

BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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In Re: :
: Regular Meeting. :
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- - -

PROCEEDINGS

before Director William A. Anthony, Jr., Deputy
Director David Payne, and Board Members Bradley K.
Sinnott, Gregory K. Haas, and Kimberly E. Marinello,
at the Franklin County Board of Elections, 1700 Morse
Road, Columbus, Ohio, called at 3 p.m. on Monday,
January 11, 2016.

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APPEARANCES:

Franklin County Prosecutor's Office
By Mr. Tim Lecklider
and Mr. Harold J. Anderson, III
Assistant Prosecuting Attorneys
373 South High Street
Columbus, Ohio 43215

On behalf of the Board.

ALSO PRESENT:

Suzanne Brown,
Executive Assistant to the Board.

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1 Monday Afternoon Session,
2 January 11, 2016.

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4 DIRECTOR ANTHONY: Good afternoon,
5 everyone. I am going to call the Franklin County
6 Board of Elections Regular Meeting to order. Do the
7 roll call. Kimberly Marinello.

8 MEMBER MARINELLO: Here.

9 DIRECTOR ANTHONY: Gregory Haas.

10 MEMBER HAAS: Here.

11 DIRECTOR ANTHONY: And Bradley Sinnott.

12 MEMBER SINNOTT: Here.

13 DIRECTOR ANTHONY: Mr. Chair, we have a
14 quorum.

15 And the first item on the agenda is every
16 year the Commissioners, they do a 2 percent pay raise
17 across the board for all Commissioners' agencies.

18 And since we are -- we are not -- we are kind of a
19 Commissioners' agency but we're funded through the
20 Commission, we have to -- our Board has to approve
21 the 2 percent pay raise. And they have already
22 budgeted for it, and it's something we do every year.
23 It will commence on the 28th of January -- December
24 and that's when it starts so.

1 DEPUTY DIRECTOR PAYNE: This would be for
2 44 positions. There are 22 Republican positions, 22
3 Democrat positions, so it would be what you would
4 refer to as full-time employees.

5 MEMBER SINNOTT: We don't have any
6 bargaining unit employees, do we?

7 DIRECTOR ANTHONY: Only that they are a
8 member of the Republican Party and Democratic Party.

9 MEMBER SINNOTT: Well, they need better
10 representation in labor matters than that.

11 DIRECTOR ANTHONY: No. We do not have
12 bargaining unit employees. They serve at the
13 pleasure of the Board.

14 MEMBER SINNOTT: 2 percent is the --

15 DIRECTOR ANTHONY: That's what they have
16 been doing the last several cycles. At one time it
17 was like 1 percent or 1-1/2.

18 MS. BROWN: It was 1-1/2.

19 DEPUTY DIRECTOR PAYNE: I looked back, 1
20 percent, 1-1/2 percent. They have already put that
21 in their budget for all of the county, so we either
22 have to as a Board either approve it or deny it.

23 MEMBER HAAS: I move that the Board
24 accept the supplemental appropriation from the

1 Franklin County Commissioners for a 2 percent pay
2 increase for non-bargaining employees of the Board of
3 Elections and that this pay increase be made
4 retroactive to December 28, 2015.

5 DIRECTOR ANTHONY: Is there a second?

6 MEMBER MARINELLO: Second.

7 DIRECTOR ANTHONY: All those in favor.

8 That motion carries.

9 The next item is the -- we have several
10 holidays coming up and, well, the President's Day
11 specifically and that falls on the Monday before the
12 election. So it falls on Monday, February 15. We
13 open up for early vote on the 17th, and we feel that
14 we probably need that date to make sure all of --
15 everything is in order, and so we would like to move
16 that -- that holiday to the Friday right before
17 Memorial Day. And this is something -- I don't know
18 if we have done that in the past --

19 MS. BROWN: Yeah, we have.

20 DIRECTOR ANTHONY: -- during early March
21 primaries.

22 MEMBER SINNOTT: So the staff will be
23 working on President's Day; the doors will not be
24 unlocked for the public.

1 DIRECTOR ANTHONY: That's correct.

2 MEMBER SINNOTT: But we'll give the staff
3 the Friday before Memorial Day off in recompense.

4 DIRECTOR ANTHONY: Yes. And we will be
5 closed for Martin Luther King Day, the holiday coming
6 up here next Monday.

7 MEMBER SINNOTT: Monday. Then I move
8 that the Board offices will remain open for staff
9 only, not to the general public, on President's Day,
10 Monday, February 15, 2016, but instead close on
11 Friday, May 27, 2016.

12 DIRECTOR ANTHONY: Is there a second?

13 MEMBER HAAS: Second.

14 DIRECTOR ANTHONY: All those in favor.
15 Motion carries.

16 And the next is the certification/denial
17 of write-in candidates for the March 15 primary
18 election, and we have the wonderful Jeff Mackey, all
19 knowledgeable, all knowing.

20 MR. MACKEY: For you an exhibit. 49
21 names of individuals who filed declarations of intent
22 to be write-in candidates. We found their
23 declarations to be sufficient and valid. In every
24 instance but one is for County Central Committee.

1 There is one for State Representative. He is listed
2 there first on your list. And then there are -- they
3 are all Democrats except for the last two which is
4 for Republican Central Committee.

