

## Minutes of the New York State Board of Elections

October 4, 2021

The meeting of the Commissioners of the New York State Board of Elections was held at the office of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5<sup>th</sup> Floor Conference Room and was called to order at approximately 12:37 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Peter Kosinski, Andrew Spano, and Anthony Casale. Staff members present were Kristen Zebrowski Stavisky, Todd Valentine, Brian Quail, Kim Galvin, Nicholas Cartagena, William McCann, Tom Connolly, Brendan Lovullo, John Conklin, Cheryl Couser, Bill Cross and Michael Johnson.

**Minutes from August 30, 2021** - Minutes were approved as written. The motion was approved unanimously (Commissioners Casale, Kellner, Kosinski and Spano voting in the affirmative; 4 Yes and 0 No).

### Unit Updates:

**Executive** – Todd Valentine and Kristen Zebrowski Stavisky reported on several items including:

- Attended and presented at the Elections Commissioner’s Association (ECA) conference.
- Participated in biweekly meetings with Division of Budget (DOB), Public Campaign Finance Board, Enforcement, Office of General Services (OGS) and Executive branch.
- Sent written guidance to Counties on acceptable absentee ballots and cures, parolee voter registration and COVID.

**Election Operations** – Tom Connolly reported that the Election Operations unit is working on several ongoing issues including:

- Developed materials to provide to Counties to accompany State’s guidance, including sample ballot layouts; access to the audio translations for ballot marking devices; and guidance related to the Voter Friendly Ballot Act.
- Received a formal application from Dominion for new voting system to be submitted.
- Meeting with IT to discuss requirements for proposed absentee tracking system.

**Legal** – Kim Galvin and Brian Quail reported on activities related to the Counsel/Compliance unit including:

- Litigation update.
- Compliance statistics.
- Participated in issuing guidance on the changes to the law of Felony Forfeiture voter registration.

**Enforcement** – Michael Johnson reported on the Enforcement Division:

- Judgment collection update.
- Discussion of current back log of complaints, inquiries and how to handle thousands of non-filers with seven Hearing Officers.

**PIO/NVRA** – John Conklin reported that the PIO/NVRA unit is working on several issues:

- Continued working group meetings for automatic and online voter registration projects as well as with IT and Compliance on the Public Reporting page.
- Working with five counties who have not completed paperwork for the Cyber Remediation Grant.
- Finalizing the publication of the five ballot proposals in various newspapers around the state for November’s general election.

**ITU** – Bill Cross reported on projects IT is working on:

- Evaluating the four responses received for the RFP for Online Voter Registration (OVR) and Automatic Registration (AVR).
- Working with space planning.
- Finalizing with OGS the contracts for security systems provided to counties we already support.

**Old Business:**

- N/A

**New Business:**

- VOTE on Resolution 21-16 to close a Fair Campaign Code complaint without holding a hearing. The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).
- VOTE on Resolution 21-17 to appoint a member of Division of Election Law Enforcement to Special Investigator. The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).
- MOTION to adjourn. The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Casale voting in the affirmative; 4 Yes and 0 No).

Next meeting scheduled for December 14, 2021.

The meeting was adjourned at approximately 1:47 p.m.



**New York State Board of Elections**

**APPROVED RESOLUTION 21-16**

**Resolution Adopting Staff Reports Recommending Dismissal  
of Fair Campaign Code Complaints *Rossi v Bassett I* and *Rossi v Bassett II***

**WHEREAS**, pursuant to Election Law § 3-106 and 9 NYCRR 6201 John Rossi filed two Fair Campaign Code Complaints on July 21, 2021 and September 7, 2021; and

**WHEREAS**, *Shwartz v. Vanasco*, 401 F. Supp 87 (1976), *affd* 423 US 1041 (1976), provides that statements made in the political context are sanctionable under the Fair Campaign Code only when made with “actual malice;” and

**WHEREAS**, the staff reports (attached) demonstrate that the allegations alleged on their face do not meet the actual malice standard,

**NOW THEREFORE BE IT RESOLVED:** that the staff reports are adopted, no hearing is directed to be held, and the FCC complaints in *Rossi v Bassett I* and *Rossi v Bassett II* are closed.

Approved October 4, 2021

VOTE: 4 YES – 0 NO



**New York State Board of Elections**

**APPROVED RESOLUTION 21-17**

**RESOLUTION APPOINTING MEMBERS OF THE DIVISION OF ELECTION  
LAW ENFORCEMENT SPECIAL INVESTIGATORS PURSUANT TO  
ELECTION LAW § 3-107**

**WHEREAS**, the state board of elections chief enforcement counsel, established pursuant to Election Law section 3-100, shall conduct all investigations necessary to enforce the provisions of the Election Law, and

**WHEREAS**, Michael Johnson has been chosen by the Governor and confirmed by the NYS Senate and Assembly pursuant to Election Law § 3-100 (3-a), and

**WHEREAS**, Michael Johnson has appointed investigators to assist him in the investigations conducted in his Division, and

**WHEREAS**, Election Law § 3-107 states that special investigators shall have all the powers of a peace officer as set forth in Criminal Procedure Law section 2.20 for the purpose of enforcing the provisions of the Election Law, and

**WHEREAS**, Peace Officer designation makes numerous investigatory tools available to the Division of Election Law Enforcement which are not available without such designation, and

**WHEREAS**, Election Law § 3-107 confers upon the state board of elections authority to appoint special investigators to take charge of the investigation of cases arising under the election law,

**NOW, BE IT RESOLVED**, that the following are appointed special investigators pursuant to Election Law § 3-107 –

MICHAEL JOHNSON

GENEVRA CUSHMAN

**Approved October 4, 2021**

**VOTE: 4 YES – 0 NO**