

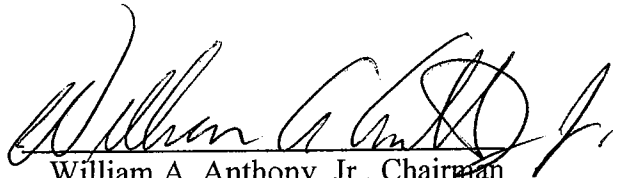
FRANKLIN COUNTY BOARD OF ELECTIONS  
280 EAST BROAD STREET  
COLUMBUS, OHIO 43215  
(614) 462-3100


MINUTES OF THE MEETING ON

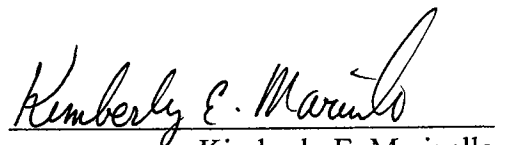
9/10/07

APPROVED ON 10-1-07

BY:

  
William A. Anthony, Jr., Chairman

  
Michael F. Colley, Esq.

  
Kimberly E. Marinello

  
Carolyn C. Petree

ATTEST:

  
Matthew M. Damschroder, Director



Page 2	Page 4
1 INDEX	1 statement on any of his part petitions. And
2 AGENDA ITEMS: PAGE NO.	2 Mr. Donahue has filed an appeal with the Board.
3 CALL TO ORDER/ROLL CALL 3	3 I think all of you have received a copy of that
4 APPEALS (CANDIDATES)	4 letter.
5 STEVEN DONAHUE,	5 And Mr. Donahue is here today, and so
6 MAYOR, VILLAGE OF CANAL WINCHESTER 3	6 we can call him to begin his presentation, if it
7 NANCY FERGUSON,	7 pleases the Board.
8 MAYOR, VILLAGE OF NEW ALBANY 44	8 CHAIRMAN ANTHONY: Okay. Are there
9 STEVEN RAIMO,	9 any questions from the Board before you start?
10 AT LARGE MEMBER OF COUNCIL,	10 (No response.)
11 CITY OF GAHANNA 56	11 CHAIRMAN ANTHONY: Mr. Donahue, be
12 APPEALS (LOCAL OPTIONS & ISSUES)	12 sworn in and state your case before us.
13 43203 ZONE DRY COALITION PETITIONS 60	13 MR. DONAHUE: Yes, sir.
14 CABELLERS, LIMITED 80	14 (Steven Donahue was sworn.)
15 AMENDMENT/APPROVAL OF MINUTES 107	15 MR. DONAHUE: Good afternoon. My name
16 MISCELLANEOUS 111	16 is Steve Donahue. I hope to be a candidate for
17	17 the Mayor of the Village of Canal Winchester.
18	18 Unfortunately, at this point, my name
19	19 will not appear on the ballot. I made a mistake
20	20 when I personally gathered signatures for my
21	21 nominating petition and my statement of
22	22 candidacy. I mistakenly thought that I did not
23	23 have to sign the circulator statement because I
24	24 had personally circulated my own petitions.
Page 3	Page 5
1 -----	1 Because I'm not an attorney nor I'm
2 PROCEEDINGS	2 not an expert in the election laws, I asked for
3 -----	3 assistance when I filed my petitions two weeks
4 CHAIRMAN ANTHONY: I would like to	4 prior to the filing deadline and was told by the
5 call the Franklin County Board of Elections	5 clerk at the Board of Elections that my petitions
6 meeting to order.	6 looked okay.
7 MR. DAMSCHRODER: Mr. Colley.	7 Relying on that statement, I continued
8 MR. COLLEY: Here.	8 to work on my campaign. What has occurred since
9 MR. DAMSCHRODER: Ms. Marinello.	9 August 13th, 2007, when I filed my petition, has
10 MS. MARINELLO: Here.	10 caused me to seriously question the integrity of
11 MR. DAMSCHRODER: Ms. Petree.	11 our system of elections.
12 MS. PETREE: Here.	12 The Ohio Secretary of State Jennifer
13 MR. DAMSCHRODER: Chairman Anthony.	13 Brunner's number one goal that she has on all her
14 CHAIRMAN ANTHONY: Here.	14 sheets here is restore the trust to Ohio
15 MR. DAMSCHRODER: All members are	15 elections. She states, we want citizens to have
16 present, Mr. Chairman.	16 faith in Ohio elections, that are free, fair,
17 CHAIRMAN ANTHONY: Thank you.	17 open, and honest.
18 -----	18 Well, if that's the standard, my
19 MR. DAMSCHRODER: The first item on	19 experience has fallen short of that goal. I
20 the agenda for today's regular meeting is to hear	20 prepared booklets, which I believe all of you
21 the appeal by Steven Donahue, who was a candidate	21 have, that document the chronology of events that
22 for Mayor of the Village of Canal Winchester.	22 led to me standing before you today.
23 The Board found his petitions to be	23 In a moment, I'll go through the time
24 invalid for lack of a complete -- or a circulator	24 line and the documents for you. What you will

