

BY-LAWS
SOMERVILLE PLACE PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

The name of this organization shall be
The Somerville Place Property Owners Association, Inc.,
Address: **PO Box 125, Lyons, Texas 77863.**
(a) 900 Parallel Road, Somerville, Texas 77879

Definitions for clarification

The Association, SPPOA, or Subdivision shall mean the entirety of the Somerville Place Property Owners Association, and the lots within the boundaries of record filed with the Burleson County clerk.

Executive Board shall mean the members occupying the elected offices of the President, Vice President, Secretary, and Treasurer.

The "Board" shall mean the members occupying the elected positions of the Board of Directors

The Membership shall mean the non-office holding property owners of the Association.

ARTICLE II
PURPOSE OF THE ASSOCIATION

This Association shall be a non-profit organization for the purpose of obtaining needed street and drainage improvements and to collect all maintenance fees.

(a) This Association shall be a non-profit organization for the purpose of collecting all maintenance fees to maintain our parks & property.

ARTICLE III
MEMBERSHIP

§ 1. Membership in the Association shall be open to all property owners who have executed contracts for deed, or have received deed to tract in § I, II, or III in Somerville Place, as platted and appearing on records in the office of the County Clerk in Burleson County, Texas.

§ 2. A member property owner household is entitled to one vote for each lot owned, not to exceed four ~~(4) lots or votes.~~

Statement of reason for change: This association is not shareholder based, and a member with multiple properties should hold no more voting power than another property owner with less lots, or a single lot.

(2a). A member property owner household, regardless of the quantity of lots owned by the household in the Subdivision, shall be entitled to one vote.

ARTICLE IV
MAINTENANCE FEES

§ 1. All lots in said subdivision are subject to an annual maintenance charge of \$65 per lot. If two or more lots are owned by same party, then each lot over one shall be \$24 per year. Maintenance charge will be due on or before January 1st of each year beginning January, 1983.

§ 2. Property owners have the right to adjust the annual maintenance charge. Voting can be done at a meeting called for the purpose. At least 51 % of the votes must favor the adjustment for it to be changed. Proxy votes will be accepted if property owners are unable to attend, after giving the President a letter naming a certain person who will vote in their absence.

Statement of reason for change: Proxy votes present a very real risk of abuse, and should be regulated in their use.

(2a). Property owners have the right to adjust the annual maintenance charge. Voting can be done at a meeting called for the purpose. At least 51% of the votes must favor the adjustment for it to be changed. Proxy votes will be accepted if property owners are unable to attend, after providing the President a letter naming a proxy holder who will vote in their absence. The proxy shall be used only for this purpose, and shall expire at the end of the meeting.

§ 3. The maintenance charge shall be secured by a Vendor's Lien which is expressly created and retained upon each lot and shall be paid by each lot owner annually in advance. The Association is expressly authorized to foreclose the Vendor's Lien created herein through a Non-Judicial foreclosure. The Association shall be custodian and administrator of the maintenance fund, and the Vendor's Lien.

Advised to look into section 3 Vendor Lien and Non-Judicial foreclosure legality as the Association does not hold deeds of trust. (?) Needs a more specific set of procedures. This is vague, ambiguous, and open to abuse. May conflict with Property Code Sec. 209.0092 A JUDICIAL FORECLOSURE REQUIRED.

§ 4. All funds collected shall be ~~sued~~ solely for the purpose of keeping the Somerville Place roads, parks, pavilion, drainage and legal expense for lien filing fees.

Amend § (4a) to correct spelling error, changed sued to used

§ 4(a) All funds collected shall be used solely for the purpose of keeping the Somerville Place roads, parks, pavilion, drainage and legal expense for lien filing fees.

§ 5. If suit is filed to collect maintenance funds, then lot owner shall be obligated to pay all court costs and attorney fees.

ARTICLE V OFFICERS AND DIRECTORS

§ 1. The officers of the Association shall be as follows: President, Vice-President, Secretary, and Treasurer. In addition to the officers, there will be five Directors who shall be elected as provided for in section 3 of this article. The officers and directors together, shall be designated as the "Board". This board shall have the management and control of the affairs of this association, provided, however, that the members once a year shall have the right to initiate resolutions, plans, policies and projects as the By-Laws may direct.

