



DISTRICT OF COLUMBIA
BOARD OF ELECTIONS
WASHINGTON, D.C. 20003



MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING
March 6, 2019

The District of Columbia Board of Elections (“the Board”) held its Regular Monthly Meeting on Wednesday March 6, 2019 in the Board’s Hearing Room, located in Suite 750, 1015 Half Street, S.E., Washington, D.C. 20003. The Board’s Chairman Michael Bennett was present, and Board Members Dionna Lewis and Michael Gill also attended. Additionally present on the dais were Kenneth McGhie, the Board’s General Counsel; Cecily Collier-Montgomery, Director of the Office of Campaign Finance; and Alice Miller, the Board’s Executive Director.

Chairman Bennett called the meeting to order at 10:51 a.m.

- **BOARD ACTION:** agenda and minutes from last meeting were adopted.

Ms. Collier-Montgomery gave the Director of Campaign Finance report:

- On February 19th, 2019, the Office appeared before the Council's Committee on the Judiciary and Public Safety to present the Fiscal Year 18 performance report for the Agency as well as the Fiscal Year 19 performance plan.
- On February the 28th, 2019, the Agency met with the planning committee that was organized for the purpose of assisting the Agency with the implementation of the Fair Elections Program.
 - The purpose of that meeting was to discuss comments received on the proposed regulations to implement the Fair Elections Program.
- February the 27th, 2019, OCF had a meeting with Gottlieb Simon, Executive Director of the Office of the Advisory Neighborhood Commission.
 - the purpose of that meeting was to confirm the public outreach that the Agency has proposed in terms of meeting with the ANC commissions from April of 2019 through October 2019, basically for at least twice weekly.
- The Fair Elections Program will provide a match for the contribution that residents of the District of Columbia may make to candidates who are participating in the program by matching it in a match of public funds five to one to every contribution that is made from a member of the public up to a certain limit.
 - In the process of developing a temporary site for the e-filing system to provide for the e filing of financial reports from prospective candidates. That temporary site will be presented to us before the end of this month. And hopefully, administratively, it will be completed during the month of April.
- During the month of February, however, the reports, the summary financial statements were due from the ANC candidates who participated in the 2018 election cycle.
 - There were 401 required filers, 370 of the candidates timely filed their reports. There were 31 who failed to file, and those candidates have been referred to the Office of the General Counsel for the initiation of the enforcement process.
- One committee registered during the month of February, the DC Term Limits Campaign, that is an initiative committee and they registered with our office on February 4th, 2019.

- Conducted an entrance conference on February the 28th, 2019. There were two participants Corina Hernandez, the Treasurer of the DC Young Democrats and Vanessa J. Robinson, the Treasurer of the DC Term Limits Campaign.
- The audit branch conducted 445 desk reviews. Those were desk reviews of political action committees, our constituent service funds, as well as our principal campaign committees.
 - The full field audit of Sheika Reed for Ward 1, which was initiated on August 29, 2018.
 - We have also initiated four full field audits of newly elected officials to the School Board as a result of the 2018 election. They are Frazier O'Leary from Ward 4, Committee to Elect Zachary Parker 2018, Jessica Sutter for School Board, and Emily for Education. The audit notification letters were issued on February the 12th, 2019.
 - AFSCME PAC, Economic and Protection Party, Ward 7 Democrats, and ABC of Metro Washington DC PAC. Those audit letters were issued on February the 26th, 2018. And the audit records are due in the Office of Campaign Finance on March the 11th, 2019.
 - Issued two audits during the month of February. The first was Anita Bonds 2018, which was issued on February the 28th, 2019, and Muriel Bowser's Constituent Service Fund which was issued on February the 4th, 2019. .

William SanFord presented the report of the General Counsel.

