

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. :
CITY OF YOUNGSTOWN, :
 :
Relator, : Case No. 2015-1422
 :
v. : **Original Action in Mandamus**
 :
MAHONING COUNTY BOARD OF :
ELECTIONS, et al., :
 :
Respondents. :

TRANSCRIPT OF THE AUGUST 26TH, 2015 MAHONING COUNTY BOARD OF
ELECTIONS MEETING

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THE MAHONING COUNTY BOARD OF ELECTIONS (MCBOE) held a Special Regular Meeting and Protest Hearing of the Board on Wednesday, the 26th Day of August, 2015, in the Board Room of the MCBOE Office, 345 Oak Hill Avenue, Youngstown, Ohio, 44502, beginning at 5:00 p.m.

PRESENT:

Chairman: Mr. Mark E. Munroe

Board Members: David J. Betras, Esquire
Mr. Robert J. Wasko
Ms. Tracey S. Winbush

Director: Ms. Joyce Kale-Pesta

Deputy Director: Mr. Thomas P. McCabe

Board Secretary: Mr. Raymond L. Butler

Petitioner: David Engler, Esquire

Petitioner's Counsel: Mark A. Hanni, Esquire
839 Southwestern Run
Youngstown, OH 44514
330-726-7777

PRESENT (CONTINUED):

Visitor's Sign-In Sheet:

Don Hanni, III
Don Holovatick
Butch Taylor
J. Slanina
Lynn Anderson
Rev. Young Tensley
David Skolnick
Randy Younkin
Jackie Adair
Jaladah Aslam
Sheri Martz
Susie Beiersdorfer
Perry Alexandrides
Alex Mangie
Henrietta Bibbs
Kathleen Berry
Hattie Wilkins
Carl Bright (Illegible/Spelling of name not verified)

Videographer: Mr. Dennis Roller

Court Reporter: Ms. Mary Carney

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BOARD VOTES: Pages 4, 7, 13, 24, 47.

1 MR. MUNROE: Well, a fine good evening,
2 everyone. Welcome to the Mahoning County Board of
3 Elections.

4 MR. BUTLER: Good evening, Mr. Chairman.

5 MR. MUNROE: It's about ten after five
6 on Wednesday, August 26. Director, please call the roll.

7 MS. KALE-PESTA: Mr. Munroe?

8 MR. MUNROE: Here.

9 MS. KALE-PESTA: Ms. Winbush?

10 MR. MUNROE: Here.

11 MS. KALE-PESTA: Mr. Wasko?

12 MR. WASKO: Here.

13 MS. KALE-PESTA: Mr. Betras?

14 MR. BETRAS: Here.

15 MR. MUNROE: We've all received copies
16 of the Special Regular Meeting from August 17, 2015. What
17 is the Board's pleasure?

18 MR. WASKO: Motion to approve.

19 MR. BETRAS: Second.

20 MS. WINBUSH: Second.

21 MR. MUNROE: There's a motion by
22 Mr. Wasko, second Mr. Betras. Discussion? Director, call
23 the roll.

24 MS. KALE-PESTA: Mr. Munroe?

1 MR. MUNROE: Yes.

2 MS. KALE-PESTA: Ms. Winbush?

3 MS. WINBUSH: Yes.

4 MS. KALE-PESTA: Mr. Wasko?

5 MR. WASKO: Yes.

6 MS. KALE-PESTA: Mr. Betras?

7 MR. BETRAS: Yes.

8 MR. MUNROE: Under Chairman's Report,
9 I've got nothing to report this evening. Ms. Kale-Pesta?

10 MS. KALE-PESTA: We have to certify the
11 write-in candidates for the November General Election
12 Ballot, and they are in front of you.

13 MR. MUNROE: Is there a motion to
14 certify?

15 MS. WINBUSH: So moved.

16 MR. BETRAS: Well, one of them we didn't
17 certify; right?

18 MS. KALE-PESTA: Who?

19 MS. WINBUSH: Engler.

20 MS. KALE-PESTA: Well, he's -- we found
21 that certified.

22 MR. MUNROE: I think, yeah, I think
23 we're prepared to certify all of them.

24 MR. BETRAS: We didn't have a problem

1 with -- with doing his write-ins?

2 MS. KALE-PESTA: From what I learned
3 from the Secretary of State today, it's an ambiguous
4 ruling, so I think that it would be a hard-fought case. I
5 mean, I -- I just don't see any reason to --

6 MS. WINBUSH: Call for a --

7 MR. BETRAS: I thought you said if they
8 file petitions --

9 MS. KALE-PESTA: Well, we got a
10 directive in 2011, but the directive has changed since the
11 Supreme Court made a ruling, and the Secretary of State
12 has never changed the directive. So I feel that it would
13 be -- it would behoove us just not -- just to certify him.

14 MR. BETRAS: Okay.

15 MR. MUNROE: Yeah, we have not been
16 advised to disqualify that write-in.

17 MS. KALE-PESTA: Yes.

18 MR. BETRAS: All right, no problem.

19 MR. MUNROE: So on that basis I think we
20 should certify all the -- all the write-in candidates.

21 MR. BETRAS: But I wanted to disqualify
22 David.

23 MR. MUNROE: I understand.

24 MR. ENGLER: Now you're in trouble.

1 MR. MARK HANNI: And me while you're
2 talking.

3 MR. MUNROE: But you don't always get
4 what you want --

5 MR. BETRAS: Right.

6 MR. MUNROE: -- Mr. Betras. There's a
7 motion. Was there a second?

8 MS. WINBUSH: No.

9 MR. WASKO: I second.

10 MR. MUNROE: There's a motion and a
11 second to certify the write-in candidates as presented.
12 Any other discussion? Director, call the roll.

