

**MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING**  
**February 5, 2020**

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, February 5, 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 Karyn Greenfield were present. Also present on the dais were 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.

**CALL TO ORDER** (10:40 a.m.)

**ASCERTAINMENT OF QUORUM**

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

**ADOPTION OF AGENDA/APPROVAL OF BOARD MINUTES**

- **BOARD ACTION:** The Board unanimously adopted minutes from the last meeting held on January 8, 2020 and the agenda as amended.

**BOARD MATTERS**

- No Board matters.

**OCF JANUARY 2020 REPORT (DIRECTOR COLLIER-MONTGOMERY)**

- **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 and the Traditional Program were published on January 31, and will be updated monthly.
- **Fair Elections Program (FEP)**
  - New Certified Participants:
    - The Committee to Elect Renee Bowser, Ward 4, Principal Campaign Committee (PCC), certified January 21
    - Chander for Counsel, At-Large, PCC, certified January 21
  - Issued two status reports to candidates seeking certification in the FEP who have not met the threshold requirements
  - Issued two notices of denial to candidates seeking certification in the FEP
  - Issuance of Matching & Base Payments:
    - Patrick Kennedy, \$725 in matching payments, issued January 21

- Chander for Counsel At-Large, \$87,515 in matching payments and \$20,000 base payment totaling \$107,515, issued January 21
    - The Committee to Elect Renee Bowser, \$36,975 in matching payments and \$20,000 base payment totaling \$56,975, issued January 21
  - As of January 31, 2020, there are nine candidates certified as participating candidates in the FEP.
  - During Fiscal Year 2020 to date, FEP has issued \$367,615.05 of public funds to participating candidates.
  - FEP Statistics
    - Eight desk reviews were conducted in January. Four Requests for Additional Information (RFAI) letters were issued.
- **Public Information and Records Management (PIRM)**
  - Filings in the month of January:
    - January 2 Reports of Receipts and Expenditures (R&E Reports) due for newly-registered Legal Defense Committee
      - 1 filer, filed timely
    - January 1 R&E Reports for Constituent Service Programs
      - 9 filers, all filed timely
    - January 1 R&E Reports for Senator & Representative Statehood Funds
      - 3 filers, all filed timely
    - January 10 optional R&E Reports for FEP PCCs
      - 3 filers timely filed
    - January 31 R&E Reports for PCCs and Political Action Committees (PACs), FEP PCCs, Independent Expenditure Committees, Initiative, Referendum, and Recall Committees
      - Those statistics will be reported during the March meeting
  - Newly registered FEP Candidate and Committees (10):
    - Charles Boston, Boston for State Board of Education At-Large, registered 1/3
    - Fria More, Vote Fria More 2020, for Ward 8 City Council, registered 1/13
    - Jordan Grossman, Jordan Grossman for Ward 2 Special Election, registered 1/13
    - Patrick Kennedy, Patrick Kennedy for Ward 2 Special Election, registered 1/17
    - John Fanning, Fanning for Ward 2 Special Election, registered 1/15
    - Mike Austin, Mike for Ward 8, Ward 8 City Council, registered 1/17
    - Kishan Putta, Kishan Putta for Ward 2 Special Election, registered 1/21
    - Katherine Vernice, Katherine for Ward 2 Special Election, registered 1/24
    - Katherine Vernice, Katherine for Ward 2 City Council, registered 1/24
    - Daniel Platt, Daniel Platt 2020, Ward 8 City Council, registered 1/29
  - 35 candidates are registered in the FEP.
  - Newly registered Traditional Program Candidates and Committees (18):
    - Oye Owoleya/Oye 4 U.S. Representative 1/3
    - Yaida Ford/Elect Yaida Ford (Ward-8, City Council) 1/10
    - Ivan Cloyd/Ivan Cloyd for US Representative 1/10