§ 2. The Officers shall be elected by the membership of this Association for a term of one year in the manner set forth in the By-Laws. The directors shall be divided into two groups of two and three members each. The first group shall hold office for one year, and the second group shall hold office for two years, as to each group, until their successors are duly elected and qualified.

§ 3. The President may appoint a Sergeant of Arms to assist him maintaining order at meetings.

§ 4 The association shall be divided into three separate co-equal branches. Those branches shall be the Executive Board, the Board of Directors, and non-office holding members of the Association.

ARTICLE VI MEETINGS

§ 1. The annual meeting of the Association shall be held at 10:00A.M on the third (3rd) of April-1st one in 1982. The annual meeting shall be by written notification, mailed no later than two weeks prior to the annual meeting.

(1a) The annual meeting of the Association shall be held at 10:00A.M on the fourth (4th) Saturday of April each year beginning in 2007. Written notification of the meeting shall be mailed not later than two weeks prior to the annual meetings

§ 2. At least sixty (60) days prior to the annual meeting the President shall appoint a nominating committee composed of three members of the Association, not members of the Board, and two additional members who shall be members of the Board. This nominating committee shall present a slate of officers to be elected at the annual meeting. Three members of the nominating committee shall constitute a quorum and any vacancies on said committee shall be filled by the President. This provision shall not prevent any nomination from the floor.

Statement of reason for change: Change the name of the nominating committee to election committee, and assign duties. Sub section B added to prevent any further displays of power during the election as we had in 2019, and hold member candidates to their initial commitment to serve the community. In and out of candidacy demonstrates a lack of commitment, or possibly a play for power.

§ 2(a)At least sixty (60) days prior to the annual meeting, the President shall appoint an election committee of five members. This committee shall be composed of 3 members of the Association, not holding office, and two members who shall be members of the Board. Three members of the nominating committee shall constitute a quorum and any vacancies on said committee shall be filled by the President. This election committee shall present a slate of officers to be elected at the annual meeting. This slate shall be a collection of nominations, and declared candidacies presented to the election committee during the candidacy period.

All nominations and statements of intent for candidacy shall be received no later than the 10th day before the election. Persons not nominated wishing to be a candidate shall submit their intent to be a candidate to the election committee in writing no later than the 10th day before the election. This provision shall not prevent any nominations from the floor to fill a vacancy.

The Election Committee will have the power of recognition on the floor. The Election Committee shall be in charge of overseeing the proper form, and function, of the election. It shall also certify the validity of the election.

Any candidate listed on the slate of officers presented by the Election Committee that withdraws their candidacy, shall be considered no longer running, and shall be ineligible to be nominated from the floor for election at the annual meeting, semi-annual meeting, or special election.

§ 3. At each annual meeting an election shall be held for election of officers and directors for the ensuing year who shall take office immediately following the annual meeting. Election shall be by signed ballot.

section 3 (b) added to streamline and ensure proper transfer of power, and negating the nonsense we had

in 2019 with transfer of documents, websites, and other records, resulting in factionalizing the association, and hard feelings.

§ 3(a). At each annual meeting an election shall be held for election of officers and directors for the ensuing year who shall take office immediately following the annual meeting. Election shall be by signed ballot with printed name.

The transition after the election shall be five days as outlined in Article XII sections 3 and 4.

During the post-election transition, the previous year's Executives, and the newly elected Executives during the transition, shall have equal access to the operations of the association, including access to the website, Google Drive, and banking to facilitate proper and complete transfer of documents, and operations.

No later than Thirty (30) Days after the election the new administration of the Association shall update the Record of Management with the Burlson County Clerk, as well as with the office of the Texas Secretary of State.

§ 4. Regular meetings of the Association shall be held semi-annually. Unless suspended or changed by vote of majority of the membership present at a regular meeting with the exception of the annual meeting as set forth in section 1 of this Article.