13 MS. KALE-PESTA: Mr. Munroe?

14 MR. MUNROE: Yes.

15 MS. KALE-PESTA: Ms. Winbush?

16 MS. WINBUSH: Yes.

17 MS. KALE-PESTA: Mr. Wasko?

18 MR. WASKO: Yes.

19 MS. KALE-PESTA: Mr. Betras?

20 MR. BETRAS: Yes.

21 MR. MUNROE: Item No. V, there was a --
22 there was an objection or a protest filed by Mr. Donald
23 Streamo regarding the residency of Mr. David L. Engler.
24 Is Mr. Streamo present? Is Mr. Streamo present? Well --

1 MR. BETRAS: Mr. Chairman, I move that
2 we dismiss the protest. I mean, that person should at
3 least be here.

4 MR. MUNROE: Well, he did file -- he did
5 file a written objection. I would at least like to read
6 his objection and give Mr. Engler a chance to respond
7 and --

8 MR. BETRAS: Okay.

9 MR. MUNROE: -- then move on.

10 In Mr. Streamo's letter he writes, "Please let this
11 letter reflect that I am formally challenging David
12 Engler's residency requirement to run for the position of
13 Austintown Township Trustee. Mr. Engler listed
14 property -- listed property address 1204 Meridian Road as
15 being his residence.

16 "Mr. Engler acquired this dilapidated property in
17 April 2015 according to the Mahoning County Auditor's
18 record. The house is currently being rehabbed. When the
19 property was visited on August 6, 2015, the house was
20 vacant.

21 "I have received information that Mr. Engler is
22 residing at 6832 Twin Oaks in Canfield, Ohio, and paying
23 Mr. Crawford \$500 a month rent. If the information above
24 is factual, then Mr. David Engler has not fulfilled his

1 residency requirement to run for Austintown Trustee and
2 should not be eligible to run."

3 I note that Mr. Engler has withdrawn as a candidate.

4 MR. BETRAS: That's why I'm saying I
5 think the issue is moot.

6 MR. MUNROE: Well, he still -- he still
7 raised an objection regarding his residency.

8 MR. BETRAS: Well, but he hasn't voted
9 yet there. I mean, the time for the objection to his
10 residency is when he votes. Now that --

11 MR. MUNROE: That's not true. He's
12 registered at that address, and a voter's registration can
13 be challenged, which is what we're doing this evening. At
14 least, we're at least hearing the challenge. Mr. Engler?

15 MR. ENGLER: Well, thank you.
16 Appreciate that. The -- my residence is 1204 South
17 Meridian. I certainly take exception to someone calling a
18 property that I acquired in April of this year, a very
19 historic home site in Austintown that was the original
20 Burkey family homestead that was the entire west side,
21 which is now Austintown, now Austintown, was developed by
22 the Burkey family. Burkey Road is on the area there.
23 It's a home built in 1915.

24 When I acquired it, it was on the condemnation list

1 from the Township of Austintown because it was in somewhat
2 poor repair. Since that time I have invested \$35,000 into
3 that, have made repairs, large, some of them on my own,
4 some with contractors I have hired.

5 That's where I reside. That's where I intend to
6 reside. That's where I put my head down. You know, not
7 all the time while it's being rehabbed because it's dusty
8 and the hot water tank wouldn't work. There was a dead
9 bird in the flue, and the other problems that you come
10 across.

11 But, you know, part of the other thing that's -- I
12 appreciate the opportunity to actually be heard on the
13 issue is, when you -- this property also had \$15,000 of
14 delinquent taxes on it, and I had agreed with, through the
15 County Prosecutor's Office, to take over those \$15,000
16 delinquent taxes, pay those delinquent taxes back. Almost
17 all of those taxes go back to the Austintown Township
18 Schools.

19 So on August 6, coincidentally the same time this
20 fellow's peeking in my windows -- and I'd just ask that
21 they sweep up the next time they're on my porch 'cause
22 it's newly painted -- that, so paying back \$2,450 worth of
23 taxes on August 6, investing a significant amount of
24 money, residing at that location, changing my voter's

1 MS. WINBUSH: Second.

2 MR. MUNROE: Okay, under, under
3 discussion, Mr. Engler, is your current residence
4 1204 Meridian Road?

5 MR. ENGLER: South Meridian; correct.

6 MR. MUNROE: South Meridian Road. And I
7 understand that that property is under rehab and you
8 occasionally may temporarily reside somewhere else?

9 MR. ENGLER: No, I reside there.

10 MR. MUNROE: I mean, you may temp -- you
11 may occasionally spend the night somewhere else because of
12 construction?

13 MR. ENGLER: Oh, you can --

14 MR. MARK HANNI: Many places.

15 MR. ENGLER: Yeah, right. That's not
16 exactly true either.

17 MR. MUNROE: So, but when you are
18 absent, you intend to return to this address?

19 MR. ENGLER: Always.

20 MR. MUNROE: On South Meridian Road; is
21 that correct?

22 MR. ENGLER: Always.

23 MR. MUNROE: Very good, sir.

24 MR. ENGLER: Directly across from the

1 ghost lights of Youngstown, if anyone's familiar with the
2 ghost lights.

3 MR. MUNROE: Thank you.

4 MR. ENGLER: No?

5 MR. MUNROE: Any other comments?

6 There's a motion and a second that the protest regarding
7 Mr. Engler's residency be dismissed. Director, call the
8 roll.

9 MS. KALE-PESTA: Mr. Munroe?

10 MR. MUNROE: Yes.

11 MS. KALE-PESTA: Ms. Winbush?

12 MS. WINBUSH: Yes.

13 MS. KALE-PESTA: Mr. Wasko?

14 MR. WASKO: Abstain.

15 MS. KALE-PESTA: Mr. Betras?

16 MR. BETRAS: Yes.

17 MR. MUNROE: Thank you. Thank you,

18 Mr. Engler.

19 MR. ENGLER: Thank you.

20 MR. DON HANNI, III: Great job, Mark.

21 MR. MARK HANNI: Thank you. Wait until
22 you're up next.

23 MS. KALE-PESTA: You may want to stay,
24 Mark.

1 MR. MARK HANNI: I might want to watch.
2 Do we have any videos for it? We'll watch one of his
3 videos.

4 MR. DON HANNI, III: We'll be needing
5 you to go to court.

6 (David Engler, Esquire and Mark A. Hanni, Esquire
7 exited the meeting room.)

8 MR. MUNROE: Item No. VI, to
9 consider the certification of Youngstown City Charter
10 Ordinance 15-283, Section 122, also known as the Community
11 Bill of Rights, to the November 2015 General Election
12 Ballot. Well, there's certainly been some controversy
13 about this issue.

