

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

February 2, 2022

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, February 2, 2022, via Zoom. Board Chairman Gary Thompson, Board Member Karyn Greenfield and Board Member Mike Gill were present. The Board's Executive Director, Monica Evans, the Board's General Counsel, Terri D. Stroud, the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, and OCF's General Counsel, William Sanford were also present.

CALL TO ORDER (10:34 a.m.)

ASCERTAINMENT OF QUORUM

- Board Chair Thompson and Board Members Greenfield and Gill constitute a full quorum to conduct business.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on January 12, 2022.

BOARD MATTERS

- Board Chair Thompson expressed excitement regarding the upcoming election season after having an opportunity to participate in a voting registration event conducted by the Board at Duke Ellington High School.

BOE EXECUTIVE DIRECTOR'S JANUARY 2022 REPORT (EXECUTIVE DIRECTOR EVANS)

- **General Information**

- Until further notice, our offices are open by appointment only; this will help us limit the number of people in our office at any given time. Appointments can be made by calling our main number, (202)727-2525.

- **Voter Outreach**

- During the month of January, the Voter Education and Outreach Division (VEOD) participated in five outreach events on behalf of the agency, including the Ellington outreach event at which the Board registered roughly 40 students.

- **Voter Registration**
 - We are currently processing new registrations in Voter Focus and producing registration reports. In January, we registered 1,573 new voters and processed 2,288 address changes. In total, we mailed 3,861 voter registration cards.
 - Our online voter registration portal went live in January and can be accessed from our website. Those registering to vote using the portal may register and sign using a smart phone, touch screen device, or computer mouse. They can also upload their signatures. All that is required is a device with internet service. To date, the Board has successfully registered 133 voters using the portal.
 - The Board encourages voters to review and update their voter registration information regularly. The Board conducts a canvass after every General Election, a process that can result in voters being moved from active to inactive status. We are currently reviewing files to move voters from active to inactive status. There were some delays in the finalization of the last canvass due to the migration of information to a new voter registration system, but we do want to be responsible with our efforts. This process takes time.
 - We realize the challenges faced generating accurate lists of registered voters in the District. D.C. is a transient city; many residents frequently move to different jurisdictions within the DMV, and some leave the area altogether.
 - We also have a large population of college students. We are developing a process to work with the universities to ensure we get returned mail for students who no longer live in university housing.

- **Redistricting**
 - The ward redistricting process is complete. Our systems have been updated to reflect changes to the wards.
 - 22,817 active voters changed wards:
 - 8,548 voters moved from Ward 6 to Ward 2
 - 1,501 voters moved from Ward 2 to Ward 6
 - 7,952 voters moved from Ward 6 to Ward 7
 - 4,426 voters moved from Ward 6 to Ward 8
 - 190 voters moved from Ward 6 to Ward 5
 - The Council is currently engaged in the ANC redistricting process.

- **Overview of Process for Primary Election**
 - The Primary Election will be held on June 21, 2022.
 - Offices on the ballot:
 - Delegate to the House of Representatives from the District of Columbia
 - Mayor

- Chairman of the Council
 - At-Large Member of the Council
 - Ward Member of the Council (Wards 1, 3, 5, 6)
 - Attorney General for the District of Columbia
 - U.S. Representative
 - State Board of Education Members ((Wards 1, 3, 5, 6)
 - Local Party Committees
 - We have received money from the Mayor's Contingency Fund to mail a ballot to every registered voter in the District of Columbia for the June primary.
 - Our tentative plan is to begin mailing ballots on May 16.
 - Vote Centers will open for early voting from June 10 through June 19 from 8:30 a.m. to 7:00 p.m. There will be no in-person voting on June 20 in observation of the Juneteenth holiday.
 - 40 Vote Centers will be open during early voting. 90 Vote Centers will be open on Election Day, June 21 from 7:00 a.m. to 8:00 p.m.
 - BOE owns 55 mail ballot drop-boxes which will open on [date]. Voters can also deposit ballots at any Vote Center during early voting and on Election Day.
- **Petitions**
 - Candidate pickup can happen in person by appointment or online. The documents are also available on our website. Candidates can request electronic petitions and circulate them electronically; this process is explained on our website.
 - Candidates may make an initial and supplemental filing. As of today, there are no modifications to the signature requirements based on the pandemic.
 - All petition sheets and ballot access documents must be submitted by March 23.
- **Election Worker Recruitment and Training**
 - We are currently recruiting election workers. January 25 was National Poll Worker Recruitment Day. We engaged in several outreach activities, including a Twitter chat. Our goal is to recruit and train between 2,000 and 2,500 election workers for the Primary Election.
 - Election worker training will begin on March 22. We will have an online training portal available to supplement the four-hour in-person training sessions. The online training may be viewed before the in-person training classes or as a refresher after the in-person training is completed.
- **Communications**
 - We are in the process of revising our current website to make it more user-friendly. We want to ensure that information is clear and easily found.

