

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

June 17, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, June 17, 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 General Counsel of the Office of Campaign Finance (OCF), William SanFord, were also present.

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

ASCERTAINMENT OF QUORUM

- Board Chairman Bennett, and Board Members Gill and Greenfield constitute a three-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 May 6.

BOARD MATTERS

- No Board Matters

OCF MAY 2020 REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- Received three Fair Elections Program (FEP) referrals from the Public Information Records Management (PIRM) Division
- Completed nine hearings and issued nine orders including:
 - Three orders in which no fines were imposed
 - Six orders which imposed a total of \$12,155 in fines
- Fines Imposed:
 - SEIU International Union, \$375
 - Ward 2 Democrats, \$2,350
 - Ivan Clyde for U.S. Representative, \$2,350
 - SEIU Local 500 Union, \$2,350
 - Seniors United PAC, \$2,350
 - Ward 2 Democrats, \$2,350
- Open Investigations:
 - Complainant: The Committee to Hold Jack Evans Accountable Adam Eiding, Chairman, received February 3
 - Respondent: DC Legal Defense Committee for Jack Evans
 - Allegations: Unlawful use of a Legal Defense Committee

- Status: Referred to the Reports Audit and Analysis Division (RAAD)
- Complainant: Jennie Malloy, received May 19
 - Respondent: Karl Racine for Attorney General 2018 Principal Campaign Committee
 - Allegations: Inappropriate use of campaign funds
 - Status: Pending
- Complainant: Jennie Malloy, received May 19
 - Respondent: Ed Lazere for DC Principal Campaign Committee
 - Allegations: Inappropriate use of Fair Election funds
 - Status: Pending
- Complainant: Chuck Thies, received May 28
 - Respondent: Anthony Lorenzo Green, candidate for Ward Seven Council
 - Allegations: Inappropriate use of a government resource
 - Status: Pending

OCF MAY 2020 REPORT (DIRECTOR COLLIER-MONTGOMERY)

- Search feature made available at the OCF Website providing public access to the Matching and Base Amount payments authorized for disbursement by OCF in the Fair Elections Program (FEP) by candidate, and overall FEP disbursement totals, as well as registration information for each FEP candidate, including date of registration; certification status; and history of financial reports filed, with link to report image, and public funds payouts.
- OCF continues to operate under modified status; services are being provided remotely by email and telephone 202-671-0547.
 - All candidate and committee reports will continue to be received online at the OCF website on the required deadline.
 - Candidates can contact OCF for instructions on the registration process.
- Fair Elections Program Division (FEP)
 - Forty-four (44) committees registered in the FEP, and thirty-eight (38) of the committees are active.
 - On May 26 and June 1, seven (7) committees were notified of their failure to meet the qualifications for certification into the FEP during the qualifying periods, which ended on March 4 for the June 2 Primary Election and on March 18 for the June 16 Ward 2 Special Election
 - Committee to elect Stuart Anderson 2020
 - Nate Brown 2020
 - Danielle Platt for Ward 8
 - Katherine for Ward 2
 - Vote Fria Moore 2020
 - Rosenberg 2020
 - Daniel Hernandez for Ward 2

- Status Reports Issued
 - Eleven (11) Status Reports were issued to candidates seeking certification in the FEP who have not met the threshold requirements.
- Authorized Base Amount and Matching Payments
 - As of May 31, the total sum of \$2,492,531.35 has been disbursed in Base Amount and Matching Payments, between the twenty-two (22) candidates certified under the FEP.
 - During May 2020, the total sum of \$124,288.03 was distributed in matching funds to FEP candidates posted on the OFC website.
- Desk Reviews and Other Activities
 - 52 Desk Reviews of filed Reports of Receipts and Expenditures (R & E Reports) were conducted in May 2020
 - 16 Requests for Additional Information (RFAI) letters were issued
- Referral to the Office of the General Counsel (OCF OGC)
 - Committee to Elect Renee Bowser was referred on May 19 for questions about the committee's R&E report
- OCF OGC Hearings
 - One hearing was held on Elect Renee Bowser 2020 Committee on May 14 regarding response to the RFAI
- Candidate Information by Election
 - 11 Candidates were certified as participating candidates in the June 2 Primary Election
 - Four Candidates were certified as participating candidates in the June 16 Special Election
 - 18 Candidates registered in the FEP Program for the November 3 General Election
 - Six candidates have been certified as participating candidates.
- **Public Information and Records Management Division (PIRM)**
 - 8-Day pre-primary R & E Report for FEP Principal Campaign Committees (PCCs), due May 26
 - 18 required filers
 - 14 timely filers
 - Two late filers
 - Two requests for extensions, which were granted
 - Two failures to file
 - Four committees referred to OCF OGC

