

**MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING**  
**August 7, 2019**

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, August 7, 2019 in the Board's Hearing Room, located in Suite 750, 1015 Half Street, SE, Washington, D.C. 20003. Board Chairman Michael Bennett and Board Member Michael Gill were present. Also present on the dais were the Board's Executive Director, Alice Miller, the Board's General Counsel, Terri D. Stroud, and the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery.

**CALL TO ORDER** (10:30 a.m.)

**ASCERTAINMENT OF QUORUM**

- Board Member Michael Gill and Board Chairman Michael Bennett constitute a two-member quorum until the Council moves forward with their previous nomination or the Mayor makes a new nomination.

**ADOPTION OF AGENDA/APPROVAL OF MINUTES**

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on July 2, 2019.

**BOARD MATTERS**

- **ORDERS AND ISSUANCES:** Chairman Michael Bennett announced a new agenda item to apprise the public of any orders issued by the Board during the previous month. There were no issuances during the month of July.

**IDENTIFICATION OF PUBLIC MATTERS**

- Chairman Michael Bennett announced a new agenda item to raise any public matters identifiable from information available to the public in order to provide the Board an opportunity to get additional information during the presentation of Department reports if necessary. After the presentation of the Department reports, the Board will address public matters identified and any other matters that the public has based on the Department reports.
- **Dorothy Brizill**
  - **Board's Independent Agency Status**  
Ms. Brizill seeks clarification regarding the Board's relevant authority, with respect to the applicability of the District's open meetings law, procurement laws, and personnel rules and regulations.

- **The Board's Preparations for 2020 Elections**  
Ms. Brizill would like information from the Executive Director regarding preparations for the 2020 election cycle, including specific matters that have been in the media.

- **Michael Sindram**

- **Update on Jack Evans Recall petitions**  
Mr. Sindram asked about the recall efforts against Councilmember Evans.

## **OCF JULY 2019 REPORT (DIRECTOR COLLIER-MONTGOMERY)**

- **Budget Support and Emergency Act of 2019**

- The Budget Support and Emergency Act of 2019 (DC Act 23-91) became effective on July 22, 2019 and expires on October 20, 2019.
- Title I, Subtitle E, the Fair Elections and Campaign Finance Reform Amendment, amends the applicability clause of the Fair Elections Act and incorporates Fair Elections Act recommendations from the Board that are due to expire on August 20.
- The Emergency Act amends those provisions of the act that address the establishment of a new Campaign Finance board, and those particular provisions will not be applicable until the funding for them is included in a fiscal act of the Council.
- There is a permanent Act that will incorporate the amendments to the Fair Elections Act, as well as the amendments to the Campaign Finance Reform Act, and that is currently under Congressional review and expected to become law during the month of October.

- **Fair Elections Program (FEP)**

- On July 17, 2019, OCF partnered with the Board of Elections and attended the MPD Ward 5 Beat the Streets community outreach event. FEP staff provided information on the OCF and the new Fair Elections Program (FEP).
- The FEP contacted the DC Federation of Citizens and the DC Federation of Civic Associations to advise them of the FEP and the office's availability to conduct informational sessions for their community groups.
- On July 16, 2019, a seventh candidate, Green for Ward 7, registered for the FEP.
- As part of its ANC outreach project, FEP staff visited ANC 3G on July 8, 2019, and ANC 3E on July 11, 2019
- On July 26, 2019, the FEP e-filing system was made available for candidates. Currently, seven candidates are registered, and two candidates requested extensions to register.
- Threshold requirements for entry into the FEP for Ward candidates are as follows:
  - A candidate must present 150 qualified small dollar contributions from individual District residents with a minimum aggregate total of \$5,000.00.
  - The individual contribution limit for candidates seeking Ward Councilmember seats is \$50.
- The new candidates for the FEP are as follows:

- Jordan Grossman for Ward 2 filed on July 31, 2019 with 427 qualified contributions totaling \$17,501.02.
    - Kishan Putta for DC 2020, filed on July 31 with 270 qualified contributions totaling \$8,943.
    - Patrick Kennedy for Ward 2 filed on July 31 with 211 qualified contributions totaling \$8,515.
    - John Fanning for Ward 2 filed on July 31 with 155 qualified contributions totaling \$6,165.
    - Green for Ward 7 filed on July 31 with 57 qualified contributions totaling \$1,906.
  - FEP began verifying the reports submitted and forecasts completion on August 14, 2019.
  - Verification entails ensuring the donors have the required documentation and are residents of the District.
- **Public Information and Records Management Division (PIRM)**
    - Filings in the month of July:
      - Constituent service programs reports were due July 1.
        - 9 required filers
        - All filed timely
      - The Senator Representative Statehood Fund reports were due July 1.
        - 3 required filers
        - All filed timely
      - Principal campaign and political action committees' reports were due July 31.
        - 134 required filers (82 principal campaign committees (PCCs) and 52 political action committees (PACs))
        - 95 timely filers (47 PCCs 48 PACs)
        - 39 failures to file (35 PCCs 4 PACs)
      - FEP reports were due July 31.
        - 7 required filers
        - 5 timely filed
        - 2 extensions requested
      - Independent expenditure committee reports were due July 31
        - 4 required filers
        - 2 filed timely
        - 2 failures to file
      - Inaugural committee reports were due July 31.
        - 1 required filer
        - 1 failure to file
      - Initiative and referendum committee reports were due July 31.
        - 8 required filers (5 Initiative Committees and 3 Referendum Committees)
        - 3 timely filed (1 Initiative and 2 Referendums)
        - 5 failures to file (4 Initiatives and 1 Referendum)
      - Recall committee reports were due July 31.
        - 3 required filers
        - 2 timely filed

