

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Board of Elections and Ethics

441 4th Street, N.W.

Washington, D.C. 20001

DISTRICT OF COLUMBIA

BOARD OF ELECTIONS AND ETHICS

REGULAR BOARD MEETING

One Judiciary Square, Room 280 North

Wednesday, February 1, 2017

10:40 a.m. to 11:11 a.m.

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PRESENT:

Board of Elections and Ethics:

MICHAEL BENNETT, Board Chairman

DIONNA LEWIS, Board Member

Executive Director:

ALICE MILLER

General Counsel:

KENNETH J. MCGHIE, ESQ.

WILLIAM SANFORD, ESQ.

Executive Director - Office of Finance:

CECILY COLLIER-MONTGOMERY

C O N T E N T S

| AGENDA | PAGE |
|------------------------------------|------|
| Adoption of Agenda | 5 |
| Adoption of Minutes | |
| Regular Board Meeting | |
| Wednesday, January 11, 2017 | 5 |
| Board Matters | 6 |
| Public Matters | 6 |
| Executive Director's Report | 6 |
| General Counsel's Report | 16 |
| Campaign Finance Report | 21 |
| Public Questions Regarding Reports | 27 |
| Adjournment | 27 |

1 P R O C E E D I N G S

2 CHAIRMAN BENNETT: Good morning. 10:42;
3 getting better. We'd like to open up the meeting with
4 the adoption of the agenda.

5 Let me do this first, let me introduce. To my
6 far left, Alice Miller, executive director, of the Board
7 of Elections. To her left, Dionna Lewis, board member.
8 To my right, Ken McGhie, general counsel, Board of
9 Education, executive director of the Office of Campaign
10 Finance, Ms. Cecily Collier-Montgomery.

11 MS. COLLIER-MONTGOMERY: Good morning.

12 CHAIRMAN BENNETT: And I am Michael Bennett.
13 Open up with the adoption of the agenda. Ms. Lewis.

14 MS. LEWIS: I'd like to file a motion to adopt
15 the agenda for today's meeting.

16 CHAIRMAN BENNETT: I second. And all in favor?

17 MS. LEWIS: Aye.

18 (Board members vote)

19 CHAIRMAN BENNETT: The ayes have it. Adopted
20 the minutes from the January 11th meeting

21 MS. LEWIS: I'd like to make a motion to adopt
22 meeting minutes from Wednesday, January 11, 2017.

1 CHAIRMAN BENNETT: I second. And it's so
2 moved. Any Board matters?

3 I don't have any today. Do you have any, Ms.
4 Lewis?

5 MS. LEWIS: No.

6 CHAIRMAN BENNETT: Okay. Public matters?
7 Anyone today?

8 (No response)

9 None being seen, the executive director, your
10 report, Ms. Miller.

11 MS. MILLER: Yes. Good morning. I'm going to
12 just start off where I left off at the last meeting and
13 that's picking up on the stats of the campus. As I
14 indicated last month, we are required to canvas -- to do
15 a mail canvas of voters by the end of January.

16 So what we do, and by law, we're required to
17 canvas individuals who did not confirm their address in
18 the previous general election. And we sent mailings to
19 those individuals in January, of each odd-numbered year
20 as the statute reads, the Board shall confirm the address
21 of each registered voter who did not confirm his or her
22 address at the polls in the preceding general election by

1 mailing a first-class non-forwardable postcard to the
2 address listed on our records.

3 Now, if the Post Office returns that notice and
4 provides a new address the voter within the District of
5 Columbia, the Board then changes the address on its
6 records and mails a notice to both the old and the new
7 address and we forward the second notice to them, letting
8 them know that the changes that we had made was obtained
9 from the Post Office and have been reflected in our
10 records.

11 And then there's yet another step. And that's
12 if the Post Office returns the notice as undeliverable.
13 The Board then mails to the voter his or her last known
14 address and notice that provides directions on how the
15 voter, giving the voter directions to register to vote in
16 their new locality; that they've been removed from our
17 records.