§ 5. Special meetings may be called by the following persons in the following manner:

a- The President may, in case of emergency to be determined by him, call a meeting of the Association.

b- It shall be the duty of the President to call a meeting of the full membership of the Association whenever requested to do so in writing by five members of the Board stating the purpose of the meeting.

c- It shall be the duty of the President to call a meeting of the membership of the full membership of the association upon written request of ten or more members in good standing, which request shall state the object of the called meeting.

d- Notice of the special meeting of the Association under b and/or c shall be given by the Secretary no later than one week after the receipt of the written request as provided in b and/or c above. The notice shall state the object, the date, and the hour of the meeting. Said meetings shall not be held earlier than ten nor later than thirty days from date of the notice. No other business shall be presented at said meeting except that for which it is called and so indicated in said notice.

ARTICLE VII

QUALIFICATION OF OFFICERS AND DIRECTORS

No person shall be eligible to be an officer, director or committeeman unless he or she is a member in good standing.

ARTICLE VIII

BOARD MEETING AND ELECTION OF CHAIRMAN

§ 1. The Board shall hold at least two meetings a year.

§ 2. The President of the Association shall preside at all meetings of the Board. It shall be his duty to generally perform all duties pertaining to his office and he shall decide all questions of procedure and order at the meeting of the Board.

§ 3. Any officer or director of the board may be removed from office by a two thirds vote of the membership at a regular or specially called meeting at which a quorum is present.

§ 4. In the absence of the duly elected President, the Vice-President will act as temporary Chairman of the

Board at the semi-annual or special called meeting.

- § 5. Special meetings of the Board may be called by the following persons and in the following manner.
- a. The President of the Association may in case of any emergency to be determined by him call a meeting of the Board.
 - b. It shall be the duty of the President to call a meeting of the Board when requested to do so in writing by three members thereof, stating the purpose of the meetings.
 - c. Notice of any special meeting of the Board may be given to all members thereof by telephone, in person or by written notice. Such notice to be given at least seven days prior The President of the Association may in case of any emergency to be determined by to any such meeting.

Statement of reason for change: Add sections to allow members that freely attend monthly meetings to have more say in association business, and by check and balance prevent the board from becoming out of control, and authoritarian.

§ 6 Monthly meetings of the board as well as members that so wish to attend, shall be held on the second Saturday of each month at 10:00AM.

Members that freely attend monthly meetings as being the third branch of the associations governance, shall be allowed to participate in debate, bring motions to the floor, second motions, and vote.

ARTICLE IX VACANCIES

All unexpired terms or vacancies in the offices of officers or Board of Directors shall be temporarily filled by the President until the next meeting, either the semi-annual or annual meeting.

ARTICLE X REMOVAL OF OFFICES

Any officer or director of the Association may be removed from office by a three-fourths vote of the members in good standing present and voting at a meeting called for such purpose at which a quorum is present.

ARTICLE XI MEETING PLACE

Meeting of officers, directors, and/or membership of the Association may be held at such places, from time to time, to be designated by the Board.

ARTICLE XII DUTIES AND/OR POWER OF OFFICERS AND BOARD

§1. **Duties of the President:** it shall be the duties of the President to preside at all meetings of the Association, to serve as Chairman of the Board of the Association during his office as President, to enforce the By-Laws, to preserve order and decorum, to require all officers and members of the committee to perform their duties, to appoint all committees not otherwise provided for, to sign all official documents and countersign all checks. He shall be an official member of all committees and generally perform all the duties pertaining to his office, and shall decide all questions of procedure and order. He shall not be required to vote at meetings of the Associations, except in case of a tie vote.

Statement of reason for change: There is a lot of confusion as to the President voting and on what.

These changes are for clarification of the Presidents duties using the US Senate as the example.

§ 1(a). Duties of the President: it shall be the duties of the President to preside at all meetings of the Association, have the power to control the floor with recognition, to serve as Chairman of the Board of the Association during their office as President, to enforce the By-Laws, to preserve order and decorum, to require

all officers and members of the committee to perform their duties, to appoint all committees not otherwise provided for, to sign all official documents and countersign all checks. He shall be an official member of all committees and generally perform all the duties pertaining to his office, and shall serve as Parliamentarian to decide all questions of procedure and order.

The President shall not vote at any meetings of the board, or association votes regarding business matters, except in the case of a tie vote. The President, as a property owner shall be entitled to cast a vote in the matters involving the vote of the entirety of the association. Those being election of Executive Board members, and the Board of Directors, to amend By-Laws, or Deed Restrictions.

