

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

March 12, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Thursday, March 12, 2020 in the Board's Hearing Room, located in Suite 750, 1015 Half Street, SE, Washington, D.C. 20003. Board Chairman Michael Bennett and Board Member Michael Gill were present. Also present on the dais were the Board's Executive Director, Alice Miller, the General Counsel of the Office of Campaign Finance (OCF), William SanFord, and the Board's General Counsel, Terri D. Stroud.

CALL TO ORDER (11:55 a.m.)

ASCERTAINMENT OF QUORUM

- Board Chairman Michael Bennett and Board Member Michael Gill constitute a two-member quorum to conduct business.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on February 5, 2020.

BOARD MATTERS

- No Board Matters

OCF MARCH 2020 REPORT (GENERAL COUNSEL SANFORD)

- Fiscal Year Performance
 - OCF provided testimony on the Fiscal Year '19 performance report before the D.C. Council Committee on Judiciary and Public Safety on February 5, 2020.
- **OCF Website Published Notices**
 - The Ward 2 Fact Sheet for the June 16, 2020 Special Election was published on January 27.
 - The OCF 2020 Schedule of Training Seminars was published on January 30.
 - The lists of candidates in the Fair Elections Program was published on January 31.
 - The list of candidates in the Fair Elections Program and the Traditional Campaign Finance Program was published on March 9.
- **Fair Elections Program (FEP)**
 - Community Outreach
 - On February 5, staff attended ANC 8A community meeting.
 - On February 12, staff attended ANC 4C community meeting.
 - On February 18, staff attended ANC 3F community meeting.
 - On February 19, staff attended ANC 2A community meeting.

- On February 20, staff attended ANC 7B community meeting.
 - In February, a total of 43 candidates were registered in the FEP. There was one withdrawal, leaving a total of 42 candidates.
 - In February, three new candidates registered:
 - Nate Brown 2020, At-Large Council Member, registered on February 4, 2020.
 - Will 19 Merrifield, D.C. At-Large Council Member, registered on February 12, 2020.
 - Monica Palacio, City Council At-Large, registered on February 12, 2020.
 - New Certified Participants:
 - Friends of Christina Henderson, Council Member At-Large, certified on February 14, 2020.
 - Markus for DC, Council Member At-Large, certified on the 21st of February 2020.
 - Jordan Grossman was certified for the Ward 2 Special Election on February 18, 2020.
 - Kishan Putta was certified for the Ward 2 Special Election on February 25, 2020.
 - OCF distributed \$450,888.05 in various amounts and matching payments in February.
 - Specifics regarding the individual distributions are posted at the OCF website
- **FEP Statistics**
 - 38 desk reviews were conducted in February.
 - Issued 23 requests for additional information
 - Issued two referrals to the Office of General Counsel (OCF OGC).
 - The June 16, 2020 Special Election includes six candidates registered in the FEP; two of them are certified as participating candidates.
 - The November 3, 2020 General Election includes 17 candidates registered in the FEP; three of them are certified as participating candidates.
 - As of February 29, 2020, a total sum of \$1,193,812.70 has been distributed or disbursed in various amounts and matching payments to 15 candidates.
- **Public Information and Records Management (PIRM)**
 - January filings:
 - The principal campaign committees (PCCs) and political action committees (PACs) were required to file their reports on January 31 totaled 134 recorded filers:
 - 117 timely filed
 - 17 were referred to the OCF OGC for failure to timely file.
 - Under the FEP, a total of 38 recorded filers were required to file their reports on January 31:
 - 28 timely filed