18 So this is a process that will be ongoing for
19 the next five or six months.

20 CHAIRMAN BENNETT: Okay.

21 MS. MILLER: It takes a long time to do this.
22 It requires the work of our staff and the cooperation of

1 voters who request to get the correct information and
2 update our records. For this canvas, this year, we
3 canvased 187,000 voters. Those were the individuals,
4 initially, that we identified that did not confirm their
5 address at the November election.

6 From that number, at the outset, we know that
7 approximately 31,000 did move outside the District of
8 Columbia. And that's information we obtained from the
9 Post Office, through the National Change of Address
10 process that we use. We do have 953 in that number that
11 did not have forwarding addresses. And therefore, could
12 not be sent a notice, but we will send a canvas card to
13 everyone and send it to the old address for those
14 individuals who did not have forwarding addresses.

15 So it's a lot of attention to detail. I do
16 want to say it's a huge effort on the part of the staff
17 and let you all know that everyone has been working hard
18 to get this done, and especially to meet this January
19 31st deadline. We had over 20,000 individuals who did a
20 same-day registration or change of address at the polls,
21 which meant before we could do the canvas, we had to get
22 that information in our records so we know who to canvas

1 and canvas the correct people.

2 So everyone has been working hard and I want to
3 recognize that and let it be known and place on the
4 record that, you know, we clearly thank both the staff
5 and voters who have to cooperate with us in order to get
6 this done. And especially on the heels of everything
7 that's been going on regarding voter fraud and the
8 general election and things of that nature. And in that
9 light, we did receive a letter from Congress, requesting
10 from us that we provide them with a number of incidents
11 that were reported for referred for prosecution of voter
12 fraud from the November general election. I have already
13 responded to that letter.

14 In the District of Columbia, there were no
15 incidents that we're aware of, reported, regarding voter
16 fraud. And that's what my response reflected. And then
17 just by way of what we do, I'm just briefly going to go t
18 through that because I think it's important for everybody
19 to understand that we do try to keep our records as clean
20 as possible. They are no perfect, and that's admittedly
21 the truth, but there is clean as we can have them for
22 this -- for what we have to work with.

1 We do belong to a number of entities that we
2 work with, not only with the government organizations,
3 but other entities such as the Electronic Registration
4 Information Center, which is ERIC. There are 21
5 jurisdictions that belong to that. And that is a voter
6 exchange of information among jurisdictions. And for us,
7 fortunately, Maryland and Virginia and Delaware are also
8 members of that entity, that organization.

9 So most of our people generally will go between
10 those three jurisdictions and maybe Pennsylvania. And
11 we're able to exchange records, and we do this on a
12 regular basis. And we're able to track if voters have
13 moved outside of the jurisdiction and to keep the records
14 clean using ERIC as an information mode.

15 ERIC has been in existence since 2012. And DC
16 was one of the first member states to sign on with that
17 entity. It is a cost. And for the Board, it's about a
18 \$20,000 annual cost. It depends on how many states
19 participate that dictates what the cost will be. But
20 right now it's about \$20,000. And I just want to
21 indicate that so far, ERIC has reported to its members
22 more than \$5 million inaccurate and outdated

1 registrations, including 166,000 deceased voters who have
2 been removed from the rolls.

3 So that's one thing that we do. We do a number
4 of other things, but ERIC is a very important part of our
5 process for keeping our rolls clean. New York and New
6 Jersey are not a part of ERIC, and I just want to put
7 this on the record. It's unfortunate that they're not
8 because those were two jurisdictions where, allegedly,
9 family members of the president are duly registered. So
10 they're not picked up for whatever reason, but have they
11 been participant in error? They may have been picked up
12 as being dual residents -- registered.

13 Moving on, we have also submitted the election
14 administration voting survey to the Election Assistance
15 Commission. That information was due in by today. We
16 did it yesterday. So that is a compilation of all the
17 data that we can possibly think of regarding polling
18 places, same-day registrants, new registrants, change of
19 address, number of poll workers. It's just data all over
20 the place. It's over 30 pages of data amounting to close
21 to 70 to 100 questions and sub-questions.

22 So we're a day early on that, but that's going

1 to be a lot of back and forth. Every jurisdiction is
2 required to do that by federal law. So we're on target
3 with that. And just one other thing, briefly, we have
4 been working -- we're required to have in place by
5 October 1st, an e-Signature mobile app. And this is
6 something fairly new.