14 I note that it's been on the ballot four times
15 before, and this board has consistently held that, that we
16 really didn't have much, much latitude -- I think, I think
17 there was a certain suspicion that possibly the -- that
18 this charter amendment might be unenforceable; it might be
19 illegal; it might be unconstitutional.

20 But -- but given the state of the law over this past
21 four election cycles, we really felt we had not -- we
22 didn't have any latitude. And we did certify that issue
23 to the ballot four times.

24 Since then there have been some changes with a couple

1 of court cases, and I'd like a chance to discuss that
2 today. Mr. Betras, you want to lead off first?

3 MR. BETRAS: I do. First of all, let me
4 clearly say this. I do not agree that the State of Ohio
5 has taken local control away from the people in the City
6 of Youngstown or any community. I do not agree with it.

7 However, I am a lawyer, and I took an oath to uphold
8 the Constitution. And under the way we do business in
9 this country, a Supreme Court is the final sayer of what
10 the law is.

11 Recently the United States Supreme Court legalized
12 gay marriage, and there was a lot of people that didn't
13 agree with that. But whether you agree with it or don't
14 agree with it, it is the law of the land, and we all have
15 to accept it. That's what living in a concept of ordered
16 liberty provides, that we will accept a final judgment by
17 the highest court as to what the law is.

18 I am compelled by three things in this case. One,
19 and I want to pass this out to my fellow board members.

20 MS. WINBUSH: Oh.

21 MR. WASKO: More reading.

22 MS. WINBUSH: More reading.

23 MR. BETRAS: And I have one extra one.

24 MS. WINBUSH: Thank you.

1 MR. BETRAS: The first is a decision
2 that we got from Secretary John Husted, who is in all
3 senses my boss, our bosses as we sit as board members
4 here. And I am compelled by one paragraph in this
5 decision he rendered where he says, and it's on Page 3, it
6 says, "I maintain, instead, that the unrestricted language
7 of the sole statute governing this protest plainly and
8 unambiguously authorizes me to examine every aspect of
9 these petitions in more than just a 'ministerial'
10 fashion."

11 I think what he's saying there is that the language
12 for the county charter amendments is, plainly and
13 unambiguously authorizes me to act more than just a
14 ministerial fashion.

15 I would then cite my fellow board members to a case
16 that I do not agree with, State ex rel. Morrison versus
17 Beck Energy Corporation. I read a lot of decisions as a
18 lawyer, but I would like to put into the record the
19 conclusion of the Court.

20 And the court says, and I'm quoting directly from the
21 decision, "Article II, Section 36," that's of the Ohio
22 Constitution, "vests the General Assembly with the power
23 to pass laws providing for," quote, "'regulations of
24 methods of mining, weighing, measuring and marketing coal,

1 oil, gas and all other minerals,'" end quote.

2 "With the comprehensive regulation scheme in Revised
3 Code Chapter 1509, the General Assembly has done exactly
4 that. We hold that the Home Rule Amendment to the Ohio
5 Constitution, Article XVIII, Section 3, does not allow a
6 municipality to discriminate against, unfairly impede, or
7 obstruct oil and gas activities and operations that the
8 state has permitted under Chapter 1509."

9 This is dated December 17, 2015. So the Ohio Supreme
10 Court is unambiguously saying --

11 MS. WINBUSH: February.

12 MR. BETRAS: February. Is unambiguously
13 saying, municipalities, you are not allowed to regulate
14 the operation of any mineral rights within your
15 localities. We are preempting you from doing so.

16 I would then cite to you two cases out of the
17 Cuyahoga County Common Pleas Court, basically the same
18 case. But the City of Broadview Heights has passed a
19 Community Bill of Rights, and the courts have struck it
20 down on the exact sort of language that they had there.

21 I understand the frustration of the people that are
22 bringing the issue of the Community Bill of Rights, but
23 your remedy is not to challenge the Ohio Supreme Court
24 with a law that to me is clearly unconstitutional exercise

1 of the thing.

2 So I have gotten an opinion from our Prosecuting
3 Attorney, who says that we must act only in a ministerial
4 duty and we must follow it. And I have talked to
5 Mr. Gains and to Sharon Hackett, and I am not going to
6 follow their recommendation because, as I read their
7 decision, for a number of reasons.

8 The case they're relying on is a 2014 case decided
9 prior to the 2015 case. Plus, the Supreme Court was
10 talking to City Councils, not Board of Elections. Plus,
11 in that decision, the Court said, nor can the City Council
12 assess the constitutionality of a proposal because that
13 role is reserved for the courts. I agree. That role is
14 reserved for the courts.

15 The courts have clearly said, the state legislature
16 has acted. They have preempted local control, local
17 say-so. I cannot believe that when I took my oath of
18 office to be a member of this Mahoning County Board of
19 Elections, when I raised my hand and put my left hand on
20 the Bible and I said, I will follow the laws and the
21 Constitution of -- the laws of the State of Ohio and the
22 Constitution of the State of Ohio, that they wanted me to
23 then say, well, Mr. Betras, you know something's clearly
24 unconstitutional, so let the people of the City of

1 Youngstown vote on it.

2 I don't think that's my job. I don't think that's
3 the law. And I make it akin to this. If someone in the
4 City of Youngstown -- because this is oil and gas,
5 everyone wants to kind of blow it off, but the principle
6 is the same -- if someone brought us a petition that said,
7 African-Americans cannot sit at lunch counters in the City
8 of Youngstown, there isn't one board member in this city,
9 in this county, on this board, that would allow that to go
10 to be voted on. Not one board member.

11 UNIDENTIFIED SPEAKER: But at one
12 time --

13 MS. BIBBS: But at one time it was the
14 law.

15 MR. BETRAS: Right; at one time it was,
16 but it is no longer. Therefore --

17 UNIDENTIFIED SPEAKER: That's a --

18 MR. MUNROE: Whoa, whoa, please.

19 MR. BETRAS: Therefore --

20 MR. MUNROE: Mr. Betras has the floor,
21 please.

22 MR. BETRAS: Therefore, based upon my
23 reading of the law, based upon my understanding of the
24 law, I will not allow the people of the City of Youngstown

1 to vote on a measure that is clearly and unambiguous
2 unconstitutional. And therefore, I'm just saying if we
3 put it up for a vote, I am going to vote no.