- 10 failed to timely file their reports and were referred to the OCF OGC.
 - Three independent expenditure committees (IECs) were required to file their reports on January 31:
 - All three timely filed electronically.
 - Seven initiative/referendum committees were required to file their reports on January 31:
 - Four timely filed.
 - Three were referred to the OCF OGC for failure to timely file.
- New Candidates under the FEP (5):
 - Jack Evans 2020, Ward 2 City Council.
 - Trayon White, Re-elect Trayon White 2020, Ward 8 City Council.
 - Nate Brown, Nate Brown 2020 At-Large City Council.
 - Will Merrifield, Will Merrifield, D.C. At-large City Council.
 - Monica Palacio, City Council At-Large.
- New registrants under the Traditional Program (9):
 - Dorothy Douglas, candidate for U.S. Senate.
 - Milton Hardy, candidate for Ward 7 Chairman of D.C. Republican Party.
 - Travis Korson, candidate for Ward 6, Chairman of the D.C. Republican Party.
 - Asar Mustafa, candidate At-Large City Council.
 - Donald Green, candidate U.S. Representative.
 - Brook Pinto, Brook Pinto for Ward 2 City Council.
 - Brook Pinto, Brook Pinto for Ward 2 City Council special election.
 - Eleanor Ory, Committee to Elect Ory for Senate.
 - Frederick Hill, Fred Hill for Ward 8 City Council.
- Two new Initiative Committees were registered in February:
 - Community Health and Safety Campaign
 - U.S. Citizens Recovery Initiative Alliance Incorporated
- Two entrance conferences were conducted by the OCF in February:
 - February 12: 9 participants.
 - February 26: 11 participants.
- **Reports Analysis and Audit Division (RAAD)**
 - Conducted 40 desk reviews
 - Issued 23 audit letters
 - Two referrals to the OCF OGC.
 - Two ongoing Full Field Audits.
 - DC Legal Defense Fund for Jack Evans.
 - Issued an audit notification letter on February 18, 2020

- Random periodic audits:
 - Re-elect Brandon Todd 2020 campaign, initiated on September 4, 2019
 - Friends of Robert White, initiated on February 10, 2020
 - Veda for Ward 7, initiated on February 10, 2020
 - Richard Campbell, Ward 8 City Council, initiated on February 10, 2020
 - Committee to Elect Rogers for Council initiated on February 10, 2020

- Periodic random audit of PACs based upon the January 31 audit were issued to (5):
 - Verizon Communications Inc.
 - Good Government Club PAC
 - DC Libertarian Party
 - Firefighter's Committee on Political Activities
 - Greater Washington Board of Trade.
 - Audit notification letters were issued on February 10, 2020.

- **OCF Office of the General Counsel (OCF OGC)**
 - Received 34 referrals from 22 hearings and issued 22 orders including:
 - Issued 4 orders for failure to timely file reports in which the fines were suspended.
 - Issued 17 orders for failure to timely file for which a total of \$28,150 in fines were imposed.
 - Issued 1 order vacating a referral.
 - OCF OGC Imposed Fines:
 - In February 2020, the OCF OGC imposed a total of \$28,150 in fines against the following respondents:
 - Friends of Courtney Snowden, \$2,250 fine was imposed.
 - Carter At-Large, a fine of \$1,850 was imposed.
 - Melik At-Large, a fine of \$1,850 was imposed.
 - Justin Green At-Large, a fine of \$1,850 was imposed.
 - Lannette Woodruff, School Board, a fine of \$250 was imposed.
 - Committee to Elect Natalie Williams, a fine of \$1,850 was imposed.
 - Seniors United PAC, a fine of \$450 was imposed.
 - Money Supply Increase, a fine of \$1,800 was imposed.
 - D.C. Recovery Act, a fine of \$1,800 was imposed.
 - D.C. Choice, a fine of \$2,000 was imposed.
 - Holmes for D.C., a fine of \$1,900 was imposed.
 - Committee to Elect Professor Alpha Bah, a fine of \$1,900 was imposed.
 - Toliver for Ward 8, a fine of \$1,900 was imposed.
 - Committee to Elect Shawn Patterson, a fine of \$1,900 was imposed.
 - Committee to Elect Khalid Pitts, a fine of \$1,900 was imposed.
 - Dustin Canter for DC Mayor, a fine of \$1,900 was imposed.

