

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

August 5, 2020

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, August 5, 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 General Counsel for OCF, William Sanford, were also present.

CALL TO ORDER (10:38 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 July 8, 2020.

BOARD MATTERS

- No Board Matters

OCF JULY 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 also contact the office for instructions concerning the registration process.
- Under the Fair Elections Act (FEA), OCF has the responsibility to conduct at least one debate in each contested citywide race. The debate process requires all certified participating candidates in the Fair Elections Program (FEP) to participate in the debate. Additionally, any candidates in the traditional campaign finance program (TCFP) who has qualified for ballot access may participate in the debate.
- The debate will be scheduled before the beginning of the in-person early voting period.
- There are currently two city-wide elections with the potential for debate:
 - Members of the Council elected at-large
 - Eight certified candidates in the FEP required to participate in debate
 - 13 candidates have registered in the TCFP
 - At-Large Member of the State Board of Education
 - Two FEP candidates seeking certification
 - Four candidates are registered in the TCFP

- The OCF is currently in the process of soliciting a public relations firm for assistance with the development of the debate process, along with publicity campaigns that will provide the public with information surrounding the debate. The debates would be held in a virtual format.

- **FEP Division**
 - Authorized Base Amount and Matching Payments
 - As of July 31, 2020, the total sum of \$2,864,679.35 has been disbursed in Base Amount and Matching Payments to 27 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).
 - The figure represents the total amount of public funds that has been disbursed since the implementation of the FEP.
 - 29 candidates are currently registered for the General Election, and 11 of these candidates are certified as participating candidates.
 - 12 candidates were certified as participating candidates in the Primary Election, and ten of the 11 candidates who achieved ballot access were defeated and will not continue to participate in the General Election.
 - Four candidates certified as participating candidates in the Special Election were defeated.
 - During July 2020, the total sum of \$298,755.35 was distributed in Base and Matching Payments to the following FEP participating candidates:
 - Chander for Council on July 1, 2020
 - \$375 in matching payments
 - Committee to Elect Jeanné Lewis on July 1, 2020
 - \$20,000 in base amount
 - \$65,330 in matching payments
 - Franklin Garcia for DC 2020 on July 7, 2020
 - \$20,000 in base amount
 - \$67,785 in matching payments
 - Monica Palacio for City Council on July 7, 2020
 - \$20,000 in base amount
 - \$66,205 in matching payments
 - \$4,250 in matching payments
 - Friends of Christina Henderson on July 17, 2020
 - \$16,810.35 in matching payments
 - Chander Jayaraman on July 17, 2020
 - \$500 in matching payments
 - Frazier for Ward 4 on July 28, 2020
 - \$6,700 in matching payments
 - Elect Karen for 7 SBOE 2020 on July 28, 2020
 - \$5,800 in matching payments
 - \$5,000 in matching payments
 - FEP Certifications

- The following five candidates were certified as participating candidates for the General Election:
 - Jeanné L. Lewis, Committee to Elect Jeanné Lewis for City Council, certified on July 1
 - Franklin Garcia, Franklin for DC 2020, certified on July 7
 - Monica Palacio, Monica Palacio for City Council, certified on July 7
 - Frazier Lewis O’Leary, Frazier for Ward 4, certified on July 28
 - Karen L. Williams, Karen for 7 SBOE 2020, certified on July 28
 - August 5 was the deadline for meeting threshold requirements for participation in the FEP for the General Election.
 - Desk Reviews and Other Activities
 - 31 desk reviews of Reports of Receipts and Expenditures (R&E Reports) were conducted in July 2020.
 - 16 Requests for Additional Information (RFAIs) were sent.
 - Status Reports Issued
 - Ten status reports were issued to candidates seeking certification in the FEP who have not met the threshold requirements
 - On July 6, 2020, the FEP issued Post Election Cycle Audit Letters to the following Principal Campaign Committees (PCCs) who organized in support of participating candidates in the June 16, 2020 Special Election:
 - Fanning for Ward 2 Special Election
 - Jordan Grossman for Ward 2 Special Election
 - Patrick Kennedy for Ward 2 Special Election
 - Kishan for Ward 2 Special Election 2020
- **Public Information and Records Management Division (PIRM)**
 - Filing in July 2020:
 - July 1st Report of Receipts and Expenditures (R&E Reports) due for Constituent Service Programs
 - Nine required filers
 - Nine timely filers
 - Two requests for extension, which were granted
 - All candidates electronically filed their report
 - July 1st R&E Reports due for Senator/Representative Statehood Funds
 - Three required filers
 - Three timely filers
 - All candidates electronically filed their report
 - July 10th Optional R&E Reports for FEP PCCs

