

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

FRANKLIN COUNTY BOARD OF ELECTIONS

- - -

In Re:  
Special Meeting

April 12, 2024

Before Chairman Douglas Preisse, Deputy  
Director David Payne, Director Antone White, Member  
Michael Sexton, Member Kimberly Marinello, Member  
Meredith Freedhoff, taken before me, Kimberly A.  
Kaz, Registered Professional Reporter and Notary  
Public in and for the State of Ohio, at the  
Franklin County Board of Elections, on Friday,  
April 12, 2024.

- - -

ALSO PRESENT:  
Jeanine Hummer, Esq.  
Erin Gibbons  
Jeff Mackey

*Higgins & Associates*  
*Court Reporting - Legal Video - Videoconference*  
*4889 Sinclair Road, Suite 102*  
*Columbus, Ohio 43229*  
*\*614.985.DEPO (3376) \*888.244.1211*

P R O C E E D I N G S

- - -

1  
2  
3 DEPUTY DIRECTOR PAYNE: I believe  
4 that you were sent the minutes from the last  
5 April 5th meeting. I'm going to take roll, I  
6 guess, first.

7 DIRECTOR WHITE: Yeah. There you  
8 go.

9 DEPUTY DIRECTOR PAYNE: Kim  
10 Marinello.

11 MEMBER MARINELLO: Here.

12 DEPUTY DIRECTOR PAYNE: Michael  
13 Sexton.

14 MEMBER SEXTON: Here.

15 DEPUTY DIRECTOR PAYNE: Doug  
16 Preisse.

17 CHAIRMAN PREISSE: Here.

18 DEPUTY DIRECTOR PAYNE: And Meredith  
19 Freedhoff.

20 MEMBER FREEDHOFF: Here.

21 DEPUTY DIRECTOR PAYNE: We have a  
22 quorum. I can begin the meeting now.

23 So you were sent the April 5th  
24 minutes of the meeting. Do you have any questions

1 or comments? We could, I suppose, answer those  
2 now.

3 CHAIRMAN PREISSE: Seems good.

4 MEMBER FREEDHOFF: Mr. Chairman, I  
5 move that the Board approve the minutes of the  
6 April 5th meeting of the Franklin County Board of  
7 Elections as submitted.

8 MR. SEXTON: Mr. Chairman, I'll  
9 second.

10 DEPUTY DIRECTOR PAYNE: It's been  
11 properly moved and seconded. All those in favor of  
12 the motion, signify by saying aye.

13 (Vote taken.)

14 DEPUTY DIRECTOR PAYNE: All opposed,  
15 same sign.

16 (No response.)

17 DEPUTY DIRECTOR PAYNE: Motion  
18 carries.

19 We have to authorize the beginning  
20 of the recount today at 9:00. We have two  
21 recounts, one for republican county central  
22 committee, 4th ward of Columbus, and the other one  
23 for the democratic primary for state representative  
24 in the 10th district.

1                   And you might see some people out  
2 there with yellow tags on. They're all going to  
3 observe our recount. They've all filed proper  
4 paperwork, so they're all eligible to go back in  
5 the recount room, and we swore them in, so we're go  
6 to go.

7                   MEMBER FREEDHOFF: Thank you.

8                   DEPUTY DIRECTOR PAYNE: So if we  
9 want to begin the authorization of the recount, we  
10 can do that.

11                   MEMBER SEXTON: Mr. Chairman, the  
12 election results from the republican county central  
13 committee Columbus, 4th ward, race requires a  
14 recount. I move the Board authorize the start of  
15 the hand count in all four precincts and that the  
16 recount begin now, 9:00 a.m., on April 12th until  
17 completed.

18                   CHAIRMAN PREISSE: Second the  
19 motion.

20                   DEPUTY DIRECTOR PAYNE: It's been  
21 properly moved and seconded. All those in favor of  
22 the motion, signify by saying aye.

23                   (Vote taken.)

24                   DEPUTY DIRECTOR PAYNE: All opposed,

1 same sign.

2 (No response.)

3 DEPUTY DIRECTOR PAYNE: Motion  
4 carries.

5 I think we would be looking for  
6 something similar to start the democratic primary  
7 for state representative in the 10th district.