<p>Page 6</p> <p>1 hear is a story of misinformation, misstatements,                  2 an unfair dealing that will do nothing to restore                  3 trust to Ohio elections.                  4 All I'm asking of you today is that                  5 you afford me equal treatment for all candidates                  6 for office in Franklin County. What you will                  7 hear is a story in which one candidate, with the                  8 support of the deputy director of the Board, got                  9 three opportunities to get his petitions                  10 correctly filed.                  11 And the first time I heard that there                  12 was a problem with my petitions was when a                  13 reporter from the Columbus Dispatch called me and                  14 asked for a reaction about being disqualified. I                  15 didn't receive a formal disqualification notice                  16 from this Board until almost a week after the                  17 Dispatch called.                  18 As a non-lawyer, I do not understand                  19 how a candidate can get three bites in an apple.                  20 No declaration regarding Ohio Revised Code                  21 Section 3501-38 -- no declaration of candidacy,                  22 nominating petition, or other petition, for the                  23 purposes of becoming a candidate, may be                  24 withdrawn after it is filed in the public office.</p>	<p>Page 8</p> <p>1 9th, Ed Dildine filed his first petition for                  2 Madison Township Trustee. And you'll find that                  3 Exhibit No. 1 in your booklet.                  4 On August 6th, Ed Dildine withdrew his                  5 first petition, advised by the Board of Elections                  6 office and advised he could not file again prior                  7 to the filing deadline. If you'll notice, that                  8 was August 6th at 11:30 a.m.                  9 On the same day, August 6th, Ed                  10 Dildine files as a write-in candidate for Madison                  11 Township Trustee. That's Exhibit No. 3. That                  12 was at 11:40 a.m., the same day.                  13 On August 7th, David Brobst, was a                  14 candidate for Canal Winchester Local Schools,                  15 filed his petition. His petition was checked by                  16 Marlene Worth. He was told he needed to check a                  17 full-term box. She told him she was allowed to                  18 help him as long as she had not done it as -- not                  19 time-dated the petition. That's Exhibit 4.                  20 Also in his Exhibit 4, if you'll                  21 notice, that he was -- just recently received a                  22 letter from the Board of Elections stating that,                  23 yes, he is on the ballot for the Canal Winchester                  24 City Schools. That is not correct. It's a Canal</p>
<p>Page 7</p> <p>1 And if somehow -- and if it's somehow                  2 possible for a candidate to get more than one                  3 opportunity to correct his petition, why didn't                  4 the Board call all of the candidates with                  5 petition problems and afford them the same                  6 opportunity to correct their problems?                  7 Again, I'm not a lawyer. But if a                  8 member of the Board staff helps one candidate and                  9 not all candidates, then the Board is no longer                  10 acting as an independent Board running fair                  11 elections. It's picking winners and losers, and                  12 it's not the job of the Board to do that.                  13 I stand before you as a person who is                  14 not an expert in election law nor as a person who                  15 is interested in partisan politics. I stand                  16 before you as a person who is interested in                  17 becoming mayor of a small community in order to                  18 continue to service my community.                  19 I stand before you asking that this                  20 Board treat all candidates for public office                  21 equally. I stand before this Board to say that                  22 it has not done so in this election.                  23 And if you'll turn to your time line,                  24 I'd like to go over that real quickly. On July</p>	<p>Page 9</p> <p>1 Winchester Local Schools.                  2 Okay. August 13th. This is when I                  3 filed my petition. And I was told by the Board                  4 of Elections employee, Peggy Howell, that the                  5 petitions were fine. They were filed.                  6 August 15th. Prior to the Madison                  7 Township Trustee meeting, Deputy Director Dennis                  8 White had conversations with Susan Brobst. If                  9 you look at Exhibit 6, in her letter she asked                  10 about a directive from the Secretary of State's                  11 office allowing candidates whose petitions were                  12 not correctly filled out to again come in and                  13 take out new petitions and would be allowed to be                  14 filed as long as they were filed before the                  15 original date, or before the due date.                  16 Also, in the next paragraph, she says,                  17 I then made a comment that I suppose the Board of                  18 Elections would have to notify all candidates                  19 that were affected by this directive. Again,                  20 Mr. White will comment, but said, yes, that all                  21 candidates would be notified. Well, I was not                  22 notified.                  23 August 17th. This is Exhibit No. 7.                  24 Matt Damschroder e-mails the new check-in policy</p>

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1 to staff. The new policy states that staff  
 2 should not check any petitions for validity until  
 3 the deadline had expired. He also stated that  
 4 they should not release information about the  
 5 status or findings of any of the petitions that  
 6 have been checked prior to this announcement.  
 7 Now, I have a hard time understanding  
 8 how Mr. White can tell Mr. Dildine, as the deputy  
 9 director, that he can refile -- and then there's  
 10 an e-mail sent out to the workers down at the  
 11 front office down here that they can't even look  
 12 or tell anybody.  
 13 So, in other words, if you filed your  
 14 petition prior to this date, you could not get  
 15 help, okay?  
 16 August 17th. If you'll notice, that  
 17 e-mail went out at 8:10 in the morning.  
 18 Approximately 10:59, same day, Ed Dildine  
 19 withdraws as a write-in candidate. He was  
 20 informed by the Franklin County Board of  
 21 Elections that he may file to be a candidate on  
 22 the ballot.  
 23 August 17th, 11:10, he submits another  
 24 petition. He's on the ballot. The filing

