
16 move that the referendum questions submitted  
17 by the Reynoldsburg Auditor on February 28,  
18 2006, not be placed on the November 2006  
19 General Election Ballot.

20           CHAIRMAN ANTHONY: Is there a  
21 second?

22           MS. PETREE: Second.

23           (A vote was taken.)

24           CHAIRMAN ANTHONY: All right. The

1 Board moved that the issue not be placed on  
2 the ballot on the November 2006 General  
3 Election Ballot.

4 What's the next item on the  
5 agenda?

6 MR. DAMSCHRODER: The next item on  
7 the agenda is to --

8 (Crowd noise.)

9 CHAIRMAN ANTHONY: Why don't we  
10 wait awhile.

11 (A break was taken.)

12 CHAIRMAN ANTHONY: I'd like to  
13 move on to Board business.

14 MR. DAMSCHRODER: Absolutely. The  
15 next issue on the agenda is the awarding of  
16 a voting machine transportation contract.  
17 This was a competitive bid process for ITB  
18 2006-5103. There were four responses  
19 submitted. Three of the responses were  
20 within a very close range. Commercial  
21 Movers of Columbus was the lowest at \$15 per  
22 move. Continental Moving was the second at  
23 \$16.50 per move. And our current vendor, or  
24 the vendor from our most recent contract, E.

1 E. Ward, came in at \$20 per move.

2 Historically, the Board has  
3 awarded this contract to a single vendor,  
4 which would leave the Board potentially open  
5 in the event that a company went out of  
6 business, somebody had another client that  
7 was more important than the Board and had to  
8 defer to another client.

9 In meeting with the County  
10 Commissioners this morning, Denny White, the  
11 Deputy Director and I, discussed with the  
12 Commissioners at their request, the idea of  
13 awarding the contract to multiple vendors,  
14 which would give us backup plans.

15 The way that that would work, and  
16 that is provided for in the ITB process, is  
17 to award multiple vendors. The way it would  
18 work is the lowest bidder would kind of have  
19 first rights, if you would, to the project.  
20 And any portion of the project that that  
21 vendor did not want or could not perform at  
22 the discretion of that vendor would then go  
23 to the second lowest bidder, which in this  
24 instance would be Continental.

1           And then any portion of the  
2 remaining business that Continental couldn't  
3 or wouldn't want to participate in, would  
4 then go to the third person if that third  
5 person wanted to participate.

6           CHAIRMAN ANTHONY: What do you  
7 have, three bids?

8           MR. DAMSCHRODER: We got four, but  
9 the fourth one was \$64.50 per move.

10          CHAIRMAN ANTHONY: Oh. Okay.

11          MR. DAMSCHRODER: So it was  
12 exceptionally higher than all of the other  
13 ones. The other ones were grouped pretty  
14 closely together. Commercial has done work  
15 for us in the past. E. E. Ward, obviously,  
16 has done work for us most recently. Both  
17 are acceptable in terms of their ability.

18                 Commercial and Continental have  
19 the greater capacity of the three in terms  
20 of existing inventory or fleet of trucks.  
21 But the Commissioners felt very strongly  
22 about awarding the contract to at least more  
23 than one, so that there would be sufficient  
24 backup in the event that the first vendor



1 was unable to perform or chose not to  
2 perform.

3 MR. WHITE: I did talk to our  
4 warehouse people this morning, too, about  
5 this and thought it would be an excellent  
6 idea to have a backup company and equipment  
7 available. It will make the -- well, you  
8 use one company right now, and you tell them  
9 to be there at 8:00, they might not show up  
10 until 9:00.

11 You have no leverage because they  
12 think they have an exclusive agreement. So  
13 create a little competition for the  
14 transportation out there, and I think you  
15 will wind up having the carrier companies do  
16 a little better job too. Competition  
17 doesn't hurt.

18 And why would we give them an  
19 exclusive contract. I don't know why. A  
20 contract was never written exclusively for  
21 one carrier, but for some reason we've  
22 always just had one contract, one carrier.

23 Competition is a good thing for  
24 the customer. It makes the carrier a little

1 more competitive. And the transportation is  
2 true. You don't know -- but these are all  
3 reputable companies, they have been around  
4 -- but you just don't know that they're  
5 going to be around. It's a tough industry.

