STATE OF MICHIGAN
DEPARTMENT OF STATE
JOCELYN BENSON, SECRETARY OF STATE

BOARD OF STATE CANVASSERS MEETING

7710 West Saginaw Highway, Lansing, Michigan

Tuesday, January 28, 2020, 2:00 p.m.

BOARD: MS. JEANNETTE BRADSHAW - Chair
MR. AARON VAN LANGEVELDE - Vice Chair
MR. NORMAN SHINKLE - Board Member
MS. JULIE MATUZAK - Board Member
MR. JONATHAN BRATER - Elections Staff
MS. MELISSA MALERMAN - Elections Staff

APPEARANCES:
For the State: MS. HEATHER S. MEINGAST (P55439)
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1. Notice of meeting and affidavit of posting . . . . 4

2. Consideration of meeting minutes for approval (12/27/2019 meeting) . . . . . . . . . . . . . . . . . . . . . 4

3. Consideration of the 100-word summary of the purpose of the initiative petition sponsored by Fair and Equal Michigan, PO Box 10030, Lansing, MI 48901. The proposed petition summary prepared by the Director of Elections on January 24, 2020 reads:

An initiation of legislation to amend Section 103 of the Elliott-Larsen Civil Rights Act, Public Act 453 of 1976, MCL 37.2103. The Elliott-Larsen Civil Rights Act prohibits discriminatory practices, policies, and customs in the exercise of civil rights. It prohibits discrimination in employment, housing, public accommodations, public service, and education because of sex, religion, or eight other reasons. Section 103 of the Act does not define "sex" or "religion." If enacted, the proposed initiated law would define "sex" as including gender, sexual orientation, and gender identity or expression; and would define "religion" as including the religious beliefs of an individual.

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4. Consideration of the form of the initiative petition submitted by Fair and Equal Michigan . . 26

5. Consideration of proposed de minimis changes to the ES&S Voting System. (The proposed changes
would update firewall firmware to address a potential vulnerability, add a second source to the system firewall for e-transmission of unofficial results, and upgrade the cradle point
router firmware to add an additional layer of security for wireless e-transmission of unofficial results.)

6. Recording the results of the special primary election held January 7, 2020 to determine the Democratic and Republican Party nominees for the office of the State Representative.

7. Such other and further business as may be properly presented to the Board.
Lansing, Michigan
Tuesday, January 28, 2020 - 1:58 p.m.

MS. BRADSHAW: We will call this meeting of the Michigan Board of State Canvassers to order. I want to make sure that our meeting and Affidavit of Posting was done correctly?

MR. VAN LANGEVELDE: That's you.

MR. BRATER: Yes, it was.

MS. BRADSHAW: Yes, it was? All right. So now we'll go on to a consideration of the meeting minutes for approval from our meeting that was held on December 27th, 2019.

MS. MATUZAK: I'll move in support of the minutes as printed.

MR. SHINKLE: Support.

MS. BRADSHAW: It's been moved and supported. Is there any other discussion? Hearing none, all those in favor say, "Aye."

ALL: Aye.

MS. BRADSHAW: All right.

(Whereupon motion passes at 1:59 p.m.)

MS. BRADSHAW: We'll move on to number 3, consideration of the 100-word summary of the purpose of the initiative petition sponsored by Fair and Equal Michigan, PO Box 10030, Lansing, Michigan 48901. The proposed petition
summary prepared by the Director of Elections on January 24th, 2020. And, Director Brater, would you like me to read this?

MR. BRATER: If you would like, or I'm happy to.

MS. BRADSHAW: I can do it. I might as well.

"An initiation of legislation to amend Section 103 of the Elliott-Larsen Civil Rights Act, Public Act 453 of 1976, MCL 37.2103. The Elliot-Larsen Civil Rights Act prohibits discriminatory practices, policies, and customs in the exercise of civil rights. It prohibits discrimination in employment, housing, public accommodations, public service, and education because of sex, religion, or eight other reasons. Section 103 of the Act does not define 'sex' or 'religion.' If enacted, the proposed initiated law would define 'sex' as including gender, sexual orientation, and gender identity or expression; and would define 'religion' as including the religious beliefs of an individual."

MR. BRATER: Would you like me to --

MS. BRADSHAW: Yeah, it's your turn.

