

1 APPEARANCES:

2 Office of the
3 Franklin County Prosecutor
4 373 South High Street
5 Columbus, Ohio 43215
6 By Mr. Nick Soulas,
7 Assistant Prosecutor,
8
9 On behalf of the Franklin
10 County Board of Elections.
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P R O C E E D I N G S
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CHAIRMAN ANTHONY: I will call
the Franklin County Board of Elections
meeting to order.

Roll call?

MR. DAMSCHRODER: Mr. Colley?

MR. COLLEY: Yes.

MR. DAMSCHRODER: Ms. Marinello?

MS. MARINELLO: Yes.

MR. DAMSCHRODER: And Chairman
Anthony?

CHAIRMAN ANTHONY: Yes.

MR. DAMSCHRODER: All members
are present. And for the record it's
worth noting that we still have just three
members of the Board with Ms. Petree
having resigned February 4th.

The first item on the agenda is
to let the Board know that late last week
we discovered an error in the spelling of
Rudy Giuliani on the ballots for the March
4th, 2008 Primary Election.

1 Mr. Giuliani's name was spelled
2 incorrectly, having reversed the U and the
3 I at the beginning of his name. When we
4 realized this late last week Denney and I
5 called the Secretary of State's Office and
6 spoke with Bryan Chen, who let us know --
7 obviously, we would have wanted it to be
8 correct. Because Mr. Giuliani has
9 withdrawn as a candidate from office, this
10 is a no harm, no foul kind of situation.

11 If the Board wants to reprint
12 all the ballots and reprogram all the
13 voting machines, that would be your
14 decision. But Denney and I would
15 recommend against that because, again, it
16 is an error but inconsequential. And the
17 expense to do that for candidates no
18 longer on the ballot would not make sense
19 at this time.

20 If the Board wants to do that,
21 we would need the motion to direct us to
22 do that. Otherwise, we will proceed as it
23 is with the errant spelling.

24 MR. WHITE: The reason why he is

1 still on the ballot is because he missed
2 the deadline to remove his name from the
3 ballot. He has withdrawn from the race
4 and the votes are not to be counted.
5 That's why the Secretary of State said it
6 really doesn't matter; however, I needed
7 to let you folks of the Board know about
8 it before you meet the Press.

9 CHAIRMAN ANTHONY: I will
10 entertain a motion.

11 MR. DAMSCHRODER: We don't need
12 one because we would need a motion to
13 change. So just status quo does not
14 require a motion.

15 MR. WHITE: I will say that the
16 ballots were sent to both parties and also
17 the Secretary of State and no one picked
18 up on this.

19 MR. DAMSCHRODER: And they were
20 posted for a 24-hour period.

21 CHAIRMAN ANTHONY: All right.

22 MR. DAMSCHRODER: The next item
23 is a motion that will help us move things
24 along quickly on election night. In the

1 past we have set the high-speed optical
2 scanners to detect over votes and under
3 votes on election night. Based on that
4 process means that the ballots instead of
5 any of the contests on the ballot being
6 counted, it gets rejected for an
7 individual, teams of Republicans and
8 Democrats to hand inspect later.

9 So we have a faster process on
10 election night, we would recommend that we
11 turn the over-vote and under-vote
12 detection off for the unofficial canvass
13 only and turn it back on for the official
14 canvass. That way those ballots would
15 then be kicked out at that time for a hand
16 inspection by the Board under the new
17 Secretary of State's directive. This is
18 just establishing a policy for us on how
19 we conduct our unofficial election night
20 canvass.

21 CHAIRMAN ANTHONY: Any
22 questions?

23 (No audible response)

24 CHAIRMAN ANTHONY: Then I will

1 entertain a motion.

2 MS. MARINELLO: Mr. Chairman, I
3 would like to move that unless otherwise
4 instructed by the Secretary of State or
5 another authority, that the Board direct
6 the Director and Deputy Director to set
7 the high-speed optical scanners to accept
8 ballots with over-voted and under-voted
9 contests for purposes of the unofficial
10 election night tally but to activate the
11 over-vote and under-vote detector for
12 purposes of the official canvass so that
13 the Board can inspect ballots containing
14 over-votes and under-votes.

