

BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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In Re: :
: Regular Meeting :

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PROCEEDINGS

before Chairman Douglas J. Preisse, Director William A. Anthony, Jr., Deputy Director Dana Walch, and Board Members Kimberly E. Marinello, Bradley K. Sinnott, and Gregory Haas, at the Franklin County Board of Elections, 280 East Broad Street, Columbus, Ohio, called at 3:09 p.m. on Monday, November 4, 2013.

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APPEARANCES:

Franklin County Prosecutor's Office
By Harold J. Anderson, III
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215

On behalf of the Board.

ALSO PRESENT:

Ms. Suzanne Brown,
Executive Assistant to the Board

Mr. Ben Piscitelli,
Public Information Officer,
Franklin County Board of Elections

Ms. Renee Klco,
Manager of Voter Services,
Franklin County Board of Elections

Mr. Todd Wedekind,
Manager of the Absentee Department
Franklin County Board of Elections

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P R O C E E D I N G S

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DIRECTOR ANTHONY: All right. I'd like to call the Franklin County Board of Elections meeting to order.

BOARD MEMBER HAAS: Do you want him to come up?

DIRECTOR ANTHONY: Do we want to swear him in before the roll call?

MS. BROWN: I'm sorry, what?

DIRECTOR ANTHONY: Do we want to swear him in before the roll call?

MS. BROWN: Yeah, you can do that.

DIRECTOR ANTHONY: So the first thing I'm going to do is swear in our newest board member.

Judge Barrows, if you will do the honors.

(Thereupon, Mr. Haas was sworn in as a board member of the Franklin County Board of Elections.)

DIRECTOR ANTHONY: All right. Again, I would like to call the Franklin County Board of Elections meeting to order. I will do the roll call.

Kimberly Marinello?

1 BOARD MEMBER MARINELLO: Here.

2 DIRECTOR ANTHONY: Gregory Haas?

3 BOARD MEMBER HAAS: Here.

4 DIRECTOR ANTHONY: Douglas Preisse?

5 CHAIRMAN PREISSE: Here.

6 DIRECTOR ANTHONY: Bradley Sinnott?

7 BOARD MEMBER SINNOTT: Here.

8 DIRECTOR ANTHONY: Mr. Chairman, we have
9 a full-fledged board and are all here and present.

10 CHAIRMAN PREISSE: Well, we welcome our
11 newest board member and, with that, I think we can
12 proceed to the agenda.

13 DIRECTOR ANTHONY: The first item on the
14 agenda is the approval of the minutes from the
15 October 7th board meeting.

16 BOARD MEMBER MARINELLO: Mr. Chairman, I
17 move the Board approve the minutes of the
18 October 7th, 2013 meeting of the Franklin County
19 Board of Elections as submitted.

20 BOARD MEMBER SINNOTT: Second.

21 DIRECTOR ANTHONY: All those in favor?

22 BOARD MEMBERS: Aye.

23 DIRECTOR ANTHONY: I'm passing that down
24 for everybody to sign.

1 The second order on the agenda will be we
2 have Mr. Bob Hart in the audience that wants to do a
3 presentation to the Board regarding sufficiency and
4 validity of petitions.

5 Mr. Hart.

6 MR. HART: Thank you, Mr. Director.

7 CHAIRMAN PREISSE: Can we -- I'm sorry.

8 MR. HART: I'm sorry.

9 CHAIRMAN PREISSE: Mr. Hart, in the
10 interest of organization and time, you're going to
11 address the Board on an issue of interest and
12 importance to you, I take it, that you've been
13 working on as to petitions and checking the
14 petitions. Normally, we set some time frames of
15 several minutes, let's say five to eight minutes.

16 MR. HART: It will take no longer than
17 that, I assure you.

18 CHAIRMAN PREISSE: And then there may be
19 questions and answers. I think for the record if you
20 state your name and title and that will help.

21 MR. HART: Very good. Thank you.

22 My name is Robert M. Hart, H-a-r-t. I'm
23 currently a candidate running for U.S. Congress in
24 the 12th Congressional District. I live in

1 Worthington, Franklin County, Ohio. And I appear
2 before the Board, and I appreciate Ms. Brown putting
3 me on the agenda today and circulating amongst you
4 the topic of my request here today which is a
5 directive that was adopted by this Board on
6 September 10th of 2007.

