GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS
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SPECIAL BOARD MEETING
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MONDAY

AUGUST 31, 2020
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The District of Columbia Board of Elections convened via Video Teleconference, pursuant to notice at 10:00 a.m. EDT, Michael Bennett, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

MICHAEL BENNETT, Chair

MIKE GILL, Member

BOARD OF ELECTIONS STAFF PRESENT:

TERRI STROUD, General Counsel

KAREN F. BROOKS, Registrar of Voters
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CHAIR BENNETT: Let me get started.

I call this meeting to order, Special Meeting of the Board of Elections in order to hear matters associated with the ballot access.

It's after 10:00, 10:08 so we're eight minutes behind and should be relatively efficient.

What I'm going to do is a call the meeting to order, which I have just done. Let's see if we have a quorum. We need to have at least two Board members present for a quorum then Mr. Gill, can I get to acknowledge your presence.

MEMBER GILL: Mr. Chairman, this is Mike Gill, Board Member, and I am here.

CHAIR BENNETT: Good. And I believe Ms. Greenfield is not able to be here today but I'm here, Michael Bennett, Board Chair, so there of the three Board Members here so we have a quorum so the meeting can open.

This meeting is to specifically to
hear nominating petition challenges and from
that, what I'll do is I'll turn it over to Ms.
Stroud. She will walk through the process with
you and I thank the petitioners for joining us.

My apologies with regard -- I guess I
shouldn't apologize for having to use Webex.
We're all trying to be safe and we're still in
that mode at this point.

So your patience is appreciated and I
know that most of you have probably been doing
this a lot, if not weekly, certainly daily, well,
not daily, certainly weekly.

So we appreciate us trying to get this
together. So with that I'll turn to Ms. Terri
Stroud, who is our General Counsel and walk us
through the process.

CHAIR BENNETT: Good morning,
everyone. My name is Terri Stroud. As Mr. Chair
said, I'm the General Counsel to the Board. And
what we're going to do is we're going to hold two
nominating petition challenge hearings and then
also have an adverse preliminary determination
hearing this morning.

And so the first hearing is Tiffany Brown versus David Brooks II, who is a candidate for Advisory Neighborhood Commissioner in Single Member District 7B02.

And the second hearing is Lorraine Stanislaus versus Regina Pixley, candidate for Advisory Neighborhood Commissioner in Single Member District 8C04.

And so what we'll do with respect to each hearing is that I'll have both of the parties in Single Member identify themselves for the record and you'll state your names and addresses for the record.

Then we will hear the Registrar of Voters Report regarding this challenger. The Registrar has examined the challenges. She will give her Preliminary Determination Report. The parties will have an opportunity to respond to that report which lists the findings with respect to the challenge.

And then based on the Registrar's
Report and the information given by the parties,
I will make a recommendation to the Board as to
the ruling and then the Board will either rule or
we can go onto Executive Session to deliberate as
to how the matter should be resolved.

So with that I will call, I will have
the parties (audio interference).

MS. STROUD: Thank you. So Ms. Brown,
are you on the call?

MS. BROWN: I am on the call.

MS. STROUD: Okay. If you could state
your name and address for the record, please, and
spell it for the court reporter?

MS. BROWN: Sure. It's Tiffany L.
Brown, T-I-F-F-A-N-Y, middle initial L, last name
B-R-O-W-N. My address is 2918 Akron Place, A-K-
R-O-N, Southeast, Washington, DC, 20020.

MS. STROUD: And Mr. Brooks, are you
on?

(Audio interference.)

MR. BROOKS: -- D-A-V-I-D, Brooks, B-
R-O-O-K-S. I live at 1741 28th Street,
Southeast, Apartment 203, Washington, DC, 20020.

MS. STROUD: Okay. So if the representative from the Voter Services Division could identify herself?

MS. SMITH: Yes. My name is Deanna Smith, Registrar's Office.

MS. STROUD: So Ms. Smith will read the Registrar of Voters Determination Report for the record.

MS. STROUD: Thank you. On August 5th, 2020, David Brooks II, submitted a nominating petition to be put on the ballot, as a candidate for 2020 General election for the Office of Advisory Neighborhood Commissioner for Single Member District 7B02.

The minimum requirement to obtain valid access for this office is ten signatures from district voters who are duly registered in the state SMD as a candidate.

The petition contains 17 signatures. Of the 17 signatures submitted only 13 were timely submitted. Accordingly, the additional
four signatures were not accepted.

The petition was posted for public
inspection for ten days as required by law. The
petition was challenged on August 10th, 2020, by
Tiffany L. Brown, a registered voter in the
District of Columbia.

Ms. Brown filed challenges to five of
the 13 timely submitted signatures, enumerated by
line and page number on individual challenge
sheets filed for each petition page.

The signatures were challenged to
titled 3 DCMR Section 1607.1 of the Board's
regulations on the following grounds.

By review of the challenge in the case
that all five challenges are valid, the
challenges are invalid because the signer is not
registered to vote at the address listed on the
petition at the time the petition was signed.