- Nine timely filers
- All candidates electronically filed their report
- July 31st R&E Reports for PCCs & Political Action Committees (PAC)
 - 52 required filers
 - 26 timely filers
 - All candidates electronically filed their report
 - OCF currently reviewing number of filers who will be referred to the OGC for failure to file R&E Reports
- July 31st R&E Reports for the Legal Defense Committee
 - One required filer
 - One timely filer
 - Candidate electronically filed their report
- July 31st R&E Reports for Independent Expenditure Committees (IECs)
 - Seven required filers
 - Three timely filers
 - Three candidates electronically filed their report
- July 31st R&E Reports for Initiative/Referendum Committees
 - Nine required filers
 - Five timely filers
 - Five candidates electronically filed their report
 - OCF currently reviewing number of filers who will be referred to the OGC for failure to file R&E Reports
- 14 new candidates and committees registered with the OCF in July:
 - Four TCFP Candidates:
 - A'Shia Howard, At-Large City Council, registered July 10
 - Kathy Henderson, Committee to Elect Kathy Henderson At-Large, City Council, registered July 21
 - Fria Moore, Ward 8 City Council, registered July 22
 - Chris Martin, Chris Martin for SBOE, At-Large State Board of Education, registered July 24
 - Eight FEP Candidates:
 - Keith Silver, Keith Silver for DC, At-Large City Council, registered July 7
 - Patricia Stamper, Friends of Patricia Stamper, Ward 7 State Board of Education, registered July 8, withdrew July 27
 - Dontrell Smith, Committee to Elect Dontrell Smith, Ward 7 State Board of Education, registered July 9
 - Ryan Washington, Washington for Ward 8 DC, Ward 8 State Board of Education, registered July 9

- Mysiki Valentine, The Committee to Elect Mysiki Valentine, At-Large State Board of Education, registered July 13
 - Eboni Rose Thompson, Committee to elect Eboni Rose Thompson for DC SBOE Ward 7, Ward 7 State Board of Education, registered July 17
 - Randy Downs, Randy Downs for Ward 2, Ward 2 City Council, registered July 21
 - Allister Chang, Friends of Allister Change, Ward 2 State Board of Education, registered July 31
- Two Initiative Committees
 - Modern-Day Cannabis Justice Reform, registered July 8, terminated July 14
 - The New Modern-Day Cannabis Justice Reform Act of 2020, registered July 31
- 19 candidates & treasurers completed the OCF mandatory entrance conference presentation:
 - Martin Fernandez, Candidate, Ward 2 City Council
 - Frazier O’Leary, Jr., Candidate, Ward 4 State Board of Education
 - Frazier O’Leary, IV, Treasurer, Frazier for Ward 4
 - Alexander Padro, Candidate, At-Large City Council
 - Michangelo Scruggs, Candidate, At-Large City Council
 - Pleasant P. Mann, Treasurer, Committee to Elect Alex Padro
 - Jeremiah D. West, Treasurer, Committee to Elect Dr. Mich DC Councilmember at Large
 - John Cheeks, Treasurer, U.S. Citizens Recovery Initiative Alliance Inc. (Initiative Committee)
 - Vincent Orange, Candidate, At-Large City Council
 - Paul Orange, Treasurer, Vincent Orange 2020
 - Cornelia Weiss, Candidate, U.S. Senate
 - Le’Troy Murphy, Candidate, At-Large State Board of Education
 - Sarah Palenik, Treasurer, Martin for Ward 2
 - Charmain Davis, Treasurer, 9 for Gurley
 - Keith Silver, Candidate, At-Large City Council
 - Juanita Shelton, Treasurer, The New Modern-Day Cannabis Justice Reform Act of 2020
 - Dontrell Smith, Candidate, Ward 7 State Board of Education
 - Andrea Smith, Treasurer, Committee to Elect Dontrell Smith
 - A’Shia Howard, Candidate, At-Large City Council
- **Reports Analysis and Audit Division (RAAD)**
 - 46 desk reviews of R&E reports were conducted
 - Ten RFAs were issued
 - Ongoing Audits
 - Full Field Audit:

- Jack Evans Legal Defense Fund –The Final Audit Report has been completed.
- 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 31st 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
 - Ward 4 CSP, extension was granted until July 3. Additional request for records on July 29
- Audits Issued during July 2020
 - Our Ward 5 Constituent Service Program –issued July 29
 - Mayor Bowser’s Constituent Service Program –issued June 30
- Final audit reports issued are posted on the OCF website