4 As much as it pains me to do so, and as much as I
5 don't want to do so, I feel my duty as a member of the Bar
6 and as my oath of this office, that I cannot allow people
7 to vote on something that is clearly unconstitutional.
8 There's what I had to say.

9 MR. MUNROE: Thank you Mr. Betras. Now,
10 this may come as no shock to anybody, but I -- I do not
11 agree completely with Mr. Betras. I -- I take his -- I
12 take exception to his characterization of Page 3 of
13 Secretary Husted's decision. I think there he was
14 speaking specifically to the issue involving a referendum
15 involving a county charter, not a -- not an amendment to
16 a --

17 UNIDENTIFIED SPEAKER: That's right.

18 MR. MUNROE: -- municipal charter.
19 However, however, I do think that when these petitions
20 came to City Council, I don't think they had any
21 discretion. They had to -- they had to -- they had to
22 certify those to the Board of Elections for our
23 consideration. But I think we've got more flexibility
24 than City Council does, because under Title 35 we have an

1 additional duty to review the sufficiency and validity of
2 petitions and nomination papers.

3 And in light of the Beck Energy case, it is clear to
4 me that the petitions that were circulated, while they had
5 sufficient signatures, that the -- that the issue was that
6 that amendment was a proposal to regulate an activity that
7 is clearly preempted by state law. It's unenforceable,
8 and it conflicts with the Ohio Constitution. And thus the
9 petitions that were circulated and the resulting charter
10 amendment that resulted from that are not sufficient and
11 are invalid.

12 I note that in the previous four elections, this
13 board always had doubts about the legality of this issue.
14 We are not a court and we could not have made that
15 determination. But now the courts have ruled. The
16 Constitution does not allow municipalities to discriminate
17 against, impede, or obstruct oil and gas activities that
18 are permitted under Revised Code 1504. We should not
19 certify a ballot issue the Supreme Court has clearly said
20 is not allowed.

21 This board does not abuse its discretion when it
22 refuses to certify an issue that is unenforceable,
23 illegal, and unconstitutional. That's my take.

24 Ms. Winbush? Mr. Wasko? Is there a motion?

1 MS. WINBUSH: I --

2 MR. BETRAS: Do we have to,
3 Mr. Chairman, do we have to put it up to vote it down, or
4 do we just not pass it, is my question?

5 MR. MUNROE: We could do it either way.
6 We could -- we could have a vote to not certify it to the
7 ballot. That would be appropriate.

8 MR. BETRAS: I would make a motion that
9 we not certify the Community Bill of Rights to the ballot
10 because it's an unconstitutional law.

11 MS. WINBUSH: Second.

12 MR. MUNROE: There's a motion; there's a
13 second. Any --

14 UNIDENTIFIED SPEAKER: Oh, no.

15 MR. MUNROE: Any additional discussion?

16 MS. WINBUSH: I would like to say, it
17 is -- it's difficult. I kid you not, it's a difficult
18 decision for a lot of us here. But it is true. It's
19 unenforceable because state law supersedes local law. So
20 to pass a law at the local level that is just, it's there
21 just in paper, and -- and it's kind of just, we're just
22 putting it in there, and then when you go to do it and
23 enforce it in the city charter, it's going to be null and
24 void because you can't enforce it. And so there's a

1 problem there.

2 And with that said, you know, we've got to do that
3 which we know, because the state is going to just come
4 back in and say, you can't get that done. And so we need
5 to do it right.

6 MR. BETRAS: I would just add that, had
7 this Beck Energy case not ruled the way it did --

8 MS. WINBUSH: Yeah.

9 MR. BETRAS: -- and had it been not so
10 unambiguous, I mean the Supreme Court of Ohio says
11 clearly, the Home Rule Amendment to the Ohio Constitution
12 does not allow a municipality. I don't know how any
13 clearer that can be. I don't agree with it, but it's the
14 law, and I have to follow it.

15 MS. ANDERSON: Are we allowed to speak?

16 MS. WINBUSH: No, not until after.

17 MS. ANDERSON: Where does it say that we
18 want to regulate oil and gas? Where does it say that in
19 that petition?

20 MR. MUNROE: There's a motion and a
21 second.

22 MS. ANDERSON: It's a fair question.

23 MR. MUNROE: There's a motion and --
24 there'll be opportunity for public comment.

1 UNIDENTIFIED SPEAKER: Before or after
2 the vote?

3 MR. MUNROE: There's a motion and a
4 second.

5 UNIDENTIFIED SPEAKER: Yeah, after you
6 vote; right?

7 MR. MUNROE: Director, please call the
8 roll.

9 MS. KALE-PESTA: Mr. Munroe?

10 MR. MUNROE: Yes.

11 MS. KALE-PESTA: Ms. Winbush?

12 MS. WINBUSH: Yes.

13 MS. KALE-PESTA: Mr. Wasko?

14 MR. WASKO: Yes.

15 MS. KALE-PESTA: Mr. Betras?

16 MR. BETRAS: Yes.

17 MR. MUNROE: Motion carries.

18 MR. YOUNKIN: Oh, man.

19 MS. BEIERSDORFER: Democracy in action.

20 UNIDENTIFIED SPEAKER: Yeah, democracy
21 in action.

22 MR. MUNROE: Is there any unfinished
23 business to consider, Joyce?

24 MS. KALE-PESTA: Well, before you and in

1 your packet I have a new layout for our app and our --

2 MR. MUNROE: It looks nice.

3 MS. KALE-PESTA: Yes, it's very nice.

4 For our app and for our new, we're going to have a new web
5 page. They need to create the web page and then the app
6 off the web page, so if you want to take a look at it.
7 We're, you know, tweaking as we go along. We're doing
8 different things. We're working with a company, but I
9 just wanted to give you an idea of what it's going to look
10 like --

11 MR. MUNROE: Looks nice.

12 MS. KALE-PESTA: -- when, when we
13 actually get it all finished. You also have in your
14 packet a list of the candidates, all the candidates,
15 nonpartisan and, for every election, and the write-ins in
16 front of you. So you might want to look at that. And
17 that's about it for me.

