



Via Electronic Mail Only

March 28, 2017

Director Gina-Marie Kaczala
Deputy Director LaVera Scott
Lucas County Board of Elections
One Government Center, Suite 300
Toledo, Ohio 43604

Re: 2017 Board Reorganization Tie Votes

Dear Director Kaczala and Deputy Director Scott:

On March 3, 2017, the Lucas County Board of Elections met in regular session to conduct its board reorganization as required by R.C. 3501.09 and Directive 2016-51. The reorganization attempt failed after the board deadlocked on the consideration of nominees for the position of Director. Pursuant to R.C. 3501.09, I must address that deadlock.

BACKGROUND

The Lucas County Board of Elections has worked diligently in recent years to shed its well-earned reputation of dysfunction, and I commend the perseverance of recent board members and staff. Unfortunately, the board meeting minutes and materials submitted by Board Members Hartley and Saferin clearly signal a return to the chaos that formerly plagued the Lucas County Board of Elections, a dysfunction that culminated in oversight of the board by my office and the eventual removal and rejection of board members and staff who contributed to the dysfunction.

A stunning example of this degeneration: Board Member Hartley's first action in the board's reorganization was to nominate Jon Stainbrook as Director. While the minutes indicate that Mr. Stainbrook eventually declined the nomination and removed his name from any further consideration by the board, my conclusions about his fitness to assume a role with the Lucas County Board of Elections remain firm.¹ The history of this board speaks for itself regarding the dysfunctional culture perpetuated by Mr. Stainbrook.²

Members Hartley's and Saferin's motion and second for Mr. Stainbrook demonstrate either a reckless or negligent ignorance of the tumultuous history of this board, or that they are implicitly advocating a return to that chaos. Both are shocking. I strongly encourage them to carefully

¹ See, Letter to the Voters of Lucas County (June 5, 2014) and Hearing Officer's Report and Recommendations (June 4, 2014).

² For a history of recent board-related culture problems, see *State ex. rel. Lucas County Republican Party Executive Committee v. Husted*, 144 Ohio St.3d 352 (2015).

review the history of the Lucas County Board of Elections and the role that Mr. Stainbrook's antagonistic and confrontational behavior played in its culture of dysfunction.

Each board member should take heed: I refuse to allow the Lucas County Board of Elections to relapse, and I take note of all attempts to circumvent the positive changes the board has made. If the antagonistic behavior shown in this reorganizational meeting continues, I will take all steps within my statutory authority, including removal of board members, in order to preserve the board's focus on proper election administration.³ The people of Lucas County deserve that.

REORGANIZATION

On the fifth ballot,⁴ Board Member Hartley made a motion to nominate Anson P. Bowe, and Board Member Saferin seconded the motion. The board members deadlocked, with Board Members Hartley and Saferin voting in favor of the motion, and Board Members Hill and Hughes voting against the motion.

It is notable that neither Board Member Saferin nor Board Member Hartley appears to be particularly familiar with the candidate they nominated.⁵ Board Member Saferin said initially that he had never met Mr. Bowe, but later corrected himself and recalled meeting him "at a couple of meetings." Board Member Hartley claimed to have met Mr. Bowe previously, but not within the past month, and only asked him "through intermediaries" about his interest in this position. Neither of the board members could provide much information about their nominee for Director at the request of fellow board members, and, stunningly, Mr. Bowe did not appear at the meeting to introduce himself. Certainly this does not amount to the "careful consideration" of qualifications the law requires.⁶

Chapter 2 of the Ohio Election Official Manual (Directive 2015-24) presents the minimum qualifications for a Director of a board of elections. Among those qualifications is a baseline understanding of the rules, processes, procedures, and equipment used in local election administration. Mr. Bowe's résumé indicates that he served a total of six months as a "paralegal" at the Chicago Board of Elections as a teenager from December of 1982 to June of 1983, and one more month in the same role approximately three years later from December of 1986 to January of 1984. Over the 33 years since his time at the Chicago Board of Elections, Mr. Bowe has held a variety of jobs, including park ranger, executive recruiter, and towboat engineer, but has not held any elections-related employment. Further, his résumé reflects unexplained gaps in employment, most recently a six-year period from 2011 to the present day.

Elections administration has changed dramatically since the early 1980s when Mr. Bowe worked as a "paralegal" at the Chicago Board of Elections. Significant advancements in election technology and frequent, protracted litigation have made the task of administering elections increasingly complex. The responsibilities election officials face today require a full

³ O.R.C. 3501.05(DD); O.A.C. Chapter 111:3-2.

⁴ This is the actual fifth ballot because Mr. Stainbrook declined the nomination, precluding a board vote, on what would have been the original fifth ballot.

⁵ Indeed, the audio recording of the meeting documents that Board Members Hartley and Saferin were unsure themselves on the proper spelling and pronunciation of their nominee's surname (beginning at 8:23).

⁶ O.R.C. 3501.09.

understanding of the complex rules, processes, procedures, and equipment used in local election administration. I am not persuaded that Mr. Bowe's seven months as a "paralegal" in an elections office in Illinois as a teenager in the early 1980s adequately prepares him to administer local elections in Ohio some 30 years later.

Based on the foregoing, I have ample reason to believe Mr. Bowe is not qualified. Accordingly, I resolve the deadlock against the motion to hire Anson P. Bowe as Director of the Lucas County Board of Elections.

After failing to agree on a Director, the board's motion to appoint Ms. Scott as Deputy Director is not ripe for consideration. R.C. 3501.09 and Directive 2016-51 instruct the board to appoint a Director before proceeding to the appointment of a Deputy Director, since the candidates selected for the two positions must be of opposite political parties. Therefore, I decline to address the deadlock on appointing Ms. Scott as Deputy Director.

The board must reconvene to select a Director before voting on the nomination of a Deputy Director. In doing so, it must remember that motions to appoint a Director or Deputy Director are not limited to a single political party. Democratic board members are also permitted to nominate a candidate of their choosing, from their same political party, for the position of Director.

The Lucas County Board of Elections must complete its reorganization pursuant to this letter no later than Thursday, March 30, 2017.

USE OF CELL PHONES DURING PUBLIC MEETINGS

In response to what has been described as Board Members Hartley's and Saferin's "constant" text messaging during the organizational meeting of the board, Board Member Hill made a motion to ban the use of cell phones by board members during board meetings. That motion resulted in a tie.

The motion and discussion of the use of cell phones during board meetings was not a properly noticed part of the agenda for the March 3, 2017 special meeting of the board. I therefore break the tie against the motion to ban the use of cell phones by board members at board meetings.

However, the board is instructed to place on the agenda of its next meeting the topic of board member communication by cell phone during open meetings of the board for proper public discussion, deliberation, and vote. In doing so, I encourage the board to consult with its legal counsel, the county prosecuting attorney, regarding the requirements of Ohio's Sunshine Laws and Ohio's ethics laws.

Sincerely,


Jon Husted

cc: Members of the Lucas County Board of Elections