GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ELECTIONS

REGULAR BOARD MEETING

WEDNESDAY JUNE 1, 2022

The District of Columbia Board of Elections convened via Video Teleconference, pursuant to notice at 10:30 a.m. EDT, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
MIKE GILL, Member
KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel
CECILY COLLIER-MONTGOMERY, Office of Campaign Finance
MARISSA CORRENTE, Assistant Registrar of Voters
CATRINA JONES, Attorney Advisor
WILLIAM SANFORD, General Counsel
C-O-N-T-E-N-T-S

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(10:32 a.m.)

CHAIR THOMPSON: Good morning, everybody. It's Wednesday, June 1. My name is Gary Thompson. I'm the Chair of the Board of Elections.

I see that our Court Reporter is present. And also, this is on Zoom being recorded. And with me today is Executive Director Monica Evans of the BOE, General Counsel Terri Stroud, Office of Campaign Finance Director Cecily Collier-Montgomery.

And also by Zoom, I see Board Members, Mike Gill, and Karen Greenfield. And that means we have a quorum. Three for three, once again. And so we're ready to proceed.

The first thing we do is adopt our agenda. It's been distributed. We move up towards the front to accommodate some timing issues.

The challenge regarding Initiative 82, so that change has been made. In general it's
good to me so I will move it. I move that we adopt the agenda. Is there a second?

    MEMBER GILL: Second.

    CHAIR THOMPSON: And all in favor?

(Chorus of aye)

    CHAIR THOMPSON: We've got our agenda.

Another quick housekeeping thing is the minutes of our former regular meeting of Wednesday May 4 been distributed. We've all had a chance to look those over. They look good to me and so I would move that we adopt those minutes. Is there a second?

    MEMBER GILL: Second.

    CHAIR THOMPSON: All right, all in favor?

(Chorus of aye)

    CHAIR THOMPSON: Okay, so we've adopted out minutes. We have a little time for Board matters if Mike Gill or Karyn Greenfield and have, you all have anything to mention.

    MEMBER GREENFIELD: I do not

    MEMBER GILL: No, I don't other than
I'm having troubles with my camera. So I apologize that you just get the witness protection version. I'm also coming off of a cold so if I, I'm trying to mute myself before coughing into the entire Zoom.

CHAIR THOMPSON: All right. Okay, so with that, I'll turn it over to General Counsel Terr Stroud is going to lead us through the Initiative 82 issue.

MS. STROUD: Good morning, everyone. As the Chair indicated, the first item on my report is the hearing on the challenge to the petition filed in support of Initiative and Measure No. 82, the District of Columbia Tip Credit Elimination Act of 2022.

So I will go through the procedural history for the measure and the challenge and then the representative from the Voter Services Division of the Board will read her report with respect to the challenge into the record.

And then, the parties will have the opportunity to make their arguments with respect
to the challenge. First, we will hear from the challenger, or counsel for the challenger.

Then we will hear from counsel for the proposer, and then there will be the opportunity for the challenger to respond. And so the time allotments will be five minutes per side and then three minutes for the challenger.

And so with that I will just go through the background of Initiative 82. The measure was filed with the Board in January, June 22, 2021.

On August 31, 2021, it was deemed a proper subject for initiative, which meant that it met the requirements to go before the voters should it meet valid access requirements.

On February 22, 2022, a petition was submitted in support of the Initiative Measure. On March 7, it was challenged by Valerie Graham. On March 24, 2022, the Board held a meeting to determine the sufficiency of the petition.

And this process entailed a determination based on the Board's 30-day
independent review process of the measure. I should say at this juncture that there are sort of two processes that can take place at the same time with respect to Initiative Measures.

The Board undertakes a 30-day review period where it does its own thing independent verification to determine whether the initiative petition meets the necessary numerical and warrant distribution requirements.

Initiative Measure petitions are supposed to contain the signatures of five percent of the voters citywide, provided that it must also contain five percent of the signatures of voters in at least five of the eight wards.

And so, the Board held a meeting on March 25 to determine the sufficiency of petition based on its own independent review process. And as an outcome of the meeting on that day, Wards 1, 2, 3 and 4 were deemed sufficient.

Wards 5 and 7 were deemed insufficient and Ward 6 was, there was no decision with respect to Ward 6 in terms of whether there were
enough signatures.

And so, based on feedback from the Office of Planning, the Board undertook to evaluate the signatures in all of Ward 6. On March 28, 2022, a hearing was held before the Board with respect to the challenge.

As I mentioned, there are two processes that can take place at the same time. In the event that a petition is challenged, we proceed with the challenge process.

So it's separate and apart from the Board's own independent 30-day verification process as provided for the statute. There's also the opportunity for registered voters to challenge the petition on grounds that are specified in the statute or the Board's supporting regulations.

On March 28, 2022, a hearing was held before the Board at which time the parties agreed to defer consideration of the ward to challenge pending the outcome of the determination with respect to Ward 6.
On April 6, the Board held a meeting at which it determined, based on the feedback received by the Office of Planning and the ward of the voter services division that Ward 6 was sufficient in terms of the numerical and Ward distribution requirement.

And on April 8, a written order which memorialized the Board's oral ruling on April 6 was issued. On April 29, 2022, the Board held a pre hearing conference with respect to the challenge.

Just prior to that pre-hearing conference but on the same day, the challenger identified 500 signatures that she determined should not have been accepted.

These were signatures that were not included in the challenge that was filed on March 7, but they highlighted, challenged, or highlighted 500 signatures and indicated that they should not be accepted for various reasons.

On May 9, the Office of the General Counsel issued a pre-hearing conference to the
party, a pre-hearing conference order to the
parties outlining the issues that would be before
the Board at today's hearing.

And the issues are as follows, and I
just want to note for the record that neither
party objected to the outline of the issues as
they were presented in the pre-hearing conference
order.

And so, the three issues that are
before the Board with respect to the challenge is
whether the Board should consider should construe
the challenges that were coded in the March 7
challenge to include challenges to actual
signatures.

Not the signature lines, but the
actual signatures under the Board's regulations,
and the particular section that they would like
to now challenge the signatures on is --

Or they would like to have the Board
construe the challenges that they initially filed
to include challenges and signatures under 3 DCMR
Section 1007.1(I), which indicates that a
challenge to a signature if is not by the person whose signature it purports to be.

The grounds that were initially specified in the March 7 challenge were that the signer, according to the Board's records, is not registered to vote at the time that petition was signed. And that challenge was indicated by the designation NR for not registered.

The second grounds was that the signer, according to the Board's records, is not registered to vote at the address listed on the petition at the time the petition was signed, and that challenge was noted by code WA. The another grounds was that the signature was a duplicate of a valid signature, and that code was DU, or DUP, for DUP.

And the final grounds that the signatures were challenged on is that, or that several of the features that were challenged on was that the sole signer was also the circulator on the same petition where the signature appears. And that challenge was indicated by the code SSC.
So that was the first challenge.

And then the second, I mean, the first issue before the Board, and the second is whether, if the Board does not construe the above referenced challenges as indicated above, the Board should alternatively grant to the challenger to amend the challenge.

So that each of the 500 challenges towards two signatures include a challenge to the actual signature under 3 DCMR 1007.1(I). And the final issue before the Board is whether the monthly report of voter registration statistics, as of December 31, 2021, was the proper official count to be used for evaluating the validity of the petition.

And so the parties will be addressing these issues today during the hearing, but first we will have the Voter Services Representative, Marissa Corrente read her report regarding the challenge and with respect to the 500 signatures into the record.

MS. CORRENTE: Thank you. So this is
a memorandum from myself Marissa Corrente, the
Assistant Registrar of Voters and Voter Services
regarding Initiative Measure No. 82 petition
challenge submitted by Valerie Graham.

