

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

April 1, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, April 1, 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 Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, and the Board's General Counsel, Terri D. Stroud, were also present.

CALL TO ORDER (10:31 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 March 12, 2020.

BOARD MATTERS

- Consistent with Mayor Muriel Bowser's stay-at-home order, the Board and OCF are only operating with essential personnel working on-site and other staff members working remotely.
- The Board held a press conference with Mayor Bowser, Council Chairman Phil Mendelson, and Councilmember Charles Allen to detail the Board's plan for the election.
 - The plan includes using Vote Centers and advertising the use of absentee voting.
 - Executive Director Miller will provide further details during her report.

OCF APRIL 2020 REPORT (DIRECTOR COLLIER-MONTGOMERY)

- **OCF is operating under modified status due to the public health emergency**
 - All services are provided remotely via email and/or telephonically.
 - The telephone number is 202-671-0547, and the public can speak directly with Mr. Wesley Williams, the Public Affairs Manager.
 - Candidates seeking to register can contact the office for instructions.
 - OCF is requesting that candidates and treasurers familiarize themselves with the training tutorials and brochures on OCF's website because in-person training is infeasible.
- **Candidate and Committee Filing Deadlines for the Traditional Campaign Finance Program (TCFP)**
 - Tuesday, May 26, 2020 – Eight-day Pre-primary Report of Receipts and Expenditures (R & E Report).
 - Wednesday, June 10, 2020 - Primary and Special Election R & E Report.

- **OCF Website Published Notices**
 - Updated list of the registered candidates in the Traditional Campaign Finance Program (TCFP) and the Fair Election Program (FEP)
- **Fair Elections Program (FEP)**
 - FEP Report Due Dates are on April 10, 2020 and May 11, 2020
 - The next optional filing deadline for FEP candidates is Thursday, April 30
 - The FEP contract for development of Phase Two of the electronic filing system was awarded on March 13, 2020
 - 43 candidates are registered in the FEP as of this date.
 - 16 certified as participating candidates in the primary and general elections
 - 3 certified as participating candidates in the special election
 - Ed Lazere for DC Council At-Large registered on March 17 as a general election candidate
 - Five certifications in March:
 - Primary Election:
 - Kelvin Brown for DC Council Ward 7, certified March 16, 2020
 - Re-elect Trayon White 2020, certified March 16, 2020
 - Evans for DC 2020, certified March 19, 2020
 - General Election:
 - Will Merrifield for DC, certified March 19, 2020
 - Special Election:
 - Patrick Kennedy for Ward 2, certified March 19, 2020
 - OCF issued nine status reports to candidates seeking certification in the FEP who have not met the threshold requirements
 - OCF issued five Notices of Denial/Deficiencies for FEP
 - OCF distributed \$776,427.50 in various amounts and matching payments during March
 - Specifics regarding individual distributions are posted at the OCF website
- **Traditional Campaign Finance Program (TCFP)**
 - 23 registered candidates in primary election
 - Three registered candidates in general election
 - Two registered candidates in special election
 - 17 candidates registered and claimed the \$500 exemption
- **FEP Statistics**
 - 55 R & E Reports were reviewed
 - Nine requests for additional information were issued
 - As of March 24, a total sum of \$1,349,690 has been disbursed in base amounts and matching payments to 19 candidates certified in the FEP
- **Public Information and Records Management (PIRM)**
 - February/March Filings:

- **Reports Analysis and Audit Division (RAAD)**
 - Conducted 78 desk reviews
 - Issued 8 requests for additional information
 - Referred 2 cases to the OCF OGC
 - One Ongoing Full Field Audit:
 - DC Legal Defense Fund for Jack Evans
 - The field work commenced upon receipt of additional documents requested March 11, 2020
 - Five Periodic Random Audits (Candidates):
 - Re-elect Brandon Todd 2020 campaign, initiated September 4, 2019
 - Audit complete and under review
 - Friends of Robert White
 - Audit records received March 16
 - Veda for Ward 7, initiated March 2
 - Richard Campbell, Ward 8 City Council
 - Audit complete and under review
 - Committee to Elect Rogers for Council, initiated March 2
 - Four Periodic Random Audits (PACs January 31 Filings):
 - Verizon Communications Inc. Good Government Club PAC, initiated March 2
 - DC Libertarian Party, initiated March 2
 - Firefighter's Committee on Political Activities, initiated March 2
 - Greater Washington Board of Trade
 - Audit is complete and is under review

EXECUTIVE DIRECTOR'S APRIL 2020 REPORT (EXECUTIVE DIRECTOR MILLER)

