GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

+ + + + +

SPECIAL BOARD MEETING

+ + + + +

WEDNESDAY

NOVEMBER 24, 2021

+ + + + +

The District of Columbia Board of Elections convened via Video Teleconference, pursuant to notice at 9:00 a.m. EST, Karyn Greenfield, Member, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Executive Director

TERRI STROUD, General Counsel
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MEMBER GREENFIELD: Okay, so I'll go ahead and call the meeting to order. The quorum is myself, Karen Greenfield, the Board member, so this will be a one-member Board.

So, as a result, we will not take a vote or a motion on the first item.

This is a Special Board Meeting. It is to address the, specific to the petition validation results for the recall measure regarding Sydelle Moore, ANC Commissioner for Single Member District 5D05, and, the challenge to the recall measure (inaudible) Moore, Advisory ANC Commissioner, for Single Member District 5D05.

What I will ask is I will ask Monica to go ahead and read your report into record.

MS. EVANS: Thank you. Good morning.

The matter before us today is a Petition Verification Regarding a Recall Sydelle Moore, Advisory Neighborhood Commissioner, Single
Member District 5D05, filed on October 25, 2021.

After executing the Board's standard procedure for verifying registered voter signatures contained in the referenced recall petition, the Board staff have determined that this petition does not meet the statutory requirements for certification to the ballot, in accordance with D.C. Official Code Section 1-1001.17(k)(1).

It is my recommendation that the Board reject the petition as numerically insufficient, in accordance with D.C. Official Code Section 1-1001.17(k)(1), because it does not contain the signatures of the required minimum number of registered voters.

An overview of the petition verification process, and a summary of its results are provided here.

Overview of the Petition Verification Process. The petition verification process is conducted to determine whether a petition to present a recall measure to the electorate,
contains the minimum number of registered voter signatures required to place the measure on the ballot.

The required minimum is 10 percent of the duly registered voters of the Single Member District, from which the official was elected.

The numerical requirements are based on the Board's published registration totals in effect at least 30 days before the petition was filed. In this case, the voter registration totals as of August 31, 2021.

The petition verification process detailed in Standard Procedures for Verification of Recall Petitions, has four basic steps.

First, the Board staff verify if the circulator is a resident of the District of Columbia, or a resident of another jurisdiction, who registered as a petition circulator with the Board, prior to the circulation of the petition sheet, and if the petition has a completed circulator's affidavit.

Second, the name and address of each
petition signer is checked against the voter registration system file, to determine if the petitioner was registered to vote at the resident address listed on the petition, at the time the petition was signed, as required by law.

Only those petition signers whose names and addresses are found to match the Board's registered voter file, are entered into the petition checking program as verified registrants.

Third, the total of verified registrants are compiled by the registration system, to determine whether the petition contains a sufficient number of registered voters to proceed to the signature verification stage, in which the actual names on the petition are examined against the names in the Board's records.

Fourth, where the total number of verified registrants is determined to have met minimum signature requirements, a random sample of signatures is drawn for comparison to the
original voter signatures on file in the Board's records.

The validity rate of the randomly selected signatures and the sample, is then used to make a statistical determination of the sufficiency of the petition as a whole, at the required confidence level of 95 percent.

Summary. The Petition for Recall Sydelle Moore, Advisory Neighborhood Commissioner, Single Member District 5D05, containing five pages, was filed on October 25, 2021.

The petition contained 199 signatures.

After completing the procedures for verifying the voter registration status of petition circulators and signers, steps 1, 2, and 3, in the process outlined above, the total number of registered voters listed in the petition was found to be 98.

A total of 63 below the minimum required 10 percent of 1,612 of the Single Member District, from which the official was elected.
The determination that the petition
did not contain the required minimum number of
duly registered voters, meant that the
verification process came to an end at this
point, without proceeding to the signature
sampling stage.

This is the required outcome in
accordance with the standard procedures, whenever
the universe of verified registrants falls below
the threshold numerical requirement for
verification.

Even if every signature were found to
be valid, there would be an insufficient total
number.

Based on the foregoing results of the
verification of the Petition to Recall Sydelle
Moore, Advisory Neighborhood Commissioner, Single
Member District 5D05, the determinations are
that:

1) The proposed measure does not meet
the statutory requirements for certification to
the ballot; and,
2) The proposed measure should be rejected by the Board because, it does not contain a sufficient number of signatures of registered electors in the ward from which the official was elected, as required by D.C. Official Code, Section 1-001.17(k)(1).

This concludes my recommendation to the Board.

Thank you.

MS EVANS: Okay, thank you, Monica.

Since we do not have a quorum, we cannot make a motion to vote on that matter, so we will move on to the second matter, which is the Challenge to the Recall Measure of Sydelle Moore, ANC Commissioner for Single Member District 5D05.

