



# *The Voter*

THE LEAGUE OF WOMEN VOTERS OF DARKE COUNTY – JANUARY 2012  
[darkecounty.oh.lwvnet.org](http://darkecounty.oh.lwvnet.org)

Dues are due by  
July 1; do you still  
owe yours?

Please remit to:  
Marie Boas

102 Stonecress Ct.

Greenville, OH  
45331

548-9172

\$55.00 per person



## MEETINGS

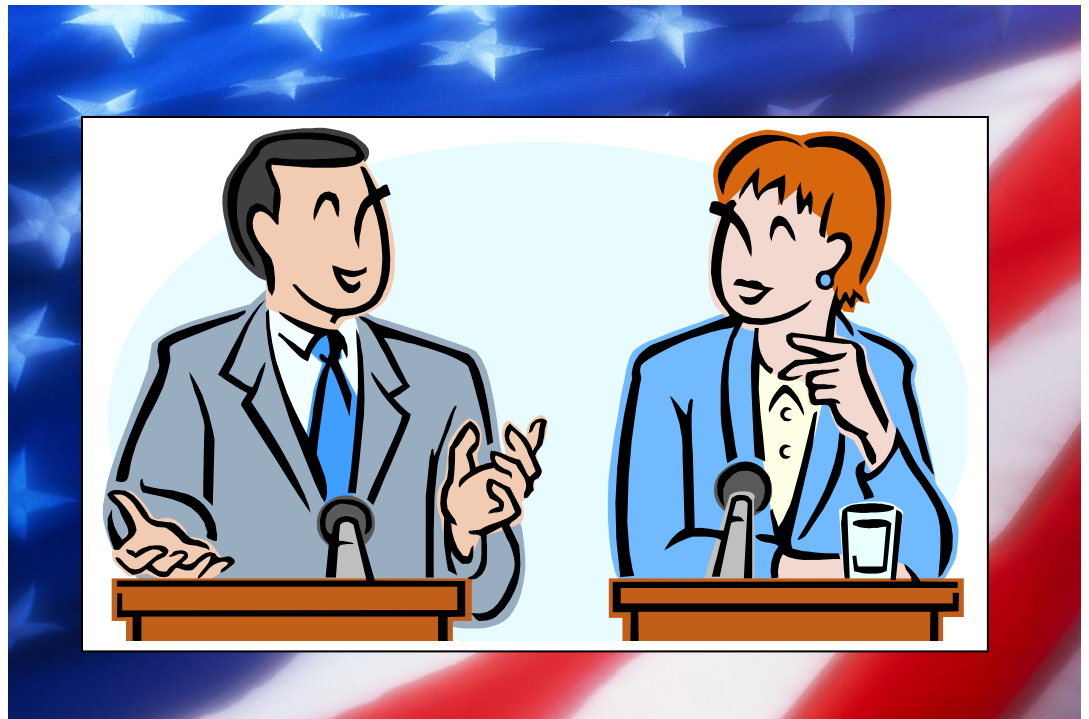
Usually held the  
first Tuesday  
evening of the  
month @

5:30 p.m. on  
the third floor  
of the  
Greenville  
Public Library.

Upcoming:

Feb. 7<sup>th</sup>

## CANDIDATES' NIGHT



Monday, February 27, 2012, 7:00 p.m.  
American Legion, 325 N. Ohio St., Greenville

### Races Featured:

Judge, Darke County Common Pleas,  
Probate/Juvenile Division—  
**Jason Aslinger and James S. Detling**

Darke County Clerk of Courts—  
**Cindy Pike and Amanda Farley**

Darke County Commissioner—  
**Diane L. Delaplane and Aaron J. Ward**



## **THE LEGAL FRAMEWORK OF TRANSPARENCY AND ACCOUNTABILITY WITHIN THE CONTEXT OF PRIVATIZATION: EXECUTIVE SUMMARY**

The legal frameworks within which public and private sector entities operate differ. One difference is that, unlike private entities, government entities are statutorily required to conduct their business through open, transparent processes to ensure that they are accountable to the citizenry. This modern practice of open government is viewed as both a key feature and a necessary condition of a contemporary democratic state. It is based upon the conviction that the people can only effectively exercise their constitutional role as overseers of government action where their unfettered rights of access to information about government operations are secure.