7 This is a directive that indicates that
8 the employees of the local -- of the Franklin County
9 Board of Elections are precluded from checking or
10 reviewing declarations of candidacy, nominating
11 petitions, and local option petitions for validity
12 and sufficiency prior to the filing deadline. The
13 filing deadline in this case would be in early
14 February, I believe February 5th or 6th if I recall
15 the 2014 candidates' calender correctly.

16 I have filed my nominating petitions on
17 October 11th of this year, have paid my filing fee,
18 have done all the requisite state requirements and
19 local requirements for declaring my candidacy. I've
20 also registered with the Federal Election Commission,
21 gotten my EIN, opened my bank account.

22 I then inquired to Mr. Mackey as to when
23 the petitions on my nominating petitions would be
24 verified and he indicated that this directive was in

1 place. He provided a copy. I'm here to request the
2 reconsideration of the Board of this policy.

3 And I will tell you, and I apologize, I
4 don't know the reasoning behind it, I was unable to
5 take the time to research what the minutes might have
6 shown in 2007. What I can tell you, though, is that
7 it is of a benefit to a candidate running for
8 Congress to know as soon as possible whether or not
9 their nominating petitions have qualified them to
10 make them ballot qualified.

11 There is a difference from kind of a
12 First Amendment perspective when you're recruiting
13 potential volunteers or asking for contributions
14 whether or not you're able to say I'm ballot
15 qualified per the Franklin County Board of Elections
16 or I'm awaiting for that process to happen.

17 And given that that process is now
18 several months away, from my perspective that puts me
19 at a little bit of a disadvantage on the campaign
20 front because I'm unable to say, as an attorney I
21 would not say that I'm ballot qualified or I'm
22 qualified by the Franklin County Board of Elections
23 until such time that you've indicated to me that
24 you've verified my petition and in fact I have

1 qualified under the applicable law.

2 So I'm asking this Board to reconsider
3 this policy. I'm asking the Board to go ahead and
4 permit its employees or direct its employees to
5 verify the signatures on my petition. There's 35
6 signatures. They are all Franklin County. I have
7 tried to verify myself, but of course that doesn't
8 suffice for ballot access.

9 Thank you very much. If you have any
10 questions, I'll be happy to answer them.

11 CHAIRMAN PREISSE: Thank you for that
12 succinct recitation of your concerns and issues.

13 Are there questions that the Board
14 members may have or comments that the staff or legal
15 counsel may wish to make as it relates to what the
16 Board decided in September of 2007 would be our
17 policy?

18 DEPUTY DIRECTOR WALCH: It was --
19 Mr. Chairman, it was prior to my time here and,
20 Mr. Director, correct me if I'm wrong, but I believe
21 that the rationale behind this was to bring
22 consistency to this process and an even field for
23 everybody and so that nobody thought anything was
24 prequalified or anything like that prior to such time

1 as we had all candidates before the members of the
2 Board to set the ballot.

3 Bill -- or, Kim, you might have been on
4 the Board too.

5 BOARD MEMBER MARINELLO: As I recall,
6 somebody got information, another person didn't get
7 the same information and there was a big hullabaloo,
8 and then somebody got bad information. So just to
9 have a standard practice so that everybody is fair
10 and equal that's how we came up with that.

11 DIRECTOR ANTHONY: Part of my reading,
12 that was awhile back, but part of it has to do with
13 the staffing too. There is, when you fill out a
14 petition, when you have that filing, there's a
15 deadline for the completion of the filing. And then,
16 particularly between now and the next election, our
17 staff then gets busy doing the other stuff that
18 they're supposed to be doing to make sure elections
19 are done properly.

20 And so, we cut off, we decided not
21 to, you know, while we were in the process of
22 preparing for an election, that petition folks, if
23 you know the filing deadline is say in February,
24 we're not going to check any of this stuff until the

1 filing deadline.

2 And as Kim said, you know, once it's
3 filed we're not going to -- we're not going to do any
4 -- we're not going to check it, we don't even accept
5 them until the filing deadline, because for us it
6 does add that consistency and it does make it easier
7 for our staff not to try to keep track of all of
8 this, all of the petitions that are coming through.

9 I understand what you're saying, but --

10 MR. HART: Actually, they've been
11 accepted. I have a time-stamped copy.

12 DIRECTOR ANTHONY: Yeah, well --

13 MR. HART: These have been filed and
14 accepted.

15 DIRECTOR ANTHONY: Well, we do -- we do
16 accept them, but we don't go through the process and
17 of going through and verifying until that deadline.
18 And part of the reason is because it does put
19 everybody on a level footing, you know, when that
20 deadline comes then we start checking the petitions.
21 We don't do it prior to. So we don't have any of our
22 staff pre-looking at petitions to see if they have
23 enough signatures and all that. It's the day of we
24 start checking.