18 MS. WINBUSH: Thank you. Looks nice.

19 MR. MUNROE: Is there any new business
20 to consider? Any board communications?

21 MR. BUTLER: None received by the
22 Secretary, Mr. Chairman.

23 MR. MUNROE: Any public comment this
24 evening?

1 MS. ANDERSON: Yes.

2 MR. MUNROE: Please step forward and
3 state your name, please.

4 MS. ANDERSON: Okay, where do I have to
5 speak from?

6 MR. MUNROE: Right here.

7 MS. ANDERSON: Okay.

8 MR. MUNROE: And if you could hold your
9 comments, please, to maybe three minutes or so, we'd sure
10 appreciate --

11 MS. ANDERSON: No, I can't hold them to
12 three minutes. Okay, what you have done is misinterpreted
13 the law pretty egregiously.

14 MR. BUTLER: State your name, please.

15 MS. ANDERSON: This is Lynn Anderson. I
16 live on Glacierview, Youngstown, Ohio.

17 UNIDENTIFIED SPEAKER: In the city.

18 MS. ANDERSON: In the City of
19 Youngstown, unlike a lot of people here.

20 UNIDENTIFIED SPEAKER: Right.

21 MS. ANDERSON: And you have a conflict
22 of interest. You are all on the Mahoning Valley Job
23 Growth and Investment Coalition, and then you changed your
24 name because there are no jobs, so you changed it to the

1 Voter, whatever, Ballot Integrity Group or whatever you
2 did.

3 What this Community Bill of Rights is about is
4 protecting our drinking water. We have five operating
5 frack wells in the protected drinking water area of the
6 Meander Reservoir. This is unsafe.

7 The Ohio Constitution states that citizens can change
8 the law when the law is dangerous. H.B. 278 indeed,
9 Mr. Betras, did take away local control of zoning, the
10 ability for communities in Ohio to zone one industry away
11 from their homes, and that one industry is the fracking
12 industry.

13 Now, why do you think that happened? It happened
14 under Tom Niehaus, who is now a fracking lobbyist. He was
15 the president of the Ohio legislature. He was with ALEC.
16 Kasich is also ALEC, the American Legislative Exchange
17 Council. Lieutenant Governor Mary Taylor is also ALEC,
18 the American Legislative Exchange Council.

19 We are having such a dangerous time in this state, it
20 is unbelievable. I'm sure John Husted is ALEC. Most of
21 our state legislators are ALEC.

22 So what is happening now is, H.B. 278 was written by
23 and for the fracking industry and passed at the state
24 level, and it stated no localities can zone the chemical

1 pits, the pipelines that explode, and the frack wells that
2 pollute the air 24/7 and pollute the ground water 24/7.

3 You cannot zone that away from your homes.

4 This is totally unacceptable. They hid the chemical
5 makeup. H.B. 315 at the state level put a gag order on
6 physicians so you cannot tell anybody what chemicals made
7 the person sick.

8 May I read the results from the Kleese injection
9 well? We are the designated dump of Ohio, plus 22 other
10 sites. Youngstown is designated by Kasich as the dump for
11 the Marcellus frack waste. That's why we have the D&L
12 injection well. That's why we have downblending going on
13 down at 240 Sinter Court today and every day.

14 Downblending has been declared illegal by the Nuclear
15 Regulatory Commission. We are having it done in
16 Youngstown.

17 What it is, they bring the Marcellus frack waste in
18 liquid form and solids. They evaporate it and they mix it
19 with dirt in open air 1,000 feet from the Youngstown City
20 School Bus Garage.

21 This is what the Community Bill of Rights is about,
22 protecting ourselves. We're the only ones that can
23 protect ourselves. Clearly you are not representing the
24 people, so the people have to represent themselves.

1 Here's some of the chemicals that are in the Kleese
2 well that have migrated through the ground water. They
3 had an underground pipe leak. A pipefitter may know that
4 you can't go way underground and find the pipe and fix it
5 when it's leaking chemicals into the ground water.

6 Here's some of the chemicals: Barium, benzene,
7 sec-butylbenzene, ethylbenzene, n-hexane,
8 isopropylbenzene, okay.

9 MR. BUTLER: Thirty seconds,
10 Ms. Anderson.

11 MS. ANDERSON: Isopropyltoluene,
12 n-propylbenzene toluene, 1,2,3-trimethylbenzene,
13 1,3,5-trimethylbenzene, and xylene. All cause cancer in
14 humans.

15 Now, if you will all come on Thursday at 7 p.m.,
16 please attend -- and write this down -- 7 p.m. to 9 p.m.
17 Thursday evening.

18 UNIDENTIFIED SPEAKER: Tomorrow night.

19 UNIDENTIFIED SPEAKER: Tomorrow.

20 MS. ANDERSON: This is tomorrow night,
21 yes. It's at the Unitarian Church. Please, we want all
22 the electeds and all the appointeds and all the Board of
23 Elections, the union people who funneled the money from
24 the Koch brothers against the Community Bill of Rights, we

1 want everybody. Butch, we want pipefitters. We want them
2 all. We want everybody coming down to see the facts.

3 By Thursday we're going to have the radioactivity
4 report. So what TENORM is, it's technologically enhanced
5 naturally occurring radioactive material. See, shale is
6 radioactive.

7 MR. BUTLER: Time, Mr. Chairman.

8 MS. ANDERSON: So TENORM readings with
9 this same analysis of the Kleese well will be released at
10 this town hall. It's an educational town hall. We've
11 been giving these educational town halls since 2011.
12 We've invited every elected, every appointed, all the
13 union heads, everybody who has anything to do with this,
14 the pipefitters, everybody, to come and see this because
15 it's not about jobs. We aren't getting the jobs.

16 There's about 55 jobs. What are they? You built the
17 cryogenic plant so they can make this product, the frack
18 product cold so it will run through a pipeline so it can
19 be exported in New Orleans. So that's the pipelines.
20 That's the pipeline infrastructure.

21 The Sunoco Limited Liability Company pipeline that
22 now runs under our Mill Creek Park, because the Park
23 Commissioners took the money, so they paved the way;
24 Kasich paved the way with money and he rewrote the laws

1 for this one industry.

