

# MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

September 2, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, September 2, 2020, telephonically. Board Chairman Michael Bennett, Board Member Michael Gill, and Board Member Karyn Greenfield were present. The Board's Executive Director, Alice P. Miller, the Board's General Counsel, Terri D. Stroud, the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, and the General Counsel of OCF, William Sanford, were also present.

## CALL TO ORDER (10:00 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:

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

### BOARD MATTERS

- The appeal from the OCF Order 2019 on Landry and Warren, is delayed getting out and will be released as soon as possible.

### OCF AUGUST 2020 REPORT (DIRECTOR CECILY 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 August 27, 2020, the OCF website posted a Notice of Debates.
  - Debates will be conducted during the week of September 28, 2020 in the contested city-wide races in the November 3, 2020 General Election (the General Election) for the Office of At-Large Member of the Council, and potentially for the Office of At-Large Member of the State Board of Education. All candidates certified in the Fair Elections Program (FEP) must participate in the Debates, and all candidates in the Traditional Campaign Finance Program (TCFP) will be invited to participate.
- Under the Fair Elections Act, OCF is required to conduct at least one debate in each contested citywide race.
- Currently contested citywide elections include:

- At-Large Member of the City Council
  - 10 FEP candidates
  - 13 TCFP candidates
- At-Large Member for the State Board of Education
  - 1 FEP candidate
  - 4 TCFP candidates
- **Fair Elections Program Division (FEP)**
  - Authorized Base Amount and Matching Payments
    - As of August 28, 2020, the total sum of \$3,283,278.00 has been disbursed in Base Amount and Matching Payments during Fiscal Years 2019 and 2020 to 32 candidates certified in the FEP to participate in the June 2, 2020 Primary Election (the Primary Election), the June 16, 2020 Special Election (the Special Election), and the General Election.
    - The current balance in the Elections Fund allocated for the 2020 Election Cycle is \$790,435.13.
    - 31 candidates are currently registered in the FEP for the General Election, and
      - 16 candidates are certified as participating candidates.
      - 11 candidates were certified as participating candidates in the Primary Election.
      - 10 candidates were defeated and will not continue to participate in the General Election.
      - 4 candidates certified as participating candidates in the Special Election were defeated.
    - During August 2020, the total sum of \$584,593.65 was distributed in 34 Authorized Base and Matching Payments. All candidates and disbursements information can be found on the OFC website.
  - August 2020 FEP Certifications
    - The following five candidates were certified in August as participating candidates for the General Election:
      - Martin for Ward 2, certified on August 26
      - Vincent Orange, certified on August 26
      - Randy Downs for Ward 2, certified on August 26
      - Committee to Elect Dontrell Smith, certified on August 26

- Washington for Ward 8 DC, certified on August 26
- August Desk Reviews and Other Activities
  - 39 desk reviews of the mandatory August 10, 2020, amended Reports of Receipts and Expenditure (R&E Reports)
  - 14 Requests for Additional Information (RFAs) were sent.
  - 6 status reports were issued to candidates seeking certification in the FEP who have not met the threshold requirements
- **Public Information and Records Management Division (PIRM)**
  - July 2020 Filing of R&E Reports (updated from August Meeting):
    - R&E Reports for Principal Campaign Committees (PCCs) & Political Action Committees (PACs), due July 31
      - 54 required filers
      - 38 timely filers (all filed electronically)
      - 1 request for extension, which was granted
      - 15 failures to file
      - 15 failures to file referred to the OGC
    - R&E Reports for Initiative/Referendum Committees, due July 31
      - 10 required filers
      - 5 timely filers (all filed electronically)
      - 5 failures to file
      - 5 failures to file referred to the OGC
  - August 2020 Filing of R&E Reports:
    - R&E Reports for PCCs & PACs, due August 10
      - 78 required filers
      - 71 timely filers
      - 3 late filers
      - 3 request for extension, which were granted
      - 4 failures to file
      - 7 referrals to the OGC
      - 74 electronically filed their report
    - R&E Reports for Independent Expenditure Committees (IECs), due August 10
      - 3 required filers

- 3 timely filers (all filed electronically)
- R&E Reports for FEP PCCs, due August 10
  - 45 required filers
  - 36 timely filed
  - 2 late filers
  - 5 requests for extension, which were granted
  - 5 failures to file
  - 7 referrals to the OGC
  - 38 candidates electronically filed their report
- Optional R&E Reports for FEP PCCs, due August 31
  - 7 timely filed (all filed electronically)
- 5 new Candidates and Committees in August
  - Five TCFP Candidates:
    - Claudia Barragan, Committee to Elect Claudia Barragan for City Council At-Large, registered August 1
    - Ravi Perry, The Committee to Elect Ravi Perry to the D.C. State Board of Education At-Large, registered August 3
    - Sohaer Syed, U.S. Representative, registered August 4
    - Christopher Etesse, Chris Edu Tech Ward 2, August 5
    - Sarah Mehrotra, Committee to Elect Sarah Mehrotra, Ward 2 State Board of Education, registered August 10
- 14 Referrals to the OCG for failure to timely file the August 10 R&E Reports
  - 3 TCFP Committees
  - 7 FEP Committees
  - 4 PACs
  - All committee names will be posted on the OCF website.
- 20 Referrals to the OCG for Failure to Timely File the July 31 R&E Reports
  - 14 PCCs
  - 1 PACS
  - 4 Initiative Committees
  - 1 Referendum Committee
  - All committee names will be posted on the OCF website.

- 20 candidates & treasurers completed the mandatory OCF entrance conference presentation during August 2020:
  - All candidates and treasurers names will be listed in the September report posted on the OCF website.
  
- **Reports Analysis and Audit Division (RAAD)**
  - 114 desk reviews of reports filed
  - Ongoing Audits
    - Full Field Audit
      - Jack Evans Legal Defense Fund – Final Audit Report, issued on August 3
    - Periodic Random Audits – Candidates in the Upcoming 2020 Election – January 31st filing
      - Friends of Robert White, audit records received March 16
      - Veda for Ward 7, initiated March 2
      - Committee to Elect Rogers for Council, initiated March 2
    - Periodic Random Audits – PACs - January 31 filing
      - Verizon Communications Inc. Good Gov't Club PAC, initiated March 2
      - D.C. Libertarian Party, initiated March 2
      - Firefighters Committee on Political Activities, initiated March 2
    - Periodic Random Audits – Constituent Service Programs (CSP), April 1, 2020 Report
      - Ward 4 CSP, extension was granted until July 3. Additional request for records on July 29. Due to unexpected circumstances, Audit staff sent another request on August 25.
  - Audits Issued
    - Legal Defense Fund for Jack Evans – Issued August 3
      - Available on OCF website.
      - The audit was issued as a compliance audit, and was referred to the OGC for the resolution of a complaint that was received on February 3, from the Committee to hold Jack Evans Accountable.
      - The OCF GC requested the audit branch to conduct an investigative audit of the financial operations of the fund.

