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APPEARANCES:

FRANKLIN COUNTY PROSECUTOR'S OFFICE
By Timothy A. Lecklider, Esq.
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215
(614) 525-3520,

On behalf of the Board.

Also present:

Antone White, Executive Assistant to the
Board, Director, and Deputy Director
Susie O'Brien
Carolina Trindade

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Monday Afternoon Session
November 4, 2019
3:03 p.m.

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4 DEPUTY DIRECTOR PAYNE: We'll take
5 roll.

6 Kim Marinello.

7 MEMBER MARINELLO: Here.

8 DEPUTY DIRECTOR PAYNE: Michael
9 Sexton.

10 MEMBER SEXTON: Here.

11 DEPUTY DIRECTOR PAYNE: Doug
12 Preisse.

13 CHAIRMAN PREISSE: Here.

14 DEPUTY DIRECTOR PAYNE: And Brad
15 Sinnott.

16 MEMBER SINNOTT: Here.

17 DEPUTY DIRECTOR PAYNE: We do have a
18 quorum.

19 The first item on the agenda are the
20 approval of the minutes. And Antone emailed all
21 the Board members the September 9th and the
22 October 7th minutes.

23 Are there any additions,
24 corrections, deletions? If not, I'll take a motion
25 to approve the minutes.

1 MEMBER KIMBERLY MARINELLO: I move
2 that the Board approve the minutes from the
3 September 9, 2019 and the October 7, 2019 meetings
4 of the Franklin County Board of Elections as
5 submitted.

6 DEPUTY DIRECTOR PAYNE: Is there a
7 second?

8 CHAIRMAN PREISSE: Second.

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

11 (Vote taken.)

12 DEPUTY DIRECTOR PAYNE: All opposed,
13 same sign.

14 (No response.)

15 DEPUTY DIRECTOR PAYNE: Motion
16 carries.

17 Carla Patton is not here right now.
18 She was going to give us a paper ballot allocation.
19 What I can tell you is at the last meeting the
20 paper ballot allocation and the voting machine
21 allocation and e-pollbook allocation was all
22 approved by the Board and nothing has changed. If
23 you want a more in-depth report, I will need to
24 get --

25 MEMBER SINNOTT: I think that's

1 enough report, David. Thank you.

2 I move that the Board adopt the
3 paper ballot allocation formula in Exhibit A
4 complied by the Board staff for the November 5,
5 2019 general election.

6 DEPUTY DIRECTOR PAYNE: Is there a
7 second?

8 MEMBER SEXTON: Second.

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

11 (Vote taken.)

12 DEPUTY DIRECTOR PAYNE: All opposed,
13 same sign.

14 (No response.)

15 DEPUTY DIRECTOR PAYNE: Motion
16 carries.

17 And then the voting machine and
18 electronic pollbook allocation, same thing there,
19 nothing has changed from our last meeting where it
20 was approved.

21 MEMBER MICHAEL SEXTON: I move that
22 the Board adopt the voting machine and the
23 e-pollbook allocation formula in Exhibit B complied
24 by the Board staff for the November 5th, 2019
25 general election.

1 DEPUTY DIRECTOR PAYNE: Is there a
2 second?

3 CHAIRMAN PREISSE: Second.

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

6 (Vote taken.)

7 DEPUTY DIRECTOR PAYNE: All opposed,
8 same sign.

9 (No response.)

10 DEPUTY DIRECTOR PAYNE: Motion
11 carries.

12 Jeff Mackey is otherwise disposed,
13 and he -- It's the day before the election, so
14 everybody's got something going on.

15 But we have two candidates we
16 received, and in your packet there's an email from
17 one and a letter from the Village of Obetz. And
18 the first one, our candidate Joseph Finn for
19 Prairie Township fiscal officer, sent us an email
20 that he wanted to terminate his campaign and be
21 removed from the ballot. It was too late to remove
22 him from the ballot, but we put signage up that
23 indicated that any votes cast for Mr. Finn would
24 not be counted. We'll do the same tomorrow.