15 CHAIRMAN ANTHONY: Is there a
16 second?

17 MR. COLLEY: Second.

18 CHAIRMAN ANTHONY: All in favor,
19 say aye.

20 (Unanimous aye)

21 MR. DAMSCHRODER: The motion
22 carries.

23 The last one is fiscally
24 related. The Auditor likes to have Board

1 action on reimbursements.

2 I would like reimbursed for the
3 flowers we purchased for Carolyn Petree.

4 CHAIRMAN ANTHONY: I will
5 entertain a motion.

6 MR. MARINELLO: Mr. Chairman, I
7 move that the Board authorize the Franklin
8 County Auditor to reimburse the Director
9 for the purchase of flowers as a
10 retirement gift for former Board member
11 Carolyn C. Petree in the amount of \$69.39.

12 CHAIRMAN ANTHONY: Is there a
13 second?

14 MR. COLLEY: Second.

15 CHAIRMAN ANTHONY: All in favor,
16 say aye.

17 (Unanimous aye)

18 MR. DAMSCHRODER: That is all we
19 have before the Board today.

20 MR. WHITE: We need to talk
21 about what days we will meet during
22 elections week.

23 CHAIRMAN ANTHONY: Do we need to
24 open up elections?

1 MR. DAMSCHRODER: There is not a
2 requirement to open the polls, but there
3 is a requirement for the Board to be in
4 continuous session on Election Day.

5 How we have handled that in the
6 past is meet on Monday and then recess
7 subject to the call of the Chair in the
8 event that the Board has to meet on
9 Election Day, as opposed to your coming in
10 at 6:30 in the morning and having a Board
11 meeting on Election Day.

12 We will probably want to have a
13 meeting on that Monday. The Board also
14 has to have its reorganizational meeting
15 during the first five days of March, which
16 I imagine we'll get a directive from the
17 Secretary of State on how to do that. If
18 not, we do have to have it during the
19 first five days on March. We can do it on
20 that same Monday in that same meeting or
21 we can do it on the Sunday before or
22 Election Day or the day after Election
23 Day, whatever is the pleasure of the
24 Board; but we do need to do something to

1 meet the requirements of meeting
2 continuously in session on Election Day,
3 again, either that Monday or on Election
4 Day.

5 CHAIRMAN ANTHONY: If we do
6 that, the question I have is the Secretary
7 of State going to certify Board members on
8 the 29th?

9 MR. DAMSCHRODER: I think -- I
10 don't have Title 35 in front of me, but I
11 think the deadline for the Secretary of
12 State to appoint members to full terms,
13 the two seats presently being held by
14 Ms. Marinello and Mr. Colley, I think the
15 deadline for that to happen is the either
16 the 29th or March 1st in that window.

17 CHAIRMAN ANTHONY: What about
18 the replacement of Ms. Petree?

19 MR. DAMSCHRODER: All I know is
20 the Franklin County Republican Executive
21 Committee has made the recommendation to
22 the Secretary of State's Office that Doug
23 Preise be appointed to the vacancy. The
24 last communication we had from the

1 Secretary of State's Office is they were
2 doing a background check and that would
3 take two to five weeks to complete.

4 I am not aware -- again, I'm not
5 an attorney. This should not be construed
6 as legal advice or interpretation, but I
7 am not aware of any statutory requirement
8 for the Secretary of State to act within a
9 time certain upon appointments of
10 unexpired terms.

11 CHAIRMAN ANTHONY: So we don't
12 know when he will actually join us.

13 MR. DAMSCHRODER: Correct.

14 MR. WHITE: What happens if the
15 member is not appointed before
16 reorganization?

17 MR. DAMSCHRODER: That's outside
18 my realm of expertise or experience.

19 MR. WHITE: You need three votes
20 to elect.

21 MR. DAMSCHRODER: That's
22 correct. Both the Director and Deputy
23 Director have to have three affirmative
24 votes following a motion by a member of

1 the Board from the same political party.
2 And we're to appoint a Director and Deputy
3 Director.

4 I would certainly imagine that
5 there would be a full board by the time we
6 have reorganization.

7 MR. WHITE: I would maybe block
8 out the day after election, if she does it
9 March 1. I don't really think you would
10 want to have a reorganization meeting on
11 Election Day or the day before election.