1 MR. HART: Yeah. And I thoroughly
2 understand the other part of this rule which I did
3 not read which is you do not actually check anybody's
4 signatures prior to them filing, and I appreciate the
5 fairness in that policy and I understand kind of the
6 generic sense of a level-playing field.

7 My point is to encourage you to consider
8 the impact it has on my ability as a candidate to say
9 with all honesty that I'm ballot qualified and so it
10 does have some First Amendment implications for me.
11 And, as an attorney, I certainly don't want to commit
12 anything unethical by suggesting I'm ballot qualified
13 when I'm not.

14 And I would perfectly understand that if
15 you're preparing for, for example, tomorrow's
16 election and I'm an earlier filer, you wouldn't take
17 that time to do it, but after this election is
18 certified and still well before the February
19 deadline, it strikes me that it could be done without
20 negatively impacting staff in terms of its ability to
21 perform the other required tasks. So that's the
22 basis. It has to do with what I'm permitted to say
23 to potential --

24 CHAIRMAN PREISSE: I think that, if I may

1 -- did you want to --

2 BOARD MEMBER HAAS: You know, I am having
3 a little trouble understanding the practical problem,
4 because, I mean, this is, you know, very informal in
5 terms of the comment, but, you know, the difference
6 between being a filed candidate --

7 MR. HART: Right.

8 BOARD MEMBER HAAS: -- and being somebody
9 who is prefiled and when you can tell people that and
10 you're that far in front of the election, I don't
11 think -- do you run into a lot of people who say,
12 "Oh, well, you're not officially on the ballot yet,
13 so" --

14 MR. HART: I'm a minor political party
15 candidate and it makes all the difference in the
16 world versus the two major candidates who have
17 significant machinery and operatives who are out
18 doing this. So, for me, it does make a significant
19 difference because I am a minor candidate. The
20 longer I have with the best information I can give to
21 potential contributors and volunteers is important
22 from my perspective. But I understand your point,
23 you know, I understand your point, but that's kind of
24 my perspective.

1 DIRECTOR ANTHONY: Thank you, sir.

2 BOARD MEMBER SINNOTT: Chairman, I'm
3 curious as to whether anyone on the Board knows if
4 there's a Secretary of State directive or other
5 instruction on the subject?

6 DIRECTOR ANTHONY: You know, I'm not
7 sure, but we, you know, what has happened and part of
8 the reason we passed this was that if folks start
9 coming in and try to pre-do everything and we was
10 getting -- our staff was kind of helping some
11 folks --

12 BOARD MEMBER MARINELLO: Yeah.

13 DIRECTOR ANTHONY: -- and not helping
14 some folks. So we set the policy you don't mess with
15 these until the deadline and all you do is accept
16 them. You don't -- you don't go by and try to look
17 at them to make sure that the filer has --

18 BOARD MEMBER MARINELLO: The signature
19 and --

20 DIRECTOR ANTHONY: Yeah. We don't do any
21 of that because part of what happened was that we had
22 some petitions where folks who came in and pre-done
23 it or filed it early and made assertions that our
24 staff had told them that everything they had was

1 correct, that they had looked at it, they reviewed it
2 and then it wasn't correct and so they wanted to be
3 on the ballot anyway because they said it was our
4 clerical error and not their error.

5 And so, to help alleviate and that's
6 what's the other part of it now that I'm recalling,
7 to help alleviate that problem, we said we will not
8 start checking any petitions until the deadline. And
9 that alleviates all the problems of someone coming in
10 and saying, "Well, I forgot to sign my name, can I
11 have my petition back," or, "Can you check this and
12 make sure I've signed my name on it correctly?" And
13 so that's why we do not check anything until that
14 deadline date has occurred, then we then start
15 processing.

