



Via Electronic Mail

September 8, 2023

Brian Sleeth, Director
Shari Huff, Deputy Director
Warren County Board of Elections
520 Justice Drive
Lebanon, OH 45036

Re: Tie Vote Regarding Whether to Hold a Reconsideration Hearing

Dear Director Sleeth and Deputy Director Huff,

On August 16, 2023, the Warren County Board of Elections (the "Board") held its regular board meeting. Among the items discussed at this meeting, the Board voted 2-1, with one member being absent, to reject the nominating petition of Richard K. Hardin for the Village of Morrow Council seat on the upcoming November 7, 2023 General Election ballot.

On August 24, 2023, the Board held a meeting for the purpose of acting on a request for reconsideration submitted by Mr. Hardin. At this meeting, the Board tied by a vote of 2-2 on whether to hold a reconsideration hearing with Members Bethe Goldenfield and Kathlene Applegate voting for reconsideration and Chairman Jeff Monroe and Member Lori Viars voting against reconsideration. On August 28, 2023, the Board submitted all arguments for and against the motion for reconsideration in accordance with R.C. § 3501.11(X).

Preliminarily, while I am tasked with the duty to break ties in matters of substantive election law, there are certain limitations to this granted authority. See, [Chapter 2 of the Election Official Manual](#). Included in these limitations are issues that relate to the internal operations of the board and do not involve issues of substantive election law.

In the current matter, the Board has asked me to break a tie on whether to hold a reconsideration hearing. Under Ohio law, there is no legal requirement to hold a reconsideration hearing.¹ Instead, it is a decision of the individual Board to hold a reconsideration hearing.² However, when a Board determines that it will hold a

¹ See, *State ex rel. Combs v. Greene Cty. Bd. of Elections*, 158 Ohio St. 3d 70, 70.

² *Id.*

reconsideration hearing, the Board must consider all evidence presented to it.³

As the determination on whether to hold a reconsideration is permissive rather than a legally mandated requirement, this is a matter of local concern that the Board must resolve on its own. Therefore, I will be taking no further action on this matter at this time. I highly encourage the Board to engage in further dialogue between its members and the Warren County Prosecutor in coming to a determination as to how it will proceed.

If you have any questions regarding this decision, please contact Paul Disantis, Chief Legal Counsel at the Secretary of State's office at pdisantis@ohiosos.gov.

Yours in service,



Frank LaRose
Ohio Secretary of State

cc: Jeff Monroe, Chairman of the Warren County Board of Elections
Kathlene Applegate, Board Member
Bethe A. Goldenfield, Board Member
Lori Viars, Board Member

³ See, [Chapter 14 of the Election Official Manual](#), citing *Scott v. Franklin County Board of Election*, 139 Ohio St. 3d 171 (2014).