Two are invalid because the signer is
an inactive voter and one is invalid because the
signature and the printed name are illegible.

This left the candidate's nominating
petition with eight signatures, two signatures below the number required for ballot access.

The Registrar of Voters timely received four change of address forms from David Brooks II, on Tuesday, August 18th, 2020.

Only one of these forms could be accepted because the two other forms were, I'm sorry, because two of the forms from voters were not registered and one was probably older because the signer was inactive at the time of signing.

Accordingly, Candidate Brooks was credited with one signature that had initially been determined to be invalid.

This left the candidate's nominating petition with nine signatures, one signature below the number required for ballot access.

After additional review of the challenge, the Registrar of Voters (audio interference) that had been initially been determined to be invalid was in fact valid.

Therefore, Mr. Brooks was credited with one additional signature. This leaves the
candidate's nominating petition with ten signatures, the number required for a ballot access. Thank you.

MS. STROUD: Okay. Was everyone able to hear the Registrar of Voters Report?

MR. BROOKS: Yes.

MS. BROWN: Yes.

MS. STROUD: Okay. Ms. Brown, do you have any response?

MS. BROWN: Yes, I would like to know which voters were deemed to be eligible based on the report and which ones were deemed not to be eligible?

MS. STROUD: The Registrar of Voters will so indicate for the record.

(Audio interference.)


MS. BROOKS: My name is Karen Brooks. I'm the Registrar of Voters. K-A-R-E-N, B-R-O-O-
MS. BROWN: I didn't hear clearly the names that she said. So I'm, maybe I didn't ask the question clearly. Of the petition challenge, which, I submitted five and some were deemed to be eligible. And my question is which ones were deemed to be eligible?

MS. BROOKS: The one who is going to be eligible from the one that is challenged by the initial one.

MS. BROWN: So I submitted five names.

MS. BROOKS: Yes.

MS. BROWN: Right. And so of those five they were, some were now being deemed to be eligible to be voted, eligible voters. Which ones are those?

(Audio interference.)

MS. BROOKS: Okay. So on the challenge sheet the one that's good now will be Arthur Brooks on Line 1.

MS. BROWN: Okay.

MS. BROOKS: And the two that will
still be invalid would be Gregory Smithwick's and
number -- the one that he gave credit for is
Wayne Quibley on Page 2 on Line 1. That's the
one that was not counted in the issues.

MS. BROWN: Page 2 --

MS. BROOKS: So, Page 2 will be Wayne
Quibley who was not included in the initial
count.

MS. BROWN: That one also wasn't
challenged so.

MS. BROOKS: They're being challenged
now but it was a miscount on the numbers
previously submitted. He actually submitted 14
signatures which would mean that he would have
enough signatures facing a challenge anyway, once
he secured the one which was Arthur Scott.

MS. BROWN: Okay. I see that.

MS. BROOKS: Yes.

MS. BROWN: All right. So Arthur Scott
and then Wayne Quibley because he was not counted
before?

MS. BROOKS: Yes.
MS. BROWN: Okay. That's all.

MS. STROUD: Okay. So Ms. Brown, do I understand you to mean that you are fine with the Registrar's Report and have no issues with Mr. Brooks obtaining ballot access?

MS. BROWN: No.

MS. STROUD: Okay. Thank you. So I would recommend to the Board that Mr. Brooks be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 7B02.

CHAIR BENNETT: And can I get a motion from Mr. Gill to accept the General Counsel's recommendation?

MEMBER GILL: I'm sorry?

CHAIR BENNETT: Can I get a motion from Mr. Gill to accept the General Counsel's recommendation? Mr. Gill, are you on mute?

Mr. Gill, I'm sorry, you were on mute.

MEMBER GILL: So I make a motion to accept the General Counsel's recommendation that the Candidate Brooks be given ballot access.
CHAIR BENNETT: And I second it. It's been properly moved and seconded. Can I get a voice vote, Mr. Gill?

MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well. It's unanimous based on a quorum. So Mr. --

MS. STROUD: Brooks.

CHAIR BENNETT: -- Brooks is provided ballot access. Thanks so much to the parties.

MR. BROOKS: Thank you.

MS. BROWN: Thank you.

CHAIR BENNETT: Ms. Stroud?

MS. STROUD: The next matter is

Lorraine Stanislaus versus Regina Pixley, candidate for Advisory Neighborhood Commissioner and Single Member District AC04.

Ms. Stanislaus?

MS. STANISLAUS: I'm here.

MS. STROUD: Okay. If you could state and spell your name for the record and list your address, state your address?

MS. STANISLAUS: Okay. Lorraine, L-O-
3221 8th Street Southeast, Washington DC, 20032,
Number 45, Apartment 15.

MS. STROUD: Okay. And Ms. Pixley, are you on the line?

MS. PIXLEY: Yes, good morning.

MS. STROUD: Good morning. If you could state and spell your name for the record and state your address?