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1 deadline was the 24th. It wasn't till August  
 2 29th that I was contacted by the Columbus  
 3 Dispatch reporter that the petitions were not  
 4 approved and I was not on the ballot.  
 5 That same day, I talked to  
 6 Mr. Damschroder. I said -- he said because the  
 7 circulator portion of the petition was not  
 8 signed, that was a fatal error. I told him that  
 9 Peggy Howell said the petitions were fine. He  
 10 said, that's not her responsibility, that's my  
 11 responsibility. But I could file as a write-in  
 12 candidate as long as I did it prior to September  
 13 5th.  
 14 So I came down the next day, August  
 15 30th, to file as a write-in candidate. And I'll  
 16 let you know that we had signs printed August  
 17 30th that we had changed that say write-in  
 18 candidate. Those were \$1500 worth of signs.  
 19 I come down to the office down here  
 20 and Marlene Worth says, no, I can't file as a  
 21 write-in candidate. I said, your boss told me  
 22 yesterday I could. I asked to see  
 23 Mr. Damschroder, he wouldn't see me.  
 24 She then showed me an e-mail from

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1 Brian Shinn from the Ohio Secretary of State's  
 2 Office. I then went over there. He said I  
 3 couldn't file. So I've got from the director  
 4 that I could file, and now I can't file.  
 5 On that same day, two people contacted  
 6 us. One contacted me, and one contacted my  
 7 treasurer about checking how Ed Dildine got on  
 8 the ballot. They said, you need to follow up on  
 9 that, and that's what we did.  
 10 August 31st. I came in. That was a  
 11 Friday, right before Labor Day. I brought my --  
 12 I wanted to file as a write-in candidate.  
 13 Marlene says you can't. I said, Marlene, I can't  
 14 believe what you're saying because your boss -- I  
 15 haven't heard from him and he said file. So I  
 16 filed as a write-in candidate.  
 17 I also told her that I would drop off  
 18 to her the letter of appeal that you have in this  
 19 booklet. I also dropped one off to the Secretary  
 20 of State. September 4th, after the weekend,  
 21 11 a.m., tried to file new petitions.  
 22 I went out over the weekend and picked  
 23 up signatures for new petitions, signed  
 24 everywhere. Tried to file them. Marlene says,

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1 you can't file them; it's after the deadline. I  
 2 said, Marlene, Mr. Dildine filed them. You guys  
 3 never contacted me. If you would have contacted  
 4 me, I would have filed them prior to the  
 5 deadline.  
 6 At that point in time, I asked to see  
 7 Mr. Damschroder. Mike Ebert and I met with  
 8 Mr. Damschroder. I asked him if I got the -- if  
 9 he got the letter of appeal. His comment was,  
 10 yes, but it probably won't do you any good.  
 11 Mr. Damschroder said I was responsible  
 12 for the petition, and the law says you can only  
 13 file once. Mr. -- I said Peggy Howell, Board of  
 14 Elections worker, said it was okay when I filed  
 15 it. He said, the ladies are not to help people,  
 16 that Mr. Donahue was responsible, that I was  
 17 responsible.  
 18 If you look at Exhibit 12, that is  
 19 when I first came to pick up my petitions. And  
 20 that's Marlene Worth, in her writing, saying, if  
 21 you have any questions, make sure you call me.  
 22 Now, I'm getting, should we call; shouldn't we  
 23 call? I'm hearing, yes, we should get help; no,  
 24 we shouldn't. I find out certain people got help

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1 to correct theirs, certain people didn't.  
 2 Okay. I asked Mr. Damschroder if I  
 3 could turn in the petitions that I had. He said,  
 4 no, they were collected over the weekend, they  
 5 were after the deadline, and the law states you  
 6 can only file once. I heard that again. And we  
 7 know that Mr. Dildine filed three times.  
 8 Okay. I asked Mr. Damschroder why  
 9 Mr. Dildine was allowed to file three times. He  
 10 said, Mr. Dildine was informed by the Board of  
 11 Elections offices that there was a problem with  
 12 his original petition and he should file as a  
 13 write-in candidate. Mr. Damschroder said Deputy  
 14 Dennis White shouldn't have done that.  
 15 Then I said, Mr. Dildine was called by  
 16 the Board of Elections office again to say that  
 17 he should submit a new petition, and he commented  
 18 he shouldn't have done that, once again.  
 19 If you'll notice, the letters are in  
 20 here from Mr. Dildine and in both cases say that  
 21 he was informed by the Board of Elections. So he  
 22 was given an extra advantage. I asked why  
 23 Mr. Dildine could be put on the ballot and I  
 24 could not. He said he understood how I felt and

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1 he would be mad if it happened to him. But, by  
 2 law, you can only register once.  
 3 I told Mr. Damschroder that, in this  
 4 case, both he and Mr. White knowingly, then,  
 5 broke the law, because you aided him in filing  
 6 three times and you should be criminally  
 7 prosecuted for tampering with an election. I  
 8 said, if he wasn't on the ballot, then they  
 9 should be out of a job, plain and simple.  
 10 September 4th, I finally received a  
 11 letter from the Board of Elections Office that I  
 12 wouldn't be on the ballot.  
 13 Now, I want to read an article that's  
 14 in a newspaper today, the Southeast Messenger.  
 15 And it says, Mr. White responds in a telephone  
 16 interview September 5th. Mr. White clarified  
 17 recent changes in the election law made by the  
 18 Secretary of State Jennifer Brunner's office  
 19 regarding candidate petitions.  
 20 I might add, I tried to see the  
 21 Secretary of State three times. Called her  
 22 scheduler, and they never called back. He said,  
 23 the secretary ruled regardless of time stamping  
 24 of the petitions, that a candidate could withdraw