- Nate Brown for Ward 8, a fine of \$1,000 was imposed.
- OCF OGC fines collected:
 - \$100 fine from Gayle Carley for Ward 5
- OCF OGC Request for Investigation
 - One Request for Investigation was received on February 3.
 - Complainant: The Committee to Hold Jack Evans Accountable, Adam Eiding, Chairman
 - Respondent: DC Legal Defense Committee for Jack Evans
 - Allegation: unlawful use of legal defense committee
 - Referred to RAAD
- No requests for interpretative opinions
- No show cause proceedings were conducted.

EXECUTIVE DIRECTOR'S MARCH 2020 REPORT (EXECUTIVE DIRECTOR MILLER)

- **Proposed Polling Place Relocations (Mr. Arlin Budoo):**
 - Precinct No. 29
 - The Washington Hebrew Congregation, 3935 Macomb Street, NW, (Fellowship Hall) will be unavailable for the upcoming 2020 presidential primary election due to scheduled renovations until 2021. We propose relocating to Second District Police Station, 3320 Idaho Avenue, NW (Community Room).
 - Precinct No. 58:
 - Ward 6 Council Member, Charles Allen, voiced concern over the use of The Fourth District Police Station, 6001 Georgia Avenue, NW (Community Room) and police stations generally as polling places. We propose relocating to Emery Heights Recreation Center, 5701 Georgia Avenue, NW (Gymnasium).
- **Final Approval of Polling Place Relocations (Mr. Arlin Budoo):**
 - Precinct No. 89:
 - The precinct is currently sharing space with Precinct Number 88 at Eastern Market, 225 7th Street, SE (North Hall). We propose relocating to Capitol Hill United Methodist Church, 421 Seward Square, SE (Fellowship Hall). The facility's panic push door renders the site inaccessible, but Mr. Budoo is in negotiations with the site to have the panic push button removed from the door.

- Precinct No. 105:
 - Benning Park Recreation Center will be unavailable for the upcoming 2020 presidential primary election due to extensive renovations. We propose relocating to St. John's Baptist Church, 5228 Call Place S.E.
- **Proposed Polling Place Location for Newly Created Precinct 144 (Mr. Arlin Budoo):**
 - The newly-formed Precinct 144 was approved by the Council after an emergency resolution was submitted. Hilton Garden Inn was the approved site, but upper management there has denied use of the site. We propose relocating the new precinct to Mt. Airy Baptist Church, 110 North Capitol Street, NW (Fellowship Hall).
- **BOARD ACTION:** All proposed polling relocations (two final and three proposed) were approved unanimously.
- **Voter Registration Cards**
 - Old card templates contained a sentence that indicated that the primary election is held on the third Tuesday in June, when the new date for primary elections is the 1st Tuesday in June.
 - The 2020 primary will be conducted on June 2.
 - New templates and cards concerning the 2020 election cycle are going out now, and they have the correct information.
- **Ballot Access for the June 2 Primary Election**
 - The deadline for filing nominating petitions for the June primary was March 4.
 - The list of preliminarily qualified candidates is on the Board's website.
 - The challenge period closed on Monday, March 16.
 - The Board was open every day including the weekends during the challenge period.
- **Ballot Access for the June 16 Special Election**
 - The deadline for filing nominating petitions was March 18.
- **Voter Education and Outreach Division (VEOD)**
 - In the month of February, VEOD staff participated in 30 outreach events, which are listed on the Board's website.
- **Grant funding from the Election Assistance Commission (EAC)**
 - A \$3 million grant has been entered into the system. The city has to make a match of 20% - or \$600,000 - in order for us to qualify for that funding.
 - The money is available for use.

- The General Counsel was the keynote speaker for the Government Accountability Office’s Black History Month event on February 26.
 - The topic of her speech was voting rights in the District of Columbia and the influence of Frederick Douglass.

