

1 BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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3 IN RE: :

4 Board Meeting :

5 - - - - -

6 Proceedings before Chairman William A.
7 Anthony, Jr., Board Member Kimberly E.
8 Marinello, Board Member Michael E. Colley,
9 and Board Member Carolyn C. Petree, taken at
10 the Franklin County Board of Elections, 280
11 East Broad Street, Columbus, Ohio, on Friday,
12 January 11, 2008, at 3:28 o'clock p.m.

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Page 2

1 APPEARANCES:

2 Franklin County Prosecuting Attorney

3 373 South High Street

4 13th Floor

5 Columbus, Ohio 43215

6 By Mr. Patrick Piccininni,

7 Assistant County Prosecutor,

8

9 On behalf of the Board of

10 Elections.

11 Perez & Morris, LLC

12 8000 Ravine's Edge Court

13 Suite 300

14 Columbus, Ohio 43235

15 By Ms. Angela Alexander Savino,

16 Attorney at Law,

17

18 On behalf of the Petitioner,

19 Mariachi Mexican Restaurant.

20

21

22

23

24

ALSO PRESENT:

Mr. Matthew Damschroder, Director

Mr. Dennis White, Deputy Director

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3 Victoria Parks 69

4 Marian Lupo 73

5 Dan Stanton 82

6 Carla Patton 104

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2 PROCEEDINGS

3 -----

4 CHAIRMAN ANTHONY: Hello. I'd like

5 to call the Franklin County Board of

6 Elections meeting to order, please.

7 DIRECTOR DAMSCHRODER: Mr. Colley.

8 BOARD MEMBER COLLEY: Here.

9 DIRECTOR DAMSCHRODER:

10 Ms. Marinello.

11 BOARD MEMBER MARINELLO: Here.

12 DIRECTOR DAMSCHRODER: Ms. Petree.

13 BOARD MEMBER PETREE: Yes.

14 DIRECTOR DAMSCHRODER: Chairman

15 Anthony.

16 CHAIRMAN ANTHONY: Here.

17 DIRECTOR DAMSCHRODER: All members

18 are present.

19 The first item on the agenda is the

20 approval of previous minutes that have been

21 distributed to the Board.

22 CHAIRMAN ANTHONY: Is there a

23 motion to approve the minutes of that Board

24 meeting?

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<p>1 BOARD MEMBER PETREE: I make a 2 motion. 3 CHAIRMAN ANTHONY: All those in -- 4 well, let me do it right. 5 I move that the Board approve the 6 minutes of the meeting of Franklin County 7 Board of Elections, November 5th, 2007, and 8 November 27th, 2007, as submitted. 9 Is there a second? 10 BOARD MEMBER PETREE: Second. 11 CHAIRMAN ANTHONY: All those in 12 favor, say aye. 13 (Board votes aye unanimously.) 14 DIRECTOR DAMSCHRODER: That motion 15 carries. 16 The next item on the public portion 17 of the agenda is candidate certification. 18 There before you in the large packet is the 19 list of all of the candidates having timely 20 filed petitions last Friday to appear on the 21 March 4th, 2008 Primary Election ballot. 22 Everyone contained on this list was 23 identified by staff as having filed, timely 24 filed, ballots, sufficient petitions.</p>	<p>1 of those candidates submitted by the Director 2 and Deputy Director and reviewed by the Board 3 be attached to the record of the proceedings 4 as Exhibit A. 5 CHAIRMAN ANTHONY: Is there a 6 second? 7 BOARD MEMBER PETREE: I second 8 that. 9 CHAIRMAN ANTHONY: All those in 10 favor, say aye. 11 (Board votes aye unanimously.) 12 DIRECTOR DAMSCHRODER: And I will 13 give this to the court reporter to attach to 14 the record. 15 The next four resolutions we need 16 to handle one-by-one, because some Board 17 members need to abstain, either because they 18 themselves are the candidate being certified 19 or it's a family member or close associate. 20 CHAIRMAN ANTHONY: Okay. And this 21 is for the County Central Committees? 22 DIRECTOR DAMSCHRODER: The first 23 one is the candidacy of Michael Colley. So 24 once that motion has been made and seconded,</p>
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<p>1 And this list has been gone 2 through, also, so that we can take out the 3 individual motions that each Board member has 4 to vote on for the roll call for extensions. 5 So it will be staff's 6 recommendation that we accept this list in an 7 omnibus kind of resolution as printed on 8 the -- on the agenda. And then, we'll go 9 through the other ones individually. 10 CHAIRMAN ANTHONY: Okay. So how do 11 you want us to start again, now? 12 DIRECTOR DAMSCHRODER: Let's handle 13 the first paragraph that appears under 14 candidate certification as one motion. 15 CHAIRMAN ANTHONY: Okay. 16 BOARD MEMBER MARINELLO: 17 Mr. Chairman? 18 CHAIRMAN ANTHONY: Yes. 19 BOARD MEMBER MARINELLO: I move 20 that the Board certify to the March 4th, 2008 21 Primary Election ballot those candidates 22 whose petitions have been timely filed on or 23 before Friday, January 4th, 2008, were found 24 to be valid and sufficient, and that the list</p>	<p>1 we'll do a roll call vote with Mr. Colley 2 abstaining. 3 CHAIRMAN ANTHONY: Okay. Then I 4 would entertain a motion. 5 BOARD MEMBER PETREE: Mr. Chairman? 6 CHAIRMAN ANTHONY: Yes, ma'am. 7 BOARD MEMBER PETREE: I move that 8 Michael F. Colley be certified to the March 9 4th, 2008 Primary Election ballot, as a 10 candidate for member of the Republican State 11 Central Committee from the 16th Ohio Senate 12 District. 13 CHAIRMAN ANTHONY: Okay. We ought 14 to do a roll call vote on that. 15 DIRECTOR DAMSCHRODER: A second. 16 CHAIRMAN ANTHONY: Oh, is there a 17 second for that? 18 BOARD MEMBER MARINELLO: Second. 19 CHAIRMAN ANTHONY: Okay. Roll 20 call. 21 DIRECTOR DAMSCHRODER: Roll call 22 vote: Mr. Colley. 23 BOARD MEMBER COLLEY: Abstain. 24 DIRECTOR DAMSCHRODER:</p>

