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September 29, 2010

Paul Adams, Director  
Lorain County Board of Elections  
1985 North Ridge Road, East  
Lorain, Ohio 44055-3344

Re: Tie votes occurring September 7, 2010, on motions to provide extended office hours for in-person absentee (early) voting for the November 2, 2010 General Election

Dear Director Adams:

You have submitted to me materials relating to tie votes on two motions concerning extended hours for in-person absentee voting that occurred at your board's September 7, 2010 meeting. In accordance with R.C. 3501.11(X) and the procedures outlined in the Ohio Election Official Manual, the Lorain County Board of Elections submitted the tie votes, including position statements of the board members and the transcript of the September 7, 2010 board meeting. The materials were received in my office on September 20, 2010. My analysis and decisions are outlined below.

**Background**

The Lorain County Board of Elections office is presently open from 8:30 a.m. to 4:30 p.m. each weekday. During the past two years, the Lorain County Board of Elections has extended its office hours during the in-person absentee voting period.

At its September 7, 2010 meeting the Board discussed adopting extended hours for in-person absentee voting. The Director of the Board presented a proposal that the office remain open one additional hour each day on weekdays and for a half day on Saturdays during the in-person absentee voting period. The Director estimated that the cost of these extended hours would be \$6,693.

Board Member Smith moved that the Board of Elections adopt the Director's proposal that the board office be open for an additional hour during each weekday (8:30 a.m. to 5:30 p.m.) during the in-person absentee voting period and that the board office be open from 8:30 a.m. to 12:00 p.m. on Saturdays from October 2 through October 30, 2010. The motion was seconded by Board Member Giardini. Board Members Giardini and Smith voted in favor of the motion; Board Chair Rousseau and Board Member Hurst voted against it.

Board Member Giardini then moved that the board office be open for two additional hours during each weekday (8:30 a.m. to 6:30 p.m.) during the in-person absentee voting period and that the board office be open from 8:30 a.m. to 12:00 p.m. on Saturdays from October 2 through October 30, 2010. Board Member Smith seconded the motion. Board Members Giardini and Smith voted in favor of the motion; Board Chair Rousseau and Board Member Hurst voted against it.



## Discussion

The normal operating hours of a board of elections office are generally within the discretion of the board of elections under R.C. 3501.10(B). This statute provides: "At all other times during the week, the board shall keep its offices and rooms open for a period of time that the board considers necessary for the performance of its duties." Only a few limited statutes require boards of elections to be open on specific days or at specific times. Boards of elections must remain open until 9:00 p.m. on the last day of registration before a general or primary election. R.C. 3501.10(B). The only weekend date that a board of elections is required by statute to be open to the public is the third day before an election (which is always a Saturday), and the board must be open to receive and process requests for absentee ballots to be mailed to an elector under R.C. 3509.03, 3509.031(C), 3509.08(A), and 3511.02(C).

In the absence of specific statutory requirements or any statutory prohibition, the Lorain County Board of Elections has the discretion to be open for additional hours for in-person absentee voting under R.C. 3501.01(B). Board Members Giardini and Smith favor providing extended hours for in-person absentee voting. They note that many Lorain County residents work outside the county and would have difficulty getting to the Board office by its normal closing time of 4:30 p.m., or even by the extended time of 5:30 p.m. They also argue that the Board has sufficient funds to pay for the costs of the additional hours, in part due to savings from two recent staff retirements. Finally, they note that the Board has extended its hours during the previous two years and that voters have accordingly begun to expect extended voting hours in October.

Board Chair Rousseau and Board Member Hurst express concerns that additional hours will increase the workload and stress on the Board staff, and they note that staffing levels have been reduced since the last major election. They indicate that expanded hours are not needed because a large portion of absentee voting is completed by mail, rather than in-person absentee voting. They further argue that the requirement of extended hours on the last day of registration provides sufficient opportunity for additional in-person absentee voting.

Given the trend showing voters' increased use of both in-person absentee voting and absentee voting by mail in elections held since 2006, when the law took effect allowing any elector to vote absentee without stating a reason, I believe it is reasonable to anticipate continued high use of in-person absentee voting for the November 2, 2010 general election. Many organizations, candidates, and political groups are encouraging voters to vote absentee in-person to avoid any long lines on Election Day and for greater convenience. Additionally, a more populous county such as Lorain County with both urban and rural voters better serves its voters by accommodating their diverse work schedules and offering extended weekday and weekend voting hours. Moreover, given factory and other business closings in the area, many Lorain County residents are working more than one job or working nontraditional hours. I believe, given the nature of the voting population in Lorain County, its board of elections would best serve its public by offering extended weekday and weekend voting hours as provided in the motions made by Board Members Smith and Giardini.

The concerns raised by Board Chair Rousseau and Board Member Hurst regarding the burden on board staff may be ameliorated with skillful staff scheduling, the recruitment of temporary staff and adequate planning, all of which I believe from my own observations having personally visited this board, it is well able to do. I respectfully disagree that the statutory requirement for extended hours on the last day of registration is sufficient to meet the needs of all Lorain County electors whose needs may not be met by the maintenance of just normal weekday working hours.



**Decision**

For the foregoing reasons, I vote with Board Members Giardini and Smith in favor of the first motion, that is, to provide extended hours at the Lorain County Board of Elections office for an additional hour during each weekday (8:30 a.m. to 5:30 p.m.) during the in-person absentee voting period and from 8:30 a.m. to 12:00 p.m. on Saturdays from October 2 through October 30, 2010. Accordingly, the motion carries.

Further, I vote with Board Members Giardini and Smith in favor of the second motion, that is, to provide extended hours at the Lorain County Board of Elections office for two additional hours during each weekday (8:30 a.m. to 6:30 p.m.) during the in-person absentee voting period and from 8:30 a.m. to 12:00 p.m. on Saturdays from October 2 through October 30, 2010. Accordingly, the motion carries.

The Lorain County Board of Elections is hereby instructed to provide in-person absentee voting at the Board office from 8:30 a.m. to 6:30 p.m. on weekdays during the in-person absentee voting period and from 8:30 a.m. to 12:00 p.m. on Saturdays from October 2 through October 30, 2010, in accordance with these tie vote decisions. The hours specified in this decision do not prevent the board from adopting additional extended in-person absentee voting hours as the need may arise prior to the November 2, 2010 general election.

Sincerely,



Jennifer Brunner