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1 their petitions and then resubmit them, provided  
 2 the Board of Elections had not yet met, which he  
 3 reported to be the case with Dildine's documents.  
 4 I'm hearing two different stories  
 5 here. I'm hearing one story from the director  
 6 that you could only file once. I'm reading here  
 7 that you can take it off and file again. Nobody  
 8 ever told me that.  
 9 White said that changes were also made  
 10 regarding write-in candidates. He said, in the  
 11 past, a candidate could file a write-in even the  
 12 day after they filed the candidacy petitions;  
 13 however, that provision was removed.  
 14 Since I am a Madison Township Trustee,  
 15 I have an interest in the trustee's race. Ed  
 16 Dildine filed his petitions very early. And  
 17 someone told me his petition had a date error,  
 18 which, in the past, would have been a fatal  
 19 error. Well, my question, people: if you're  
 20 going to tell one person they have a fatal error,  
 21 why are we not telling everybody? What's fair is  
 22 fair.  
 23 I called him. I told him about the  
 24 mistake. On his own, Ed decided to file as a

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1 write-in. But he found out about the new  
 2 directive, so I told him that he couldn't do  
 3 that. With the changes by the Secretary of  
 4 State, there was enough time for him to withdraw,  
 5 then refile.  
 6 My petitions were 11 days in, 11 days  
 7 prior to the filing deadline. I could have got  
 8 the 19 signatures needed in less than a half an  
 9 hour. If I'd have known about the Canal  
 10 Winchester mayor's candidate, I would have let  
 11 him know, too. But what about the other  
 12 candidates?  
 13 Later, I talked with the Board of  
 14 Elections Director, Matt Damschroder, about the  
 15 changes, and then he issued an e-mail saying not  
 16 to check petitions, except the usual things,  
 17 until after the filing deadline.  
 18 So we're going to check some people,  
 19 take care of them, and then we're going to send  
 20 an e-mail and say nobody else will be checked,  
 21 even if there were mistakes. It doesn't seem  
 22 fair to me.  
 23 In closing, let's go back to the  
 24 Secretary of State's number one goal that she

<p style="text-align: right;">Page 18</p> <p>1 probably shows on every one of her flyers. To  2 restore trust in Ohio elections because we want  3 citizens to have faith that Ohio elections are  4 free, fair, open, honest, and to encourage the  5 highest level of participation in our democracy.  6 I haven't seen that.</p> <p>7 In this case, I've documented at least  8 one candidate receiving advantage that was not  9 available to me. And why? Because by his very  10 own words, the deputy director of the Board of  11 Elections had an interest in that race.  12 Apparently, based that interest -- upon that  13 interest, he contacted one candidate and provided  14 him with an opportunity to correct a problem with  15 his petitions.</p> <p>16 If one candidate is going to be  17 contacted by this Board and be afforded an  18 opportunity to correct petitions, then all  19 candidates must be afforded the same  20 opportunity.</p> <p>21 Instead, after Mr. Dildine was allowed  22 to correct his petitions two times and still a  23 week prior to the filing of the deadline, this  24 Board prohibited any other assistance to any</p>	<p style="text-align: right;">Page 20</p> <p>1 outcome, you have a huge advantage.  2 I urge this Board to accept my  3 corrected petitions and allow my name to appear  4 on the ballot. Thank you for your time.</p> <p>5 CHAIRMAN ANTHONY: Thank you, sir.  6 Thank you very much. Before you go, Mr. Donahue,  7 is there any questions for Mr. Donahue?  8 MS. PETREE: I have one, sir.  9 MR. DONAHUE: Yes.  10 MS. PETREE: You did get all the  11 signatures, yourself.  12 MR. DONAHUE: Oh, yes, ma'am.  13 MS. PETREE: Thank you.  14 MR. DONAHUE: Yeah. We had four  15 meetings at my home; and after two meetings, we  16 had enough signatures.  17 MS. PETREE: Thank you.  18 CHAIRMAN ANTHONY: Thank you. All  19 right. Any other questions of Mr. Donahue?  20 (No response.)  21 CHAIRMAN ANTHONY: And is there anyone  22 else in the audience that would like to speak on  23 behalf of Mr. Donahue?  24 MR. EBERT: Good afternoon. My name</p>
<p style="text-align: right;">Page 19</p> <p>1 other candidates through Mr. Damschroder's  2 e-mail.</p> <p>3 Let me be very clear, I have nothing  4 against Ed Dildine. He has been completely  5 honest and open with me, and I appreciate that.  6 I just want the same opportunity that he was  7 afforded and be allowed to correct an error with  8 my petitions.</p> <p>9 Whether or not the opportunity is  10 afforded me and all other candidates who never  11 got the opportunity to correct their petitions,  12 then this Board needs to take a serious look at  13 the actions of your deputy director for a sitting  14 Madison Township Trustee and an employee of this  15 Board, to inject himself into the process of not  16 only receiving the petitions of a candidate but  17 to provide an extraordinary advantage to that  18 candidate, raising serious questions about the  19 integrity about the entire elections process.</p> <p>20 Rather than a process that will allow  21 citizens of Franklin County to have faith that  22 Ohio elections are free, fair, open, and honest.  23 The process I've been subjected to demonstrates  24 that if the right person has an interest in the</p>	<p style="text-align: right;">Page 21</p> <p>1 is Mike Ebert.  2 CHAIRMAN ANTHONY: Oh, you have to be  3 sworn in, please.  4 (Mike Ebert was sworn.)  5 MR. EBERT: Good afternoon again. My  6 name is still Mike Ebert. I first became  7 acquainted with Steve Donahue back in 1985 when  8 he moved to Canal Winchester as my next-door  9 neighbor.</p> <p>10 Over the past 22 years, you know, I  11 couldn't have asked for anybody who would be a  12 better neighbor. We've done a lot of things  13 together, family-wise, and we go on golf outings  14 and so forth.</p> <p>15 What I want to talk about, mainly, is  16 the petitions, the petitions in question. Those  17 petitions -- and I'm glad Ms. Petree asked the  18 question, because that is exactly what he did.  19 He did gather all the signatures, himself. I was  20 on his committee. He wouldn't even let anybody  21 on the committee touch the petitions. He wanted  22 to do it himself, and he did it by himself.  23 And I think that's mostly what I want  24 to say. Thank you for your time.</p>