MS. PIXLEY: Regina, R-E-G-I-N-A,
My address is 211 Savannah Street Southeast,
Apartment Number 8, Washington, DC, 20032.

MS. STROUD: Okay. Thank you. So as a preliminary matter, Ms. Pixley, is your attorney present?

MS. PIXLEY: I'm checking.

MS. STROUD: Ms. Pixley, is your attorney present on the line?

MS. PIXLEY: I'm checking now.

MR. THERESA: Hello, I'm on the line.

I need to be unmuted. I just sent a chat message
to everyone.

MS. STROUD: Okay. We can hear you.

MR. THERESA: Okay. All right. Thank you.

MS. STROUD: So as a preliminary issue, Ms. Pixley has indicated that the Board does not have jurisdiction over this matter and Mr. Theresa, if you could explain your position?

(Audio interference.)

MS. STROUD: Mr. Theresa?

(Audio interference.)

MS. STROUD: Okay, Mr. Theresa?

MR. THERESA: On mute, it won't allow me to unmute.

MS. STROUD: You're calling. You're not muted.

MR. THERESA: I'm on Cisco Webex.

Okay. All right. Yes. So in explaining Ms. Pixley's position, statute DCMR 31606.2 requires a qualified elector pose a challenge to a petition and qualified electors need to file in person.
And at the time they need to have their address on their challenge and Ms. Stanislaus didn't have an address on the challenge that would qualify her as a qualified elector.

Furthermore, when Ms. Stanislaus did present or purportedly gave an address that would qualify her as a qualify, that would qualify her as a qualified elector, it was not until the deadline which was after the ten day period, the ten day posting period required under 31606.2 DCMR.

MS. STROUD: Okay. So your position is that Ms. Stanislaus was not a qualified elector at the time that she filed the challenge which was timely filed?

MR. THERESA: Well, the challenge was filed. It wasn't properly filed in that, yes, there was no certification that she was a qualified elector and so the hearing shouldn't even have been took up.

MS. STROUD: Okay.
Ms. Stanislaus?

MS. STANISLAUS: Yes?

MS. STROUD: Are you a qualified elector in the District of Columbia?

MS. STANISLAUS: I am and I have been for quite a few, over (audio interference) years.

MS. STROUD: Okay.

Ms. Brooks, did you make a determination as to whether or not Ms. Stanislaus was in fact a qualified elector at the time that she filed?

MS. BROOKS: Yes.

MS. STROUD: You did? And what's her address according to the Board's records?

MS. BROOKS: According to the Board's records, Ms. Stanislaus (audio interference).

MR. THERESA: I guess our argument is she may or may not be a qualified elector but at the time of filing her challenge, there's no way that the Board could have known that because when she filed the challenge (audio interference) she gave an address that was not that of a qualified
elector and therefore there should have never been a hearing to have commenced.

MS. STROUD: Okay. Mr. Theresa, one moment.

Yes, please.

MS. BROOKS: Ms. Stanislaus lists her address as 3221 8th Street Southeast according to the Board's records.

MS. STROUD: And was this address provided on the challenge sheet?

MS. BROOKS: The address provided on the challenge sheet was 200 I Street Southeast.

MS. STROUD: And Ms. Stanislaus, what address is the one that you provided on the challenge form?

MS. STANISLAUS: My work address.

MS. STROUD: Okay. But you are a registered qualified elector in the District of Columbia?

MS. STANISLAUS: Yes, I am.

MS. STROUD: And Ms. Brooks, was the challenge timely filed?
MS. BROOKS: Yes.

MS. STROUD: Okay.

So according to our statute, Mr. Theresa, the Board is, any registered qualified elector, and this is on 1-1008, 1001.8, 01 of the Board's election statute, not regulations, but statute.

And it provides that any registered qualified elector may within the ten day period challenge the validity of any petition by a written statement by the challenger and filed (audio interference) testified concisely the alleged defects in the petition.

And so based on the Registrar of Voters' testimony as well as Ms. Stanislaus's information, she appears to be a qualified elector who filed the challenge within the ten day period.

CHAIR BENNETT: Mr. Theresa, this is Michael Bennett, Board Chair. Can you hear me okay, sir?

MR. THERESA: I can hear you.
CHAIR BENNETT: Okay. Great. So your position is that the law or the regulations require that the challenger had to place their address on the challenge?

MR. THERESA: Right. And also that the regulation provides for your sort of certification to be made in person, that it has to be submitted in person and that their address has to be that of a qualified elector at the time of filing the challenge. That's our position.

CHAIR BENNETT: But does the -- is your position that the regs or the statute requires that the challenger's address be on the challenge? Is that what you're saying? I'm trying to make sure I'm clear about your position.

MR. THERESA: That the regulation requires that it be filed, signed, and submitted in person by a qualified elector. And I don't know how that would be verified if there was no qualified elector address given to the Board.

I don't know under what authority the
Board proceeded. It may turn out that the Board was right about this but it wasn't based on anything that the qualified elector submitted to the Board. This is post facto, after the fact.

