

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

MINUTES OF THE MEETING ON

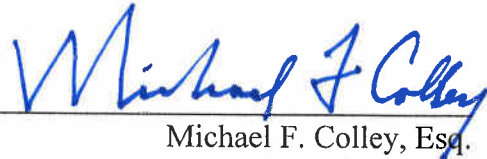
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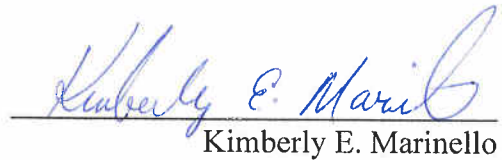
APPROVED ON

12/15/2010

BY:



Douglas J. Preisse, Chairman


Michael F. Colley, Esq.


Kimberly E. Marinello


Zachary Manifold

ATTEST:


~~William A. Anthony, Jr., Director~~
MATTHEW M. DAMSCHRODER
DEPUTY DIRECTOR

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FRANKLIN COUNTY BOARD OF ELECTIONS

FRANKLIN COUNTY, OHIO

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IN RE: :

Special Meeting :

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Proceedings before Chairman Douglas J. Preisse; Director William A. Anthony, Junior; Deputy Director Matt M. Damschroder; and Board Members Zachary E. Manifold and Kimberly E. Marinello; taken at the Franklin County Board of Elections, 280 East Broad Street, Columbus, Ohio, on Friday, November 19, 2010, at 3:12 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 Suzanne Brown, Secretary

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15 Renee Klco - Manager, Voter Services

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17 Ben Piscitelli - Media Relations

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19 Charles Traylor - Liaison

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P R O C E E D I N G S
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DIRECTOR ANTHONY: I would like to call the Franklin County Board of Elections meeting to order. I'll do a roll call.

Kim Marinello?

BOARD MEMBER MARINELLO: Here.

DIRECTOR ANTHONY: Zachary Manifold?

BOARD MEMBER MANIFOLD: Here.

DIRECTOR ANTHONY: Doug Preisse?

CHAIRMAN PREISSE: Here.

DIRECTOR ANTHONY: All right. Mike Colley?

DEPUTY DIRECTOR DAMSCHRODER:

Mr. Colley is out of the state today.

DIRECTOR ANTHONY: Oh, okay.

DEPUTY DIRECTOR DAMSCHRODER: I'm going to be joining us.

DIRECTOR ANTHONY: So we do have a quorum.

The first order of business is the approval of the minutes from the last meeting.

BOARD MEMBER MARINELLO: Mr. Chairman,

1 I move that the minutes of the meeting of the Board
2 held on November 1st, 2010, be approved as
3 admitted.

4 DIRECTOR ANTHONY: Is there a second?

5 BOARD MEMBER MANIFOLD: Second.

6 DIRECTOR ANTHONY: All those in favor
7 say aye?

8 BOARD MEMBERS: Aye.

9 DIRECTOR ANTHONY: The next item is the
10 provisional ballots. Matt, did you want to talk
11 about that?

12 DEPUTY DIRECTOR DAMSCHRODER: Sure. We
13 have four motions for the Board to consider. The
14 first three are kind of categories that are -- the
15 staff considers to be exceptions from the normally
16 accepted rules of validating provisionals that
17 require a little bit of review.

18 The normally accepted categories would
19 be, for instance, return of voter absentee ballot
20 and voted a provisional as well so that provisional
21 wouldn't count, et cetera, not a registered voter.

22 So the first category is a -- is a
23 series of 83 provisional ballots where the
24 provisional ballot was cast in the wrong precinct

1 as evidenced by the name of the precinct written on
2 the envelope by the poll worker and/or the ballot
3 style and contained inside the envelope, but the
4 ballot was the -- the provisional ballot was cast
5 in the correct voting location, so it's the right
6 church, wrong pew issue.

7 Under the directive issued by the
8 Secretary of State earlier this year following the
9 Necho consent order, the Secretary of State has
10 indicated that we're not permitted to invalidate a
11 provisional ballot that is in this right church,
12 wrong pew category if the error is attributable to
13 a poll worker mistake.