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1 CHAIRMAN ANTHONY: Thank you, sir.  
 2 Any questions for Mr. Ebert?  
 3 (No response.)  
 4 CHAIRMAN ANTHONY: Anyone else that  
 5 would like -- sir.  
 6 (Thomas Rinehart was sworn.)  
 7 MR. RINEHART: Hello. My name is  
 8 Thomas Rinehart. I'm a candidate for Madison  
 9 Township Trustee. I have an impact statement I'd  
 10 like to say here on behalf of Mr. Donahue.  
 11 My name is Thomas Rinehart. I'm a  
 12 candidate for Madison Township Trustee. I'm here  
 13 today to support Mr. Steve Donahue with this  
 14 disputed disqualification as candidate.  
 15 And I'm truly disturbed to learn about  
 16 this situation but yet not surprised. The reason  
 17 that I'm not surprised is the fact that we have a  
 18 conflict of interest here today.  
 19 The deputy director of Franklin County  
 20 Board of Elections is Dennis White, who is also a  
 21 Madison Township Trustee. We have a candidate  
 22 who is running for Madison Township Trustee, Ed  
 23 Dildine, who is a Madison Township firefighter.  
 24 It is my understanding that if

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1 appointed to or employed by the Board of  
 2 Elections, you're not allowed to run for election  
 3 or should hold office -- should hold an elected  
 4 office at the same time so the conflicts of  
 5 interest will not occur.  
 6 It is obvious that a clear conflict  
 7 of -- clear contract -- excuse me -- clear  
 8 conflict of interest in endorsement of a  
 9 candidate has occurred by the deputy director,  
 10 Dennis White.  
 11 I find this action unethical that  
 12 Dennis White can put on a hat and say that he is  
 13 the deputy director of Franklin County Board of  
 14 Elections, unbiased and neutral, then change hats  
 15 to become Madison Township Trustee and states  
 16 publicly that a township -- that as a township  
 17 trustee, he has a biased interest in the race for  
 18 trustee, personally contacting the candidate, Ed  
 19 Dildine, to make sure corrections were made so  
 20 that this candidate will be certified.  
 21 I really doubt that I would have  
 22 received the same courtesy from anyone at  
 23 Franklin County Board of Elections. Deputy  
 24 director, Dennis White, has set the precedence

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1 for this election cycle that must now be extended  
 2 to all candidates with filing mistakes under due  
 3 process and equal treatment of the law.  
 4 I agree that Mr. Donahue had an error  
 5 in failing to sign his petition. This is an  
 6 obvious error and easy to correct. This should  
 7 have been caught by the election personnel prior  
 8 to Mr. Donahue filing and instruction of what  
 9 needs to be corrected.  
 10 Under the current circumstances,  
 11 Mr. Donahue has the right to due process and  
 12 equal treatment of the law, same as given to Ed  
 13 Dildine, to make the needed corrections and be  
 14 certified.  
 15 If Mr. Donahue is disqualified and I  
 16 lose the election to Ed Dildine, I will be forced  
 17 to challenge the outcome of the elections to the  
 18 full extent of the law.  
 19 I thank you for your time and  
 20 patience.  
 21 CHAIRMAN ANTHONY: Thank you, sir.  
 22 Any questions to Mr. Rinehart?  
 23 (No response.)  
 24 CHAIRMAN ANTHONY: No questions.

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1 Thank you, sir.  
 2 Anyone else in the audience who would  
 3 like to speak on behalf of Mr. Donahue?  
 4 (No response.)  
 5 CHAIRMAN ANTHONY: Anyone like to  
 6 speak not on behalf of Mr. Donahue?  
 7 MAYOR MILLER: I'm sorry, what was the  
 8 second indication?  
 9 CHAIRMAN ANTHONY: Anyone who wanted  
 10 to speak against what Mr. Donahue just said?  
 11 MAYOR MILLER: My name is Jeff  
 12 Miller. I'm Mayor from Canal Winchester, and I  
 13 do swear to tell the truth.  
 14 It's difficult to come in front of you  
 15 today as mayor, also as a candidate against  
 16 Mr. Donahue. First, I want to support him, in a  
 17 sense, be on the wrong side with that as far  
 18 as he's being a good councilman for our village.  
 19 He's stood on many issues. And, together, we've  
 20 made many great changes for our village. So, in  
 21 that sense, I believe Mr. Donahue has done a fine  
 22 job of representing his constituents in the  
 23 village.  
 24 At the same time, I would just like to



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1 point out, this is not the first time Mr. Donahue  
 2 has been a candidate for a position. He did run  
 3 for office two years ago where he has served  
 4 since. He filed his petition. And, according to  
 5 all the information I have at this point, he  
 6 filed so correctly.