## **OCF AUGUST 2020 REPORT (GENERAL COUNSEL WILLIAM SANFORD)**

- Intake/Output Report
  - The OGC received 36 referrals.
    - 34 referrals came from PIRM, including:
      - 20 referrals for failure to timely file the July 31 report.
      - 14 referrals for failure to file the August 10 report.
    - 2 referrals from RAAD for failure to respond to requests for additional information.
  - 19 informal hearings were completed, 12 orders were issued, and no fines were imposed.
  - OGC did not impose any fines or collect any fines during August 2020.
  
- Open Investigations:
  - Complainant: The Committee to Hold Jack Evans Accountable Adam Eiding, Chairman, received February 3
    - Respondent: D.C. Legal Defense Committee for Jack Evans
    - Allegations: Unlawful use of a Legal Defense Committee
    - Status: Final audit issued on August 3. Investigation completed and order was issued on August 31.
  
  - Complainant: Jennie Malloy, received May 19
    - Respondent: Karl Racine for Attorney General 2018 Principal Campaign Committee
    - Allegations: Inappropriate use of campaign funds
    - Status: Investigation completed and the order is pending
  
  - Complainant: Jennie Malloy, received May 19
    - Respondent: Ed Lazere for D.C. Principal Campaign Committee
    - Allegations: Inappropriate use of FEP funds
    - Status: Investigation was completed on August 14, and the order was issued on August 28.
  
  - Complainant: Chuck Thies, received May 28
    - Respondent: Anthony Lorenzo Green, candidate for Ward Seven Council
    - Allegations: Inappropriate use of a government resource
    - Status: The investigation is completed and the order is pending.

- Complainant: Laura Wolfe, received June 12
  - Respondent: Brooke Pinto
  - Allegations: Failure to report excessive contributions
  - Status: The investigation is completed and order is pending.
- No requests for Interpretative Opinions were received in August 2020.
- No show cause proceedings were conducted in August 2020.

**EXECUTIVE DIRECTOR’S AUGUST 2020 REPORT (EXECUTIVE DIRECTOR ALICE MILLER)**

- **General Matters**

- The November general election is 65 days away as of today, September 2.
- 55 mail drop boxes placed around D.C. and will be available October 5th through 8:00 p.m. on November 3rd, election night.
  - The drop boxes have very slim slots for voters to deposit their ballots.
  - Ballots will be retrieved by BOE staff twice a day through Election Day.
- As of September 1, 2020, the BOE has trained 1,327 poll workers; 2,500 students waiting to be trained; and 3,000 additional now being processed for training through October.
- 2,000 veteran poll workers are also willing to work the General Election.
- The BOE is receiving an average of 200 applications a day from individuals interested as serving as poll workers.
- Poll worker training will continue through the second week of October.
- Ballots are scheduled to arrive to voters during the second week of October.
- 16 early vote centers will be used for the General Election including:
  - Union Market by Gallaudet
  - Capitol One Arena
  - Nationals Stadium
  - The University of the District of Columbia
- 74 additional locations will be used as Election Day vote centers.
- Voters can vote anywhere through Election Day, including at the early vote centers.
- D.C. Jail will no longer serve as a vote center.
  - The jail is in the midst of handling COVID-19.
  - In the future, the jail wants to be in a medical stay-in-place status and will only operate and be available for their residents.
  - Ballots will be made available to residents through the absentee ballot process.

- On August 20, the BOE identified 107 federal prisons that house D.C. residents. The BOE mailed 2,400 applications for mail ballots to those in the federal prisons and asked the wardens to provide to D.C. residents their applications for registration.
  - The BOE requested for those applications to be returned to the Board's office by September 20, which will allow the BOE to get the applications processed by the October 13 deadline for registration.
- The BOE Outreach Division has participated in 22 outreach programs.

## **BOE OGC AUGUST 2020 REPORT (GENERAL COUNSEL TERRI 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 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.
  - Mr. Hunt appealed to the D.C. Court of Appeals on April 16, beyond the 30-day period for appeals under federal rules.
  - The Court gave Mr. Hunt until May 22, to show cause why the case should not be dismissed as untimely; the deadline was extended to July 1.
  - On June 25, Mr. Hunt filed a brief with the courts but failed to address why the appeal should not be dismissed.
  - The Board is currently awaiting the court's decision.
- **Hammond v. D.C. Board of Elections and Robin Marlin v. the D.C. Board of Elections**
  - These matters are appeals of Board Orders 19-32 and 19-33 upholding the resolution issued by ANC 7B, which found no vacancy in the office of Advisory Neighborhood Commissioner for Advisory Neighborhood Commission (ANC) Single Member Districts (SMDs) 7B04 and 7B05.
  - On September 6, 2019, the Court of Appeals consolidated these cases.
  - 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.
  - Waiting for the Court's decision in both matters.
- **La Riva v. D.C. Board of Elections**



- This case was filed in the D.C.'s federal district court on July 17, and is a complaint for declaratory judgment and permanent injunctive relief alleging that certain provisions of the election statute are unconstitutional because they provide ballot access relief for candidates for all offices.
    - Specifically, requirements for ballot access would warrant to 250 signatures for all at-large offices, and less for single-member district offices, with the requirement for president remaining at one percent of District voters for the Office of President.
    - This case is being handled by the Office of Attorney General because it is a challenge to the election statute.
    - The case was dismissed as a result of the passage of the General Election Preparations Emergency Amendment Act of 2020, which lowered the signature requirement for the office of president to 250 signatures, the same as for at-large elected offices.
  - **Alliance Party, et al v. D.C. Board of Elections**
    - 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, 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.
    - This matter is being handled by the District's Office of the Attorney General.
    - A status conference on this matter is scheduled to take place by the end of this week.
- **Rulemaking**
  - Final Rulemaking
    - Amend Title 3 DCMR Chapter 7 (establish the deadline for the receipt of absentee ballots)
      - A notice of emergency and proposed rulemaking was published in the D.C. Register on June 26, at 67 DCR 7922
    - Amend Title 3 DCMR Chapter 16 (signature requirements that were lowered for the 2020 General Election)
      - A notice of emergency proposed rulemaking was published in the D.C. Register on June 5, at 67 DCR 6977-6978

- Emergency Rulemaking
  - Amend Title 3 DCMR Chapters 5 and 7 (place the chapters into conformity with the General Elections Preparation Emergency Amendment Act of 2020)
    - Establish that requests for absentee ballots must be received by the 15th day before the election in light of United States Postal Service delays, and clarify that cameras may be used in voting and counting locations as long as they do not interfere with the election administration process.
  
- Request the Board that the BOE be allowed to submit the final and emergency proposed rulemaking, to the D.C. Register, and become effective once published in both instances.
  - **BOARD ACTION:** Unanimously approved motion to accept the emergency and rulemaking recommendations proposed by the General Counsel.