CHAIR BENNETT: Okay.

MS. STROUD: All right. So Ms. Brooks, could you testify as to the circumstances surrounding the filing of the challenge and how you determine that it was properly filed?

MS. BROOKS: The challenge was properly filed. She did file in person on August 14, at 8:59 a.m. in the morning and I checked her voter record and she is a qualified registered voter.

MS. STROUD: And that determination was made when? At a later --

MS. BROOKS: No. On the day she filed the petition, the challenge.

MS. STROUD: Okay. So you determined when the petition or the challenge was filed --

MS. BROOKS: Yes.

MS. STROUD: -- that she was, Ms. Stanislaus was a registered qualified elector of
the District?

MS. BROOKS: That's correct.

MS. STROUD: And the challenge was timely filed?

MS. BROOKS: Yes.

MS. STROUD: So you did not make the determination after the fact, you made it when she -- at the time of the filing?

MS. BROOKS: Correct.

MS. STROUD: Okay. It would be my recommendation that the Board --

MR. THERESA: May I insert one more objection, please?

CHAIR BENNETT: Sure.

MR. THERESA: It seems like, you know, there's a space on the challenge for an address. I still don't know, I'm having a difficult time understanding that requirement if it's on the Board to proactively determine the address for themselves and to figure out if the person is a qualified elector.

It seems that that would be a
requirement that the actual challenger put that on their challenge and that the Board just go by what the challenger says and not take it upon themselves to do research, whether it's before or after the hearing.

CHAIR BENNETT: Okay. Is there, well, I guess two things. One is does the -- who is it that filed the challenge.

(Simultaneous speaking.)

CHAIR BENNETT: Ms. Stanislaus, is she going to respond to that?

MS. STROUD: Ms. Stanislaus, do you, would you like to respond to Mr. Theresa's argument?

MS. STANISLAUS: No.

CHAIR BENNETT: Okay. Mr. Theresa, do you have any other arguments you want us to consider?

MR. THERESA: Just that the entire process, if there's a space for an address and it needs to be certified in person, then there's no point to having it if the Board is just going to
I conduct its own research.

I mean, whether or not, you know, she ends up being a qualified elector or not is irrelevant to the analysis, at least under 1606.2.

CHAIR BENNETT: Okay. So Mr. Gill, do you have any questions?

MEMBER GILL: Sorry, Michael. You're asking me if I have a question?

CHAIR BENNETT: Yes, sir.

MEMBER GILL: No. I mean, I'm following along with your argument here. I guess, you know, as the Board we try to strive to not, I think the attorney is arguing a technicality that's never really been accepted as a, I mean, it's a technicality the statute says needs to be a qualified elector.

MR. THERESA: It's a regulation.

MEMBER GILL: And there's no, I guess I'm struggling to see the connection between being a qualified elector and the address that's put on the form as being determinate of that. So
I don't have any questions, that's just what I'm struggling with.

MS. STROUD: So based upon the requirement of the election statute that provides that any registered qualified elector may within the ten days period challenge the validity of any petition by a written statement signed by the challenger and filed with the Board and specified concisely the alleged defects in the petition, I would recommend that the Board allow the matter to go forward.

CHAIR BENNETT: I have unreadiness and so I'd like to take the argument under consideration and take a look at the documents and then in Executive Session have discussion with Mr. Gill and then respond to the arguments (audio interference).

MEMBER GILL: Michael, I'm good with that. Should we make a motion to put this into Executive Session?

CHAIR BENNETT: Well, not at this point. I want to hear the rest of the arguments.
But we'll go onto Executive Session after we hear the other matter. I think we have one more matter.

MS. STROUD: We do. So we can go to the third item on the agenda and then we'll go to Executive Session.

CHAIR BENNETT: Yes. Then we'll go to Executive Session and consider it. Thank you.

MEMBER GILL: All right.

CHAIR BENNETT: All right. And what we'll do, the way this will work, Ms. Stanislaus and Mr. Theresa --

MS. STROUD: And Ms. Pixley.

CHAIR BENNETT: -- and Ms. Pixley, is we will hear the next matter. We'll vote to go into Executive Session and then we'll come back and take a voice vote relative to the recommendation of the General Counsel.

MS. STANISLAUS: Understood.

CHAIR BENNETT: Thank you so much.

All right. Ms. Stroud, next matter?

MS. STROUD: The next matter is an
Adverse Preliminary Determination Hearing and the party is Mr. D'Andre Phillips.

Mr. Phillips was a candidate seeking to be a candidate in the Office of Advisory Neighborhood Commissioner in Single Member District ANC5C06.

My understanding in the Registrar of Voters position and address this is that Mr. Phillips did not timely file his ballot access materials in order to be a candidate in this contest. He's (audio interference).

MS. BROOKS: We received Mr. Phillips's documents on August 10th after the filing deadline by mail.

(Audio interference.)

CHAIR BENNETT: The filing deadline was what?

MS. BROOKS: August the 5th.