MR. BRATER: Sure. Thank you very much, Members of the Board. I'm happy to describe the thinking behind this definition. I know that the sponsors have some additional alternative language they would like to propose. The petition would essentially add definitions to the terms
"sex" or "religion" under Section 103 of the Act. Currently the Act does prohibit discrimination on the basis of sex and discrimination on the basis of religion, but those terms are not defined. So what the Act would do is add definitions that include specifically gender, sexual orientation, gender identity or expression. For sex and for religion, it would include the religious beliefs of an individual.

The primary purpose of this definition is to provide context for what -- you know, what parts of the Act are being amended and how. So that is -- you know, we have a couple words to spare. It's at 95 words in its current form and, again, I know that the sponsors have proposed different wording, which I think they would probably want to present to the Board.

MS. BRADSHAW: That I think we'll go to. I have two people who wish to speak. And I will start with Steven Liedel, which I hope I pronounced that correctly. And then after that I've got Charles Schott.

MR. LIEDEL: Thank you, Madam Chair and members of the Board.

MS. BRADSHAW: Steven, if you can spell and -- state and spell your first and last name.

MR. LIEDEL: Sure.

MS. BRADSHAW: And you are licensed to practice
law in the state of Michigan; correct?

MR. LIEDEL: Yes, I am. I'm a member of the State Bar. Steven Liedel, S-t-e-v-e-n, last name Liedel, L-i-e-d-e-l, of Dykema, representing Fair and Equal Michigan. Thank you, Madam Chair and Members of the Board.

We would like to take the opportunity to present an alternative proposal on the language. We received it near the close of business on Friday, the director's proposed alternative -- or a proposed summary of the purpose of the petition and that's the charge to the director and the Board under the statute -- the new statute enacted at the end of 2018, to review and adopt a summary of the purpose of the petition.

We think the director's summary does a pretty good job of doing that. We think the proposed alternative better complies with the statute for a couple of reasons. One, Elliot-Larsen prohibits discrimination on the basis of ten factors and the -- or more than ten factors. The director's summary references "and eight other reasons." We think that's less than clear. It begs the question, what are those eight other reasons and the direction in the statute is for the Board to adopt a clearly written summary, and I believe it could be more clearly written if that question can be answered and not raise a question in a summary.

If you look at the definition of "clearly" -- and
this is in your letter, on page -- the top of page 3,
"clearly" is an adverb. It means "in such a way as to allow
an easy and accurate perception or interpretation." Well,
there's no easy and accurate perception or interpretation of
other factors or other reasons available anywhere on the
petition. Anyone looking at the petition trying to
understand the petition would have to go elsewhere -- to the
internet or to a law library -- to get the text of the
Elliot-Larsen Civil Rights Act to see what those factors
are.

So if you want a clearly written proposal, as the
legislature has mandated in a recent mandate as recently as
2018, we think you could better satisfy that mandate by
answering the question, "What are the other reasons?" and
just spell them all out in the order that the statute
provides. Obviously doing that adds a number of words which
would take the director's proposed statement of 95 words
over the 100 word statutory limit. So we would propose
eliminating some other provisions.

And there's actually a markup of the director's
proposed summary included in your letter second to the last
page, the strikes in red and underlined greens -- or
strikeouts and additions in green and double underlined.

And we add, towards the middle of the page, those additional
factors of religion, race, color, national origin, age,
height, weight, familial status or marital status. We then
think it's make some sense to remove some additional words,
words that make the most sense.
We also had, you know, some concerns in terms of
compliance with the statute and the obligation to use plain
and ordinary language that the common person would
understand. And there's a clear direction from the
legislature that the 100-word ballot statement need not be
legally precise. Well, the director has done a great job of
being legally precise and as any of us as lawyers would do
in a brief, including a full citation to the section amended
by the proposal. But it's our position that, one, it's not
necessary because it's too legally precise. And, two, it's
arguably not something that's commonly understood,
particularly, you know, the Public Act. Members of the
ordinary public may not understand exactly what a Public Act
is and where to find it. More importantly, the definition
MCL, it's a -- it's an undefined term. Lawyers know that
MCL stands for Michigan Compiled Laws. Most members of the
ordinary public may not make that connection. So we think
you can save some words to add the other factors by making
that change.
We also don't think it's necessary to repeat the
full proper name of the Act. You can use it once and then
after that, the -- you can just reference it as "the Act."
It's also, I think, important to note that the Elliot-Larsen Civil Rights Act itself says that any reference to the statute can be made by just calling it by its proper name, "This Act shall be known and may be cited as 'The Elliot-Larsen Civil Rights Act.'"