Okay, I noticed that Ms. Henderson is present. Ms. Henderson, if you, the report was read, and that is the report of the Registrar of Voters with respect to the Board's independent verification process.

And, so I just wanted to say at the
onset you know, that the statute sets up with respect to ballot measures, the District's elections statute sets up a parallel process.

So, once a ballot measure, including an initiative measure, is submitted, the Board does its own independent verification process.

And, if it is determined once the petition is submitted, that the initial count of signatures is sufficient to allow the process to move forward, then the Board posts the petition for a challenge process.

So, with respect to the recall measure, the Board independently conducts its own verification process, but there's also a process allowed for challenge.

As the Registrar's report indicates, based on the Board's own independent verification of the initiative petition, the petition submitted in support of the effort to recall Commissioner Moore, was found to be insufficient.

And, so that's that process, but there's also a process for the challenge. And,
so that's where we, that's the mission we will take up now.

With respect to the Board's ability to proceed with the challenge hearing, that authority is given to the Board in the statute, and D.C. Code Section 1-1001.17(g), which provides that notwithstanding provisions of the D.C. Administrative Procedure Act, the Board may hear any case brought before it under this subchapter by one-member panels.

An appeal from a decision of any such one-member panel may be taken to either the full Board, or the D.C. Court of Appeals, at the option of any adversely affected party.

If appeal is taken directly to the D.C. Court of Appeals, the decision of the one-member panel shall be for purposes of such appeal, considered to be a final decision of the Board.

If an appeal is taken from a decision of, a decision of a one-member panel to the Board, the decision of the one-member panel shall
be stayed pending a final decision of the Board.

The Board may, upon a vote of its
majority of its members, hear de novo, all issues
of fact or law, related to an appeal of a
decision of a one-member panel.

Just a second, I apologize.

The Board may, upon a vote of a
majority of its members, hear de novo, all issues
of fact or law, related to an appeal of the
decision of a one-member panel except the Board
may decide to consider only the record made
before such one-member panel.

A final decision of the full Board
relating to an appeal brought to it from a one-
member panel, shall be appealable to the D.C.
Court of Appeals, in the same manner and to the
same extent, as all other final decisions of the
Board.

So, I just wanted to lay that out for
the parties to make clear that the, that Board
Member Greenfield has the authority to hear this
matter, and to rule on it.
And, so with that, we will take up the matter of the challenge submitted by Sydelle Moore, Commissioner Moore, to the Recall Petition submitted by Ms. Henderson, in her effort to recall Commissioner Moore.

And, so what I will have the Registrar of Voters do is to read her report into the record regarding the challenges, and then we will hear from the parties.


That Petition was posted for public inspection for 10 days, as required by law. A challenge on November 4, 2021, by Sydelle Moore, a registered voter in the district of Columbia.

My (inaudible) to the Petition Challenge indicated that Ms. Henderson submitted a total of 195 signatures.

A total number of signatures
(inaudible) provided for were 179 signatures.

Twenty signatures was not accepted, because they appeared on a page that was not a proper reproduction of the paper form provided by the Board, page 3.

A petition must contain the valid signatures 10 percent of the duly registered voters of the Single Member District, for which the official was elected, based on the Board's public registration totals in effect at least 30 days before the petition was filed.

In this case, the voter registration totals as of August 31, 2021, based on the registration totals for SMD 5D05, August 31, 2021, the required number of signatures for valid access, is 161.

Challenger Sydelle Moore's (inaudible)

(Pause.)

MEMBER GREENFIELD: We lost audio.

(Pause.)

MS. STROUD: At which point did you lose audio?
MEMBER GREENFIELD: When she started, challenger Sydelle Moore filed. We lost audio after that.

MS. STROUD: Okay.

MS. EVANS: So here?

MS. STROUD: Yes.

MS. EVANS: All right.

Challenger Sydelle Moore filed challenges to a total of 109 signatures, enumerated by line and page number, on individual challenge sheets filed for each petition page.

Petition signatures were challenged pursuant to Title 3 DCMR, Section 1107.1 of the Board's Regulations.

Of the 109 challenges submitted, 96 of the challenges were reviewed by the Registrar. The remaining 13 challenges were not reviewed because they were, they concerns signatures were not accepted by the Board because, they appeared on the page that is not a proper reproduction of the paper form provided by the Board.

My review in the case in a total of 76
of the 96 challenges reviewed are valid. The 76
valid challenges were upheld on the following
grounds.

Twenty-six were upheld because the
signer was registered at a different address in
the Single Member District.

Thirty-two were upheld because the
signer was not a registered voter.

Three were upheld because the
signatures are forgeries.

Four were upheld because the signer
was inactive.

Ten were upheld because the signer is
not a registered voter, registered voter within
the Single Member District.