CHAIR BENNETT: Five days tardy?

MS. BROOKS: Yes (audio interference).

MS. STROUD: Okay. So Mr. Phillips, if you could explain to the Board why you should
be granted ballot access despite not having
timely filed your ballot access documents?

MR. PHILLIPS: Sure. Sure, should I
spell my name and state my address for the
record?

CHAIR BENNETT: Yes, sir.

MR. PHILLIPS: Okay. Name D'Andre
Phillips, D-A-N-D-R-E, last name, P-H-I-L-L-I-P-
S. My address is 2240 16th Street Northeast,
Washington, DC, 20018.

Yes, I wanted to thank the Board for
entertaining my appeal this morning. Just due to
the ripple effects of the current pandemic where
all things being, I was unable to submit my
information in a timely manner due to being a
caretaker for a couple of elderly members in my
family which have now, are really experiencing
the effects of COVID.

So I've had to travel by car to
Pennsylvania multiple times and also to Michigan
to take care so, to take care of my grandparent.

So to that end, yes, I was unable to
get my form in on time. After receiving the preliminary information and petition signed, signers from the community just due to this small hiccup, it was, I was unable to submit my forms in a timely manner.

So I am, requesting from the Board that they -- that you all still allow for my candidacy to go forward and allow my name on the petition for, or excuse me, on the ballot for November 3rd. Thank you.

CHAIR BENNETT: Mr. Gill? Mr. Gill, Do you have any questions, Mr. Gill?

MEMBER GILL: No, I don't have any questions, Michael.

CHAIR BENNETT: Okay. And so what I'd like to do is to -- we haven't even spoken to --

MS. STROUD: No.

CHAIR BENNETT: Mr. Phillips, did you mail the petition prior to the deadline?

MR. PHILLIPS: Yes, I put it in the mailbox on our street or within my neighborhood. I'm not sure if it's one that is checked
regularly but it's just a blue box mailbox.

CHAIR BENNETT: No, I'm -- did you mail it before August 5th?

MR. PHILLIPS: Did I mail it before August 10th? No. I mailed it on August, I want to say 8th when I arrived back to D.C.

CHAIR BENNETT: Okay. All right.

Thanks. And what I'd like to do is to deal with this in Executive Session as well.

So can I get a motion, Mr. Gill, to move this to Executive Session? And Mr. Phillips, we'll give you a ruling when we come back. It won't take long, I promise, sir.

Mr. Gill, can I get a motion to go into Executive Session?

MEMBER GILL: I move that we move into Executive Session.

CHAIR BENNETT: Okay. It's been properly moved. I second that. It's been properly moved and seconded. All in favor? Mr. Gill?

MEMBER GILL: Aye.
CHAIR BENNETT: And aye for me as well. So we are now going into Executive Session and we will be back.

And one more?

MS. STROUD: Yes.

CHAIR BENNETT: Oh, we're going into Executive Session, I'm sorry, to deliberate the matter associated with the challenge.

MR. THERESA: Hold on one second. Can I speak?

CHAIR BENNETT: Sir, I'm actually, we're actually going to the Executive Session now. But I'll hear you.

MR. THERESA: Oh, okay. Thank you.

Yes, and so I mean, along these same lines, so my client submitted a petition and there were some dates missing and it was empty. At the top there was a date, at the bottom it was a date.

I mean, if the Board took the same initiative to keep some person on the ballot as they took to challenge the ballot, then they could easily infer what the dates were and that's
a technicality as well.

So I mean, it just seems like, you know, that both the petition had like some missing entries in there and the challenge had a missing entry in there. And both of them, you know --

MS. STROUD: So, let me just say, okay, go ahead.

CHAIR BENNETT: No, no, go ahead, sir.

MR. THERESA: Yes, and so if you're being even-handed as an agency, you know, it seems a little bit unfair for the Board to take the initiative to validate a challenge but not take the initiative to validate a petition because both of these things that we're talking about are technicalities here.

CHAIR BENNETT: Mr. Theresa, I'm sorry, go ahead, I shouldn't have allowed you to keep speaking but, Ms. Stanislaus?

MS. STANISLAUS: To Mr. Theresa's point, at our preliminary hearing Ms. Pixley stated that the Board pointed out to her that the
dates were missing.

So when he talked about some level of proactiveness on the side of the Board in terms of assisting, I guess it's what he's assuming that is happening, the Board did point it out to her what she, she stated the Board pointed out to her when she submitted her paperwork that the dates were missing when they did not have to do that.

CHAIR BENNETT: All right. Thank you.

We're in Executive Session so we're going to close it down here and we'll get back to you in about 15 minutes.

MS. STANISLAUS: Thank you.

CHAIR BENNETT: Thank you.

(Whereupon, the above-entitled matter went off the record at 10:45 a.m. and resumed at 11:08 a.m.)

CHAIR BENNETT: All right. Can I get a motion from you, Mr. Gill, to leave Executive Session and go back into the meeting?