## PUBLIC MATTERS

- Dorothy Brizill
  - Asked for update about the BOE contracting a public relations (PR) firm for the General Election.
  - Asked why the Office of Contracting and Procurement (OCP) amended the contract and extended the value when there were a lot of issues raised regarding the performance of the contractor for the June.
  - Asked about the status of other outstanding BOE contracts, including the ballot boxes.
  - Asked about open positions with BOE and the status of filing them.
    - **BOARD RESPONSE:** They was a bidding process and at the end of the bidding process OCP reviewed the various proposals and determined that Bayne, LLC had the best proposal for this time period. The award went to Bayne who had done previous PR work. OCP made the award to Bayne, amended the contract, extended the term, and increased the value.
    - The contracts for ballot boxes and the mail house have been awarded.
    - The position for public information officer (PIO) and press officer are currently being advertised for. There is a large contract that the Office of the Chief Technology Officer (OCTO) has called Pipeline that provides IT support services. Through Pipeline, BOE is in the process of bringing additional IT support on through the OCTO contract.

➤ The Board is currently speaking with candidates as it relates to the two vacancies in the area of the General Counsel.

- Adam Eidinger
  - Following up on request for copies of the Initiative 81 petitions that were submitted by the Campaign to Decriminalize Nature.
    - **BOARD RESPONSE:** The BOE will send copies of the petition out within two weeks or sooner.
- Michael Sindram
  - Asked about status of the order following August hearing involving the ANC Dupont Circle.
  - Requested a BOE staff member send him a hard copy of the order when it is finalized.
    - **BOARD RESPONSE:** The Board is working to get the order out.

#### **NOMINATING PETITION CHALLENGE HEARINGS**

- **Cheryl Moore v. Anthony Muhammad, Advisory Neighborhood Commission (ANC) Single Member District (SMD) 8E02**
  - Registrar of Voter Preliminary Determination Report
    - On July 16, 2020, Anthony Muhammad submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner for SMD 8E02.
    - The minimum requirement to obtain ballot access for this office is ten signatures of District voters duly registered in the same SMD as the candidate.
    - The petition contained 20 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17, by Cheryl Moore, a registered voter in the District of Columbia. Ms. Moore filed challenges to 12 of the 19 signatures submitted.
    - Voter Services' review of the challenges indicates that four of the 12 challenges are valid.
      - Two are valid because the signers are not registered to vote at the address listed on the petition.
      - Two are valid because the signers are not registered.
    - This leaves the candidate's nominating petition with 15 signatures, five signatures over the number required for ballot access.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Mr. Muhammad be granted ballot access in the contest for Advisory Neighborhood Commissioner in SMD 8E02.

- **BOARD ACTION:** Unanimously approved motion to grant ballot access for Anthony Muhammad.
- **Cheryl Moore v. Bruce Jones, SMD 8E02**
  - Registrar of Voter Preliminary Determination Report
    - On July 15, 2020, Bruce Jones submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner for SMD 8E02. The minimum requirement to obtain ballot access for the office is ten signatures of District voters who are duly registered in the same SMD as the candidate.
    - The petition contained ten signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17 by Cheryl Moore, a registered voter in the District of Columbia. The petition contained 20 signatures. Ms. Moore filed challenges to three of the ten signatures submitted and enumerated by line and page number.
    - Voter Services' review of the challenges indicates that zero of the three challenges are valid.
    - This leaves the candidate's nominating petition at ten signatures, the number required for valid access.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Mr. Jones be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 8E02 as he has met the minimum number required for ballot access.
      - **BOARD ACTION:** Unanimously approved motion to grant ballot access for Bruce Jones.
- **Michael Eichler v. Mary Sutherland, SMD 6E01**
  - Registrar of Voter Preliminary Determination Report
    - On July 30, 2020, Mary J. Sutherland submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner for SMD 6E01. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as the candidate. The petition contained ten signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 14 by Michael Eichler, a registered voter in the District of Columbia. Mr. Eichler filed challenges to two of the ten signatures submitted.
    - The Board's review of the challenges indicate that two challenges are valid.
      - One of the challenges is valid because the signer is not registered to vote at the address listed on the petition at the time the petition was signed.
      - One is valid because the signer is an inactive voter.
    - This leaves the candidate's nominating petition with eight signatures, two signatures below the number require for ballot access.

The registrar of voters received two change of address forms from Mary J. Sutherland on Monday, August 24, 2020. After validating the two change of address forms, Candidate Mary J. Sutherland was credited with one signature that had initially been determined to be invalid. One challenge is valid because the signer was deemed inactive.

- This leaves the candidate's nominating petition with nine signatures, one signature below the number required for ballot access.
- Response from Parties
  - Mary Sutherland
    - Disagrees with the Boards findings regarding the address of Mr. Eugene Brisbon. During that time in question his address was at 1705 Eighth Street, Apt. 204. The building address is correct, but the apartment number, 204, was incorrect, although it was written by Mr. Brisbon.
    - Was told that Mr. Brisbon was an inactive voter because he had last voted in 2016. He was on the roll list in 2018. 2020 will be the fourth year since he voted. The fiscal year ends at the end of September. He should still be active because he filed on August 24 with the current address, before the fiscal year ended.
  - Michael Eichler
    - Raises the question of why Mr. Brisbon is moved from an active voter to an inactive voter. It has not been four years since the General Election in 2016. It is possible that he voted in the Primary Election in 2016 and then failed to vote in the General Election. That would make him two years inactive, because according to the conversation during the pre-hearing conference, there was no voter record for him voting in 2018.
    - Ms. Sutherland had the tools to research whether her ten signatures were valid. She could find additional signatures in case one was invalid. She did not perform that action to ensure that she was submitting ten valid signatures.
- BOE General Counsel Stroud
  - It is not simply a matter of not voting that causes inactivity. It is a matter of not responding to a particular notice within a certain timeframe. After becoming inactive, one is removed after then not voting in the next two federal elections.
- Office of the Registrar
  - Going back to 2016, Mr. Brisbon did vote in the last few elections. He did not vote in the 2016 General Election. There was no activity with any type of responses to him to verify his address and to verify his voting activity.
- BOE Attorney Terrica Jennings
  - During the pre-hearing conference, the signature was checked, and Mr. Brisbon had not voted since 2016. In addition, several notices had gone to the address he had listed on file. It was written in his handwriting on

his voter registration application, and he had not corresponded with the Board over several years. So he was deemed inactive.

- The address that the Board had on file was the exact same address that was listed on his voter registration application, which is also written in his handwriting, so there was no error on the Board's part.

- **BOE General Counsel Stroud Recommendation**

- Recommends Mary Sutherland be denied ballot access for not having met the requisite signature requirements

- **BOARD ACTION:**

- Unanimously approved motion to deny ballot access for Mary Sutherland.

