

State Board of Elections
FINAL Meeting Minutes
Tuesday, October 29, 2019

1 The State Board of Elections (“the Board”) meeting was held on Tuesday, October 29,
2 2019, in the Virginia State Capitol, Senate Room 3, in Richmond, Virginia. In attendance:
3 Robert Brink, Chairman, John O’Bannon, Vice Chairman, and Jamilah LeCruise, Secretary,
4 represented the State Board of Elections (“the Board”). Christopher E. “Chris” Piper,
5 Commissioner, and Jessica Bowman, Deputy Commissioner, represented the Department of
6 Elections (“ELECT”). Carol L. Lewis and Heather Hays Lockerman represented the Office of
7 the Attorney General (“OAG”). Chairman Brink called the meeting to order at 1:00 P.M.

8 The first order of business was for the Board to approve minutes for the September 17,
9 2019 meeting, presented by Secretary LeCruise. The Vice Chair *moved that the Board approve*
10 *the minutes from the September 17, 2019 meeting.* Secretary LeCruise seconded the motion, and
11 the motion passed unanimously.

12 The next order of business was the Commissioner’s Report, presented by Commissioner
13 Piper. The Commissioner informed the Board that the number of absentee ballots cast by this
14 point prior to an election increased by 20,000 as compared to the November 2015 general
15 election. Commissioner Piper introduced new employees of ELECT including Audrey Walker,
16 Administrative Supervisor; Tanya Pruett, Senior Registrar Liaison; Michael Dixon, E-Learning
17 Specialist; Mike Gilbert and EB Davis, List Maintenance Data Analysts; Melanie Gilmer,
18 Procurement Officer; Ronald Jackson, System Support Analyst, and Matthew Fritz, Geospatial
19 Data Analyst. Chairman Brink then introduced Carol Lewis, Assistant Attorney General.

20 The next order of business was the 2019 Delegations of Authority, presented by Dave
21 Nichols, Director of Elections Services. *This report is in the Working Papers for the October 29,*
22 *2019 meeting.* Secretary LeCruise moved *that the Board approve the amended 2019 Delegations*

23 *of Authority, including forms, from the State Board of Elections to the Department of Elections,*
24 *pursuant to the Virginia Administrative Process Act, and further moved that all prior*
25 *Delegations of Authority be rescinded.* Vice Chair O'Bannon seconded the motion, and the
26 motion passed unanimously. Commissioner Piper suggested deferring item C on the agenda, the
27 Recounts Suite, until the next Board meeting, to which Chairman Brink agreed.

28 The next order of business was the Stand by Your Ad - Consideration of Anonymous
29 Complaints, presented by Arielle A. Schneider, Policy Analyst. Ms. Schneider informed the
30 Board that the memo in the Board materials provided information on Stand by Your Ad
31 ("SBYA") anonymous complaints and a breakdown of the number of complaints brought to the
32 Board over the past three years. *This report is in the Working Papers for the October 29, 2019*
33 *meeting.* She informed the Board that for purposes of this analysis, SBYA complaints were
34 divided into three different categories (complaints received anonymously, complaints received
35 via FormSite where the complainant requested their information be kept private, and complaints
36 submitted by named persons). Ms. Schneider stated that the memo shows a percentage-based
37 breakdown of how many complaints result in the Board assessing a penalty and how many are
38 dismissed for not containing a violation, not reporting an advertisement that expressly advocates
39 for the election or defeat of a candidate, or regarding yard signs published or purchased prior to
40 2015.

41 Ms. Schneider stated that ELECT re-wrote the SBYA-complaint operating procedures to
42 accept anonymous complaints in response to a directive from the previous State Board of
43 Elections. In concert with these changes, ELECT initially provided complainants the option of
44 indicating that their information should be kept private, but as government records, complainant

45 contact information would not be redacted if requested through the Freedom of Information Act.
46 Accordingly, ELECT removed this option from its FormSite application in May 2019, shortly
47 after introducing the Anonymous complaint form, to avoid confusion between anonymous and
48 non-anonymous complaints. Chairman O'Bannon asked Ms. Schneider what the statute says
49 regarding anonymous complaints. Ms. Schneider referred the Board to and read the Code of
50 Virginia § 24.2-955.3(D), which states "The State Board, in a public hearing, shall determine
51 whether to find a violation of this chapter and to assess a civil penalty." Commissioner Piper
52 noted that the General Assembly wants the Board to decide every complaint that is received in a
53 public hearing.