Public transparency laws thus have been enacted throughout the United States at both the federal and state level for the purpose of maintaining free and open access to the government's proceedings, deliberations, decision-making and records. Such laws include sunshine or open meeting laws, which seek to ensure that the public may observe the meetings and deliberations of government bodies, and freedom of information or public record acts, which seek to ensure public access to the documents and records of government.

Privatization raises particular issues with respect to transparency, however, because as a general matter, such transparency laws apply exclusively to public bodies, and not to private entities. Where the provision of government services are transferred into private hands, what then becomes of the public's right of access to information regarding the provision of those services?

Judicial and legislative efforts to address concerns regarding public transparency within the context of privatization have emerged over several years. Some state courts, for instance, have adopted a judicial doctrine that subjects a private contractor to the applicable transparency law when the contractor is performing a government function in such a manner that it may be deemed the "functional equivalent of the public body." In addition, state legislatures have been modifying their public accountability statutes over the years in order to make such laws applicable to certain private entities carrying out government functions. Public accountability advocates nonetheless are concerned that public access to information in the hands of private contractors often is frustrated when statutory language does not adequately cover the private entity or a court ruling is not obtained. Moreover, even when private contractors are subject to such laws, they often dispute it or are not aware of such requirements, and, thus, refuse to provide the information.

A recent example involves one of the nation's largest not-for-profit providers of community-based supervision and treatment services to individuals within the criminal justice systems. The company is 97 percent publicly funded from sources such as state departments of corrections and the federal prison bureau. Following revelations of certain unusual and high profile expenditures by the private contractor in Kentucky (including hundreds of thousands of dollars in stadium suites, sponsorship of a university basketball team and extravagant social events), the Kentucky state auditor sought to examine how its tax dollars were being spent. The private contractor, however, refused to provide the state auditor with the requested financial information, and neither the state

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public records law nor any decision by a state court required the contractor to provide the information. This case illustrates the importance of yet another approach to ensuring public accessibility of information and records in the hands of a private contractor: that is, using the bidding or contract negotiation process of the privatization deal itself to require agreement on the part of the private contractor to make all pertinent information available to the government agency with which it is contracting before any privatization of services is put in place.

Finally, this paper concludes with a call by accountability advocates for special transparency requirements to apply to any privatization proposal. The notion, here, is that government action to privatize is of such import and consequence that special (super) public accountability procedures should apply with respect to the initial privatization decision itself in order to ensure the proper constitutional role of the people as overseers of government action.

*Diane Dilanni*

This the beginning of one of the background papers included in the Privatization Consensus Study being conducted by the LWVUS. The deadline for filling in the online consensus form is May 1, 2012. Our local league will make a decision at our February Board meeting whether or not to take part in the study. If you want to read the background papers and you may find them at:

<http://www.lwv.org/member-resources/privatization>

## 2011-2012 CALENDAR

<p><u>SEPTEMBER</u> House Tour September 25<sup>th</sup></p> <p>Grossed-\$1,142.00 Netted-\$562.99</p>	<p><u>OCTOBER</u> <i>Pros &amp; Cons of SB 5</i> October 19<sup>th</sup></p> <p><i>Candidates Night</i> October 17<sup>th</sup> &amp; 24<sup>th</sup></p>	<p><u>NOVEMBER</u></p>	<p><u>DECEMBER</u> Christmas Party Dec. 6<sup>th</sup> Bistro Off Broadway</p>
<p><u>JANUARY</u></p>	<p><u>FEBRUARY</u> Ethics in Public Office February 23<sup>rd</sup> ??</p> <p>Candidates Night February 27<sup>th</sup></p>	<p><u>MARCH</u> Privatization Study ????</p>	<p><u>APRIL</u> "Glad Rags &amp; Old Bags" Fundraiser</p>
<p><u>MAY</u> Annual Meeting</p>	<p><u>JUNE</u></p>	<p><u>JULY</u></p>	<p><u>AUGUST</u> Membership Party</p>

