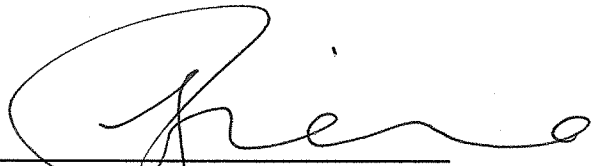


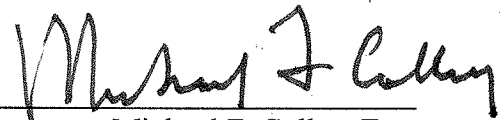
FRANKLIN COUNTY BOARD OF ELECTIONS
280 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) 462-3100

MINUTES OF THE MEETING ON
8/24/10

APPROVED ON 9/13/10

BY: 

Douglas J. Preisse, Chairman




Michael F. Colley, Esq.



Kimberly E. Marinello



Zachary Manifold

ATTEST: 

William A. Anthony, Jr., Director

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FRANKLIN COUNTY BOARD OF ELECTIONS

FRANKLIN COUNTY, OHIO

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IN RE: :

Board Meeting :

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Proceedings before Chairman Douglas J. Preisse; Director William A. Anthony, Junior; Deputy Director Matt M. Damschroder; and Board Members Michael F. Colley, Zachary E. Manifold and Kimberly E. Marinello; taken at the Franklin County Board of Elections, 280 East Broad Street, Columbus, Ohio, on Tuesday, August 24, 2010, at 4:10 o'clock p.m.

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1 APPEARANCES:

2 Franklin County Board of Elections
3 373 South High Street
4 Thirteenth Floor
5 Columbus, Ohio 43215
6 By Mr. Anthony E. Palmer, Junior
7 Franklin County Prosecuting
8 Attorney's Office,

9 On behalf of the Department.

10

11 ALSO PRESENT:

12

13 Ben Piscitelli, PIO

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15 Suzanne Brown, Executive Assistant

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17 Karen Cotton

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19 Ken Wilcox

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21 Ashraf A. Ettayem

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2 P R O C E E D I N G S

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4 DIRECTOR ANTHONY: I would like to call
5 the Franklin County Board of Elections Meeting to
6 order. We'll do the roll call.

7 Kimberly Marinello?

8 BOARD MEMBER MARINELLO: Here.

9 DIRECTOR ANTHONY: Zachary Manifold?

10 BOARD MEMBER MANIFOLD: Here.

11 DIRECTOR ANTHONY: Douglas Preisse?

12 CHAIRMAN PREISSE: Here.

13 DIRECTOR ANTHONY: And Michael Colley?

14 BOARD MEMBER COLLEY: Here.

15 DIRECTOR ANTHONY: All are here and
16 accounted for.

17 The first item on the agenda is an
18 appeal for certification of local option in
19 Columbus Ward 50, Precinct A.

20 Do you want -- Karen, do you want to
21 tell us what's going on here?

22 MS. COTTON: I don't see the gentleman
23 here who was the circulator of the part petition
24 and requested the appeal of the --

1 COURT REPORTER: Could you state your
2 name for the record, please.

3 DIRECTOR ANTHONY: Oh.

4 MS. COTTON: Karen Cotton, manager of
5 election operations.

6 As I started to say, I do not see the
7 gentleman here who filed the appeal for the Board
8 to reconsider the petitions in question.

9 However, in looking at the part
10 petitions -- that particular part petition, we
11 needed 106 valid signatures. We were able -- only
12 able to find 102. There were several printed
13 signatures on the file, which we've marked as such
14 as we were checking the part petitions.

15 Before you in your folder you have
16 copies of the petitions with names highlighted on
17 them and then you have a copy of the signature that
18 we have on file.

19 Per the advice of the Prosecuting
20 Attorney's Office, our staff did, in fact, mark the
21 petitions properly, because unless the person
22 printed their signature on their legal document, a
23 printed signature is not considered a legal
24 signature of that individual. They have to sign

1 their name on the part petition as they are
2 registered to vote.

3 So you have the evidence before you
4 showing you that the signatures on file that staff
5 used to verify the petitions. Upon the initial
6 review, staff did make the proper determination and
7 mark those signatures as prints.

8 DEPUTY DIRECTOR DAMSCHRODER: Any
9 questions?

10 (No audible response.)