The last change that we would recommend for better clarity is in the last sentence. In the last sentence, the director does a good job of identifying exactly what would happen if the proposal was enacted. But when we looked at it, it was less than clear for what purposes. Does that definition have some applicability outside of Elliot-Larsen? And as used in the proposal itself, you'll find that the definitions are, "As used in this Act, the terms shall mean." And so we thought it would be clearer to potential signers of the petition if it was clear that the definitions were for purposes of the Act.

So that's essentially the changes that are proposed in the proposal before you. And we would be happy to answer any questions with regard to the language I proposed, alternative language, or the petition itself.

MS. BRADSHAW: Is there any questions from the Board? Norm?

MR. SHINKLE: I'm just curious, you're not putting the public citation in because you're thinking it's too confusing?
MR. LIEDEL: I don't think that that's confusing at all. I think that it's, one, not language that ordinary people use. And the statutory language and the charge in the statute is pretty clear in MCL 168.482(b)(2)(d), the summary must be clearly written using words that have common or everyday meaning to the general public. I don't think MCL undefined has a common everyday meaning.

MR. SHINKLE: So the citation violates the law?

MR. LIEDEL: No. I think that you can -- you could reference the statute without having to -- remember, this is a summary. I think you'll find very few 100-word statements that have been used in ballot proposals that ever include a full citation. And if the public has any interest in terms of what's the exact citation, it's on the petition. The full text of the proposal includes the Public Act number and the cite. I think that's the appropriate place for it.

MR. SHINKLE: Does the full text include the eight reasons?

MR. LIEDEL: Does the full text -- no. It includes a number of the defined terms. If you turn to the back page of the proposed petition --

MR. SHINKLE: I mean, you specified the eight reasons under your proposed language, but the text doesn't include the eight reasons?

MR. LIEDEL: No, the text only amends Section 103
of the Act.

MR. SHINKLE: Oh, I see. So it doesn't include the whole Act, it has the eight reasons.

MR. LIEDEL: Correct; correct.

MS. MATUZAK: Correct.

MR. LIEDEL: I think I can only speculate the director's intention. It's difficult in a proposal that amends just the definition section of a statute to understand the context sometimes of what's the impact of those definitions. I think you can even go back to the ballot language that then Election Director Chris Thomas proposed for Proposal A of 1994. There's a lot of language in that 100-word statement that was necessary so folks could understand the context of what was being done.

If you vote "yes" on this, it means that other laws will or will not take effect but that language was not in the proposal by itself. So I think that it is appropriate in the ballot summary as the elections director has done to provide some context to the person signing the petition, and so if you looked at the title or you looked at the broader text of Elliot-Larsen. But in terms of a citation that could get anyone to the full statute, it's in the full text of the proposal on the back side of the petition. And that would be typical with, you know, ballot statements. These new petition summaries are new; right?
This is a new process. The Board's only dealt with, I believe, two of them thus far.

I guess the other thing I would note too, to follow up on finishing answering your question, is that the statute also indicates that the summary -- you know, the actual proposal itself has to be legally precise, but the summary is intended -- it need not be legally precise. And it's a very legally precise citation, so that's just not necessary. Any average voter gets all the information they need about the proposal with the revised language that Fair and Equal Michigan is proposing today.

MR. VAN LANGEVELDE: Doesn't that support just going with the eight other reasons that the director included in the original summary? I mean --

MR. LIEDEL: Oh, the director's summary did not include --

MR. VAN LANGEVELDE: Well, I think he just referenced eight other reasons. I mean, if we don't need to be legally precise and the voter can go to the petition and look at the exact language, why -- or the statute then, I think -- you know, my guess -- my thought would be then why not just go with "eight other reasons." Why do we need to specify them and lay them out?

MR. LIEDEL: I think it's not clear. I mean, I'll refer you back to the definition of "clear." Is it written
in such a way to allow easy and accurate perception or interpretation; right? And you don't have an easy and accurate perception of what those factors are and there's no way to get them or to interpret them from the petition itself. And they're used throughout the Elliot-Larsen Civil Rights Act. And so this just takes the text from Elliot-Larsen Civil Rights Act and puts it all there. 

And the -- I think the director's proposal has taken the approach to use, you know, the "eight other reasons"; right? And we think it's clearer, if you're going to summarize what the Act does, to include all of it. It begs the question if you don't address -- address that.

MS. BRADSHAW: Does anyone have any further questions?

MR. BRATER: Would you like me to go after --

MS. BRADSHAW: If you would like to.

