



# DURHAM COUNTY Board of Elections

## DURHAM COUNTY BOARD OF ELECTIONS

### Minutes of Board Meeting

Friday, November 13, 2020 11:00 A.M.

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#### **Members Present**

Phil Lehman, Chairman  
Michael Gray, Secretary  
Pamela Oxendine, Member  
Gregory Irby, Member (Via Zoom)  
Dawn Baxton, Member

#### **Staff Present**

Derek Bowens, Elections Director  
Brenda Baker, Deputy Director  
Daniel Lassiter, Elections Manager  
James Graves, Elections Systems Specialist  
Alan Resley, Absentee Coordinator  
Erin Lewandowski, Training and Compliance Specialist  
Casey Horvitz, Training and Compliance Manager

**County Officials Present:** Willie Darby, County Attorney

**Audience Members Present:** See attendance log.

#### **Meeting opening**

Chairman Lehman called the meeting to order at 11:08 a.m. and led the Pledge of Allegiance.

#### **Approval of Agenda**

Mr. Bowens presented the Board with the agenda for the meeting. Following review, Ms. Baxton moved to approve the agenda and all approved, 5-0.

## **Public Comment and Questions**

Comments and questions were made by members of the public via the public comment portal and in-person.

## **New Business**

### a. Absentee Challenge Hearings

- Mr. Bowens provided the Board with a summary of 69 applications found to be deficient in an audit conducted by staff. Of the 69, nine voters remained deficient.
- The challenges to three voters' applications who cured their deficiencies were overruled, the remaining 66 were sustained. Mrs. Oxendine moved to sustain the first challenge and Ms. Baxton moved to sustain or overrule the remaining challenges. All motions were approved, 5-0.
- Mr. Bowens provided the Board with a summary of 26 regular challenges. All 26 challenges were sustained. Of the twenty-six, 17 were wrong voters, three were unsigned same day registrations, one was a notice of deceased voter, one was removed for moved within state, two were spoiled due to a label mix-up and two were absentee ballots that went into the tabulator at a one-stop site. Ms. Baxton moved to sustain all 26 challenges. All motions were approved by all, 5-0.
- A list of all sustained and overruled challenges will be attached to these minutes.

### b. Closed Session

- Chairman Lehman moved for the Board to meet in closed session as allowed under N.C. Gen. Stat. §§ 143-318.11(a)(1) and 143-318.11(a)(7). The Board met in closed session from approximately 3:31 p.m. to 4:35 p.m. At the end of the closed session, the Board returned to open session.

### c. Preliminary Consideration of Protest (N.C. Gen. Stat. 163-182.10(a)(1))

- The protest was filed by NC Supreme Court Justice Paul Newby.
- Valerie Johnson was present on behalf of Cheri Beasley and Heather Ford for Paul Newby.
- Chairman Lehman provided a summary of the claims filed on behalf of the candidates.
  - i. Absentee-by-mail ballots that were received after the statutory deadline of November 6<sup>th</sup> were inappropriately approved and tabulated.
  - ii. Absentee-by-mail ballots that were received after November 3<sup>rd</sup> without a postmark were inappropriately approved and tabulated.
  - iii. Approximately 351 ballots that did not meet statutory requirements were inappropriately approved and tabulated.
- Administrative code indicates that a filing must contain evidence of an outcome determinative defect, which was not provided. Ms. Baxton moved to dismiss the protest on the grounds that it failed to establish probable cause or violations of the election law. The motion was approved by all, 4-0. The protest was dismissed. Mr. Irby was not present for this portion of the meeting.

d. Consideration of Timely Absentee Cure Certifications

- Mr. Bowens presented the Board with two supplemental absentee applications that were cured timely. Mrs. Oxendine moved to approve both applications. The motion was approved by all, 4-0. Mr. Irby was not present for this portion of the meeting.
- Mr. Bowens presented a one-stop application to the Board for a voter that had an accepted cure for an Absentee-by-Mail application. After review, Mrs. Oxendine moved to remove the one-stop ballot consistent with guidance from the State Board of Elections on double voters. The motion was approved by all, 4-0. Mr. Irby was not present for this portion of the meeting.

e. Canvass of the 2020 General Election

- The Board executed all required documentation prior to reviewing the consolidated results for certification. After the review of Canvass documents, Chairman Lehman moved to approve the certification of the November 3, 2020 General Election. The motion was approved by all, 5-0. Mr. Irby was present online for the canvass of the results.

**General Discussion**

There was no general discussion.

**Adjournment**

The Board adjourned at approximately 9:32 p.m. on a motion made by Ms. Baxton. The motion was approved by all, 4-0. Mr. Irby was not present for this portion of the meeting.



Michael H. Gray, Secretary