- **Kathy Henderson v. Sebrena Rhodes, SMD 5D01**

- Registrar of Voter Preliminary Determination Report

- On July 27, 2020, Sebrena Rhodes submitted a nominating petition to appear on ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner for SMD 5D01. The minimum requirement to obtain ballot access for this office is ten signatures from District voters who are duly registered in the same SMD as candidate. The petition contained 20 signatures and was posted for public inspection for ten days as required by law.
- The petition was challenged on August 17 by Kathy Henderson, a registered voter in the District of Columbia. Ms. Henderson challenged 16 of the 20 signatures.
- Voter Services' review of the challenges indicate that seven of the 16 challenges are valid:
  - Two are valid because the signers were not registered to vote at the address listed on petition at the time the petition was signed.
  - Two are valid because the signers were not registered.
  - One is valid because the petition does not include the name of the signer where the signature is sufficiently legible.
  - One is valid because the signature is not dated.
  - One is valid because the signer's voter registration was designated as inactive at the time the petition was signed.
- This leaves the candidate's nominating petition with 13 signatures, three signatures over the number required for ballot access.

- Response from Parties

- Kathy Henderson
  - Reasserts challenge to Ms. Rhode's petition beginning with page 2, numbers 3, 4, and 7.
    - Regarding number 3, Carl Johnson, the date was incomplete. It appears Ms. Rhodes filled in the partial date when she turned in the petition, because all of the signatures after that reflect the previous date.
    - Regarding number 4, Ted Brown, the date was incomplete which Ms. Rhodes appeared to have filled in when she

- turned in her petitions on the 24th, but she didn't put the full date. The signature on file for Mr. Brown does not match.
      - With regard to number 7, Ms. Satiya Price, the challenge is on the basis of the wrong address. The BOE rule is accurate, that she is registered. The BOE did not provide the information that she's registered at that address, and Ms. Rhodes did not present an address change form for that particular voter.
    - Sebrena Rhodes
      - The issues that Ms. Henderson just discussed were not brought up at the September 1, 2020 preliminary hearing. Ms. Henderson received the email of signatures to match with what was on the petition.
    - Registrar of Voters
      - Contests that Ms. Henderson did not mention the issue with the dates in the September 1 pre-hearing conference. The signature on page 2, line 3, was not one of the signatures that Ms. Henderson wanted a second copy of yesterday.
      - Line 4, Mr. Kenneth Brown on Central Place, was sent to Ms. Henderson on September 1, and the registrar of voters deemed that the signature on the petition matches the signature on file.
    - **BOE General Counsel Stroud Recommendation**
      - Recommends that Ms. Rhodes be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 5D01 in light of the fact that she has 13 signatures and the testimony regarding the signatures. For the record, it is okay for the candidate to fill in the date. If that's what happened, that would not be a reason to invalidate the signature.
        - **BOARD ACTION:** Unanimously approved motion to grant ballot access for Sebrena Rhodes.
- **Kathy Henderson v. Bernice Blacknell, SMD 5D04**
  - Registrar of Voter Preliminary Determination Report
    - On July 20, 2020, Bernice Blacknell submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner, SMD 5D04. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as candidate. The petition contained 20 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17 by Kathy Henderson, a registered voter in the District of Columbia. Ms. Henderson filed challenges of 14 of the 20 signatures.
    - Voter Services' review of the challenges indicates that 9 of the 14 challenges are valid:

- Five are valid because the signers were not registered to vote at the address listed on the petition at the time the petition was signed.
      - Two are valid because the signers were not registered.
      - Two were valid because the circulator failed to complete all required information in the circulator's affidavit.
    - This leaves the candidate's nominating petition with 12 signatures, two signatures over the number required for ballot access.
  - Response from Parties
    - Kathy Henderson
      - Reasserts challenge to Margaret Presson, page 1, line 4, that came up in the pre-hearing. On the face of the petition, the signature purporting to be Margaret Presson's says that the address is 807 21st Street NE. Ms. Presson's address is actually 809 21st Street NE, which is also reflected in the BOE records, and the signatures do not match.
      - Reasserts challenge to signatures for Ruth M. Hall and Douglas Hall, page 2, signatures 1 and 2. The signatures appear to be written by the same person. According to the BOE records, Ruth M. Hall was deleted and not registered. The signatures were written by the same person, but one of these persons is registered, and that's Mr. Hall, leaving the other signature invalid.
      - Asserts 43 percent of Ms. Blacknell's signatures are not valid. They're not valid through a simple error, but because the petition was carelessly circulated to people who are not registered, and there's no evidence that these people believe they were registered. This creates an image of fraud. Precedent is that when there is an overwhelming appearance of fraud, the Board has thrown out a petition.
  - Registrar of Voters
    - With regards to the couple, one person probably printed both names on the petition. But these are the signatures on file.
    - Ms. Hall is a registered voter. Her name is Ruth Mayo Hall and the Board's office was able to locate her.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Ms. Blacknell be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 5D04.
      - **BOARD ACTION:** Unanimously approved motion to grant ballot access for Bernice Blacknell.
- **Trupti Patel v. John George, SMD 2A03**
  - Registrar of Voter Preliminary Determination Report
    - On July 29, 2020, John George submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner, SMD 2A03. The minimum



requirement to obtain ballot access for this office is ten signatures of District residents who are duly registered in the same SMD as the candidate. The petition contained 20 signatures and was posted for public inspection for ten days as required by law.

- The petition was challenged on August 17 2020 by Ms. Trupti Patel, a registered voter in the District of Columbia. Ms. Patel filed challenges to 17 of the 20 signatures submitted.
- Voter Services' review of the challenges indicate that 4 of the 17 challenges are valid because the signatures are pre-dated.
- This leaves the candidate's nominating petition with 16 signatures, six signatures over the number required for ballot access.
- John George
  - Agrees with the BOE findings.
  - The petition circulator is on the call if the Board would like to talk directly with the circulator.
- Trupti Patel
  - Mr. George's petitions, page 1 and page 2, at the bottom where it says the circulator's affidavit to be completed by the person, the printed area does not match at all compared to the page two. On page 1, the handwriting matches actually to the person that is listed on line number 7. Ms. Patel challenged every single signature on that petition and the other one on page 2, because she believes that the circulator who signed did not actually indeed circulate the petition.
- Circulator, Susan Lampton
  - The signature Ms. Patel is referring to is the signature of circulators' (self) husband.
  - Ms. Lampton personally circulated the petition to all the neighbors and personally saw everyone who signed the petition. A mistake was on the dates, and it was agreed those should be knocked off.
- **BOE General Counsel Terri Stroud Recommendation**
  - Recommends that Mr. George be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 2A06.
    - **BOARD ACTION:** Unanimously approved motion to grant ballot access for John George.
- **Matt Buechner v. Lisa Cox, SMD 3F07**
  - Registrar of Voter Preliminary Determination Report
    - On July 20, 2020, Lisa Cox submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 3F07. The minimum requirement to obtain ballot access is ten signatures of duly registered voters in the same SMD as the candidate. The petition contained ten signatures and was posted for public inspection for ten days as required by law.

