

**Butler County Board of Elections
Board Meeting Minutes
March 5, 6, 7, 2012**

The Butler County Board of Elections met on Monday, March 5, 2012, for a meeting to reorganize under R.C. 3501.06 as well as to address regular business. Roll call was taken and present were Chairman Thomas Ellis, Member Judith Shelton, Member Frank Cloud, Member Bruce Carter, Director Jocelyn Bucaro, Deputy Director Lynn Kinkaid, and Sr. Executive Assistant Nancy Piper. Also present were Mr. Bob Selak of Thompson Hine LLP Attorneys at Law; Ms. Michele Decresce; Mr. Keith Corman, Regional Liaison for the Ohio Secretary of State; and Ms. Lauren Pack, Reporter for Cox Newspapers.

Chairman Ellis referred to the Agenda and stated that under O.R.C. 3501.09 and Directive 2011-42, the first order of business was to select a Temporary Chair. Chairman Ellis added that he has enjoyed serving as the Chairman for over six year and the experience has been very enjoyable, but looks forward to handing the position over as prescribed due to a change of Party in the office of Secretary of State. Member Cloud moved to appoint Mr. Ellis as Temporary Chair, seconded by Member Shelton. There were no other nominations, and roll call was taken:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

All in favor; motion carried.

The next order of business was to appoint a Director of the Board of Elections. Member Cloud, under O.R.C. 121.22 (G)(1) moved that the Board go into Executive Session. The Motion was seconded by Member Shelton. Temporary Chairman Ellis asked if there was any discussion, and Member Carter added that for the record we must state the purpose of moving into Executive Session. Chairman Ellis added that the O.R.C. code that Member Cloud referenced was pertaining to personnel.

Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

All in favor; motion carried.

Following Executive Session, Member Cloud moved to recess until 9:00 p.m.

Tuesday, March 6, 2012. Member Shelton seconded the Motion. Temporary Chairman Ellis asked if there was any discussion, and Member Carter spoke to the Board's responsibility to reorganize per Directive as well as the Agenda stating that the Reorganization was to be addressed at this meeting. He expressed concern about the attempt to make a decision in Executive Session and questioned whether that was an appropriate use of Executive Session.

Member Carter added that it was his belief that the Board has an obligation to the public and to the Board to make a resolution on this date. If no resolution can be made, he stated, the Secretary of State has provided us with a Directive on procedures to follow should the Board be unable to come to a decision at this meeting so as to protect the integrity of the Election process to take place the following day. Member Carter stated that the Secretary of State has procedures in place should a tie vote occur, and was opposed to suspending the session on this date. Member Shelton spoke and referred to that same Directive, 2011-42, page two, where it is states that "Boards of Elections are required to reorganize between March 2 and March 6, 2012, Revised Code 3501.09." She added that the Board was "certainly within their rights" to resume the meeting the next evening, rather than making the decision of appointing a Director at this time, and resuming the meeting will "not jeopardize the integrity of the Election whatsoever". With no further discussion, roll call was taken:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Nay

Motion carried by majority vote. The meeting was recessed until Tuesday, March 6, 2012 at 9:00 p.m.

At 9:15 p.m., Tuesday, March 6, 2012, the Butler County Board of Elections reconvened. Roll call was taken and present were Temporary Chairman Ellis, Member Cloud, Member Shelton and Member Carter. Also present were Director Jocelyn Bucaro, Deputy Director Lynn Kinkaid, Administrative Assistant Tiffany Harmon, as well as guests Mr. Bob Selak, Mr. Keith Corman, Mr. Brian Fox, and Mr. Richard O. Jones of the Journal News. For the record, Temporary Chairman Ellis stated that the Board had recessed the previous morning and was now ready to proceed with the appointment of a Director for the Butler County Board of Elections.

Member Shelton made a motion to appoint Mr. Lynn Kinkaid as Director of the Butler County Board of Elections under O.R.C. 3501.09 and per Directive 2011-42. Temporary Chairman Ellis seconded the motion and asked if there was any discussion. Member Carter questioned the salary level of the appointment, to which Chairman Ellis replied the salary would be \$93,150 annually, the Director's salary which was voted on and passed at the last meeting. Member Carter stated that he felt this salary level is fiscally irresponsible and that, as it is, we will be forced to go to our Commissioners for over \$1 million in order to conduct the 2012 Elections. Member Carter stated that there is nothing personal regarding the sacrifices made by Mr. Kinkaid years ago, but that issue should have been rectified when there was money in the budget at the end of that year to resolve and affix the sacrifices of staff members who were laid off as well as the sacrifices made by Mr. Kinkaid at a time when there was projected shortfall. Mr. Ellis asked if there was any further discussion or other nominations. There was none, and roll call was taken:

Chairman Ellis	Yea
Member Cloud	Nay
Member Shelton	Yea
Member Carter	Nay

There was a tie vote, and the motion, therefore, did not pass.