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<p>1 Ms. Marinello. 2 BOARD MEMBER MARINELLO: Yes. 3 DIRECTOR DAMSCHRODER: Ms. Petree. 4 BOARD MEMBER PETREE: Yes. 5 DIRECTOR DAMSCHRODER: Chairman 6 Anthony. 7 CHAIRMAN ANTHONY: Yes. 8 DIRECTOR DAMSCHRODER: And motion 9 carries. 10 The next motion is the candidacy of 11 Carolyn Petree for State Central Committee, 12 with once the motion is made and seconded Ms. 13 Petree needs to abstain. 14 CHAIRMAN ANTHONY: I would 15 entertain a motion. 16 BOARD MEMBER MARINELLO: 17 Mr. Chairman? 18 CHAIRMAN ANTHONY: Yes. 19 BOARD MEMBER MARINELLO: I move 20 that Carolyn C. Petree be certified to the 21 March 4th, 2008 Primary Election ballot as a 22 candidate for the member of the Republican 23 State Central Committee from the 15th Ohio 24 Senate District.</p>	<p>1 respectively. 2 Is there a second? 3 BOARD MEMBER PETREE: Second. 4 CHAIRMAN ANTHONY: We need a roll 5 call vote. 6 DIRECTOR DAMSCHRODER: Mr. Colley. 7 BOARD MEMBER COLLEY: Yes. 8 DIRECTOR DAMSCHRODER: 9 Ms. Marinello. 10 BOARD MEMBER MARINELLO: Abstain. 11 DIRECTOR DAMSCHRODER: Ms. Petree. 12 BOARD MEMBER PETREE: Yes. 13 DIRECTOR DAMSCHRODER: Chairman 14 Anthony. 15 CHAIRMAN ANTHONY: Yes. 16 DIRECTOR DAMSCHRODER: And again, 17 the last one, with Chairman Anthony 18 abstaining. 19 BOARD MEMBER MARINELLO: I move 20 that Ruth E. Lawson, David S. Anthony, 21 Richard L. Vinson, be certified to the March 22 4th, 2008 Primary Election ballot as 23 candidates for members of the Democratic 24 County Central Committee from Wards 3, 4, and</p>
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<p>1 CHAIRMAN ANTHONY: Is there a 2 second? 3 BOARD MEMBER COLLEY: Second. 4 CHAIRMAN ANTHONY: Roll call vote. 5 DIRECTOR DAMSCHRODER: Mr. Colley. 6 BOARD MEMBER COLLEY: Yes. 7 DIRECTOR DAMSCHRODER: 8 Ms. Marinello. 9 BOARD MEMBER MARINELLO: Yes. 10 DIRECTOR DAMSCHRODER: Ms. Petree. 11 BOARD MEMBER PETREE: Abstain. 12 CHAIRMAN ANTHONY: Chairman 13 Anthony. 14 CHAIRMAN ANTHONY: Yes. 15 DIRECTOR DAMSCHRODER: Motion 16 carries. 17 The next one, we'll handle again 18 with Ms. Marinello abstaining. 19 CHAIRMAN ANTHONY: All right. Then 20 I move that Joy Fielder, Dennis L. White, be 21 certified to the March 4th, 2008 Primary 22 Election ballot as candidates for members of 23 the Democratic County Central Committee from 24 Columbus Ward 29 and Madison Township</p>	<p>1 51 respectively. 2 CHAIRMAN ANTHONY: Is there a 3 second? 4 BOARD MEMBER COLLEY: Second. 5 CHAIRMAN ANTHONY: Roll call vote. 6 DIRECTOR DAMSCHRODER: Mr. Colley. 7 BOARD MEMBER COLLEY: Yes. 8 DIRECTOR DAMSCHRODER: 9 Ms. Marinello. 10 BOARD MEMBER MARINELLO: Yes. 11 DIRECTOR DAMSCHRODER: Ms. Petree. 12 BOARD MEMBER PETREE: Yes. 13 DIRECTOR DAMSCHRODER: Chairman 14 Anthony. 15 CHAIRMAN ANTHONY: I abstain. 16 DIRECTOR DAMSCHRODER: Motion 17 carries. 18 The next group of petitions that we 19 need to discuss are all the candidates or all 20 the petitions that were found as having some 21 question either of substantial compliance 22 that needs to be handled by the Board or 23 other petitions that were just outright 24 insufficient or invalid.</p>