MEMBER GILL: I make a motion that we
exit Executive Session and go back to the public meeting.

CHAIR BENNETT: Okay. So properly moved, I second. Can I get a voice vote, Mr. Gill?

MEMBER GILL: Aye.

CHAIR BENNETT: Aye as well. It's unanimous. We're back into the regular meeting now.

So we, I want to deal with two things. One is if I could get a recommendation from Ms. Stroud with regard to Mr. Phillips?

MS. STROUD: Based on the fact that Mr. Phillips did not timely submit his ballot access documentation to the Board and did not mail it until after the deadline for the receipt of ballot access documents, I would recommend that the Board not grant Mr. Phillips ballot access.

CHAIR BENNETT: Okay. Can I get a motion, Mr. Gill, with regard to that recommendation?
MEMBER GILL: I make a motion to accept the General Counsel's recommendation that the candidate be denied ballot access.

CHAIR BENNETT: As has been properly moved, I second. A vote, Mr. Gill?

MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well. It's unanimous. Mr. Phillips, I understand your hardships and I actually personally feel very bad about it. However, the Board decided not to provide ballot access. Thanks for your time today.

We're going to move back to Stanislaus versus Pixley with regard to the challenge. And can I get a recommendation with regard to the acceptance of the challenge, Ms. Stroud?

MS. STROUD: Based on the statute which I read into the record, as well as the regulation which also provides that the challenge has to be filed by a qualified elector, I would recommend that the challenge be allowed to be heard by the Board.
CHAIR BENNETT: Okay. Can I get a motion, Mr. Gill, with regard to hearing the challenge?

MEMBER GILL: I make a motion we accept the General Counsel's recommendation that the challenge be allowed to proceed.

CHAIR BENNETT: It's been properly moved, I second. Could I get a voice vote, Mr. Gill?

MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well. It's unanimous. The challenge we'll allow it to proceed.

So at this point, Ms. Stanislaus and Ms. Pixley and Mr. Theresa, I think what we want to do is to hear the, on your presentations like with regard to the challenge, substance of the challenge itself.

Ms. Stroud, do you want to --

MS. STROUD: Yes. You stated your, just to be clean, let's have, Mr. Theresa, did you state your name, your address for the record?
MR. THERESA: 1604 V Street Southeast, Washington, DC, 20020.

MS. STROUD: Okay. So I believe we heard the names and addresses for the challenger and the candidate. So what we'll have now is Ms. Brooks will read her Preliminary Determination Report with respect to the challenge.


The ballot access with this office of district voters who are duly registered in the same SMD as the candidate.

The petition contained 22 signatures.

The petition was posted for prior inspection for ten days as required by law. The petitioner challenged on August 14, 2020, by Lorraine Stanislaus, a resident voter in the District of
Ms. Stanislaus filed charges for 16 out of the 22 signatures demanding enumerated in the line and page number on individual challenges she filed with (audio interference).

The challenger challenged Title 3, DCMR, Section 1607.1 of the Board's regulations.

Those challenges indicated that 14 of the 16 challenges valid, nine are challenged because the signatures were not dated. One was filed but the signature did not include the address of the signer, three are not registered and one is valid because the signature and the name and the printed name are illegible. This leaves the candidate's nominating petition with eight signatures (audio interference) on the ballot.

MS. STROUD: Now Ms. Pixley or Mr. Theresa, your response?

MR. THERESA: I'm going to allow Ms. Pixley to speak first.

MS. STROUD: Ms. Pixley?
MS. PIXLEY: Yes, so the last statement that Ms. Stanislaus made is not accurate.

When I turned in and submitted my petition, it was not brought to my attention by a representative of the Board who verified my petition that I was missing dates. If so, I would have actually put the date so that's not true.

Also, I would like for you guys to know it's a pandemic. A person usually sit at the table. When I did this two years ago, the person sat at the table side by side. We went over everything, cross all the T's dotted the I's. Because of social distancing that did not take place. Same thing with some of the seniors not putting in the dates.

Also as the person who's being challenged, because Ms. Stanislaus put her government work address, I had no idea that she was even a registered elector, it's the word that you all use, because when I looked up that
address it's a government building. So I had no way of knowing that.

And you argued over a technicality.

This is the same technicality that some of the seniors did not put in the date.

So I think in fairness, the Board shouldn't pick and choose on what they're going to accept as one technicality and not accept as another one.

MS. STROUD: Okay. So --

MS. PIXLEY: And as you can see, they all came from the same address which is 114 Wayne Place.

And again, like I said because of the pandemic I was practicing social distancing. Like usually you stand over the person with your clipboard saying do this, do that.

Because we were practicing social distancing because I wanted to make sure they were safe as well as myself is safe, they were on one side of the room, I was on the other side.

MS. STROUD: And so just for the
record, did you receive the chapter of the
Board's regulations concerning the challenge
process?

MS. PIXLEY: I received it but I
didn't receive it, I received it once. I
received the email which is on the 20th and I
came down to the office and said, hey, I just
received this challenge by email. I didn't know
I was being challenged.