8 MEMBER MARINELLO: Okay.

9 Mr. Chairman, I move -- the election results from  
10 the democratic primary for state representative  
11 10th district requires a recount. I move that the  
12 Board authorize the recount to begin now,  
13 9:00 a.m., April 12th until completed.

14 CHAIRMAN PREISSE: Second the  
15 motion.

16 DEPUTY DIRECTOR PAYNE: It's been  
17 properly moved and seconded. All those in favor of  
18 the motion, signify by saying aye.

19 (Vote taken.)

20 DEPUTY DIRECTOR PAYNE: All opposed,  
21 same sign.

22 (No response.)

23 DEPUTY DIRECTOR PAYNE: Motion  
24 carries.

1                   There is an initiated ordinance  
2 presented in Minerva Park, and I'm going to call on  
3 Matt Kelly -- or, I'm sorry, Jeff Mackey from  
4 petitions and filings to give us a brief  
5 description of that.

6                   MR. MACKEY: Jeff Mackey, manager  
7 petitions and campaign finance.

8                   DIRECTOR WHITE: Our audience is  
9 gone.

10                  CHAIRMAN PREISSE: Got to go to  
11 work.

12                  MEMBER FREEDHOFF: That's the fun  
13 stuff. Fireworks.

14                  MS. MACKEY: So on January 2nd, the  
15 Village of Minerva Park forwarded to us a petition  
16 they had received for initiated ordinance. They  
17 wanted to control the sale of fireworks in the  
18 Village.

19                  On January 4th, we certified back to  
20 them that we found 233 total signatures on the  
21 petition, 211 of which were valid. There were 984  
22 votes cast at the 2022 general election for  
23 governor in the Village of Minerva Park, which  
24 meant that ten percent of that number would have

1 been 99 signatures, so they well exceeded the mark  
2 required as far as valid signatures on that  
3 petition. So we sent that letter certifying that  
4 back to the Village.

5           The Village, in turn, fulfilled  
6 their responsibility by performing their duty to  
7 issue back to us a resolution to place that issue  
8 on the ballot. Once we got that, as I do with all  
9 things that we receive that want to be put on the  
10 ballot, I forwarded that to the prosecutor's  
11 office. They looked through that. The Board has  
12 one final duty before we place issues on the ballot  
13 for initiated ordinance or charter amendments or  
14 anything like that. The Board has to make its own  
15 determination as to the sufficiency and validity of  
16 an initiative petition that's certified to the  
17 Board for placement on the ballot, and the petition  
18 can be found invalid if any portion of the petition  
19 does not fall within the authority of the Village,  
20 city, township to enact the initiative. And this  
21 all falls under Revised Code Section 3501.38.

22           The prosecutor's office also  
23 reviewed the ordinance as submitted and reviewed  
24 that against the state statutes on fireworks. I'm

1 going to defer to the prosecutor's office here to  
2 kind of brief you on that.

3           ATTORNEY HUMMER: So good morning,  
4 Board members. We did look at this, and it's quite  
5 different for me, since I used to be a city  
6 attorney, to say anything is contrary the home rule  
7 because those words never came out of my mouth  
8 'cause I was big advocate of home rule for each  
9 city jurisdiction; however, being versed in that  
10 area, this is an analysis on home rule authority,  
11 whether Minerva Park has home rule authority to  
12 place this initiative on the ballot.

13           You've all received a legal opinion  
14 regarding that analysis of that. We would just  
15 stress that what we looked at is specifically the  
16 language of the fireworks code and whether the  
17 state specifically laid out when a municipality is  
18 allowed to enact laws and when a  
19 municipality -- and what is separately governed by  
20 the state. And, clearly, the state had set forth  
21 purchase as a separate part of the code that could  
22 not be regulated under home rule authority, and,  
23 therefore, our recommendation is that this  
24 initiative not be placed on the ballot.



1                   We understand that this may be  
2 subject to litigation and we want to make sure you  
3 are aware of that in advance since we have received  
4 phone calls regarding that.