7 There's only one other jurisdiction that we
8 know that has that process in place. And what it is, it
9 allows candidates who are circulating petitions to use a
10 mobile application process that automatically links to
11 our voter registry roll. So that if a signature is
12 gathered, the candidate will know right away if the voter
13 is registered.

14 CHAIRMAN BENNETT: Okay.

15 MS. MILLER: Because they have a voter
16 registration roll on that app.

17 CHAIRMAN BENNETT: Okay. Wow.

18 MS. MILLER: Yeah. So it requires us to upload
19 the voter roll on a mobile format. An iPad is usually
20 what has been used. Denver is the only other
21 jurisdiction that is doing this. They did it for the
22 first time in 2015. Fortunately, we know people in

1 Denver. They have the licensing for it from what they've
2 developed. And we've actually been on the phone with
3 them as late as yesterday. And fortunately for us, the
4 election director the City of Denver was here yesterday
5 and she came by and we sat down and we talked about it.

6 So we're going to be partnering with them to
7 get this in place. They have already developed and
8 they've shared with us their disclaimers and their
9 agreements that they have individuals sign on to. They
10 do use iPads. They require a deposit if the iPad is
11 going to be used to be provided from the city. And
12 different kinds of little things that we need to be on
13 board with. So it's going to be a really good working
14 relationship and we're happy that they're going to join
15 on board with and guide us, kind of like, through this
16 process.

17 CHAIRMAN BENNETT: Great.

18 MS. MILLER: You know, they said, it's funny,
19 that there are other jurisdictions that are considering
20 doing this. And I reminded them that we're right here.
21 So we're there, to which they said don't worry, you know,
22 we'll help you get through this.

1 CHAIRMAN BENNETT: Oh, good.

2 MS. MILLER: Because it's in the law. We are
3 required to do it by October 1st to have in place for
4 next year's election. I'm feeling pretty confident we'll
5 be able to do it. The aside to that is that it hasn't
6 been funded. So we have to seek the funding for it for
7 the licenses and for the iPads that we will have to have
8 in order to provide candidates with, you know, the actual
9 hardware that they'll need to circulate and obtain the
10 petition signatures.

11 CHAIRMAN BENNETT: Well, just a rough estimate
12 of the funding, what kind of --

13 MS. MILLER: Well, we were trying to figure
14 that out. And Denver told us when they did it, they were
15 somewhere around \$60,000. I don't know that that
16 included the hardware.

17 CHAIRMAN BENNETT: Sure.

18 MS. MILLER: So it did not include the
19 hardware. Okay. Everybody is shaking their head. It
20 didn't include the hardware. That was just the cost of
21 the licensing and the vendors and to get the software in
22 place on the server.

1 CHAIRMAN BENNETT: And the hardware, basically,
2 the iPads for the candidates to take with them around the
3 neighborhood.

4 MS. MILLER: Yes. They have iPads and Stylus
5 that they use. And the way, as they explained to us
6 yesterday --

7 CHAIRMAN BENNETT: So there is no finger
8 signing there.

9 MS. MILLER: No, no. In fact, it's a very
10 clear signature. The software is developed such that
11 even if they put their hands across the bottom of it, it
12 doesn't pick it up.

13 CHAIRMAN BENNETT: Oh, okay.

14 MS. MILLER: It only picks up the one from the
15 Stylus.

16 CHAIRMAN BENNETT: Oh, okay.

17 MS. MILLER: So it's a clean signature.

18 CHAIRMAN BENNETT: Okay.

19 MS. MILLER: So we'll be working with them. I
20 thought we'd need a trip to Denver, but I've decided that
21 Denver needs to come to us.

