

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

July 8, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting telephonically on Wednesday, July 8, 2020, telephonically. Board Chairman Michael Bennett, Board Member Michael Gill, and Board Member Karyn Greenfield were present. The Board's Executive Director, Alice Miller, the Board's General Counsel, Terri D. Stroud, and the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, were also present.

CALL TO ORDER (10:33 a.m.)

ASCERTAINMENT OF QUORUM

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

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on June 17, 2020.

BOARD MATTERS

- The Board is appreciative of all the work done addressing community issues and concerns since the last Board meeting in preparation for the November election.

OCF JUNE 2020 REPORT (DIRECTOR CECILY COLLIER-MONTGOMERY)

- OCF continues to operate under a modified status; 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 June 30, \$2,583,924 has been disbursed in Base Amount and Matching Payments to 22 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).
 - 21 candidates are currently registered for the General Election, and six of these candidates are certified as participating candidates.
 - 11 of 12 candidates certified as participating candidates in the Primary Election achieved ballot access. Nine of the 11 candidates were defeated, and will not continue to the General Election.

- Four candidates certified as participating candidates in the Special Election were defeated in the election.
 - During June 2020, \$96,067.65 was distributed in actual payments to the 18 FEP candidates listed in the stats on the OCF website.
 - As of June 23, 2020, the Ed Lazere for DC Council At-Large Principal Campaign Committee (PCC) has reached and received the maximum allowable cap of \$308,639 for matching payments for qualified small-dollar contributions for participating candidates for the public office of at-large Member of the Council during the 2020 election cycle.
 - Even though the candidate has reached the maximum allowable cap for matching payments, he is still allowed to continue collecting qualified small-dollar contributions, and a small-dollar contribution from non-residents of the District of Columbia.
- Desk Reviews and Other Activities
 - 59 desk reviews of Reports of Receipts and Expenditures (R & E Reports) were conducted in June 2020.
 - 14 Requests for Additional Information (RFAIs) were sent.
 - Status Reports Issued
 - Eight status reports were issued to candidates seeking certification in the FEP who have not met the threshold requirements.
 - On June 3, recommendations and orders denying certification as a participating candidate in the FEP were issued to the following candidates:
 - Fria Moore, Vote Fria Moore 2020 PCC
 - Danielle Platt, Danielle Platt for Ward 8 PCC
 - Daniel Hernandez, Daniel Hernandez for Ward 2 PCC
 - Clayton Aristotle Rosenberg, Rosenberg 2020 PCC
 - On June 18, 2020, FEP forwarded to the OCF Office of the General Counsel (OCF OGC) recommendations to remit funds by a participating candidate in the FEP in the Primary Election for the following PCCs:
 - Kelvin Brown for D.C. Council, Ward 7
 - Green for Ward 7
 - Evans 2020
 - Yilin for Ward 2
 - Patrick Kennedy for Ward 2
 - Mike for Ward 8
 - Kishan for D.C. 2020
 - Jordan Grossman for Ward 2
 - John Fanning for Ward 2
 - Elect Renee Bowser
 - ✓ To remit funds is consistent with Fair Elections Act (FEA) requirements, which require unsuccessful candidates in the

primary election to remit any remaining funds in their campaign account to OCF within 60 days of the conduct of the election. It also requires the donation of any equipment valued at \$50 or more, purchased with campaign funds, to an organized charity or non-profit.

- On June 19, the FEP issued a notice of the initiation of full-field audits to the following PCCs that participated in the Primary Election:
 - Kelvin Brown for D.C. Council, Ward 7
 - Green for Ward 7
 - Evans 2020
 - Yilin for Ward 2
 - Patrick Kennedy for Ward 2
 - Mike for Ward 8
 - Kishan for D.C. 2020
 - Jordan Grossman for Ward 2
 - John Fanning for Ward 2
 - Elect Renee Bowser
 - ✓ OCF policies, rules, and statutes state that, at the end of the election cycle for candidates who participated, the agency will conduct full-fields audits of those campaign operations that received public funds.
- On June 30, the FEP forwarded to the OCF OGC recommendations for the remission of funds by participating candidates who participated in the Special Election for the following candidates:
 - Kishan Putta, Kishan Putta for Ward 2 Special Election 2020
 - John Fanning, John Fanning for Ward 2 Special Election 2020
 - Jordan Grossman, Jordan Grossman for Ward 2 Special Election
 - Patrick Kennedy, Patrick Kennedy for Ward 2 Special Election
 - ✓ The FEA requires that unsuccessful participating candidates in the Special Election remit campaign account remaining funds to the OCF within 60 days of the election, and donate any equipment purchased with campaign funds to a non-profit.
- **Public Information and Records Management Division (PIRM)**
 - R&E Report for FEP Principal Campaign Committees (PCCs), due June 10
 - 32 required filers
 - 28 timely filers (all filed electronically)
 - Two requests for extensions, which were granted
 - Four failures to file
 - Two committees referred to OGC