5 MEMBER SINNOTT: Okay. The staff's in
6 agreement that the write-in candidacy applications
7 are proper?

8 MR. MACKEY: Correct.

9 MEMBER MARINELLO: I move the Board
10 certify the candidates listed on Exhibit A as valid
11 write-in candidates for the offices they are seeking
12 on the March 15, 2016, Primary Election ballot.

13 DIRECTOR ANTHONY: Is there a second?

14 MEMBER SINNOTT: There is.

15 DIRECTOR ANTHONY: All those in favor.
16 That motion carries.

17 MR. MACKEY: We did have one declaration
18 of intent to be a write-in candidate that we found to
19 be invalid because he applied to run for a district
20 that does not exist as far as a Central Committee
21 District. He applied to run as the Obetz Central
22 Committee. There is no Obetz Central Committee
23 District so we found that declaration to be invalid.

24 DIRECTOR ANTHONY: Any questions on that?

1 MEMBER HAAS: I move that the Board deny
2 the certification of Lloyd Johnson, Democrat CCC
3 Obetz, and that this candidate will not appear on the
4 March 15, 2016, Primary Election ballot.

5 DIRECTOR ANTHONY: Is there a second?

6 MEMBER MARINELLO: Second.

7 DIRECTOR ANTHONY: All those in favor.
8 That motion carries.

9 MR. MACKEY: We also received two
10 withdrawals recently, one for County Commissioner --

11 DEPUTY DIRECTOR PAYNE: They have those
12 letters in front of them?

13 MR. MACKEY: Those are behind their
14 packet somewhere stapled together. One from
15 Mr. Mentel requesting to withdraw from the County
16 Commissioner race for the full term commencing
17 1-2-2017, and the second letter from Mr. Hammond
18 requesting to withdraw from the County Commissioner
19 race for the full term commencing 1-3-17.

20 MEMBER HAAS: Jeff, what's the last day
21 someone could ask to withdraw as a candidate and not
22 have his name printed on the ballot?

23 MR. MACKEY: The last day was the 70th
24 day before the election which was Tuesday, January 5.

1 MEMBER SINNOTT: We are already in the
2 period where someone would be appearing on the ballot
3 if withdrawn but there would be the notice to the
4 voters that votes cast for that person would not be
5 counted.

6 MR. MACKEY: That is correct. These two
7 withdrawals did come on Monday, the 4th, so that was
8 within the 70-day timeline, so these individuals
9 would not appear on the ballot.

10 MEMBER SINNOTT: Okay.

11 MEMBER MARINELLO: I move the Board
12 accept the requests of Michael C. Mentel to withdraw
13 as a Democratic candidate for Franklin County
14 Commissioner for the full term commencing January 2,
15 2017, and Charles G. Hammond to withdraw as a
16 Democratic candidate for Franklin County Commissioner
17 for the full term commencing 1-3-2017 and that their
18 names shall not appear on the March 15 Primary
19 Election ballot.

20 DIRECTOR ANTHONY: Is there a second?

21 MEMBER SINNOTT: There is.

22 DIRECTOR ANTHONY: All those in favor.
23 The motion carries.

24 MR. MACKEY: Next item is request for

1 alternate ballot names we received as a result of our
2 letter that we send out after certification all the
3 time to make sure we have their names as they want
4 them to appear on the ballot. I received six
5 requests that were outside of the normal Bill for
6 William, Rob for Robert kind of requests.

7 I have included some precedent down at
8 the bottom for us for most of these letting you know
9 what you considered in the past. Probably if we just
10 go through these one at a time.

11 DIRECTOR ANTHONY: How do you want to
12 handle this?

13 DEPUTY DIRECTOR PAYNE: Walk through
14 these one at a time?

15 MEMBER SINNOTT: Yeah. They are all
16 different in theme. Why don't we talk about them
17 separately.

18 MR. MACKEY: First one is Ms. Catherine
19 Cowan, candidate for County Central Committee
20 Democrat Ward 79.

21 MEMBER SINNOTT: And where is her e-mail?

22 MR. MACKEY: She requested to be Cathy
23 Cowan Becker. I believe in her e-mail she
24 indicated --

1 MEMBER SINNOTT: Where is that e-mail?

2 MR. MACKEY: First, it's on the back.

3 Her married name, which is Cathy Cowan Becker, she
4 has not updated that with us. Precedent for that in
5 2013, I believe we considered two -- closely similar
6 instances where Rebecca J. Vanest was permitted to
7 run as Becky Martin Vanest; and Debra M. Waites, you
8 permitted her to run as Debra Jackson Waites. I
9 think one was because of a marriage, and one was
10 because of a divorce.

11 MEMBER SINNOTT: I'm inclined when we are
12 talking about a woman who wants to appear on the
13 ballot as a particular way reflecting her married
14 name or her unmarried name to do that.

15 Why don't we do these by separate motions
16 then. I would move that Catherine Cowan be permitted
17 to run as Cathy Cowan Becker.

18 MEMBER HAAS: I'd second that.

19 DIRECTOR ANTHONY: All those in favor.
20 That motion carries.

21 MR. MACKEY: Next one, instances similar
22 but a little different. Minyet Hua has married and
23 requested her name be on the ballot as her new
24 married name, Minuet Palich. In this instance I have

1 not been involved in a request where the name as we
2 have it registered does not appear anywhere on the
3 ballot. I have only been involved where we have
4 allowed the double last name or a similar scenario as
5 that.