22 CHAIRMAN BENNETT: At this time of year, yeah.

1 When you get to a place where you are kind of getting
2 down the road there, I'd love to have an opportunity to -
3 -

4 MS. MILLER: Sure.

5 CHAIRMAN BENNETT: -- where we are. Let me
6 know. I'd be happy to come in.

7 MS. MILLER: Yeah, we'll keep you posted on
8 that.

9 CHAIRMAN BENNETT: Not to participate in the
10 meeting but observe.

11 MS. MILLER: Yes.

12 CHAIRMAN BENNETT: Personal interest.

13 MS. MILLER: Okay. That's it.

14 CHAIRMAN BENNETT: Great. All right. Any
15 questions?

16 (No response)

17 MR. MCGHIE: Yes. The only thing I have on my
18 agenda is one piece of regulation on rulemaking to amend
19 Chapter 1, Organization of Board of Elections. This is
20 to establish an optional universal leave structure for
21 the three statutorily recumbent employees of the Board of
22 Elections, which are the executive director, general

1 counsel, and the director of campaign finance.

2 So the way -- this is similar to what the mayor
3 currently does and also what occurs in the federal
4 government. So what they do is they offer 208 hours of
5 universal leave to senior officers of the agency that are
6 accepted service. And so at the beginning of every year,
7 they would start with 208 hours. They don't get any sick
8 leave, it's all universal leave. And so the officer or
9 whatever would draw from that universal leave and they
10 could only carry over 40 hours at the end of the year to
11 the next fiscal year. And this would be a way for us to
12 attract more talented individuals and it could be part of
13 the compensation package that we also universal leave.

14 We've had at least three directors in the past
15 that started with our agency, and because they came from
16 outside the federal government -- I mean, outside of the
17 District Government, they had no leave. So it wasn't
18 really fair that somebody that's in the executive
19 director capacity and put in a great number of hours
20 during the week would start at zero leave.

21 And so with the universal leave, that would
22 start at 208 at the beginning of the year, as opposed to

1 zero. And I guess the way it's currently done, after
2 five years, I think you go to six hours. And then 15
3 years you go to eight hours.

4 CHAIRMAN BENNETT: Right.

5 MR. MCGHIE: And it would totally be optional.
6 So if you attract somebody that's already in the District
7 Government, has more than 15 years, they probably
8 wouldn't want to do this. If you're trying to recruit
9 somebody that is outside of the District Government, this
10 would be the ideal thing for them.

11 CHAIRMAN BENNETT: Well, we're certainly not
12 interested in changing out our talent that we currently
13 have, but it does make sense from a future perspective.
14 Ms. Lewis, do you have any questions?

15 MS. LEWIS: I do. Give me one second.

16 CHAIRMAN BENNETT: Sure.

17 MS. LEWIS: So what happens -- so you know in my
18 full time job I do employment law. So what happens --

19 CHAIRMAN BENNETT: I thought this was your
20 full-time job.

21 MS. LEWIS: What happens if we have a new
22 employee come in -- of course, this wouldn't be any of

1 our current ones, but we have a new employee come in,
2 let's say in 50 years after Alice retires and they stay
3 for six months but they use up all of their 208 hours
4 within that first six months, is there any way that we
5 can get that --

6 MR. MCGHIE: Yeah, recoup it back?

7 MR. LEWIS: Yes.

8 MR. MCGHIE: I don't know.

9 CHAIRMAN BENNETT: No, I don't think so. We'd
10 have to figure that out.

11 MS. LEWIS: What impact does this have on
12 pregnancy or any impact whatsoever? Is there --

13 MR. MCGHIE: They would still be eligible for,
14 I guess the District has --

15 MS. LEWIS: FMLA? DC Family Medical Leave Act?
16 Pregnancy --

17 MR. MCGHIE: Yeah, yeah, family leave. Yes, in
18 addition to that.

19 MS. LEWIS: Oh, okay. Okay. So is there no
20 concern about the fact that when someone comes, they work
21 for six months and they're like, you know what, I had my
22 208-hour leave/vacation, whatever that equates to in

1 numbers and this isn't working out --

2 MR. MCGHIE: Yeah, I don't think -- if 208 is
3 coming to 26 -- I guess if somebody came on board and
4 just ate up the whole 26 day, that would've been part of
5 their package.

6 MS. LEWIS: Okay. I don't have any other
7 questions. I was just kind of curious about.

8 CHAIRMAN BENNETT: Well, if I'm sitting in this
9 chair, they wouldn't get passed the interview, I think
10 I'd figure them out.