- 1 failure to file
  - New candidates and committees who registered during July:
    - Anthony Green, Green for Ward 7, City Council, registered in the FEP on July 16, 2019.
    - Rosenberg for Ward 7 City Council, registered on July 31, 2019.
  - Entrance conferences were on July 16, 2019 and July 26, 2019.
    - Participants in the July 16, 2019 conference were:
      - ❖ Melanie Clark, Treasurer, Dale for DC
      - ❖ Anthony Dale, Candidate, Dale for DC
      - ❖ Sean Watson, Treasurer, Veda Rasheed, DC Council, Ward 7
      - ❖ Kishan Putta, Candidate Kishan for DC 2020
      - ❖ Sigute Melus, Treasurer, Save Our Votes, PAC DC
      - ❖ Graylan S. Hagler, Treasurer, Save Our Votes, DC Independent Expenditure Committee
    - Participants in the July 26, 2019 entrance conference were:
      - ❖ Robert T. Schreiber, Treasurer, Kishan for DC 2020
      - ❖ Yuri Fuchs, Treasurer, Daniel Hernandez for Ward 2
- **Reports Analysis and Audit Division (RAAD)**
    - Conducted 29 desk reviews of reports that were filed during the month.
    - There are four ongoing field audits:
      - DC Proud 2019 Inaugural Committee, initiated April 22, 2019.
      - The Committee to Elect Zachary Parker 2018, initiated on March 5, 2019.
      - Emily for Education, initiated on March 4, 2019.
      - Sheika Reid 4 Ward 1, initiated on July 12, 2019.
    - There are no periodic random audits.
  - **OCF Office of the General Counsel (OCF OGC)**
    - There is one referral for a non-compliant audit from the RAAD regarding Sheika Reid, a Ward 4 candidate.
    - There were three informal hearings and three orders issued:
      - Three orders for failure to timely file Advisory Neighborhood Commission Summary financial statements—no fines were imposed.
      - There was \$3050 in fines collected:
        - \$3,000 in fines were paid by Jeffrey Thompson for settlement.
        - A fine of \$50 was paid by the Economic Protection Party for failure to timely file a report.
    - No active investigations, no requests for interpretive opinions, and no show-cause proceedings
    - DIRECTOR COLLIER-MONTGOMERY: FEP staff has worked tirelessly to ensure that the e-filing system for the FEP was up and running, and available to the candidates who registered to participate in the program. OCF Staff Attorney Austin Franklin also assisted the Division with advice.

## EXECUTIVE DIRECTOR'S JULY 2019 REPORT (EXECUTIVE DIRECTOR MILLER)

- **Precinct Boundary Changes**
  - Facility Operations Manager Arlin Budoo related that slight changes to the growing number of NoMa residents call for the establishment of Precinct 144.
    - **BOARD ACTION:** There was unanimous approval of the proposal for a new precinct. Notice of the Board's final consideration of the new precinct at an upcoming Board meeting will be posted in the D.C. Register for review by affected ANCs and the public.
  - The Board will utilize two additional early voting sites for next year's elections. The Board has already tentatively identified an additional site in Ward 1 at Masonic Temple at Taj Mahal, located at 1000 D Street, NW.
  - Early voting sites will have paper ballots for all contests through the ballot on demand process for the 2020 elections.
  - The Board conducted a survey with all digital subscribers regarding the utility of the Board's website. The survey indicated a 90% positive response rate.
    - Subscribers requested more detailed application instructions for poll workers.
    - Subscribers also requested ADA compliance, which we are currently working on with our vendor.
    - The Board of Ethics and Government Accountability (BEGA) certified that the Board's website is in compliance with the Open Government Act, but requested that the Board list the name and email address of its FOIA officer on the main page and place the meeting minutes near the FOIA page.
  - We have procured "I Voted" stickers with the overlay of Frederick Douglass, who was one of the first advocates for DC voting rights and one of the first ones to work with the DC Suffrage Petition Association.

## BOE OGC JULY 2019 REPORT (GENERAL COUNSEL STROUD)

- **Litigation Status**
  - **William Hunt v. the D.C. Board of Elections.** This matter was filed in the US District Court for DC on October 18, 2018 and is a complaint regarding the counting of write-in votes cast in the November 6, 2018 General Election. Mr. Hunt was a Mayoral write-in candidate in that election, and he filed a complaint asking the court to require the Board to count the write-in votes cast in the Mayoral contest.