On March 7 2022, Valerie Graham, a
registered voter in the District of Columbia,
submitted a challenge to the petition filed in
support of Initiative Measure No. 82, the
District of Columbia Tip Credit Elimination Act
of 2021.

The challenge alleged that the
petition did not contain valid signatures from at
least five percent of the registered voters in
Wards 2, 5, 7 and 8.

Well, Registrar of Voters' independent
review of the petition subsequently concluded
that the petition was insufficient as to Wards 5,
7 and 8. The Registrar found Ward 2 numerically
sufficient.

This memorandum addresses the
challenger's claim that the petition lines the
sufficient number of valid signatures in Ward 2.
The minimum requirement to obtain valid access with respect to Ward 2 is 2,532.

The registrar's independent review concluded that the petition contained 2,907 valid Ward 2 signatures, 375 signatures above the number needed for ballot access.

The Board accepted the Registrar's finding at a meeting held on April 6, 2022. On April 28, 2022, the Board's Office of the General Counsel held a pre-hearing conference regarding the challenge.

Just prior to the pre-hearing conference, the challenger, through counsel, provided a list of 502 signatures that counsel stated appear to have been accepted by the Board in which the challenger still maintained were invalid.

On May 4, 2022, the challenger's counsel provided an updated list of the 502 signatures that included explanatory notes on the basis for challenging the signatures.

Two of the notes stated that the
signature had been erroneously identified, which
brought the total challenge signatures to 500.
The specific grounds upon which the signatures
are being challenged from that updated list of
500 signatures is as follows.

A signature not of a registered
elector, voted NR, 188 signatures. B signature
not of an elector at address, coded a WA, 171
signatures. See duplicate of another signature,
40 signatures.

Signature D, signature block did not
contain ward designation, 40 signatures. E
petition circulator only, petition circulator
only individuals signing petitions, 61
signatures.

My review of the 500 signatures
highlighted by the Challenger indicates the
following. Regarding signature not other
registered elector, those 188 signatures.

Of those 180 challenges, seven of
those signatures were previously rejected and
five are reassigned to another ward, which brings
these challenges for Ward 2 down to 176.

For the signature not of an elector at an address, 171 signatures. Of those, 15 of those signatures were previously rejected and two were reassigned to another ward, which brings these challenges for Ward 2 down to 154.

For the duplicate of another signature, 40 signatures. Of the 40 challenges, two of those signatures were previously rejected which brings those challenges to Ward 2 down to 38.

For the signature block that did not contain Ward designation, which is 40 signatures. Of those, two of those signatures were previously rejected and three were reassigned to another ward which brings these challenges for to down to 35.

The remaining 35 challenges were rejected as invalid because they were based on the ward designation being omitted, which is not a basis for invalidating a signature.

Writing the petition circulator, only
individuals signing a petition the 61 signatures.
Of the 61 challenges, one of those signatures was
previously rejected, and one was assigned to
another ward, which brings these challenges for
Ward 2 down to 59.

The remaining 59 challenges were
rejected as invalid because they were based on
the petition circulator being the only individual
who signed the petition, which is not a basis for
invalidating a signature.

Based on these findings, instead of
500 potential challenges for Ward 2, there are a
total of 462. Of those, 94 challenges were
rejected, leaving only 368 challenges, which is
not enough to bring the 2,974 signatures below
the required amount of 2,532 signatures.

In light of this finding and the fact
that the registrar has previously examined the
validity of the signatures in question, the
Registrar's Office did not re-examine the
remaining 368 challenges.

MS. STROUD: Okay, thank you
Ms. Corrente. Thank you. So, I just want to confirm that the parties the counsel are present for the proceedings. I think I see Andrew --

CAMILLE: What was that?

MR. KLINE: Yes, I'm present.

MS. STROUD: Thank you, Mr. Kline.

Mr. Sandler, are you present?

MR. SANDLER: I am present. Thank you.

MS. STROUD: Thank you. Okay, so as I indicated, we will hear first from Mr. Kline. Mr. Andrew Kline, if you could just state your name and your address for the record.

MR. KLINE: Yes.

MS. STROUD: And with respect to the challenge.

MR. KLINE: Good morning, my name is Andrew Kline with the Veritas law firm. I represent Valerie Graham. Address is 1225 19th Street, Suite 320. Washington, D.C. 20036.

CAMILLE: Mute your mic.

CHAIR THOMPSON: Hold on, we're having
a technical adjustment here. While we're figuring that out, Mr. Kline, thank you so much. I'm sure you'll address this.

But obviously, the sort of immediate pending question is whether the challenge is new in light of the math? Mathematical analysis that was just presented? That of the 500 challenges, it's really only 368, which is less than the 375 overage that is in place.

I guess, does that move whether do we need to drill down on any further details regarding the four specific bases for challenging signatures and or signature accuracy. I'm sure you're sure you're about to address that.

MR. KLINE: Sure. I mean, the central issue here, and it's an issue that seemingly has already been decided by the Board is the denominator.

It's the third issue that's listed on the pre-hearing statement in terms of what official count to use. We've raised this issue several times, I think the Board's already ruled
on it. So it's difficult for me to say if the
Board continues to reject that argument that our
position is numerically sufficient.

We believe the Board has that wrong
and we've asserted that several times, but I'm
aware that the Board has ruled. So that may be
determined if with respect to the challenge and
in terms of the numbers.

CHAIR THOMPSON: Okay, yes. Yes,
please proceed with, you know, elaborating on
that point or anything else you'd like to address
in the course of the next, you know, we, I think
we said five minutes.

MR. KLINE: Sure. Sure, and as we've,
I'm sorry.

CHAIR THOMPSON: I was going to say
obviously, we have been studied the, on that
issue number three, the March 24, 2022, letter
that your firm submitted, addressing that
denominator issue regarding December 31.

So, you know, certainly I've read that
closely as well as the one case I have read is
Price v. DC BOE. And there's a footnote, I think it's footnote 18.

That seems to address the issue of the appropriateness of using December 31 as the point in time for the official election count, so. But, I'd love to hear your argument on that or how you think that's distinguished and you know, your overall thoughts.

MR. KLINE: Sure. The issue with Price is it was decided before the Help America Vote Act was passed and before the code was amended to provide that the official --

(Telephonic interference)

MR. KLINE: I beg your pardon? That the official voter registration role is the interactive computer database and under the Help America Vote Act, and under the D.C. code as amended, that is the official voter roll.

The publishing of statistics in the D.C. Register every month, those are not the certified official --

CAMILLE: Mute your mic.
MR. KLINE: -- voter titles. They, the official voter titles would be gleaned from an analysis of the ongoing voter database, which under both the Help America Vote Act and the code as amended, is the official record.

And would constitute the vote totals for purposes of calculating the denominator with respect to the city wide totals, and the denominators in each of the wards. We've argued it and we've submitted.

I don't need to, to repeat all these arguments. But that's our position. And I think that distinguishes Price because Price predates HAVA and predates the amendment to the D.C. code, which specifically set forth what is the official voter role.

UNIDENTIFIED SPEAKER: Can you close the door? I'm in a meeting.

MR. KLINE: If the Board were to change their position on that, then the difference --

CHAIR THOMPSON: Hold on one second.
It's a public meeting and anyone can dial in, and
anyone can dial in, and we get a whole lot of
interference like that, and I apologize.

It's the nature of the public format.
So we switched to a mandatory mute. And then,
you have to ask to unmute yourselves. And then,
we'll do that. So we just unmuted Mr. Kline and
I think we'll unmute Board Members --

NATALIE: Can we get rid of Chris
LaFoe for interrupting? Look in the chat, he has
put some extremely inappropriate messages and --

CHAIR THOMPSON: Yes, we have --

MS. STROUD: He's been removed. Thank
you.

