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THE FRANKLIN COUNTY BOARD OF ELECTIONS

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In Re: :
:
Special Meeting. :

- - -

November 29, 2022

PROCEEDINGS OF

THE FRANKLIN COUNTY BOARD OF ELECTIONS

before Chairman Douglas J. Preisse (entered meeting late in the proceedings), Director Antone White, Deputy Director David Payne, and Board Members Kimberly E. Marinello, Michael Sexton, and Josh Jaffe, on Tuesday, November 29, 2022, beginning at approximately 3:00 p.m., and concluding at approximately 3:17 p.m.

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Higgins & Associates
Court Reporting - Legal Video - Videoconference
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APPEARANCES:

FRANKLIN COUNTY PROSECUTOR'S OFFICE
Jeanine Hummer, Esquire
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215,

On behalf of the Board.

ALSO PRESENT:

Erin Gibbons
Jeff Mackey
Carla Patton
Sara Ziemba

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I N D E X

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1 Tuesday Afternoon Session
2 November 29, 2022
3 3:00 p.m.

4 - - -

5 DEPUTY DIRECTOR PAYNE: All right.

6 It looks like we have a quorum, but I'll go ahead
7 and take roll.

8 Kim Marinello.

9 MEMBER MARINELLO: Here.

10 DEPUTY DIRECTOR PAYNE: Mike Sexton.

11 MEMBER SEXTON: Here.

12 DEPUTY DIRECTOR PAYNE: And Josh

13 Jaffe.

14 MEMBER JAFFE: Here.

15 DEPUTY DIRECTOR PAYNE: We do indeed
16 have a quorum.

17 The first item on the agenda is an
18 amendment to the provisional ballot count. And
19 I'll call on Sara to address that.

20 MS. ZIEMBA: Good afternoon
21 everyone. Sara Ziemba, the supervisor in the Voter
22 Services Department.

23 And I have one small amendment to
24 make to the provisional report that I presented
25 yesterday with Travis. When we were opening all of
the Board-approved envelopes back in the ballot

1 vault to count the ballots yesterday, one of the
2 ones that had been approved, when we opened it,
3 there wasn't a ballot inside of it. So Voter
4 Services would ask that the Board make a motion to
5 change the acceptance of that to a rejection for
6 the reason that it did not contain an envelope
7 [sic].

8 You should have an updated
9 exhibit -- or an amended exhibit. So in that case
10 we would be removing one of the grand total
11 recommended to accept. So the new total for that
12 would be 12,192. We would add one rejected ballot
13 to the No Ballot In Envelope column, which would
14 be -- change that to 11, for a total -- grand total
15 recommended to reject would be 1,035. So that --
16 you should have that. If you don't, I can share
17 that with you. But basically, it was just one
18 ballot did not have an envelope [sic]. So we would
19 ask that the Board take a motion to reject that for
20 not having a ballot to count.

21 DEPUTY DIRECTOR PAYNE: One envelope
22 didn't have a ballot?

23 MS. ZIEMBA: Exactly. Bottom line.

24 MEMBER MARINELLO: Okay.

25 Mr. Chairman, I move the Board amend yesterday's

1 provisional ballot count by rejecting one of the
2 provisional ballots for counting because the
3 provisional envelope when opened did not contain a
4 ballot.

5 MEMBER JAFFE: Second that.

6 DEPUTY DIRECTOR PAYNE: It's been
7 properly moved and seconded.

8 All those in favor of the motion
9 signify by saying aye.

10 (Vote taken.)

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

13 (No response.)

14 DEPUTY DIRECTOR PAYNE: Motion
15 carries.

16 I would call on Carla Patton now to
17 go over the updated results. And then after that
18 if there aren't any questions or if there are, once
19 we answer those questions we can go about
20 certifying the election.

21 MS. PATTON: Good afternoon. Carla
22 Patton.

23 In front of you you have the
24 official results of the Franklin County official
25 group detail report. After a bipartisan review of

1 all the ballots cast and ensuring that every ballot
2 that was eligible to be cast has been cast and
3 counted, the results are included within the
4 results in front of you.

5 So it is the recommendation of the
6 staff that these results be certified. There were
7 a total of 430,000 ballots -- or I'm sorry --
8 430,020 ballots cast for this election. 266,808 of
9 those came on election day at the polls. We had
10 102,125 through the mail. 48,851 ballots were cast
11 in office during the early vote session, and 12,236
12 provisionals were deemed valid and counted. So it
13 is our recommendation that you certify the results
14 set before you in the report.