11 DEPUTY DIRECTOR DAMSCHRODER: It's the
12 same issue we have every election with somebody.

13 Well, we have to make an affirmative --
14 some kind of motion to either deny the -- the
15 appeal or overturn our previous decision.

16 BOARD MEMBER MANIFOLD: All right.
17 Mr. Chairman, I move that the Board deny the
18 appealed request for certification of the local
19 option petition for Columbus Ward 50, Precinct A,
20 for the designated location Shop N Save at 2950
21 Groveport Road, filed on August 4th by Ashraf
22 Ettayem of 1195 Breakers Court, letting stand the
23 previous decision of the Board.

24 BOARD MEMBER COLLEY: Second the

1 motion.

2 DIRECTOR ANTHONY: All those in favor
3 say aye.

4 BOARD MEMBERS: Aye.

5 DIRECTOR ANTHONY: Opposed same sign.
6 The motion -- it's --

7 DEPUTY DIRECTOR DAMSCHRODER: The
8 motion carries.

9 DIRECTOR ANTHONY: Yeah. The motion
10 carries. The appeal was denied.

11 The second item on the agenda, and I
12 believe, Mr. Chair, we have someone in the
13 audience. Ken, that's -- that's you? Yeah. Ken's
14 in the audience. This has to do with Columbus Ward
15 55D of the petition, and he's sending a
16 challenge that he wants his name removed off of the
17 petition, and he's -- he's here in the audience
18 now, so --

19 DEPUTY DIRECTOR DAMSCHRODER: If you
20 want to make a few comments to the Board, you are
21 certainly welcome to do so.

22 MR. WILCOX: Sure. A circulator --

23 DIRECTOR ANTHONY: Sir, you have to
24 give your name, so she can --

1 MR. WILCOX: Ken Wilcox.

2 CHAIRMAN PREISSE: Ken, could I --
3 Mr. Wilcox, could I ask you just -- one second and
4 ask the staff to set this up for you so it's in a
5 little bit better context about what we're --

6 DEPUTY DIRECTOR DAMSCHRODER: Sure.

7 CHAIRMAN PREISSE: -- we're looking at
8 here.

9 DEPUTY DIRECTOR DAMSCHRODER: It's a --

10 CHAIRMAN PREISSE: Feel free to repeat
11 as much of it or -- and -- and -- as much of it as
12 you wish, but just so I can get a little bit of
13 context.

14 DEPUTY DIRECTOR DAMSCHRODER: It's a
15 local petition for the AM/PM station, convenience
16 store on Broad Street just east of downtown, and
17 the petition was filed with our office. The
18 Board staff found a sufficient number of -- of
19 valid signatures appeared on the petition, and the
20 Board at its last meeting certified the question to
21 the general election ballot.

22 We were then contacted by Mr. Wilcox
23 who indicated that he had concerns about the
24 petition process and what was represented to him at

1 the time that he signed the petition, as well as
2 perhaps others. And I think his -- the question
3 was whether he could have his name striked from the
4 petition and others, and whether or not doing so
5 would then take the question off the ballot. So
6 it might be --

7 MR. WILCOX: Well, not being an
8 attorney, I don't know the repercussions of -- of
9 my actions. I didn't know that it was even
10 possible, but the circulator told many neighbors
11 many different things.

12 The common thread was that she told me
13 that this was an effort to keep BP from selling
14 beer. She told my partner this was an effort to
15 restrain BP from -- or AM/PM I should say, they
16 would refrain from selling 40 ounces or single cans
17 or single bottles.

18 The circulator spoke to many neighbors
19 and told them different things but made it seem
20 like it was against selling beer at the AM/PM
21 store.

22 And I -- I will never sign a petition
23 again just taking someone's word of mouth, but here
24 was this nice, white lady from the suburbs who

1 seemed to be concerned about my neighborhood just
2 down the street.

3 So I'd like -- at the bear minimum, I'd
4 like to have my name stricken from this petition.

5 CHAIRMAN PREISSE: I see.

6 DEPUTY DIRECTOR DAMSCHRODER: As the
7 Board probably knows, often -- and it rarely occurs
8 with -- with local liquor option petitions or
9 candidate petitions, more frequently with statewide
10 petitions, there are accusations of
11 misrepresentation of the petition in order to gain
12 signatures.

13 This agency has never, at least as far
14 as I can recall, created a mechanism by which
15 signers of a petition could have their signatures
16 removed after the petition was filed with the
17 Secretary of State's Office in the case of a
18 statewide issue.