MR. KLINE: Mr. LaFoe is my associate,
and it appears that someone has been able to
impersonate other members of the chat.
Mr. Sandler has inappropriate remarks. I in no
way think they're from him.

So please do not dismiss Mr. LaFoe,
he's with my office. If you do, then you have to
dismiss Mr. Sandler, as well and I'm not asking
that you do that.

CHAIR THOMPSON: Thank you, so much. Yes, we have to I think let a few people back in now that we didn't mean to remove.

MS. STROUD: Yes.

MR. KLINE: So, so the point is, where I was is, if the Board revisited that issue, then the number would be much less than 375 and we challenge these various signatures based on the signer. The signer, not the name of the person printed, but the signer not being registered or not being at the address.

In construing pleadings liberally, that would be enough to consider whether the person who signed is indeed the registered voter because if they were not and they wouldn't be at that address, and they would not be registered.

I also want to point out, although it's not part of the pre hearing order, it occurs to us that the sampling that was done of Ward 2, when the Board ultimately decided to accept Ward 2 as having sufficient signatures, was improperly
done because the sample pool was changed after
the sampling was done.

And the Board proceeded to accept that
sampling anyway, even though the pool had changed
and that's simply incorrect, as I'm not even
going to say it's a matter of law. It's a matter
of statistics.

So that is what we have. The central
issue is what's the denominator and we've
articulated that over and over and I don't need
to beat that horse to death at this point. I
think we've made the arguments and I think the
very clear.

CHAIR THOMPSON: All right, thank you
so much. I think counsel for the proposer?

MS. STROUD: Yes, I got correspondence
from Mr. LaFoe. And I responded to it. And also
copied on that correspondence too was
Mr. Sandler.

And I informed them to log back in so
if we could just check to see whether or not
Mr. LaFoe and Mr. Sandler have logged back in or
attempted to log back in.

So they indicated that they have attempted to log back and when attempting to do so they receive a message that they cannot because they were previously removed. Randi, is it possible to, or maybe they could call another number, okay? Mr. Sandler, are you on?

CAMILLE: Mr. Sandler asked to unmute.

MS. STROUD: Okay. Mr. Sandler, are you there? I just asked him to email it to me. When we look for a 607 exchange. I'm asking Mr. Sandler what number he's calling in from. Ma'am, could you scroll down, please?

CHAIR THOMPSON: We'll get it straightened out. I think my favorite internet funny thing was the lawyer that appeared as a cat. That just cracks me up endlessly.

His daughter or his kid had changed his face into a cat. My favorite part is are the viruses. Your Honor, I just want the record to reflect I am not a cat. If you just --

MR. SANDLER: Brenda, if you could
scroll down so we can see the images that are on
the screen, please? From the top bar from the,
where the blue arrow was. Where the blue arrow,
if you can go to the next screen. There he is.
Go to that. Joe's phone. There it is, Joe's
phone.

MR. SANDLER: Okay, can you hear me
now?

MS. STROUD: Yes, we can Mr. Sandler.

Thank you.

MR. SANDLER: Yes, I don't know what
happened there. I guess were both kicked out.
Thank you. I'm sorry for, and thank you, Mr.
Chairman, and Members of the Board. The --
I wasn't able to hear much of the
presentation, but I understand the position of
the, of the challengers with respect to the three
issues.

First, the challenges filed by the
challenge or cannot be reasonably construed to
allege that even a single signature, let alone
the hundreds that they've identified, is being
challenged on the basis that this voter signature was forged, which is what they're saying.

The pre-hearing order listed the challenges, it was specified in the challenge, and none of them, remotely, connotes that the signature of any voter was in fact forged.

Secondly, the challenger should not be granted leave to amend for permit them to assert a challenge to any of these signatures being challenged on the basis that the voters is not the one who signed the voter whose name is there is not the one who signed.

There are no grounds for any amendment. There is no newly discovered evidence. In fact, there's no evidence at all to support questioning even a single signature is being fraudulent.

The challengers had the full time allotted by the statute to inspect the petition. They failed to identify a single forged signature of any voter during that time and as we sit here today, they've not identified a single forged
voter signature or produced any evidence that any
signature was forged.

At the pre-hearing conference, the
challenger indicated that they have identified
signatures that looked unclear, difficult to
read, and that was their basis for this very
serious allegation of hundreds of instances of
criminal conduct by some unnamed universe of
forgers coming in and signing the names of
voters.

Of course, there's absolutely no
evidence of that and in fact, at the pre-hearing
conference, voter services staff went through a
number of the signatures challengers had
identified as supposedly being fraudulent and
every one of them matched the signature card on
file with the Board.

So there's no basis for granting leave
to amend the challenge. And finally, the monthly
recorded voter registration statistics as of
December 31, 2021, published by the Board on
January 21, 2022, was the proper official count
to be used for evaluating the validity of the petition.

The DCA code Section 1-1001.6(i)(1) requires that the number used to determine validity be consistent with, quote, the latest official count of registered qualified electors made by the Board 30 days prior to the submission of the signatures.

The challenger has insisted that the Board should have used the numbers as they existed exactly 30 days prior, well January 22. That is not what the statute says.

The statute is, says the latest official count made by the Board at least 30 days prior to submission, that's clarified also in Section 1003.3 of the Board's regulations.

It clearly, the law and the regulations contemplate that the Board is not required to make a count, produce a count every day of the year such they have a count exactly 30 days out.

To the contrary, the statute requires
the Board to publish, make the count, if you
will, on the third Friday of each month of the
numbers as of the last day of the month preceding
publication and that's exactly what was done
here.

The signatures returned in on February
22. The latest official count made by the Board
at least 30 days prior to that submission was the
count as of December 31, 2021, published on
January 21.

The fundamental fallacy in the
challenger's position is revealed only to well by
their own suggestion in their letter of March 24
to the Board that the January 31, 2022, numbers
should be used quote, as a proxy, end quote, for
the January 2, 2022, count.

Of course, that quote's proxy would
not going to select the actual January 22 numbers
either. And you said that count, which is what
the challenges are urging, would flagrantly
violate the statute because that count was made
less than 30 days prior to the submission.
So I will not address the issue that Mr. Kline raised about the sampling in Ward 2 since that's clearly outside the scope of the pre hearing order.

So for these reasons, we believe the challenge should clearly be rejected. Thank you very much, Mr. Chairman and members of the Board.

CHAIR THOMPSON: Mr. Sandler, I have a question. Mr. Kline's made the argument that's contained in their March 24 letter as well, that HAVA came along and changed the D.C. statutory rule in this regard.

Because HAVA makes reference to a single uniform official, centralized, interactive, computerized statewide voter registration list that this phrase official, in that context, essentially means there's no longer a static, official list.

That is it's always moving in time and there is such a thing as a January 22 official list, otherwise it would have to be sort of forensically reconstructed.
But what do you make of that point that HAVA sort of supersedes all of this and creates this moving official list? And I want to be sure to distinguish that from the proxy issue that you mentioned.

You know, even if we are January 22, that doesn't necessarily mean that you borrow backwards from January 31 and you, if you reconstruct it, my understanding is that the numbers are not that far off from December 31 anyway.

So it doesn't look like it's outcome determinative. But in any event, how do you, how do you address this issue that HAVA sort of changes the way you look at this?

MR. SANDLER: HAVA is absolutely irrelevant. The fact that there's an official role existing on each day of the year with different numbers is inarguable.

Nobody's counting that. The issue is the D.C. statute. What is the number to be used to determine the number of signatures required to
be submitted.

That's governed by solely D.C. law and D.C. law doesn't say whatever the official role is from 30 days out. It says that it, what was made, the latest made by the Board exactly, you know, at least 30 days prior.

It clearly is congruent with the periodic issuance, you know, determination and issuance by the Board of, you know, of what the, of what the official count is.