One was upheld because the signer's
address is missing.

Because the initial count of
signatures got divided (inaudible) this recall,
this recall measure is 179 signatures.

As a result of the 76 valid
challenges, the petition recall is therefore, 103
Fifty-eight signatures is the statutory requirements for certification to the ballot.

In addition to filing challenges to signatures, Commissioner Moore has also cited counselor fraudulent signatures, and requested the Board take action with respect to these.

That concludes my report.

MS. STROUD: Thank you.

So, before we hear from the parties, I just wanted to lay out the regulatory authority pursuant to which signatures are validated.

When the Board first receives a recall petition, it does an initial count. And, in this count, signatures are excluded if they appear on pages that are not a proper reproduction of the paper form provided by the Board.

That's D.C. Regulation and Title 3 of D.C., Title 3 DCMR, Regulation 1105.4(a), specifies that if a signature appears on pages that are not a proper reproduction of the paper
form provided by the Board, all the signatures on
that page will be invalidated.

So, that's in the Regulation at

1105.4(a).

It also discounts signatures of
registered voters who submit notarized requests
to disallow signatures, their signatures from
being counted on the petition, provided that the
request was received prior to the time the
petition is filed. That is 1105.4(d).

And, 1107.1 lays out the circumstances
under which signatures on a petition are to be
invalidated. And, I'll read those into the
record.

1107.1(a) indicates that a signer's
voter registration, a signer's voter registration
was designated as inactive on the voter rolls at
the time the petition was signed, that signature
will be invalidated.

If a signer is not registered to vote
at the address listed on the petition at the time
the petition is signed, it will be invalidated
unless the Board's records indicate that the voter timely filed a change of address. Which would have been before the petition was submitted.

A signature shall not be held valid if it is a duplicate of a valid signature, if it is not dated, if it does not include the printed or typed name, or typed address of the signor.

If it does not include the printed or typed name of the signer where the signature is not sufficiently legible for identification.

If the circulator of the petition was not a qualified petition circulator at the time the petition was signed.

If the circulator of the petition failed to complete all required information in the circulator's affidavit.

If the signature was obtained on a petition sheet that was submitted on behalf of a previously filed recall petition that was rejected, or found to be numerically insufficient.
Or, of the signer was not a registered voter in the Single Member District of the elected official sought to be recalled.

In addition, if a signature was also the signature of the circulator of the same petition sheet where the signature appears, that signature shall be invalidated. And, this is found in 3 DCMR 1109.4.

So, I just wanted to lay out that the circumstances under which signatures are found to be invalid, is set forth in the Code, as well as in the Regulations, at the sections I indicated.

And, so having read the Registrar's report in the record, I would ask if the parties, and first we'll go with Ms. Henderson, and you'll be allotted three minutes, and then Ms. Moore can respond in three minutes.

So, Ms. Henderson, if you could state your name and address for the record, and then proceed with your response to the Registrar of Voters report with respect to the challenge, we'd appreciate that.
MS. HENDERSON: (No audible response.)

MEMBER GREENFIELD: We can't hear.

MS. STROUD: Your audio is not on, Ms. Henderson.

(Pause.)

MS. HENDERSON: (No audible response.)

MS. STROUD: No, we can't hear you. You might need to call in.

(Pause.)

MS. STROUD: We'll give Ms. Henderson some time to call in.

(Pause.)

MS. HENDERSON: Are you able to hear me now?

MS. STROUD: Yes, we are Ms. Henderson. And, I'm going to start the timer for three minutes for you to submit your response to the report of the Registrar of Voters.

MS. HENDERSON: Well, I don't have any, well anyway, I'm not even going to address the alleged difficulty with seeing me and on the meeting, and hearing my audio.
But anyway, I reject the Registrar's report. I submitted a 20-plus page response to the members of the Board.

Are you in receipt of that response?

MS. STROUD: Yes.

MS. HENDERSON: That response also includes a number of things.

I would have asked Ms. Verlene Cameron, or Mr. Edward Cameron, to sign the petition, but Ms. Cameron's been deceased for years, and Mr. Cameron is in Florida. And, the building that they lived in no longer exists.

Yet, they continue to be on the list of voters for 5D05, even though I sent in a picture showing that the building is no longer there.

So, this issue is an ongoing issue.

We don't even know how many people actually live in 5D05 according to the D.C. Board of Elections, because the list is incorrect.

I sent in a minimum of 64 names that have not been addressed. Most recently, Ms.
Brooks did attempt to respond minimally, to one name, a couple of names.

Wallace Fox. It says he can't, he was listed twice as a voter. It cannot be determined that he's deceased.

Well, Ms. Brooks, the Registrar, does not have to determine that Mr. Fox is deceased. What we can determine through the D.C. tax records, is that Mr. Fox does not reside in 1801 L Street NE.