OCF JULY 2020 REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- The OGC did not receive any referrals in July 2020.
- OGC completed six informal hearings and issued six orders, including:
 - One order issued imposing a \$150 fine against the Committee to elect Perry Redd
 - Five orders issued that did not impose fines (telephonic interference)
- The OGC issued four orders requiring PCCs of former FEP candidates in the Primary Election 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:
 - Mike for Ward 8, Michael Austin, candidate
 - Kelvin Brown for D.C. Council Ward 7
 - Evans 2020, Jack Evans candidate
 - John Fanning for Ward 2
 - Green for Ward 7, Anthony Lorenzo Green, candidate
 - Jordan Grossman for Ward 2
 - Patrick Kennedy for Ward 2

- Kishan for DC 2020, Kishan Putta, candidate
 - Yilin Zhang for Ward 2
 - The OGC issued four orders requiring PCC of former FEP candidates in the Special Election 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:
 - Patrick Kennedy for Ward 2 Special Election
 - Jordan Grossman for Ward 2 Special Election
 - Kishan Putta for Ward 2 Special Election
 - John Fanning for Ward 2 Special Election
- Open Investigations:
 - Complainant: The Committee to Hold Jack Evans Accountable Adam Eiding, Chairman,
 - Received February 3
 - Respondent: DC Legal Defense Committee for Jack Evans
 - Allegations: Unlawful use of a Legal Defense Committee
 - Status: Referred to RAAD and is completed.
 - Complainant: Jennie Malloy,
 - Received May 19
 - Respondent: Karl Racine for Attorney General 2018
 - 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, PCC
 - 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 requests for Interpretative Opinions were received in July 2020
- No show cause proceedings were conducted in July 2020

- **BOARD ACTION:** Requested that OCF post on their website the status of all debates prior to September 2020 board meeting.

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

- **Proposed Certification of Petition Signatures for Initiative Measure No. 81 “Entheogenic Plant and Fungus Policy Act of 2020”**
 - The petition meets the statutory requirements for certification of the ballot.
 - Verification Process:
 - Verified the circulator was a DC resident, or resident of another jurisdiction who was properly registered as a petition circulator.
 - The address of each petition signer was verified and checked against the BOE voter registration system to ensure petitioner was a registered voter.
 - All verified signatures were compiled by the registration system to determine if petition contained sufficient numbers of registered voters to proceed to the signature verification stage.
 - The total numbers of verified signatures determined to have met the minimum signature requirement are placed in random sample and drawn for comparison to the original voter registration file.
 - Random samples come from the Office of Planning.
 - Signature requirements were met in Wards 1, 2, 4, 5, 6, rejected in Ward 3, and no decisions in Wards 7 and 8.
 - 24,835 signatures were needed to qualify the measure for ballot.
 - 25,477 signatures were submitted and verified.
 - **BOARD ACTION:** The Board unanimously moved to approve the motion for certification of Measure No. 81 – “Entheogen Plant and Fungus Policy Act of 2020”
- **General Matters**
 - BOE is currently working to finalize needs for the General Election, including providing/ mailing voter guides to all households, and tracking wait times at polling locations.
 - Mail house ballot delivery will be handled by K&H Election Services who will oversee the mailing and tracking of all outgoing and incoming ballots.
 - Ballots are expected to arrive to voters during the first week of October.
 - Postcards will be sent to all active voters starting Friday, August 7 informing voters they will receive a ballot by mail, with notice to update any voter registration information with the BOE if necessary.
 - BOE is working to obtain 40-50 mail drop boxes placed in secured locations throughout DC for voters to drop off ballots.
 - Poll worker training started Tuesday, August 4, 2020, and will last through the first week of October, with 2,500 new applicants scheduled for training.
 - Around 2,000 poll worker are still needed for the General Election.
 - Currently finalizing polling locations
 - DC Council requires the BOE to operate 80 polling places on election day.
 - 16 locations will be utilized as early vote centers

- 74 locations will be utilized on election day, including 1 location at the DC Jail and 1 location at the Central Treatment Facility (CTF).
- BOE is still working to locate large venues that can accommodate and process a large number of voters on election day.
 - Capitol One Sports Arena offered for all 8 days.
- The deadline for direct access candidates and ANCs to file ballot access documents is Wednesday, August 5 at 5:00 p.m.
- **Voter Outreach**
 - Outreach has hosted several events throughout the city, with 10-11 events during the first week of July.
 - All events are posted on the BOE website.
 - On Saturday, August 8, a drive-through voter registration event will be hosted at St. Thomas More Catholic School in S.E.
 - On August 12, from 11 a.m.-1 p.m. the BOE will hold a virtual poll worker open-house.
 - Additional virtual open-houses will take place throughout August and in September.