- R&E Report for PCCs & Political Action Committees (PAC), due June 10
 - 69 required filers
 - 59 timely filers
 - Two late filers
 - Two requests for extensions, which were granted
 - Eight failures to file
 - Ten committees referred to OGC

- Seventh R&E Report for Legal Defense Committees, due June 1
 - One required filer

- R&E for Independent Expenditure Committees, due June 10
 - Three required filers

- Nine new Candidates and Committees in June
 - Six Traditional Campaign Finance Candidates (TCFP):
 - Jacque Patterson, Jacque for D.C. At-Large State Board of Education, registered June 12
 - Nelson Jackson, Independent Campaign for Nelson Jackson, Ward 8 City Council, registered June 14
 - Alexander Padro, Committee to Elect Alex Padro At-large City Council, registered June 17
 - Le'Troy Murphy, At-large State Board of Education, registered June 22
 - Frederick Hill, Fred for Ward 8, Ward 8 City Council, registered June 24
 - Cornelia Weiss, U.S. Senate, registered June 25
 - Three FEP Candidates
 - Frazier O'Leary, Frazier for Ward 4 State Board of Education, registered June 17
 - Martin Fernandez, Martin for Ward 2 City Council, registered June 17
 - Vincent Orange, Vincent Orange 2020 At-Large City Council, registered June 22

- Referrals to OCF OGC
 - There were 12 referrals to the OCF OGC for failure to file the June 10 R & E Report; the details of such referrals will be listed in the stats on the OCF website.

- Six candidates & treasurers completed the OCF mandatory entrance conference presentation:
 - Hugh Broadus, Treasurer, D.C. for Democracy

- Milton Hardy, Candidate, Ward 7 D.C. Republican Committee
 - Daniel Moskowitz, Treasurer, Karl Racine 2022
 - Karl Racine 2020, Karl Racine, Candidate, Attorney General
 - Perry Redd, Candidate, Ward 4 City Council
 - Fred Hill, Candidate, Fred Hill Ward 8
- **REPORTS ANALYSIS AND AUDIT DIVISION (RAAD)**
 - 95 desk reviews of R & E Reports were conducted
 - 26 RFAIs were issued
 - Ongoing Audits
 - Full Field Audit
 - Jack Evans Legal Defense Fund – Response to the Preliminary Draft Audit Report, received on May 27
 - Periodic Random Audits – Candidates in the Upcoming 2020 Election – January 31 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
 - DC Libertarian Party – initiated March 2
 - Firefighters Committee on Political Activities – initiated March 2
 - Periodic Random Audits – Constituent Service Programs (CSPs), due April 1
 - Mayor Browser’s CSP, initiated June 30
 - Our Ward 5 CSP, initiated July 1
 - Ward 4 CSP, extension was granted until July 30
 - No final audit reports were issued during June 2020
- **OFFICE OF THE GENERAL COUNSEL**
 - OFC received 22 referrals.
 - One informal hearing was conducted, which resulted in the imposition of a \$550 fine against the DC Chamber of Commerce for failure to timely file.
 - On June 30, an order was issued requiring former candidate Renee Bowser’s PCC to remit all remaining FEP funds and donate equipment purchased by the committee valued at \$50 or more to a non-profit pursuant to the FEA.
 - Open Investigations:
 - Complainant: The Committee to Hold Jack Evans Accountable, Adam Eidinger, Chairman, received February 3

- Respondent: DC Legal Defense Committee for Jack Evans
- Allegations: Unlawful use of a Legal Defense Committee
- Status: Referred to RAAD; will be referred back to the OGC.

- Complainant: Jennie Malloy, received May 19
 - Respondent: Karl Racine for Attorney General 2018 Principal Campaign Committee
 - Allegations: Inappropriate use of campaign funds
 - Status: Pending

- Complainant: Jennie Malloy, received May 19
 - Respondent: Ed Lazere for DC Principal Campaign Committee
 - Allegations: Inappropriate use of FEP funds
 - Status: Pending

- Complainant: Chuck Thies, received May 28
 - Respondent: Anthony Lorenzo Green, candidate for Ward Seven Council
 - Allegations: Inappropriate use of a government resource
 - Status: Pending

- Complainant: Laura Wolfe, received June 12
 - Respondent: Brooke Pinto
 - Allegations: Failure to report excessive contributions
 - Status: Pending
- No request for Interpretative Opinions were received in June 2020.
- No show cause proceedings were conducted in June 2020.