On July 10, Mr. Hunt filed a Motion for an Extension of Time to respond to the Board's Motion to Dismiss, which was filed on April 24, 2019, as well as a Motion to Amend the Complaint.

The Board filed an opposition to Mr. Hunt's Motion to Extend Time on July 18. On July 26, the court denied Mr. Hunt's Motion to Amend, but granted his motion

to enlarge his time to file his opposition to August 23. On July 29, Mr. Hunt filed an additional Motion for Extension of Time to respond to the Board's Motion to Dismiss, as well as a motion to amend his complaint.

- **James Butler v. the D.C. Board of Elections.** This is an action to compel the Board to accept the DC Term Limits Campaign Initiative and treat it as a proper subject. A conference for this matter took place on July 19. Dispositive motions are due on November 21, 2019, at which time both parties will file cross-motions for summary judgment.
- **Graham v D.C. D.C. Board of Elections.** This involves the Board's appeal of a permanent injunction entered by the Superior Court. The Board and the proposer filed a Joint Brief and Appendix on June 26. On July 16, the appellees filed a Motion to Dismiss for mootness. On July 23, the Board and the proposer filed a Joint Opposition to the Motion to Dismiss. We are awaiting the court's ruling on the motion. The appellees had a brief due on July 26. To date, it has not been filed.
- **Phillip Hammond v. the D.C. Board of Elections.** This is an appeal of Board Order 19-32, upholding the resolution issued by ANC 7B which found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B04. The Court of Appeals has given petitioner 20 days to show why the petition should not be dismissed due to being filed late.
- **Robin Marlin v. the D.C. Board of Elections.** This is an appeal of Board Order 19-33, upholding the resolution issued by ANC 7B which found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B05. The Court of Appeals has given petitioner 20 days to show why the petition should not be dismissed due to being filed late.
- **Rulemaking**
  - Emergency and Proposed Rulemaking to amend Title 3 of the Board's regulations, Chapters 42 (The Fair Elections Program), and Chapter 43 (The Verification Process)
    - To amend regulations consistent with changes recommended by the Board and OCF such as increasing the number of candidate certificate dates to enable a candidate who may not qualify for certification initially on July 31, to have a subsequent opportunity to achieve certification. and changes regarding the most practicable way to implement the FEP statute.
    - **BOARD ACTION:** A motion to adopt the rulemaking as Emergency and Proposed Rulemaking was unanimously approved.

## **PUBLIC MATTERS**

- **Dorothy Brizill**

- **Board Authority as Independent Agency**

Ms. Brizill asked about the Board's authority as an independent agency in the areas of public meetings, procurement, and personnel.

Ms. Stroud responded that 1-1001.05(e) generally discusses the Board's the personnel authority and other sections of the DC Code outside of the election certain sections refer to independent agencies generally.

In terms of the public meeting law, Section 5(a)-1, governs the Board's meetings.

- **Precinct 144 Planning**

Ms. Brizill asked how the request for a new Precinct 144 came about considering similar population growth is occurring in other areas.

Mrs. Miller responded that she was not aware of the impetus to begin considering the new precinct, but this is not the only area where the Board is considering additional voting precincts.

- **Website Survey**

Ms. Brizill asked why the website survey was conducted in July when participation would be lower because people are on vacation.

Mrs. Miller responded that the survey was an ongoing practice, and this was an effort to poll the digital email subscribers in an effort to make the website better.

- **Preparations for 2020 Election**

Ms. Brizill asked about preparations for the upcoming election season generally and with respect to security and suggested that the Board provides insufficient information on this topic.

Chairman Bennett responded that the Board frequently reports on election preparations, and cited as examples discussions on the FEP and Board's new voter registration system. Chairman Bennett noted Executive Director Miller's involvement with several entities, including the FBI, that focus on election security, and discussed his heightened personal interest in the Board's efforts regarding the security of the Board's election administration and voter registration programs given his background in information management and cybersecurity strategy and execution. Finally, Chairman Bennett indicated that the Board's voting and tabulation systems are closed and secure, and offered Ms. Brizill the opportunity to discuss these matters with him in the future.

- **Michael Sindram**

- **FEP**

Mr. Sindram sought clarification regarding whether small donors were limited to only donating to candidates from their ward. Ms. Montgomery explained that donors are not limited to their ward of residence.

- **Butler Initiative**

Mr. Sindram asked about term limits and voter and campaign fairness. He suggested the Board introduce legislation to reinstate term limits.

Chairman Bennett responded that introducing legislation is beyond the capacities of the Board.

- **Jack Evans Recall**

Mr. Sindram asked about the status of the Evans recall efforts.

Chairman Bennett explained that two recall petitions have been approved by the Board for circulation. Adam Eiding's petition is due November 18, 2019 and Kerry Kemp's petition is due November 25, 2019.

Chairman Bennett noted for the record that Ms. Brizill's comments about this being the worst Board ever is simply her position and not the position of the Board, and certainly does not reflect the Board's view of either OCF staff or the Board's administrative staff.

- Adjournment (12:20 p.m.)