2 That is why localities have to pass these Community
3 Bill of Rights. Then we go up against the illegal state
4 laws. The only way laws get changed in the State of Ohio,
5 as our Constitution, the Ohio State Constitution declares,
6 it's the citizens. The local citizens change the laws.
7 Because it's just like slavery, it's just like when
8 everybody figured out, oh, this isn't right, oh, my gosh,
9 and they had to fight, fight, fight from the local level
10 to get it changed.

11 It's not top down. It's not top down. And so this
12 is the problem. You have to redo your vote. You got to
13 let the citizens vote. And we got to quit funneling money
14 from the Koch brothers against tiny local elections where
15 people are trying to represent themselves, where they're
16 trying to vote on their own best interests.

17 UNIDENTIFIED SPEAKER: Yes.

18 MS. ANDERSON: You're from Boardman.
19 We're from Youngstown. We don't need injection wells in
20 here, and we don't need the radioactive waste coming in
21 here and being cleaned.

22 MR. MUNROE: Ms. Anderson, if I may
23 interrupt, who else would like to speak this evening?

24 MS. ANDERSON: Thank you very much.

1 MS. BIBBS: I love you.

2 MS. ANDERSON: Thank you.

3 UNIDENTIFIED SPEAKER: You're awesome.
4 You're awesome.

5 MS. BERRY: My name is Kathleen Berry.
6 I reside in Youngstown on McCollum Road. And I want to
7 speak to you because I'm a retired Air Force nurse. I
8 retired with honors. And I want to speak as a nurse.

9 In 2012 my professional organization, the American
10 Nurses Association, adopted a resolution asking for a
11 moratorium against new drilling permits. And it did so
12 because, as a scientific organization and part of the
13 medical community, we knew that the oil and gas industry
14 was not following what's called the precautionary
15 principle. In other words, you use precaution before you
16 proceed and perform activity that has potential for human
17 harm.

18 And we actually know that the oil and gas industry,
19 with its current method of extracting shale, is causing
20 harm to humans, the environment, and to animals. We know
21 that. It is being demonstrated across the country.

22 UNIDENTIFIED SPEAKER: And the world,
23 uh-huh.

24 MS. BERRY: And the world. And because

1 of that, for us, or for this board to say that we're
2 trying to regulate that industry is so absurd. We are
3 speaking in a so-called democracy for our own best
4 interests to say, we do not want to be harmed by
5 activities that are potentially harmful.

6 And I am so amazed because I've been back in the
7 Youngstown area, and I now feel com -- I just feel so
8 important at 68 years old to speak on behalf of the kinds
9 of activities, the kinds of -- that are harming us and
10 harming our democracy.

11 And that for people to speak as attorneys without
12 having any interest in what is actually the outcome of
13 these kinds of activities that are making people money,
14 yes, they are doing that; they seem to be beneficial for
15 communities, but if you look across the country, they are
16 not beneficial. If you were to go down south of
17 Steubenville to Cadiz, to those areas down there and see
18 how the people are suffering, how Texans, how Oklahomans
19 have taken over that area, those people admitted that
20 there is very few local employment with that.

21 And of course, that's been an issue here, that this
22 is going to bring employment. Are we -- is Youngstown
23 going to continue to be a place --

24 MS. BIBBS: Thank you, thank you,

1 uh-huh.

2 MS. BERRY: -- a place that puts its
3 trust in an industry that in the past has picked up and,
4 when it wasn't profitable, moved out? And it's the same
5 here.

6 MR. BUTLER: Thirty seconds, please,
7 Ms. Berry.

8 MS. BERRY: And I thank you for your
9 time and consideration on those issues. I'm not trying to
10 regulate anything. I'm trying to say, I want. I don't
11 want water that is going to poison me and my
12 grandchildren, my great-grandchildren. Please, let's look
13 forward in Youngstown and not be so, we bought -- not buy
14 into our own oppression. Thank you.

15 REV. YOUNG TENSLEY: May I have an
16 opportunity?

17 MR. MUNROE: Next speaker? Who was
18 first? He's leaving.

19 REV. YOUNG TENSLEY: I'd like to say
20 good evening.

21 MR. BUTLER: Good evening.

22 MR. MUNROE: Good evening.

23 REV. YOUNG TENSLEY: My name is Reverend
24 Young Tensley. Excuse me by my attire because I just left

1 school.

2 MR. MUNROE: You look fine to me, sir.

3 MR. BUTLER: Could you speak up a bit,
4 sir?

5 REV. YOUNG TENSLEY: Yes. My name is
6 Reverend Young Tensley, and I just want to say that we as
7 people, you all spoke about the Constitution and you spoke
8 about what the law say. The law said many things many
9 years ago, but the law was proven to be wrong.

10 UNIDENTIFIED SPEAKER: Yes. Amen.

11 REV. YOUNG TENSLEY: And now it's high
12 time that, if we are to live right, if we are to have
13 justice, if we are to have a healthy lifestyle, sometimes
14 we got to look past what the Constitution say and what God
15 say. I'm saying that because, on that dollar bill, it
16 says, In God We Trust. I'm asking what God do we trust,
17 because people's lives is on the line.

18 Just like slavery, people's lives was on the line.

19 Just like civil rights, people's lives was on the line.

20 And now we coming to a higher level that when you put
21 stuff in the ground and it seeps into the drinking water,
22 when it happen, is you going to be the one to say it was
23 my fault, or you going to pass the buck?

24 Time to quit passing the buck. It's time to even

1 tell your legislatures we need to do something about this.
2 God bless you and God keep you.

3 MR. BETRAS: Okay, thank you.

4 MS. BEIERSDORFER: I'd like to say
5 something. My name is Susie Beiersdorfer. I just want to
6 say a couple things. One thing, the Munroe Falls Beck
7 Energy was more of a zoning decision. It does not set a
8 precedent for local communities to not allow these Bills
9 of Rights on the ballot. It was also a 3 to 3 to 1
10 decision, and if anyone would care to read some of the
11 dissenting opinions, they were very telling about who's
12 the elephant in the room, the oil and gas industry.

13 Another thing what it different from the county,
14 those county charters, is the counties that were apply --
15 that went through the signature process and did
16 everything, they are trying to get home rule. The City of
17 Youngstown has home rule.