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<p>1 The Board does not have to act on 2 the insufficient or invalid. 3 Denny? 4 DEPUTY DIRECTOR WHITE: We didn't 5 act on Kim's Central Committee petition. 6 DIRECTOR DAMSCHRODER: Oh, I'm 7 sorry. 8 BOARD MEMBER MARINELLO: I'm not on 9 there. 10 BOARD MEMBER PETREE: Oh, that's 11 true. 12 CHAIRMAN ANTHONY: Oh, you're on 13 the Central Committee? 14 What's your ward? 15 BOARD MEMBER MARINELLO: 49. 16 CHAIRMAN ANTHONY: 41? 17 BOARD MEMBER MARINELLO: 49. 18 DEPUTY DIRECTOR WHITE: Somebody 19 just needs to make that motion. 20 CHAIRMAN ANTHONY: I'll make that 21 motion. 22 DEPUTY DIRECTOR WHITE: And she 23 would abstain. 24 CHAIRMAN ANTHONY: And I move --</p>	<p>1 petitions that have questions. There were a 2 number that were just found to have 3 insufficient number of valid signatures; 4 others that failed to properly execute their 5 circular statement. 6 There are a couple, Jeni Horn, Ryan 7 Frazee, Tim Kenney, Kari Hertel, Michael 8 Cline, and Shawn Dingus, that made some kind 9 of, each different, but minor clerical errors 10 that have either been found in the past, 11 through court decisions, recommendations from 12 Prosecuting Attorney, or from the Secretary 13 of State, or prior action of the Board, to be 14 found to be, like I said, minor clerical 15 errors, that do meet substantial compliance. 16 You can go through each one of those and 17 discuss them if you would like to, or you can 18 move forward with staff recommendation and 19 just begin with the motions. 20 CHAIRMAN ANTHONY: Now, are you 21 saying that these have problems or -- 22 DEPUTY DIRECTOR WHITE: The 23 original list that he gave over, on the first 24 resolution, these are ones that we had some</p>
Page 15	Page 17
<p>1 yeah. I move that Kim Marinelli [sic] be 2 certified to the March 4th, 2000 [sic] 3 Primary Election ballot as a candidate for 4 the member of the Democratic Central 5 Committee from Ward -- 6 BOARD MEMBER MARINELLO: 49, Ward 7 49. 8 CHAIRMAN ANTHONY: Ward 49. 9 Is there a second? 10 BOARD MEMBER PETREE: I'll second. 11 DIRECTOR DAMSCHRODER: Mr. Colley. 12 BOARD MEMBER COLLEY: Yes. 13 DIRECTOR DAMSCHRODER: 14 Ms. Marinello. 15 BOARD MEMBER MARINELLO: Abstain. 16 DIRECTOR DAMSCHRODER: Ms. Petree. 17 BOARD MEMBER PETREE: Yes. 18 DIRECTOR DAMSCHRODER: Chairman 19 Anthony. 20 CHAIRMAN ANTHONY: Yes. 21 DIRECTOR DAMSCHRODER: Sorry about 22 that, Kim. 23 The next group, as we were talking 24 about, are the candidates that have --</p>	<p>1 concerns with, so we got with either the 2 Prosecutor's Office or Brian from the 3 Secretary of State's office, and they said 4 that it would be okay to put these on the 5 ballot. They weren't on the original 6 resolution. 7 CHAIRMAN ANTHONY: Okay. All 8 right. Then I would entertain a motion. 9 BOARD MEMBER MARINELLO: 10 Mr. Chairman? 11 CHAIRMAN ANTHONY: Yes, ma'am. 12 BOARD MEMBER MARINELLO: I move 13 that Jeni Horn, Ryan Frazee, Timothy Kenney, 14 and Kari Hertel be certified to the March 15 4th, 2008 Primary Election ballot as 16 candidates for member of the Republican 17 County Central Committee from Ward 3, Ward 18 59, Reynoldsburg Ward 4, and Dublin Ward 2 19 respectively. 20 CHAIRMAN ANTHONY: Is there a 21 second? 22 BOARD MEMBER PETREE: I'll second. 23 CHAIRMAN ANTHONY: All those in 24 favor, say aye.</p>

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1 (Board votes aye unanimously.)
 2 DEPUTY DIRECTOR WHITE: The other
 3 two the same.
 4 DIRECTOR DAMSCHRODER: The other
 5 two are the same way.
 6 DEPUTY DIRECTOR WHITE: The next
 7 two are the same, too.
 8 CHAIRMAN ANTHONY: I'll entertain a
 9 motion.
 10 BOARD MEMBER PETREE: Mr. Chairman?
 11 CHAIRMAN ANTHONY: Yes, ma'am.
 12 BOARD MEMBER PETREE: I move that
 13 Michael Cline be certified to the March 4th,
 14 2008 Primary Election ballot as a candidate
 15 for Democratic County Central Committee from
 16 Plain Township.
 17 CHAIRMAN ANTHONY: Is there a
 18 second?
 19 BOARD MEMBER MARINELLO: Second.
 20 CHAIRMAN ANTHONY: All those in
 21 favor, say aye.
 22 (Board votes aye unanimously.)
 23 DIRECTOR DAMSCHRODER: And then the
 24 last one.