12 CHAIRMAN ANTHONY: I don't think
13 so either.

14 So we could conceivably open the
15 polls up, just the three of us then?

16 MR. DAMSCHRODER: Right.

17 CHAIRMAN ANTHONY: Any other
18 questions?

19 (No audible response)

20 CHAIRMAN ANTHONY: I move that
21 we adjourn.

22 MR. COLLEY: Excuse me.

23 CHAIRMAN ANTHONY: I'm sorry,
24 sir.

1 MR. COLLEY: We have to have
2 three members of the Board in order to
3 open the polls, right?

4 CHAIRMAN ANTHONY: Yes.

5 MR. COLLEY: So what is the
6 precedent to open the polls then?

7 MR. DAMSCHRODER: I think that
8 all it requires is for the Board in
9 whatever its makeup is at the time,
10 whether three or four members, for them to
11 meet at some point so they are
12 continuously in session on Election Day.

13 What we have done in the past is
14 have a meeting on Monday. Whether it's a
15 four-member board or a three-member board,
16 we will have a brief meeting and then
17 recess as opposed to adjourn. That way we
18 are still, at least in the Prosecutor's
19 view from what Patrick has told us in the
20 past, still in session subject to a call
21 of the Chair coming back from recess on
22 Election Day. So we would meet the letter
23 of the law.

24 MS. MARINELLO: What about the

1 check boxes? That last thing, what she
2 said they did in Cuyahoga County, that was
3 one of the things she said they didn't
4 check was the -- they did something
5 wrong. I will see if I can find it and I
6 will e-mail you.

7 MR. DAMSCHRODER: All right.

8 MR. WHITE: We e-mailed you a
9 copy of the Union County case, the
10 decision from Eric Brown.

11 CHAIRMAN ANTHONY: Did they rule
12 in her favor?

13 MR. WHITE: He ruled that --
14 basically, what I read is since the Board
15 of Elections didn't join Union County in
16 the suit, Union County should have been
17 the one that sued them because the Board
18 of Elections isn't part of county
19 government.

20 We answer only to the Secretary
21 of State. We don't answer to county
22 government, and the county commissioners
23 believe they should never have been
24 involved in that. I am not a lawyer.

1 I sent that to our
2 commissioners. I don't know how that will
3 affect our relationship with the
4 commissioners if we are not part of the
5 county government. I am not sure we have
6 been proceeding properly in some of the
7 things we have done as far as contracts
8 to get county government to approve. It
9 will be interesting to see how our county
10 commissioners respond to it.

11 And Union County might appeal.
12 You might even get another decision on
13 it.

14 CHAIRMAN ANTHONY: That came out
15 this morning.

16 MR. DAMSCHRODER: Anything else?

17 MR. COLLEY: I asked a question.

18 Did you answer it?

19 MR. DAMSCHRODER: To the best of
20 my ability.

21 MR. WHITE: Tentatively we will
22 schedule a meeting on Monday afternoon and
23 call it in recess.

24 MR. DAMSCHRODER: Right, and

1 tentatively plan reorganization for the
2 day after the election unless we get a
3 directive telling us to do something
4 different.

5 CHAIRMAN ANTHONY: I move to
6 adjourn.

7 MS. MARINELLO: Second.

8 CHAIRMAN ANTHONY: All in favor,
9 say aye.

10 (Unanimous aye)

11 CHAIRMAN ANTHONY: The motion
12 carries. Thank you very much.

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14 Thereupon, the proceeding was
15 concluded at 2:55 o'clock p.m.

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CERTIFICATE

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I, Patricia W. White, Court Reporter and Notary Public in and for the State of Ohio, do hereby certify that I reported the foregoing proceedings and that the foregoing transcript of such proceedings is a full, true and correct transcript of my stenotypy notes as so taken.

I do further certify that I was called there in the capacity of a Court Reporter, and am not otherwise interested in this proceeding.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 4th day of March, 2008.

Patricia W. White

PATRICIA W. WHITE, Notary Public - State of Ohio.

My commission expires May 30, 2012.