- Pete Ross (Candidate, US Representative) 1/10
  - Tyrone Carmichael (Candidate, At-Large City Council) 1/13
  - Ashley Carter MacLeay/Ashley for DC (Republican National Committeewoman) 1/14
  - Marcus Goodwin/Goodwin for DC 2020 (At-Large, City Council) 1/15
  - Rebecca Morris/Rebecca Morris Committee of Ward 7 (City Council) 1/16
  - Jeronda Hilton/Jeronda Hilton 2020 (Ward-8, City Council) 1/16
  - Michael McHugh (Candidate, Ward 1 Chairman, DC Republican Party) 1/17
  - Jose Cunningham/Jose' 2020 (Republican National Committeeman) 1/17
  - Marlena Edwards/Edwards for Ward 4 2020 (Ward-4, City Council) 1/21
  - Dalton Patterson/Dalton Patterson 2020 Campaign (US Representative) 1/21
  - Nelson Jackson/Campaign to Elect Nelson Jackson Ward 8 City Council 1/23
  - LaJoy Johnson Law/LaJoy Johnson Law SBOE 1/27
  - Yilin Zhang/Yilin Zhang for Ward 2 Special Election 1/28
  - Nathan Derenge/Nate Ward 8 (City Council) 1/29
  - Marya Pickering/Marya DC 2020 (At-Large, City Council) 1/29
- 23 total candidates registered in the Traditional Campaign Finance Program
- Held 2 mandatory entrance conferences for new candidates in January:
  - 1/15: 14 participants
  - 1/29: 23 participants
  - The names of the participants will be posted at the OCF website.
- **Reports Analysis and Audit Division (RAAD)**
  - Conducted 40 desk reviews of R&E Reports
  - One ongoing periodic random audit:
    - Re-elect Brandon Todd 2020 PCC, initiated 9/4/2019 regarding 7/31/19 R&E Report
  - One audit issued during January:
    - Committee to Elect Zachary Parker of 2018 (Full Field Audit), issued 1/22/2020
- **OCF Office of the General Counsel (OCF OGC)**
  - Received two referrals from RAAD, completed one informal hearing, and issued the following two orders:
    - Trayon White, failure to timely file a R&E Report. A fine of \$1,900 was initially imposed, but that fine was subsequently reduced to a \$1,000 fine, pursuant to a motion for reconsideration.
    - Sheika Reid, Former Council Candidate, and her Treasurer, Anthony Miller. A fine of \$5,000 was imposed for unresolved issues resulting from a non-compliance audit.
  - OGC fines collected:

- \$1,000 from Council Member Trayon White
- \$100 from former Candidate Gayle Carley for Ward 5
- \$150 from Franklin for D.C. 2018
- OGC issued an interpretive opinion on 1/10:
  - **Opinion Number 2019-04**—Requested by Jordan Grossman. The issue is campaign expenditures related to attendance at local events.
- There were no show cause proceedings.

## **EXECUTIVE DIRECTOR’S JANUARY 2020 REPORT (EXECUTIVE DIRECTOR MILLER)**

- **Candidate petition process for the June 2<sup>nd</sup> Primary Election**
  - 57 candidates picked up petitions for the June 2nd election.
  - The filing deadline for those nominating petitions, is 5:00 p.m., Wednesday, March 4.
- **Candidate petition process for the June 16<sup>th</sup> Ward 2 Special Election**
  - Seven candidates have picked up petitions.
  - The filing deadline for those nominating petitions, is 5:00 p.m., Wednesday, March 18.
  - The cost for Special Election, \$220,000, was placed into the Board’s budget last week.
- **Grant funding from Election Assistance Commission (EAC)**
  - The EAC is the federal agency that administers Help America Vote Act (HAVA) funds, and we have received notification of a \$3 million dollar grant to be used in accordance with Section 101 of HAVA, with a focus on security and cyber infrastructure. The city has to make a match of 20% in order for us to qualify for that funding, which is \$600,000.
- **Voter Outreach**
  - Staff participated in 14 events during January.
  - We have a robust outreach for poll worker recruitment that is well underway. If you are interested or know someone that is, please sign up.
- **Poll Worker Training**
  - Begins in March and will continue through the June 2<sup>nd</sup> primary.
- **Early Voting sites**
  - We have 15 sites, and we're looking for a second location in Ward 2.
  - The Board is open to any suggestions for an additional location.
- **EAC Clearies Award for accessibility**
  - The Board was selected by the EAC as the recipient of the 2019 Clearinghouse Award for improving accessibility for voters with disabilities and for the Board's overall commitment to accessibility.

- Entries are judged based on the creation of positive results, innovations, sustainability, outreach efforts, cost effectiveness, and reputability.
- I just want to take a minute and recognize both Terrica Jennings and Arlin Budoo for the work they do.
- **Chairman Bennett:** Mr. Budoo and Ms. Jennings have just done an incredible job making sure that our priorities are met when it comes to accessibility and this award is evidence of that.