16 MR. HART: In response to the Board
17 member's question, there is no Secretary of State
18 directive.

19 DIRECTOR ANTHONY: No --

20 MR. HART: -- that I could locate.

21 DIRECTOR ANTHONY: -- there's not. But
22 that was our policy. As a matter of fact, other
23 boards across the state have adopted a similar policy
24 because they were having the same problem. It keeps

1 our staff from having that problem of "You told me my
2 petition was okay and it's not okay now," and so --

3 MR. HART: Wouldn't you have that problem
4 regardless of when they're verified?

5 DIRECTOR ANTHONY: No, but if the
6 deadline is -- if we don't start checking the
7 petition until the deadline, they're time stamped,
8 they're in our hands, and they are what they are at
9 that point. And there's no, "You looked at mine, you
10 know, on Wednesday before the deadline --

11 BOARD MEMBER MARINELLO: Yeah.

12 DIRECTOR ANTHONY: -- and I need to add
13 10 more signatures because of whatever," so.

14 BOARD MEMBER MARINELLO: But you are, it
15 says you can go to the -- check them yourself at
16 the --

17 DIRECTOR ANTHONY: At the counter.

18 BOARD MEMBER MARINELLO: -- at the
19 counter in the back there.

20 MR. HART: I've already done that, but I
21 cannot represent that I'm ballot qualified --

22 DIRECTOR ANTHONY: No, you're not.

23 MR. HART: -- until you check them. I've
24 checked them. They're all valid.

1 BOARD MEMBER MARINELLO: Well, you can be
2 confident in your mind.

3 MR. HART: It takes 15 minutes to check
4 35 signatures.

5 BOARD MEMBER MARINELLO: Yeah.

6 MR. HART: They're all Franklin County.

7 CHAIRMAN PREISSE: I think -- Mr. Hart,
8 thank you for sharing with us your perspective. I
9 think without a motion from a member of the Board,
10 there's nothing for us to do but welcome you to
11 supply further written information or precedent you
12 might find.

13 MR. HART: Very good. Thank you very
14 much. Ms. Brown, thank you.

15 MS. BROWN: Thank you.

16 BOARD MEMBER MARINELLO: Thank you.

17 MR. HART: Director, thank you as well.

18 DIRECTOR ANTHONY: You're welcome. Thank
19 you, sir.

20 The next item on the agenda is the remake
21 of any absentee ballots.

22 Todd, do you have some ballots that will
23 need to be remade?

24 MR. WEDEKIND: Yes.

1 DIRECTOR ANTHONY: Todd Wedekind.

2 MR. WEDEKIND: We have 22 ballots that
3 will need to be remade for the unofficial canvass due
4 to what appears to be water damage so the ballots
5 won't run through the scanners, so we have to make
6 new ones.

7 BOARD MEMBER SINNOTT: Todd, are they all
8 the same? They're all water-damaged ballots?

9 MR. WEDEKIND: Yeah, these are. These
10 are all just because they got wet.

11 DEPUTY DIRECTOR WALCH: Just for the
12 members of the Board, you know, the practice on this
13 is that we have bipartisan teams who will sit down
14 together, one reads the ballot off and the other will
15 mark the ballot and both be in unison. If there's
16 any discrepancy on any of them, then we will
17 certainly bring them back to the Board for final
18 determination on them which is our standard procedure
19 on this.

20 DIRECTOR ANTHONY: Our equipment --

21 MR. WEDEKIND: So they get wrinkled and
22 the thickness is compromised and it detects something
23 thicker than it's supposed to be.

24 BOARD MEMBER SINNOTT: So we can't run

1 them through the machine.

2 FROM THE FLOOR: We attempted to and they
3 wouldn't go through the machine. They jammed up.
4 And based on what we looked at on the paper, it's too
5 thick to go through the scanner.

6 BOARD MEMBER SINNOTT: Okay. Fair
7 enough. Mr. Chairman, I move the Board authorize the
8 staff to remake 22 absentee paper ballots and that
9 these remade ballots shall be tabulated and included
10 in the unofficial canvass on election night.

11 DIRECTOR ANTHONY: Is there a second?

12 BOARD MEMBER HAAS: Second.

13 DIRECTOR ANTHONY: All those in favor?

14 BOARD MEMBERS: Aye.

15 DIRECTOR ANTHONY: The motion carries.

16 Mr. Chairman, we had a late withdrawal
17 from Dublin Ward 1. Who's here to talk about that?
18 Is Mackey here? We had a candidate, Alexander
19 Schaffer --

20 FROM THE FLOOR: Would you like me to go
21 get Jeff?

22 CHAIRMAN PREISSE: I don't know that we
23 need him.

24 DIRECTOR ANTHONY: No, we don't need him.

1 CHAIRMAN PREISSE: We're sufficiently
2 informed of the circumstances.

3 BOARD MEMBER MARINELLO: Mr. Chairman, I
4 move that the Board accept the withdrawal of
5 Alexander Schaffer, candidate for Dublin Ward 1 City
6 Council, and that any votes cast for him at the
7 November 5th, 2013 General Election shall not be
8 counted.