- The petition was challenged on August 17 by Matt Buechner, a registered voter in the District of Columbia. Mr. Buechner filed challenges to ten of the ten signatures submitted.
- Voter Services' review of the challenges indicate that zero of the ten challenges are valid. This leaves the candidate's nominating petition with ten signatures, the number required for ballot access
- Response from Parties
  - Matt Buechner
    - Ms. Cox's actions, pertaining to the signature by Ms. Sarah Appleton on line 5 of the nominating petition, violates the rules and guidelines set forth by the BOE. The circulator affidavit requires the circulator to personally witness the signing of each signature. We know that Ms. Cox falsely signed this affidavit.
    - In an email to me signed August 20, 2020, Ms. Cox admits that she did not personally witness the signature but rather Ms. Cox emailed the form to her, she filled it out with her name, address, and the electronic signature, scanned it, and mailed it back. Ms. Cox goes further to say, technically, you are right. Ms. Cox did not physically witness her sign. Ms. Cox goes on to discuss the new world in which we live related to the COVID-19 pandemic and social distancing.
    - The BOE already accounted for the pandemic with the reduction of required signatures from twenty-five to ten to be listed on the ballot in November. This exact issue was addressed in guidance from the Office of ANC Executive Director Gottfried Simon on July 29 via email to candidates. Mr. Simon noted that the petition circulator must physically see the signature occur in order to be valid. He even goes so far to suggest videoconferencing and recommends that a distant petition signer acts as their own circulator, an option that is outlined in many petition circulator instructions. Ms. Cox did neither of these.
    - In Ms. Cox's email and in the September 1 pre-conference hearing, she asserted that her virtual correspondence with Ms. Appleton meets the spirit of the issue to ensure that signatures are not forged.
    - By Ms. Cox's own admission, the signature of Ms. Appleton does not meet the requirements of a valid signature for a nominating petition. Mr. Buechner asks that this body follow the rules and processes set forth for valid access and that the signature of Sarah Appleton be deemed non-compliant and ineligible to be counted for Ms. Cox's ten required signatures.
  - Lisa Cox
    - Admits to not personally witnessing Sarah sign the petition. Sarah went into quarantine because of COVID, but she wanted to sign the petition. So Ms. Cox emailed it to her and she signed it right away, scanned it, and sent it right back.

- The spirit of the law of witnessing, which is to ensure that the person who's signing it is indeed the person they purport to be and that it's not forged, and this exchange with Sarah is, in effect, doing that. It is me witnessing her that she is actually the person signing it.
    - Yesterday Sarah appeared at the pre-hearing with the signature in question to also testify why she wasn't able to see me in person.
    - Ms. Cox requests that we follow the spirit of the rule, and says that she did actually comply with that spirit.
  - Kate Munoz, BOE staff attorney
    - Ms. Appleton appeared at our pre-hearing meeting yesterday, and the parties agreed to stipulate the fact that she appeared, that she testified that she received Ms. Cox's petition electronically, she signed the petition, and transmitted it back to Ms. Cox via email.
    - As to the question of the applicable rules, in the written record for the Board is a copy of the District of Columbia Municipal Regulations at 1607, validity of signatures. At 1607.1(i), it says in part, the marks that a person signing the petition makes shall not be counted as valid signatures unless the persons witnessing the mark shall attach to the petition affidavits that they explained the contents of the petition to the signatories and witnessed their remarks.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that the signature be invalidated pursuant to 1602.3, which indicates that you have to personally witness the signing of each signature on a petition sheet. The statutory counterpart to the regulation can be found at 1-1001.08(b)(3), which indicates that the circulator has to attest that they have personally circulated the petition, personally witnessed each person sign the petition. In light of the fact that that did not happen in this instance, recommends that that signature be invalidated, which would leave Ms. Cox with nine signatures on the petition.
      - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Lisa Cox.
- **Detrick Campbell v. Jamaal Burton, SMD 2C02**
  - Mr. Burton and Mr. Campbell were provided written notice via email immediately after their prehearing conference by BOE Attorney Terrica Jennings as well as speaking with her. The BOE paralegal, Tonisha Erskine, spoke to Mr. Burton specifically concerning the hearing, because there was concern about whether or not he would be withdrawing from the State Board position, which he had said he would have.
  - During our hearing on September 1, Mr. Burton had to abruptly leave, because he said he had other matters he had to deal with. Attorney Jennings asked him if he wanted to address the State Board issue. He stated that he would come back at 3:30. He did not return. The challenger returned at 3:30, and the prehearing conference proceeded without Mr. Burton. Mr. Burton has not followed up since then, but he did receive notice of the hearing from the BOE

attorney and paralegal, and it was discussed with him when he showed up briefly for the hearing yesterday around 3:15.

- Title 3 DCMR 403.4 provides that if any person or party waives the right to be present at the hearing or fails to appear, the Board may proceed ex parte unless the Board extends the time of the hearing or unless it's required by statute.
- It is recommended that the Board proceed ex parte in light of the notice that was given, and requested that the Board entertain a motion to proceed in the absence of the candidate.
  - **BOARD ACTION:** Unanimous approve motion to proceed ex parte.

○ Registrar of Voter Preliminary Determination Report

- On August 5, 2020, Jamaal Burton submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 2C02. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as the candidate. The petition contained ten signatures and was posted for public inspection for ten days as required by law.
- The petition was challenged on August 17, 2020, by Detrick Campbell, a registered voter in the District of Columbia. Mr. Campbell filed challenges to all ten signatures.
- Voter Services' review of the challenges indicates that one of the ten challenges is valid.
  - One is valid because the challenge is not dated and the candidate address on the petition form is an inadvertent error by the Board of Elections.
- This leaves the candidate's nominating petition with nine signatures, one signature below the number required for ballot access.

○ **BOE General Counsel Terri Stroud Recommendation**

- Recommends that the Board not allow Mr. Burton ballot access, because he has not met the signature requirements to retain ballot access for the Single Member District 2C02 contest.
  - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Jamaal Burton.

• **Victoria Clark v. Rhonda Edwards-Hines, SMD 8C06**

○ Registrar of Voter Preliminary Determination Report

- On August 5, 2020, Rhonda Edwards-Hines submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 8C06. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as

candidate. The petition contained 20 signatures. The petition was posted for public inspection for ten days as required by law.