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1 BOARD MEMBER MARINELLO:
 2 Mr. Chairman, I move that Shawn Dingus be
 3 certified to the March 4th, 2008 Primary
 4 Election ballot as a Democratic candidate for
 5 Judge of the Court of Common Pleas, General
 6 Division, with full term commencing July 1st,
 7 2009.
 8 CHAIRMAN ANTHONY: Is there a
 9 second?
 10 BOARD MEMBER PETREE: Second.
 11 CHAIRMAN ANTHONY: All those in
 12 favor, say aye.
 13 (Board votes aye unanimously.)
 14 DIRECTOR DAMSCHRODER: That motion
 15 carries.
 16 The next item on the agenda is to
 17 consider an appeal of a local option that was
 18 previously filed by the Board -- before the
 19 Board, that the Board denied based on
 20 interpretation from both the Secretary of
 21 State and the Prosecuting Attorney's Office.
 22 I think the appeal was mailed to each of the
 23 Board members. I think we do have some
 24 copies, if you need to review it.

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1 And I believe someone is here
 2 representing the Mariachi Mexican Restaurant.
 3 The local option was for 4740 East Main
 4 Street in Whitehall. I believe someone is
 5 here representing the petitioner.
 6 CHAIRMAN ANTHONY: Yes, ma'am.
 7 How are you?
 8 MS. ALEXANDER SAVINO: I'm fine,
 9 thank you. Thank you for your time.
 10 I trust you --
 11 CHAIRMAN ANTHONY: Can you give us
 12 your name?
 13 MS. ALEXANDER SAVINO: My name is
 14 Angela Alexander Savino. I'm counsel for
 15 Mariachi and petitioner.
 16 She's reminding me I was before you
 17 not long ago.
 18 Thank you for your time, again.
 19 I trust you received the appeal.
 20 And it looks like, after talking with your
 21 counsel --
 22 BOARD MEMBER MARINELLO: Can you
 23 speak louder, please?
 24 MS. ALEXANDER SAVINO: Sure.

Page 21

1 It looks like, after talking with
 2 your counsel, the issue seems to stem on the
 3 statute 4301.333(B)(3)(a), specifically that
 4 in addition to identifying the type of liquor
 5 permit on each petition, it should include a
 6 description of the type of beer or
 7 intoxicating liquor sales authorized by each
 8 permit as provided by these sections.
 9 I should mention, I'm assuming you
 10 already know, but there was adequate
 11 signatures.
 12 The question came down to what was
 13 considered to be a flaw to the description of
 14 the liquor permits on the petition. I submit
 15 to you that nothing within that statute says
 16 where on the petition the description of the
 17 type of liquor permits has to be included.
 18 On our petition, we did include
 19 that it's a D-5 and D-6, and that they were a
 20 holder of the D-5 and D-6, and they were not
 21 applying for any other permit. We also
 22 described that, as a holder of a D-5 and D-6,
 23 they were seeking to sell what they could
 24 sell under those permits, beer, wine, mixed

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<p>1 beverages, spirituous liquor, on Sunday for 2 on-premise consumption. All the information 3 is on the petition. 4 The disagreement I think that I am 5 having with some of the interpretation is 6 the -- that there's some who believe it 7 states exactly where that information should 8 be contained on the petition form. There is 9 nothing in the statute that says that. The 10 statute merely says you describe the liquor 11 permits. You describe the type of local 12 option that you are asking voters to support. 13 That has all been done on the petition. 14 Nowhere in the statute does it say on which 15 line in which place on that petition form you 16 need to include it. 17 In this situation, they're not 18 applying for any new privileges. Clearly, 19 the petition says they are a holder of a D-5, 20 D-6, and it outlines what all those 21 privileges are, and that they're seeking that 22 for Sunday on-premise consumption. So I 23 submit to you that the petition is not 24 flawed. It is complete. It does comply with</p>	<p>1 (No response is heard.) 2 CHAIRMAN ANTHONY: Have we had a 3 chance to have an opinion on this? 4 DIRECTOR DAMSCHRODER: I think the 5 Prosecuting Attorney's Office has talked with 6 the Secretary of State, and I think they're 7 prepared -- 8 (Interruption in proceedings occurs 9 as reporter's equipment comes unplugged.) 10 PROSECUTOR PICCININNI: Gretchen 11 Quinn is an elections -- one of the elections 12 attorneys that are in the Secretary of 13 State's office, and I believe that she does a 14 lot of the review of these petitions, or did 15 a lot of these review of these petitions as 16 to form prior to submission to the Ballot 17 Board for the final ballots to be -- for the 18 ballots to be finalized. And she was not -- 19 unable to approve a bunch of them as to form 20 because of this issue. 21 At that time, for the November 22 election, it was left to the discretion of 23 the boards on whether or not they were going 24 to revisit the issues, because all the boards</p>
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<p>1 the statute. 2 Not only is there a concern that 3 there has been a misunderstanding as it 4 relates to this petition, as it relates to 5 the statute, but also to -- to rule 6 otherwise, to continue to not certify this 7 petition, would actually be to the detriment 8 of the Franklin County voters. If it's 9 compliant with the statute, there's been no 10 change in statutory law, there's been no case 11 law to change the interpretation of that 12 statute, and all the information is before 13 the voters for them to make an informed 14 decision, to rule otherwise would be 15 denying -- excuse me -- the citizens on the 16 right to vote on something that they had 17 signed valid and legal petitions for. 18 So I would ask you to reconsider 19 the petition. I would ask you to reconsider 20 and to certify the petition. 21 And I certainly am willing to 22 answer any questions. 23 CHAIRMAN ANTHONY: Okay. Are there 24 any questions for her?</p>	<p>1 had already certified the issues to the 2 ballot. 3 Now, in review of the statute in 4 question, 4301.333, the statute specifically 5 (B) -- I'm sorry. (B)(3)(a) specifically 6 states that the type of each -- that the 7 petition shall contain the following: The 8 type of each liquor permit applied for by the 9 applicant, or held by the liquor permit 10 holder as described in other sections of the 11 revised code, including a description of the 12 type of beer or intoxicating liquor sales 13 authorized by each permit as provided in 14 those sections. 15 So not only does it say list the 16 type of permit you have, be it D-1, D-4, D-6, 17 et cetera, but say what those permits allow 18 you to do. And in this case, this petition 19 fails to describe that. 20 Now, this is -- this petition is 21 asking for the sale of beer, wine, mixed 22 beverages, and spirituous liquor, for 23 on-premise consumption between -- on -- for 24 sales on Sunday, between the hours of 10:00</p>

