

1 APPEARANCES:

2 Office of the Franklin County
3 Prosecuting Attorney
4 373 South High Street
5 Columbus, Ohio 43215
6 By Mr. Patrick J. Piccininni
7 and
8 Mr. Nick Soulas,
9 Assistant Prosecuting Attorneys,
10
11 On behalf of the Board.

12 ALSO PRESENT:

13
14 Ms. Katherine Thomsen,
15 Office of Secretary of State
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2 P R O C E E D I N G S

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4 CHAIRMAN PREISSE: I will call
5 this special meeting of the Franklin
6 County Board of Elections to order.

7 MR. WHITE: Roll call.

8 Mr. Colley?

9 MR. COLLEY: Here.

10 MR. WHITE: Ms. Marinello?

11 MS. MARINELLO: Here.

12 MR. WHITE: Mr. Chairman?

13 CHAIRMAN PREISSE: Here.

14 MR. WHITE: Mr. Anthony?

15 MR. ANTHONY: Here.

16 MR. WHITE: All present.

17 CHAIRMAN PREISSE: Where are the
18 ballots?

19 Let's ask the professional staff
20 what the entire agenda consists of so we
21 can begin.

22 MR. DAMSCHRODER: The agenda for
23 today consists primarily of reviewing
24 optical scan ballots that were kicked out

1 of the optical scan tabulators because of
2 some issue. Those issues consist of some
3 kind of error with the ballot that makes
4 it unable to be read.

5 For instance this ballot here,
6 somebody spilled something on; and because
7 the timing marks are smudged, the machine
8 can't read this ballot. However, it is
9 very clear what the voter's intent was on
10 this ballot.

11 Under Secretary of State
12 directive 2007-31 instead of staff
13 reviewing this and remaking the ballot,
14 the Board actually has to review this
15 ballot and vote on each ballot to decide
16 how it should be remade. There will also
17 be some that the machine viewed as an over
18 vote, which in some cases it is an issue
19 where in this case the voter clearly
20 filled in an oval but made some kind of
21 foreign mark in another portion of the
22 ballot or in the bubble.

23 And there's also certain things
24 like this where the voter appears to have

1 changed their mind and gave us an
2 indication they want to vote against the
3 levy as opposed to for the levy.

4 MR. WHITE: As Matt mentioned,
5 in the past what we would do in the past,
6 we would have a D on I agree on this with
7 Matt and I having the final say, the
8 Director and Deputy Director.

9 And they would put a piece of
10 white tape over this and run it back over
11 the machine. With a new director you four
12 have to vote on each ballot for us to
13 remake these so we can count them.

14 MR. DAMSCHRODER: Correct.

15 CHAIRMAN PREISSE: Any
16 questions?

17 MR. ANTHONY: Mr. Chairman?

18 MR. WHITE: Yes, Mr. Anthony.

19 MR. ANTHONY: Do we need a
20 motion to get started?

21 MR. WHITE: Well, you have
22 already opened the meeting. The meeting
23 was just for the purpose of reviewing the
24 ballots.

1 CHAIRMAN PREISSE: We need a
2 motion on each ballot.

3 You will review the ballot to
4 determine the voter's intent. At which
5 point then the motion would be I move to
6 accept ballot number 001.

7 MR. WHITE: We have a different
8 number for each one stamped on the back of
9 it.

10 CHAIRMAN PREISSE: Got you.

11 MR. DAMSCHRODER: When we read
12 the numbers, we will be slow for the court
13 reporter because numbers are more
14 difficult.

15 MR. WHITE: Ready to start?

16 Any other questions, Mr.
17 Chairman?

18 CHAIRMAN PREISSE: What comments
19 do you two, if any, wish to make on this
20 directive as it may relate to changing how
21 you did it at the staff level before?

22 MR. WHITE: Well, if our friends
23 from the Secretary of State's Office
24 brought dinner, lunch, and maybe breakfast

1 would be the only comment I have. We
2 might be here for a while if there are
3 disagreement on the voter's intent.

4 MR. DAMSCHRODER: I would think
5 the way it's worked for a number of years,
6 whether it's optical scanner, going back
7 even before that with punch cards, where
8 these issues were resolved at a staff
9 level were sufficient. This is,
10 obviously, a very acceptable way to do it,
11 but I think the old way of doing it was
12 more efficient.

13 MR. WHITE: I will just make one
14 comment. It was much more efficient the
15 other way, but I don't think there is any
16 harm in you four board members other than
17 the time it's going to take to do this,
18 for you four to actually be officially the
19 ones that make the vote.

20 It's great for the Director,
21 Deputy Director and employees, because it
22 takes that responsibility away from us and
23 puts it on your shoulders. There is no
24 harm with that other than it's going

1 to take some time to do it this way.