15 DEPUTY DIRECTOR PAYNE: I don't
16 know. There are two races that I think people are
17 probably interested in. I don't know if you want
18 to --

19 MS. PATTON: There are two races
20 that would currently fall within the recount based
21 on Ohio Revised Code. If the difference between
22 candidates is less than one-half of one percent,
23 then those races are automatically qualified for a
24 recount. Those races in question are the Ohio
25 House 5th District between Ron Beach and Richard

1 Brown, and the other is the Court of Common Pleas
2 between Zach Gwin and Michael Holbrook with the
3 full term commencing 1-1 of 2023.

4 DEPUTY DIRECTOR PAYNE: Do you have
5 the results in front of you? I do not. Do you
6 want to just go ahead and give the results of those
7 two races, if you would

8 MS. PATTON: So in the state
9 representative race for the 5th District, Richard
10 Brown is declared the winner with 17,429 votes cast
11 for him. Ronald Beach received 17,284 votes. So
12 that's a total of 34,713 votes. One-half of one
13 percent is 173 votes. The difference between the
14 two candidates is 145; therefore, it falls within
15 the automatic recount.

16 For the Gwin/Holbrook Judge of Court
17 of Common Pleas, 1-1 commencement date, Zach Gwin
18 received 180,134 votes, Michael Holbrook received
19 180,415 votes, for a total of 360,549 votes cast.
20 One-half of one percent of that is 1,802 ballots.
21 The difference is 281 votes, well within recount.

22 DEPUTY DIRECTOR PAYNE: So the
23 winner in that race was Holbrook?

24 MS. PATTON: So the declared winner
25 in this race would be Michael Holbrook.

1 MEMBER SEXTON: Mr. Chairman,
2 Michael Sexton. I move the Board certify and
3 declare as final the official canvass of the votes
4 cast at the November 8th, 2022, General Election as
5 submitted by staff.

6 MEMBER JAFFE: And I'll second that.

7 DEPUTY DIRECTOR PAYNE: It's been
8 properly moved and seconded.

9 All those in favor of the motion
10 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 As Carla mentioned, there does need
18 to be a recount in those two races, and we would
19 like to start that recount on Friday, December 9th
20 at 9 a.m., if that's amenable to the Board. We
21 will have to have a Board meeting to kick off that
22 recount. So I just want to make sure everybody is
23 in town or --

24 MEMBER SEXTON: Mr. Chairman,
25 Michael Sexton. I move the Board set the

1 post-election recount to begin Friday, December
2 9th, at 9 a.m. for the races of State
3 Representative 5th District and Judge of Court of
4 Common Pleas until completed and that the recount
5 be conducted in accordance with Secretary of State
6 Directive 2022-15 and be held at the Franklin
7 County Board of Elections, 1700 Morse Road.

8 MEMBER JAFFE: I'll second that.

9 DEPUTY DIRECTOR PAYNE: It's been
10 properly moved and seconded.

11 All those in favor of the motion
12 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 The next item on the agenda would be
20 the actual selection of voting locations for those
21 recounts. And I will call on Jeff Mackey to
22 explain how we go about doing that and to actually
23 draw the numbers.

24 MR. MACKEY: Jeff Mackey.

25 DEPUTY DIRECTOR PAYNE: So Jeff, are

1 we starting with the state representative race
2 or --

3 MR. MACKEY: We'll do the county one
4 first.

5 DEPUTY DIRECTOR PAYNE: Okay. We'll
6 do the county first.

7 And will you remind the Board what's
8 required as far as a recount, how much we have to
9 select.

10 MR. MACKEY: So the first part of a
11 recount is a hand recount of a certain percentage
12 of the votes cast. That number is five percent.
13 So we've got our list of locations here with the
14 number of votes cast in each location. We will
15 randomly select locations to get to our five
16 percent threshold. Instead of using our dice,
17 we've evolved to use the Random.org option here.
18 Makes it a little more efficient.

19 All right. So our list here has
20 each LID assigned a number here, starting at 101
21 and going down to 409 if I can get there. I'll
22 plug that into our generator here and get our
23 sequence.

24 (Doug Preisse entered meeting.)

25 MS. PATTON: 129, 358, 110, 308,

1 403, 109, 350, 108, 319, 279, 122, 229, 318, 184,
2 233, 360, 282.

3 MR. MACKEY: 22,934 votes in however
4 many locations were selected. Takes care of that
5 one.

6 DEPUTY DIRECTOR PAYNE: Earlier
7 today Director White took us through the directive
8 that speaks to recounts and audits. And because we
9 are doing a recount in the county judicial race, we
10 do not have to perform an audit. That recount
11 takes the place of an audit. So we'll be doing a
12 recount countywide and then we'll be doing a
13 recount in the 5th House District.