25 CHAIRMAN PREISSE: Did we do

1 anything to determine the credibility of a
2 communication like this?

3 DEPUTY DIRECTOR PAYNE: Jeff was
4 sufficiently -- To answer your question, I don't
5 know other than the fact that he had received a
6 call prior that this email would be coming and he
7 talked to Mr. Finn. So after it came, he --

8 CHAIRMAN PREISSE: So there was a --

9 DEPUTY DIRECTOR PAYNE: A prior
10 call.

11 CHAIRMAN PREISSE: There was
12 communication with the person directly?

13 DEPUTY DIRECTOR PAYNE: Yes.

14 MEMBER KIMBERLY MARINELLO: I move
15 that the Board accept the withdraw of Joseph Finn
16 as a candidate for Prairie Township fiscal officer
17 on the November 5th, 2019 general election ballot.

18 DEPUTY DIRECTOR PAYNE: Is there a
19 second?

20 CHAIRMAN PREISSE: Second.

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

23 (Vote taken.)

24 DEPUTY DIRECTOR PAYNE: All opposed,
25 same sign.

1 (No response.)

2 DEPUTY DIRECTOR PAYNE: The motion
3 carries.

4 The next withdraw is due to the
5 untimely death of Jim Wiley who was a candidate for
6 Village of Obetz council. We received a letter
7 from the community service director, Stacy Bowman,
8 indicating that indeed Mr. Wiley had passed and
9 they sent along his obituary. But it still
10 requires the Board to accept the withdraw.

11 MEMBER SINNOTT: Due to the death of
12 Jim Wiley, I move that the Board authorize the
13 withdraw of Jim Wiley as a candidate for Village of
14 Obetz council on the November 5, 2019 general
15 election ballot.

16 DEPUTY DIRECTOR PAYNE: Is there a
17 second?

18 MEMBER MARINELLO: Second.

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

21 (Vote taken.)

22 DEPUTY DIRECTOR PAYNE: All opposed,
23 same sign.

24 (No response.)

25 DEPUTY DIRECTOR PAYNE: The Motion

1 carries.

2 The next item on the agenda is the
3 two percent cost of living raise. As in past, the
4 practice this year, we are on a month-to-month
5 budgeting, and this would take us through the
6 October 14th as well as the -- retroactive to the
7 14th and including the pay periods of November 8th
8 and November 22nd in which the Board would approve
9 the two percent raise for our full-time employees.

10 MEMBER SEXTON: With that, I move
11 that the Board approve the two percent cost of
12 living pay increase to all full-time Board of
13 Elections staff employed as of January 1st, 2019,
14 retroactive to October 14th and that this increase
15 stands as a one-time increase specific to the
16 upcoming pay periods of November 8th and
17 November 22nd as we are presently constrained by
18 month-to-month budgeting.

19 CHAIRMAN PREISSE: Second.

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

22 (Vote taken.)

23 DEPUTY DIRECTOR PAYNE: All opposed,
24 same sign.

25 (No response.)

1 DEPUTY DIRECTOR PAYNE: Motion
2 carries.

3 I'm going to turn the next item over
4 to Director Leonard, which is the background check
5 policy that we are required to do by the Ohio
6 Secretary of State.

7 DIRECTOR LEONARD: I think we've
8 talked about this somewhat in previous meetings,
9 the fact that we were going to have to develop
10 this.

11 The Secretary of State in a
12 directive, 2019-08, dealt with a lot of different
13 cyber security issues; but one of the things that
14 was contained in that directive was a requirement
15 that all boards of elections have a policy to --
16 requiring their employees to undergo a background
17 check and then also that we conduct background
18 checks of our vendors. I should say vendors that
19 perform what they define as sensitive services.