- Messaging has begun asking voters to review their voter registration information for accuracy.
- We will continue to monitor DC mandates and CDC guidelines with respect to the pandemic; changes to our election plan will be made as needed.

BOE OGC JANUARY 2022 REPORT (GENERAL COUNSEL STROUD)

- **The Historically Black Neighborhood Act**
 - Proposer irrevocably withdrew the proposed initiative measure. Accordingly, we will not hold a proper subject matter determination hearing regarding the proposed measure as planned.

- **Rulemaking to Title 3 of the DC Municipal Regulations**
 - Final Rulemaking
 - Title 3, Chapters 10 through 11 and Chapters 14 to 17 of the DCMR will be amended. These amendments reflect statutory provisions that permit electronic petition circulation. The emergency and proposed rule-making was published in the D.C. Register on Friday, December 17th, and the comment period ended on January 16.
 - This rule-making took away some language in the Board's regulations that did not facilitate electronic circulation of petitions.
 - There was a correction to a typographical error, but no substantive comments were received.
 - **BOARD ACTION:** Unanimously approved the motion for the final rulemaking to be submitted to the D.C. Register for publication.

- **Litigation Status**
 - **Long v. D.C. Board of Elections**
 - This matter was filed in D.C. Superior Court on July 2, 2021 and is a civil complaint seeking \$10,000 in damages. Mr. Long claims negligence and unjust enrichment, and alleges that the Board issued him a check without informing him not to deposit it, then had payment of the check stopped, causing him to have a negative balance and a returned check fee.
 - The Board is being represented in this matter by the Office of the Attorney General (OAG), which serves as counsel for the Office of Finance and Resource Management (OFRM), the entity that handled the issuance of poll worker checks for the Board.
 - There was an initial hearing on August 9, 2021. The matter has been continued to February 14, 2022.

- **Henderson v. D.C. Board of Election**
 - Kathy Henderson filed a Recall Petition against Sydelle Moore, Advisory Neighborhood Commissioner for Single-Member District 5D05. The petition was rejected due to an insufficient number of signatures.
 - Ms. Henderson appealed the matter to the DC Court of Appeals.
 - On January 19, the Court issued an order indicating this matter would be referred to the mediation coordinator for mediation screening.

- **Public Interest Legal Foundation (PILF) v. D.C. Board of Elections**
 - This matter was filed in USDC for the District of Columbia under the National Voter Registration Act (NVRA).
 - The suit alleges that the Board is out of compliance with the NVRAs public records provision.
 - PILF requested records from the Board, which were denied due to requested records not being subjected to public disclosure.
 - The OAG will file a motion to dismiss tomorrow.

OCF JANUARY 2022 REPORT (DIRECTOR COLLIER-MONTGOMERY)

- The Fair Elections Program (FEP) and Traditional Campaign Finance Program (TCFP) revised fact sheets and information sheets are posted on the OCF Website.

- **Community Outreach**

NONE

- **Fair Elections Program Division (FEP) Report for December 2021**

- Authorized Base Amount and Matching Payments
 - The total sum of \$4,016,797.64 was disbursed from the Fair Elections Fund in Base Amount and Matching Payments to the 36 candidates certified in the FEP to participate in the June 2, 2020 Primary Election (“the 2020 Primary Election”), the June 16, 2020 Special Election (“the 2020 Special Election”), and the November 3, 2020 General Election (“the 2020 General Election”). The 2020 Election Cycle closed on November 3, 2020, and the 2020 Special Election Cycle closed on June 16, 2020.
 - As of February 2, 2022, a total sum of \$4,068,031.00 has been authorized for disbursement from the Fair Elections Fund in Base Amount (\$320,000.00) and Matching Payments (\$3,748,031.10) to 13 candidates certified to participate in the FEP in the June 21, 2022 Primary Election (“the 2022 Primary Election”).