11 Any other questions? You're good?

12 MS. LEWIS: Yes.

13 CHAIRMAN BENNETT: Well, can I get a motion to
14 move forward on the rulemaking?

15 MS. LEWIS: I'd like to make a motion to --

16 CHAIRMAN BENNETT: This is rulemaking, right?

17 MR. MCGHIE: Yes.

18 MS. LEWIS: I'd like to propose that we adopt
19 this rulemaking that's final?

20 MR. MCGHIE: No, as proposed.

21 MS. LEWIS: As proposed. I'd like to make a
22 motion to adopt this rulemaking as proposed.

1 MR. BENNETT: I second. And so the ayes have
2 it. So that's it.

3 MR. MCGHIE: Okay. That's it. So we'll be
4 posting in the DC Register as the proposed rulemaking for
5 the required 30-day comment period. And that would
6 conclude my report.

7 CHAIRMAN BENNETT: Thank you. Ms. Montgomery.

8 MS. COLLIER-MONTGOMERY: Yes. The first thing
9 I would like to report is that on January 31, 2017, the
10 Office of Campaign and Finance prepared and disseminated
11 the OCF 2017 biannual report of contributions and
12 expenditures. The report was disseminated to the mayor
13 of the District of Columbia, as well as to each member of
14 the counsel, as well as the chairperson and to the public
15 in the Washingtonian Room of the DC Library at the Martin
16 Luther King, Jr. Library.

17 We disseminated the report in an electronic
18 format, a CD, as well as by email transmission, and the
19 report is also available at the OCF website. The
20 biannual report reports for the two-year period
21 immediately preceding January 31. The contributions and
22 expenditures of candidates for public office, as well as

1 the committees that are registered with the Office of
2 Campaign Finance, including the Principal Campaign
3 Committee, the Political Action Committee, the
4 Independent Expenditure Committee, our Exploratory
5 Committee, and also, our Inaugural Legal Defense, and our
6 Transition Committee. For this particular report cycle,
7 there were no -- I'm sorry, there were no transition or
8 legal defense committees registered with the office
9 during the past two-year period.

10 The report basically summarizes the
11 contributions and expenditures for each of the
12 committees. And what it does also is it breaks down the
13 contributions by donor type and also by amount and it
14 breaks down the expenditures by category. The office
15 also uses graphs to show the percentage terms for the
16 contribution, as well as for the expenditures.

17 Again, the report is available at our website.
18 The statutory requirement has been in place since 2001.
19 So for every two-year period, during an odd-numbered
20 year, on January 31st, we prepare this report. During
21 the preceding two-year period, what we do at every
22 following deadline, you will see at our website, summary

1 reports for the particular filing deadline of all of the
2 entities that have filed their particular reports that
3 were due that day. And so these summary reports that we
4 prepare on every filing deadline actually provide the
5 foundation for this biannual report.

6 Secondly, during the month of February -- I'm
7 sorry, the month of January, there were three filing
8 deadlines in the Office of Campaign Finance. The first
9 was the January 1st report of receipts and expenditures
10 for our constituent service programs, which was due on
11 January 3, 2017. We have 11 required filers; 10 timely
12 filed. We have one late file and we had one request for
13 an extension, which was granted. There was one referral
14 to the Office of the General Counsel. All of the filers
15 filed their reports electronically at the OCF website.

16 The second filing deadline was for the report,
17 the Senator Representative Statehood Funds, which was due
18 on January the 1st. It was actually received on January
19 the 3, 2017. There are three required filers; all three
20 timely filed and they also electronically filed their
21 report.

22 On January the 31st, the report of receipts and

1 expenditures was due from our principal campaign
2 committees and our Political Action committee who are
3 continuing. We will provide the stats for this
4 particular filing at the next Board meeting.

5 Also, during the month of January. January the
6 18, 2017 was the deadline for the filing of the summary
7 financial statement by our ANC candidates. We had 469
8 required filers; 308 timely filed. As of January the
9 30th, 161 had not filed. And what we do with the ANC
10 candidates at the filing deadline, we send them a
11 reminder letter or delinquency letter and it extends the
12 time for filing to February the 7th in 2017.