18 MR. MUNROE: Right.

19 MS. BEIERSDORFER: And we, the people,
20 can petition our government through this system, when you
21 have home rule, by initiative, referendum, or recall. And
22 ours is a charter amendment. It is an initiative. And so
23 we feel that we are -- we tried working through the
24 system, talking to our local reps, talking to our state

1 reps, doing all that, and basically being on a hamster
2 wheel for about two and a half years.

3 So when injustice becomes law, resistance becomes
4 duty. And this is our duty.

5 MS. ANDERSON: Yes, absolutely.

6 MS. BEIERSDORFER: And we are very
7 disappointed that you're not taking your roles seriously
8 to put the people's signatures and ballot and our movement
9 on -- on the November ballot. But just know that there
10 will be a challenge.

11 MS. ANDERSON: Oh, yeah.

12 MR. BETRAS: Thank you.

13 MR. MUNROE: Mr. Hanni?

14 MR. DON HANNI, III: Sure. Thank you
15 for calling on me. I'll be real short.

16 We were here, Mr. Holovatick and myself, at the last
17 meeting, and the petitions that were submitted by Crickets
18 were ruled not to have enough signatures. We then came
19 back in and I met with your director on Friday and went
20 through, and we moved the number up to eighty --

21 MS. KALE-PESTA: Eighty-six.

22 MR. DON HANNI, III: Eighty-six, which
23 leaves us two short. Now, we're two short if you don't
24 consider the fact that in the -- the signatures that were

1 printed, okay, those people were in fact registered. In
2 order to get them approved by this body, I want to simply
3 remind you that in 2012, this board, along with the boards
4 I think in Trumbull, Medina, and Meigs County, accepted
5 signatures that were printed.

6 That being the case, we have more than enough
7 numbers. It's up to you to make the decision whether or
8 not you will accept those printed that are in fact
9 registered.

10 And again, I cite the precedent from -- the precedent
11 from 2015 -- or 2012. And if you vote the other way,
12 Mr. Holovatick has no other choice but to take it to
13 court, whereupon we believe that we will win based on that
14 precedent.

15 So if this board will vote again on the validity of
16 the petitions that we submitted and approve them, keeping
17 in mind the need for the two that were printed; and we had
18 more than that. I can't remember exactly right now, but
19 page --

20 MS. KALE-PESTA: There's four.

21 MR. DON HANNI, III: Four. Well, I
22 think you have that one sheet. There were others, too.
23 Anyway --

24 MS. KALE-PESTA: This sheet has four.

1 MR. DON HANNI, III: Right. We'll leave
2 that up to you. Thank you.

3 MR. MUNROE: Thank you, Mr. Hanni.

4 MS. WINBUSH: Question.

5 MR. MUNROE: Ms. Winbush?

6 MS. WINBUSH: Have we since 2012
7 invalidated names because they were printed on other
8 petitions?

9 MS. KALE-PESTA: Yes.

10 MR. BETRAS: What's the --

11 MR. MUNROE: I think --

12 MR. BETRAS: What's the law on the
13 printing? I don't --

14 MS. KALE-PESTA: They sent us the
15 directive telling us how to mark petitions. PR, printed,
16 is one of the, in the directive. There's OC, out of
17 county. There's not registered in Ohio. There are
18 different codes that we use.

19 MR. BETRAS: What happens if someone
20 signs their name as printing?

21 MR. MUNROE: Well, Dave, I think, I
22 think I made the offer to Mr. Hanni that if it can be
23 shown that these voters who printed their signatures, if
24 they normally sign their name with a printed signature, we

1 would certainly accept those.

2 MR. DON HANNI, III: Well, quite
3 frankly --

4 MR. MUNROE: But for example, for
5 example, we could check the --

6 MS. KALE-PESTA: Poll books.

7 MR. MUNROE: We can check the signature
8 books when they voted last.

9 MS. KALE-PESTA: Yes.

10 MR. MUNROE: They could come in with
11 a -- with a, just an example of a recent cancelled check
12 showing that they've now changed their signature and
13 they're now using their printed signature. We would
14 accept that, absolutely. Does that answer your question,
15 David?

16 MR. BETRAS: (Nodding).

17 MR. DON HANNI, III: All right, sir.

18 MR. MUNROE: Yes.

19 MR. DON HANNI, III: Mind you, that when
20 we sat down with Joyce, I thought the issue was over,
21 frankly, that those were going to be counted and we were
22 good to go. If what we have to do now is to go back to
23 those people that were disqualified because they printed
24 and bring you some statement from them that this is how

1 they sign, you know, I think I mentioned to you, they
2 don't even teach cursive in schools anymore. I've got
3 neuropathy in my hand. I have a real struggle trying to
4 do anything --

5 MR. MUNROE: Sure.

6 MR. DON HANNI, III: -- to write. If I
7 can print, and I'll show you the sign-in sheet from here
8 today.

9 MR. MUNROE: Absolutely.

10 MR. DON HANNI, III: So again, I'm
11 asking that you not wait until we do that. However, if
12 that's what's required, I will go looking for the people
13 and try and bring something in to you.

14 MR. BETRAS: We have time yet.

15 MR. MUNROE: Is there a deadline that
16 we -- that --

17 MS. KALE-PESTA: No, we are still in the
18 process of creating the ballots.

19 MR. MUNROE: So if -- yeah, if, I
20 think --

21 MS. KALE-PESTA: I think Traficant
22 brought in affidavits, remember? We had affidavits on
23 file for all those people.

24 MR. MUNROE: Yeah.

1 MS. KALE-PESTA: Yeah.

2 MR. BETRAS: Would affidavits do it?

3 MS. KALE-PESTA: They -- that was what
4 we were ordered to do by the Secretary of State at that
5 time. But that was a federal election, too.

6 MR. BETRAS: Well --

7 MS. KALE-PESTA: It was sort of out of
8 our hands. The Secretary of State made the decisions on
9 those. We filed suit --

10 MR. BETRAS: But if they brought in
11 affidavits that that's their signature, would that
12 suffice, is what I'm asking?

13 MS. KALE-PESTA: I don't --

14 MR. DON HANNI, III: If we bring in
15 affidavits of at least two, maybe three, we should be good
16 to go; am I correct?