- The petition was challenged on August 17 by Victoria Clark, a registered voter in the District of Columbia. Ms. Clark filed challenges to 15 of the 20 signatures submitted. Additionally, the challenger alleges that the candidate does not reside at the address as indicated on her declaration of candidacy at the suggestion of the challenger that the property no longer exists.
- Voter Services' review of the challenges indicate that 14 of the 15 challenges are valid:
  - 14 are valid because the information from the District Master Address Repository indicates that the residential address listed on their voter registration record has a status of retired, which means that the building at the address has been demolished and/or that the address is no longer in existence.
- This leaves the candidate's nominating petition with six signatures, four signatures below the number required for ballot access.
- Response from Parties
  - Rhonda Edward-Hines
    - When Ms. Edward-Hines came to pick up my package on July 2, she was given a nomination petition circulation guide, and it stated in 1(a) that the signer must be a duly registered voter according to the Board records at the time the petition is signed. She received a printout of all the registered voters in that SMD, and every single one of these signers are listed in the printout.
    - When Ms. Edward-Hines received notice of being challenged, she called on the 18th of August at 12:14 and spoke to Ms. Kate Munoz. She asked about the signer's petition and stated that they were in the printout that she was provided by BOE. She told me that is just one part.
    - Ms. Edward-Hines also called the BOE to talk to someone where she picked up her petitions. It was indicated that she did not have to worry about anything, that she would have ten days after the hearing to make corrections. She wanted to come and pick up the voter registrations, so that her signers could do their current signature voter registration.
    - On August 26<sup>th</sup>, Ms. Edward-Hines called the BOE because on the 18<sup>th</sup>, she called to make an appointment because her understanding is that you couldn't do walk-ins, you have to make an appointment. So on the 26th, she called again and was given the same explanation.
  - General Counsel Response

- If Ms. Hines had provided signatures of individuals who were registered in her Single Member District, and they moved within the Single Member District and had not updated their address, within ten days after the challenge to such signatures had been filed, she would have been able to collect change of address forms for them. However, in this case these individuals are not registered at the address, because the address is not an existing address.
      - This is not a circumstance under which she would be able to cure these signatures. The curing provision is with respect to instances where the signer is registered at a different address in the same jurisdiction. It might well be the case that there are people who lived at these addresses which no longer exist still live within the SMD.
    - Victoria Clark
      - Whether or not there is a cure process available, Karen Brooks' email of August 28, 2020, set out a deadline of August 31, 2020. Ms. Clark maintains her challenges to each of the individual signatures.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Ms. Rhonda Edwards-Hines not be granted ballot access, because she has not met the signature requirements to retain ballot access for the Single Member District 8C06 contest.
      - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Ms. Edwards-Hines.
- **Barbara J. Clark v. Ira Lovelace, SMD 8A02**
  - In light of the fact that neither party is present, it is recommended that the Board proceed ex parte.
  - Mr. Lovelace and Ms. Clark both received notice that Mr. Lovelace did not, at the time, meet ballot access requirements. Mr. Lovelace said he was new to the process and wanted to go before the Board to perhaps see if he could get that extra signature to meet the valid access requirement.
  - Both parties received notice for the hearing today along with a withdrawal form that Mr. Lovelace requested, because he said at the time he was not sure if he would move forward. BOE has not received a response from either party.
    - **BOARD ACTION:** Unanimously approve motion to proceed with this matter ex parte.
  - Registrar of Voter Preliminary Determination
    - On July 20, 2020, Ira Lovelace submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 8A02. The minimum requirement to obtain ballot access for this office is ten signatures of

District voters who are duly registered in the same SMD as candidate. The petition contained 20 signatures and was posted for public inspection for ten days as required by law.

- The petition was challenged on August 17 by Barbara Clark, a registered voter in the District of Columbia. Ms. Clark filed challenges to 13 of the 20 signatures submitted.
- Additionally, the challenger alleges that the candidate does not reside in the Single Member District as indicated on the declaration of candidacy.
- Voter Services' review of the challenges indicate that 11 of the 13 challenges are valid:
  - Five of the challenges are valid because the signers were not registered to vote at the address listed on the petition at the time the petition was signed.
  - One is valid because the signer was not registered at the time the petition was signed.
  - Two are valid because the petition does not include the address of the signers.
  - Three are valid because the signers were not a registered voter in the SMD from which the candidate seeks nomination at the time the petition was signed.
- This leaves the candidate's nominating petition with nine signatures, one signature below the number required for ballot access.

○ **BOE General Counsel Terri Stroud Recommendation**

- Recommends that Mr. Lovelace be denied ballot access, because he has not met the signature requirements to attain ballot access for the Advisory Neighborhood Commissioner in Single Member District 8A02.
  - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Ira Lovelace.

• **Robin Hammond Marlin v. Nicole Smith-McDermott, SMD 7B04**

- The BOE provided both parties with notice of this hearing, and BOE attorney Kate Munoz, has been attempting to contact the candidate, Ms. Smith-McDermott in particular, to let her know this would be on the agenda.
- During the pre-hearing conference held on August 28th, Ms. Smith-McDermott indicated during the conference that she intended to withdraw.
- BOE has not received her signed formal withdrawal of her candidacy.
- In light of the fact that notice was given pursuant to 3 DCMR 403.3 and neither party is present, it is recommended that the Board proceed ex parte.
  - **BOARD ACTION:** Unanimously approve motion to proceed ex parte.
- Registrar of Voter Preliminary Determination Report
  - On August 5, 2020, Nicole Smith-McDermott submitted a nomination petition to appear on the ballot as a candidate in the General Election for

the office of Advisory Neighborhood Commissioner SMD 7B04. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as candidate. The petition contained ten signatures. The petition was posted for public inspection for ten days as required by law.

- The petition was challenged on August 15 by Robin Hammond Marlin, a registered voter of the District of Columbia. Ms. Hammond Marlin filed challenges to five of the ten signatures submitted.
- Voter Services' review of the challenges indicates that two of the five challenges are valid:
  - Two of the challenges are valid because the signers were not registered to vote at the address listed on the petition at the time the petition was signed.
- This leaves the candidate's nominating petition with eight signatures, two signatures below the number required for ballot access.
- Response from Parties
  - Hammond Marlin
    - During the pre-conference hearing of which Nicole was present, additional concerns were raised with two other signatures.
    - Would like for those two signatures that were discussed during the pre-conference hearing to be part of this record and then be addressed by Ms. Brooks.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that the Board deny ballot access to Nicole Smith-McDermott, candidate for Advisory Neighborhood Commissioner in Single Member District 7B05.
      - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Nicole Smith-McDermott.
- **Robin McKinney v. Isaac Smith, SMD 8A06**
  - BOE attorney Kate Munoz contacted both challenger, Ms. McKinney, and candidate, Isaac Smith, via email to inform them that they are on the agenda for today's meeting.
  - Notice was also provided notice in writing three days after the challenge was filed of this matter, that included a date for both for the pre-hearing meeting and for this public hearing.
  - In light of the fact that notice was given pursuant to 3 DCMR 403.3 and neither party is present, it is recommended that the Board proceed ex parte.
    - **BOARD ACTION:** Unanimously decided to proceed to ex parte.
  - Registrar of Voter Preliminary Determination Report
    - On July 28, 2020, Isaac Smith submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 8A06.