6 I think it's a good move to do  
7 something like this. The Commissioners were  
8 concerned that the existing contract, there  
9 was no clause in there for nonperformance.

10 So if you were to give this  
11 contract to one carrier and something were  
12 to happen and they didn't show up, there's  
13 no recourse. Or if you do have one carrier,  
14 you should put a clause in there for  
15 nonperformance, where if they don't perform,  
16 then it costs them money if they don't show  
17 up.

18 So I think this is an easier way  
19 of doing it and we're not so much at their  
20 mercy. They have to start being more  
21 customer orientated as far as showing up,  
22 but I think it's a good move.

23 CHAIRMAN ANTHONY: Any questions?

24 Is this a two-year contract?

1 MR. DAMSCHRODER: It's a two-year  
2 contract with three individual one-year  
3 possible extensions.

4 CHAIRMAN ANTHONY: Okay.

5 MR. DAMSCHRODER: At the  
6 discretion of the Board.

7 CHAIRMAN ANTHONY: Okay. I will  
8 entertain a motion then.

9 MS. MARINELLO: Mr. Chairman, I  
10 move that the Board authorize the Director  
11 and Deputy Director to enter into separate  
12 contracts with Commercial Movers, Inc. as a  
13 primary voting machine mover. And  
14 Continental Moving as a secondary voting  
15 machine mover. And E. E. Ward as the  
16 tertiary voting machine mover for ITB  
17 2006-51-03, at an estimated maximum two-year  
18 cost of \$136,000.

19 CHAIRMAN ANTHONY: Is there a  
20 second?

21 MS. PETREE: I second it, Mr.  
22 Chairman.

23 MR. CHAIRMAN. Thank you.

24 (A vote was taken.)

1 MR. DAMSCHRODER: The motion  
2 carries. And we'll work with the County  
3 Commissioners, who have been exceptionally  
4 flexible in assisting us with making sure  
5 that this gets awarded in a timely fashion  
6 so that we can work with the vendors to get  
7 machines delivered in time for the primary.

8 CHAIRMAN ANTHONY: That would be a  
9 good thing.

10 MR. DAMSCHRODER: If you happen to  
11 see a Commissioner here in the next week or  
12 so, thank them for waiving the rules to  
13 allow us in the door.

14 MR. WHITE: What if we pass some  
15 kind of a resolution from this Board just  
16 recognizing all the Commissioners for their  
17 support in this retooling of the Board of  
18 Elections?

19 They have been very supportive,  
20 and we did get questioned at the timing of  
21 this contract. So I just think it would  
22 nice be if you would all want to do  
23 something like that, some type of  
24 resolution. Maybe we could do it after the

1 election.

2 MR. DAMSCHRODER: I was just going  
3 to say that exact same thing. I think that  
4 kind of recognition would be very much in  
5 order and we would go along way to  
6 continuing to foster the kind of  
7 relationship that we've enjoyed with  
8 Franklin County that not all the counties  
9 enjoy between the Board of Elections and the  
10 Board of Commissioners. And maybe a post  
11 election resolution, sharing the glory of  
12 the successful transition election with  
13 them.

14 CHAIRMAN ANTHONY: We can do that.

15 MR. DAMSCHRODER: Denny and I will  
16 work together in drafting that.

17 Just a couple real quick updates  
18 for the Board on a couple issues. The  
19 Commissioners will -- the House Bill 3  
20 passed, which requires us to purchase  
21 additional voting machines beyond what the  
22 Secretary of State purchased for us, 357  
23 additional machines.

24 The County Commissioners this

1 morning -- next Tuesday will appropriate the  
2 additional funds to the Board to purchase  
3 those machines. They will not be in place  
4 in time for the Primary, but they will be in  
5 place in time for the General Elections.

6 So that will take our total  
7 inventory to 4,565 machines for the General  
8 Election compared to the 2900 we had in '04.  
9 Significant increase.

10 The other item is, as you recall  
11 from the last Board meeting, we were  
12 discussing personnel issues. There are two  
13 vacancies currently. One is for a Voting  
14 Location Coordinator, which is being handled  
15 right now by the existing operations staff  
16 or logistics staff at the warehouse.

17 And then the other one is IT  
18 Election Technology Assistant. I took the  
19 liberty of posting that job description,  
20 both on the County HR site, as well as it  
21 will run in the Dispatch this Sunday and the  
22 following Sunday.