<p style="text-align: right;">Page 26</p> <p>1 a.m. to midnight, and it further goes on to 2 say that the holder -- that the restaurant is 3 a holder of a D-5 and D-6 liquor permit. 4 What's absent there is what the D-5 and D-6 5 allow you to do. Yes, it may be repetitive 6 to what you're asking for, but for clarity to 7 the voters they know that you already have 8 the permit that would allow you to do this; 9 you're asking for expanded sales, or Sunday 10 sales, in this case. 11 Based on the what the secretary -- 12 the Secretary of State's Office has given us, 13 this permit, this particular petition, does 14 not describe what the D-5 or D-6 permit is to 15 contain, what the D-5 or D-6 permit does, so 16 it is not informing the voters of what's -- 17 what the permits are. The voter is left to 18 guess, what do they have? What are they 19 allowed to do now? Am I allowing them to do 20 more by increasing their -- am I giving them 21 a new permit? Am I -- what am I doing? 22 So, I mean, I see the policy behind 23 the section of the statute. Unfortunately, 24 this petition does not comply with it.</p>	<p style="text-align: right;">Page 28</p> <p>1 The part they're seeking is the on-premise 2 consumption for Sunday. And that is listed, 3 to be seeking the on-premise consumption for 4 Sunday. 5 So I think this can be 6 distinguished, perhaps, from the scenario 7 that your counsel has referred to, because it 8 is not an applicant for a new privilege. 9 They have these permits. 10 The other issue is this is -- and 11 I'm sure you're well-versed. This is a 12 reinterpretation of existing law. This same 13 language has been adequate, has been 14 sufficient, for both Board of Elections and 15 for Franklin County voters for years. And 16 that's because it does describe what is being 17 sought. They're seeking beer, wine, mixed 18 beverages, and spirituous liquor. 19 The change with this local option, 20 that's why a 5-R, is to have that on Sunday, 21 and to have it in certain respects on Sunday. 22 And in this case, it's for on-premise during 23 certain hours. 24 And so the concern is that, here,</p>
<p style="text-align: right;">Page 27</p> <p>1 MS. ALEXANDER SAVINO: If I may 2 reply? 3 CHAIRMAN ANTHONY: Yes, ma'am. 4 MS. ALEXANDER SAVINO: To 5 distinguish what I think has been described, 6 when it says it doesn't describe that there's 7 additional privileges that are being sought, 8 the petition is pretty clear they're a 9 holder. They're not applying for different 10 permits. They are the holder of the D-5, 11 D-6. 12 The local option also makes it 13 clear that the only thing they're seeking is 14 the Sunday sales from 10:00 a.m. to midnight 15 of the privileges of the sale of beer. It 16 lists the sale of beer, the sale of wine, the 17 sale of mixed beverages, and spirituous 18 liquor. Those are the things that are 19 permitted to a holder of a D-5, D-6. 20 In this case, they're not applying 21 for it. It's not as if they're coming and 22 saying, I don't have anything, and so I want 23 these privileges. In this case, they are a 24 holder. They already have the privileges.</p>	<p style="text-align: right;">Page 29</p> <p>1 without a change in statutory language, 2 without a change in case law, you know, by 3 people who are elected and/or placed into 4 positions to interpret the law, that there is 5 now a change in provisions that have been 6 adequate for both Board of Elections and for 7 both voters, and in fact meets the current 8 statutory requirements. 9 If you look at what those 10 requirements are, it lists the address. It's 11 been signed by 35 percent of the voters. It 12 lists the types of privileges that are 13 granted. It lists the types of permits. It 14 lists what's been sought. All the premises 15 of the statute are there. 16 The difference here -- not the 17 difference, but the discrepancy here that I 18 think we're arguing over interpretation, is 19 where it lists it, but the voters still can 20 understand everything from what's before you. 21 The voter can -- the language on 22 the petition is shall sell beer, wine, mixed 23 beverages, spirituous liquor, for on-premise 24 consumption on Sunday between the hours of</p>