- During the month of February 2019, the Office of the General Counsel received 14 referrals.
- The Office of the General Counsel completed 19 informal hearings, and issued 19 orders, which included the following: 10 orders regarding failure to timely file reports of receipts and expenditures were issued, reports in which no fines were imposed. Two orders were issued, a failure to respond to request for additional information, which were dismissed, and 7 orders regarding failures to timely file reports of receipts and expenditures in which fines that totaled \$10,050.00 were imposed.
 - A fine of \$750 was imposed against DC Choice. A fine of \$1,750 was imposed against Melik At Large. A fine of \$1,750 was imposed against Holmes for DC. A fine of \$1,750 was imposed against Dustin Canter for Mayor. A fine of \$1,750 was imposed against Justin Green At Large. A fine of \$600 was imposed against Nate Brown Mr. Ward 6. And a fine of \$700 was imposed against Committee to Elect Alpha Bah, Esquire.
- During the month of 2018, the Office of the General Counsel opened one full investigation. The investigation docket number is LCF FY2018-002 and the complainant is Emily Naden. Filed December 4, 2018. The respondent is Council Member Brandon Todd and the alleged infraction is the inappropriate use of government sources.

Ms. Alice Miller presented the Executive Director's report.

- Taking a moment to recognize the Board's social media postings, just because we did it a little differently this past month and I want to give all the credit to the staff, primarily LaVonna McCann who is sitting out there and Rachel Coll.

- LaVonna who is primarily assigned to our voter registration services came to me and asked if she could take a stab at doing something with social media with the posting since our social media person had resigned in December.
- With Rachel's oversight and in recognition of Black History Month, LaVonna drafted a post for all three social media accounts, Facebook, Twitter, and Instagram with information on the Voting Rights Act and included a photograph of the actual document which you see up there portraying the declaration.
- As we move into March, LaVonna is working on similar posts highlighting prominent women in history who supported the intersection of women's rights and civil rights.
- Our final EAVS report for DC was due to the EAC on March 1st. We submitted the report on February 26th. It's the final draft from the initial one that we submitted last month. The EAC reviews the drafts and follows up with the Agency with any questions or information that may seem inconsistent.
 - The information collected on the report consists of data from across the nation on the state of American elections made public through the federal government through the EAC's website.
- We've been working with the new VR system vendor, VRS, and data conversion process has begun. They've received our voter registration data.
- We have a lot intradistrict voters who worked with us during the election. And we could not get things done without their work. So, what we have done, is we got these little plaques made for them.

Mr. McGhie presented the General Counsel's report.

- a proper subject matter determination on proposed initiative, it's entitled, District of Columbia Term Limits Campaign DC TLC initiative.
 - The proponent properly filed all of the documentation that was necessary with the Office of Campaign Finance.
 - Zach Walter, and I'm Assistant General Counsel to the Council of the District of Columbia. I'm here today on behalf of Phil Mendelson, Chairman of the Council of the District of Columbia to request that the Board find that the District of Columbia Term Limits Campaign initiative is not a proper subject matter for initiative in the District of Columbia because the proposed initiative is contrary to the terms of Home Rule Act.
 - Mr. McGhie read a paragraph from the Attorney General's Opinion: Section 402 and 421(c)(1) of the charter provide an exhaustive list of qualifications for serving as the mayor or a member of the council. Because these qualifications are exclusive, they cannot be altered either by the council or by the electors without amending the charter first. Therefore, we conclude that the measure is not a proper subject for an initiative because it violates the Home Rule Act by seeking to alter these fixed qualifications through normal legislation.
 - Mr. Rudolph McGann staff attorney for the Board summarized the General Counsel's Opinion: The summary statement would make certain positions eligible for a two consecutive term limitation on elected offices that are part of the charter.

And as such, they would be in conflict with the charter, because the charter does not have any type of restrictions upon the amount of times you can run for office for the positions of mayor, councilmembers, and school board members. DC TLC presents an improper subject for initiative, because it improperly attempts to amend the charter by implementing an additional qualification that an individual has not served two consecutive terms immediately preceding the election.