23 We've gotten to the point where  
24 technology in this office is preadvanced,

1 you know. We're not talking about  
2 mechanical leafer machines anymore. And so  
3 we are looking for somebody with some pretty  
4 significant skills in Sequel programming and  
5 things like that, database management.

6 So that's out there. And we'll  
7 evaluate the resumes as they come in. And  
8 we'll make a recommendation to the Board,  
9 probably sometime around Primary time for a  
10 person to hire.

11 So in terms of the Partisan  
12 balance in the office, it would probably  
13 fall to a Republican position unless only  
14 qualified Democrats apply. And then we'll  
15 have to revisit that issue. My guess is  
16 there is probably a qualified Republican out  
17 there somewhere in Franklin County.

18 CHAIRMAN ANTHONY: Yeah. But the  
19 pay probably sucks.

20 (Laughter.)

21 CHAIRMAN ANTHONY: I mean, don't  
22 put that in there. I forgot I'm being  
23 recorded.

24 (Laughter.)

1 MR. DAMSCHRODER: Those are, I  
2 think, the only two updates. Can you think  
3 of anything else? There is just so much  
4 going on. Everyday there's something new.

5 CHAIRMAN ANTHONY: Well, then, I  
6 would like to make a motion that we go into  
7 Executive Session to discuss personnel  
8 matters. Is there a second?

9 MS. PETREE: Second.

10 MR. DAMSCHRODER: I'll do a roll  
11 call vote.

12 (A vote was taken.)

13 MR. DAMSCHRODER: We are in  
14 Executive Session.

15 (Executive Session.)

16 CHAIRMAN ANTHONY: I make a motion  
17 we come out of Executive Session. Nothing  
18 was voted on or decisions made. Is there a  
19 second?

20 MR. COLLEY: Second.

21 MR. DAMSCHRODER: Seconded by Mr.  
22 Colley. Roll call vote.

23 (A vote was taken.)

24 MR. DAMSCHRODER: We are back on



1 the record and in public session.

2 CHAIRMAN ANTHONY: I would like to  
3 make a motion that we approve the merit  
4 increases as submitted by the Director and  
5 Deputy Director for all the employees at the  
6 Board of Elections.

7 MS. PETREE: Second.

8 (A vote was taken.)

9 MR. DAMSCHRODER: I should have  
10 amended that before we voted on it. Do you  
11 want to put a date effective for that?

12 CHAIRMAN ANTHONY: I'm sorry.

13 MR. PICCININNI: Just make another  
14 motion.

15 CHAIRMAN ANTHONY: I make a motion  
16 that the effective date be January 1, 2006.

17 MR. DAMSCHRODER: I think it was  
18 9, the first pay period.

19 CHAIRMAN ANTHONY: I make a motion  
20 that it be effective the first pay period of  
21 2006. Is there a second?

22 MS. PETREE: Second.

23 (A vote was taken.)

24 MR. DAMSCHRODER: Motions carries.

1 Is there a motion to adjourn.

2 MS. PETREE: I'd like to make a  
3 motion that the meeting is adjourned.

4 CHAIRMAN ANTHONY: Is there a  
5 second to that?

6 MS. MARINELLO: Second.

7 MR. DAMSCHRODER: Kim Marinello  
8 seconded it.

9 (A vote was taken.)

10 MR. DAMSCHRODER: Thank you, all.

11 - - - - -

12 Thereupon, the meeting was  
13 adjourned at 5:42 o'clock p.m.

14 - - - - -

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## 1 CERTIFICATE

2  
3 The undersigned do hereby certify that  
4 the foregoing proceedings were digitally  
5 recorded, electronically transmitted, and  
6 transcribed via audible playback, and that  
7 the foregoing transcript of such proceedings  
8 is a full, true and correct transcript of  
9 the proceedings as so recorded.

10 IN WITNESS WHEREOF, I have hereunto set  
11 my hand and affixed my seal of office at  
12 Columbus, Ohio, on this 7<sup>th</sup> day of  
13 April, 2006.

14  
15 Kimberly S. Payne

16 KIMBERLY S. PAYNE  
17 Certified Digital Reporter  
18 Notary Public - State of Ohio.  
19 My commission expires October 26, 2009.

20 Joan L. McGraw

21 JOAN L. MCGRAW  
22 Certified Digital Transcriber  
23  
24

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