6 MEMBER MARINELLO: Which person are we
7 talking about?

8 MR. MACKEY: Minyet Hua has requested to
9 go just by her new married name.

10 DIRECTOR ANTHONY: Did she update her
11 voter registration?

12 MR. MACKEY: She did not update her voter
13 registration.

14 MEMBER SINNOTT: Same situation, she got
15 married a few months ago.

16 I would move that Minyet Hua be permitted
17 to run as Minyet Palich.

18 MEMBER HAAS: Second.

19 DIRECTOR ANTHONY: All those in favor.
20 Motion carries.

21 MR. MACKEY: Next instance here is
22 Virginia Hoffman requesting to run as Jeannie.
23 Jeannie was not close enough for me to just go ahead
24 and do that like Bill or William or Rob or Robert, so

1 I will let you guys mull that for a minute.

2 MEMBER MARINELLO: I know a Virginia that
3 goes by Jeannie.

4 MEMBER SINNOTT: I am inclined to say
5 it's close enough.

6 MEMBER HAAS: Right. It's a derivative.

7 MEMBER SINNOTT: I would move Virginia
8 Hoffman be permitted to appear on the ballot as
9 Jeannie Hoffman.

10 DIRECTOR ANTHONY: Is there a second?

11 MEMBER HAAS: Second.

12 DIRECTOR ANTHONY: All those in favor.
13 Motion carries.

14 MR. MACKEY: Next instance Traci H.
15 Johnson has requested to run as T.J. Johnson. Back
16 in 2011, she requested to run as Tracy (T.J.)
17 Johnson. We denied that based on Subsection A of the
18 restrictions that we get from the Secretary of State,
19 which is on the front of the attachment, which does
20 not permit people to run with parentheses or
21 quotation marks or that kind of thing, so.

22 But this is different because now she has
23 requested to just run as T.J. which is, I assume, her
24 first initial and her last initial followed by her

1 last name. It's not her middle initial. Traci's
2 middle initial is H, so.

3 MEMBER MARINELLO: Everyone does know her
4 as T.J.

5 MEMBER SINNOTT: I'm sorry, Kim?

6 MEMBER MARINELLO: Everyone does know her
7 as T.J.

8 MEMBER SINNOTT: Everyone knows her as
9 T.J.?

10 MEMBER MARINELLO: Yeah.

11 MR. MACKEY: I didn't know if these
12 ventured into Bud Zappitelli or.

13 MEMBER SINNOTT: I understand.

14 MEMBER MARINELLO: I move that Traci H.
15 Johnson be permitted to run on the ballot as T.J.
16 Johnson.

17 MEMBER SINNOTT: I'll second that.

18 DIRECTOR ANTHONY: All those in favor.

19 MR. MACKEY: And Ms. Sullivan, I didn't
20 receive an explanation why she wanted to run as
21 Cheryl Brooks Sullivan, but everyone else registered
22 at her address's last name is Brooks. I assume it's
23 a maiden name. I included that there for your
24 reference, probably similar to the first couple.

1 MEMBER HAAS: The same as Cathy Cowan,
2 Brooks is her married name or?

3 MR. MACKEY: I would assume it's probably
4 a maiden name, but I'm not certain.

5 MEMBER HAAS: Well, I move that Cheryl A.
6 Sullivan be allowed to run as Cheryl Brooks Sullivan.

7 MEMBER SINNOTT: Second.

8 DIRECTOR ANTHONY: All those in favor.
9 Motion carries.

10 MR. MACKEY: Final instance Margaret
11 Watters wishes to run as Peggy Watters. Peggy is a
12 natural derivative of Margaret. It shouldn't be an
13 issue.

14 MEMBER SINNOTT: Agree.

15 MEMBER HAAS: I move that Margaret L.
16 Watters Columbus Ward 79 be permitted to run as Peggy
17 Watters.

18 MEMBER MARINELLO: Second.

19 DIRECTOR ANTHONY: All those in favor.
20 Motion carries.

21 MEMBER SINNOTT: I think we have reached
22 the point in the agenda where there is supposed to be
23 consideration of the Chipps protest. Since the Board
24 is hearing about this for the first time since we

1 arrived someone T this one up for us.

2 DEPUTY DIRECTOR PAYNE: Jeff, you want
3 to?

4 MR. MACKEY: Ms. Katherine Chipps acting
5 on behalf of the Controlling Board of the Franklin
6 County Democratic Party has filed a protest against
7 the candidacy of David Ditmars for County Central
8 Committee Ward 70 Democrat on the basis that
9 Mr. Ditmars is a registered Republican according to
10 our records based on his voting in the 2014 primary
11 election casting a Republican ballot and also based
12 on their Bylaws which I have included there for you.

13 Ms. Chipps and Mr. Ditmars are here to
14 provide whatever you wish.

15 MEMBER SINNOTT: Why don't we turn to our
16 legal counsel for framing of what it is that the
17 Board is called upon to do in this instance. Help us
18 out, Tim.

19 MR. LECKLIDER: Sure. As Mr. Mackey has
20 explained, Mr. Ditmars in this particular instance
21 was certified to the ballot at, I believe, the
22 December 23, 2015, Board meeting.