Chairman Ellis explained that under Revised Code, the Board is required to vote on this position a total of five times, and he again asked for a nomination for the position of Director. For a second time, Member Shelton nominated Mr. Lynn

Kinkaid as Director of the Butler County Board of Elections under Revised Code 3501.09 and Directive 2011-42. Mr. Ellis seconded the motion and asked if there was further discussion. Mr. Carter stated he wished to reiterate the comments made in the first vote. Roll call:

Chairman Ellis	Yea
Member Cloud	Nay
Member Shelton	Yea
Member Carter	Nay

There was a tie vote, and the motion, therefore, did not pass.

Mr. Ellis asked for a third nomination to which Mrs. Shelton replied that she would again like to make a motion to appoint Mr. Lynn Kinkaid as Director of the Butler County Board of Elections according to Revised Code 3501.09 and Directive 2011-42. Mr. Ellis seconded the motion. There was no discussion. Roll call:

Chairman Ellis	Yea
Member Cloud	Nay
Member Shelton	Yea
Member Carter	Nay

There was a tie vote, and the motion failed.

Member Shelton made a fourth motion to nominate Mr. Lynn Kinkaid as Director of the Butler County Board of Elections according to Revised Code 3501.09 and Directive 2011.42, seconded by Mr. Ellis. Roll call:

Chairman Ellis	Yea
Member Cloud	Nay
Member Shelton	Yea
Member Carter	Nay

There was a tie vote, and the motion, therefore, did not pass.

Member Shelton made a fifth motion to appoint Mr. Lynn Kinkaid as Director of the Butler County Board of Election in accordance with ORC 3501.09 and Directive 2011-41. Mr. Ellis seconded the motion and asked for discussion. Mr. Carter stated that in the matter of breaking a tie, he would like to nominate Ms. Jocelyn Bucaro as Director of Board of Elections in order to give the Secretary of State a tie between directors. He explained that he was unclear to him as to

whether the tie vote was to appoint a Director or whether the tie vote is between two nominees. Mr. Cloud seconded the nomination. There was no discussion. Because there were two nominations brought before the Board, and two competing nominees, the Members cast their votes as follows:

Chairman Ellis	Vote for Mr. Kinkaid
Member Cloud	Vote for Ms. Bucaro
Member Shelton	Vote for Mr. Kinkaid
Member Carter	Vote for Ms. Bucaro

Chairman Ellis stated that the Board was deadlocked in a vote for Director, and that the tie vote would be submitted to the Ohio Secretary of State to be broken.

Chairman Ellis reminded the Board that they would be unable to proceed with the Reorganization process until the tie for Director is broken by the Secretary of State. Therefore, Ms. Bucaro will remain the Director and Mr. Kinkaid will remain the Deputy Director until the tie is broken. Member Shelton asked if the Board could move into Executive Session in order to give the Board an opportunity to interview the two persons who were nominated for the position. Member Carter stated that as he interprets the Directive, the tie is in place by the five votes cast and it must now be submitted to the Ohio Secretary of State's Office. Member Cloud added that while the Board was previously in Executive Session to discuss salary, it is his understanding that discussion regarding Reorganization may not take place in Executive Session but must be in public view. There was no consensus among the Board to move into Executive Session, therefore Member Shelton withdrew her request.

Director Bucaro directed the Board to the Agenda's next item which was the Remaking of Absentee Optical Scan Ballots, per Directive 2008-69. There were twenty-nine Absentee optical scan ballots for review by the Board. Five ballots which had timing marks issues and would not scan were the first for the Board to review. The ballots were remade and approved with a motion by Member Carter and seconded by Member Shelton. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

All in favor; motion carried.

There was one ballot for the Board to review which was cast by a 17-year-old voter who voted on Presidential Delegates, thus prompting the remake.

Member Carter moved to accept the remake of the 17-year-old voter's ballot, seconded by Member Cloud. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Abstain
Member Carter	Yea

Motion passed.

Director Bucaro had three ballots with marks outside the ovals which could not be read by the scanners, and asked that the Board review them to be remade.

Member Shelton moved to approve the three ballots reviewed which contained invalid markings. The motion was seconded by Member Cloud. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

All in favor; motion carried.

There were six torn or mutilated ballots which came before the Board for review.

After viewing the remakes, Member Shelton moved to approve, seconded by Member Cloud. Chairman Ellis had momentarily left the room, however roll call proceeded as follows:

Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

Motion passed.

A voter intent issue regarding the Commissioner's race was reviewed. Member Shelton removed herself from the review, as she was a relative of the voter.

Member Cloud moved that the remake show a vote cast for Mr. Furmon. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea

Member Shelton Abstain
Member Carter Yea

Motion passed.