54 Vice Chair O'Bannon asked whether the respondent is notified when someone sends a
55 complaint anonymously. Ms. Schneider stated that a respondent is notified in advance of the
56 meeting at which the Board would consider the complaint. She added that any person, or
57 respondent can request information on the source of the complaint, and any relevant records
58 would be provided unredacted. However, if a complaint is truly anonymous, ELECT would only
59 have the evidence of a violation provided, but those records would not identify the complainant.
60 Secretary LeCruise commented that anonymous complaints and other unnamed evidence is
61 rarely permitted in other contexts including within the court system. Vice Chair O'Bannon
62 *moved that ELECT provide a proposal to remove anonymous complaints from the SBYA process.*
63 Chairman Brink seconded the motion, and the motion passed unanimously.

64 The next order of business was the Certification of a Pilot for Essex County, presented by
65 Commissioner Piper. *This report is in the Working Papers for the October 29, 2019 meeting.*
66 Vice Chair O'Bannon moved *that the Board approve Essex County to pilot the election software*

67 *“Verity 2.3” for experimental use in the November 2019 General Election.* Secretary LeCruise
68 seconded the motion, and the motion passed unanimously.

69 The next order of business was the Candidate Filings for Special Elections, presented by
70 Samantha Buckley, Policy Analyst. *This report is in the Working Papers for the October 29,*
71 *2019 meeting.* Secretary LeCruise moved that the Board approve the Department’s proposal for
72 *regulatory action and put forward IVAC-20-50-50 for public comment.* Vice Chair O’Bannon
73 seconded the motion, and the motion passed unanimously. Vice Chair O’Bannon moved that the
74 *Board adopt Policy 2019-001 regarding Candidate Filings for Special Elections.* Secretary
75 LeCruise seconded the motion, and the motion passed unanimously.

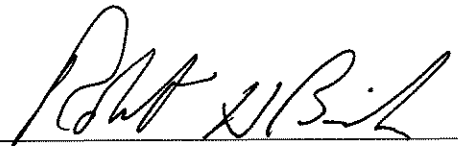
76 The next order of business was the Advisory Review Workgroup Resolution presented by
77 Chairman Brink. *This report is in the Working Papers for the October 29, 2019 meeting.*
78 Chairman Brink opened the floor to public comment. Robin Lind, former Secretary of the GREB
79 Workgroup, Clara Belle Wheeler, former member of the State Board of Elections, David Bailey
80 on behalf of the Voter Registrars Association of Virginia, Katie Boyle on behalf of the Virginia
81 Association of Counties and Mitchell Smiley, with the Virginia Municipal League all addressed
82 the Board. Chairman Brink informed the Board that the amended Resolution adds language that
83 recognizes the former Workgroup’s previous contributions to the election process and the
84 Commonwealth, and authorizes the new Workgroup to advise the Board on community issues or
85 concerns, facilitate continuity in operations and expand the number of citizen members. Vice
86 Chair O’Bannon moved that the Board adopt the amendment in the nature of a substitute.
87 Secretary LeCruise seconded the motion, and the motion passed unanimously. Secretary

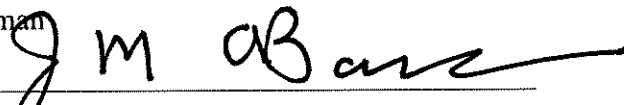
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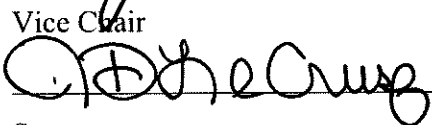
88 LeCruise moved *that the Board adopt the Resolution as amended*. Vice Chair O'Bannon
89 seconded the motion, and the motion passed unanimously.