§ 2. **Duties of the Vice-Committeemen:** It shall be the duty of the Vice-President, Secretary and Treasurer to aid the President in the performance of his duties.

§ 3. **Duties of Secretary:** It shall be the duty of the Secretary to keep full and impartial records of the Association and the Board; to perform such duties as may be prescribed for him or her by the Board. His or her records shall at all times be open for inspection by the President and the Board or any other member of the Association in good standing! He or she shall within five days after retiring from office, deliver to his successor all papers and other property in his possession belonging to the Association.

§4. **Duties of the treasurer:** It shall be the duty of the Treasurer to be the custodian of the Association's funds, and to keep a correct and faithful account of all receipts and expenditures, to prepare and sign all checks and keep all books belonging to his or her office, which shall at all times be open for inspection by the President. He shall within five days after retiring from office deliver to his successor all mines and other property in his possession to the President.

§ 5. **Duties and powers of the Board:** The Board shall have, subject to Article XIV, the entire charge, control, administration and management of the affairs of the Association. It shall execute all measures and proceedings to advance the purpose of the Association. It shall keep a correct record of its proceedings and submit a report of same to members at a regular meetings herein above provided for. It shall have the power to authorize expenditures of the Association as described herein after in Article XIII.

§ 6. The Board will require an officer and/or employee of the Association, who shall have custody of funds to give a proper surety bond for the faithful accounts of such funds, with surety or sureties satisfactory to the Board and with premium paid by the Association.

ARTICLE XIII EXPENDITURES

All expenditures of the Association funds shall be authorized by the Board who may direct the Treasurer to pay all bills incurred or to be incurred by the Association, if any. At the beginning of its term the Board will authorize the Treasurer to pay for the necessary stationer stamps and the cost of holding meetings, and no further authorization therefore shall be necessary during the remaining term of such Board.

ARTICLE XIV RIGHTS OF MEMBERS

§ 1. The members of the Association shall have the right, at the annual meeting to present plans, and/or projects which when passed by the majority of those present, shall be binding on the association and upon the board.

§ 2. Every member in good standing shall have all the rights and privileges of membership including the right to vote and hold office in the Association.

Amend § 2 to read;

§ 2(a) Every member in good standing shall have all the rights and privileges of membership including the right to hold office, and use of the pool, and parks.

§ 3. No member shall be considered in good standing that is in arrears in payment of maintenance fees or other charges. He or she shall not be an officer or director in the Association, nor be entitled to any of the privileges of a member of the Association.

Amend § 3 to read;

§ 3. No member shall be considered in good standing that is in arrears in payment of maintenance fees or other charges. He or she shall not be an officer or director in the Association, nor be entitled to any of the privileges of a member of the Association. The right to vote shall not be denied due to being in arrears in payment of maintenance fees, or other charges.

ARTICLE XV ORDER OF BUSINESS

§ 1. The order of business shall be:

- A. Reading of the minutes of the last meeting;
- B. Treasurer's report;
- C. Committee reports;
- D. Unfinished business;
- E. New business;
- F. Adjournment

Amend to add section;

§ 2 All Meetings shall be recorded on an audio device. After the conclusion of business, the recording of the meeting shall be uploaded to the SPPOA website by the end of the day of the meeting.

ARTICLE XVI MEETING AND QUORUM

Meetings of the members and the Board shall be as prescribed by the By-Laws and for all purposes of the Association a quorum shall consist of three members of the Board, when the Board wishes to act, and not less than twelve members in good standing, (household members at the meeting when the members are to act). A Majority vote of the members of the board or the Association at which a quorum is present shall be the act of the Board or the Association.

ARTICLE XVII AMENDING BY-LAWS

The By-Laws may be amended at the annual meeting, by Resolution in writing presented at the annual meeting, and if approved by 51 % of the members attending the meeting.

AMENDED PER TEXAS NON-PROFIT CORPORATION ACT Where there are members having voting rights, the Board of Officers and Directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an Annual or Special Meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meeting of members. The proposed amendment shall be adopted upon receiving at least two thirds of the votes which members present at such meeting in

person or by proxy are entitled to cast, unless any class of thereof by terms of the article of incorporation or the by-law, in which event the proposed amendment shall not be adopted unless it also received at least two-thirds of the votes which the members of each such who are present at such meeting in person or by proxy are entitled to cast.

