

**Oregon State Bar**  
**Meeting of the Board of Governors**  
November 2, 2018  
**Special Open Session Minutes**

President Vanessa Nordyke called the meeting to order at 9:04 am on November 2, 2018. The meeting adjourned at 9:57 a.m. Members present from the Board of Governors were Colin Andries, John Bachofner, Chris Costantino, Eric Foster, John Grant, Rob Gratchner, Eddie Medina, Tom Peachey, Per Ramfjord, Kathleen Rastetter, Liani Reeves, Whitney Boise, Michael Rondeau (on phone), David Wade, Traci Rossi and Michael Levelle. Not present were Guy Greco, Kerry Sharp and Julia Rice. Staff present were Helen Hirschbiel, Amber Hollister and Jonathan Puente. Also present was ONLD Chair Jennifer Nicholls.

**1. Call to Order and Finalization of Agenda**

Ms. Nordyke called the meeting to order. No additions to the agenda were presented. Ms. Nordyke indicated she would take items out of order to first address the agenda item relating to the Nominating Committee.

**2. Nominating Committee**

Ms. Costantino presented the nominating committee's recommendation to waive the one-meeting notice requirement and amend OSB Bylaw Subsection 2.201. **[Exhibit A]**

Ms. Costantino presented an overview of the work of the nominating committee and the rationale for the proposed bylaw amendment, as outlined in Exhibit B.

Members discussed the proposed amendment and the nominating committee process.

**Motion:** Mr. Andries moved and Mr. Bachofner seconded a motion to amend the committee's motion to amend OSB Bylaw Subsection 2.201(b) solely to add "If the Nominating Committee is unable to select a sole candidate for President-elect, the board will elect a President-elect at its last regularly scheduled board meeting of the calendar year, pursuant to Subsection 2.201(c)," without amending the timelines for announcing the Nominating Committee's candidate. Mr. Andries, Mr. Bachofner, Mr. Peachey, Mr. Grant, Mr. Gratchner and Mr. Rondeau voted in favor of the motion to amend. Ms. Costantino, Mr. Foster, Ms. Rastetter, Mr. Ramfjord, Ms. Rossi, Ms. Reeves, Mr. Medina, Mr. Boise and Mr. Wade opposed the motion to amend. The motion to amend failed.

Mr. Bachofner expressed concern that the bylaw as proposed would provide insufficient time for a member to circulate a petition to nominate another candidate.

**Motion:** Mr. Bachofner moved and Mr. Andries seconded a motion to amend the committee's motion to amend OSB Bylaw Subsection 2.201(b) to provide that "The Nominating

Committee's selection will be the sole candidate for President-elect unless at least six members nominate another candidate by written petition delivered to the Chief Executive Officer not less than ~~15~~ 7 days prior to the last regularly scheduled board meeting of the calendar year." Mr. Andries, Mr. Grant, Mr. Bachofner, Mr. Peachey, Mr. Gratchner and Mr. Rondeau voted in favor of the motion to amend. Ms. Costantino, Mr. Foster, Mr. Ramfjord, Ms. Rastetter, Ms. Rossi, Ms. Reeves, Mr. Medina, Mr. Boise and Mr. Wade opposed the motion to amend. The motion to amend failed.

Ms. Hirschbiel noted that the board could elect to take a recess for the House of Delegates Annual Meeting and reconvene afterwards to continue its deliberations. The board declined the suggestion. Ms. Nordyke called for a vote on the Nominating Committee's motion.

**Motion:** The board voted on the committee's motion to waive the one meeting notice requirement and amend the bylaws as proposed in Exhibit B. Ms. Costantino, Mr. Foster, Ms. Rastetter, Ms. Reeves, Ms. Rossi, Mr. Boise, Mr. Wade, Mr. Grant, Mr. Ramfjord, and Mr. Medina voted in favor of the motion. Mr. Bachofner, Mr. Gratchner, Mr. Peachey, Mr. Andries and Mr. Rondeau opposed the motion. The motion passed.

Ms. Costantino announced that the Nominating Committee's sole candidate for 2019 President-Elect is Liani Reeves. The board congratulated Ms. Reeves on her selection.