I don't think Congress changes that, you know, in any way. Congress does not purport to dictate what number of signatures is supposed to be used to determine the validity of initiative petition in the District of Columbia.

CHAIR THOMPSON: Okay, thanks. So I think that sets up rather nicely a rebuttal by Mr. Kline.

MR. KLINE: The fact that anything would, quote unquote, have to be forensically reconstructed. This entire analysis was forensically reconstructed. We had voters moving
in and out of words through, throughout the process.

So I don't understand the hesitancy to get it right. I don't understand the hesitancy to use the redistricting, not redistricted numbers, which the Director of the Agency committed to the council would be used in all upcoming elections and petition analysis.

So I'm baffled as to this whole, well would have to be frantically reconstructed. What was going on that 30 or 40 days it took to get an answer to whether there was enough signatures?

Everything was forensically reconstructed, that's what was done. So I, and I vehemently disagree with Mr. Sandler in terms of that argument relies on HAVA.

It relies on the D.C. code. The fact that something is published once a month, I can't find anywhere where the Board of Elections looked at the December 31 numbers that were published.

And on January, whatever the date was, and said, we certify this. This is this is the
official roll, nowhere to be found. So I don't know how it is that the December 31 number gets elevated to official.

But for the fact it was something that was done, perhaps, before the code was amended, and provided a different official measurement of the number of registered voters.

CHAIR THOMPSON: Yes, thank you. Your point is well taken, I think, you know, issue one is, is the December 31 list the, quote, official list?

If it's not, it really is supposed to be January 22. I didn't mean to suggest that just because it's hard to pinpoint the exact denominator number on that date that you wouldn't do it.

I mean, yes, I said forensically reconstructed. But if that's the right date, and it can be to do what the voter registration list was on January 22, 2022, that's perfectly, would be perfectly appropriate.

MR. KLINE: And we would submit that
that would include taking into account redistricting because redistricting was not -- Mr. Sandler, please, you'll get your turn.

The redistricting was in effect as of January 2. The numbers were supposed to be adjusted. The Director of the Agency represented to the counsel of the District of Columbia, that the numbers would be adjusted in, before the upcoming elections.

And if we're monkeying with numbers, which is what's been done throughout this process, let's be perfectly clear, then it makes sense to do it in accordance with the electorate that existed as of January 2, 2022, not what existed last year.

CHAIR THOMPSON: Okay, Mr. Sandler, why don't you have the last two rebuttal?

MR. SANDLER: Yes, the Petition Sponsor Initiative Committee relied on the Board's count that this would, that the numbers were, we were told that it was the list as of December 31, 2022, that was published. It was
made by the Board in accordance with the statute
30 days before the submission.

It would make no sense, it would be
ridiculous to then use the, to have one set of
numbers and then actually treat voters as being
in a different ward than they were on that list.

That, and of course, it would be
enormously unfair and unjust to the challenger to
say, well, I signed that, in fact, I signed this
petition myself when I was in Ward 3, and then I
moved to Ward 2.

I mean, you're going to count me in
Ward 2 now, after the rules have already, have
already been set? It's at, you know, it would be
enormously unfair to create a, you know, caste in
this process.

It's never been done this way. The,
we have, we have had, you know, multiple
petitions and with the, in recent years, and the
number of signatures required has always been
based on the last published, you know, at least
30 days before the petition submission.
There's absolutely no reason to, you know, deviate from that. It's that's consistent with the language of the statute. It doesn't say the number that exists 30 days out. It says the number made.

The fact it can be published and issued by the Board 30 days prior to the latest official count made by the Board 30 days prior to the submission.

What would the Board's latest mean in there if it was going to be, it would be consistent with the account existing 30 days prior? That's not what the statute says.

CHAIR THOMPSON: Thank you. That's an excellent point to focus on what does the public now in terms of the voter registration list number.

And I believe the only thing that we'll know was what was published on December 31. So that's a point well taken. Okay, I guess that concludes it.

MR. KLINE: I get last word, don't I?
Isn't that on the --

CHAIR THOMPSON: Just like 10 seconds.

Go ahead.

MR. KLINE: And it's important, because what's been done is wrong. To address Mr. Sandler's point as to where people are supposed to be, the regulations are very clear.

People were supposed to be in the ward they were in when they signed, which means that those that signed before December 31, would be put in the ward they were in as of December 31.

Then before, and those that signed after would be put in the ward they were in after. The regulations are very clear on that point.

CHAIR THOMPSON: Okay. Thank you so much.

MR. KLINE: And that is 3 DCMR 1009.5.

CHAIR THOMPSON: Okay, with that.

Anything else on this issue?

MS. STROUD: No, I think there's nothing else on this issue. And so, it's to the
Board's determine.

CHAIR THOMPSON: Okay. So thank you so much. We'll take it under advisement and I, we're going to, we might go into Executive Session at the end of this meeting to talk about it, reach a determination, then come back on.

So stay tuned but we don't want to interrupt the rest of you attending right now. So why don't we move on to the next issue, which is the adoption of a petition to recall and ANC Commissioner?

MR. KLINE: Well, one point. If you're going to deliberate, I hope you're going to comply with the Sunshine Law requirements, and that will be done in public.

CHAIR THOMPSON: Well, we do have the right to, in almost every meeting we do, to go into Executive Session pursuant to D.C. Code, 2-575(b)(13) to deliberate in the same manner that any adjudicatory body would have the ability to deliberate --

MS. STROUD: With counsel.
CHAIR THOMPSON: -- with counsel.
Well, that's what I'm talking about. I'm talking
about a proper statutorily appropriate Executive
Session.

MR. KLINE: Thank you.

CHAIR THOMPSON: Okay.

MS. STROUD: Thank you. The next item
on my agenda is the adoption of a petition to
recall Amber Gove, who was the Advisory
Neighborhood Commissioner for single member
district 6A4.

Just want to see whether or not the
proposer of the recall, Ms. Alexandra Kelly is on
the call? Okay, I see you Ms. Kelly. And just
want to see whether or not Ms. Gove is on the
line.

She is an elected official who is the
subject of the recall. Randy if you could scroll
and see? Gove, G-O-V-E. Okay. So do no see
G-O-V-E. Okay. So I do not see Ms. Gove.

CHAIR THOMPSON: Search for Amber.

MS. STROUD: Yes. And if Ms. Gove, if
you are on the line, if you could raise your hand. Okay. I do not see Ms. Gove on the line. But I just want to have a staff attorney from the Office of the General Counsel, Katrina Jones, come forth.

And speak to the circumstances under which notice of this meeting was provided to the parties. And Ms. Jones, if you could just state your name and your professional address for the record?

MS. JONES: Good morning. Can you hear me? I'm sorry. My name is Katrina Jones. My address is 1015 Half Street, Southeast, here in Washington D.C.

MS. STROUD: Okay. So how was notice of this meeting provided to you? We know that Ms. Kelly, the proposer is here. And the purpose of this proceeding is to adopt the petition that the Board, that the Voters' Services Division created.

And that is the sole purpose of this particular proceeding. So if you could just talk
about the notice that was provided with respect
to this meeting to the parties?

MS. JONES: Correct, yes. So the
intent to recall was filed on April 28th. And I
immediately notified Commissioner Gove of that
intent to recall. And we started to have --

MS. STROUD: Of this meeting, let's
just focus on this meeting.

MS. JONES: Okay. Well, once she
received notice of the recall, she reached out to
me, and started asking me questions about
timelines. What would happen? And we talked
about this particular meeting.

She was very focused on what events
would transpire. And if any of the events
timelines could either be shortened or elongated,
which would shorten or elongate the whole
process. Right?

So when we talked about the June
meeting, she specifically wanted to know if the
recall was adopted today by the proposer,
Ms. Kelly. But, for example, she mentioned it
was submitted within the 60 days, before the 60
days would that speed up the process at all?