And they said, well, the last day to
challenge the challenge was on Monday. I said,
oh, well, today is Wednesday. I had no idea
because I would have come in and put the date.
Because I clearly received a letter from the
Board stating that I had made the ballot.

MS. STROUD: Well, actually --

MS. PIXLEY: So I just continued.

MS. STROUD: I'm actually asking about
the Board's regulations concerning what
constitutes a good signature and what renders a
signature invalid on a nominating petition. Were
you given those regulations?
MS. PIXLEY: I was given those regulations once I came in on last Friday when I asked about the challenge. I was given those.

And clearly it says that a person has to be a registered elector but by her putting her work address how would I know that?

MS. STROUD: I'm actually talking about the signatures on the nominating petition, not the challenge form.

So the regulations provide that in order for signatures to be counted as valid they have to meet certain requirements such as the signatures, the signer has to be an active voter as opposed to an inactive voter.

They have to be registered in the same Single Member District or electoral jurisdiction that the candidate resides in. The signatures have to be dated. So were you --

MS. PIXLEY: Yes. I received that on Wednesday when I came down. Yes, ma'am, I did receive it on Wednesday when I came down.

MS. STROUD: Then you had an --
MS. PIXLEY: It was way after the challenge.

MS. STROUD: Okay. So just wanted to make sure that you were clear on what the requirements were and that, you know, the signatures had to be dated under the regulations.

MS. PIXLEY: I was, yes. I received it after the challenge and after the date that the challenge had been challenged. I didn't get that in the beginning. I got that on that day. It was handed to me by I think her name was Myia, who works there.

She gave me a regulation. I have it right here in my hand. She gave me the D.C. Codes and Regulations. I was given on that day. It wasn't given to me prior before.

MS. STROUD: Okay. So and you had not seen them on the Board's website?

MS. PIXLEY: No, ma'am. I didn't go on the Board. I came in to do everything in person. When I came to pick up my petitions I came in in person to turn in my petition.
MS. STROUD: Okay. And so --

MS. PIXLEY: I don't have access to the internet, that's why. Because I was told that, or I called, they said it's going to open on June the 12th, you can come in or you can go online. I said, I don't have access to the internet. So they said, okay, well, you can come in. And that's when I had an appointment to come in, pick up my petitions, get the necessary paperwork, fill out everything, and then I turned it back in on June 26th.

MS. STROUD: And so --

MS. PIXLEY: Then I get this -- I'm sorry.

MS. STROUD: And you did not get the regulations when you came into the office is what you're saying?

MS. PIXLEY: No. I was handed it to my hand once I came in on Wednesday, last Wednesday to find out what was going on with the challenge. I received this in my hand. I'm holding it now, with the D.C. codes and all the
regulations. It was given to me in my hand then.

MS. STROUD: Okay. And so your, how
many signatures on your petition were not dated?

MS. PIXLEY: I believe they said they
were 16 which would leave me only nine valid
signatures.

MS. STROUD: Okay.

MS. PIXLEY: But I collected 24
altogether.

MS. STROUD: Okay. Thank you.

Mr. Theresa?

MR. THERESA: Well, I would like to
speak on the executive decision and place another
objection and say that the ultimate decision
violates DCMR 5202.4 which states a member or
employee of the Board should not use his or her
status as a member to directly or indirectly
attempt to influence any decision of the District
government relating to any action that is not
within the Board's purview.

And I would argue that it's against
the Board's purview to correct an address of a
challenger.

CHAIR BENNETT: Mr. Theresa, you're cutting in and out, sir, I'm sorry.

MR. THERESA: Basically that the decision of the executive, the executive decision violates 5202, DCMR 5202.4 which states a member or employee of the Board shall not use his or her status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the Board's purview.

And I would argue that it's against the Board's purview to correct a challenger's address.

The challenger had to submit in person and be a qualified elector in person and there's no way that you would know that unless the Board took it upon themselves to give an address different from the one that the challenger gave and so that this violates the Board's ethics of regulations on ethics, ethical conduct.

CHAIR BENNETT: Okay. Did you want to
make any points, thank you. Do you want to make
any points with regard to the actual substance of
the challenge itself?

MR. THERESA: Well, I would just
piggyback on what Ms. Pixley has said, that
there's good cause for there not being dates on
certain addresses, or certain signature lines.

Because Ms. Pixley was practicing
social distancing and I would just say that the
normal flow of collecting signatures was
disturbed and, you know, that this is a
technicality that should not remove her from the
ballot, especially considering that the address
for many of the people was from the same address
and one other person had the date and she was
only one short.

So I think that considering, all
things being considered, the fact that, you know,
that there's this ethical rule, the fact that one
party benefitted from the Board's proactivity,
another suffered from it, I would say that Ms.
Pixley should be allowed to remain on the ballot.
CHAIR BENNETT: Thank you. Ms. Stanislaus?