MR. BRATER: I mean, I'll just say, you know, of course what I proposed I thought was clear or I wouldn't have proposed it. I have -- you know, having heard the argument and listening to it, I do -- I think that articulation of each reason, I understand why someone might think that was more clear just so that, you know, no one has to make any inference about what the other eight reasons might be. So I don't have any objection to including them, for what it's worth. I think that that could make it more
clear.

On the statutory citation piece, I don't think that it is legally required to include the statutory citation. I do think that there would be room, if the Board prefers that. I think there would be room to get the MCL in there, if that is deemed appropriate but I don't think that it's absolutely required.

MS. BRADSHAW: Anything else? Norm?
MS. MATUZAK: Do we have another speaker on the issue?

MS. BRADSHAW: We do.
MR. BRATER: I think we do, yeah.
MR. LIEDEL: If you don't mind, I just would like to add one thing. Because this is a new section that the Board is interpreting, if you're making the decision that it's appropriate to include a full citation in the summary, you're setting some precedent. And this is a relatively short one. Many other citations will take up much of your 100-word statement being much longer. Thank you. Thanks for your time and attention. I really appreciate it.

MS. BRADSHAW: We'll call Charles Schott. If you can, state and spell your last name. And you are not a licensed attorney; correct?
MR. SCHOTT: I'm not an attorney, that is correct, although I would like to be.
MS. BRADSHAW: We're going to have you swear in the witness quick -- briefly.

REPORTER: Can you raise your right hand?

MR. SCHOTT: Yes.

REPORTER: Do you solemnly swear or affirm that the testimony you're about to give will be the whole truth?

MR. SCHOTT: I do, so help me God.

CHARLES SCHOTT

MS. BRADSHAW: And then state and spell your first and last name. Thanks.

MR. SCHOTT: Hello, my name is Charles Schott, C-h-a-r-l-e-s  S-c-h-o-t-t. I'm a citizen of the state of Michigan and a resident of White Lake, Michigan. I hope to bring to you my outlook as a citizen and as a potential voter on this petition language. When I first read about it, I was at first alarmed and I hope to convince you here in the next three minutes to vote "no" and to stop this petition. I'm glad for the originators of Michigan Compiled Law, for the Elliot-Larsen Civil Rights Act, Public Act 453 of 1976. I was a small child then, and who knew that I would need it. Who knew at my age that others would have such struggles. Our country existed for over 200 -- or about 200 years before the 1964 Civil Rights Act. Growing up I heard about the problems in Detroit and the manifestations of
discrimination exhibited upon various classes of people. So, me, I'm white, I'm male, I'm not black. These things are obvious and these things are cannot -- these things I cannot change. Steve mentioned height and weight were one of the eight or ten or so classes and to me it's not clear to a citizen what the eight classes are, as in the petition language. And also I'm of a certain age. I seem to be getting older each year, so I'm appreciative again of the statutory protections for my potential employment and housing, public accommodations, public service, and education arenas here in the state of Michigan. So as I began to think about this and what it would mean in the future, I merely had to look at some of the national media and see what would happen as in other cases.

So for my history of education, I've seen fire hoses exhibited against black people of different races. I've seen the movie "Mississippi Burning" for lack of implementation of civil rights for others. But here in Michigan, we're a far stage from that. And as far as being clear, I think the original language of 1976 for sex is clear. We were all created male or female. It's one or the other. I don't think it needs an additional definition. Unlike the other categories, this creates a special class of people.
And leading to that, if this were to be enacted, then that would bring the anvil of government against those in and adjacent to that special class of people. I don't see how sexual orientation, gender identity, or gender expression can be a trait where one possesses and it can't be changed or they can be discriminated against in those public housing or public arenas. But what I can see is based on sex, male or female, I have seen -- I've heard from other females and other males the troubles that they have had in employment hiring and other avenues in our daily life.

This petition proposed is a great and extensive reach for being accepted, loved, and honored in our society and I applaud that. And it's great for us, for all of us to live by. Without much trouble, I think we can and we should. But it should not be on the petition and this is the wrong avenue to try to get this implemented. So I'm asking, Madam Chairman and the Board, don't set the precedent. Don't be the match that ignites this firestorm. This will -- if this passes, and you know it because you've seen it in other areas around the country, this will obliterate female sports. We've already seen how people born male change their gender identity or gender expression and declare, "I am now female and therefore eligible to compete in female sports." Female records have
already been broken. Females -- excuse me -- people born
female are now disadvantaged by a new class of people. I
appeal to the Board, when your deadline comes up for
February 6th in 2020, please vote "no" and reject this
petition language.

MS. BRADSHAW: Does anyone have any questions on
the Board?