Other voter intent issues were reviewed by the Board to be remade. Member Cloud moved that the thirteen voter intent remakes be approved by the Board as noted on the cover sheet of each ballot. The motion was seconded by Member Shelton. Roll call:

Chairman Ellis Yea
Member Cloud Yea
Member Shelton Yea
Member Carter Yea

Motion passed.

The Board turned their attention back to the Agenda, and Director Bucaro presented the Bills before the Board for their review. She explained that most of the expenses were election-related, except for some expenses related to staff travel to the OAEO Conference in Columbus. Member Cloud moved to approve the bills, seconded by Member Shelton. Roll call:

Chairman Ellis Yea
Member Cloud Yea
Member Shelton Yea
Member Carter Yea

Motion passed.

Minutes from the February 16, 2012, Board meeting were reviewed. Member Shelton moved to accept the Minutes, seconded by Member Cloud. Chairman Ellis referred to the Director's position salary increase approved by the Board for clarification of the dollar amount. There was no further discussion. Roll call:

Chairman Ellis Yea
Member Cloud Yes
Member Shelton Yea
Member Carter Abstain (Not a member of the Board during that meeting)

Motion passed.

Director Bucaro reviewed the following Directives and Memoranda with the Board:

Directives:

02/17/2012 2012-11 Recount Procedures
Informs Boards of the circumstances and procedures for conducting a recount after the official results of an election have been certified. Addresses both automatic and requested recounts.

Chairman Ellis inquired about whether a mandatory recount remains for races where the difference between two top candidates for a position is less than one-half of one percent. Director Bucaro confirmed this figure.

02/24/2012 2012-12 Post Election Audits
As explained in Advisory 2009-09, the League of Women Voters settlement agreement requires that county boards of elections conduct post-election audits of all ballots cast following general elections in even-numbered years and presidential primary elections.

Advisories: **None**

Memoranda from the Secretary of State:

<u>Date</u>	<u>Subject</u>
02/17/2012	County Contact Information for Election Night (Melanie Poole) In preparation for the March Primary Election, the Secretary of State's office requests Election Day/Night information for counties.
02/21/2012	SOS PEO Recruitment Initiatives Update (Laura Pietenpol) Includes a list of the types of resources that are available now for recruiting PEO's (Precinct Election Officials) for March 2012 as well as what is being developed for November's election season.
02/22/2012	Statement from Secretary of State Jon Husted regarding Hunter v. Hamilton County Board of Elections Regarding Husted's decision to break the tie vote from the Hamilton County Board of Elections in favor of appealing the decision in Hunter v. Hamilton County Board of Elections.
02/25/2012	Precinct Election Official Newsletter (Laura Pietenpol) Volume 2, Issue 1 of <i>Ballot Box Bulletin</i> the Secretary of State's precinct election official quarterly newsletter.
02/29/2012	Presidential Delegate Withdrawals (Matthew Damschroder) If a county is provided with notice from a presidential delegate withdrawing as a delegate, a copy of the withdrawal must be forwarded to Melanie Poole.
03/01/2012	Information about Reorganization (Matt Damschroder) Instructions should a tie vote occur for director, deputy director and/or board chair during Reorganization.

Other Communications:

<u>Date</u>	<u>Subject</u>
02/02/2012	Special Elections Article (Aaron Ockerman) Article regarding Senate Bill 284 which would eliminate Special Elections.
02/14/2012	Submitted Petition for Initiated Constitutional Amendment: The Ohio Clean Energy Initiative (Ohio Attorney General Mike DeWine) The total number of part-petitions received by Butler County was one, with one signature to validate. (Signature valid)
02/21/2012	Swearing-in (Aaron Ockerman) An invitation to the Swearing-In for new board members at the Statehouse (Monday, February 27, 2012).
02/27/2012	Website (Aaron Ockerman) Update to the website www.oaeo.us

The Board was informed that additional remakes of 17-year-old voters would be forthcoming shortly for their review.

There was no Old Business.

There was no New Business.

Under her Director's Report, Director Bucaro reported to the Board that there was an issue that arose when the polls opened earlier in the day for the Election. She explained that Location Technicians were instructed to test the printers connected to the Electronic Pollbooks, a rather simple procedure. The printer test on the TSX units is a bit more complicated. There was one incidence in which a Location Technician, when testing the E-Pollbook printers, became confused and searched for a "test button" on the printer, such as one that is located on the TSX units. There is a button located on the tablet (which will be disabled for the November Election), which apparently was tapped and then inadvertently issued ballots for voters who were used in L & A testing prior to the Election. This made it appear that the voters had already been issued a ballot. When the E-pollbooks were networked, they synchronized and the ballots issued appeared on each E-pollbook in that location. An ES&S technician was sent to the site and printed a report of those voters who were appearing as already

voted, prepared instructions for the poll workers, and the problem was resolved.