9 DIRECTOR ANTHONY: Is there a second?
10 Is there a second?

11 BOARD MEMBER SINNOTT: There is, yes.

12 DIRECTOR ANTHONY: Oh, I'm sorry.

13 CHAIRMAN PREISSE: What's the time stamp
14 on this letter?

15 MS. BROWN: Today.

16 DIRECTOR ANTHONY: Today.

17 DEPUTY DIRECTOR WALCH: It's today.

18 CHAIRMAN PREISSE: Oh, okay. I'm
19 misreading. It looks like 13. That's just the edge
20 of the stamp.

21 DIRECTOR ANTHONY: Yeah.

22 DEPUTY DIRECTOR WALCH: Yes.

23 CHAIRMAN PREISSE: Okay. Understood.

24 Excuse me.

1 DIRECTOR ANTHONY: All those in favor?

2 BOARD MEMBERS: Aye.

3 DIRECTOR ANTHONY: Those opposed?

4 (No response.)

5 DIRECTOR ANTHONY: The motion carries.

6 DEPUTY DIRECTOR WALCH: And just for the
 7 members of the Board, we will -- we've already got it
 8 in the works that notices are going out to be placed
 9 at any polling location where Dublin Ward 1 is
 10 located, so that there will be a notice put up for
 11 the voters to identify that this candidate has
 12 withdrawn.

13 CHAIRMAN PREISSE: Is that --

14 DEPUTY DIRECTOR WALCH: As is normal
 15 practice.

16 CHAIRMAN PREISSE: Where is that notice
 17 placed?

18 DEPUTY DIRECTOR WALCH: Right inside on
 19 the door of the voting machine, of each voting
 20 machine.

21 CHAIRMAN PREISSE: Okay. Good.

22 DIRECTOR ANTHONY: The next item is a
 23 personnel matter. We want to bring on Julia
 24 Jiner-Manifold to work in the Administrative

1 Department as a special projects coordinator, with
2 her starting date November 11th, 2013.

3 BOARD MEMBER MARINELLO: Mr. Chairman, I
4 move the Board hire Julia Jiner-Manifold to a
5 position in the Administrative Department beginning
6 November 11th, 2013, at a salary of \$19.23 per hour.

7 BOARD MEMBER HAAS: Second.

8 DIRECTOR ANTHONY: All those in favor?

9 BOARD MEMBERS: Aye.

10 DIRECTOR ANTHONY: The motion carries.
11 As in every election -- oh, she's not
12 here.

13 BOARD MEMBER SINNOTT: Yeah, we were
14 wondering. There's two faces I don't recognize.

15 DIRECTOR ANTHONY: As with every general
16 election or election, we have to open the polls in
17 order for it to happen and this is no different than
18 that, so we'll need a motion from the Board to open
19 the polls in accordance to Ohio Revised Code 3501.32.

20 BOARD MEMBER HAAS: It's my big moment, I
21 guess. I move that the polls be declared open for
22 the Tuesday, November 5th, 2013 General Election,
23 beginning at 6:30 a.m. and closing at 7:30 p.m. and
24 that in accordance with Ohio Revised Code section

1 3501.32, any voter in line prior to the close of the
 2 polls at 7:30 p.m. shall be permitted to vote.

3 BOARD MEMBER MARINELLO: Second.

4 DIRECTOR ANTHONY: All those in favor?

5 BOARD MEMBERS: Aye.

6 DIRECTOR ANTHONY: And now, since we
 7 haven't had the election, we have to go into recess,
 8 so the Board needs to recess until the Chairman --

9 BOARD MEMBER MARINELLO: I move the Board
 10 recess this meeting of the Board of Elections subject
 11 to re-call by the Chair, until after the close of the
 12 election being held on Tuesday, November 5th.

13 DIRECTOR ANTHONY: Is there a second?

14 BOARD MEMBER SINNOTT: Second.

15 DIRECTOR ANTHONY: All right. The Board
 16 stands in recess.

17 BOARD MEMBER SINNOTT: We have to vote on
 18 it.

19 DIRECTOR ANTHONY: All those in favor?

20 BOARD MEMBERS: Aye.

21 DIRECTOR ANTHONY: Thank you, sir.

22 We stand in recess.

23 (Thereupon, the Board recessed at 3:30
 24 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, November 4, 2013, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires July 17, 2018.

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