

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

January 6, 2021

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, January 6, 2020, telephonically. Board Chairman Michael Bennett, Board Member Michael Gill, and Board Member Karyn Greenfield were present. The Board's Executive Director, Alice Miller, the Board's General Counsel, Terri D. Stroud, the Director of the Office of Campaign Finance (OCF) Cecily Collier-Montgomery and the OCF's General Counsel, William SanFord, were also present.

CALL TO ORDER 10: 37 am

ASCERTAINMENT OF QUORUM

- Board Chairman Bennett and Board Members Gill and Greenfield constitute a three-member quorum to conduct business.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the amended agenda and minutes from the last meeting held on December 2, 2020.

BOARD MATTERS

- The Board Chairman acknowledged the state of Georgia's election administration for their successful runoff election in light of record-breaking voter turnout.

OCF DECEMBER 2020 REPORT (DIRECTOR COLLIER-MONTGOMERY)

The OCF continues to operate under a modified status. All services are being 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 also contact the office for instructions concerning the registration process.

- **Fair Elections Program Division (FEP)**

- Authorized Base Amount and Matching Payments
 - As of December 31, 2020, the total sum of \$6,009,449.90 has been disbursed in Base Amount and Matching Payments to the 36 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 November 3, 2020 General Election ("the General Election").
 - During December 2020, the total sum of \$8,105.00 was distributed in matching payments to FEP participating candidates:
 - Friends of Allister Chang on 12/16/20, \$400
 - Christina Henderson on 12/17/20, \$1,780
 - Washington Ward 8 on 12/17/20, \$550
 - Elect Jeanne Lewis on 12/17/20, \$5,050

- Reelect Trayon White 2020 on 12/17/20, \$325
 - There were 20 candidates certified as “participating candidates” in the FEP for the General Election; 12 candidates certified as “participating candidates” in the Primary Election; and 4 candidates certified as “participating candidates” in the Special Election.
 - The following FEP candidates were elected to public office in the General Election and certified as winners by the BOE on December 2, 2020:
 - Christina D. Henderson, At-Large Member of the Council
 - Janeese Lewis George, Ward Four Member of the Council
 - Trayon White, Ward Eight Member of the Council
 - Allister Chang, Ward Two Member of the State Board of Education
 - Frazier O’Leary, Ward Four Member of the State Board of Education
 - Eboni-Rose Thompson, Ward Seven Member of the State Board of Education
 - Carlene D. Reid, Ward Eight Member of the State Board of Education
- **December Desk Reviews and Other Activities**
 - 42 desk reviews of the mandatory December 10, 2020 and amended Reports of Receipts & Expenditures (R&E Reports)
 - 9 Request for Additional Information (RAI) letters were sent.
 - 20 recommendations for remission of funds was forwarded to the OGC on December 2, 2020:
 - The names of the 20 candidates who participated in the General Election will be posted on the OCF website.
- **December Ongoing Audits**
 - Post-Election Audits - Primary Election
 - There are currently ten post-election audits of candidates and committees who participated in the Primary Election of the Campaign Operations of those candidates who did not proceed to the General Election. The audits were initiated on June 19, 2020.
 - The names of the candidates and audit status are posted on the OCF website.
 - Post-Election Audits - Special Election
 - There are four post-election audits of candidates and committees who participated in the Special Election. Those audits were initiated on July 6, 2020.
 - The names of the candidates and audit status are posted on the OCF website.
- **Public Information and Records Management Division (PIRM) – December 2020**
 - December Filing of R&E Reports:
 - Legal Defense Committee (LDC) – 12th R&E Report due December 1st
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report