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1 10:00 and midnight, because they are a holder
 2 of a D-5, D-6. It's all there. And it's
 3 been clear enough for the voters for years.
 4 And I also submit to you that I
 5 understood that it's this forum's ability to
 6 be able to go ahead and certify the language
 7 if it meets all the statutory requirements,
 8 and I ask that you do that.
 9 BOARD MEMBER MARINELLO: I have a
 10 question.
 11 CHAIRMAN ANTHONY: Thank you.
 12 BOARD MEMBER MARINELLO: Because it
 13 says insert, including description of liquor
 14 permit, that's the problem?
 15 PROSECUTOR PICCININNI: That's the
 16 problem, including the description of the
 17 liquor permit.
 18 BOARD MEMBER MARINELLO: That is
 19 black and white.
 20 PROSECUTOR PICCININNI: I mean,
 21 looking at this, does the average voter know
 22 what a D-5 or D-6 is?
 23 BOARD MEMBER MARINELLO: No. I
 24 didn't -- no, not at all.

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1 PROSECUTOR PICCININNI: That's --
 2 that's what's the statutory language.
 3 And I understand the argument
 4 that's being made. I mean, yes, this may be
 5 a new interpretation, but the issue of we've
 6 always done it this way, therefore, we should
 7 continue to do it this way, well,
 8 unfortunately maybe shortcuts were taken in
 9 the past, and this is the interpretation
 10 that -- and actually, it's a correct
 11 interpretation. It's actually not an
 12 interpretation; it's a flat-out application
 13 of .33(B)(3)(A).
 14 MS. ALEXANDER SAVINO: And I object
 15 to the summarization that it's correct.
 16 But the other thing is you're
 17 reading the form, the petition form. That is
 18 not the statutory requirement.
 19 DEPUTY DIRECTOR WHITE: It's not a
 20 requirement when it says insert description
 21 of the liquor permit?
 22 MS. ALEXANDER SAVINO: No.
 23 DEPUTY DIRECTOR WHITE: Why would
 24 we put it on there if it's not a requirement?

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1 MS. ALEXANDER SAVINO: The
 2 language -- the language in the statute, if
 3 you pull the statute, says the type of liquor
 4 permit applied for by the applicant or held
 5 by the liquor permit holder as described.
 6 And it gives the code sections of the various
 7 permits, including a description of the type
 8 of beer or intoxicating liquor sales
 9 authorized by each permit as provided in
 10 those sections.
 11 It does not have a line saying,
 12 insert it here.
 13 DEPUTY DIRECTOR WHITE: Well,
 14 right. This form is prescribed by the
 15 Secretary of State's Office.
 16 MS. ALEXANDER SAVINO: Mm-hmm. I
 17 understand that.
 18 DEPUTY DIRECTOR WHITE: And the
 19 Secretary of State goes to the extent of
 20 putting right here on the form, insert,
 21 include description of your liquor permit.
 22 Now, if the Secretary of State
 23 wouldn't want you to put a description on
 24 there, why would she tell you to put a

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1 description on there?
 2 MS. ALEXANDER SAVINO: If I may,
 3 Commissioner?
 4 DEPUTY DIRECTOR WHITE: Please. I
 5 want to understand this.
 6 MS. ALEXANDER SAVINO: We did
 7 include a description there. We included
 8 it's a D-5, D-6.
 9 DEPUTY DIRECTOR WHITE: The D-5,
 10 D-6 doesn't describe your liquor permit.
 11 MS. ALEXANDER SAVINO: But that
 12 describes the liquor permit. That answers
 13 that question. If she put describe the type
 14 of liquor permit, we did put it there.
 15 BOARD MEMBER MARINELLO:
 16 Description of liquor permit. D-5 and D-6
 17 may be a liquor permit, but it says
 18 description of liquor permit.
 19 PROSECUTOR PICCININNI: If I may
 20 for the record --
 21 DEPUTY DIRECTOR WHITE: Correct me
 22 if I'm wrong.
 23 PROSECUTOR PICCININNI: No. If I
 24 may, for the record, for the record, I'm

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1 going to -- we're actually going to read the
 2 entire section into the record here.
 3 DEPUTY DIRECTOR WHITE: But has the
 4 Secretary of State recommended to us to deny
 5 this from being on the ballot?
 6 PROSECUTOR PICCININNI: That's --
 7 that's our -- that's what we're reading the
 8 e-mails, the information we received from the
 9 Secretary prior to the November election.
 10 DEPUTY DIRECTOR WHITE: Because
 11 they haven't met her requirements for this
 12 form?
 13 DIRECTOR DAMSCHRODER: They're not
 14 saying this specific one. They sent out an
 15 e-mail last fall when all the county boards
 16 of elections began submitting their --
 17 PROSECUTOR PICCININNI: Local
 18 options.
 19 DIRECTOR DAMSCHRODER: -- ballot
 20 language for all the ballot issues, including
 21 local options, and said at that time --
 22 DEPUTY DIRECTOR WHITE: A
 23 description has to be in there.
 24 DIRECTOR DAMSCHRODER: -- the

