

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

October 7, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, October 7, 2020, telephonically. Board Chairman Michael Bennett, Board Member Michael Gill, and Board Member Karyn Greenfield were present. 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, were also present.

CALL TO ORDER 10:03 am

ASCERTAINMENT OF QUORUM

- Board Members Gill and Greenfield constituted a two-member quorum to conduct business.
 - Board Chairman Bennett arrived later in the meeting.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the amended agenda and minutes from the last meeting held on September 2, 2020.

BOARD MATTERS

- Board member Gill requested that Ms. Miller discuss during her report the Board's staffing preparedness for the election, and safeguards to prevent fraud in light of the Board sending ballots to all registered voters for this election.
- Board member Greenfield thanked BOE staff for their hard work preparing for the election.

OCF SEPTEMBER 2020 REPORT (DIRECTOR COLLIER-MONTGOMERY)

- OCF continues to operate under a modified status; services are provided remotely via email and telephone (202-671-0547).
 - All candidate and committee reports will continue to be received online at the OCF website on the required deadlines. Candidates may contact the office for instructions concerning the registration process.
- On September 29 and 30, 2020, OCF hosted the Virtual 2020 DC Inaugural Debates under the Fair Election Program (FEP) for the November 3, 2020 General Election contests for At-Large Member of the State Board of Education and At-Large Member of the Council of the District of Columbia.
 - All candidates certified in the FEP were required to participate, and all candidates who achieved ballot access in the Traditional Campaign Finance Program (TCFP) were invited to participate.

- On September 29, the At-Large Member of the State Board of Education Candidate Debate was moderated by Washington Post Reporter for Education, Perry Stein, and a total of 6 candidates participated.
 - Debate 1 – September 29, 2020, 4:30 PM – 6:00 PM (6 Participants)
- On September 29 and 30, the debates for At-Large Member of the Council were moderated by Washington Post Reporter, Fenit Nirappil, and a total of 18 candidates participated.
 - Debate 1 – September 29, 2020, 7:30 PM – 9:00 PM (5 Participants)
 - Debate 2 – September 30, 2020, 5:00 PM – 6:30 PM (7 Participants)
 - Debate 3 – September 30, 2020, 8:00 PM – 9:30 PM (6 Participants)
- The debates were advertised on metro bus exteriors on various routes throughout the DC area, 15 area radio stations, and digital ads on the internet.
- Videos of the 2020 Debates are available at the OCF 2020 DC Debates Website, www.2020dcdebates.com, for viewing, and will remain online through the November 3, 2020 General Election.

- **Fair Elections Program Division (FEP)**

- Authorized Base Amount and Matching Payments
 - During September 2020, the total sum of \$72,752 was authorized for distribution in Base and Matching Payments to the following FEP participating candidates:

Date	Description (Candidates)	Base Amount	Matching Payments
09/10/20	James for Ward 2 SBOE		\$600
09/10/20	Lex Reid 2020		\$400
09/11/20	Committee to Elect Mysiki Valentine	\$10,000	\$21,877
09/11/20	Franklin Garcia for DC 2020		\$1,375
09/11/20	Franklin Garcia for DC 2020		\$1,150
09/16/20	Randy Downs Ward 2		\$15,650
09/28/20	Friends of Christina Henderson		\$20,100
09/29/20	Committee to Elect Dontrell Smith		\$600

- As of September 30, the total sum of \$3,612,451.00 has been disbursed in Base Amount and Matching Payments to 35 candidates certified in the FEP to participate in the June 2, 2020 Primary Election, the June 16, 2020 Special Election, and the November 3, 2020 General Election.
- There are currently 20 candidates certified as “participating candidates” in the FEP for the November 3, 2020 General Election, and 11 candidates were certified as participating candidates in the June 2, 2020 Primary Election. 10 candidates were defeated and will not continue to participate in the General Election, and 4 candidates certified as participating candidates in the June 16, 2020 Special Election were defeated.

- **September 2020 FEP Certifications**
 - The three following candidates were certified as participating candidates for the November 3, 2020 General Election:
 - Committee to Elect Mysiki Valentine, certified on 9/11/2020
 - Eboni Rose Thompson for DC SBOE Ward 7, certified on 9/11/2020
 - Committee to Elect Friends of Allister Chang, certified on 9/11/2020

- **September Desk Reviews and Other Activities**
 - 29 desk reviews of the Optional August 31– September 30 reports, and amended R&E Reports were conducted.
 - 10 requests for additional information (RAI) letters were sent.