2 CHAIRMAN PREISSE: All right.

3 Let's get started.

4 MR. WHITE: We will start with

5 this one here. The first ballot is

6 000263. As Matt mentioned, this ballot

7 basically had some fluid dumped on it.

8 I'm not sure what the fluids are, so you

9 might want to be careful in handling it.

10 I think the voter's mark is

11 pretty much clear what the intention of

12 the voter was on that.

13 MR. DAMSCHRODER: Pass it

14 around. Once available then a motion can

15 be made.

16 MR. ANTHONY: I would like to

17 make the motion that ballot number 000263

18 be accepted as voting against the levy.

19 MR. PICCININNI: In this

20 particular case this ballot needs to be

21 remade in accordance with the voter's

22 intent.

23 CHAIRMAN PREISSE: Remaking the

24 ballot.

1 MR. WHITE: We will remake the
2 ballot.

3 CHAIRMAN PREISSE: You will
4 create a new one.

5 MR. PICCININNI: And the ballot
6 will be noted that it's a remade ballot
7 per vote of the Board.

8 MR. DAMSCHRODER: The remade
9 ballot will have the same number as the
10 discarded ballot.

11 MR. PICCININNI: And be marked
12 RB1.

13 CHAIRMAN PREISSE: You are
14 taking that ballot, counsel, and putting
15 it in the stack.

16 MR. DAMSCHRODER: Todd is going
17 to take them and put them in a good stack,
18 and they're going to mark what's going to
19 be counted.

20 CHAIRMAN PREISSE: For
21 efficiency's sake could we note the ballot
22 unique number once so you don't have to
23 repeat it in the motion? As long as it's
24 in the record, it will save our time if we

1 don't have to say it twice.

2 MR. WHITE: This next ballot
3 number -- do we need to vote on that?

4 MR. PICCININNI: Yes, you need
5 to vote on that.

6 MR. WHITE: We need a second.

7 MS. MARINELLO: Second.

8 MR. WHITE: All in favor?

9 (Unanimous aye)

10 MR. WHITE: The vote is carried.

11 The next ballot is number is
12 000266. This ballot here indicates there
13 are two votes cast in the levy for MRDD.
14 It appears that the voter put an extra 1
15 to cross it out.

16 MR. DAMSCHRODER: The Staff
17 would recommend that that be remade as a
18 vote against the levy.

19 MR. ANTHONY: Mr. Chair, I would
20 like to make a motion that the ballot be
21 remade against the levy.

22 CHAIRMAN PREISSE: Second.

23 MR. WHITE: All in favor, say
24 aye.

1 (Unanimous aye)

2 MR. WHITE: Any nays?

3 (No audible response)

4 MR. WHITE: The motion carries.

5 MR. DAMSCHRODER: Ballot number
6 000264, the voter made a stray mark in the
7 oval for the tax levy, so the Staff
8 recommendation will be that it be remade
9 as against the levy.

10 MR. ANTHONY: Mr. Chair, I would
11 like to make a motion that this ballot
12 be remade to show it was against the levy.

13 CHAIRMAN PREISSE: Is there a
14 second?

15 MS. MARINELLO: Second.

16 MR. WHITE: All in favor?

17 (Unanimous aye)

18 MR. WHITE: So carried.

19 MR. DAMSCHRODER: The next
20 ballot is 000264. It's clearly a vote for
21 the tax levy, but portions of the timing
22 marks are torn off, so the ballot needs to
23 be remade in order to be read.

24 MR. ANTHONY: Mr. Chair, I would

1 like to move to remake this ballot to
2 reflect it is for the levy.

3 CHAIRMAN PREISSE: Second.

4 MR. WHITE: All in favor?

5 (Unanimous aye)

6 MR. WHITE: So carried.

7 MR. DAMSCHRODER: The next one
8 is the exact same situation. This is
9 ballot number 000265. Timing marks are
10 torn off and it is a vote against the
11 levy.

12 MR. ANTHONY: Mr. Chair, I would
13 like to make a motion that this ballot be
14 remade to show that it's against the
15 levy.

16 CHAIRMAN PREISSE: Second.

17 MR. WHITE: All in favor, say
18 aye.

19 (Unanimous aye)

20 MR. WHITE: So carried.

21 MR. DAMSCHRODER: Ballot number
22 000267, the voter did not mark inside of
23 the oval, but it appears to have been
24 intended to vote against the levy.

1 MR. ANTHONY: Mr. Chair, I would
2 like to make a motion that this ballot be
3 remade to reflect that they voted against
4 the levy.

5 CHAIRMAN PREISSE: Second.

6 MR. WHITE: All in favor, say
7 aye.

8 (Unanimous aye)

9 MR. WHITE: The next ballot is
10 000268. This ballot appears to have
11 several problems on it. The ballot got
12 torn. Also on the levy number 26 for
13 Hilliard School District there appears to
14 be two votes for that levy, one more
15 prominent than the other.