19 We asked the Prosecutor's Office to
20 look into the matter, and their advice is that
21 under a Supreme Court decision, Fite v. Aeh -- I
22 don't know if it's pronounced A or what, but that
23 they -- this is from Tony -- the courts did not
24 permit post-filing removal of signatures, and

1 that -- in that particular case, the court also
2 held that evidence of fraud, misrepresentation or
3 mistake will not invalidate petitions as there is
4 no such exception to the requirements of the
5 particular statute in question.

6 So there's -- I think part of the
7 challenge for us is, obviously, what to do. There
8 is, I think, other petitions that weren't checked --
9 Karen, correct me if I'm wrong -- that -- that
10 could lend additional valid signatures to the
11 project, even if the Board did decide to remove
12 this one -- this one signature.

13 BOARD MEMBER MARINELLO: How many total
14 signatures did it require?

15 MS. COTTON: It needed -- they filed
16 145 signatures with the Board. They needed 101.
17 We stopped when we got to 122 signatures, and we
18 have three part petitions that we did not look at.

19 DEPUTY DIRECTOR DAMSCHRODER: So
20 there's -- I mean, obviously, you know, there's --
21 there's a legitimate concern that's been raised by
22 a member of the community about -- about his
23 signature on a petition, but also as -- as we
24 consider to act, we also have to look at, you know,

1 what's -- what's the court decision and also what
2 would be precedential for this Board going forward.

3 The representatives from the -- from
4 the petitioner are here in the event that -- that
5 we want to hear from them or if they have anything
6 to say, but --

7 BOARD MEMBER MARINELLO: I have a
8 question for Mr. Wilcox.

9 MR. WILCOX: Yes, ma'am.

10 BOARD MEMBER MARINELLO: Did -- how did
11 they get these, like, they explained it and then
12 they signed it or they didn't show you the front?

13 MR. WILCOX: Did not show me the front.
14 The nice lady from the suburbs said this is to
15 stop --

16 BOARD MEMBER MARINELLO: That will
17 teach you.

18 MR. WILCOX: Yeah.

19 BOARD MEMBER MARINELLO: That's a
20 shame.

21 MR. WILCOX: She even went into the
22 backyard of another neighbor. She heard a
23 little -- young family playing in the backyard and
24 she went into the backyard to get signatures, and

1 they were misrepresented as well.

2 CHAIRMAN PREISSE: Did you ask her any
3 questions?

4 MR. WILCOX: No. I was actually really
5 excited that some nice little white lady from the
6 suburbs was concerned about my -- my hood and --
7 really. I've -- I've lived in the area of the site
8 for 25 years and I was tickled that someone seemed
9 compassionate and caring enough to -- to stop some
10 of this madness that comes with convenient booze at
11 one o'clock in the morning.

12 CHAIRMAN PREISSE: Uh-huh. So our
13 counsel's advising us, in his absence, in written
14 form, that he doesn't think there's a provision to
15 proceed based on the evidence we have; is that
16 right?

17 DEPUTY DIRECTOR DAMSCHRODER: Correct.

18 CHAIRMAN PREISSE: We've probably all
19 heard that caveat emptor -- what's that, beware
20 of --

21 MR. WILCOX: Buyer beware.

22 BOARD MEMBER MARINELLO: Buyer beware.

23 CHAIRMAN PREISSE: Buyer beware? I
24 think there's probably a term for it in Latin for

1 be careful what you sign.

2 MR. WILCOX: Uh-huh.

3 CHAIRMAN PREISSE: Anyone want to
4 provide that or just quit while you're ahead?

5 AUDIENCE MEMBER: Caveat lector?

6 MR. WILCOX: That would be read.

7 CHAIRMAN PREISSE: Yeah.

8 MR. WILCOX: Yeah, caveat lector would
9 be read, wouldn't it?

10 CHAIRMAN PREISSE: Well, okay. All
11 right. Any questions or comments further?

12 DEPUTY DIRECTOR DAMSCHRODER: I think
13 this is one -- another one of those examples of a
14 regrettable situation that the Board would like to
15 be able to respond to, but doesn't have the
16 discretion to do so.