- **Virgil J. Young, Jr.** I'm a native Washingtonian, current District resident. So just because something is the law currently, doesn't make it right. We're going to overturn this stuff. We're going to put in who care about this city. Take care of poor people, step one.
- **Dorothy Davis** at 1416 Saratoga Avenue NE, Apartment 2, Washington, DC 20018. It's time for them to move after two years. It's bad enough that we've got the Supreme Court, they stay there until they die. Nobody moves them, and some of them need to be gone. Like my partner said, low income housing is being taken out of the city. Our large families don't have anywhere to go once they do. They let these contractors come in here, and they buy them out, and they kick us out. They forgot that they work for us. We don't work for them. And it's time for them to get up off of their rumps and let some young people come in, people that have been through something, know how to get up and help our constituents.
- **Michael Sindram**, disabled veteran, served our country more than most. This is not a case of first impression, and all this gobbledygook of hyper technicality, initiative versus resolution versus initiative, that's hyper technical. And it's making for we the people taking our authority away. There are a number of cases that are right on point to indicate term limits are very much an issue for us to be deliberated by we the people in the District of Columbia.
- **Vanessa Robinson.** I live at 4635 6th St SE, Washington, DC. people of Ward 8, some of the people who are incumbent and have been in the office for a term, don't feel the importance of going across the Anacostia to see what the constituents over there need. We need to not allow people to sit in a position that you're being paid. This is not a volunteer job, wherein you will be able to step out and see what the people need. It's not fair to them.
- **Michael Clark.** I'm a Washington, DC, resident. I live at 105 Seaton Place NW. I'm a proud resident of Ward 5 in the Bloomingdale neighborhood. I think that the passion that we just heard from those DC residents says that the voters of DC believe it is an appropriate subject matter, and that they want to have a say in whether we impose term limits on certain elected offices. I think that the board itself has in 1994 said that this is something that we should put towards the voters of DC. In a previous decision, we had term limits. The DC City Council in 2001 came back and repealed the will of the voters.
- **MEMBER LEWIS:** Yes, I just want to take a point of personal privilege for a moment and just speak on behalf of the entire Board when I say we hear you. We hear you. I think we care very much on this Board about the issues that you have expressed. We care very much about seeing fruitful changes in this city and making sure that all of our constituents are represented. Unfortunately, we only have but so much ability, if you will, to do certain things. And here today, one of the things

that we are listening for is certain criteria quite frankly. And those are just the things that we're hampered by, unfortunately.

- **MR. JAMES BUTLER measure proponent:** as much as you feel emotional about some of these things that come before you, you're still bound by the law. And I respect that. I respect the position of the General Counsel's office too that came through Mr. McGann, that stated that they believe essentially the vehicle to get to this to voters is improper. I was hesitant to make a friendly acquiescence or amendments to this because in 1994 we had a prior opinion of the General Counsel or the Corporate Counsel at that time that indicated opposition to term limits, yet in 1994, it made its way all the way through. I want the proponents of this law to be very clear, voters in DC will get to vote on whether they want to see term limits.
- **CHAIR BENNETT:** Yeah, so what we have to make a decision on today or at some point in the near future unless you withdraw it is what we have before us. the Board will deliberate on this after this meeting is concluded. And I'm not quite sure when we'll actually come out with a decision, but it will be forthcoming shortly.
- Proposed Rulemaking to amend Title 3, DCMR Chapter 3, Advisory Opinions of the Board, Chapter 37, Investigations and Hearings, Chapter 42, The Fair Elections Program, and Chapter 43, The Verification Process. the majority of the regulations are related to the Fair Elections Program. And as the Board knows, on the December board meeting, the Board did approve proposed regulations, they were published in the DC Register, January 4th, 2019. And we were soliciting comments from a group that has been assembled that's known affectionately as the Fair Elections Coalition. And we received numerous comments that were significant. the new newly proposed regulations to include those comments as well as some significant recommendations that came from the Office of the General Counsel for the Board of Elections. The significant changes are in Chapter 42 and 43 which were the additional chapters that specifically address the Fair Elections Program.
 - **Board Action:** The Board to adopted this as proposed rulemaking to be sent to the DC Register for a 30 day comment period..
- Litigation status update. The Board is in court on Graham v. D.C. Board of Elections. That was a case dealing with the referendum measure. Proponents of the referendum filed a referendum on October 31st to suspend an act of the Council.
 - On December 4 the Court entered in a letter modifying a summary statement of referendum 008. On December 12 the Court entered an order permanently enjoining the Court from taking any action on the referendum. On December 13 the interveners filed a notice of appeal to the Court of Appeals seeing permanent injunction that was entered by the Court on December 12 and on December 17 the Board also filed its notice of appeal seeking review of the permanent injunction.
 - On February 25th, the parties filed a joint motion to extend the initial scheduling conference, which the clerk granted on February 27th. So the parties are currently scheduled to appear at the conference on April 5th.