20 The directive doesn't give a lot of
21 guidance. It seems to actually just give the
22 discretion to the boards to establish their policy.
23 The Secretary of State did not provide any sample
24 policies. I think they wanted to give the boards
25 the flexibility to craft their own policies.

1 And let's see. So what we did is I
2 reached out to the county department to see what
3 policies that they might have in place. And by the
4 way, I've got Carolina Trindade, who is one of our
5 HR representatives who provides us HR support. And
6 I asked her to be here in case you had any
7 questions about the formulation of the County's
8 policy, about OPENonline, that sort of thing.

9 So the -- we're required to do it.
10 And we looked at the state's -- or the county's
11 policy. What I was given was when I reached out to
12 the county HR department was the Ohio Department of
13 Natural Resources -- or I'm sorry -- the Ohio
14 Department of JFS, ODJFS, has a model policy
15 because they're statutorily required to have a
16 criminal background check because their employees
17 handle federal tax information, people's Social
18 Security numbers and so forth. And since they had
19 already crafted a policy, we felt utilizing a
20 policy that's already been vetted would be the best
21 way to approach this. So we got that sample policy
22 and then also the county's policy that they
23 developed based on the state's model policy.

24 The big differences, obviously, are
25 that by statute we are prohibited from having a

1 convicted felon as an employee of the Board of
2 Elections; whereas, the county HR policy, they can
3 evaluate whether that felony prevents somebody from
4 working at a county department. For the Board of
5 Elections, it is an automatic disqualification. So
6 the policy is structured to have three automatic
7 disqualification categories. One is you don't
8 consent to a background check. That's an automatic
9 disqualification. If you are convicted of an
10 felony, that is an automatic disqualification. Or,
11 per the Revised Code, if you have been convicted of
12 an election law violation. And again, that comes
13 from the provisions in the Code that set forth a
14 precinct election official can't be a convicted
15 felon, and then the statute goes on to define what
16 an election official is. And election official is
17 defined as Secretary of State, members of the
18 Board, Director/Deputy Director, and any employee
19 of a board of elections. So we are -- we cannot
20 have a convicted felon. Then the next phase of
21 that is if it's a misdemeanor then there are
22 categories of is it a serious misdemeanor, is it
23 what would be considered a mid-level or tier-two
24 misdemeanor, or is it a minor misdemeanor. And
25 based on the seriousness of the misdemeanor it will

1 determine how far back we would do an
2 individualized analysis. So the more serious the
3 offense, the further back we're going to go and
4 conduct an individualized analysis.

5 And let's see. If you look at the
6 tiers towards the page -- beginning of page seven,
7 you've got the suitability chart, and the
8 suitability chart has -- actually starts at page
9 eight, tier one. Page nine contains tier-two
10 offenses. Again, all misdemeanors. And then page
11 ten contains the tier-three misdemeanor offenses.
12 The tier-one misdemeanor offenses, again, have --
13 if you have a single violation of one of these
14 serious offenses within the last five years, we'll
15 conduct an individualized analysis of that
16 violation to determine whether or not it's suitable
17 for you to be employed by the Board of Elections.
18 And that's whether you're a seasonal, whether
19 you're a part-time employee, full-time employee,
20 whatever that classification would be.

21 So I guess the question I have for
22 the Board is whether we are comfortable with five
23 years being -- if you have a serious misdemeanor --
24 and again, if it's a felony conviction, if it's a
25 serious offense, it's likely going to be a felony.

1 But crafted it this way in case there was some
2 state where some serious offense might be
3 classified as an M1 misdemeanor, a serious offense.
4 So the highest level of misdemeanor, but it's still
5 a misdemeanor. So the Board would be able to
6 conduct an individualized analysis of that.

7 And I guess the question I have for
8 the Board is is five years long enough or do we
9 want to look back seven years or eight years or are
10 we comfortable with five years. If that offense is
11 older than five years -- again, it's a misdemeanor
12 offense -- if it's older than five years old, it's
13 fine. We're not going to -- The person could work
14 for the Board of Elections without qualification.