Three candidates were certified in the FEP for the 2022 Election Cycle:

- Gordon Fletcher, Gordon Fletcher for Ward 5, previously certified Participating Candidate.
 - \$8,750.00 in additional Matching Payments were authorized for disbursement on January 4, 2022.
- Muriel Bowser, Re-Elect Muriel Bowser Our Mayor 2022, previously certified Participating Candidate.
 - \$19,525.00 in additional Matching Payments were authorized for disbursement on January 4, 2022.
- Anita Bond, Anita Bond 2022, was certified on January 18, 2022, for the Office of Member of the Council At-Large.
 - \$100,160.00 in Matching payments and \$20,000.00 for the First Half Base Amount Payment were authorized for disbursement.

- **Desk Reviews and Other Activities**

- 11 desk reviews of termination and amended Reports of Receipts & Expenditures (R&E reports).
- Nine Requests for Additional Information (RFAI) letters were sent.

- **Remitted Funds**

- As of January 31, \$153,261.39 been remitted for deposit in the Fair Elections Fund from the campaign operations of Participating Candidates who participated in the 2020 Election Cycle and the June 16, 2020 Special Election.

- **Ongoing Post-Election Audits**

- Post-Election Audits - Primary Election
 - There are currently 10 post-election audits of candidates who did not proceed to the 2020 General Election. The audits were initiated on June 19, 2020.
 - The names of the candidates and audit status are posted on the OCF website.
- Post-Election Audits - Special Election
 - There are currently four post-election audits of candidates and committees who participated in the Special Election. The audits were initiated on July 6, 2020.
 - The names of the candidates and audit status are posted on the OCF website.

- PCCs & Political Action Committees (PACs) – January 31st R&E Report
 - 104 required filers
 - TBD - timely filer
 - TBD - electronically filed their report
 - TBD - certified E-filing

- FEP PCCs – January 31st R&E Report
 - 29 required filers
 - TBD - timely filer
 - TBD - electronically filed their report
 - TBD - certified E-filing

- Independent Expenditure Committees – January 31st R&E Report
 - 3 required filers
 - TBD - timely filer
 - TBD - electronically filed their report
 - TBD - certified E-filing

- Initiative/Referendum Committees – January 31st R&E Report
 - 6 required filers
 - TBD - timely filers
 - TBD - electronically filed their report
 - TBD - certified E-filing

- Recall Committees – January 31st R&E Report
 - 1 required filer
 - TBD - timely filer
 - TBD - electronically filed their report
 - TBD - certified E-filing

- Referrals to the OCF Office of General Counsel:
 - NONE

- New Candidates/Committees
 - Traditional Candidates
 - NONE

 - FEP Candidates
 - Stacia Hall (Mayor) – registered January 20, 2022
 - Monika Nemeth (Council, Ward 3) – registered January 26, 2022

Initiative Committees

- NONE
- Ten new candidates and treasurers have completed the mandatory OCF Entrance Conference Presentation for December 2021
 - Lori Furstenberg/Candidate for Mayor
 - Lori Furstenberg/Treasurer, Lori Furstenberg for Mayor
 - Lauryn N. King/Treasurer, Ambrose Lane, Jr. At-Large
 - Brian L. Schwalb/Candidate for Attorney General
 - June Kress/Treasurer, Brian for DC
 - Keiya Hood/Treasurer, GaryToGoFoward Ward 5
 - Jimmie Luthuli/Treasurer, Committee to Elect Nate Fleming
 - Robin Nunn/Treasurer, Robert for DC
 - Stacia Hall/Candidate for Mayor
 - Stacia Hall/Treasurer, Stacia Hall 2022
- **Reports Analysis and Audit Division (RAAD) – January 2022**
 - 22 desk reviews and other activities
 - Two audit reports were issued during December:
 - Brooke Pinto for Ward 2 (Full Field Audit) – issued January 5, 2022 (Compliance Audit)
 - Mayor Bowser’s Constituent Service Fund (Periodic Audit) – issued January 10, 2022 (Compliance Audit)
 - **Ongoing Audits**
 - Newly elected officials:
 - Jacques4DC At-Large SBOE – Audit Notification Letter sent 02/08/21(Records were due 3/8/21 – Second Reminder sent 03/12/21). Audit Initiated 04/05/21. Additional Information requested 06/23/21. Hearing held on August 18, 2021, as reinforcement for additional records. Records were due to the audit staff by September 2, 2021. Records were received, and the field audit was completed. The Preliminary Draft Audit Report was issued on November 30, 2021. The Committee’s response was due on December 30, 2021. Reminder email sent on January 5, 2022. The Committee was granted an extension until January 21, 2022. The Committee filed an Amended December 10, 2020 Report on January 24, 2022. The Audit staff is drafting the Final Audit Report.