23 Subsequently there was a protest filed by
24 the aforementioned Ms. Chipps alleging that

1 Mr. Ditmars did not meet the qualifications to serve
2 as a member of the Franklin County Democratic Central
3 Committee; to wit, the -- his voting record would
4 indicate he is registered as a Republican. So I
5 believe there are three stages to this, and I am
6 going to pass out some documents here.

7 MR. MACKEY: They do have a copy of the
8 case law already, if that's what that is.

9 MEMBER SINNOTT: Tim, what I have in
10 front of me now would be a copy of Section --

11 MR. LECKLIDER: If I could, Mr. Chairman,
12 I would direct your attention first to Revised Code
13 3513.05.

14 MEMBER SINNOTT: Before we do that let's
15 make sure we have the things you want us to have in
16 front of us. We have a copy of Section 3513.05 of
17 the Revised Code, 3515.191 of the Revised Code, and
18 then the Waters case from the Supreme Court. Is
19 there anything else you distributed?

20 MR. LECKLIDER: No.

21 MEMBER SINNOTT: Okay. Thank you.

22 MR. LECKLIDER: If I could direct your
23 attention to Ohio Revised Code 3513.05 as I have
24 handed it out, where it's been distributed. It's a

1 five-page document, and as a threshold matter, it
2 would appear that the Board must be satisfied that
3 the protestor, Ms. Chipps in this instance, has
4 standing to bring the protest.

5 If you will turn to page 4 of 5 of that
6 document, 3513.05 in the first full paragraph
7 beginning with "Protests," you'll see the protest may
8 be filed by any qualified elector who is a member of
9 the same political party as the candidate and who is
10 eligible to vote at the primary election for the
11 candidate whose declaration of candidacy the elector
12 objects to, or by the controlling committee of that
13 political party. So that would be a threshold matter
14 that you would have to decide for yourself with
15 respect to Ms. Chipps' protest.

16 Then if I could direct your attention to
17 Revised Code 3513.191, and it consists of essentially
18 three subparts, paragraphs (A), (B), and (C). And
19 directing your attention to (A) where it says that
20 "No person shall be a candidate for nomination or
21 election at a party primary if the person voted as a
22 member of a different political party at any primary
23 election within the current year and the immediately
24 preceding two calendar years."

1 I'm not sure -- I did not distribute it,
2 I am not sure, Mr. Mackey, do they have a copy of the
3 voting record?

4 MR. MACKEY: They do.

5 MR. LECKLIDER: Okay. You can refer to
6 that.

7 MEMBER SINNOTT: Where, Tim, in .119 is
8 the relevant language?

9 MR. LECKLIDER: I'm sorry, (A) is what I
10 am first directing you to. Now, if you consider (B)
11 and (C), (B) and (C) in the case of Mr. Ditmars might
12 be interpreted as essentially nullifying (A).

13 Under (B) (1) Mr. Ditmars does not hold an
14 elective office. That's under (B) (1), and (B) (2) a
15 person who holds an elective office other than one
16 for which candidates are nominated at a party
17 primary.

18 So literally reading (B) and (C) you
19 might come to the conclusion that Mr. Ditmars was
20 otherwise qualified but for the Ohio Supreme Court's
21 2012 decision in Waters versus Spade. In that
22 particular case Mr. Waters was a 2010 Libertarian
23 Party candidate for State Representative. In 2011,
24 Mr. Waters filed to be a candidate for the Republican

1 Party Central Committee. I believe that was in
2 Warren County.

3 The Supreme Court in Waters versus Spade
4 relying solely on 3513.191(A) found the fact that
5 Mr. Waters was a candidate for the Libertarian Party
6 in 2011 thereby disqualified him to be a candidate
7 for the Republican Party Central Committee.

8 And the distinction, although the Supreme
9 Court does not enunciate this in their opinion, a
10 distinction that can be found between the facts in
11 this case as well as in the Waters case is that if
12 you look at the language of (B) and (C), (B) and (C)
13 of 3513.191 speaks to nomination as opposed to
14 election. In this particular case Mr. Ditmars, as
15 was the case with Mr. Waters, is not seeking to be
16 nominated but seeking to be elected.

17 But I will grant you that the Supreme
18 Court does not expound on that to the extent I just
19 did, drawing the distinction between nomination and
20 election.

21 MEMBER HAAS: Following your train on the
22 nomination versus election, (B) refers to
23 nomination --

24 MR. LECKLIDER: That's correct.

1 MEMBER HAAS: -- not election. So to me
2 that would take it --

3 MEMBER MARINELLO: Out of the scenario.

4 MEMBER HAAS: Yeah.

5 MR. LECKLIDER: That's the interpretation
6 I would make.

7 MEMBER HAAS: Okay.

8 MR. LECKLIDER: It thereby -- well,
9 that's the consideration for you all. So what I
10 would suggest, Mr. Chairman, and certainly I'm happy
11 to answer any questions you might have, but I would
12 swear any witnesses that would like to give testimony
13 regarding this particular matter, calling first the
14 individual having filed the protest, give Mr. Ditmars
15 an opportunity to testify and offer evidence, and any
16 other individual that might be here to offer
17 testimony.

18 MEMBER SINNOTT: When was the protest
19 filed?

20 MS. BROWN: January 4.

21 MR. MACKEY: Monday, January 4.

22 MEMBER SINNOTT: And when is the deadline
23 for the Board's decision?

24 MR. LECKLIDER: When do you have to

1 transmit, Mr. Mackey, information to the Secretary of
2 State?