- **Ongoing Audits**
 - Post-Election Audits 2020 Primary Election
 - Notices of Full Field Audits were issued on June 19, 2020 to the following candidates:
 - Kelvin Brown for DC Council Ward 7 – No Audit documentation received as of September 4, 2020. Referred to the Office of the General Counsel (OGC). Hearing on failure to file documents scheduled for October 8, 2020.
 - Green for Ward 7 – Audit documentation received on August 6, 2020. Audit in progress.
 - Evans 2020 – Audit documentation received on July 31, 2020. Audit in progress.
 - Yilin for Ward 2 – Audit documentation received on August 29, 2020. Audit in progress.
 - Patrick Kennedy for Ward 2 – Extension approved until October 12, 2020 for submission of documents.
 - Mike for Ward 8 - Audit documentation received on August 14, 2020. Audit in progress.
 - Kishan for DC 2020 – Audit documentation received on August 6, 2020. Audit in progress.
 - Jordan Grossman for Ward 2 – Audit documentation received on August 5, 2020. Audit in progress.
 - John Fanning for Ward 2 – Extension approved until October 12, 2020 for submission of documents.
 - Elect Renee Bowser – Audit documentation received on September 24, 2020. Audit in progress. Referred to the OGC for failure to timely file documents. Hearing scheduled for October 8, 2020.

- Kathy Henderson/Candidate & Treasurer, Committee to Elect Kathy Henderson (At-Large, City Council)
- **Reports Analysis and Audit Division (RAAD)**
 - 36 desk reviews of reports filed in the TCFP during September 2020
 - Ongoing Audits for September 2020
 - Periodic Random Audits – Candidates in the Upcoming 2020 Election – January 31 filing
 - Friends of Robert White, audit records received March 16, 2020. Audit fieldwork to continue as of October 5, 2020.
 - Veda for Ward 7, initiated March 2, 2020. Audit fieldwork to continue as of October 5, 2020.
 - Committee to Elect Rogers for Council - initiated March 2, 2020. Audit fieldwork to continue as of October 5, 2020.
 - Periodic Random Audits – PACs - January 31 filing
 - Verizon Communications Inc. Good Gov't Club PAC-initiated March 2, 2020. Audit fieldwork to continue as of October 5, 2020.
 - DC Libertarian Party – initiated March 2, 2020. Audit fieldwork to continue as of October 5, 2020.
 - Firefighters Committee on Political Activities – initiated March 2, 2020. Audit fieldwork to continue as of October 5, 2020.
 - Audits Issued
 - Ward 4 Constituent Service Program – Compliance Audit issued 09/22/20

OCF OGC SEPTEMBER 2020 REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- **Intake/Output Report**
 - 5 referrals were received by the OGC and 6 informal hearings were conducted.
 - 6 orders were issued with no fines imposed or collected.
- **Open Investigations:**
 - Complainant: Jennie Malloy
 - Date received: May 19, 2020
 - Respondent: Karl Racine for Attorney General 2018
 - Allegations: Inappropriate use of campaign funds
 - Status: Investigation completed and the order is pending
 - Complainant: Chuck Thies
 - Date received: May 28, 2020
 - Respondent: Anthony Lorenzo Green, PCC
 - Allegations: Inappropriate use of a government resource
 - Status: The investigation is completed and the order is pending.

- Complainant: Laura Wolfe
 - Date received: June 12, 2020
 - Respondent: Brooke Pinto
 - Allegations: Failure to report excessive contributions
 - Status: The investigation is completed and the order was issued on September 25, 2020 dismissing the complaint due to insufficient evidence to support the allegations.