16 MR. DAMSCHRODER: The one that's
17 more prominent is the same as the way
18 other votes on the ballot were made. So
19 when we remake that ballot we will record
20 both of the votes, the one that's
21 indeterminant and the one that is clear.

22 CHAIRMAN PREISSE: Say that
23 again?

24 MR. DAMSCHRODER: On this ballot

1 because there is more than one contest,
2 the Hilliard School levy is the one that
3 has the foreign mark. When remaking that
4 ballot we will make the new ballot with
5 obviously both the vote for the Hilliard
6 contest and also for the county-wide MRDD
7 contest.

8 MR. ANTHONY: Mr. Chair, I would
9 like to move to remake this ballot to
10 reflect that it is for the the County
11 Board of Mental Retardation levy and also
12 against the levy for Hilliard City
13 Schools.

14 CHAIRMAN PREISSE: Second.

15 MR. WHITE: All in favor, say
16 aye.

17 (Unanimous aye)

18 MR. WHITE: The motion passes.

19 MR. DAMSCHRODER: This next one
20 is ballot number 000001. And there is a
21 foreign mark in the contest for President,
22 but it's clearly a vote for Hillary
23 Clinton.

24 When you look, you will see that

1 the foreign mark is very, very light.
2 That is the sensitivity of the machine.
3 The machines are not designed to pick up
4 those kinds of stray marks.

5 MR. ANTHONY: Mr. Chair, I would
6 like to make a motion that we remake this
7 ballot to reflect that it was a vote for
8 Hillary Clinton.

9 CHAIRMAN PREISSE: Second.

10 MR. WHITE: All in favor, say
11 aye.

12 (Unanimous aye)

13 MR. WHITE: The motion passes.

14 MR. DAMSCHRODER: The next
15 ballot is number 000002. And again there
16 is a foreign mark in the contest for
17 President, clearly a vote for Hillary
18 Clinton.

19 And my Staff recommendation is
20 to reflect a vote for Clinton.

21 MR. ANTHONY: Mr. Chair, I would
22 like to move that we remake this ballot to
23 indicate it was a vote for Hillary
24 Clinton.

1 CHAIRMAN PREISSE: Second.

2 MR. WHITE: All in favor, say
3 aye.

4 (Unanimous aye)

5 MR. WHITE: Any nays?

6 (No audible response)

7 MR. WHITE: The motion carries.

8 This next one is the same thing
9 with a foreign mark on the ballot. The
10 ballot number is 000007. And it is the
11 race for Franklin County Board of Mental
12 Retardation and Developmental
13 Disabilities.

14 Looks like some kind of smudge
15 mark against the levy. The voter's intent
16 looks pretty clear for the levy. It
17 doesn't appear to be any other.

18 MR. ANTHONY: Mr. Chair, I would
19 like to make a motion that we remake this
20 ballot to show a vote for the Mental
21 Retardation levy.

22 CHAIRMAN PREISSE: Second.

23 MR. WHITE: All in favor?

24 (Unanimous aye)

1 MR. WHITE: Any nays?

2 (No audible response)

3 MR. WHITE: The motion carries.

4 MR. DAMSCHRODER: Ballot number
5 8. And when you see it, all the marks are
6 very, very faint and Xs as opposed to
7 fill-in. The voter intent is clear
8 throughout the ballot. So the Staff
9 recommendation is to remake the entire
10 ballot consistent with the voter's
11 intent.

12 MR. ANTHONY: Mr. Chair, I would
13 like to make a motion that we remake, I
14 guess, this entire ballot to reflect the
15 voter's intent.

16 MR. PREISSE: Second.

17 MR. WHITE: All in favor?

18 (Unanimous aye)

19 MR. WHITE: Any nays?

20 (No audible response)

21 MR. WHITE: So carried.

22 MR. DAMSCHRODER: Ballot number
23 9, the exact same circumstances as the
24 previous ballot.

1 MR. ANTHONY: Mr. Chair, I would
2 like to move that we remake the entire
3 ballot to reflect the voter's intent.

4 CHAIRMAN PREISSE: Second.

5 MR. WHITE: All in favor?

6 (Unanimous aye)

7 MR. WHITE: Any nays?

8 (No audible response)

9 MR. WHITE: The motion carries.

10 MR. DAMSCHRODER: Ballot number
11 10, there is a foreign mark in the contest
12 for County Commissioner, Lazarus versus
13 O'Grady. The voter intent appears to be
14 for Lazarus.

15 MR. ANTHONY: Mr. Chair, I would
16 like to make a motion that the Board
17 remake this ballot to reflect Cindy
18 Lazarus.