3 MR. MACKEY: I mean, as of the 70th day
4 before the election, we transmit the names of
5 candidates to the Secretary of State but.

6 MEMBER SINNOTT: Which translates to what
7 day on the calendar?

8 MR. MACKEY: That was last -- January 5,
9 last Tuesday is when we sent the names of all the
10 certified candidates and that kind of thing, and it
11 also corresponds to the date you can change the name
12 or withdraw and have your name removed from the
13 ballot. But there is no -- I'm not sure.

14 MEMBER SINNOTT: So we have already sent
15 over the information for the creation of the ballot.

16 MR. LECKLIDER: Excuse me.

17 MEMBER HAAS: For instance, Mr. Mentel's
18 name is on that list.

19 MR. MACKEY: Right. We will take that
20 off.

21 MEMBER HAAS: You will be taking him off.

22 MR. MACKEY: And I don't have the protest
23 statute in front of me. 3513.05, does it have a
24 timeline on there?

1 MR. ANDERSON: The protest must be --

2 MR. LECKLIDER: I think it's --

3 MEMBER SINNOTT: Protest shall be in
4 writing and filed not later than 4 p.m. of the 74th
5 day before the day of the Primary Election.

6 MR. MACKEY: That would have been that
7 Saturday.

8 MR. LECKLIDER: Would have been Saturday?

9 MEMBER SINNOTT: Wait.

10 MR. MACKEY: All those types of deadlines
11 get pushed back to --

12 MR. ANDERSON: Monday.

13 MR. MACKEY: Actually it might have been
14 Friday, the 1st, which was New Year's Day, and we
15 were closed. So deadlines get pushed back to the
16 next business day.

17 MEMBER SINNOTT: So you received the
18 protest and the exhibits on the 4th.

19 MR. MACKEY: Yes.

20 MEMBER SINNOTT: Which was a week ago
21 today.

22 Well, as an administrative matter to the
23 Board's staff, if this sort of complicated legal
24 matter is going to come to the Board's attention for

1 decision, it would be helpful if we had advanced
2 notice so that we're not doing interpretations of
3 statute and case law and the like on the fly which is
4 what I think the three of us are going to be called
5 upon to do this afternoon. Whatever advanced notice
6 that there is an issue percolating of this sort would
7 be appreciated going forward.

8 DEPUTY DIRECTOR PAYNE: Yes, sir.

9 MEMBER SINNOTT: Hey, Tim, could you
10 direct our attention to the part of Waters that you
11 think is especially enlightening?

12 MR. LECKLIDER: Yes. First of all, if
13 you can turn to page 2.

14 MEMBER SINNOTT: Page 2 of the printed
15 version of the letters?

16 MR. LECKLIDER: Yes, the version that's
17 been distributed.

18 MEMBER MARINELLO: Waters.

19 MR. LECKLIDER: If you look on page 2
20 under opinion and above the facts -- above the
21 opinion and below the facts, the last sentence in
22 that first paragraph that states "Because Waters
23 voted in a primary election as a member of a
24 different political party in the preceding two

1 calendar years, he is barred from candidacy in the
2 March 6, 2012, primary election." I would direct
3 your attention to that.

4 And then turning to page 3, midway down
5 that page you'll see in blue a reference to Revised
6 Code 3513.191(A) and 3517.01(A) (1), and then in green
7 ink you'll see an asterisk next to 57 and that's
8 where the court in their opinion is referencing (A).

9 And then finally page 5 in paragraphs 17
10 and 18 at the bottom of the page and specifically in
11 paragraph 18 where it states that "Waters'
12 participation in the May, 2012, Libertarian primary
13 election bars him from being a candidate for Central
14 Committee Member of the March, 2012, Republican
15 primary election. The Board of Elections and its
16 members used their discretion clearly disregarding
17 the law by deciding not to certify the Waters
18 candidacy."

19 MEMBER SINNOTT: Which is, of course, not
20 to say the court is holding that the Board of
21 Elections correctly applied the statute but its
22 application was not an abuse of discretion.

23 Have you had enough time to sort through
24 this?

1 MEMBER HAAS: I think so.

2 MEMBER SINNOTT: Kim, how about you?

3 MEMBER MARINELLO: Yeah.

4 MEMBER SINNOTT: Okay. All right. Let
5 us now hear the protest. I understand both the
6 protestor and respondent are present? Mr. Ditmars
7 and Chipps, all right.

8 Ms. Chipps, will you come forward,
9 please.

10 MS. CHIPPS: Sure.

11 MEMBER SINNOTT: Jeff, could you -- the
12 lecturn will be fine.

13 MS. CHIPPS: Okay.

14 MEMBER SINNOTT: I presume that you are
15 intending on giving testimony that is telling us
16 things that are matters of fact as opposed to just
17 making an argument?

18 MS. CHIPPS: Yes, yes. And I provided
19 you with exhibits for everything that --

20 DIRECTOR ANTHONY: She needs to be sworn
21 in.

22 MEMBER SINNOTT: We are getting to that.

23 MR. LECKLIDER: The court reporter can do
24 it.

1 MEMBER SINNOTT: And the court reporter
2 can swear the witness, I agree.

3 Katherine, I think what we will do we
4 will have you sworn in to testify telling the truth,
5 and then we will hear more from you.

6 (Witness sworn.)