- 8-Day pre-primary R & E Report for Traditional Program PCCs, due May 26
 - 21 required filers
 - 16 timely filers
 - Two late filers
 - Three failures to file
 - Five committees referred to the OCF OGC
- Fifth R & E Report for Legal Defense Committees, due May 1
 - One required filer
 - Report was timely filed
- May 10th R & E Report for FEP PCCs, due May 11
 - 32 required filers
 - 29 timely filers
 - Two late filers
 - Two requests for extensions, which were granted
 - One failure to file
 - Three committees referred to the OCF OGC
- \$500 Exemption Report, due May 22, 2020
 - 13 required filers
 - Thirteen 13 filed
- New Candidates and Committees in May
 - Traditional Campaign Finance Candidates (TCFP)
 - Perry Redd for Ward 4 City Council, registered May 24
 - Michelangelo Scruggs, Committee to Elect Dr. Mich, DC Council At-Large, registered May 18
 - Independent Expenditure Committee (1)
 - Common Sense for DC, registered May 30
- Referrals to the OGC
 - Three referrals in May 2020 for failure to file the May 10th R & E Report
- OCF conducted virtual trainings online required under the Campaign Finance Act during May 2020
 - 14 candidates and treasurers participated
- **REPORTS ANALYSIS AND AUDIT DIVISION (RAAD)**
 - Conducted 33 desk reviews of traditional reports filed with OCF by Political Action Committees (PACs), PCCs, and Constituent Service Program (CSPs)
 - Ongoing Audits:

- Three Periodic Random Audits –Candidates in the Upcoming 2020 Election – January 31st filing
 - Friends of Robert White – audit records received March 16Veda for Ward 7- initiated March 2
 - Committee to Elect Rogers for Council – initiated March 2
- Three Periodic Random Audits – PACs - January 31st filing
 - Verizon Communications Inc. Good Gov’t Club PAC- initiated on March 2
 - DC Libertarian Party – initiated on March 2
 - Firefighters Committee on Political Activities – initiated on March 2
- Three Periodic Random Audits – CSPs - April 1 Report
 - Mayor Browser’s CSP
 - Our Ward 5 CSP
 - Ward 4 CSP
 - Audit notification letters were issued on May 20
- One full field audit is ongoing
 - Jack Evans Legal Defense Fund
 - Response to the preliminary draft of the audit report was received on May 27
- No final audit reports were issued during May 2020

EXECUTIVE DIRECTOR’S MAY 2020 REPORT (EXECUTIVE DIRECTOR MILLER)

- **Certification of the June 2 Primary Election results**
 - 114,890 votes cast
 - 28% voter turnout
 - Party breakdown is listed on the DC BOE website
 - Received Highest Number of Votes (DEMOCRAT)
 - Presidential preference, Joseph R. Biden
 - Delegate to US House of Representatives, Eleanor Holmes Norton
 - At-Large Member of the Council Robert White
 - Member of the Council Ward 2, Brooke Pinto
 - Member of the Council Ward 4, Janeese Lewis George
 - Member of the Council Ward 7, Vincent C. Gray
 - Member of the Council Ward 8, Trayon “Ward 8” White
 - United States Senator Paul Strauss
 - United States Representative, OYE "TAXFREEDC" OWOLEWA
 - Received Highest Number of Votes (REPUBLICAN)
 - Presidential Preference, Donald J. Trump

- At-Large Member of the Council, Marya Pickering
- Member of the Council Ward 2, Katherine Venice
- Member of the Council Ward 8, Nate “Ward 8” Derenge
- United States Senator, Cornelia Wise
- National Committeewoman, Ashley Carter Macleay
- Chair of the DC Republican Committee Ward 2, Robert A. Sinners
- Chair of the DC Republican Committee Ward 6, Travis Korson
- Chair of the DC Republican Committee Ward 7, Milton Hardy
- Chair of the DC Republican Committee Ward 8, Mindi Walker

- Received Highest Number of Votes (LIBERTARIAN)
 - United States Representative, Ford Fisher
 - At-Large Member of the Council, Joe Bishop-Henchman
 - Chair of the Libertarian Party of the District of Columbia, Joe Bishop-Henchman