- 1 certified E-filing
- Principal Campaign Committees (PCCs) & Political Action Committees (PACs) – R&E Report due December 10th
 - 78 required filers
 - 67 timely filers
 - 3 late filers
 - 2 request for extensions
 - 2 extensions granted
 - 7 Failure to file
 - 10 referrals to OGC
 - 70 electronically filed their report
 - 70 certified E-filing
- FEP PCCs – R&E Report due December 10th
 - 42 required filers
 - 30 timely filers
 - 2 late filers
 - 8 request for extensions
 - 8 extensions granted
 - 9 Failure to file
 - 11 referrals to OGC
 - 30 electronically filed their report
 - 30 certified E-filing
- Independent Expenditure Committees – R&E Report due December 10th
 - 3 required filers
 - 2 timely filers
 - 1 late filers
 - 1 referral to OGC
 - 3 electronically filed their report
 - 3 certified E-filing
- Registration of new candidates/committees in December 2020
 - PACs
 - DC Black Democratic Caucus, registered on 12/18/2020
 - Recall Committee
 - Mayor Muriel Bowser Recall Committee, registered on 12/24/2020
- Candidates & Treasurers who have completed the OCF Entrance Conference Presentation for December 2020:
 - Dawn Crawford/Treasurer, The Committee to Elect Mysiki Valentine
 - Lauryn King/Treasurer, Let's Reid 2020

- 21 referrals to the OGC for failure to file the December 10th R&E Report
 - The names of the committees and treasurers are posted on the OCF website.
- **Reports Analysis and Audit Division (RAAD) – December 2020**
 - 95 desk reviews of R&E Reports filed during December
 - 51 reports filed from PACs
 - 37 reports filed from PCCs
 - 22 RFAI letters sent
 - 16 matters were resolved by the audit branch
 - 3 matters were referred to the OGC for enforcement
 - December 2020 Audits Issued
 - Periodic Random Audits – Candidates in the 2020 Election – January 31st filing
 - Friends of Robert White – issued December 17, 2020
 - Veda for Ward 7 – issued December 4, 2020
 - Committee to Elect Rogers for Council – issued December 17, 2020
 - Periodic Random Audits – PACs – January 31st filing
 - Firefighters Committee on Political Activities– issued December 4, 2020
 - Periodic Random Audits – Constituent Service Programs (CSPs) - October 1, 2020 filing
 - Do Something Constituents Fund — issued December 4, 2020

OCF DECEMBER 2020 REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- **Intake/Output Report**
 - 23 referrals were received by the OGC
 - 20 informal hearings were completed
 - 20 orders were issued
 - 12 orders issued in which no fines were imposed
 - 7 orders issued in which fines totaling \$12,200 were imposed
 - 1 order issued which vacated a Notice of Hearing and Statement of Violations.
 - Fines totaling \$12,200 were imposed against the following:
 - Vote Fria Moore 2020, \$1,800.00
 - DC Dental PAC, \$1,600.00
 - Fred for Ward 8, \$1,800.00
 - Ivan Floyd for US Rep., \$1,800.00
 - Committee to Elect Perry Redd, \$1,800.00
 - Seniors United PAC, \$1,600.00

- Edwards for Ward 4, \$1,800.00
- **Open Investigations:**
 - NONE
- **Interpretative Opinions**
 - NONE
- **No Show Cause Proceedings**
 - NONE

BOE EXECUTIVE DIRECTOR’S DECEMBER 2020 REPORT (EXECUTIVE DIRECTOR MILLER)

- On December 2, 2020, the BOE certified the General Election, and certification results were sent to the Secretary for the District of Columbia and Mayor Bowser.
- On December 14, 2020, the certification results were sent from the BOE to the President of the Senate and Congress, which completed the Board’s General Election certification process by mid-December.
- Poll Worker Payments
 - Poll worker checks were mailed out in early December.
 - 5,057 checks have been mailed to workers using information on file with the BOE, which is forwarded to the Office of Finance and Resources Management (OFRM), which processes payments.
 - Checks were processed on December 4th, 11th, and 17th.
 - On December 21st, the BOE was notified by the OFRM there was a processing error with some election worker payments.
 - There were 337 election workers who were overpaid, and 339 workers who were underpaid.
 - BOE staff contacted workers who were issued incorrect checks, notifying them of the issue and that the OFRM was working to correct payments.
 - Stop payments were placed on checks issued to overpaid workers, and 339 supplemental checks were issued to underpaid workers.
 - The OFRM has taken responsibility for mix-ups regarding payments.
 - Batches of new checks were issued on December 11th.
 - OFRM notified the BOE that as of January 4th, all checks have been reissued.
 - The BOE finds it unacceptable that election workers had to encounter any challenges regarding their payments.
 - The Board thanked Executive Director Miller and Board staff for advocating and serving as a resource for the election workers as OFRM works to address the problems caused by its processing errors.
- The Council recently passed legislation granting incarcerated felons the right to vote