7 MEMBER SINNOTT: All right, Miss Chipps.
8 Thank you. Would you like to explain to us what the
9 basis is for your protest of certification of
10 Mr. Ditmars' candidacy.

11 MS. CHIPPS: Sure. Just to clarify
12 because it has to be someone that's qualified, my
13 name is Katherine Chipps, and I am the Executive
14 Director and also the Third Vice Chair of the
15 Franklin County Democratic Party and a member of its
16 Executive Committee.

17 I filed the protest against Mr. Ditmars
18 as he is a registered Republican according to his
19 voting registration files having voted in several
20 Democratic primaries, which in the state of Ohio a
21 party is declared by voting in a primary election.

22 According to the Party Constitution and
23 Bylaws, for a person to qualify to be a member of the
24 Central Committee, they must not be a member of

1 another political party. So that was the grounds of
2 my protest since his voter registration reflected he
3 was not either a Democrat or an unaffiliated voter.

4 MEMBER SINNOTT: So you're the Executive
5 Director of the County Democratic Party, right?

6 MS. CHIPPS: Yes.

7 MEMBER SINNOTT: And you have been
8 instructed by party leadership in the form of your
9 chairs to bring this protest.

10 MS. CHIPPS: Yes.

11 MEMBER SINNOTT: And then there is a
12 document that we have in front of us which I think
13 you have provided captioned "The Constitution of the
14 Democratic Party of Franklin County." That is a part
15 of your party rules?

16 MS. CHIPPS: Yes.

17 MEMBER SINNOTT: And, Jeff, you provided
18 us with Mr. Ditmars' voting record.

19 MR. MACKEY: A copy of the pollbook and
20 his petition.

21 MEMBER SINNOTT: Jeff, would you like to
22 summarize Mr. Ditmars' primary voting record?

23 MR. MACKEY: So the reason he is listed
24 as a Republican currently is under on the basis of

1 this 2014 primary election where he selected a
2 Republican ballot. And I included his petition that
3 includes the declaration that he is making that he is
4 a Democrat.

5 MEMBER SINNOTT: Ms. Chipps, as I
6 understand your protest then, you are saying
7 Mr. Ditmars shouldn't be allowed to run for your
8 County Central Committee because he was registered as
9 a Republican in the May, 2014, primary, the last time
10 that people were called upon to identify a party in
11 order to vote.

12 MS. CHIPPS: Uh-huh.

13 MEMBER SINNOTT: That's correct?

14 MS. CHIPPS: Yes.

15 MEMBER SINNOTT: Ms. Chipps, have you
16 given any thought to the ability of your party's
17 Constitution to define qualifications for election to
18 the Central Committee?

19 MS. CHIPPS: No. I just went from the
20 written versions and then also from looking at some
21 of the sections of Code about running for office
22 when -- how it is determined what party affiliation
23 you are.

24 MEMBER SINNOTT: Let me ask the Board's

1 counsel so we are informed on this point, do you know
2 of anything that -- anything in law that says we look
3 to the Bylaws or Constitution of the party to
4 determine qualification for service on the Central
5 Committee?

6 MR. ANDERSON: I am not aware of
7 anything.

8 MEMBER MARINELLO: We don't really have
9 to use the Bylaws. It's in the Revised Code anyway.
10 It's not going directly on the Bylaws.

11 MEMBER SINNOTT: What would that be, Kim?
12 What do you have?

13 MEMBER MARINELLO: Where it says no
14 person shall be --

15 MEMBER HAAS: 3513.191 paragraph (A).

16 MEMBER MARINELLO: "No person shall be a
17 candidate for nomination or election at a party
18 primary if the person voted as a member of a
19 different political party at any primary election
20 within the current year and the immediately preceding
21 two calendar years."

22 MEMBER SINNOTT: That's -- I tell you
23 what, in the interest of efficiency, Ms. Chipps, is
24 there anything else in your protest you wanted to

1 present?

2 MS. CHIPPS: Not at this time.

3 MEMBER SINNOTT: Thank you. Appreciate
4 your time.

5 MEMBER MARINELLO: Thanks, Katherine.

6 MEMBER SINNOTT: Mr. Ditmars, would you
7 like to step forward. And I presume you are going to
8 offer some testimony and matters of fact, so we will
9 have the court reporter swear you as a witness as
10 well.

11 MR. DITMARS: Well --

12 MEMBER SINNOTT: Hold on. We have to
13 have you sworn in. Just a second.

14 (Witness sworn.)

15 MEMBER SINNOTT: Please, if you'll
16 respond.

17 MR. DITMARS: Thank you for your time and
18 you have seen my record of voting. I have been a
19 resident in Ward 70 for over 25 years. I live 600
20 Teteridge Road. Over that period of time I believe I
21 have voted as an Independent. I voted as a Democrat.
22 I voted as a Republican. However, in the past years
23 I have considered myself a Democrat, and I am not a
24 member of a political party. I voted for President

1 Obama twice and for numerous other Democrats both at
2 the national, state, and local levels.

3 I have not had the benefit of legal
4 counsel in the short time that I have been aware of
5 this protest. However, I have reached out to people
6 I know who are attorneys that were unable to be here.