19 CHAIRMAN PREISSE: Second.

20 MR. WHITE: All in favor?

21 (Unanimous aye)

22 MR. WHITE: Any nays?

23 (No audible response)

24 MR. WHITE: The motion carries.

1 MR. DAMSCHRODER: Ballot 11,
2 fluid spilled on the ballot and the timing
3 mark is smudged so it won't read, so we
4 would ask to remake the entire ballot.

5 MR. ANTHONY: Mr. Chair, I would
6 like to make a motion that the Board
7 remake this entire ballot to reflect the
8 voter's intent.

9 CHAIRMAN PREISSE: Second.

10 MR. WHITE: All in favor?

11 (Unanimous aye)

12 MR. WHITE: Any nays?

13 (No audible response)

14 MR. WHITE: So carried.

15 MR. DAMSCHRODER: Ballot number 12, it's
16 an over voted contest for County
17 Commissioner. The voter's intent is for
18 O'Grady by having notated the words yes
19 next to O'Grady and no next to Lazarus.

20 MR. ANTHONY: Mr. Chair, I would
21 like to make a motion that the Board
22 remake this ballot to reflect a vote for
23 John O'Grady.

24 CHAIRMAN PREISSE: Second.

1 MR. WHITE: All in favor?

2 (Unanimous aye)

3 MR. WHITE: Any nays?

4 (No audible response)

5 MR. WHITE: So carried.

6 MR. DAMSCHRODER: Ballot number
7 14, the voter has a foreign mark in Issue
8 number 29 against the levy, but it is
9 clearly for the levy.

10 MR. ANTHONY: Mr. Chair, I would
11 like to make a motion that the Board
12 remake this ballot to reflect a vote for
13 the MRDD levy.

14 CHAIRMAN PREISSE: Second.

15 MR. WHITE: All in favor?

16 (Unanimous aye)

17 MR. WHITE: Any nays?

18 (No audible response)

19 MR. WHITE: So carried.

20 MR. DAMSCHRODER: The next
21 ballot is ballot number 13. There is an
22 indeterminant mark in the contest for
23 Court of Appeals, Tenth District. I would
24 say that because the standard is to be

1 marked consistently throughout the ballot,
2 my recommendation would be that it not be
3 counted as a vote for Parks; but when you
4 all see it, you can look at it.

5 The machines notice when there
6 is something faint. When it is bold, it
7 recognizes it as a vote. In a situation
8 like this it kicks it out because it
9 doesn't know whether it's dust or a mark.

10 The standard, as you can tell
11 from 3506.21 is that the markings have to
12 be made in a consistent manner. The voter
13 clearly knows how to mark a ballot by
14 having fully filled in all the other ovals
15 and just made a stray mark in my opinion
16 in the Parks contest.

17 So in this case we wouldn't
18 actually remake the ballot. We could
19 remake the ballot and just not mark a vote
20 for Parks. That's probably what we should
21 do.

22 CHAIRMAN PREISSE: It hasn't
23 been counted?

24 MR. DAMSCHRODER: It's been

1 rejected. Nothing on that ballot has been
2 counted. We will remake the ballot.

3 MR. ANTHONY: Mr. Chair, I would
4 like to make a motion that we remake this
5 ballot to reflect that he didn't vote for
6 the judge for Court of Appeals, Tenth
7 District.

8 CHAIRMAN PREISSE: Second.

9 MR. WHITE: All in favor?

10 (Unanimous aye)

11 MR. WHITE: Any nays?

12 (No audible response)

13 MR. WHITE: So carried.

14 MR. PICCININNI: Mr. Chairman, a
15 full term commencing September 2009.

16 MR. DAMSCHRODER: There is only
17 one contestant.

18 MR. ANTHONY: I amend my motion
19 to reflect the date.

20 MR. DAMSCHRODER: Ballot number
21 15, it's the contest for President. The
22 voter filled in both ovals for Kucinich
23 and Obama but then made a note to us to
24 void the vote for Kucinich.

1 MR. WHITE: If we had never got
2 the waiver from the Secretary of State on
3 Election Night, we would have had to do
4 this Election Night. We would have had to
5 do this for the official count too.
6 That's why we asked for that waiver.

7 MR. ANTHONY: Mr. Chair, I would
8 like to make a motion that the Board
9 remake this ballot to indicate the voter's
10 intent to vote for Barack Obama.

11 CHAIRMAN PREISSE: Second.

12 MR. WHITE: All in favor?

13 (Unanimous aye)

14 MR. WHITE: Any nays?

15 (No audible response)

16 MR. WHITE: So carried.

17 MR. WHITE: This ballot here is
18 number 16. There is a cut on the paper,
19 so it wouldn't go through the machine.
20 The voter's intent is pretty clear. There
21 are no discrepancies there other than the
22 machine could not read it because of the
23 cut.

24 MR. ANTHONY: Mr. Chair, I would