- **Interpretative Opinions**
 - NONE

- **No Show Cause Proceedings**
 - NONE

BOE EXECUTIVE DIRECTOR'S SEPTEMBER 2020 REPORT (EXECUTIVE DIRECTOR MILLER)

- **General Matters**
 - Thanked DC residents, especially younger residents for helping BOE exceed goal of needed election workers for November general election.
 - There are over 3,000 applicants still in queue, waiting to be contacted for training and vote center placement at one of the 95 locations.
 - The 3,000 applicants in queue is in response to the BOE receiving more applicants than intended.
 - Applicants have been informed the BOE will reach out if and when they are needed.
 - As of October 6, 2020, the BOE has trained 3,081 election workers, and 655 election workers are still scheduled to attend upcoming training classes.
 - An estimated 2,159 workers are needed. The BOE has currently trained 922 more workers than expected, and when the 655 remaining workers are trained, the BOE will have a total overage of at least 1500 poll workers.
 - The final poll worker training class will take place on Saturday, October 24, 2020, for the following positions: site coordinators, registration clerks, ballot clerks, and voter assistant clerks.
 - Since August 1, 2020, the BOE has conducted 45 registration clerk classes with nine classes remaining, 53 ballot clerk classes with nine classes remaining, 47 voter assistant classes with seven more scheduled, and 3 site coordinator classes with nine more scheduled.
 - The BOE will hold 6 precinct technician classes with 95 technicians scheduled to be at each of the 95 vote centers.
 - Election day assignment letters were mailed out by the USPS on Friday, October 2 to 90% of the workers assigned to one of the 95 vote centers.
 - Registration clerk schedules are currently being filled for vacancies in Wards 7 & 8. The agency has the workers needed to fulfill the vacancies.

- Early voting assignment letters are currently being finalized, and should be ready to be e-mailed before October 4.
- There will be 32 early vote sites, 95 election day sites, and six super vote centers, with the new addition of the Entertainment Sports Arena in Southeast.
- Curbside voting will not take place at super vote centers but will take place at the 89 remaining voting sites.
- As of October 6, all 55 mail drop boxes were available for residents to deposit their ballots. Drop boxes will be available 24 hours a day including Election Day and will close at 8:00 pm on Tuesday, November 3.
 - The BOE website has listed an interactive map that will allow voters to locate the closest drop boxes and vote centers based on their address.
- The mail house in Washington state has mailed 463,422 ballots to registered voters on September 25. The ballots were delivered to USPS in DC on September 27, then the USPS delivered ballots to voters on September 28.
 - 18,031 ballots have been returned as undeliverable:
 - 6,610 residents have address changes/or moved since July/August when the BOE performed the last national change of address update in the registry.
 - 8,422 residents are out-of-state movers, which the BOE has no information on.
 - 2,461 residents have no forwarding address.
 - 534 returned ballots have a stamp that says “temporarily away, return to sender.”
 - 4 ballots have come back from deceased voters.
- Ballots will continue to go out on a rolling basis through the middle of October. The BOE asks for residents to continue to monitor their mailboxes. If a ballot is received that does not belong to the voter or anyone in the voter’s household, please mark as “return to sender” and mail back or drop off at any ballot drop box in the city.
- As of Tuesday, October 6, the USPS has returned 7,674 ballots, and 7,861 ballots have been retrieved from the ballot drop boxes.
- BallotTrax is currently operating for voters to track their ballots returned to BOE via the USPS or the drop boxes.
- Restore the Vote
 - BOE has mailed 2,400 registration applications to 107 federal prisons for eligible DC citizens in compliance with the recently enacted legislation to restore the vote for incarcerated citizens. 352 DC residents incarcerated within federal prisons have successfully completed the voter application process.
 - With respect to DC Jail, BOE has received 42 ballots.
- On September 16 and September 25, postcards were sent to registered voters and households; E-flyers were sent to all ANC’s for distribution, with additional flyers

going out on October 14; 500 yard signs will be delivered for posting to individual yards scheduled on October 8; 100,000 door hangers will be delivered on October 9 and October 13 with an additional 100,000 hangers; E-flyers will go out to all registered voters with emails on file with the BOE on October 15; additional yard signs will be delivered between October 19 and 20; 400,000 additional door hangers for delivery on October 25; and Voter Guides have been mailed to registered voters in the District.

- Members of the Board and staff have participated in a number of webinars with local and national federal partners. BOE Director Miller served on a panel sponsored by Harvard with election officials and others in crisis management; Director Miller served as a panelist discussing the protection of votes with experts in election fraud issues from the U.S. Attorney's Office, FBI, and the Public Corruption and Civil Rights Section from the US Attorney's Office in DC.
- On October 20, the BOE General Counsel and Executive Director, along with the US Attorney's Office, the Black Prosecutors of the US Attorney Office, and the National Bar Association Young Lawyers' Section will host an event titled Navigating the 2020 Election: What You Need to Know to Protect Your Vote.