7 But in this instance my only review of
8 the OCR 3513.191(B)(1) would indicate to me that
9 notwithstanding my self-identified party affiliation
10 voting in 2014 that I may be a candidate for
11 nomination for any political party at this time. And
12 upon that basis I would argue that with my intention
13 to serve the Democratic Party and my personal
14 political beliefs that have led me to do this that I
15 should be permitted to go forward with this
16 candidacy. I have submitted the defense of my
17 candidacy.

18 MEMBER SINNOTT: Okay. Mr. Ditmars, you
19 voted in the Republican primary in 2014, correct?

20 MR. DITMARS: Yes. It's been brought to
21 my attention that I did. I didn't recall that.

22 MEMBER SINNOTT: Today you consider
23 yourself to align with the Democratic Party.

24 MR. DITMARS: I do.

1 MEMBER HAAS: Mr. Ditmars, not only did
2 you vote in 2014, you also voted Republican I believe
3 in a few other elections, but yet you say you
4 consider yourself a Democrat in all those time
5 periods?

6 MR. DITMARS: No, no. And I do believe I
7 am not obligated over a period of 25 years to
8 maintain one party affiliation. I believe that the
9 Ohio Revised Code is pretty clear, so I don't have
10 benefit of counsel here but the case --

11 MEMBER HAAS: The section you quoted was
12 in reference to nomination, not election.

13 MEMBER MARINELLO: So kind of throw that
14 out and go by (A) because it says candidates for
15 nomination, not for election.

16 MEMBER HAAS: This is a candidacy for
17 election.

18 MR. DITMARS: I didn't review this before
19 I submitted my application.

20 MEMBER SINNOTT: Perhaps there can be a
21 period of discussion after we dismiss the witness.

22 Is there anything else you want to say,
23 Mr. Ditmars, in support of your candidacy?

24 MR. DITMARS: I stated in my defense.

1 MEMBER HAAS: Thank you.

2 MEMBER MARINELLO: Thank you.

3 MEMBER SINNOTT: Does either the
4 protestor or the respondent wish to call another
5 witness on this matter? Ms. Chipps?

6 MS. CHIPPS: No.

7 MEMBER SINNOTT: Mr. Ditmars?

8 MR. DITMARS: No.

9 MEMBER SINNOTT: Well, this seems to
10 present the interesting question often discussed in
11 Ohio as to how one tells who is Democrat and who is
12 Republican.

13 DIRECTOR ANTHONY: So you guys know what
14 the next steps are, if they -- if they uphold the
15 protest, they would have to make a motion to uphold
16 the protest? And if not, then there's no motion
17 needed; is that correct? Because he is already
18 certified to the ballot.

19 MR. LECKLIDER: If I may, if the Board
20 chooses to uphold the protest, and I think that you
21 should follow that with a motion to remove his name
22 from the ballot in light of the fact that it's been
23 certified to the ballot; is that correct, Mr. Mackey?

24 MR. MACKEY: Yeah. I would think there

1 should be some effort to decertify the candidate.

2 And, conversely, of course, if you should choose to
3 deny the protest, then so move and then maintain the
4 status quo.

5 MEMBER MARINELLO: I move to uphold the
6 challenge of Katherine Chipps against the
7 certification of David Ditmars, and his name shall be
8 removed from the ballot as a candidate for the
9 Democratic Party Central Committee Ward 70 in the
10 Primary Election of 2016.

11 DIRECTOR ANTHONY: Is there a second?

12 MEMBER HAAS: There is.

13 MEMBER SINNOTT: We can move into
14 discussion, and I will ask for an opportunity to read
15 the remainder of the Waters case. It shouldn't take
16 long. I apologize to everyone but this was just
17 thrown at us as we arrived here today.

18 Okay. My -- my conclusion is that
19 Mr. Ditmars' case is covered by 3513.191 Division
20 (A), and the Waters case suggests that there ought to
21 be a plain English application of that division of
22 the statute to a situation such as this one which
23 seems to not be materially different than Mr. Waters'
24 situation presented to the Supreme Court. So my

1 inclination is to support the motion.

2 I don't think we have any discretion
3 really.

4 MEMBER HAAS: Yeah.

5 MEMBER SINNOTT: Mr. Ditmars is a person
6 who is a candidate for election at a party primary.
7 I agree what takes place in the spring of the even
8 years in this county would be an election to the
9 office of County Central Committee Member. It's not
10 a nomination for later election. And Mr. Ditmars
11 concedes that he is a person who has voted as a
12 member of a different political party at a primary
13 election within the current year and the immediately
14 preceding two calendar years going back to 2014.

15 This may not be the best policy but it's
16 the policy that is given to us by the General
17 Assembly, so I'm supporting the motion.

18 Mr. Anthony, do you want to call for a
19 vote?

20 DIRECTOR ANTHONY: All those in favor say
21 aye. Motion carries.

22 That was all we had before the Board
23 today. Is there a motion to adjourn?

24 MEMBER MARINELLO: So moved.

1 MR. LECKLIDER: Excuse me. We were going
2 to do a follow-up motion.

3 MEMBER SINNOTT: Yes, I think so.

4 MEMBER MARINELLO: I included that in my
5 motion.

6 MR. MACKEY: She kind of included it.

7 MR. LECKLIDER: It was all one motion?

8 MEMBER MARINELLO: Yeah.

9 MEMBER SINNOTT: Okay. Very good. Is
10 there anything else to come before the Board?

11 DEPUTY DIRECTOR PAYNE: I don't think so.

12 DIRECTOR ANTHONY: So all those in favor
13 to adjourn say aye.

14 We're adjourned.

15 (Thereupon, at 4:04 p.m., the meeting was
16 adjourned.)