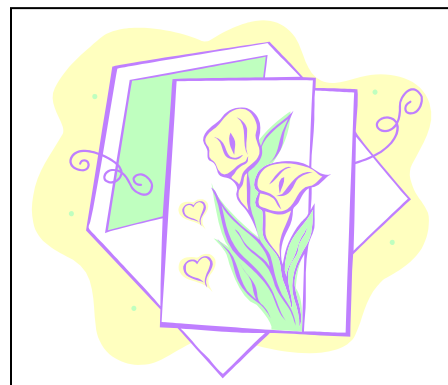
## GLAD RAGS AND OLD BAGS FUNDRAISER

APRIL 2012

### WANTED:



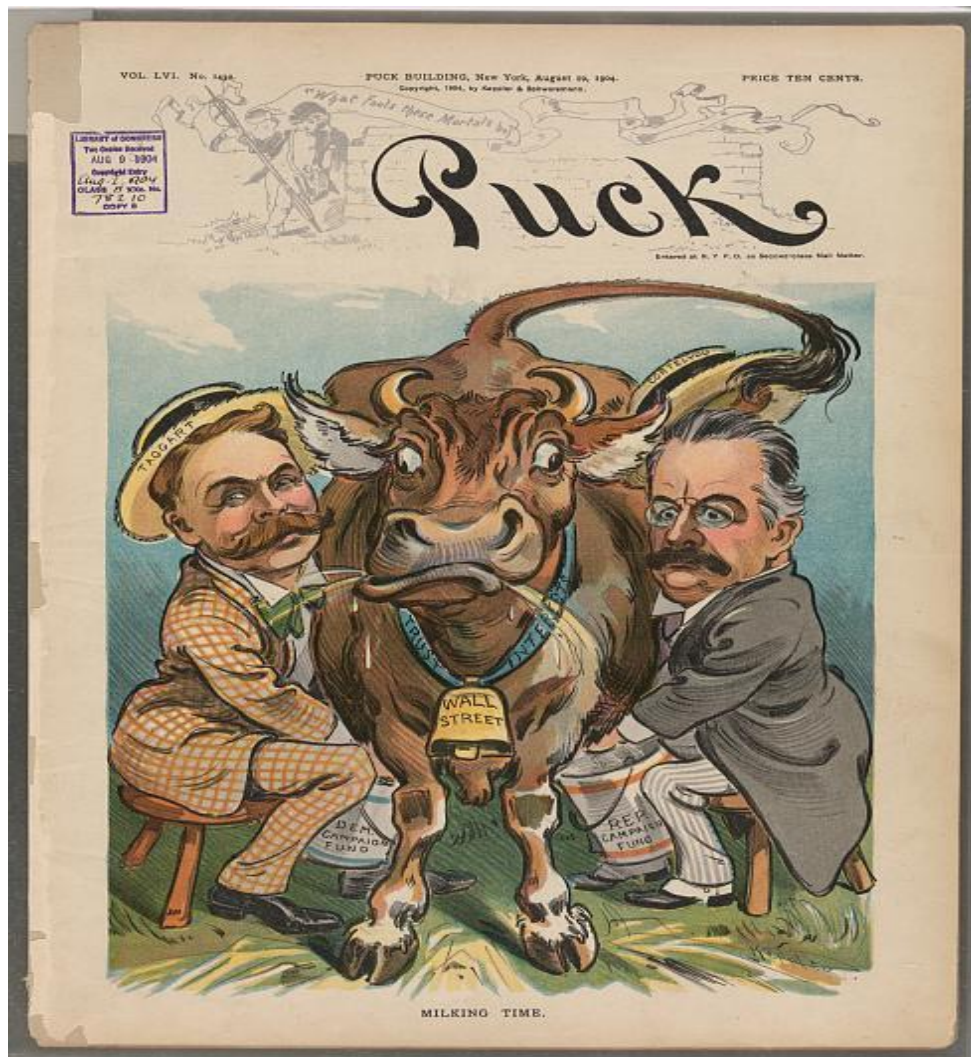
Gently-used purses and bags donated by our league members for the auction. Drop off at Finnarn's Law office or call 417-4483 for other arrangements. One or two will be plenty.



We also need the names and addresses of 3 women from each of our 34 members (two who happen to be men). These will be used for inviting our friends to this *fun*-draiser. Send your suggestions to: [finnthom@copper.net](mailto:finnthom@copper.net) .

We've got a great afternoon planned, starting with an auction of many great prizes and surprises, a style show, raffles, food and intelligent conversation.

LWV of Darke County  
P.O. Box 745  
Greenville, OH 45331



SOME THINGS NEVER CHANGE! Aug. 1904