MR. SHINKLE: Well, let me ask -- we don't have
the opportunity to reject the substance of the petition
here. We're just here to adopt 100 words of the petition
itself; am I not correct? We can't say, "We don't like the
petition. We're voting 'no,'" can we?

MR. GRILL: What you're saying is correct, yes.
The determination of the Board here is not whether or not
the petition is a good idea. It's just whether the language
is clear.

MR. SHINKLE: Whether the language is clear;
that's all we're doing is determining if the language
represents the guts of the petition, not whether we like the
idea.

MR. SCHOTT: I disagree. As written in the
headline established by the public comments, the top of the
second paragraph says, "If the board approves of the
petition summary as prepared by the director" -- so I'm
asking you not to approve it.
MR. SHINKLE: Well, but the -- but, again, the petition summary just reflects what's in the petition.

MR. SCHOTT: Right.

MR. SHINKLE: We can't say we object to the petition, not here at this meeting or even before February 6th.

MR. SCHOTT: I see. Well, then I will --

MR. SHINKLE: That's not our job.

MR. SCHOTT: So what do you do, then, by February 6th?

MR. SHINKLE: We adopt 100 words that reflects what's in the petition the best we can.

MR. SCHOTT: I see. In addition to this being a bad idea and improperly helping the special class of citizen it attempts to protect, I think it will harm them and harm others in the long run. But to --

MR. SHINKLE: Well, Charles, let me -- if I can ask a question? This idea of a guy saying he's a girl and competing in girls' sports, has that actually happened somewhere?

MR. SCHOTT: Yes, it has.

MR. SHINKLE: And do they have a state law that protected them for doing that?

MR. SCHOTT: Yes.

MR. SHINKLE: What state was this?
MR. SCHOTT: I think it was Connecticut. But to further answer your specific question, I consider this language not clear.

MS. BRADSHAW: Okay. Is there any other questions?

MS. MATUZAK: Just another clarification for your benefit. As Board Member Shinkle has said we're here at this moment on this agenda item to determine whether this summary accurately reflects what the petition says. The next item on the agenda is to approve the petition as to its form. That has to do with the type size and the spacing and does it have the right warnings on it? Again, we are not allowed by the law or courts to say whether we think the petition is a good idea or not. Rather, our job is protect the citizens to ensure that a petition they signed is a legitimate petition. So that's just for your information.

MR. SCHOTT: Great. Thank you for that clarification. And can I ask what body does prevent an invalid petition from getting on a public ballot?

MS. MATUZAK: If the structure and form of the petition is correct, we are the body that says it -- "You may go -- you may go and collect signatures." And then if they have enough signatures, we certify that they have enough signatures and then it will go on the ballot. In terms of the content of the petition, I suggest you start a
campaign if you don't like it that says, "Don't sign."
Because if they don't have enough signatures, then it won't
go on the ballot. But this body is not in a position to
judge whether we like petitions or not.

MR. SCHOTT: I see. I'll ask that you take that
into consideration.

MS. MATUZAK: Okay. Thank you.

MS. BRADSHAW: Thank you. Okay. With that --

MS. MATUZAK: Madam Chair?

MS. BRADSHAW: Yes?

MS. MATUZAK: When I first read the director's
proposed language, I got to that point that says "eight
other reasons," and I paused and hesitated and thought,
"What are those eight other reasons? Let's see if I can
remember what they are based on my prior knowledge of
Elliott-Larsen." One of the things I consistently hear from
people over and over again is these ballot proposals are too
confusing. They're misleading. The language is such that
I'm in -- I would always rather fall on the side of real
clarity and I think we need to list the eight reasons
included in the current Elliott-Larsen Civil Rights Act. I
also, however, do think we need to list the citations, so if
there is a way to include both the citations and list the
eight other reasons, I would totally be in favor of the
director rewriting something.
MR. BRATER: I mean, we have space for that, so we can do that.

MR. SHINKLE: The very first line, just throw the citation in and go from there?

MS. MATUZAK: Yeah.

MR. SHINKLE: And use their language for the rest.

MR. VAN LANGEVELDE: Yeah, Mr. Brater convinced me. I mean, I'm not going to object to adding those eight other reasons. I think that's clear and makes sense. I don't see an issue, however, with including the statutory cite. I think it does give voters the idea or anybody who's going to sign the petition about what part we're actually amending in a more specific manner.

MR. BRATER: Can I ask, Melissa, what would you recommend in terms of the most efficient way to proceed?