90 Chairman Brink opened the floor to Public Comment. Robin Lind thanked the Board for
91 adding the amendments to the Resolution.

92 Chairman Brink then moved to adjourn the meeting. Vice Chair O'Bannon seconded the
93 motion, and the motion passed unanimously. The meeting was adjourned at approximately 2:07
94 PM.

95
96  _____

97 Chairman  _____

98
99 Vice Chair
100  _____

101 Secretary

AMENDMENT IN THE NATURE OF A SUBSTITUTE

RESOLUTION OF THE VIRGINIA STATE BOARD OF ELECTIONS REGARDING THE ESTABLISHMENT OF THE ADVISORY REVIEW WORKGROUP FOR THE PURPOSE OF STUDYING AND MAKING RECOMMENDATIONS ON SPECIFIC MATTERS RELATING TO THE ELECTIONS PROCESSES OF THE COMMONWEALTH

WHEREAS, elections are the foundation of the government of the Commonwealth of Virginia;

WHEREAS, under the Code of Virginia, the State Board of Elections (the "Board"), through the Department of Elections (the "Department"), is required to "supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections";

WHEREAS, the workgroup established by the Board on May 14, 2014 (the "GR/EB Duties Workgroup") has provided valuable input to the Board and Department during the past five years; and

WHEREAS, the input of local elections officials, local government officials, and citizens involved in the Commonwealth's elections processes will assist the Board in discharging its responsibilities; now, therefore be it:

RESOLVED that the Advisory Review Workgroup (the "Workgroup") is established to, upon request of the Board, study and make recommendations on specific matters relating to the elections processes of the Commonwealth.

The Workgroup may not undertake any activity other than an activity carried out in furtherance of a request of the Board; however, the Workgroup may suggest issue areas for the Board to consider.

The Board shall appoint the membership of the Workgroup, which shall be composed of—

- (1) three individuals who are members of, and recommended by the President of, the Voter Registrars Association of Virginia;
- (2) three individuals who are members of, and recommended by the President of, the Virginia Electoral Board Association;
- (3) one individual who is a member of, and who is recommended by the President of, the Virginia Association of Counties;
- (4) one individual who is a member of, and who is recommended by the President of, the Virginia Municipal League; and
- (5) five individuals who shall serve as citizen members.

The Board shall designate a member of the Workgroup to serve as the Chair of the Workgroup, and the Workgroup shall designate a member of the Workgroup to serve as the Secretary of the Workgroup.

Any vacancy occurring in the membership of the Workgroup shall be filled by the Board in the same manner as the original appointment.

The Workgroup shall meet as necessary to fulfill the requests of the Board.

The Workgroup shall submit to the Board an annual report of the activities carried out by the Workgroup.

Not later than April 1, 2020, the Workgroup shall submit to the Board bylaws, subject to approval by the Board, under which the Workgroup shall carry out its duties and that shall include the plan of the Workgroup, developed in consultation with the Commissioner of the Department, to carry out administrative functions of the Workgroup.

The GR/EB Duties Workgroup shall terminate on the date on which it submits its final report to the Board or on January 15, 2020, whichever occurs first.

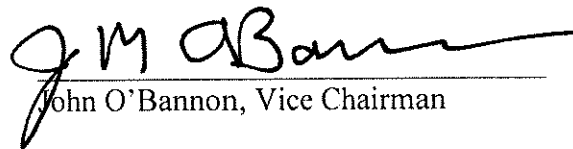
This resolution shall become effective immediately.

This resolution shall expire on February 1, 2023.

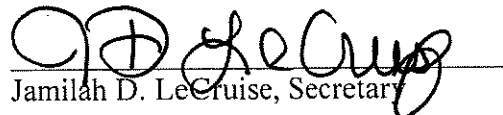
Adopted this 29th day of October, 2019.



Robert H. Brink, Chairman



John O'Bannon, Vice Chairman



Jamilah D. LeCruise, Secretary