- **Outreach**

- BOE's last outreach event will take place on Tuesday, October 13 (the last day non-in-person for voter registration) from 10am to 2pm at Entertainment & Sports Arena.

BOE OGC SEPTEMBER 2020 REPORT (GENERAL COUNSEL STROUD)

- **Litigation Status**

- **William v. Hunt. D.C. Board of Elections**

- This matter was filed in US District Court on October 18, 2018 and is a complaint regarding the counting of write-in votes cast in the November 6, 2018, general election.
- The Board filed a motion to dismiss on Wednesday, April 24, 2019.
- The Court granted the Board's motion on March 10, 2020.
- Mr. Hunt appealed to the D.C. Court of Appeals on April 16, 2020, beyond the 30-day period under federal rules for appealing.
- The Court gave Mr. Hunt until May 22, 2020, to show cause why the case should not be dismissed as untimely; the deadline was extended to July 1, 2020.
- On June 25, 2020, Mr. Hunt filed a brief with the courts but failed to address why the appeal should not be dismissed as a matter of law.
- The Board is currently awaiting the Court's decision.

- **Hammond v. 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.
 - On September 6, 2019, the Court of Appeals consolidated this case *with Robin Marlin v. the D.C. Board of Elections*, an appeal from 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.
 - On October 9, 2019, the Court issued a briefing schedule ordering the Appellants to file the appendix and their brief on November 18, 2019, and the Board to file its response on December 18, 2019, in both matters. The Appellants filed their briefs on December 16, 2019, and their appendix on March 4, 2020.
 - The Board filed a response on April 5, 2020, via electronic case file (ECF).
 - Waiting for the Court's decision in both matters.

- **Alliance Party, et al v. D.C. Board of Elections** (BOE represented by the Attorney General for the District of Columbia)
 - This matter was held in the District's Federal District Court involving the signature requirements for the office of President.
 - The complaint seeks to preclude the Board from enforcing the August 5, 2020, deadlines to file nominating petitions against independent and third-party candidates for the office of president, because although the signature requirement was lower, that did not occur until after the August 5 deadline had passed.
 - The plaintiffs seek the court to accept the petition with the requisite number of signatures if it is filed by noon on Tuesday, September 8.
 - On September 3, the Court held a hearing on the plaintiff's request for a temporary restraining order; the Court denied the request.
 - The plaintiffs are still litigating case on the merits.
 - The Office of Attorney General filed an answer and motion to dismiss on September 23.
 - The matter is still pending.

- **Kathy Henderson v. D.C. Board of Elections**
 - This matter involves an appeal by Kathy Henderson from a Board order granting ballot access to Bernice Blacknell, a candidate in the contest for ANC SMD 5D04.
 - The Board filed a motion for summary affirmance in the DC Court of Appeals on September 9.
 - On September 11, the Court granted the Board's motion.

- **Rulemaking**

- Final Rulemaking

- Amend Title 3 DCMR Chapters 5 and 7 to place the chapters into conformity with the General Elections Preparation Emergency Amendment Act of 2020.

- Would clarify that cameras may be used in voting and counting locations as long as they do not disrupt or interfere with the election administration process, and to establish that requests for absentee ballots must be received by the 15th day before Election day.

- Notice of the proposed rulemaking was published in the DC Register on September 11th, at 67 DCR 010977. No written comments on the proposed rules was received during the public comment period, and no substantive changes have been made to the regulations as proposed.

- Emergency and Proposed rule making

- Pursuant to this rulemaking, 3 DCMR Chapter 7 would be amended to be placed into conformity with the Election Worker Residency Requirement Waiver Emergency Amendment Act of 2020, which provides that District government employees who are not District residents or qualified electors may serve as polling place officials.

- Request Motion from Board to adopt the final and emergency and proposed rulemaking.

- **BOARD ACTION:** Unanimously approved Motion to adopt the final and emergency and proposed rulemaking recommendations by the General Counsel.

PUBLIC MATTERS

- Michael Sindram

- Asked for dates of early voting, and if there will be curbside voting in Ward 4 at Emery Recreation center.

- **Executive Director's Response:**

- Emery Recreation Center will have curbside voting
 - Early voting starts October 27 with hours 8:30am to 7pm
 - Election Day voting is on November 3 from 7am to 8pm.

ADJOURNMENT (11:24 a.m.)