15 MEMBER MARINELLO: This is all new
16 employees, right? You're not going to have to go
17 back and do --

18 DIRECTOR LEONARD: All current
19 employees are subject to it, as well. But again,
20 when it comes to current full-time employees, it's
21 the Board that makes the determination. It
22 wouldn't be determined by the director or deputy
23 director, it wouldn't be determined by our HR
24 specialist. It would be determined by the Board
25 when it comes to current or future full-time

1 employees.

2 DEPUTY DIRECTOR PAYNE: Unless it's
3 a felony.

4 DIRECTOR LEONARD: Unless it's a
5 felony, in which it's automatic. Right.

6 MEMBER MARINELLO: Say we go for the
7 five years. If it's before that --

8 DIRECTOR LEONARD: It wouldn't have
9 to come to the Board.

10 MEMBER MARINELLO: Okay.

11 DIRECTOR LEONARD: If it was a
12 tier-one offense and it occurred within the last
13 five years, it will come to the Board. If it's a
14 tier-two offense and it's less than three years
15 old, it will come to the Board.

16 DEPUTY DIRECTOR PAYNE: When people
17 hear that we're doing a background check, one of
18 the first things they say or assume is that BCI
19 would be doing the background check.

20 Do you want to address we looked at
21 BCI and also OPENonline?

22 DIRECTOR LEONARD: Right.

23 One of the aspects of the policy is
24 for the background checks to be conducted by
25 OPENonline. David and I sat down on a phone

1 conversation with the one of the assistant
2 directors for the County's HR department about BCI
3 versus OPENonline. Well, what alternatives were
4 out there. Because the county utilizes both BCI
5 and OPENonline. They utilize BCI for some
6 positions that they are required to use BCI for.
7 Within county child support enforcement and JFS
8 they're required to do BCI backgrounds.

9 MEMBER SINNOTT: These are statutory
10 prescriptions?

11 DIRECTOR LEONARD: I'd have to ask
12 Carolina that.

13 MS. TRINDADE: Yes. There is a
14 legislative mandate that we received regarding
15 employees with access to federal tax information.
16 So we are required to use the web check, which is
17 the BCI/FBI where we're physically fingerprinting
18 employees going into those positions with job and
19 family services and child support enforcement
20 agencies. So those are the only two agencies we're
21 using the BCI for. The other agencies and all
22 other employees, we're utilizing the OPENonline
23 background check.

24 DIRECTOR LEONARD: And per the
25 discussion I've had with HR staff at the county is

1 the reason for utilizing OPENonline is it's
2 typically more thorough, it's typically faster,
3 it's cheaper than BCI; on average, about \$42 per
4 background check. I don't have the figure for what
5 it is for BCI. But they're typically much faster.
6 They've had instances where BCI takes a longer
7 period of time for them to respond. There are
8 times where they're looking for background checks
9 and it's been a month and it still hasn't been
10 done. Whereas, with OPENonline the background
11 checks are done more quickly. Background checks
12 with OPENonline do not require fingerprinting. A
13 BCI background check will require fingerprinting,
14 which is an operational hassle because you've got
15 to send staff. And particularly for an
16 organization like ours where you've got seasonals
17 coming in on a regular basis and new seasonals,
18 too. If you're having to constantly be running and
19 having people have to go down to the sheriff's
20 office to get a fingerprint so we can get a BCI
21 check versus them filling out an authorization form
22 for them to conduct an OPENonline background check.
23 From an operational standpoint it's a lot more
24 efficient to do it through OPENonline than it is to
25 do it through BCI. And I know we've got some staff

1 here who express real concern about submitting to a
2 fingerprint. I mean, they just feel like that's
3 somehow more invasive than simply just filling out
4 and giving your Social Security number, that
5 somehow having to submit fingerprints is a little
6 bit more invasive.