- The Board issued 513 ballots to federal prisoners and received 248 back for processing.
 - Locally, the Board sent 401 ballots to voters incarcerated for felonies in DC, and received 333 back for processing.
- There were 57 participating senior buildings the BOE worked with for seniors to receive their ballots in-person.
 - 1,200 ballots were hand collected over a one-week period by BOE staff and Ward Coordinators.
- The BOE received 828 student applications to work with the election worker division during the General Election, and to assist with poll worker's processes.

BOE OGC DECEMBER 2020 REPORT (GENERAL COUNSEL STROUD)

- **Issuance and Formal Adoption of a Petition to Samuel Troper for the Proposed Recall of Muriel Bowser, Mayor of the District of Columbia**
 - Pursuant to DC Code 1-1001.17(e), the Board must approve a recall petition form before it can be circulated. The Board is required to prepare and provide to the proponent an original petition form at a public meeting, which the proponent must formally adopt as their own.
 - Adoption of the petition starts the 180-day period during which the proponent must collect signatures in support of the petition for the measure to be placed on the ballot.
 - Current law states that a recall petition must be circulated in-person.
 - During the 2020 election cycle, legislation was in place that allowed for electronic circulation of initiative, referendum, and nominating petitions, but such legislation was not in place for recall petitions.
 - BOE staff notified the Council as to the status of the law so that it could take action with respect to the law if they so choose
 - The Proponent was not aware that the law does not pertain to recall petitions and requested a delayed issuance of the petition and adoption until communication has been made with the Council to learn their intention to adopt a law for recall petitions or not.
 - Precedent is in place for delay of the BOE issuance of a form, as in the matter of Initiative 81 (Entheogenic Plants and Fungus Measure 2020).
 - **BOARD ACTION:** Unanimously approved Motion for a delayed issuance of the recall petition per the General Counsel's recommendation.
- **Litigation Status**
 - **Hammond et al. v. D.C. Board of Elections**
 - **Robin Marlin v. the D.C. Board of Elections**
 - This consolidate matter is comprised of appeals of Board Orders 19-32 and 19-33, which upheld the resolutions issued by ANC 7B that found that no vacancies existed in the offices of Advisory Neighborhood Commissioner for ANC SMDs 7B04 and 7B05.
 - The matter has been fully briefed, and we are awaiting the Court's decision.

- **Alliance Party, et al v. D.C. Board of Elections**
 - This matter involves a complaint that sought to preclude the Board from enforcing the August 5, 2020 deadline to file nominating petitions against independent and third-party candidates for the Office of President.
 - The Board was represented by the Office of the Attorney General (OAG).
 - On November 5, 2020, the OAG filed a motion to dismiss, and that motion was granted on December 7, 2020.

- **Henderson v. D.C. Board of Elections**
 - The petitioner seeks review by the D.C. Court of Appeals regarding the outcome of the ANC SMD 5D05 contest.
 - This matter was filed on December 9, 2020.
 - On December 15, 2020, the Board filed a motion to dismiss for failure to state a claim upon which relief can be granted.
 - On December 22, 2020, the motion was held in abeyance by the Court due to petitioner's failure to pay petitioner's filing fee, or alternatively to file a motion *in forma pauperis*.
 - On December 23, 2020, Ms. Henderson filed an opposition to the Board's motion, and on December 29, 2020, she filed a motion *in forma pauperis*.
 - The Board is currently awaiting the Court's decision.

PUBLIC MATTERS

- NONE

ADJOURNMENT (11:22 am)