14 And also, if you'd let the record
15 reflect that Chairman Preisse is now here.

16 CHAIRMAN PREISSE: Thank you.

17 MR. MACKEY: Obviously, the 5th
18 House District is smaller than the county. So we
19 have 101 through 145, so 45 locations.

20 MS. PATTON: 143, 105. So two
21 locations, eight precincts.

22 MR. MACKEY: That concludes our
23 random selection.

24 MEMBER JAFFE: Looks like we need a
25 motion to do the recount by location rather than

1 precinct. Is that right?

2 DEPUTY DIRECTOR PAYNE: That's
3 correct.

4 MEMBER JAFFE: I'll make that
5 motion.

6 The results for State Representative
7 5th District and Judge of the Court of Common Pleas
8 require a recount. I move that the Board conduct a
9 recount in those two races by voting location,
10 using the location names for each of the locations
11 in the 5th House District and Franklin County that
12 we just selected.

13 MEMBER MARINELLO: Second.

14 DEPUTY DIRECTOR PAYNE: It's been
15 properly moved and seconded.

16 All those in favor of the motion
17 signify by saying aye.

18 (Vote taken.)

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

21 (No response.)

22 DEPUTY DIRECTOR PAYNE: Motion
23 carries.

24 I don't believe there's anything
25 further to bring before the Board. Am I correct in

1 that?

2 CHAIRMAN PREISSE: There were no
3 additional provisionals that needed to be looked
4 at?

5 DEPUTY DIRECTOR PAYNE: Nope.

6 CHAIRMAN PREISSE: Terry.

7 MR. TERRY CASEY: Mr. Chairman, just
8 a question for clarification. You did the random
9 selection by location as opposed to precinct. And
10 I forget what the statute or directive says, but do
11 you have the flexibility to go either way or is it
12 required by precinct?

13 MR. PREISSE: I can't answer that
14 myself, but I'm turning to our Director and counsel
15 and Deputy Director.

16 DIRECTOR WHITE: I believe we have
17 the flexibility to do it by location or precinct.

18 MS. PATTON: We have the
19 flexibility. There's a number of methods that we
20 can use to draw, how we choose our random selection
21 of ballots to be recounted. It can be as low as
22 the machine level and as high as the location
23 level. So it just requires that our Board pass the
24 motion that the recount be conducted by location,
25 by drawing of locations.

1 MR. PREISSE: I move to adjourn.

2 MEMBER MARINELLO: Second.

3 DEPUTY DIRECTOR PAYNE: It's been
4 properly moved and seconded.

5 All those in favor of adjournment
6 signify by saying aye.

7 (Vote taken.)

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

10 (No response.)

11 DEPUTY DIRECTOR PAYNE: We are
12 adjourned.

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14 Thereupon, the proceedings were
15 adjourned at approximately 3:17 p.m.

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C E R T I F I C A T E

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THE STATE OF OHIO:

SS:

COUNTY OF FRANKLIN:

I, Carla D. Castle, a 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 any of the parties and have no interest whatsoever in the event of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Columbus, Ohio, this 17th day of January 2023.

/s/Carla D. Castle
Notary Public, State of Ohio

My Commission Expires: September 29, 2026.

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BOARD MEMBERS: Douglas J. Preisse, Chairman ★ Josh Jaffe ★ Kimberly E. Marinello ★ Michael E. Sexton

Antone White, DIRECTOR David R. Payne, DEPUTY DIRECTOR

| EXHIBIT A AMENDED: NOVEMBER 8, 2022 GENERAL ELECTION PROVISIONAL BALLOTS RECOMMENDED FOR ACCEPTANCE AND REJECTION | |
|--|--------------|
| GRAND TOTAL RECOMMENDED TO ACCEPT | 12192 |
| REASONS FOR REJECTION | |
| Not Registered in the State | 699 |
| Wrong Precinct and Location | 57 |
| Wrong Precinct and Correct Location | 0 |
| No Signature | 24 |
| No Printed Name | 1 |
| Failed to Provide Valid Current Address | 37 |
| No ID | 155 |
| Signature Mismatch | 1 |
| Voter Already Voted | 24 |
| Challenge Upheld | 0 |
| DOB Missing | 26 |
| No Ballot In Envelope | 11 |
| GRAND TOTAL RECOMMENDED TO REJECT | 1035 |
| DATE OF BIRTH ISSUES FOR BOARD REVIEW | 44 |
| Total Provisional Ballots Cast | 13271 |