7 MEMBER MARINELLO: It's not DNA.

8 DIRECTOR LEONARD: I understand. I
9 know. I just wanted to share that with you because
10 when we first started talking about it that was one
11 of the questions I got from staff, so are we going
12 to have to submit to fingerprinting, and there was
13 some reluctance there.

14 MEMBER SINNOTT: Who provides the
15 OPENonline service?

16 DIRECTOR LEONARD: The company's
17 name is OPENonline. Again, when I talk about that
18 they're more thorough, BCI -- you know,
19 jurisdictions have to report into a database,
20 report all of their activities into it and that
21 becomes a centralized database. So if you've got
22 smaller jurisdictions that aren't as fast about
23 reporting their information or as thorough about
24 reporting their information versus OPENonline
25 actually goes out and scrubs or scours databases to

1 collect information. So that's why there is
2 convictions that BCI -- And I know Carolina has
3 expressed that they've had instances where there
4 were things that BCI didn't find that OPENonline
5 found.

6 MEMBER SINNOTT: OPENonline is a
7 commercial service?

8 DIRECTOR LEONARD: It's a commercial
9 service, correct.

10 And so the county has an existing
11 contract with them. So the way we structured is
12 that a resolution would authorize us to set up an
13 account under the County's contract so we would
14 have that separate contract. I don't know if
15 there's any other questions about it.

16 The packet -- the policy that's in
17 your packet is slightly different than what I sent
18 you, and that's only with regard to some of the
19 clarifications that Tim Lecklider asked me to make
20 with regard to -- In what I had sent you, it was
21 not quite clear that when it comes to full-time
22 employees it's the Board's decision. So I made
23 some changes that clarified that when it comes to
24 Board employees or full-time employees, it is the
25 Board that make the determination and not the

1 director or deputy director or the HR
2 representative.

3 MEMBER SINNOTT: So we're going to
4 do a background check on all of our employees.
5 We'll be doing a background check on all employees
6 going forward?

7 DIRECTOR LEONARD: Right.

8 MEMBER SINNOTT: You'll be reporting
9 to us about whether anyone has failed the
10 background check in such a way that there's a
11 statutory prohibition of that person's working
12 here?

13 DIRECTOR LEONARD: Correct.

14 MEMBER SINNOTT: And then, as to
15 anybody else who has a hit on the system, you'll be
16 telling us what is the nature of the hit?

17 DIRECTOR LEONARD: Only as it
18 relates to full-time employees and if the
19 offense -- or if the conviction is within the tier
20 one, tier two, and tier three. So if it's a
21 misdemeanor conviction for a serious offense, a
22 tier-one offense, and it's more recent, five years
23 or less from the date of conviction, then it will
24 come to you; but if it's a conviction for a current
25 employee and the conviction is older than five

1 years for a misdemeanor, it won't come to the
2 Board.

3 MEMBER SINNOTT: These five and
4 seven and three and five cutoffs, are you
5 suggesting these just as a matter of administrative
6 convenience?

7 DIRECTOR LEONARD: It was what was
8 in the model policy or the policy, I should say,
9 that the county adopted. That was one of the
10 reasons -- I appreciate you asking the question.
11 Because that was one of the reasons I had reached
12 out to Carolina about that question of, so where
13 did these five and seven, you know, three years and
14 five years come from. And what we're referring to
15 is that it's five years if it's a single offense,
16 but if you've got a pattern of offenses then you
17 can look back a little bit longer.

18 So Carolina, do you want to speak to
19 that, if you would?

20 MS. TRINDADE: Sure. Yes.

21 Those timeframes, we did look off of
22 federal standards and policies with their office of
23 personnel management and reviewed how they go about
24 suitability, what triggers an individualized
25 analysis. They're kind of mid timeframe for mid

1 offenses. The three-year mark seemed to come up a
2 lot, the three years they're looking at to kind of
3 initiate an individualized analysis. And we built
4 off of that and didn't just put a three-year
5 timeframe across the board. We built the tiers and
6 thought that the tiers should have different
7 timeframes that if it's a more serious offense we
8 should look at a lengthier time versus the three
9 years as we saw with the federal government. So
10 that's where you would see three years being the
11 mid level timeframe, five years is the more serious
12 offenses, and then your lower tier-three offenses I
13 believe that you're looking at with your policy --
14 let's see here -- you're looking at two years. If
15 there's a pattern, you're looking at four years.
16 But it was built off of the office of personnel
17 management of the federal government, their
18 suitability standards.