And when we talked through the
timeline multiple times, she wanted to know --

MS. STROUD: Did she get written
notice of today's meeting?

MS. JONES: She got a reminder email
yesterday.

MS. STROUD: Okay.

MS. JONES: That I had sent.

MS. STROUD: And before that, did she
receive any written notice of this meeting?

MS. JONES: No. But we talked many
times about this June 1st meeting.

MS. STROUD: So, she was aware?

MS. JONES: She was aware. She was
very clear about that.

MS. STROUD: Did you have a
conversation with Ms. Gove after you provided her
with a written notice yesterday of the meeting?

MS. JONES: Yes. Ms. Gove called me
this morning. And she said she thought she was
going to get an email notification prior to the reminder yesterday. Well, that she didn't remember that it was going to be today.

And I reminded her of the conversations we had about the June meeting. And she said, she may have misunderstood. But in all of our communications, she went over with me the timeline.

June 1st is the adoption. There are 60 days afterwards. And the fact that, given the 30 days that we had to certify, when a potential recall could occur.

So we talked about this particular meeting at length, at least seven times from the moment she got noticed of the intended recall until, again this morning, when I reminded her of our conversations.

MS. STROUD: Okay. So she was aware that the meeting was going to be on June 1st?

MS. JONES: She was very aware.

MS. STROUD: Okay.

MS. JONES: As a matter of fact, in
all of my conversations, she had me repeat. And she wrote down. She wanted me to slow down, so she could write down the specific dates.

The general meeting, the 60 days to submit the petition signatures, our 30 days to certify the petition, I mean, we went over those details multiple times. She said she was new, she didn't understand. She wanted to make sure she got everything down, had about the timeframe.

MS. STROUD: Okay, so she, while she didn't receive written notice of the meeting until yesterday, she was aware that meeting was going to be on June 1st. And --

MS. JONES: Very much, so.

MS. STROUD: Okay.

MS. JONES: Very much, so. From all of our conversations, yes, ma'am.

MS. STROUD: Okay. So in light of that, I mean, I know that Ms. Gove is not present. And I, but I think that we can proceed, particularly in light of the fact that -- and this is for the Board members.
We can proceed in light of the fact that this is a meeting for the proposer to adopt the petition for circulation. And so, I think that it's fine for us to proceed with the meeting, with the adoption of the issuance of the petition. And so --

CHAIR THOMPSON: Yes, I'm fine with that recommendation. I think we can proceed. Sounds like Commissioner Gove have got ample notice. And in any event, this is a process that typically doesn't call for the challenged --

MS. STROUD: Candidate.

CHAIR THOMPSON: -- official to make any statement or comments at all. I think the last one before us was an aberration in that regard.

But this is really just to confirm that the proposer of the recall petition is comfortable with the language. And, and basically, for us to confirm that the recall petition can go forth for signatures. So I think we can go.
MS. STROUD: Okay, so we'll proceed.

Thank you, Ms. Jones.

CHAIR THOMPSON: Thank you, so much.

MS. STROUD: So what I'm going to do is to go through the process for the issuance of the petition. What's before the Board is a notice of intent to recall.

And the subject of the recall notice is an Amber Gove, Advisory Neighborhood Commissioner, and single member district 6A04. The recall was filed on April 28th.

And it specified Mr. Gove as the elected official whose recall was sought. A response, Ms. Gove did timely file a response to the statement of reason for recall on Monday, May 9th.

The Board has prepared and is prepared to issue to the proponent an original petition form. Which Ms. Kelly, you will have to come to the office to receive if you want to pick it up today, which is the official start, should the Board issued a petition.
Because it has to be double sided. So we would need for you to come and pick it up. But we're prepared to issue the form today. And that's the sole purpose of this process.

When we're asking whether or not you will adopt the petition form as your own, we're only inquiring as to whether or not you adopt the form. And if you do, then the Board will entertain a motion to issue the recall petition.

We're asking whether or not the petition reflects accurately your name, the statement of reasons provided in your recall, your address, and things of that nature. It is not to inquire as to whether or not you approve of the elected official's response to the recall.

And so, Mr. Chair and the Board members, we have prepared and issued a version of the petition form to Ms. Kelly yesterday. She had the opportunity to review the petition and insure there are no mistakes.

CHAIR THOMPSON: Yes. All right.

Thank you, very much. Ms. Kelly --
MS. STROUD: Just state her name and address for the record.

CHAIR THOMPSON: Yes, if you're here, just quickly state your name and address please?

MS. KELLY: Yes. My name is Alexandra Kelly. And I live at 1323 North Carolina Avenue, Northeast, Washington, D.C.

CHAIR THOMPSON: Thank you, so much. And have you had to review the petition that's been prepared?

MS. KELLY: Yes, I did.

CHAIR THOMPSON: And do you approve the petition form and adopt it?

MS. KELLY: I do. I think there was one typo, but it's not significant. In the fourth line, it was my desire to say that Amber supported the proposal, and it was typed in support the proposal. But you know, obviously, that's.

CHAIR THOMPSON: All right. We'll fix the typo. Thank you so much for pointing that out. So I think that's all for now. It's not
the time to talk about the contents of the
petition. So having --

MS. STROUD: If you'll, yes --

CHAIR THOMPSON: The motion?

MS. STROUD: Yes.

CHAIR THOMPSON: Yes, let me go and

make a motion that Board approve the petition
form submitted by the proponent of the recall
measure. Is there a second? Board members
themselves have to --

MEMBER GREENFIELD: Second.

CHAIR THOMPSON: Okay. Are you there?

MS. STROUD: I think he's still muted.

CHAIR THOMPSON: I'm trying to get

Mike Gill unmuted. Well, any way, I'm in favor.

Karen, are you in favor?

MEMBER GREENFIELD: I'm in favor.

CHAIR THOMPSON: So we'll get Mike
unmuted, if he can join us or either provide
stirring dissent. Why don't we go ahead --

MS. STROUD: Yes.

CHAIR THOMPSON: -- until he can.
Well, so next, we'll ask the registrar, Marissa Corrente, Assistant Registrar, to outline the remainder of the recall process, so everybody understands what happens next.

MS. CORRENTE: Thank you. So this is a memorandum titled, Notice of Intention to Recall Amber Gove, Advisory Neighborhood Commissioner, Single Member District 6A04.

So on April 28th, 2022, Alexandra Kelly, a duly registered voter in single member district 6A04 timely filed a notice of intention to recall Amber Gove, Advisory Neighborhood Commissioner for SMD 6A04.

The notice specified Commissioner Gove as the elected officer whose recall is sought, meant in support of the recall. That did not exceed the 200 word count limit.

And included the proposer's name, telephone number, email address, residence address, and an affidavit that the proposer is a registered, qualified elector in the same single member district as the elected officer whose
recall is sought.

Commissioner Gove timely filed a response to Ms. Kelly's statement of reason to recall with the Board on Monday, May 9th, 2022. The response did not exceed the 200 word count limit.

Pursuant to D.C. Official Code 1-1001.1(g), the proposer of the recalled ANZ, of an ANZ, shall have 60 days to circulate the recall petition and file the same with the Board beginning on that date when the proposer of the recall formally adopts the original petition form as their own.

The petition form is available for Ms. Kelly to pick up at the Board's office. In the event the Board issues the petition today, Ms. Kelly, you must file the recall petition with the Board no later than 5:00 p.m. on Monday, August 1st, 2022.

Pursuant to D.C. Official Code 1-1001.17(h)(3), a petition for the recall the ANC shall include the valid signatures of 10
percent of the registered, qualified electors of
the affected single member district.

That 10 percent shall be computed from
the total number of the registered electors from
the single member district, according to the
latest official count of registered electors by
the Board, which was issued 30 or more days prior
to submission of the signatures for the
particular recall petition.