Amend to read

The By-Laws may be amended at the annual meeting, by Resolution in writing presented at the annual meeting, and if approved by 51% of the members attending the meeting.

AMENDED PER TEXAS NON-PROFIT CORPORATION ACT

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Statement of reason for change.

Election 2019 in a nutshell was an unmitigated disaster. It completely lacked any semblance of order. Lack of knowledge of By-law ballot rules resulted in ballots not being signed. One candidate having removed themselves from the ballot five(?) days before the election showed up with over 30 proxy votes, and had themselves nominated from the floor. By having themselves removed from the printed ballot, and premeditatedly re-enter the race by floor nomination with an exorbitant amount of proxies, constituted a vulgar display of power, as well as possible abuse of the proxy vote in spirit, and application. That person made a clear statement by their actions that they are one of the powerful, and will not be trifled with. People were milling about in the polling area, a proxy was attempted to be cast with two people claiming to be the holder, and the election was never certified. This nonsense needs to stop right here, right now.

Elections on any level are sacred, especially those that elect leadership. They should be treated with reverence, and dignity. They should be conducted orderly and fair, free from posturing and power grabs. The Burlison County Election system was used as a reference in the way that it is handled in a very orderly, structured manner. We deserve no less.

Because a vote is sacred it is believed that the same standard used in state and federal elections should be used regarding proxies in our organization. Meaning they should not be allowed to be used for elected representatives. You can't just hand your vote over to JJ Hiefelhaufen and tell him to vote for your leader for you. That invites corruption, and farming of proxies to settle personal beefs, plain and simple. We're better than that. We can do better than that.

We are allowed to regulate, and control when proxies are allowed to be used based on the citation below. Due to the extreme contention regarding them, alleged mishandling, or possible abuse in the last election, we should eliminate them being used regarding critical association matters. Such as, elections, amending of By-Laws, or Deed Restrictions, and only allow them for general association business.

The following changes are recommended to bring order to our elections, restrict the use and potential abuse of proxies, allow for an absentee ballot system, as well as to ensure legal, fair, and equitable elections are held. This in the hopes of bringing the community together in determining our mutually beneficial destiny, and not become one of "THOSE" associations.

TX Business Organization Code (Non-Profit)

Sec. 22.160.

(b) A member may vote in person or, unless otherwise provided by the certificate of formation or by-laws, by proxy executed in writing by the member or the member's attorney-in-fact.

Do note that there is an alternative form regarding voting one of our directors has from his former association, and is worth considering.

ARTICLE XVIII
ELECTIONS AND VOTING

§ 1. Voter rolls and procedures to vote

The Association shall compile a voter roll of member households eligible to vote based on the Deeds of record filed with the County Clerk of Burleson County as outlined in Article III § 1 of these By-Laws.

The voter roll shall be attended to by the Secretary at the election. Upon commencement of the election, the members representing their household in attendance wishing to cast their ballot, shall, in an orderly fashion approach the Secretary, and give their name. The Secretary shall verify their residence then hand them a printed ballot and place a check next their name on the voter roll as having received a ballot. The household member shall vote. The ballot box shall be manned by two association members that are not candidates, or candidate family members running for office. In an orderly fashion, the members casting their vote shall approach the members attending the ballot box, state their name, and deposit the ballot. The Ballot box attendees shall verify that only one ballot is being cast, and inform the Secretary the name of the person, and that they cast their ballot. The Secretary shall highlight their name on the voter roll indicating that they have voted. All ballots shall be signed and include a printed name.

§ 2. Vote Tabulation

A. At the conclusion of voting, the President shall call the Association to order for the tabulation of the ballots, and ask for any uncast ballots. When it is settled that all ballots are in, the tabulation begins.

B. The president shall ask for a volunteer member not running for election to mark the vote tally on the white board. That member shall take their place at the board, and list the candidates running for election by position on the board listed on the printed ballot, and floor nominations.

C. The Members attending to the tabulation shall ensure that the meeting head table is clear of any and all other paperwork. The attendants shall stand side by side behind the ballot box. The ballot box shall be placed with an unobstructed view for the assembled members, center front of the head table. The box shall be opened, and the tabulation begun.