14 Unfortunately, the Court in its
15 infinite wisdom did not decide to define what poll
16 worker error is, and there is no evidence before
17 this Board, or at least the staff, that any of
18 these provisionals are the result of provisional --
19 or of poll worker error. There is also no evidence
20 before the Board that it isn't a result of poll
21 worker error.

22 Even before the Necho decision, this
23 Board has taken a very broad approach in favor of
24 voter and franchise and have counted such ballots,

1 and so even though other counties are interpreting
2 the directive to say that because there's no
3 evidence -- there's no affirmative evidence that
4 there was poll worker error and rejecting those
5 ballots, our staff recommendation is that we go
6 ahead and count those ballots.

7 BOARD MEMBER MARINELLO: What would be
8 an example of a voter error in that? How could
9 they do that wrong?

10 DEPUTY DIRECTOR DAMSCHRODER: In
11 particularly -- and part of the reason why we do it
12 in this county is because with our consolidated
13 voting location approach where there's a single
14 table and a single set of poll workers assigned to
15 the task of provisional ballots for all the
16 precincts in a location, it would be pretty
17 difficult in this county to conceive of a situation
18 where it would be a voter error.

19 But, again, there's -- there's --
20 absent of a definition of poll worker error from
21 the Secretary of State or the Court, there's no
22 evidence before the Board that there is or there
23 isn't, so we're just giving our unique practices
24 here taking the guess that it is poll worker error,

1 although it might not be.

2 BOARD MEMBER MANIFOLD: How are we
3 doing overall with the past year results, and it
4 looks like we're looking at somewhere -- 90 percent
5 acceptance.

6 And, in particular, how about the -- I
7 know it was contentious before, I think the printed
8 name on the envelope? I think we had that issue in
9 the past. Is that down? That looks like it's
10 pretty far down, I think, from maybe what it was in
11 the past.

12 DEPUTY DIRECTOR DAMSCHRODER: I'll let
13 Renee speak to it a little bit, also, but I think
14 it's this; Franklin County has traditionally, among
15 our sister urban counties, had a higher rate of
16 validation of provisionals than, again, our sister
17 urban counties, and I think this is even higher
18 than we've seen in the past.

19 MS. KLCO: This is the highest we've
20 had for accepting provisional ballots. The one
21 category that went down considerably is voting in
22 the wrong precinct, at 5.66 percent, and all the
23 other county categories were down as well, and I
24 attribute a lot of that to the intense poll worker

1 training.

2 DEPUTY DIRECTOR DAMSCHRODER: So if you
3 see Mary Hackett or Barcey McNeal, let them know
4 that their work is paying off in terms of poll
5 worker training.

6 I think the new training manual, the
7 new approach to training that Mary and Barcey put
8 together this summer, I think has really, really,
9 helped, so if you see them, give them -- give them
10 our thanks.

11 BOARD MEMBER MANIFOLD: Do we -- after
12 the election, this election, do we, like -- I'd
13 assume that we do -- do we take these, like -- do
14 we look for certain areas or locations where
15 there's issues or possibly there's, like, a spike,
16 like, you know, maybe the presiding judge of that
17 location isn't?

18 MS. KLCO: And we report the location,
19 and I would -- whether or not it's the paper ballot
20 judge or the roster judge who's sending people to
21 the wrong places, we report all those to Mary
22 Hackett so she can deal with that poll worker that
23 she sees -- sees fit.

24 We also read all the problems and

1 correction pages from all the different workbooks
2 and, also, recommend to Mary which poll workers
3 we'd like to keep, which ones we want cloned, and
4 which ones we really don't want to work with
5 anymore.

6 BOARD MEMBER MANIFOLD: You guys are
7 doing a great job.

8 MS. KLCO: Uh-huh.

9 ATTORNEY PALMER: I need to jump in on
10 the issue that was raised about the provisional
11 ballots and poll worker error specifically.

12 I know in the Secretary of State
13 directives, poll worker error is not presumed. It
14 must be demonstrated through evidence.

15 I know that the Supreme Court of Ohio
16 had weighed in on that in State versus Skaggs, and
17 said that, you know, if there's -- if there is
18 evidence that poll workers failed to perform their
19 statutorily required duties, then -- you know, then
20 you could reverse it.

21 But the poll workers are going to be
22 presumed to have properly performed their duties
23 absent evidence of the contrary.

24 DIRECTOR ANTHONY: Any other discussion