MS. STANISLAUS: Thank you. I just wanted to point out that Ms. Pixley did just state that she did not witness the signatures being signed onto the petition.

She said she was a one side of the room and whoever the signers were on another side of the room. So she, on the bottom of the petition it also states that you have to witness the person signing them.

MR. THERESA: I object. I object to that.

CHAIR BENNETT: She was talking about being here. She was, I'm sorry, Mr. Theresa. I think she was referring to her in-person visit to the Board of Elections not with regard to the persons that were signing the petition.

MR. THERESA: Okay.

CHAIR BENNETT: That's what I heard.

MR. THERESA: I thought she was referencing the people who she got to sign the
petition.

MS. STANISLAUS: We can move on.

CHAIR BENNETT: All right. Is there anything else, Ms. Stanislaus?

MS. STANISLAUS: No.

CHAIR BENNETT: Okay. Anything else, Mr. Theresa?

MR. THERESA: No, sir.

CHAIR BENNETT: Okay. We're going to vote to go into Executive Session again and I hoping we'll be out sooner versus than the last time.

Mr. Gill, can I get a motion to go into Executive Session to consider, to deliberate on the matters associated with Stanislaus versus Pixley?

MEMBER GILL: I move that we go to Executive Session to deliberate on the above mentioned matters.

CHAIR BENNETT: And I second it. It's been properly moved and seconded. Mr. Gill, your vote?
MEMBER GILL: Aye.

CHAIR BENNETT: And I vote aye as well. We're going to go into Executive Session and we'll resume the meeting in probably ten or 15 minutes. All right. Thank you.

(Whereupon, the above-entitled matter went off the record at 11:24 a.m. and resumed at 11:32 a.m.)

MEMBER GILL: Michael, I'm here also. It's Mike Gill.

CHAIR BENNETT: Can I get a motion from Mr. Gill to come out of Executive Session?

MEMBER GILL: I move that we come out of Executive Session back to the public hearing.

CHAIR BENNETT: And I second. It's been properly moved and seconded. Mr. Gill, voice vote to come out of Executive Session?

MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well, so unanimous for coming out of Executive Session and back in the regular meeting.

(Audio interference) that the parties
are present. Ms. Pixley, I see Mr. Theresa, I
don't hear Ms. Pixley. Is Ms. Pixley present?

MS. PIXLEY: Ms. Pixley is present.

CHAIR BENNETT: And Ms. Stanislaus, is
Ms. Stanislaus still present?

MS. STANISLAUS: Yes, I am.

CHAIR BENNETT: Great. Can I get a
motion, can I get recommendation from the General
Counsel?

MS. STROUD: Sure. First, I want to
just state for the record that Mr. Theresa cited
a regulation, 5202.4, and I want to state for the
record that, that regulation applies to the Board
of Ethics and Government Accountability and not
the Board of Elections.

And so with respect to the actionable
challenge, I would recommend that based on prior
precedence of the Board, I move that the Board
waive the formal error with respect to the nine
undated signatures and allow Ms. Pixley ballot
access.

CHAIR BENNETT: Okay. Mr. Gill, can
I get a motion with regard to the General Counsel's recommendation?

MEMBER GILL: I make a motion to accept the General Counsel's recommendation.

CHAIR BENNETT: And it's been properly approved and I second the General Counsel's recommendation to allow Ms. Pixley ballot access.

Can I get a voice vote, Mr. Gill?

MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well, Unanimous.

Thank you to the parties. Ms. Pixley is allowed ballot access.

And that concludes this hearing. Also that there are no more matters on the Board's agenda for this meeting. Can I get a motion to adjourn the meeting, Mr. Gill?

MEMBER GILL: I make a motion we adjourn.

CHAIR BENNETT: That's properly moved. I second. Voice vote, Mr. Gill? Do you vote to adjourn the meeting?
MEMBER GILL: Aye.

CHAIR BENNETT: And aye as well. This meeting is hereby adjourned. Thanks so much to the parties.

(Whereupon, the above-entitled matter went off the record at 11:34 a.m.)
actual 34:16
allow 25:15
Akron 34:16
agenda 6:14
Adjournment 51:6
adjourned 36:14
Advisory Board 2:2
after 20:2
Athena 6:12
attorney 6:17
August 45:12
authority 2:10
Avery 4:10
B 25:6
B-R-O-W-N 20:15
ballot 6:21
Bembridge 24:15
benefted 22:2
Bennett 21:12
B-B-B's 24:13
Board 30:11
bought 31:9
Brown 20:15
business 27:18
B-U-C-K 25:7
B-U-T 25:7
B-U-T-H-B-Y 25:7
B-U-W-L 25:7
B-U-F-F 25:7
B-U-D-D-Y 25:7
B-U-I-L-D 25:7
B-U-L-L 25:7
B-U-R-B-L 25:7
B-U-R-N 25:7
B-U-T-A 25:7
brought 2:9
Brown 2:9

CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Special Board Meeting

Before: DCBOE

Date: 08-31-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R. Gross
Court Reporter