7 I also find it a little strange that  
 8 by the same -- the same ideas that -- I've heard  
 9 a call for persons' jobs, to have them removed  
 10 from office, because of special treatment or some  
 11 other sort of statement. At the same time, he's  
 12 requesting that he should have gotten some  
 13 preferential treatment at the same time. Those  
 14 two seem to be conflicting.

15 And as far as newspaper articles,  
 16 ladies and gentlemen, go, I know that you would  
 17 agree with me. We've all probably attended  
 18 meetings where the news has been present and  
 19 after reading it afterwards, maybe not recognize  
 20 the fact that we were there.

21 But there was one newspaper article  
 22 that was written in this week's newspaper where  
 23 Mr. Donahue said that he had admitted to making  
 24 the mistake, the fatal flaw of including his name

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1 and address on the circulator form of the  
 2 petition. So we have one paper saying that he's  
 3 admitted to it, we have other papers saying  
 4 otherwise. And just bringing those things up.

5 Finally, in closing, just to say how  
 6 difficult your job must be. But of all the 500  
 7 petitions, elections, or campaigns that are going  
 8 on in Franklin County this election season, all  
 9 but 11 of them did the right thing, including  
 10 myself.

11 I got my signatures. I got my  
 12 petition filed correctly. It was done in time.  
 13 We did everything we were asked to do by this  
 14 Board and above. I just hope that you bear that  
 15 in consideration.

16 Thank you.

17 CHAIRMAN ANTHONY: Thank you. Any  
 18 questions from Mr. Miller?  
 19 (No response.)  
 20 CHAIRMAN ANTHONY: Anyone else in  
 21 objection to Mr. Donahue's statement?  
 22 Yes, ma'am.  
 23 (Stacy Howard was sworn.)  
 24 MS. HOWARD: My name is Stacy Howard,

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1 and I've lived in Canal Winchester pretty much my  
 2 whole life. I left for a few years and then came  
 3 back. I have two small children in the school  
 4 district now. My parents live in Canal  
 5 Winchester, and I've known Mr. Donahue for many,  
 6 many years.

7 He has not only been on council for  
 8 the village, but he's also been the principal and  
 9 the superintendent. He has been very active in  
 10 pretty much everything that goes on in Canal  
 11 Winchester.

12 I would just like for the opportunity  
 13 for him to run. Is he going to win? Who knows?  
 14 You know, that's up to the voters. But I would  
 15 love for him to have the opportunity to have a  
 16 fair race in this and a fair chance in fighting  
 17 for mayor.

18 That's pretty much it.

19 CHAIRMAN ANTHONY: Thank you so much.  
 20 Any questions for her, for Ms. Howard?  
 21 (No response.)  
 22 CHAIRMAN ANTHONY: Thank you,  
 23 Ms. Howard.  
 24 Based on the testimony, I just had a

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1 couple of things that I needed -- I probably  
 2 needed clarified or some -- one is, we have an  
 3 opportunity to look at the petitions here. And  
 4 based on our -- and I'm quite sure our legal  
 5 folks have looked at this, as well as the Board.  
 6 What's the legal opinion from the --

7 MR. PICCININNI: The petitions are  
 8 fatally flawed.

9 CHAIRMAN ANTHONY: Fatally flawed?  
 10 Okay.

11 MR. PICCININNI: Statute 3501.38(e)(1)  
 12 specifically states that the circulator of the  
 13 petition shall sign the circulator statement,  
 14 shall witness, shall indicate the number of  
 15 signatures that that person witnessed, and that  
 16 all the signors were to the best of the  
 17 circulator's knowledge and belief the signature  
 18 of the person whose signature it purports to be  
 19 or an attorney in fact, pursuant to another  
 20 provision of the Code.

21 This is not an issue of substantial  
 22 compliance where, you know, the information was  
 23 filled out, this is an issue where there was no  
 24 compliance at all. This is an individual who had

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1 been a candidate before.  
 2 The law is clear that a  
 3 candidate -- it's the candidate's responsibility  
 4 to know and understand the election laws when  
 5 they enter the realm. The courts have held that  
 6 repeatedly in numerous cases. And as recently as  
 7 Friday, in a case against the Cuyahoga County  
 8 Board of Elections. So that being said, the  
 9 petitions are fatally flawed.  
 10 CHAIRMAN ANTHONY: Okay. Any  
 11 questions for our legal attorney, based on what  
 12 I've asked him?  
 13 MR. COLLEY: The petitions are flawed?  
 14 MR. PICCININNI: Yes. Fatally.  
 15 MR. COLLEY: The candidate can't get  
 16 on the ballot?  
 17 MR. PICCININNI: This candidate cannot  
 18 get on the ballot.  
 19 MR. COLLEY: I bet if you poled the  
 20 people in the audience, most of them would say  
 21 that's unfair.  
 22 MR. PICCININNI: The law is -- the  
 23 cases have held in the past that even though the  
 24 Board of Elections does -- or the Board of

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1 Elections employees may give advice or make  
 2 representations, the Board still is required to  
 3 follow the law. The way the legislature dictated  
 4 in estoppel is not available -- the Board of  
 5 Elections is not estopped by that advice from  
 6 complying with the dictates of Title 35 of the  
 7 Revised Code.  
 8 MR. COLLEY: Well, the Board's  
 9 followed the law, I don't doubt that. But it  
 10 strikes me the law is unfair.  
 11 MR. PICCININNI: I'm only -- I  
 12 understand what you're saying, Mr. Colley, and --  
 13 MR. COLLEY: Your recommendation, I  
 14 assume, is exactly that, to -- based on the facts  
 15 in the law, to recommend that the Board vote the  
 16 negative.  
 17 MR. PICCININNI: The Board should vote  
 18 in the negative. The Board does not have the  
 19 leeway to correct what's been said, you know, or  
 20 what may or may not have happened. The Board  
 21 does not have the ability to go against the  
 22 strictures and dictates of Title 35.  
 23 Yes, there were some changes in policy  
 24 based on a decision from 2005 allowing withdrawal