MS. MALERMAN: Perhaps the Board would be willing to take a five- or ten-minute recess so that we could prepare a draft for you to look at, if you don't mind.

MS. BRADSHAW: Members of the Board? Take about a --

MR. SHINKLE: Or we could go on to our de minimis stuff if that's what we all --

MS. MATUZAK: Hey, you know --

MR. BRATER: Yeah. Okay.

MS. BRADSHAW: I actually would like the director
to be here for that, so --

MR. BRATER: Okay.

MR. SHINKLE: All right.

MS. BRADSHAW: Let's take a ten-minute recess.

(Off the record)

MS. BRADSHAW: Thank you for allowing us a few minutes of recess. We are back on agenda item number 3, which I am --

MS. MATUZAK: Somebody should read the new language.

MS. BRADSHAW: I will allow our director to read the new language that he is submitting.

MR. BRATER: The new language I am submitting is as follows:

"An initiation of legislation to amend Section 103 of the Elliott-Larsen Civil Rights Act, Public Act 453 of 1976, MCL 37.2103. The Act prohibits discrimination in employment, housing, public accommodations, public service and educational institutions because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status. Section 103 of the Act does not define 'sex' or 'religion.' If enacted, the proposed initiated law would for purposes of the Act define 'sex' as including gender, sexual orientation, and gender identity or
expression; and would define 'religion' as including
the religious beliefs of an individual."

MS. BRADSHAW: Okay. Does anyone have any other
discussion?

MR. SHINKLE: None here.

MS. MATUZAK: You going, Norm, or --
MR. SHINKLE: I'll move. I move we --
MS. BRADSHAW: So we have a --
MR. SHINKLE: -- adopt these 94 words as
appropriate for this petition.

MS. MATUZAK: I support.
MR. SHINKLE: I suppose I should --
MS. MATUZAK: Yeah, you really ought to.
MS. BRADSHAW: Yeah, probably.
MR. SHINKLE: I move the State Board of Canvassers
approve the summary as just read by our director of
elections sponsored by Fair and Equal Michigan as
submitted -- or as read by the director of elections.

MS. MATUZAK: Support.
MS. BRADSHAW: It's moved and supported. Is there
any further discussion?

MR. VAN LANGEVELDE: None here.
MS. BRADSHAW: No? All those in favor say "Aye."
ALL: Aye.
MS. BRADSHAW: So moved.
MS. BRADSHAW: All right. We are now going to agenda item number 4, consideration of the form of the initiative petition submitted by Fair and Equal Michigan, which I believe everyone has a copy of now?

MS. MATUZAK: We have the printer's affidavit confirming size, type size, all of that sort of stuff, the warnings. I would, however -- this is something we've discussed before that there is nothing in this printer's affidavit specifically tying it to this particular petition form. It used to be when petitions came to us they had specific titles. Now they less have specific titles, so we end up with a form that is describing the name of the proposal as "Initiation of Legislation." We rely on staff to make sure the two are attached. But in the future can we please have some identifying mark?

MS. MALERMAN: Yes. May I address?

MS. MATUZAK: Please.

MS. BRADSHAW: Yes, please.

MS. MALERMAN: The sponsor of this petition, given the change that's been made in the wording, will need to file new proof petitions and also a revised affidavit.

MS. MATUZAK: Okay.

MS. MALERMAN: So I will point out to them that, under name of proposal, that they need to refer to the
proposal as "Fair and Equal Michigan" rather than "Initiation of Legislation."

MS. MATUZAK: Thank you.

MS. MALERMAN: Thank you.

MS. BRADSHAW: I appreciate that. So is there any changes to form that we need to be aware of in light of decisions for the Appeals court or -- I'm just asking. I think this is the first one we've had since the changes of '18, so --

MS. MATUZAK: Well, and they just threw it all out yesterday.

MS. BRADSHAW: Yes, that's the questions that we have.

MS. MALERMAN: Do you want to address PA --

MR. GRILL: Do you want to -- yeah, have the --

MS. BRADSHAW: Someone on this (indicating) side.

MR. GRILL: I don't have anything.

MS. MALERMAN: So the court decision yesterday does not affect the way that the Board treats these. For the most part, it upheld the Attorney General opinion which is the standard that we've been operating under since mid-year last year. So this petition complies with the Attorney General's opinion and complies with our instructions and actually is in the same format as the ones you approved last summer for the Heartbeat Coalition and
Michigan Values Life.

MS. BRADSHAW: Actually if I remember right, we were still trying to figure out what that was going to look really like.