- The minimum requirement to obtain ballot access for this office is ten signatures of duly registered voters in the District of Columbia and the same SMD as the candidate. The petition contained 30 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17 by Robin McKinney, a registered voter in the District of Columbia. Ms. McKinney filed challenges to 28 of the 30 signatures submitted.
    - Voter Services' review of the challenges indicates that eight of the 28 challenges are valid:
      - Three of the challenges are valid because the signature is not dated.
      - One is valid because the petition does not include the address of the signer.
      - One is valid because the petition does not include the name of the signer where the signature is not sufficiently legible.
      - One is valid because the signer was not registered at the time the petition was signed.
      - One is valid because the signer's voter registration was designated as inactive on the voter rolls at the time the petition was signed.
      - One is valid because the signature is not made by the person whose signature it purports to be.
    - This leaves the candidate's nominating petition with 22 signatures, 12 signatures over the number required for ballot access.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Mr. Smith be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 8A06.
      - **BOARD ACTION:** Unanimously approved motion to grant ballot access for Isaac Smith.
- **Latoya Moore v. James Q. Butler, SMD 5D03**
  - Registrar of Voter Preliminary Determination Report
    - On July 17, 2020, James Q. Butler submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Advisory Neighborhood Commissioner SMD 5D03. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as candidate. The petition contained 35 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17 by Latoya Moore, who is a registered voter in the District of Columbia. Ms. Moore filed challenges to 31 of the 35 signatures submitted.
    - Voter Services' review of the challenge indicates that 25 of the 31 challenges are valid:
      - 13 are valid because the signatures are predated.

- Six are valid because the signers were not registered to vote at the address listed on the petition at the time the petition was signed.
    - Six were valid because the signers are not registered.
  - This leaves the candidate's nominating petition with ten signatures, the number required for ballot access.
  - The registrar of voters timely received information from Ms. Moore indicating that there were discrepancies in the registrar's report. After additional review of the challenge, the registrar of voters determined that one signature that was initially determined to be valid were, in fact, invalid.
  - Therefore, Mr. Butler was not credited with one signature.
  - This leaves the candidate's nominating petition with nine signatures, one signature below the number required for ballot access.
- Response from Parties
  - James Q. Butler
    - Due to a typo in his email address, he did not receive notice that a challenge was taking place. This meant that he did not have adequate time to cure defects.
    - One of individual in controversy with signature validation, was the same address but different apartment number.
    - A technical error was made by pre-dating petitions prior to receiving the signature.
  - BOE Attorney Kate Munoz
    - The BOE initially used an incorrect address to send Mr. Butler the challenge documents. Three days later, BOE staff used the correct address to provide Mr. Butler with its initial preliminary determination, that in that version had found that Mr. Butler had ten valid signatures for ballot access.
    - Ms. Moore, flagged discrepancies for the registrar, but that correspondence was not provided to Mr. Butler.
    - Subsequent to that, the registrar sent out a revised preliminary determination which concluded that Mr. Butler had nine valid signatures.
  - Latoya Moore
    - The circulator affidavit error cannot be remedied under D.C. law, so the additional time being requested by Mr. Butler would not be reasonable. Circulator affidavits errors are not curable defects and 21 of the errors were circulator affidavit errors.
- **BOE General Counsel Terri Stroud Recommendation**
  - Recommends that the Board exercise its discretion to waive the formal error with respect to the dates and grant Mr. Moore ballot access as he would have the requisite number of signatures to attain ballot access.
    - **BOARD ACTION:** Unanimously approved motion to grant ballot access for James Butler.

- **Carlene Reid v. Ryan Washington, Ward 8 Member, SBOE**
  - BOE attorney Terrica Jennings provided notice of the hearing via correspondence three days after the challenge was filed to both parties in this matter.
  - In light of the fact that notice was given pursuant to 3 DCMR 403.3 and neither party is present, it is recommended that the Board proceed ex parte.
    - **BOARD ACTION:** Unanimously decided to proceed ex parte.
  - Registrar of Voter Preliminary Determination Report
    - On August 4th, 2020, Ryan Washington submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Ward 8 Member of the State Board of Education. The minimum requirement to obtain ballot access for this office is 50 signatures of District voters who are duly registered in the same Ward as candidate. The petition contained 83 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17th, by Carlene Reid, a registered voter in the District of Columbia. Ms. Reid filed challenges to 46 of the 83 signatures submitted.
    - Voter Services' review of the challenges indicate that 35 of the 46 challenges are valid:
      - Nine are valid because the signer was not registered to vote at the address listed on the petition at the time the petition was signed.
      - Two are valid because the petition does not include the address of the signer.
      - Two are valid because the signers were not registered at the time the petition was signed.
      - Eleven are valid because the signature is not dated.
      - One is valid because the signer is not a registered voter in the Ward or SMD from which the candidate seeks nomination at the time the petition was signed.
      - Ten are valid because the circulator of the petition failed to complete all required information in the circulator's affidavit.
    - This leaves the candidate's nominating petition with 48 signatures, two signatures below the number required for ballot access.
    - The registrar of voters timely received information from Mr. Washington indicating that there were discrepancies in the registrar's report. After additional review of the challenge, the registrar of voters determined that two signatures that had initially been determined to be invalid were, in fact, valid. Therefore, Mr. Washington was credited with two additional signatures leaving the candidate's nominating petition with 50 signatures, the number required for ballot access.
    - The registrar of voters timely received one change of address from Mr. Ryan Washington on Monday, August 31st, 2020. This form was

accepted. Accordingly, candidate Washington was credited with one signature that had initially be determined to be invalid.

- This leaves the candidate's nominating petition with 51 signatures, one signature over the number required for ballot access.

- **BOE General Counsel Terri Stroud Recommendation**

- Recommends the Board grant Ryan Washington access in the contest for member of the State Board of Education for Ward 8.

- **BOARD ACTION:** Unanimously approved motion to grant ballot access for Ryan Washington.

- **Jeannina Williams v. Stephen Slaughter, SMD 8E07**

- The BOE provided both Mr. Slaughter and Ms. Williams with notice of the hearing date in correspondence on August 20 and at a pre-hearing conference date on August 28. There have been subsequent attempts to confirm that they are on the agenda at this hearing.

- In light of the fact that notice was given pursuant to 3 DCMR 403.3 and neither party is present, it is recommended that the Board proceed ex parte.

- **BOARD ACTION:** Unanimously decide to proceed ex parte.

- Registrar of Voter Preliminary Determination Report

- On August 5th, 2020, Stephen Slaughter submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of ANC for SMD 8E07. The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD as candidate. The petition contained ten signatures and was posted for public inspection for ten days as required by law.

- The petition was challenged on August 17 by Jeannina Williams, a registered voter in the District of Columbia. Ms. Williams filed challenges of 12 of the 13 signatures submitted.

- Voter Services' review of the challenges indicate that one of the 12 challenges is valid:

- One of the challenges is valid because the signer is not registered to vote at the address listed on the petition at the time the petition was signed.

- This leaves the candidate's nominating petition with 12 signatures, two signatures over the number required for ballot access.

- Response from Parties

- Stephen Slaughter agrees with the findings.

- **BOE General Counsel Terri Stroud Recommendation**

- Recommends that Mr. Slaughter be granted ballot access in the contest for Advisory Neighborhood Commissioner in Single Member District 8E07.

- **BOARD ACTION:** Unanimously approved motion to grant ballot access for Stephen Slaughter.