BOE OGC MARCH 2020 REPORT (GENERAL COUNSEL STROUD)

- **Issuance of Petitions for the “Entheogenic Plant and Fungus Policy Act of 2020”**
 - Ms. Lavasani made a formal request that the Board of Elections delay the issuance of the petition for at least one month until we see how COVID-19 affects the city.
 - **BOARD ACTION:** The Board moved to postpone the issuance of the petition for the Entheogenic Plant and Fungus Policy Act of 2020; the matter will be revisited at the April 1 Board Meeting.
 - Decriminalize Nature DC (Adam Eiding - Treasurer) sent a letter on March 3 to the DC Council and the Mayor expressing concerns about paper petitioning, which they allege opens itself up to fraud. They suggest that the exploring online petition signing, which would decrease the chances of signature fraud because a verification letter would be sent out after user ID is created. In addition, it would allow a public list of petition signatures to be posted.
- **Emergency and Proposed Rulemaking to Amend Title 3 DCMR Chapter 7 (Regulations Concerning the Deadline for Receipt of Absentee Ballots; Elimination of Writing Requirement for Requests for Polling Place Reassignment; Clarification Regarding Use of Cameras in Voting and Counting Locations)**
 - Receipt of electronically transmitted voting ballots submitted by military and overseas voters is 8:00 p.m. on election day.
 - Deadline for receipt of mailed voting ballots is the seventh day after election day, and mailed ballots must have been sent on or before election day.
 - Cameras may be used in voting and counting locations as long as they do not disrupt or interfere with the election administration process during early voting, on election day, and during vote tabulation.
 - These amendments should in place prior to the June primary election.
 - **BOARD ACTION:** The Board unanimously moved to adopt the rulemaking and publish it in the D.C. Register.

- **Litigation Status**
 - **William Hunt v. 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. Mr. Hunt was a Mayoral write-in candidate in that election, and he filed a complaint asking the court to require the Board to count the write-in votes cast in the Mayoral contest. The Board filed a Motion to Dismiss on Wednesday, April 24, 2019. The court granted the Board's Motion to Dismiss on March 10th.
 - **James Butler v. D.C. Board of Elections**
 - This is an action to compel the Board to accept the DC Term Limits Campaign Initiative and treat it as a proper subject. A conference for this matter took place on July 19. Dispositive cross motions for summary judgment were due on November 21, 2019, at which time the Board filed its motion for summary judgment, but Mr. Butler did not. The court granted the Board's Motion to Dismiss on January 15. The court docket wasn't updated to reflect judgment and the court never sent the Board a copy. But judgment was entered on January 15, 2020. Ms. Stroud acknowledged senior staff attorney Rudolph McGann for his work in both of those cases.
 - **Graham v. D.C. Board of Elections**
 - This matter involves the Board's appeal of a permanent injunction that was entered by the D.C. Superior Court on December 12, 2018 prohibiting the Board from taking any action on Referendum 8. Briefing in the case is complete. All pleadings in this matter have been filed, and a date for oral argument has been set for April 21, 2020.
 - **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 6th, the Court of Appeals consolidated this case with **Robin Marlin v. the D.C. Board of Elections** (see below). 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 in both of these matters. The Appellants filed their briefs on December 16, but they did not file their appendices until March 4. The Board's response is due on April 5.

PUBLIC MATTERS

- **Michael Sindram**
 - Asked about the date of the primary election
 - Expressed that paper ballots serves a useful purpose.
 - Questioned signature changeability under a digital system.
 - Expressed concern that Entheogenic Plant and Fungus Policy Act of 2020 opened a Pandora's Box for other psychoactive drugs which are dangerous in his view, and stated that there needs to be a more detailed fine print included saying that it needs to be clearly overseen by a healthcare provider.

Adjournment (1:07 p.m.)