### **3. Appellate Screening Special Committee**

Mr. Ramfjord presented the committee's recommended list of "highly qualified" candidates for appointment to the Oregon Supreme Court. **[Exhibit B]**

**Motion:** The board voted unanimously in favor of approving the list of "highly qualified" candidates. Ms. Reeves abstained.

The meeting was adjourned at 9:57 a.m.

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** November 2, 2018  
**From:** Nominating Committee  
**Re:** Selection of 2019 President-elect

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### **Action Recommended**

The Nominating Committee recommends that the Board waive the one-meeting notice requirement and amend OSB Bylaw Subsection 2.201 as set forth below.

### **Background**

#### *Nominating Committee Meetings on 10/17 and 10/18*

The Nominating Committee met on October 17 to discuss the two candidates for 2019 president-elect, Tom Peachey and Liani Reeves. Pursuant to OSB Bylaw 2.201, members of the committee took a vote on whom to select to present to the Board of Governors as its sole candidate. It was a tie vote.

Because the bylaws do not provide what to do in the event of a tie vote, the Nominating Committee met again on October 18 to discuss how to proceed. The members unanimously voted to recommend to the BOG that it waive the one-meeting notice requirement and amend OSB Bylaw 2.201, to allow a board vote in the instance of a tie vote by the Nominating Committee.

#### *Nominating Committee Meeting on October 29, 2018*

After the October 18 meeting, one of the Nominating Committee members indicated that she wanted to change her vote. The Committee met again on October 29 to discuss whether to take steps to accommodate that request.

The Committee considered two options. The first was to do nothing further. The result would be that the Committee's original proposed amendment—voted on at its October 18 meeting—would be presented to the BOG at its special meeting on November 2, and an election by the full board would take place on November 17.

The second option considered was to propose to the BOG a bylaw amendment that would shift timelines to allow the Nominating Committee to present to the board a sole candidate for President-elect on November 2, as well as resolve the issue of what to do in the event of a tie. Under the bylaws as currently written, the deadline for the Nominating Committee to present its candidate to the board was October 18; that deadline has already passed. The bylaw amendment considered as part of the second option would shorten the time frame within which the Nominating Committee must announce its candidate for President-elect. Adoption of this option would allow the Nominating Committee to present a sole candidate for election on November 2, to be considered by the full board at its meeting on November 17.

At its meeting on October 29, the Nominating Committee decided to propose to the BOG the second option. The committee members unanimously voted to recommend to the BOG that it waive the one-meeting notice requirement and amend OSB Bylaw 2.201 as follows:

Subsection 2.201

Election (a) Time of Election

The President and President-elect are elected at the last regularly scheduled board meeting of the calendar year. The only candidate for President is the President-elect.

(b) President-Elect

Any lawyer member of the second-year class may be a candidate for the office of President-elect by notifying the Chief Executive Officer by September 1. Each candidate must submit with said notice a statement outlining the candidate's qualifications, reasons for seeking the position, and vision for the bar. A Nominating Committee, consisting of the fourth-year class and the current President-elect, will interview each candidate and will meet with the remaining board members to discuss their view about each candidate's respective qualifications. The Nominating Committee will announce its candidate for President-elect at least ~~30~~ 15 days prior to the last regularly scheduled board meeting of the calendar year. The Nominating Committee's selection will be the sole candidate for President-elect unless at least six members nominate another candidate by written petition delivered to the Chief Executive Officer not less than ~~15~~ 10 days prior to the last regularly scheduled board meeting of the calendar year. If the Nominating Committee is unable to select a sole candidate for President-elect, the board will elect a President-elect at its last regularly scheduled board meeting of the calendar year, pursuant to Subsection 2.201(c).

(c) Voting

If there is only one candidate for an office, the candidate is deemed elected without a formal vote. When there are two nominees for President-elect, the candidate receiving the most votes will be elected. If there are three nominees for President-elect and no candidate receives more than 50 percent of the votes on the first vote, the candidate receiving the fewest votes is eliminated and another vote will be taken. Only board members present at the meeting may vote.

This second proposed amendment is the one the Nominating Committee now presents to the Board for approval. On October 29, the Committee also voted on whom to present to the board as its candidate for President-elect. If the Board votes to waive the one-meeting notice requirement and amend the bylaws as set forth above, the Committee is prepared to announce its candidate for 2019 President-elect.