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1 of petitions before the Board acts. And based  
 2 on, from what I understand, some advice from the  
 3 secretary, that may or may not -- I'm not going  
 4 to get into the ramifications of that particular  
 5 policy dictated from the secretary or what may  
 6 have been posted on a -- in response to a  
 7 question from a county Board of Elections.  
 8 However, it is the advice of the  
 9 prosecuting attorney that based on the dictates  
 10 of Title 35 and due to the fact that there was  
 11 absolutely zero compliance with the circulator  
 12 statement, that the petitions need to be rejected  
 13 and the appeal should be denied and it should be  
 14 voted in the negative.  
 15 CHAIRMAN ANTHONY: Thank you, sir.  
 16 Any other questions?  
 17 (No response.)  
 18 CHAIRMAN ANTHONY: All right. I just  
 19 had one other that, Matt, you could clear up for  
 20 me. He had made a statement that Mr. Dildine was  
 21 given three opportunities to submit applications  
 22 or submit either the paperwork for write-in and  
 23 then subsequently submit paperwork for the  
 24 petitions. Can you explain the policy of why

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1 that was allowed?  
 2 MR. DAMSCHRODER: Up until after the  
 3 Board meeting last week, neither the deputy  
 4 director or I were aware of the impact of the  
 5 changes of the law relative to write-ins that  
 6 actually had been changed some time ago.  
 7 The changes in the law --  
 8 historically, the write-in option was always  
 9 available to a candidate who had failed to make  
 10 the ballot as a regular candidate. That law had  
 11 changed, actually, a couple of years ago. We  
 12 were not aware of that.  
 13 And so both after the Board met last  
 14 week -- or I guess it was over a week ago, when I  
 15 errantly told Mr. Donahue that he could file as a  
 16 write-in, I learned afterwards that he could not.  
 17 So at the time that Mr. Dildine filed  
 18 as a write-in, that was the best understanding of  
 19 the law that this office had. The other thing  
 20 that changed is that, historically, this office,  
 21 and most county boards of elections, had  
 22 understood the law in all supporting court  
 23 decisions to say that once a candidate had filed  
 24 his or her petition, that there was not an

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1 opportunity to withdraw the petition and file a  
 2 new one.  
 3 In a case, I think up in Lucas County  
 4 a couple of years ago, the courts reversed  
 5 themselves, and the Secretary of State  
 6 communicated that to the county boards of  
 7 elections on -- in clarifying.  
 8 It was the first time that I had  
 9 become aware of it, on August, I believe the  
 10 10th, saying that a candidate could -- who had  
 11 timely filed their petitions, could withdraw  
 12 their candidacy relative to that set of petitions  
 13 and file a new set of petitions for a new  
 14 candidacy.  
 15 So that's, I think, what the genesis  
 16 was for Mr. Dildine filing multiple candidacies.  
 17 First, in terms of the write-in, that we were not  
 18 aware that that was prohibited; and then the  
 19 third candidacy was based on the first --  
 20 withdraw of the first set of petitions, given our  
 21 understanding of -- based from the August 10  
 22 information from the Secretary of State.  
 23 CHAIRMAN ANTHONY: All right. Thank  
 24 you. Any clarification from what I've asked?

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1 MS. MARINELLO: I have a question. So  
 2 before, you used to be able to not withdraw your  
 3 petition and file as a write-in without  
 4 withdrawing, but now you have to withdraw and  
 5 file another petition? A write-in is over?  
 6 MR. DAMSCHRODER: There's two things  
 7 that used to be. The first was that if you filed  
 8 as a candidate, that you -- and you failed to  
 9 make the ballot, then you could file as a write-  
 10 in. That has changed.  
 11 The other thing that used to be was  
 12 that once you had filed a petition, you could not  
 13 withdraw that petition and file a new one. Now  
 14 the way things are going forward prospectively is  
 15 that you can withdraw your candidacy relative to  
 16 that instrument and file a new candidacy with a  
 17 new instrument.  
 18 MR. PICCININNI: That's prior to the  
 19 Board taking action on it.  
 20 MR. DAMSCHRODER: That's right.  
 21 That's prior to filing -- prior to the petition  
 22 filing deadline.  
 23 MR. PICCININNI: If the Board takes  
 24 action, you lose those options.

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1 MR. DAMSCHRODER: Prior to the filing  
 2 deadline.  
 3 CHAIRMAN ANTHONY: Right. Right.  
 4 MR. PICCININNI: And prior to the  
 5 filing deadline.  
 6 CHAIRMAN ANTHONY: Got you.  
 7 MR. PICCININNI: I mean, that's what  
 8 we're -- what we're coming to.  
 9 CHAIRMAN ANTHONY: Absolutely.  
 10 MR. PICCININNI: This case in 2005 out  
 11 of Lucas County indicated that certain options  
 12 were not available because he never timely  
 13 withdrew candidacy. So I think that's where the  
 14 genesis and the impetuous for these  
 15 interpretations are now coming from.  
 16 And then in 2002, the legislature  
 17 specifically amended the write-in statute that  
 18 specifically stated if you've already filed the  
 19 declaration, you are prohibited from filing as a  
 20 write-in.  
 21 So the Board has now taken action on  
 22 the declaration of candidacy. The original  
 23 nominating petition said no, that's it, you're  
 24 done. And that's -- that's clear. There is no