- **Jillian Wolons v. Brandon Frye, Ward 2 Member, SBOE**
  - The BOE provided notice to the parties of this public hearing date in correspondence sent to them on August 20, 2020.
  - Registrar of Voter Preliminary Determination Report
    - On August 5th, 2020, Brandon Frye submitted a nominating petition to appear on the ballot as a candidate in the General Election for the office of Board Team Member of the State Board of Education. The minimum requirement to obtain ballot access for this office is 50 signatures of District voters who are duly registered in the same Ward as the candidate. The petition contained 55 signatures and was posted for public inspection for ten days as required by law.
    - The petition was challenged on August 17 by Jillian Wolons, a registered voter in the District of Columbia. Ms. Wolons filed challenges to 38 of the 55 submitted.
    - Voter Services' review of the challenges indicate that all 38 of the 38 challenges are valid:
      - Two are valid because the signer is not registered to vote at the address listed on the petition at the time the petition was signed.
      - Four are valid because the signers are not registered at the time the petition was signed.
      - Twenty-five are valid because the signature was pre-dated.
      - Five are valid because the circulator of the petition failed to complete all required information in the circulator's affidavit.
      - Two are valid because the signer is not a registered voter in the Ward or SMD from which the candidate seeks nomination at the time the petition was signed.
    - This leaves the candidate's nominating petition with 17 signatures, 33 signatures below the number required for ballot access.
  - **BOE General Counsel Terri Stroud Recommendation**
    - Recommends that Mr. Frye be denied ballot access in the contest for member of the State Board of Education for Ward 2.
      - **BOARD ACTION:** Unanimously approved motion to deny ballot access for Brandon Frye.

**Proper Subject Matter Hearing: The New Modern Day Criminal Justice Cannabis Reform Act of 2020**

- The only thing the Board is considering is whether or not the measure presents a proper subject for initiative under the following criteria:
  - Does the measure conflict with or seek to amend Title IV of the DC Home Rule Act, otherwise known as the District Charter?
  - Does the measure conflict with the U.S. Constitution?
  - Has the measure been properly filed?

- Has the verified statement of contribution, which consists of the measure committee statement of organization and report of receipts and expenditures, been timely filed?
- Does the measure authorize discrimination and violation of the DC Human Rights Act?
- Would the measure negate or limit a budgetary act of the DC Council, or would the measure impermissibly appropriate funds under applicable DC Court of Appeals rules?
- The measure was brought to the Board on July 14, 2020 and published in the D.C. Register on July 31, 2020.
- The initiative was submitted in the proper form.
- The Office of the Attorney General found in its opinion that the measure was not a proper subject of initiative stating in part:
  - The measure was an impermissible law appropriating funds because it impermissibly interferes with the process of allocating revenue among agency activities. It would forbid law enforcement agencies from allocating revenues toward certain purposes such as investigations involving cannabis and cannabis oil. It would also require the District Government to spend funds immediately towards new purposes and programs, like the retraining of canines, the return of seized property, and the creation of a new execution board. In each of these respects, the measure would impermissibly interfere with the management of the financial affairs of the District.
- Proponents of the measure
  - Dawn Lee-Carty, Executive Director of the Modern Day Cannabis Justice Reform
    - The initiative contains four different measures in which there are no plans to use the appropriations of the District’s money for the initiative to be effective.
    - A plan has been devised such that the Modern Day Cannabis Justice Reform can use own cannabis taxpaying money to benefit the District’s client.
    - The Office of the Attorney General's position regarding the initiative was outlined in the July 2019 letter to the FDA with concerns about:
      - Mislabeling of medical cannabis products that were sold at a dispensary.
      - Product safety
      - Mislabeling leading to potential harm
    - Explained how cannabis helped her daughter treat seizures and the dangers of unregulated cannabis.
  - Neill Franklin, Retired major with the Maryland State Police, and Executive Director for the Law Enforcement Action Partnership
    - Imperative that work is diligently done to improve policy community relations including ending stop and frisks relative to cannabis.

- The Modern Day Justice Cannabis Reform Act is necessary for improving public safety.
  - Kyla Hill, Deputy Director of Modern Day Cannabis Justice Reform
    - In 2019, over 83 percent of arrest were people of color.
    - Cannabis prohibition puts a target on minorities and puts citizens at risk when marijuana is used as probable cause.
    - As long as cannabis is prohibited by law, it creates a challenge for banking because financial institutions do not allow people to bank.
    - The Modern Day Cannabis Justice Reform has run into challengers trying to bank as a nonprofit organization for having the word cannabis in our name.
  - Sebastian Medina-Tayac, Director of Impact at Eaton Workshop
    - It is a great historical injustice to criminalize and police communities of color on plant counts while access to this life-saving herbal medicine is being controlled and restricted.
  - Stacey Lewis
    - Explained how cannabis helped cope with personal issues.
  - Brennan Woodson
    - Explained how cannabis helped cope with personal issues.
  - Michael Vidal, Virginia resident
    - Support initiative so the public can safely use marijuana either medically or recreationally.
  - Lorraine Brandy
    - Explained how cannabis has helped her cope with body ailments.
  - Jemilat Cherry
    - Explained how cannabis has helped her cope with body ailments.
  - Tamon Thomas
    - Explained how cannabis has helped him cope with personal issues.
  - Cecilia Porrata
    - Although marijuana is decriminalized it is still illegal and the public are still penalized for possession.
  - Rayson Jacobs
    - Explained how marijuana effected life through adulthood, which would not have been the case if it was legalized.
  - Jay Patrick
    - The District could save time and resources if marijuana was legalized and direct resources to other organizations or programs within the District.
  - Hani Ahmed, Owner of Black Egyptian DC
    - Talked about being arrested for possession of marijuana although he consumes it for medical purposes.
- **Office of the General Counsel Recommendation**
  - The initiative is not a proper subject initiative.

- Under the terms of Title IV of the District of Columbia Home Rule Act, a measure is improper if it is not consistent with the Constitution, the Home Rule Act for any nationally applicable federal law because the initiative power is no broader than the Council's own authority.
  - Due to Congressional interference, the District of Columbia cannot enact any regulatory framework for the sale or taxation of marijuana.
  - The D.C. Council cannot enact legislation that exceeds its own authority.
  - The initiative is improper because it includes provisions such as, any resources currently in use for the purposes of investigating and proposing cannabis and CBD shall instantly be diverted towards violent crimes and murders as well as dogs who were previously trained to detect cannabis will be retrained to detect explosives, weapons of mass destruction and firearms so as to protect our schools, malls, mass gatherings from foreign and domestic terrorism.
  - The initiative that every cannabis user will agree to donate or volunteer the equivalent of four percent of their revenue to the community intrudes upon the discretion of the Council to allocate District government resources in the budget process.
  - The D.C. Council has previously explained in *Hessey v. Board of Elections and Ethics*, the power of the purse, which Congress has delegated to the District government, remains with the elected officials of the District government and is not subject to control by electorates to initiatives.
  - Even if the measure raises new revenues, under the current District laws the proposed initiative is still an improper subject initiative.
- Board is keeping the record open on the petition until the end of day Friday. The Board will wait until all the record is in and then set a hearing for a public vote.

**ADJOURNMENT (4:02 p.m.)**