While the signature requirement cannot
yet be determined, the most recent registration
figures published by the Board reviews the
petition filed in support of the notice of intent
to recall Commissioner Gove would be required to
include the signatures of 189 duly registered
voters in single member district 6A04.

And that's 10 percent of 1,886, which
is the number as of April 30th, 2022. Both the
proposer of the recall measure and the elected
official who is the subject of the recall, are
advised to check with the Board's Voter Services
Office on a monthly basis as new statistical
reports are published.

CHAIR THOMPSON: Thank you, so much.

In only five short months, I've become an election geek now. Because my favorite part of this memo is, is that last part. And I know the Initiative 82 people will really appreciate this.

That, at this point in time, the most recent registration figures indicate that 10 percent is 189. But the proposer is advised to check with the Board's Voter Services Office on a monthly basis as new statistical reports are published.

So 189 might be 190, or 187, or 192.

So as with all petitions, the proposer is advised to overshoot the required number by a decent margin to leave plenty of room for error. So that's good advice.

And so with that, the proposer just has to pick up the petition and just moves on from there. And may or may not make its way onto the general. This would be on the general election ballot. Thank you, so much.
MS. STROUD: And Ms. Kelly, we are going to correct the typo in the petition form in your statement. And it will be available for you to pick up today, along with enough copies of the petition form to circulate and get the necessary amount of signatures.

And if you have any questions you certainly can, you know, ask us while you're here or give us a call. And so the last item on my agenda is litigation status. The first matter is Jason Christopher Long v. The D.C. Board of Elections.

This is an old matter and the only update to this matter which involved a lawsuit filed in D.C. Superior Court alleging negligence, and unjust enrichment with respect to a poll worker payment, is that there will be a hearing on this matter on June 17th.

Henderson v. D.C. Board of Elections involves the filing of a recall petition against Sydelle Moore, Advisory Neighborhood Commissioner for single member district 5D05. That petition
was rejected due to an insufficient number of signatures.

And Ms. Henderson appealed the matter to the D.C. Court of Appeals. The update in this matter is that we filed the designation of the record as we were required to do pursuant to a Board order. We filed that administrative record on May 23rd.

And the last item on my litigation status is Public Interest Legal Foundation v. Monica Evans, in her official capacity as the Director of the Board. This was filed in U.S. District Court under the National Voter Registration Act.

The suit alleges that the Board is out of compliance with the NVRA's public records permission. PILF requested records from the Board, which were denied due to provisions in Federal law.

All pleadings in this matter have been filed and we are just awaiting the next steps in this matter. And that concludes my litigation.
status report and my entire report. Thank you.

CHAIR THOMPSON: All right. Thank
you, so much. And for now, to Executive
Director's Report from Monica Evans.

MS. EVANS: Thank you. And good
morning. Voter Education and Outreach -- during
the month of May, the Voter Education and
Outreach Division conducted 25 outreach events on
behalf of the Agency.

Even though most of the events were in
person, two were virtual engagement events. I
attended the ANC 7B meeting on May 19. I shared
our vote plan for the primary election and
answered questions.

Voter Registration Rolls -- in May, we
registered 3,104 new voters and processed 6,937
registration changes. In total, we prepare
10,041 voter registration cards to be mailed.

We are within the 90-day window before
the primary election. Therefore, no additional
voters will be removed from an active to an
inactive status until after the election.
Online Voter Registration -- we're continuing to register voters using our website portal. As previously mentioned, our website portal provides the same functionality as a mobile app. Today, we have registered over 10,000 voters using the portal.

Update For the Primary Election -- the primary election will be held on June 21st, 2022. We have mailed or will mail a ballot to every registered voter affiliated with one of the major parties.

K&H began mailing ballots on May 16th. To date, we have mailed 402,108 ballots, 10,235 ballots have been returned. We are continuing to process new voter information and changes to transmit that information to K&H for additional ballot mailings.

The final mailing of ballots will occur on June 10th. Those who do not receive a ballot by June 16th, should plan to vote in person. The location of our early vote centers and 90 Election Day vote centers are listed on
Early voting begins on June 10th and runs through June 18. Vote centers will be closed on June 20 for the Juneteenth Holiday. And will reopen on June 21 for the primary election.

Mail ballot dropboxes opens on May 27th. We are currently collecting ballots twice a day. I emphasize the boxes are open. There are multiple locks on each box. However they are locked in an open position.

And voters should be able to place their ballot inside of the mail ballot drop boxes without issue. Voters will also be able to deposit ballots at any Vote Center during early voting. And on Election Day, ballots may also be returned to BOE using the U.S. Postal Service.

Election Workers -- we have met our election worker training goal. We have trained 2,100 election workers for the June primary. We're wrapping up site visit coordinator training this week. And trained election workers are
using the online training portal to supplement the in person training they received.

Communications -- our tagline, ready, set, vote. Our first two postcard mailers have gone out. The third and final postcard mailer is scheduled to be mailed by the end of this week.

We began mailing the voter guide the week of May 9th. The voter guide is also posted on our website. We are currently placing yard signs and distributing door hangers.

We are developing additional content for print, radio, and television advertising. Advertisements have run in DCist, East of the River, Hill Rag, El Tiempo, and The Informer.

Our vote plan will run in Washington Post next week. We have conducted radio interviews with WTLP and WPGC. Radio advertising is airing on Praise, WHUR, WPGC, and will run on WTLP.

Our television commercial is airing on OWN, MSNBC, CNN, and will start on, start running on Channel 7 in the near future. Finally, we
mailed ballots to all eligible voters housed in the Federal Bureau of Prisons.

The Department of Corrections will also be used as a vote center. We are delivering ballots to DOC today. We will also conduct in-person voting for three days at the Department of Corrections. That concludes my report. Thank you.

CHAIR THOMPSON: Thank you, so much. That was a beautiful report. It's like, you know, the Control Room, NASA. Everything is, systems are operating in good order. That is a lot of amazing activity that, you know, knock on wood, it's all going extremely well.

And that's by far the most important thing we've talked about today. Is how well the voting process is going to date. Thank you for that, Brenda. Thank you everybody at the BOE who is working so hard to make all that happen. So, anything else before we turn to campaign finance?

MS. EVAN: No, thank you.

CHAIR THOMPSON: All right. Okay.
Office of Campaign Finance, Director, Ms. Cecily Collier-Montgomery.

MS. COLLIER-MONTGOMERY: Yes, good morning. For the record, the full report of the activity of the Office of Campaign Finance for the month of May 2022 will be posted at the OCF website www.ocf.dc.gov before the close of business today.

I will, however, at this time highlight a few items of interest for the public from the report.

In the Office of the Director, I will point out that the Office of Campaign Finance hosted the debates on May 16th, 17th, and 19th, 2022 in the contested races for the Offices of the Mayor, the Attorney General, and At-Large Member of the Council.

These offices are scheduled for election during the June 21st, 2022 primary election. All candidates certified to participate in the Fair Elections Program, who are in contested city-wide elections were
required under the Fair Elections Act to participate in the debates.

The candidates registered for these offices in the traditional campaign finance program who qualified for ballot access were invited to participate as well. The debate for the Office of the Chairman of the Council was waived.

Where there is no other FEP participating candidate or willing non-participating candidate, the mandatory debate requirement may be waived under the Act. There was only one certified FEP candidate in the city-wide contest.

And the registered candidate in traditional program was unavailable to participate due to scheduling conflicts. The debates were moderated by the Washington Post reporter Michael Brice-Sadler and Julie Zauzmer Weil.

The debates were held virtually and streamed online at www.dcdebates.com.
recordings of the debates will remain online for
viewing through the remainder of the calendar
year.