5                   CHAIRMAN PREISSE: Do you remember  
6 when the pertinent section was last amended or  
7 adopted?

8                   ATTORNEY HUMMER: I do not have  
9 that, but it's recent, I believe.

10                  CHAIRMAN PREISSE: Oh, is it?

11                  ATTORNEY HUMMER: I believe that  
12 there was an overhaul of the fireworks code.

13                  CHAIRMAN PREISSE: That sort of  
14 rings a bell. I also remember, as a staffer being  
15 on floor in the senate, when there was a major  
16 revision in probably the late '80s or early '90s,  
17 yeah. Big changes, but maybe some more recent,  
18 okay.

19                  ATTORNEY HUMMER: I believe -- and I  
20 don't have it in front of me, but I believe there  
21 are areas that specifically -- and this initiative  
22 includes some of those areas where you're permitted  
23 to regulate time of when fireworks are allowed to  
24 go off, for instance. But this is about the actual

1 sale, so it encompasses an area of the state code  
2 that, in our opinion, is not permitted to be  
3 regulated.

4 MEMBER FREEDHOFF: You mentioned you  
5 received some phone calls about this already. What  
6 is the feedback you're getting?

7 ATTORNEY HUMMER: That if it's not  
8 placed on the ballot, there will be a legal  
9 challenge.

10 MEMBER FREEDHOFF: Okay.

11 MR. MACKEY: And then since the  
12 prosecutor has weighed in with their opinion,  
13 staff's recommendation is that this issue should  
14 not be placed on the ballot as well. If the Board  
15 concurs or disagrees, you can either vote to place  
16 that on the ballot now or vote to not place that on  
17 the ballot, whatever the case may be.

18 MEMBER FREEDHOFF: Thank you.

19 Mr. Chairman, in the matter of the  
20 petition for initiated ordinance presented to the  
21 Village of Minerva Park proposing Ordinance  
22 Section 678.10(f)(1) be submitted to electors of  
23 the Village for their approval or rejection at the  
24 general election to be held on the 5th day of

1 November 2024. I move, in accordance with  
2 ORC 3501.31(m) authorizing the Board to examine  
3 whether a municipal initiative falls within the  
4 municipality's authority to enact, that the Board  
5 determine that the petition is invalid because the  
6 proposed ordinance does not fall within the scope  
7 of the Village of Minerva Park's home rule  
8 authority, and that the proposed ordinance should  
9 not appear at the 2024 general election.

10 MEMBER MARINELLO: Second.

11 DEPUTY DIRECTOR PAYNE: It's been  
12 properly moved and seconded. All those in favor of  
13 the motion, signify by saying aye.

14 (Vote taken.)

15 DEPUTY DIRECTOR PAYNE: All opposed,  
16 same sign.

17 (No response.)

18 DEPUTY DIRECTOR PAYNE: Motion  
19 carries.

20 I don't show anything else to come  
21 before the Board today. I think our next meeting  
22 would be to hear about the recount, and I think we  
23 tried to schedule that on Monday, April 15th at  
24 3:00 p.m.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

MEMBER MARINELLO: Mr. Chairman, I  
move that the Board recess the meeting and  
reconvene Monday, April 15th at 3:00 p.m.

CHAIRMAN PREISSE: I second the  
motion.

DEPUTY DIRECTOR PAYNE: All those in  
favor of the motion, signify by saying aye.

(Vote taken.)

DEPUTY DIRECTOR PAYNE: All opposed,  
same sign.

(No response.)

DEPUTY DIRECTOR PAYNE: Motion  
carries.

- - -

Thereupon, the special meeting  
concluded at approximately 9:20 a.m.

- - -

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

- - -

THE STATE OF OHIO:

SS:

COUNTY OF FRANKLIN:

I, Kimberly Kaz, Registered Professional Reporter and Notary Public in and for the State of Ohio, do hereby certify that the foregoing is a true, correct, and complete written transcript of the proceedings in this matter;

That the foregoing was taken by me stenographically and transcribed by me with computer-aided transcription;

That the foregoing occurred at the aforementioned time and place;

That I am not an attorney for or relative of either party and have no interest whatsoever in the event of this litigation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Columbus, Ohio, this 3rd of May 2024.

/s/Kimberly Kaz, RPR \_\_\_\_\_

Notary Public, State of Ohio

My Commission Expires: March 31, 2028.

- - -