D. The tabulation procedure shall be as follows;

The ballot box attendant on the right facing the assembled members shall pull one ballot from the box, and verify that the ballot is signed with a printed signature. Should the ballot not contain a signature and printed name, the ballot shall be placed face down to the right of the ballot box and shall be declared invalid with no recourse. Having met the signature standard, the ballot shall be handed to the ballot box attendant to their left, and that attendant shall read the vote cast by position, name, and vote.

The tally board attendant shall place the appropriate tally mark next to each result counted off.

The ballot shall be placed face down to the left of the ballot box. Repeat procedure until all votes are tallied. At the conclusion of the assembled members vote tally Absentee ballots shall be counted in the same manner listed in sub section D of this section. Except that they shall be placed face down in a separate pile to the right of the ballot box.

At the end of the vote tally, one of the tally attendants shall physically count the number of ballots, and the

Secretary shall verify that the counts match. At that time the Election Committee shall render a decision and declare the election valid, or invalid.

In the event a valid election is declared, the transition of power commences.

In the event an invalid election is declared, the nominating committee shall state the reasons for invalidation, and the members shall re-vote. Absentee ballots meeting the signature standard shall be entered into the revote as valid votes.

§ 3. Right to Vote

A. All Property owners regardless of standing, being good, or in arrears shall be entitled to vote in Association elections.

B. In the event that the property of a household is under the management of a trust, that household shall be the household of record, and allowed to vote in accordance with section 3 of this article.

§ 4. Votes per member.

A. In matters of election of the Executive Board, and the Board of Directors by the members of the Association, the number of votes allowed shall be one per household, regardless of how many lots are owned.

B. In matters of voting to amend Bylaws, Deed Restrictions, and Association business, the number of votes allowed shall be one per household, regardless of how many lots are owned.

§ 5. Ballots

The ballots shall be printed with the names of the various candidates running for positions being elected. Each position shall contain the names of the candidates, as well as two blank lines for floor nominations. The back of the printed ballot shall have the election rules printed upon it, and by signing the ballot as required the member indicates understanding of the rules and procedures when the vote is cast.

§ 6. Proxy Votes

1. Proxy votes shall not be used in any election of The Executive Board, the Board of Directors, or in amending Bylaws, and Deed Restrictions. All votes in an election, or vote regarding amending Bylaws, and Deed Restrictions shall be cast in person, or by absentee ballot.

2. Proxy votes may be used in voting in matters of general association business, with the following provisions.

(a) The proxy vote shall be worth one vote of one household regardless of how many lots are owned.

(b) The Proxy vote shall expire at the end of the meeting the vote is to be used at.

(c) The Proxy vote shall state proxy owner, lot number, the proxy holder, and the date it is to be used, and submitted to the President by letter.

(d) The Proxy may be used for a multiple number of matters requiring a vote in the meeting on the date it is to be used.

(e) The Proxy vote shall be surrendered to the secretary at the end of the meeting.

§ 7. Write in candidates, and floor nominations

Floor nominations shall be the only candidates permitted to be written in on the printed ballot.

§ 8. Absentee ballots

Absentee ballots listing the announced candidates by the nominating committee for office shall be provided immediately following the finalization of the list of candidates. It shall be provided by a PDF printable form, downloadable from the SPPOA website, by mail, or by E-mail at the members E-mailed request. The ballot shall contain the words "Absentee Ballot" at the top of the form.

Absentee ballots shall be filled out with ink pen

Absentee ballots shall have a signature and printed name.

Absentee ballots shall be mailed in by the member representing their household, marked "AB" in the lower right corner of the envelope, and received by the association no later than mail delivery on the Friday immediately preceding the election.

Received absentee ballots shall have the date received written on the envelope by the Secretary. The Secretary shall turn the ballots over to the Election Committee and placed in a secure lockbox having a slotted opening, The Secretary and two members of the Election Committee shall be present when the ballots are placed in the lockbox. The Secretary shall notate on the voter role as prescribed in section 1 of this Article. The absentee ballot lockbox shall be held by a member of the Election Committee, and shall not be opened until election day.

Absentee ballots may be delivered in person to the secretary of the association if they are not able to attend the election.