# OREGON STATE BAR

## Board of Governors Memorandum

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**Meeting Date:** November 16, 2018  
**Memo Date:** October 25, 2018  
**From:** Per Ramfjord, Chair Appellate Screening Committee  
**Re:** Appellate Screening Supreme Court Vacancy Highly Qualified Candidates

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### **Action Items**

The Appellate Screening Committee recommends the board consider and approve the list of “Highly Qualified” candidates for the Oregon Supreme Court vacancy. The letter with the list of “Highly Qualified” applicants will be submitted to the Governor’s office by the November 2<sup>nd</sup> deadline.

Please see below link for the list of applicants for the Supreme Court vacancy:

<https://www.osbar.org/judicial/judicialvacancy.html#OSC>

October 25, 2018

**Board of Governors**

*President*

Vanessa A. Nordyke, Salem

*President-elect*

Christine R. Costantino, Portland

*Region 1*

Thomas C. Peachey, The Dalles

*Region 2*

David Wade, Eugene

*Region 3*

Eric R. Foster, Medford

*Region 4*

Guy B. Greco, Newport  
Eddie D. Medina, Beaverton

*Region 5*

Colin G. Andries, Portland  
Whitney P. Boise, Portland  
Christine R. Costantino, Portland  
John E. Grant III, Portland  
Per A. Ramfjord, Portland  
Liani JH Reeves, Portland

*Region 6*

Vanessa A. Nordyke, Salem  
Julia C. Rice, Salem

*Region 7*

Kathleen J. Rastetter, Oregon City

*Region 8*

John R. Bachofner, Vancouver, WA

*Public Members*

Robert Gratchner, Lake Oswego  
Michael Rondeau, Roseburg  
Traci Rossi, Portland  
Kerry L. Sharp, Lake Oswego

*Immediate Past President*

Michael D. Levelle, Portland

**Chief Executive Officer**

Helen Hierschbiel, Tigard

Governor Kate Brown  
State Capitol Building  
900 Court St. NE, Suite 254  
Salem, OR 97301

Dear Governor Brown:

The Oregon State Bar's Appellate Screening Committee has completed its review of the candidates who have applied for appointment to the Oregon Supreme Court and who agreed to disclose their application materials to the OSB. Pursuant to OSB Bylaws, the Committee has conducted an in-depth review of each application and candidate, including in-person interviews of all candidates who opted to participate in the process.

The Committee's review process is intended to provide you with relevant, reliable, and descriptive information to help inform your appointment decision. As instructed by OSB Bylaws, our recommendation of candidates as "highly qualified" is based on "the statutory requirements of the position, as well as information obtained in the review process, and the following criteria: integrity, legal knowledge and ability, professional experience, cultural competency, judicial temperament, diligence, health, financial responsibility, and public service." A "highly qualified" recommendation is intended to be objective, and the Committee's decision not to identify any specific candidate as "highly qualified" should not be viewed as a finding that the person is unqualified. A "highly qualified" recommendation is intended to reflect the candidate's overall ability to serve on the court.

The Board of Governors is pleased that members from around the state, including a public member, serve on the Appellate Screening Committee. We also deeply appreciate the assistance and leadership of your counsel and your office during this process.

Pursuant to OSB Bylaw 2.703, the Oregon State Bar Board of Governors\* has approved the following list of candidates deemed "highly qualified" for appointment to the Oregon Supreme Court:

**CANDIDATE NAMES HERE**

The Board of Governors appreciates that there were many qualified candidates for the positions and that the review process presented a challenging task. According to OSB Bylaw 2.700, the list of the “highly qualified” candidates will be posted on the OSB webpage. Also pursuant to OSB Bylaws, we will gladly respond to any requests from your office as to whether certain other candidates meet a “qualified” standard.

Sincerely,

Vanessa A. Nordyke  
OSB President

Per Ramfjord  
OSB Board of Governors  
Appellate Screening Committee Chair

cc: Misha Isaak, General Counsel, Office of the Governor

\*Please note that BOG member Liani Reeves has abstained from all discussion and votes related to the review of judicial candidates.