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1 interpretation. I think earlier in August the  
 2 secretary came out and flat out said that.  
 3 CHAIRMAN ANTHONY: Okay. Ms. Petree,  
 4 you had a question?  
 5 MS. PETREE: Yes, I do. In looking at  
 6 Mr. Donahue's petitions, it's very clear that  
 7 there is no signature of the circulator. And I  
 8 don't understand how an employee of the Board  
 9 could look at these petitions and say that  
 10 they're all right.  
 11 And this is very disturbing to me that  
 12 this gentleman wasn't given the chance to redo  
 13 his petitions.  
 14 CHAIRMAN ANTHONY: Thank you.  
 15 MR. WHITE: Do you want me to address  
 16 that, Matt? You're doing a great job, by the  
 17 way.  
 18 MS. PETREE: Yes.  
 19 MR. DAMSCHRODER: Thanks, Denny. I  
 20 think one of the -- one of the things, from an  
 21 administrative standpoint, that this issue has  
 22 brought to light is that we do, in all areas of  
 23 our office, need to have better documented  
 24 policies and procedures on exactly what employees

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1 are to do and what not to do.  
 2 And so later on in the meeting, I'll  
 3 be proposing a Standard Operating Procedures for  
 4 the petitions of financial filings department  
 5 that will cover this going forward so that we  
 6 have very clear expectations of what we are able  
 7 to communicate and what we cannot and should not  
 8 communicate.  
 9 MR. WHITE: Yeah, there's no written  
 10 policies on how they handle the check-in of the  
 11 petitions out there. Basically, all they're  
 12 doing is clerking it in, time stamping it, make  
 13 sure they make it before the requirement.  
 14 You know, some days, you might -- the  
 15 early filers, you might have a couple of  
 16 petitions come in. As you get closer towards the  
 17 filing deadline, you could have them lined up  
 18 back there.  
 19 MS. PETREE: All right.  
 20 MR. WHITE: And, basically, all  
 21 they're doing is clerking it in so it's time  
 22 dated, collecting the proper fees. And depending  
 23 on how much demand is put on them at that  
 24 particular time, how much of a look they're

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1 doing.  
 2 That's why I think that what Matt came  
 3 up with to address the change in candidates can  
 4 refile if there's a problem is a way of leveling  
 5 that playing field to where no petition is  
 6 actually checked for its fatal errors or those  
 7 types of things until after the deadline.  
 8 All you're actually doing is clerking  
 9 it in to have official time date on this stuff  
 10 showing that it did get in by the filing  
 11 deadline. Because if you wait like the  
 12 day -- four o'clock before a filing deadline,  
 13 they're out there, what, just clerking and  
 14 punching?  
 15 MS. PETREE: I know. Yes. I've been  
 16 here at that time, Mr. White, so I realize that.  
 17 And I realize that that is a good procedure to go  
 18 from here on out. But I don't agree with this at  
 19 all.  
 20 MR. WHITE: Right.  
 21 MS. PETREE: And some people were  
 22 helped and other people weren't, and it just  
 23 isn't fair to me.  
 24 MR. WHITE: And different clerks will

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1 handle it a different way. Some clerk might be a  
 2 little more helpful than the other. That's why  
 3 it's good we have a protocol and say, this is  
 4 what you'll do.  
 5 And the more help you give it -- you  
 6 give the candidate -- because, ultimately, the  
 7 law requires a candidate to be responsible. Then  
 8 you're starting to shift that responsibility over  
 9 to your -- over to your people, I think, or open  
 10 up questions about, you did this for this  
 11 candidate or that candidate.  
 12 So I think what Matt -- his draft  
 13 protocol is going to address these problems. The  
 14 other problem we had in this particular instance,  
 15 this bulletin came from the Secretary of State  
 16 right in the middle of this filing deadline  
 17 period. We had candidates already filed and some  
 18 hasn't filed. And they kind of changed the rules  
 19 of the candidates right in the middle of it.  
 20 MR. DAMSCHRODER: Ms. Petree, I had a  
 21 long conversation with Mr. Colley this morning  
 22 about this very issue and the inherent or  
 23 apparent unfairness of the situation  
 24 notwithstanding, as the assistant prosecuting

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1 attorney has said, that there isn't -- the Board  
 2 does not have discretion to fix whatever our  
 3 administrative shortcomings were or were not by  
 4 putting Mr. Donahue on the ballot.  
 5 The only -- we have to address those  
 6 in different ways. And we can talk about that  
 7 later.  
 8 CHAIRMAN ANTHONY: Any other  
 9 discussions on this matter?  
 10 (No response.)  
 11 CHAIRMAN ANTHONY: It's my  
 12 understanding that in order to place Mr. Donahue  
 13 on the ballot, there has to be a motion to place  
 14 him on the ballot.  
 15 MR. PICCININNI: In the affirmative.  
 16 CHAIRMAN ANTHONY: In the  
 17 affirmative. Is there such a motion from any  
 18 Board member?  
 19 MS. PETREE: I will make a motion.  
 20 CHAIRMAN ANTHONY: Is there a proper  
 21 second?  
 22 MR. COLLEY: Second.  
 23 CHAIRMAN ANTHONY: All right. It has  
 24 been properly moved and seconded to place