19 DIRECTOR LEONARD: Yeah.

20 One of the other things that we have
21 in here is that there is a mandatory requirement to
22 inform the Board when -- if you are convicted of an
23 offense, they have a mandatory -- they have to
24 notify the director or deputy director within
25 14 days, particularly if it's a full-time employee

1 or even a seasonal. Because again, the offense
2 might be something that's related to their -- you
3 know, you have somebody who may have gotten
4 convicted of DUI and fleeing the scene of an
5 accident and they happen to be somebody who drives
6 a vehicle here all the time. We need to know that.
7 So there is an affirmative requirement to report,
8 but we specifically said there's no affirmative
9 duty to tell on your fellow employee. So it's
10 not -- if you happen to know that your coworker got
11 convicted, it's not a mandatory duty that you've
12 got to notify the Board. But there is a mandatory
13 duty to let us know.

14 The other aspect of this I think I
15 wanted to talk about was the -- that we would do
16 these background checks. Once you're an employee,
17 full time or otherwise, we would do it at this
18 point. And then anytime somebody is added, they
19 would be subject to a background check. And then
20 every -- in the last quarter before a presidential
21 year we would do a background check again. So
22 essentially before every presidential year we would
23 do a background check of everybody, whether you
24 started six months ago or six years ago. In 2023
25 right before the '24 presidential election,

1 everybody will undergo a background check.

2 DEPUTY DIRECTOR PAYNE: I think the
3 other thing that's important to mention is that we
4 crafted -- or were looking to craft a background
5 policy criminal check prior to doing the background
6 checks so we can't be accused of drafting a
7 background policy around a certain employee or
8 something. I know that there were some counties
9 that actually did the background checks first and
10 the policy second and it raised some eyebrows. So
11 we're trying to do it correct.

12 DIRECTOR LEONARD: The other aspect
13 of the policy deals with vendors. And again, the
14 Secretary of State doesn't really give us any
15 guidance except as to what would be disqualifying
16 offenses. They do indicate here the types of
17 vendors by defining what sensitive services means.
18 And again, anything that -- where the services
19 require access to a customer or consumer or an
20 agency's employee information, relates to Board of
21 Elections or Secretary of State's computer networks
22 or involves unsupervised access to secure
23 facilities. So that's what -- a vendor who
24 provides those types of services is required to
25 undergo a background check, but it doesn't define

1 what's an ineligible offense. And again, what this
2 policy defines that as is essentially the same as
3 an employee, a felony conviction or a conviction of
4 an election law violation. So if they've got an
5 employee that's been convicted of a felony or
6 election law violation they would not be able to be
7 a vendor or contractor for the county. That being
8 said, I think we as a board at the Board of
9 Elections need to recognize that you're going to
10 have -- you're going to have vendors and
11 contractors who are willing to hire convicted
12 felons. Because, you know, the day and age that
13 we're in, that -- Say one of our vendors is a
14 trucking company. Well, if the trucking company
15 says they want to -- somebody served their time,
16 they're a convicted felon, they've served their
17 time, we want to allow them to be employees, well,
18 we want to provide the flexibility on that.

19 Chairman Preisse, would you like to
20 proceed or --

21 CHAIRMAN PREISSE: I sorry. I left
22 my phone outside and I went out and got it.

23 DIRECTOR LEONARD: Okay.

24 CHAIRMAN PREISSE: I ran into Susie
25 outside, too, and she had a couple of questions

1 that she's calling back to her office. She thought
2 that perhaps we are required by the Secretary of
3 State's office to engage with BCI.