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1 description of what a --
 2 DEPUTY DIRECTOR WHITE: D-5 and
 3 D-6.
 4 DIRECTOR DAMSCHRODER: -- D-5 means
 5 has to be in there.
 6 Now, what they did -- what they
 7 said last year was because that -- their
 8 application of the law at that time was
 9 different than from what most boards had done
 10 previously.
 11 DEPUTY DIRECTOR WHITE: Right.
 12 DIRECTOR DAMSCHRODER: This Board
 13 and a lot of other boards across the state
 14 used their discretion, because it was after
 15 that -- kind of that guidance came after the
 16 fact to put issues on the ballot last year,
 17 but we've been following that, that
 18 application of the law, since then.
 19 DEPUTY DIRECTOR WHITE: So we can
 20 have empathy for this petitioner.
 21 DIRECTOR DAMSCHRODER: I have great
 22 empathy for her.
 23 DEPUTY DIRECTOR WHITE: Because at
 24 one time, we operated under the same premise

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1 that she's thinking about.
 2 However, where the Secretary of
 3 State told our Board not to operate that way.
 4 DIRECTOR DAMSCHRODER: Right.
 5 And there's still an opportunity
 6 for this petitioner to appeal this Board's
 7 decision, not to the Board, but to take it --
 8 DEPUTY DIRECTOR WHITE: To court.
 9 DIRECTOR DAMSCHRODER: -- into the
 10 court system, at which time the court may
 11 have an entirely different --
 12 DEPUTY DIRECTOR WHITE: Opinion
 13 than the Secretary of State.
 14 DIRECTOR DAMSCHRODER: -- opinion
 15 than the Secretary of State's interpretation
 16 or application of the law.
 17 DEPUTY DIRECTOR WHITE: But I would
 18 think our Board needs to follow the
 19 directions of the Secretary of State's
 20 office. It would be like us not following
 21 one of their directives, and you're in
 22 violation of -- and you need to do what the
 23 Secretary of State's Office tells you.
 24 PROSECUTOR PICCININNI: I won't

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1 speak to that issue.
 2 What I will speak to is what the
 3 law actually says.
 4 DEPUTY DIRECTOR WHITE: Okay.
 5 PROSECUTOR PICCININNI: And for the
 6 record, this is what the statute actually
 7 says:
 8 I'm sorry.
 9 Okay. This is section 4301.333,
 10 local option petition contesting a particular
 11 location. (B), section (B), says the
 12 petition shall be signed by the electors of
 13 a precinct equal in number to at least 35
 14 percent of the total number of votes cast in
 15 the precinct to the officer of governor at
 16 the preceding general election for that
 17 office, and shall contain all of the
 18 following.
 19 And then, you go down to (3)(a),
 20 the type of each liquor permit applied for by
 21 the applicant or held by the liquor permit
 22 holder as described in sections 4303.11 to
 23 4303.183 of the revised code, including a
 24 description of the type of beer or

<p style="text-align: right;">Page 38</p> <p>1 intoxicating liquor sales authorized by each 2 permit as provided in those sections. 3 So the D-5 or D-6 is the type of 4 permit that this applicant currently holds. 5 Then, it requires a description of what the 6 D-5 or D-6 is -- what it does. And that's 7 the -- that's the reading of the statute. 8 That's the way the language is written. 9 BOARD MEMBER MARINELLO: And it's 10 clear on there. 11 PROSECUTOR PICCININNI: It -- it's 12 clear. So it says put the type down. That's 13 the D-5 or D-6. And then it's our 14 interpretation that you describe what the D-5 15 and D-6 is. That's what's missing in this 16 petition. 17 CHAIRMAN ANTHONY: Any comment? 18 MS. ALEXANDER SAVINO: And I 19 submit it all is there. It might not be on 20 that line. 21 CHAIRMAN ANTHONY: Yes, ma'am. 22 MS. ALEXANDER SAVINO: I submit 23 that all of that's there. The difference is, 24 as I said before, it's not on the line, the</p>	<p style="text-align: right;">Page 40</p> <p>1 PROSECUTOR PICCININNI: 2 Prosecutor's position. 3 DIRECTOR DAMSCHRODER: The 4 Assistant Prosecuting Attorney's position. 5 CHAIRMAN ANTHONY: Well, I just 6 got -- I think there's -- I think you ought 7 to pursue it, because it puts us in kind of a 8 precarious position as -- as a Board. 9 This is the Secretary of State's 10 form. They have sent us e-mails about how 11 they wanted it done. 12 For me, I don't know why they don't 13 include the description, if they want it, 14 include all the nomenclatures for it, that it 15 just -- I think there is some confusion on 16 it. I mean, I kind of agree with you, but, 17 you know, I'm in a position where I think if 18 the Secretary of State has given us direction 19 that we have to follow that, that direction. 20 So the will of the Board is to -- 21 BOARD MEMBER MARINELLO: Do 22 nothing. 23 CHAIRMAN ANTHONY: -- do nothing. 24 And then --</p>
<p style="text-align: right;">Page 39</p> <p>1 one line that you're referring to, on the 2 line that your counsel is saying that he 3 wishes it was on there. 4 CHAIRMAN ANTHONY: Any other 5 questions for counsel? 6 DEPUTY DIRECTOR WHITE: This has 7 already been denied? 8 DIRECTOR DAMSCHRODER: The Board 9 did not certify this to the ballot at its 10 previous meeting. So if -- 11 DEPUTY DIRECTOR WHITE: So if we 12 don't want to certify it, it can do nothing. 13 Then, will the next thing on the 14 agenda be to certify that? 15 DIRECTOR DAMSCHRODER: Right. 16 To -- 17 DEPUTY DIRECTOR WHITE: We need a 18 motion to certify that. 19 My recommendation would follow the 20 Secretary of State's position. 21 BOARD MEMBER MARINELLO: Yes. 22 DIRECTOR DAMSCHRODER: And 23 Patrick's position. 24 DEPUTY DIRECTOR WHITE: Right.</p>	<p style="text-align: right;">Page 41</p> <p>1 DIRECTOR DAMSCHRODER: If -- if 2 someone -- if they were to put this issue on 3 the ballot would require a motion, a second, 4 and an affirmative majority vote of the 5 Board. 6 CHAIRMAN ANTHONY: And no action. 7 Okay. 8 DEPUTY DIRECTOR WHITE: And as a 9 director, she could go to court, if she 10 chooses to. And the court is not binded. 11 The Secretary of State -- 12 MS. ALEXANDER SAVINO: I can't 13 hear. 14 CHAIRMAN ANTHONY: Oh, he said the 15 court would not be binded. 16 DEPUTY DIRECTOR WHITE: I'm not a 17 lawyer. 18 CHAIRMAN ANTHONY: He's not a 19 lawyer. 20 So, anyway, so, ma'am, what's going 21 to happen is we're not going to act on it. 22 MS. ALEXANDER SAVINO: Okay. 23 CHAIRMAN ANTHONY: And so urge you 24 to pursue it in another venue.</p>