17 CHAIRMAN PREISSE: That's what it
18 sounds like.

19 BOARD MEMBER MARINELLO: Mr. Chairman,
20 I move that the Board deny the challenge filed by
21 Ken Wilcox of 1157 Oak Street against the local
22 option petition for Columbus Ward 55, Precinct D,
23 for the designated location of AM/PM at 825 East
24 Broad Street, letting stand the previous decision

1 of the Board.

2 DIRECTOR ANTHONY: Is there a second?

3 BOARD MEMBER COLLEY: Second.

4 DIRECTOR ANTHONY: All those in favor
5 say aye.

6 BOARD MEMBERS: Aye.

7 DIRECTOR ANTHONY: The ayes carry it.
8 Thank you, Mr. Wilcox.

9 CHAIRMAN PREISSE: Thank you. Sorry
10 about that, and we're all -- we all learn lessons
11 here from week to week. Be careful. Thank you.

12 MR. WILCOX: Sneaky, slimy.

13 DIRECTOR ANTHONY: Mr. Chair, the next
14 item on the agenda is a revisit of absentee hours
15 of operation.

16 CHAIRMAN PREISSE: Do we want to have a
17 description of this? Defensive comments?

18 DIRECTOR ANTHONY: Since the last
19 meeting, the Democratic Board members have -- have
20 been approached by all kinds of ways, through
21 the media and in person, regarding the fact that
22 there were no Sunday hours and that they had
23 wanted some additional hours.

24 And they had some discussion from

1 various community groups and voter protection
2 advocates. And they -- and they have some concern
3 because there was no Sunday hours in our -- in our
4 last meeting, which we had all agreed to.

5 And so the Democratic Board members, in
6 an effort to make voting more available based on --
7 our Commissioner said they would like to see some
8 Sunday hours, and the advocacy groups also want to
9 see some Sunday hours.

10 So this is an issue that would bring it
11 back before the Board to have a vote on -- on
12 adding an additional ten hours to our absentee
13 in-person voting here at the Board of Elections.

14 So that's the genesis of it. Any
15 questions? That's about all I can say.

16 CHAIRMAN PREISSE: These -- you know,
17 we picked, looks like the suggestions for the
18 extension --

19 DIRECTOR ANTHONY: There's --

20 CHAIRMAN PREISSE: -- of in-person
21 absentee hours on the 28th, which is the first day.

22 DEPUTY DIRECTOR DAMSCHRODER: First day
23 of in-person voting.

24 DIRECTOR ANTHONY: First day of

1 in-person voting. They wanted to be open two
2 additional hours, and then that first Sunday they
3 want to be open -- that first Sunday is October
4 the 3rd. They want to be open from 1 to 5, and
5 then again Sunday, October the 31st from 1 to 5.
6 So those are the three dates that they would like
7 to have seen included in the original request for
8 our hours of operation.

9 CHAIRMAN PREISSE: Okay. I would
10 submit -- okay, you can hear me.

11 My concern is that -- certainly, we
12 endeavor on a bipartisan basis to establish
13 convenient hours for the Board to conduct its
14 business and publish those. I think we came to a
15 bipartisan and, dare I say, liberal consideration of
16 hours available here at the Board as the on-site
17 location for voting.

18 I think the more we go back in and
19 change hours, the more risk we run for confusion
20 out there. We -- we kind of went back and forth
21 and back and forth in 2008, much to the
22 consternation of some of us and some in the
23 community.

24 My sense is we have previously agreed

1 to and achieved a balanced, proper, fair approach
2 to on-site absentee voting and in-person absentee
3 voting. And certainly as we stated then, we
4 would -- I'd continue to agree that we can revisit
5 this issue if and when it rises to the level of --
6 of needing to do that. You stated that it has, and
7 my perception is it may not have yet.

8 DIRECTOR ANTHONY: Yes, sir.

9 BOARD MEMBER MANIFOLD: I -- actually,
10 I think --

11 DIRECTOR ANTHONY: Go ahead.

12 BOARD MEMBER MANIFOLD: You know, I
13 think that the first set of hours we have, I think,
14 are good hours. I think that -- that this just,
15 you know, opens up the process of looking to the
16 Board for accessibility.

17 You know, I -- I think that all of us
18 are probably -- we all try to find a good balance,
19 what's the right access to voters and -- and --
20 without straining our staff too much.

21 I think just being open the first and
22 last Sunday is a good mix. I wish that -- I think
23 in many ways I wish the -- the legislature had
24 acted and we had a new system in place altogether