In our Fair Elections Program Division
during the month of May 2022, I will point out
that as of this date, during the 2022 election
cycle, the Agency has authorized the total sum of
$10,349,186.80 for disbursement from the fair
elections fund, and base amount and matching
payments to the 33 candidates previously
certified in the program to participate in the
June 21st, 2022 primary election.

And actually there are 31 certified
candidates in the November 2022 General Election
and there are two candidates certified to
participate in the General Election.

During the month of May 2022, there
were no new candidates who are certified in the
program for the 2022 election cycle. The Agency
did authorize the disbursement of 35 matching
payments from the fair elections fund to
participating in candidates.
And also, the second half and final base amount payment to 26 previously certified candidates who are contested races for elected office and have qualified for the ballot.

There has been no change in the amount of remitted funds to the elections fund from candidates who participated in the 2020 election cycle and from candidates so far who are participating in the 2022 primary election cycle.

With ongoing post-election full field audits in the division, I would point out that two final audit reports were issued on April the 7th, 2022 for two of the post election audit to the campaign operation of candidates who participated in the November the 3rd, 2020 General Election.

And those were the Friends of Allister Chang, principal campaign committee and the Committee to Elect Ebony Rose Thompson for D.C. State Board of Education, Ward 7, principal campaign committee. And in both of those orders were compliance orders and they are available at
our website for viewing by members of the public.

In our Public Information and Records Management Division, during the month of May, there were three filing deadlines for the filing of reports of receipts and expenditures.

The first deadline was April the 30th, which was for the report, which was filed by our Fair Elections Candidate Committees. This was an optional report, and it fell on Saturday, and it rolled over to May 2nd.

With our Legal Defense Committees, May 1st was the due date for the 26th report of receipts and expenditures. And for our Fair Elections Candidates Committees, May 10th was the mandatory filing date for their activity report.

With new candidates and committees, there was one new candidate who registered in the traditional campaign finance program, and that candidate registered for the Office of Mayor in the primary election.

The candidate's name is Melvin Lawson.

He registered on May the 23rd as a write-in
candidate. Again, there are no new registrations in the Federal Elections Program.

With respect to political action campaigns there was one new registration. And the new committee is Green New Deal for D.C. Action. The committee registered on May the 23rd, 2022. Fifteen candidates registered and treasurers complied with the mandatory entrance conference during the month of May.

Also, the last thing I will report is that in our reports, analysis, and audit division, which is our traditional campaign finance program, the audit branch issued three final audits.

The first one was DoSomething Constituents Fund, which was issued on May the 3rd, 2022. Again, that was a compliance audit. It was a periodic random audit of the April 1st, 2022 R&D report, which was filed by the Constituent Services Fund.

The Ward 7 Constituent Service Program, the periodic random audit was issued on
May 12th. Again, that was a compliance audit.
And it was of the April 1st, 2022 R&D report.

The last was Rodney "Red" Grant for
Mayor. That was issued on May the 20th, 2022.
That was a compliance audit. And it was an audit
of the January 31st, 2022 R&D report.

Again, the final audits are available
at our website for review by members of the
public. And I don't, and also, I would indicate
that there are four ongoing periodic random
audits are currently before the traditional audit
program.

That concludes my report, but I would
ask Mr. Sanford, who is our General Counsel to
provide the legal report of the Office of the
General Counsel.

MR. SANFORD: Good morning, Mr. Chair,
and distinguished Board members Gill and
Greenfield. My name is William Sansford, General
Counsel for the Office of Campaign Finance.

During the month of May 2022, the
Office of General Counsel received six referrals,
completed 17 informal hearings, and issued 19
orders, which include the following.

Seventeen orders in which a total of
$17,825 in fines were issued. Two orders, which
revoked the certifications of fair election
candidates, Kenyan McDuffie and Rodney Thomas
were issued pursuant to orders issued by the
Board of Elections.

Mr. Thomas was determined ineligible,
denied ballot access as a result of falling
short, after a review of his, the signatures on
his nominating petitions.

Mr. McDuffie was also determined
ineligible for the office, he sought, Attorney
General, after a review of his credentials by the
Board Election and the Board's denial, in
addition to the Board's decision being affirmed
by the D.C. Court of Appeals.

During the month of May 2022, the
Office of Campaign Finance collected one fine of
$50 from a former candidate Dorothy Douglas.

Under interpretive opinions, we would
like to note for the record, that on May 16th, the U.S. Supreme Court in the FEC v. Cruz opinion, ruled that imposing limits and time periods on the amount that may be recovered by candidates from personal loans they make to their own political campaigns is unconstitutional.

And that provision, that decision by the U.S. Supreme Court, also by extension, makes the District's law, which is located on under D.C. Count 661-1163.10(a) unconstitutional.

In the Cruz opinion, the FEC had imposed a restriction on the amount that could be reimbursed to a candidate of $250,000, and any amount in excess of the $250,000, the process for collecting that had to begin at least 20 days, within 20 days after the election.

In the District of Columbia, under current law, a contact is only eligible to be reimbursed for a maximum of $25,000. And that reimbursement must occur within six months.

Under the Supreme Court opinion, both are unconstitutional. And the District of
Columbia Office of Campaign Finance has faced situations like this before. In 2014, the Supreme Court ruled in McCutcheon v. the F.E.C. that imposing aggregate limits was unconstitutional.

That resulted in the District's long-term aggregate limit of $808,500 that any individual could donate to any campaign during an election cycle as also unconstitutional.

The Office of Campaign Finance, then, as it will now, decided that we would no longer enforce those provisions. And in view of the Cruz decision, we will no longer enforce provisions regarding reimbursements of loans.

It took the D.C. Counsel a little over a year to catch up with us. But they eventually did. And we hope this time, they will be swifter in their activity by repealing this unconstitutional law.

During the month of May 2022, there was no show cause proceedings. During the month of May 2022, there were no requests for
interpretive opinion.

My report will be published at the website of the Office of Campaign Finance by the close of business today, June 1st, 2022. And that should conclude my report.

CHAIR THOMPSON: All right. Thank you, very much. Especially the report on the latest Supreme Court opinion. I'm sure, the counsel will help us figure it out what that means. And thank you, so much for the entire report.

I think everybody out there knows this is a real banner year for the FEP program. It's been widely utilized, and also a beautiful report in that regard, a lot of detail and its administration. But it's seems to be going swimmingly. So thank you.

MS. COLLIER-MONTGOMERY: You're welcome.

CHAIR THOMPSON: Yes. And that brings us to -- anything else before we go into public matters? All right. So we're always eager and
happy to hear from everybody out there.

We'll go around and recognize people.

If you could put your hand up, we'll call on you one at a time. I'd ask you to please keep your remarks concise, polite, brief, if you can.

I think we ordinarily are asking you to try to limit your comments to about a minute. Won't cut you off at exactly a minute. But, but with that, I see Ms. Brizill has her hand up. So why don't you go ahead? Just bear with us as we unmute people. I think, Ms. Brizill, you can unmute yourself now. I'm not sure.

MS. BRIZILL: Can you hear me now?

CHAIR THOMPSON: We sure can.

MS. BRIZILL: Okay. This is Dorothy Brizill. I would like to raise a important issue with the Board. As you know, the Board has its monthly meetings. But the purpose of the monthly meeting is not only to conduct, you know, Board of Elections matters per se, but also to inform and involve the public.

Today the Board had a lengthy
discussion about Initiative 82 and the petition issue. However, trying to follow it as a citizen was virtually impossible, because there was nothing on the Board's website or in the D.C. Register, clarifying what the issues are.

Now, as it turns out, the issue that, it's likely to be decided goes far beyond the text or the wording of the language on the ballot for Initiative 82. It has to do with how we determine and how we lead to determine what is the Official Register of Voters.

Who is on and who is not. What date to expect that list to be determined. So with that said, Mr. Chairman, I would ask that when the agenda for the Board's meeting is posted.