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1 MS. ALEXANDER SAVINO: And that's
 2 been consensus?
 3 CHAIRMAN ANTHONY: Yes. Well, yes.
 4 I don't think you take a vote.
 5 DIRECTOR DAMSCHRODER: Is there
 6 a -- why don't you call for a motion, and if
 7 a Board member wants to make a motion.
 8 CHAIRMAN ANTHONY: Is there a
 9 motion to --
 10 DIRECTOR DAMSCHRODER: Certify the
 11 petition.
 12 CHAIRMAN ANTHONY: To certify this
 13 local option to the March 4th Primary Ballot?
 14 (No response is heard.)
 15 CHAIRMAN ANTHONY: Hearing no
 16 motion, we're going to vow issue dead.
 17 MS. ALEXANDER SAVINO: Thank you.
 18 CHAIRMAN ANTHONY: Thank you so
 19 much.
 20 DIRECTOR DAMSCHRODER: Now, we turn
 21 to a discussion of Secretary of State
 22 Directive 2008-01, which I think all of the
 23 Board members have received a copy of. If
 24 not, I think we have a couple floating around

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1 here. It's in your packet.
 2 I believe there are some
 3 individuals who would like to address the
 4 Board on the matter of voting machines and
 5 security and paper ballots. Now would
 6 probably be a good time to allow them to
 7 address the Board, if the Board so chooses.
 8 CHAIRMAN ANTHONY: Is there anyone
 9 out there who would like to address it?
 10 Come forward. Give us your name
 11 and where you're from.
 12 MS. SHAFFER: I'm Paddy Shaffer,
 13 and I'm the Director of the Ohio Election
 14 Justice Campaign. And we've seen just a few
 15 comments from the media coming in on that
 16 there are issues about you having paper
 17 ballots available, how many ballots, the
 18 Secretary of State's directive not being
 19 clear, how many to interpret, how many you
 20 need.
 21 We've read the directive. We also
 22 find it confusing. And we wish it was
 23 clearer for all 88 boards of elections to
 24 understand. So we do understand that there

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1 is an issue of interpreting what is it that
 2 they're asking us to do. And our thoughts
 3 are with you on that one.
 4 We also are very interested in
 5 addressing the many problems with the voting
 6 machines in Ohio. And we know that there are
 7 big problems with the machines. I personally
 8 was involved in the audit for the Squire v.
 9 Geer case, and audited 25 percent of your
 10 records, and I saw that it's a mess. And
 11 Karen Cotton from the Franklin County Board
 12 of Elections admitted in court that she
 13 couldn't balance your books here. So there
 14 are things that need a lot of improvement,
 15 and that's something we want to help you
 16 with.
 17 In bringing that forward to today
 18 in the paper ballot issue, and just playing
 19 with the math, from what was in an NBC report
 20 that I was sent, the number in this says
 21 you're needing to spend about 200,000 dollars
 22 on ballots.
 23 The total voter registration, as of
 24 this morning, the number that we were given

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1 was 7,072 -- 772 -- 772,114. Let me just say
 2 that number again, as I botched it: 772,114
 3 registered voters for Franklin County.
 4 In doing the math, if you're
 5 looking at spending 200,000 dollars, which is
 6 what's in this -- this article refers to --
 7 it actually said about 180,000 dollars, but
 8 if we round it up to 200,000, that's 23 cents
 9 per voter that it would cost you to have
 10 paper ballots in place.
 11 I don't know, if their numbers are
 12 right, how that's going to correspond to the
 13 totals that you -- what you decide. It's a
 14 number that we want to hear, though, when you
 15 decide how many ballots you need, what the
 16 cost for them is, and how much does it work
 17 out to per voter.
 18 Because our concerns with the
 19 machines are high, and if it is something in
 20 the realm of 26 cents a voter to have paper
 21 ballots in place, we feel that it is worth
 22 the investment.
 23 Thank you.
 24 DEPUTY DIRECTOR WHITE: Can I ask a