4 DEPUTY DIRECTOR PAYNE: It certainly
5 didn't say that in any of the directives.

6 CHAIRMAN PREISSE: You haven't seen
7 that?

8 DIRECTOR LEONARD: Huh-uh.

9 CHAIRMAN PREISSE: Okay.

10 DIRECTOR LEONARD: And I did have
11 that conversation with Diane Grosso from the
12 Secretary of State's office because of the fact
13 that one of the things that we could get reimbursed
14 with the \$50,000 Secretary of State grant is we
15 could use it to pay for the background checks. And
16 so I had asked about BCI, OPENonline and --

17 CHAIRMAN PREISSE: What is
18 Miss Grosso's role?

19 MR. LEONARD: She seems to be the
20 grant manager for that \$50,000 grant. I'm not sure
21 what other responsibilities her position entails,
22 but she's the point of contact when it comes to
23 actually the implementation of this directive.
24 Yeah, the directive, the 2019-08.

25 DEPUTY DIRECTOR PAYNE: I don't --

1 MS. TRINDADE: There would need to
2 be a change there, as well, because the BOE doesn't
3 have a mandate. Anybody can do a BCI check, but in
4 terms of the FBI portion of what is called a web
5 check there's no mandate or any type of legislative
6 feature that makes BOE an entity that can FBI check
7 their employees with the web check process. So you
8 would be missing the national reports there. You
9 would only get a state of Ohio with a BCI check.
10 There would need to be a legislative change to give
11 that approval to run the FBI check.

12 CHAIRMAN PREISSE: And I apologize
13 if we already went over this. In the -- Under --
14 On page three under number one, here are the
15 disqualifications provided by law or policy. So
16 there's a citation under C of the Revised Code, but
17 there is no citation here under A -- no, strike
18 that -- under B. Are we -- Where are we prohibited
19 from hiring in someone with any federal or state --

20 DIRECTOR LEONARD: It actually is
21 both. You're right, the citation should apply to
22 both B and C. Because the section of the Code
23 relates to -- what is it? -- Section 3501.27(A)
24 addresses a precinct election official prohibition
25 that an election official cannot have been

1 convicted of a felony or convicted of violating any
2 election law. And it doesn't narrow it to a state
3 felony conviction, it doesn't narrow it to a state
4 election law violation. It simply says an election
5 official cannot be -- cannot have been convicted a
6 felony or a violation of any election law. Then,
7 subsection -- or Section 3501.01(U) defines an
8 election official as Secretary of State, Board of
9 Elections, election director, deputy director, or
10 an employee of the board of elections. So that's
11 where you take the prohibition for an election
12 official to be a felon or having violated an
13 election law, and then by definition an election
14 official includes employees of the board of
15 elections.

16 CHAIRMAN PREISSE: If somebody stole
17 a car when they were 18 years old and they're 60
18 and want to be hired here, we can't hire them?

19 DIRECTOR LEONARD: That's what it
20 looks like, unless somebody points me -- I spoke
21 with the legal counsel at the Secretary of State's
22 office, and I know that's been the case here we've
23 actually had. At least, Tim, I don't know if
24 you've read it any differently. I did run it past
25 him, as well, about that question. And I think

1 we're both -- the Secretary of State's office says
2 that that seems to be a blanket prohibition. I
3 don't know how we get around it.

4 CHAIRMAN PREISSE: Susie, I
5 mentioned to my colleagues on the Board here that
6 when I went out to get my phone and you stepped out
7 you said you thought perhaps your office requires
8 us to --

9 MS. O'BRIEN: Right. You have to
10 use BCI on background checks.

11 Who did you talk to, by chance, at
12 the Secretary of State's office?

13 DIRECTOR LEONARD: I spoke with
14 Diane and I presented her about BCI, OPENonline,
15 and about whether we have other quotes; but if we
16 were going to use the money we would need to get
17 three quotes, but if we weren't using the state
18 grant she didn't have objection to BCI versus
19 OPENonline or any over vendors.