And especially for something as important, which has legs long beyond this particular issue, for example, that the General Counsel, working with the Board staff, post some information on the Board's website.

Detailing what the issue is. And then, also posting on its website what the
decision will be. This decision will affect not only the parties that spoke today at the hearing. This decision has potential implication for determining, in the future, when there is an Official Register of Voters and what that Register of Voters looks like. Thank you.

CHAIR THOMPSON: And thank you so much for your comment. And I take that comment as constructive advice to me, as well, to do a better job just sort of setting up an issue and explaining it to everybody who's listening.

And to back up and talk about what this is, real simple terms just to help anyone who's tuning in what the context of why we're diving in, as we did today, suddenly to, you know, a somewhat detailed issue about 42.

So I'll try to improve my setup in that regard in the future. And that's that's a good suggestion. So, thank you. I see Nickolas Schiller, who has a hand up.

MR. SCHILLER: Yes, can you hear me, okay?
CHAIR THOMPSON: Yes.

MR. SCHILLER: So I just would like to comment about the challenge. My name is Nickolas Schiller, address is 2448 Massachusetts Avenue, Northwest, Washington D.C.

With respect to the challenge order, and when is the official published data of the voter registration information? The challenger makes the case that the official count should be published every single day.

Like, every single day that there's an official account. But the way it's always been construed is that what is official, is what's published in the D.C. Register.

And they're almost making the case that the D.C. Register must be published every single day, in order to have an official account 30 days prior. So I think it's almost impossible for that logic.

When the campaign started, back in October, we were given the information to say that, when should we find out what the total
signature threshold is?

Because if it's a, if it's updated every single day, you know, an opposition campaign can all of a sudden show up and spend a lot of money registering 1,000s and 1,000s of voters within that 30-day window, and potentially skew everything.

And so, a campaign needs to have some level of groundwork to work off of. And that is why, you know, on January 25th, we received an email from Cliff Tatum saying that the 31st would be, of December, would be the data in which the petitions would be checked against.

The campaign itself, as someone who was in charge of training petition circulators and helping check the signatures, the data that we received from Board of Elections between was, in January, in mid-January, still use the old boundaries.

So when we were checking the signatures, we are checking the signatures even of people that have registered to vote in January
of 2020, still used the old address boundaries.

So we were then, under this logic, put
in a difficult position because we are using old
data provided by the Board of Elections,
unfortunately. The other part, there's two
places that can be an issue.

Someone who is registered to vote
between January 1st and February 22nd, I think
that's a small number of people that actually
signed the petition. And that would be the only
place.

And my analysis of the petitions using
the most recent data is very small. And the
Initiative 82 campaign will have reached the
5 percent threshold, both District-wide and in
five of the eight wards.

Thank you, so much for your time. And
I look forward to the determination and after the
executive session. Thank you.

CHAIR THOMPSON: All right. Thanks
for your comment. No pun intended, but your
point really registers with me. I really
appreciate what you, you know, the information
you saw in the District, as you went about
gathering signatures.

I'm looking for any, any other hands
raised. Maybe just -- I think they would pop up
at the top. All right. Going once, going twice.
All right, well, that concludes public matters.

Before we move to adjourn, does
anybody, any Board Members, any of the Directors
have anything else they want to raise? Oh, Mike
Gill.

MEMBER GILL: No, I just, I just
wanted to make sure I got unmuted before we got
to adjournment since I was a couple of times
trying to get unmuted during this thing.

My daughter's a huge Taylor Swift Fan
and she has a song, This Is Why We Can't Have
Nice Things. Zoom has been wonderful. But I am
ready to be back in that room.

And I want to throw Zoom out the
window because this was really -- to have someone
taken over in the chat and screw up two attorneys
that had briefed and taken the time is really, really disappointing.

So I will be there in-person next week. And we can't get off Zoom soon enough as far as I'm concerned. I know that people are going to want to keep it.

But today was, was, you know, frustrating in a lot of ways. So that's that's all I wanted to say. I want to make sure I got unmuted before we adjourned.

CHAIR THOMPSON: Okay. Thank you. With that, I'm going to move we adjourn.

MEMBER GILL: I'll second.

CHAIR THOMPSON: Pardon, me. I've been reminded by General Counsel Stroud.

MEMBER GILL: Move to Executive Session.

CHAIR THOMPSON: I withdraw my motion to adjourn. And instead, move that we go to Executive Session under D.C. Official Code 2-575(b)(13) to deliberate upon the challenge to petition filed in support of Initiative Measure
No. 82.

To discuss, and perhaps decide upon
the issues that were just presented by counsel.
And then, maybe come back on the record and
announce our result. So pardon me. Thank you
for the reminder. So with that, it's actually a
motion to go into Executive Session.

MEMBER GILL: Second that.

CHAIR THOMPSON: All I favor?

(Chorus of ayes)

CHAIR THOMPSON: I think Karen might
be muted.

MEMBER GREENFIELD: Aye.

CHAIR THOMPSON: Okay. We'll do that.
And then, I don't know how long we'll be in
Executive Session. Somewhere between five and 25
minutes? So, why don't we say for good measure,
12:30 we'll come back. And tell you one way or
another whether we reached a determination.

(Whereupon, the above-entitled matter
went off the record at 12:08 p.m. and resumed at
12:31 p.m.)
CHAIR THOMPSON: All right. We're back on the record. The Court Reporter is present. I will start by moving that we resume the public meeting. Do I have a second?

MEMBER GREENFIELD: Second.

CHAIR THOMPSON: All right. All in favor?

(Chorus of ayes)

CHAIR THOMPSON: So, we are resumed. And we are resumed to further discuss the hearing on the challenge to the petition filed in support of Initiative Measure No. 82. Having heard arguments, having gone into Executive Session, at this time, I'll make a motion that we reject the challenge.

And the reasons for rejecting the challenge will be set forth in a written opinion to be issued at a later time. So there will be a number of things to address in that written opinion.

And among them will be the affirmative answer to the third question posed for today's
hearing. Whether the monthly report of all, registration statistics, as of December 31st, 2021, was the proper official count to be used for evaluating the validity of the petition?

The first two questions posed to us that have to do with the scope of the challenge will be answered. I move that they be answered in the negative.

The scope of the challenge was fixed at the time it was made and it can't, can't change to broaden into a challenge that gets into signature accuracy.

There could be other things in the written opinion that may need to be addressed. Because we've talked a lot about a lot of nuance and footnote out issues.

But the core of my motion is to reject the challenge for reasons to be set forth in a written opinion. So I ask for second and any comment that other Board members may have on the issue.

MEMBER GREENFIELD: Second. No
comment.

CHAIR THOMPSON: Member Gill, comment?

MEMBER GILL: No.

CHAIR THOMPSON: Okay. All in favor?

(Chorus of ayes)

CHAIR THOMPSON: All right. We are three to zero, respectfully declining, the challenge. Thank you to the challengers and, and Mr. Kline and his firm for presenting all the issues regarding Initiative Measure No. 82.

It's important that everything be scrutinized. And you know, I fully agree, we have to get the answer right. I think we have, all along the way. And with that, assuming nothing else with this initiative, 82 will be on the ballot in the General Election in November.

Before I move finally moved to adjourn, any other any other comments out there? I mean, from the Board Members?

MEMBER GREENFIELD: No.

MEMBER GILL: None from me.

CHAIR THOMPSON: All right. So I move
we adjourn the public meeting.

MEMBER GREENFIELD: Second.

CHAIR THOMPSON: All in favor?

(Chorus of ayes)

CHAIR THOMPSON: Thank you, everybody.

(Whereupon, the hearing went off the record at 12:34 p.m.)
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In the matter of: Board Meeting

Before: DC BOE

Date: 06-01-22

Place: teleconference

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Court Reporter