## **BOE OGC JANUARY 2020 REPORT (GENERAL COUNSEL STROUD)**

- **Mr. Chris Otten’s Motion to Amend the Record in the Matter of the Challenge to the Petition Submitted in Support of Effort to Recall Jack Evans (the Petition)**
  - As part of his overall challenge to the Petition, Counsel for Mr. Evans, Donald Dinan, Esq., challenged petition sheet 43, which had been circulated by Mr. Otten, on the grounds that the sheet potentially had forged signatures.
  - Through his motion, Mr. Otten asked that the record be amended to reflect that the Registrar of Voters concluded that the signatures on petition sheet 43 had not been forged so as to remove the aspersion cast upon him because of the challenge.
  - Mr. Dinan submitted a response to Mr. Otten's motion and stands by the statements in that response.
  - General Counsel Stroud noted that the record in the matter closed with the issuance of Order Number 19-043, which was issued on December 18, 2019, and that there was no basis upon which to reopen it. She also noted that the record already includes the Registrar’s findings with respect to each signature, including those on petition sheet 43, and that the record is available for review by members of the public. General Counsel Stroud recommended that the motion be dismissed because the record is closed and cannot be reopened.
  - **Chairman Bennett:** The fact that your submission was not fraudulent will be forever on the record of this meeting today and also a part of the record of the Board that anyone can research and have access to.
    - **BOARD ACTION:** Mr. Otten’s motion was denied, but the record of this day and this meeting reflects that, in fact, Mr. Otten’s signatures that he submitted on petition sheet 43 were, in fact, not fraudulent and the Board found that they were not fraudulent.
  - Mr. Dinan noted that the challenge was made in good faith.
- **Litigation Status**
  - **William Hunt v. the 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.

Briefing in the case is complete and we are awaiting the court’s order on the Board’s motion to dismiss.

- **James Butler v. the 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.
- **Graham v. the 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, and the Court of Appeals has ordered the case be scheduled for oral argument as soon as the calendar permits.
- **Phillip Hammond v. the 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 18th, and the Board's response would be due on December 18th in both of these matters. The Appellants filed their briefs on December 16, but they did not file an appendix. On January 22nd, the Appellants filed a motion for an extension of time to file the appendix to their brief. On January 28th, the Board filed an opposition to that motion and we are waiting for a ruling in that matter.
- **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.
- **Proper Subject Matter Consideration: Entheogenic Plant and Fungus Policy Act of 2020 (EPFPA)**
  - The verified statement of contributions was filed with the Office of Campaign Finance on December 20, 2019.
  - The initiative was filed in the proper form.
  - Joseph Sandler, Esq. Counsel for the Proposer, Ms. Lavasani, and the Ballot Committee testified:
    - The initiative is consistent with Title 4 of the Home Rule Act.
    - It is a new policy that can only be imposed on the Department externally by an act of the Council, and in that regard it is legislative in nature.
    - It clearly does not appropriate funds, or negate or limit a Budget Act of the Council and that changing and enforcing a priority does not reduce or redirect resources spent.
    - The initiative is consistent with the Harris Amendment to the federal continuing Appropriations Act in that it does not seek to reduce or change the penalties for these Schedule I substances.

- The following individuals testified regarding the efficacy of Entheogenic Plants and Fungi:
  - Melissa Lavasani (the proposer)
  - Mathew Fogg, Law Enforcement Action Partnership Network
  - Jesse Gould, an Army Ranger veteran, with three combat deployments to Afghanistan (the Heroic Hearts Project)
  - Wyly Gray, Veterans of War
  - Daniel Carcillo, former professional NHL hockey player
  - Evan Park
  - Jamila Hogan
    - **BOARD ACTION:** EPFPA was found to be a proper subject, in part because the Board determined that it was legislative and not administrative in nature.
    - The Board will have another meeting, prior to the 20th day, prior to February 25th, to actually issue a formal written order accepting the Initiative.
- General Counsel Stroud: The Board will have a public meeting at which we will prepare the formulations - a short title, summary statement, and legislative text - for the initiative measure. It will then be published in the D.C. Register which will start a ten-day challenge process.

## **PUBLIC MATTERS**

- **John Capozzi**
  - Wanted to make sure that the Board is taking action related to reviewing the rolls of the voters in Ward 2.
    - He asked to pass along to Executive Director Miller information about the mail services for George Washington University and Georgetown University so that the Board can work directly with those universities to get those students who have registered here in the District, but are no longer residing here, off the rolls.
    - Chairman Bennett: We certainly will focus on that, and not just with respect to Ward 2.
- **Michael Sindram**
  - Mr. Sindram appreciates Ms. Jennings keeping him informed about Board meetings. He'd like to receive a hard copy of the interpretive opinion that Mr. Sanford referred to, and a copy of the accepted EPFPA Initiative.

**Adjournment** (12:32 p.m.)