- **Executive Director Miller acknowledged Board staff for their hard work during the public health emergency.**
- **Absentee Mail-In Ballot**
 - Voters can request a ballot for any reason
 - When an absentee ballot request is received, it will be processed, and the ballots will be mailed on a rolling basis to the individuals' requested destinations
 - If a ballot is not received once requested or is damaged or lost, a replacement ballot can be requested, and the Board will send it to the voter
 - Ballots are anticipated to be received from the printer between April 20 and April 25
- **Methods of Obtaining a Ballot**
 - BOE website – print, fill-out, sign, and mail-in application
 - Mobile app – sign without printing
 - Voter Guide – contains two applications, along with a postage prepaid envelope to return it; goes out the first week of May

- At BOE office or any of 20 voting centers, which will operate each day from May 22 through – June 2 (except Memorial Day) from 8:30am to 7pm.
- **Primary Election Vote Center Locations**
 - Ward 1- Two locations
 - Columbia Heights Community Center
 - Prince Hall Center for the Performing Arts
 - Ward 2 – Two Locations
 - One Judiciary Square
 - Hardy Middle School
 - Ward 3 – Two Locations
 - Murch Elementary School
 - Oyster Bilingual School
 - Ward 4 – Three Locations
 - Coolidge High School
 - Emery Heights Community Center
 - Raymond Recreation Center
 - Ward 5 – Two Locations
 - Turkey Thicket Recreation Center
 - McKinley Tech High School
 - Ward 6 – Three Locations
 - King Greenleaf Recreation Center
 - Sherwood Recreation Center
 - Kennedy Recreation Center
 - Ward 7 – Three Locations
 - Deanwood Recreation Center
 - Benning Stoddert Community Center
 - Hillcrest Recreation Center
 - Ward 8 – Three Locations
 - Malcolm X Opportunity Center
 - Barry Farms Recreation Center
 - Anacostia High School
- **Ward 2 Special Election Vote Center Locations (June 12th – June 16th)**
 - One Judiciary Square
 - Hardy Middle School

BOE OGC APRIL 2020 REPORT (GENERAL COUNSEL STROUD)

- **Litigation Status**
 - **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 Referendum 8.

- All pleadings in this matter have been filed and a date for oral argument had been set for April 21, 2020. However, 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, upholding the resolution issued by ANC 7B which found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B04. On September 6th, the Court of Appeals consolidated this case with **Robin Marlin v. the D.C. Board of Elections** (see below). On October 9, 2019, the Court issued a briefing schedule ordering the Appellants to file the appendix and their brief on November 18th, and the Board to file its response on December 18th in both of these matters. The Appellants filed their briefs on December 16, and their appendix on March 4th.
 - BOE will respond electronically by April 5th.
 - **Marlin v. D.C. Board of Elections**
 - This is an appeal of Board Order 19-33, upholding the resolution issued by ANC 7B which found no vacancy in the office of Advisory Neighborhood Commissioner for ANC SMD 7B05.

PUBLIC MATTERS

- **Dorothy Brizill**
 - Asked Executive Director Miller to identify additional staff added to BOE and steps taken to fill vacancies now and in the future.
 - No new staff has been hired since the Board's Council hearing on February 12th.
 - Asked if BOE Executive Director decided to contract out IT services.
 - IT services are not being contracted out at this point.
 - No qualified applicants applied for the IT position the Board advertised.
 - Cyber-security issues are being addressed in conjunction with partners on the federal level and in-house staff.
- **Sandra Seegars**
 - Asked if a handwriting expert could be contracted out for 30 days during nominating petition challenge period.
 - Expert will not be contracted out.
 - Computer systems used by the public during challenge period are missing voter signatures. Would like systems to be updated and to allow for public access.
- **Robert Brannum**
 - Complained about the Board's handling of the challenge he filed to Bernie Sanders' petition filed in support of his candidacy in the Democratic presidential preference primary election

- Alleges that his challenge, which was filed on grounds that Sanders is not a Democrat, was handled differently than other ballot access petition challenges, specifically the one filed by Tori Whitney Fernandez against Eleanor Holmes Norton
 - General Counsel Stroud distinguished Mr. Brannum’s challenge from the others by noting that the latter involved challenges to nominating petitions, while Mr. Brannum’s did not. (Mr. Sanders filed a ballot access fee in accordance with the Democratic Party’s plan for presidential nominee ballot access.)
- **Michael Sindram**
 - Complained of having trouble getting through to the meeting’s public call-in number.
 - Requested that the Board send a letter on his behalf to Chief Judge Anna Blackburne-Rigsby so that he could access the DC Courts of Appeals for research purposes. Chairman Bennett declined this offer.
- **Michelle Whittaker**
 - Asked when the public would be informed of the voting centers in their wards, and what was being done to ensure the public has access to vote.
 - The locations were announced earlier during Executive Director Miller’s report, a list will be published on the Board’s website, and there will be a continuous media blitz between now and the June 2nd and June 16th elections.
 - All of the voting centers are accessible, voters may receive and utilize assistance with their absentee ballots, and individuals with disabilities will be able to access the voting centers or curbside voting.
- **Fred Hill**
 - Questioned why he received a letter congratulating him on achieving ballot access before the challenge period ended.