17 MR. MUNROE: Well, my suggestion was
18 that if, if those -- if those signers normally sign with a
19 printed signature --

20 MR. DON HANNI, III: Uh-huh.

21 MR. MUNROE: -- that if they could bring
22 us an example, if we could check, check the signature?

23 MS. KALE-PESTA: I will check the book,
24 the books.

1 MR. MUNROE: Check the signature books,
2 certainly if they --

3 MR. DON HANNI, III: But again, the
4 signature book is not going to reflect what they do now.
5 I registered to vote a whole lot of time ago as a
6 signature. In fact, I think in those same petitions of
7 Traficant's --

8 MR. MUNROE: Well, the signature book --

9 MR. DON HANNI, III: -- my signature was
10 challenged then.

11 MR. MUNROE: Donny, the signature book
12 would be from the last election, not -- not from the
13 registration card.

14 MS. KALE-PESTA: Right.

15 MR. MUNROE: So --

16 MR. DON HANNI, III: I think an
17 affidavit would probably be more in line. These people
18 are saying, look, when I signed that, I did it this way; I
19 am in support of this, so I'm asking the board to count
20 it.

21 MS. WINBUSH: But then it has -- there
22 has to be an exhibit to go with that, Donny.

23 MR. DON HANNI, III: Pardon me?

24 MS. WINBUSH: There needs to be an

1 exhibit to go with that, that they have changed their
2 signature to that.

3 MR. DON HANNI, III: Fine, fine.

4 MS. WINBUSH: To a printed signature.

5 They need to have, to check, they need to have something.

6 MR. DON HANNI, III: We will attempt to
7 do whatever is necessary to get the other two signatures.
8 I'm hopeful --

9 MR. MUNROE: Yeah, again, I think the
10 point is, if we could see some evidence that that is how
11 they customarily sign their name --

12 MR. DON HANNI, III: Okay.

13 MR. MUNROE: -- using a printed
14 signature, I think we'd be glad to accept that.

15 MR. BETRAS: We, and we have -- do we
16 have to call a board meeting then if they bring that in
17 or --

18 MS. WINBUSH: Yes.

19 MR. MUNROE: Well, we've got another
20 meeting set in --

21 MS. KALE-PESTA: In September.

22 MR. MUNROE: It's in early September.

23 MR. BETRAS: And that would be enough
24 time?

1 MR. MUNROE: That would be enough time,
2 if we get --

3 MR. BETRAS: Okay.

4 MS. KALE-PESTA: We don't have to have
5 the FWAB due until the 19th of September.

6 MR. BETRAS: Okay.

7 MS. KALE-PESTA: FWAB is the overseas
8 ballots.

9 MR. MUNROE: We could -- we could
10 reconsider the issue, sure.

11 MR. BETRAS: All right.

12 MR. DON HANNI, III: Thank you.

13 MR. MUNROE: You're welcome.

14 MR. DON HANNI, III: Now we know what we
15 have to do. We'll go do it. And then there'll be a
16 meeting in September, then we'll prove it.

17 MR. WASKO: September 8, right?

18 MS. KALE-PESTA: Uh-huh.

19 MR. WASKO: By September 8.

20 MR. DON HANNI, III: Thank you.

21 MR. MUNROE: The 8th? Yeah, I guess we
22 are.

23 MS. WINBUSH: Early morning meeting?

24 MR. WASKO: 8 a.m.

1 MR. MUNROE: We'll get to that in just a
2 minute. And again, as is always the case, if you think
3 the board has abused its discretion by not certifying your
4 issue to the ballot, you always have a judicial remedy.

5 MR. DON HANNI, III: We understand it,
6 but I don't like paying lawyers.

7 MR. MUNROE: Just wanted to make sure
8 that you did understand that.

9 MR. DON HANNI, III: Right, but like I
10 say --

11 MR. BETRAS: I mean, it sounds like
12 we're getting sued anyhow; might as well just throw that
13 one in with it.

14 MR. MUNROE: Are there any other public
15 comments this evening?

16 MR. DON HANNI, III: Well, are you
17 voting on our venture or not?

18 MR. BETRAS; No.

19 MR. HOLOVATICK: Right; until you vote,
20 I'm not going to bother with courts. At this time --

21 MR. MUNROE: No, we --

22 MR. BETRAS: We're going to vote on it
23 in September.

24 MR. MUNROE: Donny, your issue has

1 already -- has already been disqualified.

2 MR. DON HANNI, III: Right.

3 MR. MUNROE: If you can satisfy us that
4 you've got enough signatures, we can reconsider.

5 MR. DON HANNI, III: Okay.

6 MR. MUNROE: Okay. Clear enough?

7 MR. DON HANNI, III: Uh-huh.

8 MR. MUNROE: Clear enough. Any other
9 comments? Our next meeting, is it September the 8th?

10 MS. KALE-PESTA: Yeah, 8 a.m.

11 MR. BUTLER: Tuesday, September the 8th,
12 yes, sir.

13 MR. MUNROE: Let me get this straight
14 here.

15 MR. BUTLER: 8 a.m.

16 MR. MUNROE: Very good. Is there a
17 motion to adjourn?

18 MR. BETRAS: I so move.

19 MS. WINBUSH: Second.

20 MR. MUNROE: Director, call the roll.

21 MS. KALE-PESTA: Mr. Munroe?

22 MR. MUNROE: Yes.

23 MS. KALE-PESTA: Ms. Winbush?

24 MS. WINBUSH: Yes.

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MS. KALE-PESTA: Mr. Wasko?

MR. WASKO: Yes.

MS. KALE-PESTA: Mr. Betras?

MR. BETRAS: Yes.

MR. MUNROE: We are adjourned. Thank
you, everyone.

(Meeting adjourned at 6:00 p.m.)

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing is a true and correct transcript of all the proceedings had in the taking of the above-entitled matter, as shown by my stenotype notes taken by me at the time said meeting was held.



Mary J. Carney
Registered Merit Reporter

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CERTIFICATE OF SERVICE

We hereby certify that a copy of the foregoing, "Transcript of The August 26th, 2015 Mahoning County Board Of Elections Meeting" was forwarded this 10th day of September, 2015 by facsimile transmission and/or email delivery to:

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