There were twelve voters involved, who did cast a Provisional Ballot at that location, so no voters were turned away without having an opportunity to vote.

Director Bucaro continued by updating the Board on Early Voting statistics.

There were 5,365 ballots issued and of those issued, 1,643 were in-office voters and the remaining ballots were received by mail. As of yesterday, 4,679 have been returned (which includes the in-office voters).

A website update was given by Director Bucaro. Our new website design is still a work in progress and we hope to launch the site in April. She noted that she, along with Lynn Kinkaid, Chairman Ellis and Jay Klein participated in a webinar presented by SOE Software regarding their Election Night reporting software program. A proposal has been submitted which she will share with the Board members at another time.

Deputy Director Kinkaid had nothing to report.

Member Carter moved to recess until any Election Day optical scan ballots for review and remake were available for the Board. The motion was seconded by

Member Shelton. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

Motion passed.

The Board reconvened at approximately 12:02 a.m., Wednesday, March 7, 2012, and reviewed seventy-five (75) remakes of ballots of 17-year-old voters. Member Cloud moved to approve the remakes, which was seconded by Member Shelton.

There was no discussion. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

Motion passed.

Member Cloud moved that the Board recess while tabulation continued should there be further business. The motion was seconded by Member Carter. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

Motion passed.

At approximately 12:30 a.m., Member Shelton moved to adjourn the meeting, seconded by Member Cloud. Roll call:

Chairman Ellis	Yea
Member Cloud	Yea
Member Shelton	Yea
Member Carter	Yea

Motion passed.

The meeting was adjourned at approximately 12:35 a.m.

**BILLS
March 5,
2012**

0001-0076-200000	Office supplies	692.98
0001-0076-210000	Postage	3,562.24
0001-0076-290000	Other mat'l & supplies	8,431.41
0001-0076-300001	Maint & repair - equipment	280.00
0001-0076-300500	Travel & training	1,355.00
0001-0076-300550	Employee job related mileage	11.90
0001-0076-300750	Telephone & communications	1,047.48
0001-0076-390000	Contract services	5,766.13
0001-0076-390000-13	Temporary Contract Workers	3,385.72
	TOTAL BILLS	24,532.86

PAID FROM THE GENERAL FUND

BILLS
March 5 ,
2012

OFFICE SUPPLIES (200000)

Hathaway Stamps

6 M-310 stamps with dates, Pollworker Dept.

163.50

Murphy Supply Company

Kitchen supplies

268.00

Office Depot

Office supplies

86.73

Office supplies

49.75

Security Lock

Locks and keys

125.00

TOTAL OFFICE SUPPLIES (200000)

692.98

POSTAGE (210000)

Butler County Commissioners

Postage, Oct - Dec 2011

3,562.24

TOTAL POSTAGE (210000)

3,562.24

OTHER MATERIAL/SUPPLIES (290000)

Dayton Legal Blank

Precinct kits, 3/6/12 primary election

8,372.00

Uline

2 rolls air bubble wrap for electronic pollbooks

59.41

TOTAL OTHER MATERIAL/SUPPLIES (290000)

8,431.41

MAINT & REPAIR - EQUIPMENT (300001)

Eugenio

Repair 28 election bags

280.00

TOTAL MAINT & REPAIR - EQUIPMENT (300001)

280.00

TRAVEL & TRAINING (300500)

US Bank

Hotel rooms and parking, OAEO winter conference, 6 staff, 1/25/2012-1/27/2012

1,355.00

TOTAL TRAVEL & TRAINING (300500) 1,355.00

EMPLOYEE JOB RELATED MILEAGE (300550)

Tellup, Mary Lou
Mileage to vote nursing home, 2/17/12 11.90

TOTAL EMPLOYEE JOB RELATED TRAVEL (300550) 11.90

TELEPHONE & COMMUNICATIONS (300750)

Cincinnati Bell Wireless
Election cell phones, 1/14/2012-2/13/2012 1,047.48

TOTAL TELEPHONE & COMMUNICATIONS (300750) 1,047.48

OTHER CONTRACT SERVICES (390000)

Data Information Management Systems
Maintenance DIMSNet election management system, 2/1/12 - 2/29/12 5,766.13

TOTAL OTHER CONTRACT SERVICES (390000) 5,766.13

TEMP AGENCY CONTRACT WORKERS (390000-390000013)

Robert Half International Inc
Robert Half - Office Team, week ending 2/10/12 1,673.60
Robert Half - Office Team, week ending 2/17/12 1,712.12

TOTAL TEMP AGENCY CONTRACT WORKERS (390000-390000013) 3,385.72

Thomas W. Ellis, Chairman

Jocelyn Bucaro, Director

Frank Cloud , Member

Judith A. Shelton, Member

Bruce Carter, Member