

101206 Meeting minutes  
COLUMBIANA COUNTY  
BOARD OF ELECTIONS  
SPRECIAL MEETING  
OCTOBER 12, 2006  
2:00 PM

The Columbiana County Board of Elections convened in special session on Thursday October 12, 2006 at 2:00 PM in the Board office at 41 North Park Avenue in Lisbon, Ohio. All four Board members were present along with Director Lois A. Gall, Deputy Director John H. Payne, and Assistant Columbiana County Prosecutor Nicholas Barborak. The media was represented by Tom Giambroni of the Morning Journal, Mary Ann Greier of the Salem News/East Liverpool Review, David Wilkinson of the Youngstown Vindicator, and the electronic media from Youngstown. Mr .Myke Clarett was present representing the Secretary of State as an observer. The Board Conference Room was complimented with an audience of about 30 guests.

Chairman Bowersock called the meeting to order at 2:00 and welcomed the people in attendance. He stated the purpose of the meeting was to review a challenge of the right to vote/correction of a registration. The protest is brought pursuant to ORC 3503.24. The challenge has been filed by Jacquelyn Sue Long of 628 Inez Avenue, East Liverpool, Ohio, Columbiana County, and it is against Mr. Ted Strickland. This meeting being held today is to determine if the challenge is to be granted or denied. The Chairman asked for a roll call of the members:

Mr. Larry Bowersock, Chairman	Present
Attorney Jerry J. Ward	Present
Mr. Dennis C. Johnson	Present
Mr. Alfred S. Fricano, CPA	Present

A quorum was present.

The Chairman introduced Attorney Nicholas Barborak, Assistant Columbiana County Prosecutor and legal council for the Board of Elections. Attorney Barborak stated he has reviewed the document of the challenge of Jacquelyn Sue Long, and he reviewed the motion for the admission of pro hac vice of Heather S. Heidelbaugh who is an attorney requesting the right to practice before the Board. Atty. Barborak stated at this time it would be his recommendation that he is not aware of any authority the Board would have to grant authority to practice law in the State of Ohio to an attorney not otherwise licensed. This is a practice recognized by courts in Ohio; however, I do not believe there is the authority for the County Board of Elections to make a determination to authorize a lawyer not licensed in the State of Ohio to practice in what is a quasi-judicial proceeding. That is my recommendation in respect to the motion.

Mr. Fricano stated he would like to make some housekeeping motions in regard to the hearing. Mr. Fricano made a motion to make residency and with taxes for voting purposes be the same thing. Attorney Ward made a second to the motion, Dennis Johnson asked Attorney Barborak if we are allowed to do that. Attorney Barborak said it

**EXHIBIT**

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would be his view that the Board follow the Ohio Revised Code with respect to what voting requirement are. He didn't know if taxes and residency can be tied together, but the Board should follow the law in regard to residency for purposes of voting in a precinct. Mr. Fricano said the State of Ohio has definite laws as to when you are a resident or how many days you have to live in Ohio to be a resident. He is sure those laws can be applied whether you live in Columbus or in Lisbon. Mr. Fricano wants to clarify that we can use those same laws for tax preparation in and out of the State of Ohio. Attorney Barborak asked Mr. Fricano if he had any questions concerning the law in respect to what is required under the law for the purposes of voter eligibility, and that the Board must follow the Revised Code and not tie one law into another law, and this is his advice to the motion on the floor.

Chairman Bowersock asked for a roll call vote on the motion to tie tax and residency requirements together.

Chairman Bowersock	No
Attorney Ward	Yes
Mr. Johnson	No
Mr. Fricano	Yes

The vote on the motion resulted in a two to two tie vote.

Mr. Fricano made a second motion to accept the pro hac vice motion to have Mrs. Long be entitled to her proper representation, for her attorney that she has counsel with from out of state and that that counsel be permitted to practice here before the Board. Attorney Ward made a second to the motion. Attorney Barborak stated that it is the Prosecutor's view the State of Ohio has cases to support the practice before this Board of this nature would be a practice at a minimum as a quasi-practice of law and those same rules in respect to practicing law in the State of Ohio and I would submit this Board does not have the authority to supercede those rules as by motion modify or change or alter the rules that are already set out by the Ohio Supreme Court, and it would be my advice further to not further assist in the unauthorized practice of law before the Board; it would be my recommendation to not to do that.

Chairman Bowersock asked for a role call vote on the pro hac vice motion.

Chairmen Bowersock	No
Attorney Ward	Yes
Mr. Johnson	No
Mr. Fricano	Yes

The vote on the motion resulted in a two to two tie vote.