BOE OGC JULY 2020 REPORT (GENERAL COUNSEL 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 under federal rules for appealing.
 - 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.
 - **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 8 petition.
 - On August 4, the Board's appeal was dismissed.
 - **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 6, 2019, 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 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.
 - The Board is waiting for the court to decide the merits of 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.
- **La Riva v. D.C. Board of Elections**
 - This case was filed in the federal district court for DC on July 17, and is a complaint for declaratory judgement 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 except for President.
 - Specifically, requirements for ballot access would warrant to 250 signatures for all at-large offices, fewer for single-member district offices, with the requirement for President remaining at 1 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.
 - Legislation is currently pending that would lower the signature requirements for the office of President to 250, which is the same for at-large elected offices.
- **Public Hearing**
 - **Aaron Landry and Daniel Warwick v. D.C. Office of Campaign Finance**
 - OCF Order #2019-001, found that Petitioners violated DC Official Code §1-1163.36(a) and 3 DCRM 3301.1(a), when ANC 2B Twitter account, retweeted a tweet from ANC 2B Commissioner Aaron Landry’s personal Twitter account that:
 - contained a statement that read, “I love the 17th Street Festival” and a photograph that showed activity taking place during the 17th Street Festival, including Patrick Kennedy campaigning; and
 - tagged Patrick Kennedy such that the tag, if it were clicked, led to Patrick Kennedy’s Twitter page which indicated that he was “[r]unning for Ward 2 D.C. Council in 2020[.]”

- DC Official Code §1-1163.36(a) states in part, “No resources of the District of Columbia government, including the expenditure of funds, the personal services of employees during their hours of work, and non-personal services, including supplies, materials, equipment, office space, facilities, and telephones and other utilities, shall be used to support or oppose any candidate for public office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted under § 1-203.03.”
- 3 DCMR 3301.1(a) states, “No District of Columbia government resource shall be used in support or oppose a candidate for elected office, whether partisan or nonpartisan.”

- **Procedural History**

- On September 2, 2019, Mr. Edward Hanlon filed a complaint against ANC 2B, alleging that it violated DC Official Code §1-1163.36(a) and 3 DCRM 3301.1(a), when it retweeted the aforementioned tweet. (Exhibit 1).
- On September 6, 2019, the OCF informed the affected ANC 2B commissioners that an investigation into the complaint has been begun and indicated that they could provide the responses they deemed appropriate. (Exhibit 3)
- On September 6, 2019, Mr. Warwick contacted DC Board of Ethics and Government Accountability (BEGA) Office of Government Ethics (OGE) Attorney Sonya King regarding the ANC 2B postings. On September 9, 2019, Ms. King informed Mr. Warwick that the OGE would not take action regarding the posting, but provided OGE’s advisory opinion regarding social media and the Districts code of conduct, and suggested Mr. Warwick share the opinion with anyone with access to the ANC 2B Twitter account. (Exhibit 4)
- On September 11, 2019, Mr. Warwick filed a response to the complaint which stated that:
 - The postings conformed with the BEGA OGE opinion
 - Sharing information about the neighborhood, including retweeting other individuals, elected or otherwise, is a normal and legal practice and is common across District government-run accounts.
 - The retweet was done with the sole intent of sharing the same sentiment about the 17th Street Festival, as the commission has formally supported the 17th Street Festival numerous times over the years.
 - Anyone who retweets content that is clearly about the 17th Street Festival doesn’t automatically imply endorsement or the electioneering of anyone specific contained in the content in the tweet.