20 MS. O'BRIEN: I'm texting her right
21 now and she said BCI statewide background check is
22 the only one. And as far as the felony goes, it's
23 totally up to your board. You all decide whether
24 you want -- So I'm sorry you're getting double
25 information.

1 DEPUTY DIRECTOR PAYNE: Well, that
2 comes from the Ohio Revised Code.

3 DIRECTOR LEONARD: And your legal
4 counsel, Mr. King, --

5 MS. O'BRIEN: Okay.

6 DIRECTOR LEONARD: -- related to me
7 that.

8 CHAIRMAN PREISSE: You better check
9 with your the office on that.

10 MS. O'BRIEN: I asked her, I said,
11 is the felony okay if county decides. And she said
12 it depends on the BOE policy. And I know another
13 board has made the policy if someone has a felony
14 it's up to the board. So I'm not saying that you
15 can't -- You know what? If we could get more
16 information before next meeting, I would be happy
17 to supply it. Because it sounds like you're
18 getting different information from what I have.

19 MEMBER SINNOTT: Do we have a
20 deadline for the adoption of the policy?

21 DEPUTY DIRECTOR PAYNE: Well,
22 January -- we have to adopt the policy and do
23 background checks prior to January.

24 CHAIRMAN PREISSE: So we don't have
25 to vote on it today?

1 MEMBER SINNOTT: We'll be meeting
2 multiple times in November.

3 MEMBER MARINELLO: But if we use BCI
4 and they take a long time, then --

5 DIRECTOR LEONARD: I guess if it's
6 submitted to BCI we've done our part of it.

7 MEMBER SINNOTT: Well, we are
8 receiving contrary information about it.

9 DIRECTOR LEONARD: I agree. I would
10 recommend we table it, as well.

11 CHAIRMAN PREISSE: That sounds good.
12 We've got time.

13 MS. O'BRIEN: I apologize. I will
14 make sure I have all the information.

15 CHAIRMAN PREISSE: No. I'm glad you
16 spoke up, Susie. Thanks.

17 And thanks to our colleague from the
18 County, too, for speaking up.

19 DIRECTOR LEONARD: We do have more
20 items still left on the agenda.

21 DEPUTY DIRECTOR PAYNE: And then we
22 are required to open the polls tomorrow.

23 MEMBER SINNOTT: Yes, we are.

24 I move that the polls be declared
25 open on Tuesday, November 5, 2019, for the general

1 election beginning at 6:30 a.m. and closing at
2 7:30 p.m. and that in accordance with Ohio Revised
3 Code Section 3501.32 any voter in line prior to the
4 close of the polls at 7:30 p.m. shall be permitted
5 to vote.

6 DEPUTY DIRECTOR PAYNE: Is there a
7 second?

8 MEMBER SEXTON: Second.

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

11 (Vote taken.)

12 DEPUTY DIRECTOR PAYNE: All opposed,
13 same sign.

14 (No response.)

15 DEPUTY DIRECTOR PAYNE: The motion
16 carries.

17 And then I need a motion. We are
18 not adjourning, but we are recessing.

19 MEMBER MARINELLO: Mr. Chariman, I
20 move the Board recess this meeting of the Board of
21 Elections subject to recall by the Chair until
22 after the close of the election being held on
23 Tuesday, November 5th, 2019.

24 CHAIRMAN PREISSE: Second.

25 DEPUTY DIRECTOR PAYNE: All those in

1 favor of the motion signify by saying aye.

2 (Vote taken.)

3 DEPUTY DIRECTOR PAYNE: All opposed,
4 same sign.

5 (No response.)

6 DEPUTY DIRECTOR PAYNE: The motion
7 carries.

8 - - -

9 Thereupon, the proceedings were
10 recessed at approximately 3:39 p.m.

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