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

- BOE is currently working towards needs associated with the General Election.
 - We are focusing on establishing possibly ten Super Vote Centers that would allow for a larger capacity of voters for processing.
 - Reached out to Events DC for location assistance
 - ✓ The Convention Center is unavailable because it is currently operating as a treatment site related to COVID-19
 - ✓ The DC Armory is unavailable because it is presently in use by the National Guard
- A minimum of 40 Vote Centers and Super Vote Centers will be utilized for the November Election.
- We are working to identify a mail house vendor that will send a ballot to every voter for the General Election with updated barcode tracking information for incoming and outgoing mail.

- Postcards will be sent in advance of the General Election allowing voters to update mailing information as to where they would like ballot sent.
- We have procured additional equipment needed for the General Election, including 90 ballot-on-demand printers and a larger-capacity mail ballot sorter
- BOE staff is still working remotely, with current operations allowing for no more than 17 staff members on site under the current modified plan.
- BOE's Office of the Registrar is allowing registered voters, via appointment, to come in and fill out their candidate nominating petitions and go through the petition process if they are unable to do so remotely.
- We are currently having outreach meetings with community members, ANCs, members of various parties, and advocates to solicit their suggestions for the General Election.
- We are working to recruit around 4,000 poll workers for the November election.
 - Poll worker training is scheduled to start in early August; people interested in serving as poll workers can contact the BOE office at 202-727-2525, or online at www.dcboe.org

BOE OGC JUNE 2020 REPORT (GENERAL COUNSEL STROUD)

- **Litigation Status**
 - **William v. Hunt. v. 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, which was beyond the 30-day period for appeals specified in the 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 subsequently 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.
 - We are awaiting the court's decision in this matter.
 - **Graham v. D.C. Board of Elections**
 - This matter involves the Board's appeal of a permanent injunction that was entered by the D.C. Superior Court on December 12, 2018 prohibiting the Board from taking any action on the Referendum 008 petition.
 - All pleadings in this matter have been filed. A date for oral argument had been set for April 21, but due to the public health emergency, all oral arguments in the DC Court of Appeals have been either cancelled or postponed.
 - The court will decide this matter without oral argument on the pleadings.

- **Hammond v. D.C. Board of Elections**
 - This is an appeal of Board Order 19-32, which upheld the resolution issued by ANC 7B that found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B04.
 - On September 6, 2019, the DC Court of Appeals consolidated this case with *Robin Marlin v. the D.C. Board of Elections* (see below).
 - On October 9, 2019, the court issued a briefing schedule ordering the Appellants to file the appendix and their brief on November 18, 2019, and the Board to file its response on December 18, 2019. The Appellants filed their briefs on December 16, 2019, and their appendix on March 4.
 - We are awaiting the court's decision in this matter.

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

- **Carnecia Robinson v. the D.C. Board of Elections**
 - This matter, which was filed on May 21 in D.C.'s federal district court, stemmed from a complaint for declarative relief alleging that the Board's placement of the three Ward 8 Vote Centers and its alleged failure to conduct targeted outreach for Ward 8 residents constituted a violation of section 2 of the Voting Rights Act.
 - On June 30, the parties filed a joint motion to dismiss with prejudice; the motion was granted same day.

PUBLIC MATTERS

- Dorothy Brizill
 - Inquired as to the status of the BOE office reopening.
 - The Executive Director responded that the DC government is in Phase Two of the Mayor's program for reopening, which requires a slow phasing back into normal capacity. We are currently at 50% capacity, so that no more than 17 employees are allowed on site at a time to accommodate proper social distancing.
 - Inquired as to the status of BOE investigation into the issues that arose with the Primary Election and the status of complaints that were filed in connection with the Primary Election.
 - General Counsel Stroud responded that no formal complaints were filed, and that the Board has responded to concerns raised by voters regarding the Primary Election. Ms. Stroud also indicated that the Board would issue an after-action report for the Primary Election by August 31.

- Cherita Whiting
 - Expressed frustration with BOE's lack of response regarding her problems reported at the Ida B. Wells Vote Center during the Primary Election.

- The Board's Senior Policy Advisor, Monica Evans, said that she provided a response to Ms. Whiting based upon the information the Board had at the time that it was able to confirm.
- Michael Sindram
 - Inquired about when there would be a resolution regarding the complaint against Karl Racine which alleged inappropriate use of campaign funds.
 - OCF General Counsel SanFord responded that the investigation regarding Mr. Racine must be completed on or before August 18.
 - Expressed disappointment that the DC Armory is unavailable for use as a Vote Center for the General Election.

ADJOURNMENT (11:38 a.m.)