

MINUTES

OF THE STATE ELECTION BOARD AT ITS MEETING

December 16, 2020

The State Election Board met in a **Special** meeting at 9:30 A.M. in Room G41, (SEB Multipurpose Room), Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, OK 73105. Advance notice of the Special meeting was performed by filing a written notice with the Secretary of State on December 11, 2020, at 4:28 P.M. A copy of the amended agenda is attached.

The Special meeting was made available for viewing by the press and the general public online at the following Live Broadcast Link:
<https://www.ok.gov/elections/livestream.html>.

Meeting was called to order at 9:41 A.M. by **Chairman Montgomery**

ROLL CALL: THOMAS MONTGOMERY- **Present**
TIM MAULDIN- **Absent**
HEATHER CLINE- **Present**
JERRY BUCHANAN, REP. ALT.- **Present** (in for Ms. Cline, if needed)

Also present was Oklahoma Assistant Attorney General Thomas Schneider, who is also legal counsel to the State Election Board.

BUSINESS CONDUCTED AT THE MEETING

1. Call to Order, roll call, determination of quorum, and certification of Open Meeting Act compliance.
2. **BUSINESS CONDUCTED:** Discussion and possible action regarding the minutes of the meeting held November 10, 2020. **ACTION TAKEN:** Ms. Cline moved that the minutes of the meeting held on November 10, 2020, be approved. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0. (Minutes attached)
3. **BUSINESS CONDUCTED:** Discussion and possible action regarding the resignation of Jerry Marcum as the alternate Democrat Board member of the Caddo County Election Board. **ACTION TAKEN:** Mr. Montgomery moved that by unanimous consent, without objection, the Board acknowledge the resignation of Jerry Marcum as the alternate Democrat Board member of the Caddo County Election Board. Ms. Cline seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0. (Resignation attached)
4. Adoption of Rules of Procedure for Hearings - Review, discussion, and possible action regarding the adoption of Rules of Procedure for Hearings. Mr. Schneider discussed Rules of Procedure and urged their possible adoption. **ACTION TAKEN:** Ms. Cline moved that the Rules of Procedure, as presented, be adopted for the Contest of Candidacy hearing. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.
5. Initial announcements from SEB Chairman and SEB Counsel regarding contests of candidacy, contest procedure. **ACTION TAKEN:** Chairman Montgomery delegated his authority to preside over the meeting and handed over the gavel to SEB Counsel Schneider, by unanimous consent, without objection.
6. Docket Call. Petitioner Rob Johnson and Counsel Robert McCampbell were present for Cause No. 2020-14, Johnson v. Matthews. Petitioner Darrick Matthews and Counsel A.J. Ferate were present for Cause No. 2020-15, Matthews v. Johnson. Both sides presented cashier's checks for \$250, as required by 26 O.S. 2011, § 5-129, and were considered to be in order by Mr. Schneider. He announced that constructive service was made on the State Election Board for Contestee Johnson. Counsel McCampbell objected, stating that personal service was not made by the sheriff on Contestee Johnson in Cause No. 2020-15.

7. **Hearing and Decision** - *In the Matter of the Contest of Candidacy of Darrick Matthews for the Office of State Senator, District 22, Johnson v. Matthews*, Cause No. 2020-14.

Matthews' Counsel Ferate presented Contestee Matthews' Answer. Opening Statement by Petitioner's Counsel McCampbell, who has four exhibits. McCampbell alleges Contestee is not a resident of State Senate District 22. Counsel Ferate would not agree to stipulate to the accuracy of State Election Board and County Election Board documents offered as exhibits by Counsel McCampbell. Ferate said Matthews was just trying to help his elderly grandmother, and did not intend to change his official voter registration. Counsel McCampbell alleged Contestee Matthews' effort to re-register was actually his effort to position himself to run for State Representative in House District 39. **ACTION TAKEN:** Mr. Schneider gave Board members the law and his charge. Ms. Cline moved to enter into Executive Session. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to enter into Open Session. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to sustain the Petition and to strike Contestee Darrin Matthews' name from the ballot. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to authorize SEB Counsel Schneider to prepare the official Findings and Order in this Cause. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

At 11:51 A.M., Mr. Montgomery moved to take a 30-minute recess for lunch. Ms. Cline seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

At 12:36 P.M., Ms. Cline moved to reconvene the hearing. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

8. **Hearing and Decision** - *In the Matter of the Contest of Candidacy of Rob Johnson for the Office of State Senator, District 22, Matthews v. Johnson*, Cause No. 2020-15.

Petitioner's Counsel Ferate alleges Contestee Johnson does not live in Senate District 22, but rather in a building on his boss' property in Senate District 47. Contestee's Counsel McCampbell said Oklahoma law says residency depends on the intent of the voter. He explained that Mr. Johnson served as the State Senator for District 22 for eight (8) years. Counsel McCampbell said the Contestee has always intended to be a resident of Senate District 22. Witnesses were called and exhibits introduced. Mr. Schneider sustained McCampbell's position that one witness, Kelly Barlean, can testify as to facts, but not to any legal conclusions. Ferate provided several documents providing evidence that Contestee Johnson may also live at 401 N.W. 149th Terrace in the Fenwick Addition, outside Senate District 22. Counsel Ferate called Petitioner Matthews as a witness. He was sworn. Following his testimony, a discussion ensued about what efforts were made to serve Contestee Johnson with the Notice of Hearing. Counsel McCampbell objected and moved to disallow Petition due to lack of service by sheriff on the Contestee. Overruled by Mr. Schneider. McCampbell said Contestee Johnson has been registered to vote continuously in State Senate District 22 since 1992. The Fenwick house, McCampbell said, is owned by Johnson's ex-wife and was inside the new Senate District 22, after district boundaries were redrawn following redistricting in 2011. McCampbell said the guest house on Contestee's boss' property in which Johnson now lives

is a rental. Contestee intends to purchase a home inside the Senate District 22 boundaries, Counsel said. Board members asked Contestee Johnson a number of questions. Closing statements were made by both sides. McCampbell continued his argument that service on Johnson was not made. He also said this second Cause should be dismissed due to standing since Matthews was stricken from the ballot in the prior Cause. **ACTION TAKEN:** Mr. Schneider gave Board members the law and his charge. Ms. Cline moved to enter into Executive Session. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to reconvene the Open Session. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to deny a lack of standing for the Petitioner to file the present Cause No. 2020-15. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to sustain the Petition and to strike Contestee Rob Johnson's name from the ballot. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

Ms. Cline moved to authorize SEB Counsel Schneider to prepare the official Findings and Order in this Cause, consistent with the findings of this Board. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0.

9. **BUSINESS CONDUCTED:** Discussion regarding the scheduling of future meetings and requests for items to be placed on future agendas. **ACTION TAKEN:** The next meeting will be a Special meeting on February 16, 2021, at 5 P.M. to discuss and possibly certify the Democrat and Republican Primary Elections held on Feb. 9 for State Senator, District 22.
10. **BUSINESS CONDUCTED:** Motion to adjourn. **ACTION TAKEN:** Ms. Cline moved to adjourn until the next meeting. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Ms. Cline-aye; Motion passed, 2-0. The meeting was adjourned at 3:10 P.M.

STATE ELECTION BOARD

Mr. Montgomery, Chairman

Dr. Mauldin, Vice-Chairman

Ms. Cline, Member

Mr. Gerald Buchanan, Republican Alternate

Ms. Debi Thompson, Democrat Alternate