NOMINATING PETITION CHALLENGES

- **Tori Fernandez Whitney vs. Eleanor Holmes Norton**
 - The Registrar read her report on the challenge into the record, which included the procedural history of the challenge, and her preliminary determination that the petition had the requisite number of signatures for ballot access (2,000 needed, 2,912 collected, 2,796 valid signatures post-challenge).
 - Mrs. Fernandez Whitney alleged the Registrar did not adequately review her challenge and submitted evidence in support of that assertion. She claimed that eliminating the petitions she deemed tainted would reduce Norton’s valid signature count to only 526 signatures.
 - Norton claimed that the challenge was repetitive and that the Board had previously ruled that the challenged signatures were genuine.

- **Sandra Seegars v. Frederick Hill**
 - The Registrar read her report on the challenge into the record, which included the procedural history of the challenge, and her preliminary determination that the petition did not have the requisite number of signatures for ballot access (250 needed, 283 collected, 167 valid signatures post-challenge).
 - Mr. Hill objected to the Board's process, claiming that he received a congratulatory letter dated March 9 after the challenge period ended, that he was not afforded due process from the BOE because he received the Registrar's preliminary determination on the 10th day, and that the Board's voter registry is incomplete and doesn't have accurate signatures. He also requested additional time to cure signatures in light of the public health emergency.
 - In response, the Board stated that Mr. Hill received notice of the challenge and the Registrar's preliminary determination on March 16, the day after the pre-hearing conference on March 26, which was initially to be in person, but was instead conducted by teleconference in light of the public health emergency. The Board and Ms. Seegars also noted that even if Mr. Hill cured all signatures capable of curing, he still would not have enough signatures to obtain ballot access.

- **Absalom Jordan v. Frederick Hill**
 - Conducted ex parte as Absalom Jordan was not present.
 - The Registrar read her report on the challenge into the record, which included the procedural history of the challenge, and her preliminary determination that the petition did not have the requisite number of signatures for ballot access (250 needed, 283 collected, 240 valid signatures post-challenge).
 - Mr. Hill alleged that he was not afforded due process, that the Board's voter registry was not accurate, and that the Mayor's solicitation ban left no way to cure his petition.

- **Morgan Finkelstein v. Daniel Hernandez**
 - The Registrar read her report on the challenge into the record, which included the procedural history of the challenge, and her preliminary determination that the petition had the requisite number of signatures for ballot access (250 needed, 303 collected, 250 valid signatures post-challenge).
 - Ms. Finkelstein stated that a petition sheet with 20 signatures was not posted and created an unfair process where the public was not able to weigh in on those signatures. She stated that many errors were committed by the Board and Mr. Hernandez, who submitted a petition on which over 15% of the signatures were invalid.

- Mr. Hernandez noted that the Board reviewed the signatures on the petition sheet that wasn't posted and found that 17 of the 20 signatures on that petition sheet were valid.
- **Amos Cheeseboro v. Susana Baranano**
 - Adeoye Ibrahim Yakugu Owolewa represented Amos Cheeseboro, who was not present, and James Bubar represented Susana Baranano.
 - The Registrar read her report on the challenge into the record, which included the procedural history of the challenge, and her preliminary determination that the petition did not have the requisite number of signatures for ballot access (2,000 needed, 2,109 collected, 1,833 valid signatures post-challenge).
 - Mr. Bubar disputed the Registrar's findings, asserting that 205 of the challenges upheld were wrongly decided. He also requested additional time to cure signatures (citing a DC Superior Court Order that the Board noted was inapplicable to the instant matter), and challenged the invalidation of signatures on the grounds that the signer was an inactive voter. He also challenged Mr. Owolewa's eligibility to be a candidate in the contest because the Registrar had invalidated Mr. Owolewa's signature on Ms. Baranano's petition on the ground that he was not a registered voter in the District of Columbia.
 - Mr. Owolewa stated that the address he provided on his candidacy forms is reflected on his driver's license and registration.

EXECUTIVE SESSION

RESUMPTION OF PUBLIC MEETING

- **Board Actions**
 - **Accepted written report from OCF OGC**
 - **Ruling on nominating petition challenges**
 - **Tori Fernandez Whitney vs. Eleanor Holmes Norton**
 - Challenge Denied
 - **Sandra Seegars v. Frederick Hill**
 - Challenge Upheld
 - **Absalom Jordan v. Frederick Hill**
 - Challenge Upheld
 - **Morgan Finkelstein v. Daniel Hernandez**
 - Challenge Denied
 - **Amos Cheeseboro v. Susana Baranano**
 - Challenge Upheld

ADJOURNMENT (1:38 p.m.)