Ms. Robin Marlin presented public matters:

- I'm going to present some findings, but at the conclusion of my findings I want to request that a hearing be held in the matter that I'm going to discuss briefly with you.

- She was informed on November 25th that Villareal D. Johnson, a candidate in the general election 2018, did not reside at 2411 33rd Street within the 60 day period mandated for a person to reside in SMD 7D05. That would enable him to qualify for candidacy for the ANC seat. I was challenging specifically his qualifications of being a candidate in an election. And the 60 day requirement
- **Mr. McGann:** you submitted a challenge to Mr. Johnson's qualifications after the election was held. Mr. Johnson did not respond to queries regarding the discrepancy raised by Ms. Marlin. The reason why Mr. Johnson did not respond is because the Board sent it by email, and he didn't receive the email. While you did raise a discrepancy with respect to Mr. Johnson signing a lease in June for a residence, he claims he lived in since May, his former residence was also located in the same single member district. The registrar forwarded your concerns to the ANC to proceed with presenting the evidence to the body, to initiate removal proceedings pursuant to D.C. Code 1-309.11(e)(2). Not the vacancy proceedings, the removal proceedings that are within the providence of the ANC. The advisory neighborhood commission will proceed de novo. Meaning that you and Mr. Johnson are able to submit evidence in support of your positions. That process is governed by the bylaws of the ANC.

Mr. Michael Sindram presented public matters:

- The proposed regulations, would you do the kindness to send them to me? I have to be certain that they be challenged so I'd like to peruse them and receive a hard copy.
- Term limits, res judicata collateral estoppel decided 1994 et al. That should be the end of it. But, be that as it may, you can res judicata collateral estoppel, very weighty legal issues.
- Last, but not least, in light of Black History month, Rosa Parks is the face of the Montgomery County, excuse me, the Montgomery, Alabama Bus Boycott. Who was the initial selectee and why was Rosa Parks selected, any idea? It was a young lady named Claudette Colvin who was initially selected

Mr. Phillip Hammond presented public matters

- I am a former ANC commissioner for ANC 7D04, and I too have submitted a challenge about residency. About Nicole Smith-McDermott.
- I think it's obvious the ANC is not going to take a position. However, if Ms. McDermott refuses to resign, then a resolution should be adopted by the Commission to vacate the ANC 7D04C before others are implicated in this very serious matter. I think there should be some reform actually in the Board of Elections process, regards to residency.
- What should I do next if the Board does not take the position on the residency?
- **MEMBER LEWIS:** Well, I guess my thought is this. Everything requires administrative procedure, right, at an administrative agency level. And so, here today we don't have anything formal from either commission indicating that they're not going to hold a hearing, which is what the expectation and the requirement for them to do is when these type of matters arise.

There being no further business before the Board, the meeting adjourned at 12:55 p.m.