MS. MATUZAK: All right. Ready for a motion? I move that the Board approve the form of the initiative petition submitted by Fair and Equal Michigan with the understanding that the sponsor will file an amended petition reflecting the summary as approved today and that the Board's approval does not extend to, number one, the substance of the proposal which appears on the petition or, two, the manner in which the proposed language is affixed to the petition.

MR. VAN LANGEVELDE: I'll support.

MS. BRADSHAW: It's been moved and supported. Is there any discussion?

MS. MATUZAK: No.

MR. SHINKLE: Shouldn't we add that the addition of the citation in the first line, we're going to add that?

MS. MATUZAK: We're going to add -- that whole part at the top of this petition is going to be substituted by what we just passed.

MR. SHINKLE: I'm talking about if the petition circulator does not comply with all the requirements.

There's a citation after the word "Michigan" that's going to
be added, which is not reflected in your motion.

MS. MALERMAN: Oh, may I? I think I was in a hurry and have a stray pen mark there. What I was trying to indicate is that under "initiation of legislation," the very first sentence that reads, "An initiation of legislation to amend section 103 of the Elliott-Larsen Civil Rights Act" -- I think an arrow hopefully begins right around where that period is.

MS. BRADSHAW: Yeah.

MS. MALERMAN: I was just trying to point out that that is the place at which the --

MS. BRADSHAW: The citation.

MR. SHINKLE: Oh, so the first line is not going to be changed?

MS. MALERMAN: Correct. It's the first line underneath "initiation." Yes, sorry. I'm very sorry for the confusion.

MS. BRADSHAW: Yup, that's okay.

MR. SHINKLE: I'm -- you got that arrow right in that hook line for me. Okay. Very good.

MS. MALERMAN: Thank you.

MS. BRADSHAW: Okay. So any further discussion on the motion? None? All those in favor say "Aye."

ALL: Aye.

MS. BRADSHAW: So moved.
MS. BRADSHAW: Okay. Now let's have Norm's favorite part, the consideration of proposed de minimis changes to the ES&S Voting System. These changes "would update firewall firmware to address a potential vulnerability, add a second source to the system firewall for e-transmission of unofficial results, and upgrade the cradle point router firmware to add an additional layer of security for wireless e-transmission of unofficial results."

Director Brater?

MR. BRATER: These changes have to do essentially with the -- the firewalls and the software under which the unofficial results are transmitted using the Zero Tunnel, which are used in the six ES&S counties that are transmitting unofficial results. To be clear, you know, this doesn't change the mechanism by which those unofficial results are changed. They have been planning to and will continue to transmit the unofficial results in the same way, using the Zero Tunnel. This is essentially patching up some of the software and the firmware that goes around that process.

MS. BRADSHAW: So they've been currently using the Verizon --

MR. BRATER: They have -- Dave, is that correct?
Have they used it previously?

MR. TARRANT: Yeah, they got that with their 4G modems that they're going to put on these right now.

MS. BRADSHAW: Okay. So that's the one that we changed when we made that approval to go to --

MR. TARRANT: Correct. They came with the 4G.

MS. BRADSHAW: Okay.

MS. MATUZAK: The -- that's just one of those questions. The -- how do you describe it? Under the purpose page here, .1, there's some more checkmarks down at the bottom and this little list, "Benefits of Zero Tunnel: Only authorized personnel can make changes to the Zero Tunnel configuration." Who is the authorized personnel?

MR. TARRANT: That would be the county's staff.

MS. MATUZAK: So the county staff?

MR. TARRANT: Correct.

MS. MATUZAK: The people who deal with the machines all the time?

MR. TARRANT: Yeah, their IT; right, their IT there, the people who built the infrastructure.

MS. MATUZAK: Got it.

MS. BRADSHAW: And just so everyone knows, can -- I know you're seated, but just let everyone know who you are.

MR. TARRANT: Dave Tarrant, with the Bureau of
Elections.

MS. BRADSHAW: Thank you.

MS. MATUZAK: He's the tech guy.

MS. BRADSHAW: Well, that covers my question about the Zero Tunnel, which you said it came with the 4G systems, so that answers the question I was going to ask about that.

MR. TARRANT: Correct, if it's an enhanced security.

MS. BRADSHAW: I don't want to take yours, because I know we -- I know that it pops up. I mean, it pops up when we start talking about firewalls. Obviously, one of the statements that it said in here was, "Unlike using public internet to transfer encrypted results data to the ES&S server, the Zero Tunnel configuration does not include any publicly routable IP addresses." So the question is, Dominion and Hart, do they have a separate system like this when they're doing the e-transmissions?