- Received Highest Number of Votes (STATEHOOD GREEN)
 - Presidential Preference (Write-In), Howie Hawkins
 - Delegate to US House of Representatives, Natale Lino Stracuzzi
 - At-Large Member of the Council, Ann C. Wilcox
 - Member of the Council Ward 4, Perry Redd
 - United States Senator, Eleanor Ory (Echo)
 - United States Representative, Joyce (Chestnut) Robinson-Paul

- **BOARD ACTION:** The Board unanimously approved motion to certify the June 2 Primary Election results

- Other Matters
 - Approximately 92,000 ballot requests were fulfilled for the June primary
 - 20 vote centers utilized for June primary
 - 735 radio ads played across 17 stations
 - 5.4 million digital ads were served to DC residents
 - 21 print ads across 7 outlets
 - 27 community meetings held
 - Several commercial ads played on television
 - Confusion was acknowledged regarding the Vote for DC app
 - BOE is working to terminate relationship with the app vendor
 - Ballot tracking was not functioning properly
 - The application absentee request malfunctioning caused issues in processing
 - BOE is currently working to improve processes for upcoming elections
 - Board member Gill noted that waiting 3-4 hours in line was unacceptable, and that the Board will work to improve on the aspects of the absentee process that went awry during the Primary Election.

BOE OGC MAY 2020 REPORT (GENERAL COUNSEL STROUD)

- **Rulemaking**
 - Emergency and Proposed Rulemaking – Amend Title 3 DCMR Chapter 7 (Establish the deadline for the receipt of absentee ballots)
 - Last day for BOE to receive mailed absentee ballots is the 10th day after the election due to recent updates in the election code
 - Proposed rulemaking would place BOE regulations in conformance with new legislation
 - Final Rulemaking - Amend Title 3 DCMR Chapters 10 and 11 (Removal of prohibition against registered voters who are eligible to sign a particular initiative, referendum, or recall petition being signatories on petition sheets that they circulate)
 - This is final rulemaking via the emergency & proposed rulemaking that was published in the DC Registrar on May 15.
 - No comments were received, and no substantive changes were made.
- **BOARD ACTION:** The Board unanimously approved the emergency and proposed rulemaking for publication in the June 26 DC Register, and final rulemaking for publication in the DC Register on same date.
- **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 to Dismiss on March 10.
 - Mr. Hunt appealed on April 22
 - The Board is awaiting a scheduling order from the Court of Appeals
 - **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 the Referendum 8 petition.
 - All pleadings in this matter have been filed and a date for oral argument had been set for April 21. However, due to the public health emergency, all oral arguments in the DC Court of Appeals have been either cancelled or postponed.
 - The Court will decide this matter without oral argument on the pleadings.

- **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* (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, 2019 in both of these matters. The Appellants filed their briefs on December 16, 2019 and their appendix on March 4.
 - We are waiting for the court to decide the merits of this matter on the pleadings.

- **Robin Marlin v. the D.C. Board of Elections**
 - This is an appeal of Board Order 19-33, upholding the resolution issued by ANC 7B which found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B05.

- **Robinson v. the D.C. Board of Elections (DC Superior Court)**
 - Complaint for declarative relief filed on May 18 alleging that the Board's placement of three Ward 8 vote centers and its alleged failure to conduct targeted outreach for Ward 8 residents constituted a violation of section 2 of the Voting Rights Act.
 - On May 21, the BOE filed a motion for summary judgement and motion to dismiss for lack of jurisdiction on the grounds that Voting Rights Act violations are within the jurisdiction of the US District Court for DC.
 - On May 22, the court granted BOE motion to dismiss.

- **Robinson v. the D.C. Board of Elections (U.S. District Court)**
 - Plaintiff filed a complaint and motion for preliminary injunction on May 21.
 - Plaintiffs filed motion for temporary restraining order, which was denied on May 28.
 - On June 10, BOE filed answer to original complaint.
 - We are currently awaiting further scheduling instructions from Court.

PUBLIC MATTERS

- Michael Sindram
 - Expressed gratitude that curbside voting went smoothly for him

- Nicholas Schiller
 - Inquired about the voter registration statistics. The Executive Director explained that the voter registration statistics for the June 2 Primary did not include independent voters.
- Adav Noti (Campaign Legal Center)
 - Wanted to know when the public notice for the Town Hall meeting scheduled for after the Board meeting was posted.
 - The General Counsel responded that the notice was posted on the Board's website on June 13.

ADJOURNMENT (11:30 a.m.)