13 I would also like to indicate on the record
14 that the biannual report does not include the financial
15 reports of the Advisory Neighborhood Commission members.
16 They filed with their one-time report, and that report is
17 due 60 days after the Board certifies the election
18 reports.

19 Again, with respect to the referrals to the
20 Office of the General Counsel, there was one referral
21 which occurred during January of a Principal Campaign
22 Committee for failure to timely file the December the

1 10th 2016 report of receipts and expenditures. That was
2 the Re-elect Yvette Alexandra 2016. Derek Ford is the
3 treasurer. With respect to the January the 1st 2017 and
4 report of receipts and expenditures, the failure to
5 report by constituent service program, that was from Ward
6 4 Constituent Service Fund. Eric Anders is the
7 treasurer. We had two new committees that registered
8 with the agency during the month of January.

9 The first was the 2017 Committee to recall
10 Mayor Muriel Bowzer. That notice was filed on January
11 the 24th of 2017. Do Something Constituents Fund, Ward 8
12 Councilman Trayon White. And that constituent Service
13 program registered on January the 24th 2017. The
14 entrance conference was the for treasurers of these newly
15 registered committees will be held during the month of
16 January of 2017.

17 In our audit division, during the month of
18 January, the audit division conducted the summary -- the
19 best review of the summary of financial statements of the
20 candidates for advisory neighborhood commission members.
21 Basically, it conducted 207 request reviews and it also
22 conducted desk reviews of political action committee --

1 CHAIRMAN BENNETT: Could you raise your voice a
2 little bit for the reporter?

3 MS. COLLIER-MONTGOMERY: Sorry. It also
4 conducted desk reviews of the political action committee
5 reports which were filed during the month of January, on
6 the 7th. It conducted desk reviews of the constituent
7 service programs, financial reports. That number is six.
8 And of the Senator Representative Statehood Fund
9 Programs, three of Principal Campaign Committees, which
10 includes amended reports: 12.

11 During the month of January, in the audit
12 branch, in terms of ongoing audits, we have full field
13 audits of newly-elected officials. The full field audit
14 of the Brandon-Todd for Ward 4 Principal Campaign
15 Committee is ongoing, with periodic audits of candidates
16 in the 2016 election.

17 The periodic random audit of the re-elect to
18 Vincent Orange 2016 Principal Campaign Committee for the
19 January 31, 2016 and the March 10, 2016 R&E reports, that
20 audit is ongoing. There were no audit reports issued
21 during the month of January 2017. And now I would ask
22 the general counsel for the office to present the report

1 of the Office of the General Counsel.

2 MR. SANFORD: Thank you. Good morning, Mr.
3 Chairman and distinguished board members. My name is
4 William Sanford, general counsel for the Office of
5 Campaign Finance. During the month of January 2017, the
6 Office of the General Counsel received three referrals,
7 conducted seven informal hearings and issued seven
8 orders, which include the following:

9 Five orders for failure to timely file reports
10 were issued in which no fines were imposed. Two orders
11 for failure to timely file reports were issued in which
12 fines totaling \$1,700 were imposed. The Office of the
13 General Counsel imposed fines against the following
14 respondents:

15 A fine of \$700 was imposed against the 1199
16 SEIU PAC for failure to timely file an eight-day pre-
17 general election report. A fine of \$1,000 was imposed
18 against the Gertrude Stein Democratic Club, also for
19 failure to file an eight-day pre-general election report.
20 During the month of January, the Office of the General
21 Counsel collected \$10,000 in fines.

22 In the month of January, the Office of the

1 General Counsel maintained a total of four open
2 investigations. No new investigations were open. And
3 during the month of January, there were no requests for
4 interpretive opinion and no show cause proceedings were
5 inducted. And that should conclude my report.

6 CHAIRMAN BENNETT: Thank you. Any questions
7 for Ms. Montgomery or Mr. Sanford?

8 (No response.)

9 CHAIRMAN BENNETT: Thank you Ms. Montgomery.
10 Thank you, Mr. Sandford. Any general questions from the
11 public regarding the reports that were provided today?

12 (No response)

13 Seeing none, 11:11. The meeting is adjourned.

14 (Whereupon, at 11:11 a.m., the Regular Board
15 Meeting was adjourned.)

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