MR. TARRANT: Are you talking about the Zero Tunnel specifically?

MS. BRADSHAW: Well, I'm -- so Zero Tunnel is used -- is it only specifically used for ES&S and does Dominion and Hart have something similar or is it something different?

MR. TARRANT: They have their own security in place. The Zero Tunnel, my understanding, is something ES&S
worked with Verizon to come up with using that concept for
their voting system -- their -- for keeping their system.

MS. BRADSHAW: Okay. I understand. But it comes
up when you're thinking -- when we're trying to add more
firewalls or more protections on one system, are our other
two systems vulnerable? That's kind of, I think, the --

MR. TARRANT: Hopefully the other two will evolve
through the same process and continually provide
enhancements to their systems.

MS. BRADSHAW: Any questions?

MR. SHINKLE: None here.

MS. MATUZAK: Okay.

MS. BRADSHAW: Julie, any other questions?

MS. MATUZAK: Unh-unh (negative).

MS. BRADSHAW: Okay.

MS. MATUZAK: I move that the State Board of
Canvassers approve the following de minimis changes for use
with the ES&S EVS 6050 Voting System in the state of
Michigan: One, the update to the 5506x firewall firmware to
version 9.13.1; the addition -- the addition of the 5508x
firewall, and; number three, the upgrade to the latest
release of the Cradle Point firmware to version 7.0.70.

MR. SHINKLE: Support.

MS. BRADSHAW: Moved and supported. Is there any
further discussion? Hearing none, all those in favor say
"Aye."

ALL: Aye.

MS. BRADSHAW: So moved.

(Whereupon motion passes at 2:55 p.m.)

MS. BRADSHAW: All right. Number 6, our agenda item number 6, recording the results of the special primary election held on January 7th, 2020 to determine the democratic and republican primary nominees for the office of state representative, I believe, in the 34th District.

MR. BRATER: So this was a special election that was necessary because former state representative Sheldon Neeley successfully ran for mayor of Flint. The governor set a special primary election date of January 7th to allow the general election to be held on the date of the presidential primary on March 10th. And the results, as the county certified, indicate that Cynthia Neeley won with -- won the primary with a total of 1,158 votes and Adam Ford, the republican, with 137.

MS. BRADSHAW: Any discussion? Questions?

MR. SHINKLE: I move that the Board record the results of the January 7th, 2020 special primary for the office of state representative 34th District as certified by the Genesee County board of canvassers on January 9th, 2020.

MS. MATUZAK: Support.

MS. BRADSHAW: Moved and supported. Is there no
further discussion? All those in favor say "aye."

ALL: Aye.

MS. BRADSHAW: So moved. (Whereupon motion passes at 2:57 p.m.)

MS. BRADSHAW: Do we have any other and further business presented -- properly presented to the Board?

MR. BRATER: On point of privilege, may I --

MS. BRADSHAW: Absolutely.

MR. BRATER: I would just like to alert the Board that my colleague, Melissa Malerman, as of yesterday is the director of the newly created Finance Disclosure and Compliance Division of the Bureau of Elections. This will combine some of her existing functions with some of the functions that Evelyn Quiroga held as the former director of the Disclosure Division. So fortunately for me especially, and for all of us, she's going to continue to work with the Board of State Canvassers.

MR. SHINKLE: Oh, good.

MS. BRADSHAW: Yay.

MS. MATUZAK: Yay.

MR. SHINKLE: We need some familiar faces around here.

MR. BRATER: Yes, thankfully. But I just wanted to recognize that, you know, Melissa, as you all know, is exceptionally talented and skilled and we are going to
benefit from her continued help. But I just wanted to let
you know of her new role.

MS. BRADSHAW: Congratulations.
MS. MATUZAK: Congratulations.
MR. SHINKLE: Congrats.
MS. MALERMAN: Thank you; thank you very much.
MS. BRADSHAW: Okay. If there is no further
business -- is anything else? Do we have any updates?
Anything?
MR. GRILL: I don't believe so.
MS. BRADSHAW: Okay.
MR. SHINKLE: No new lawsuits where we're the
defendants?
MS. BRADSHAW: No new lawsuits pursuing? Then I
will entertain a motion to adjourn today's meeting.
MS. MATUZAK: So moved.
MR. VAN LANGEVELDE: Support.
MS. BRADSHAW: All right. Thank you very much.
(Proceedings concluded at 2:58 p.m.)

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