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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, January 11, 2016, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6138)

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EXHIBIT A

Write-in Candidates Recommended for
Board Certification to the
March 15, 2016 Primary Election Ballot

Exhibit A: Write-In Candidates Recommended for Board Certification to the March 15, 2016 Election
Ballot

State Representative: Napoleon A. Bell (Democratic)
25th District Full Term

County Central Committee: Bryan Clark (Democratic)
Bexley Ward 03 Full Term

County Central Committee: Janet Mittman (Democratic)
Bexley Ward 03 Full Term

County Central Committee: James Johnson (Democratic)
Bexley Ward 04 Full Term

County Central Committee: Michaelena Stinziano (Democratic)
Bexley Ward 04 Full Term

County Central Committee: Edna Stokes (Democratic)
Brown Township Full Term

County Central Committee: Peter N Cass (Democratic)
Columbus Ward 18 Full Term

County Central Committee: Anita Vanwalsen (Democratic)
Columbus Ward 29 Full Term

County Central Committee: Patricia Petrarca (Democratic)
Columbus Ward 30 Full Term

County Central Committee: John D. Lowry (Democratic)
Columbus Ward 38 Full Term

County Central Committee: John Cahill (Democratic)
Columbus Ward 42 Full Term

County Central Committee: Jacqueline Moeller (Democratic)
Columbus Ward 46 Full Term

Exhibit A: Write-In Candidates Recommended for Board Certification to the March 15, 2016 Election
Ballot

County Central Committee: Cheryl Saul (Democratic)
Columbus Ward 46 Full Term

County Central Committee: Barbara Carter (Democratic)
Columbus Ward 48 Full Term

County Central Committee: Danny Hayes (Democratic)
Columbus Ward 53 Full Term

County Central Committee: Jeffrey D. Carter (Democratic)
Columbus Ward 56 Full Term

County Central Committee: Edythe Jones (Democratic)
Columbus Ward 56 Full Term

County Central Committee: Denisse Hernandez (Democratic)
Columbus Ward 58 Full Term

County Central Committee: Tonya McCreary Williams (Democratic)
Columbus Ward 61 Full Term

County Central Committee: Monica Radford (Democratic)
Columbus Ward 61 Full Term

County Central Committee: Donna Dietsch (Democratic)
Columbus Ward 68 Full Term

County Central Committee: Stephen Sayre (Democratic)
Columbus Ward 70 Full Term

County Central Committee: Jeffrey Knoll (Democratic)
Columbus Ward 76 Full Term

County Central Committee: Amanda Wurst (Democratic)
Columbus Ward 76 Full Term

Exhibit A: Write-In Candidates Recommended for Board Certification to the March 15, 2016 Election
Ballot

County Central Committee: Charity Kirkbride (Democratic)
Columbus Ward 80 Full Term

County Central Committee: Jelanie Starks (Democratic)
Columbus Ward 81 Full Term

County Central Committee: Doug Cardwell (Democratic)
Columbus Ward 82 Full Term

County Central Committee: Gayle Kanz (Democratic)
Gahanna Ward 02 Full Term

County Central Committee: Robin M Link (Democratic)
Gahanna Ward 02 Full Term

County Central Committee: Steven Goble (Democratic)
Grove City Ward 02 Full Term

County Central Committee: Lee Schreiner (Democratic)
Grove City Ward 02 Full Term

County Central Committee: David Fischer (Democratic)
Hilliard Ward 03 Full Term

County Central Committee: Kenneth J. Schmidt (Democratic)
Hilliard Ward 03 Full Term

County Central Committee: Danetta Smith (Democratic)
Mifflin Township Full Term

County Central Committee: Bret Benack (Democratic)
Norwich Township Full Term

County Central Committee: Todd Lambert (Democratic)
Plain Township Full Term

Exhibit A: Write-In Candidates Recommended for Board Certification to the March 15, 2016 Election
Ballot

County Central Committee: David Hamad (Democratic)
Reynoldsburg Ward 03 Full Term

County Central Committee: Mark Kirkman (Democratic)
Washington Township Full Term

County Central Committee: Homer Cordle (Democratic)
Westerville Ward 01 Full Term

County Central Committee: Kevin McCain (Democratic)
Westerville Ward 03 Full Term

County Central Committee: Judith Strain (Democratic)
Westerville Ward 03 Full Term

County Central Committee: Terry Barber (Democratic)
Westerville Ward 05 Full Term

County Central Committee: Meghann Moore (Democratic)
Westerville Ward 05 Full Term

County Central Committee: Alex Mitchell (Democratic)
Whitehall Ward 01 Full Term

County Central Committee: Janice Ritchey (Democratic)
Whitehall Ward 03 Full Term

County Central Committee: Lori Chrisman (Democratic)
Worthington Ward 01 Full Term

County Central Committee: Elena Craft (Democratic)
Worthington Ward 01 Full Term

County Central Committee: Anthony Hunter (Republican)
Columbus Ward 25 Full Term

Exhibit A: Write-In Candidates Recommended for Board Certification to the March 15, 2016 Election
Ballot

County Central Committee: Matthew R. Farren (Republican)
Columbus Ward 39 Full Term

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