OCF JANUARY 2022 REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- **Intake/Output Report**

- 12 referrals for an informal hearing were received
- 12 orders were issued.

- **Open Investigations**
 - NONE

- **Interpretative Opinions**
 - NONE

- **Show Cause Proceedings**
 - NONE

PUBLIC MATTERS

- **Nicole McClure**
 - Expressed concerns regarding mail-in voting. Ms. McClure noted that states that have high levels of success with mail-in ballots have rigorous rules and regulations in place to ensure transparency and confidence in the election. D.C. does not meet this threshold, as it has no rules or regulations in place. It is in no one's interest to adopt a new voting system without a full, open, public debate. D.C. deserves a modernization of voting methods decided in the public square, not back offices.
 - **Board Response:** Executive Director Evans explained that the Board will make every effort to be transparent with all of our decision-making. Everything regarding the Board's plans is on the record, including testimony provided in oversight hearings. Board Chair Thompson also noted that there is a bill pending before the D.C. Council to make mail balloting a permanent means of voting in D.C. The Council will be holding hearings for public comment in that regard. The Board follows the laws and regulations as they're passed.

- **Rachel Dolan**
 - Raised concerns regarding the nearly 68,000 voters who have not actually voted since 2016. Expressed particular concern with the initiative process and petitioning during the pandemic.
 - **Board Response:** Board Chair Thompson explained that systematic voter roll maintenance process is always an ongoing process; people are always moving on and off of the District's voter registry; sometimes people self-report their address changes, sometimes they don't. One of the most critical aspects of it being to keep voters registered if that's their intent, and with the use of notices, identify that

intent and respect it. It's important for the maintenance to be updated and revised to keep the voter rolls as accurate as possible.

- Board Member Gill noted the need for the Council to change the regulations. He continued to comment that there's a balance, but it really does disadvantage people that are trying to get signatures for petitions.

- **Adam Eiding**

- Raised concerns regarding the inability to circulate electronic initiative petitions. Noted specific regulation changes that he felt could fix some of the issues previously raised by Ms. Dolan. He also raised concerns regarding the inability to receive complete voting data.
- **Board Response:** General Counsel Stroud informed Mr. Eiding that initiative petitions can be circulated electronically. Board Chair Thompson noted that even in the absence of action from the Council, the Board is still working extremely hard to maintain as accurate a voter registry as possible.

- **Ryan O'Leary**

- Raised many of the concerns noted by Mr. Eiding. Specifically, Mr. O'Leary noted that the Board needs to be more diligent with respect to moving people from active to inactive so that ballot initiative proposers don't need to collect far more than five percent of active registered voters' signatures, especially during a pandemic.
- **Board Response:** Executive Director Evans acknowledged that the Board has a responsibility to ensure it's moving voters from active to inactive status in a timely manner. She also noted that the Board recognizes it does have voters registered at non-residential addresses and that isn't necessarily an error. The Board engages in targeted outreach to reach homeless populations. If they sleep in front of 1600 Pennsylvania Avenue, they can actually use that as their registration address when they register, or other public facilities, park locations or homeless shelters. That may contribute to the reasons we're seeing what appear to be nonresidential addresses on the Board's voter rolls.

- **Nikolas Schiller**

- Raised various concerns regarding the accuracy of the Board's voter rolls, specifically those that should be designated as inactive voters.
- **Board Response:** Executive Director Evans indicated that the Board is committed to following up and ensuring it makes every effort to have the most accurate voter rolls possible. General Counsel Stroud noted that the Board is exploring best practices in other jurisdictions.

- **Dorothy Brizill**
 - Raised various concerns, including about the Board’s preparations for the upcoming elections. Ms. Brizill also asked OCF Director Collier-Montgomery to comment on the FEP, as well as the recent Office of the DC Auditor (ODCA) report regarding the same. Ms. Brizill inquired as to when the Board is going to start a public information campaign to inform the press and the public about the upcoming elections, including the location of Vote Centers. Ms. Brizill also noted that there have been long-standing issues with the voter rolls in the District.
 - **Board Response:** Executive Director Evans commented that the Board had previously committed to making its 2022 election cycle plans public, and that the Board will post proposed Vote Center locations on its website so that it can get input from the public regarding these locations before they are finalized. The Board is also developing a comprehensive communications plan.
OCF Director Collier-Montgomery commented that she had received the final audit report on the FEP from the D.C. auditor, but that she has not yet had the opportunity to completely review the report. She indicated that she intends to offer a complete report regarding the audit report at the March Board Meeting.

ADJOURNMENT (12:16 p.m.)