A duly registered voter, Andrew Bernard, Andrew Buddy Bernard, he actually resides there, and he signed the petition.

So, that's one issue that has never been responded.

I received also the statement by Steven Harris, indicating that he didn't sign the petition. It's really troubling.

And, as I indicated in my response, I'm forwarding this entire matter to the Office of the Attorney General, and the Office of the Inspector General, for a review and a full
I submitted a properly notarized statement of affidavit and declaration, from Lydia Goring, who is a witness to Mr. Harris signing the petition, and Mr. Harris is captured on video signing the petition.

So, that will be made available at the proper time as well. So, this entire matter is inappropriate.

I challenge the Registrar's declaration of forgery. There is no determination of forgery. And, in her report, she indicates what appears to be forgery.

You can't make, that's improper. Either you think its, either you determine that it's forgery, or you have not.

And, there is no basis, no legitimate basis, to determine that any of the signatures are forged.

With regard to both Ms. May, Alveria May, and Verlia May, they are not alleging that they didn't sign the petition. They simply
alleged that they wanted their signatures removed.

And, there is no evidence that they actually made their request timely.

And, Mr. Harris' request to remove his signature was not made timely. So, that's not even an issue.

With regard to the form, the form is consistent with what the Board approved, and the Registrar is again, incorrect.

I think there's some serious problems in the Board of Elections. And, if you decide to vote not to approve the recall measure in this matter, we still have the matter of Sydelle Moore's ongoing malfeasance, and investigations from the D.C. Auditor, the Office of the Attorney General --

(Simultaneous speaking.)

MEMBER GREENFIELD: Ms. Henderson, your time is up and we're only focused on --

MS. HENDERSON: Yes, I know, you don't want that on the record, do you?
MEMBER GREENFIELD: -- these subjects from the challenge.

MS. HENDERSON: But it'll be on the record. It's in the record. It's in the record. There's malfeasance, that's the basis of this recall.

MS. STROUD: Okay, thank you, Ms. Henderson.

MS. HENDERSON: Thank you.

MS. STROUD: And, now, Ms. Sydelle Moore, if you have any response to the Registrar of Voters findings, you may do so now.

You have three minutes as well.

MS. MOORE: Sure, so I'll be brief and say that you know, not only is the basis for the petition a lie, you know, the way in which it was conducted you know, included a variety of illegal practices.

So, in addition to you know, supporting the Registrar's report regarding the challenge, I also support the additional insufficiencies that she found in the petition,
and would ask that the Board you know, clearly
reject this petition.

And, refer for further investigation,
the allegations of forgery made by those
individuals, voters who found their petition,
their, or a replication of something purporting
to be their signature, on the petition form.

MEMBER GREENFIELD: Thank you, okay.
Okay, do we have anybody else?
MS. STROUD: No, Board Member
Greenfield. Those are the parties.
And, any, there is information that
was submitted for the record, and that
information is part of the record.

And, so you are free to proceed.
MEMBER GREENFIELD: Okay, yes.
I'm going to go ahead. I am going to
make a motion and move that we accept the
Registrar's findings regarding the challenge
submitted by Sydelle Moore in response to the
Recall Petition submitted by Kathy Henderson, as
a Single Member Board.
I'm going to vote aye to accept that motion.

MS. STROUD: And, as Board Member Greenfield indicated, she has voted to adopt the report of the Registrar of Voters.

And, as a consequence of that, the recall petition submitted in an effort to remove or recall Commissioner ANC Single Member District 5D05, Commissioner Sydelle Moore, is reject, rejected as insufficient to put the initiative, I mean, put the recall measure on the ballot.

The, as I indicated, this matter may be appealed to either the full Board, or to the D.C. Court of Appeals, pursuant to the statutory provision that I have cited.

And, at that time, Ms. Henderson, if you wish to submit something that indicates that in fact, the number of signatures that you submitted in support of the recall effort is in fact, sufficient to place the measure on the ballot, you can you know, take that before either the full Board, or the court, as you are the
parties that was adversely impacted by the, the
order of the Board, which will be issued
forthwith.

MS. HENDERSON: Okay.

MEMBER GREENFIELD: Okay.

If we don't have any other matters,
I'm going to make a motion to go ahead and
adjourn this Special Board Meeting.

So, I will move to adjourn the
meeting, and then I will vote aye.

(No audible response.)

MS. STROUD: And, the meeting is
hereby adjourned.

MEMBER GREENFIELD: Meeting's
adjourned.

Thank you.

(Whereupon, the above-entitled matter
went off the record at 9:48 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Special Board Meeting

Before: DC BOE

Date: 11-24-21

Place: teleconference

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

[Signature]
Court Reporter