Mr. Johnson made the motion to dismiss the challenge regarding Ted Strickland's registration filed by Ms. Long based upon the records before this Board and that's what we go on as what the law indicates. Mr. Bowersock made a second to the motion. The Chairman asked for discussion. Mr. Johnson stated that he came into the Board office yesterday and talked to the Director and the Deputy Director and asked them for all the information they had in regard to this situation. They showed his records where Congressman Strickland had voted six times using this address (320 North Market

Street). Mr. Johnson asked if any correspondence had been sent to the Congressman at that address. The Director and the Deputy Director told him that a card acknowledging Congressman Strickland's registration and the recent election notices were sent and there was nothing to indicate that it was not the Congressman's address. Chairman Bowersock asked if any of the cards mailed out were returned undeliverable. Director Gall stated she trusts the cards were sent out and believes nothing came back from that address. Chairman Bowersock stated that the cards were delivered and received at that address.

Mr. Fricano stated that is his political office. Mr. Johnson said we can not as a Board go into that because it is outside what we have in front of us. We are not investigators and not go out to look and hunt. The Chairman stated the Board should not be out investigating because that is not our job.

Attorney Ward asked if we had to grant or deny the challenge today. Attorney Barborak explained the Board has three options. The Board could grant the challenge, deny the challenge, or to determine if additional evidence is needed. Mr. Johnson stated he had a motion on the floor but Mr. Fricano said he had a motion to supercede Mr. Johnson's motion to deny the challenge. Mr. Fricano made a motion to postpone Mr. Johnson's motion until we can get a proper time to have a proper hearing.

There was a discussion over procedural matters on the order of voting on motions.

Mr. Ward asked Mr. Fricano to clarify his motion. Mr. Fricano stated that we have two motions that are tied and how can the Board proceed until the ties are resolved. Attorney Ward asked Mr. Fricano if his motion is to postpone until after the two housekeeping motions have been resolved. Attorney Ward said he would second that motion.

Attorney Barborak said he is not familiar with the procedure in Roberts Rules of Order in respect to this order of motions. Mr. Fricano stated he wants to table Mr. Johnson's motion. Mr. Johnson asked that the Attorney Barborak be permitted to take time to review a copy of Roberts Rules of Order.

Attorney Ward asked if an amendment to an existing motion would be the more correct vehicle to accomplish with this motion. He continued that all 2 - 2 votes go to the Secretary of State. He added that maybe we are at the point to take a vote and turn it over to the Secretary of State. The Chairman stated that this is what needs to be done. Mr. Johnson stated if there is a tie on his motion to dismiss the challenge then everything goes to the Secretary of State. Attorney Ward questioned if the amendment could be voted on first whether to proceed. After a discussion on the procedural matters of the two motions Attorney Barborak stated that the purpose of the meeting is to determine whether or not the Board will accept or reject the challenge or whether the Board feels if additional evidence is needed for a hearing. The housekeeping motions of Mr. Fricano seem to deal with the third option only. Mr. Johnson's motion deals with one of the first two options and pending the outcome of Mr. Johnson's motions those motions of Mr. Fricano would become moot. In the interest of economy and saving everybody's time it would be appropriate to whether or not the Board would need the additional information for a

hearing before you vote on housekeeping matters for the hearing. Attorney Ward responded he felt the Board should vote on the amendment to the motion that would postpone the hearing. Attorney Ward said since we are deadlocked we should call the Secretary of State right now.

Myke Clarett from the Secretary of State's Office was present as an observer, but he would call the Secretary of State for advice on how to proceed. The Board went into a fifteen minute recess at 2:25 p.m.

The Board came back from recess at 2:35 p.m. Chairman Bowersock asked Mr. Clarett to address the Board. Mr. Clarett stated he talked to Cassandra Hicks, General Counsel for the Secretary of State, and she instructed the Board should follow the lead of the County Prosecutor in attendance and follow the procedure you have set.

After a discussion on the previous tie votes Mr. Clarett explained the Board is to follow the recommendations of legal counsel in how to proceed to get through the meeting.

Attorney Barborak stated his recommendation to hold this meeting as directed by the Ohio Revised Code which states that the Board shall meet to determine whether to accept the challenge, deny the challenge, or to decide whether further hearing is necessary. After a discussion it was decided to vote on the amendment to Mr. Fricano's motion to postpone and then vote on Mr. Johnson's motion to deny the challenge.

A roll call vote on Mr. Fricano's motion was taken.

Chairman Bowersock	No
Attorney Ward	Yes
Mr. Johnson	No
Mr. Fricano	Yes

The motion tied.

A roll call on Mr. Johnson's motion was taken.

Chairman Bowersock	Yes
Attorney Ward	No
Mr. Johnson	Yes
Mr. Fricano	No

The motion was tied.

Mr. Fricano made a motion to adjourn and send the results of today to the Secretary of State. A roll call vote was taken.

Chairman Bowersock	Yes
Attorney Ward	Yes
Mr. Johnson	Yes
Mr. Fricano	Yes

The meeting was adjourned at 2:45 p.m.

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Chairman

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Director