- The wording of the tags in the retweeted tweet which the complaint alleges imply endorsement are simply based on how Twitter displays the names of accounts which are tagged in photos.
 - In the cases decided by OCF regarding use of governmental resources violations, each prohibited activity was based on an explicit disallowed behavior; the activity here is not explicitly disallowed.
 - BEGA's inaction in this matter supports a finding that the activity is not disallowed. (Exhibit 5)
- On October 4, 2019, Mr. Landry filed a response to the complaint that stated that:
 - The ANC 2B twitter account was not used to support or oppose a candidate for elected office.
 - The two tweets in the complaint were about the 17th Street Festival and contained content clearly about the 17th Street Festival.
 - An end user who views the postings is required to engage in a series of manual intentional decisions and actions in order to access campaign-related content which is completely unrelated and not directly connected to the government resource. Therefore, it cannot be claimed that the ANC 2B twitter account supports or opposes the content that is obtained by the end user only after manually going through a series of links through third party content disconnected from that government resource. (Exhibit 7)
- On November 21, 2019, the OCF conducted an interview of Aaron Landry regarding the complaint.
 - On December 17, 2019, OCF issued order No. 2019-001, which sustained the allegation that ANC 2B allowed a Twitter page to be used for campaign-related activity. The order:
 - Concluded that the inclusion of the Patrick Kennedy tag, which, when clicked, led to Patrick Kennedy's Twitter page which indicated that he was "[r]unning for Ward 2 D.C. Council in 2020", rendered the retweet offensive as a violation of the pertinent provisions
 - Cited the following language in the BEGA OGE opinion in support of a finding that the retweet constituted prohibited political activity: "[L]inking to a partisan political group's social media account in a post is political activity because it demonstrates support for the group as does posting the picture of a

partisan political candidate or a political cartoon. And the same is true for linking to or sharing a link to a partisan political group's website or an article advocating for or against a partisan political candidate.”

- Although the account did not directly link to Kennedy’s page, Mr. Landry’s posting included a link to Kennedy’s photo and his political activity, which can be construed as using a government resource to support a political campaign.
 - The fact that merely clicking on Kennedy’s name immediately produces his photograph and information regarding his candidacy for Ward 2 Councilmember creates the appearance of an impropriety.
 - Therefore, no matter how slight the impact, a government resource was used in a manner that could be beneficial to a candidate for political office in DC.
 - Noted that it did not matter that there was no intent to promote Kennedy’s campaign, because the prohibition on the use of government resources for political purposes does not require the intent to violate that provision of the statute
 - Imposed a fine of \$4,000 against the named commissioners, which would be reduced to \$1,000 if the Petitioners attended Ethics Training at BEGA within 60 days of the order.
- On December 22, 2019, Commissioners Landry and Warwick each filed a motion for reconsideration of the OCF order.
 - On March 2, 2020, OCF denied both motions for reconsideration.
 - On March 17, 2020, Commissioners Landry and Warwick timely filed a request for a hearing de novo with the Board.
 - On April 22nd and May 11th, the Board's OGC held prehearing conferences regarding this matter. As an outcome of the prehearing conference, the commissioners conceded that ANC 2B's Twitter account for (telephonic interference) commissioners were absolved pursuant to the representations made by Commissioners Landry and Warwick.
 - On April 23, 2020, the OCF sent a message to all named 2B commissioners, and managers, informing them that they were absolved of the prohibited activities cited in the order pursuant to representations made by Commissioners Landry and Warwick.
- **Petitioners Testimony**
 - **Daniel Warwick**

- Prior to ANC 2B Twitter account being closed as a result of the order, it was used to interact with members of the public regarding commission business and the neighborhood.
 - Believing the order is incorrect, ANC 2B seeks to go back interacting with members of the public and constituents just as other DC Government agencies.
 - No case law or precedent suggests the retweet or tweet are in violation, and no guidance provided by OCF suggests the retweet or tweet would be impermissible.
 - The closest guidance regarding retweets is found in BEGA's 2017 social media guidance letter on page 9 which states, "The social media recommendation or endorsements usually take the form of a 'like,' 'thumbs up,' or a phrase 'Employee endorses skill.' Social media recommendations or endorsements, however, usually do not include narratives. Accordingly, there would be no violation of the Code of Conduct during most social media recommendations or endorsements."
- **Aaron Landry**
 - If the OCF utilized the same method that was used in this case with other examples that were provided to them or examined the broader body of District Twitter and social media accounts, it would have found that a significant portion of DC Government agencies, including OCF's and the BOE's own social media accounts, are also in "violation" when they're actually in compliance. Examples include tweets about the Comprehensive Plan, a rally at a school, mail-in voting, and registering seniors to vote:
 - October 15, 2019, the Office of Planning retweeted a tweet from Patrick Kennedy sharing that his amendment to the Comprehensive Plan he offered was being recommended for adoption.
 - On October 18, 2019, the State Board of Education retweeted a tweet from Markus Batchelor showing photos of a rally he attended at Anacostia Senior High School.
 - On May 28, 2020, the BOE retweeted a tweet from my personal account showing a photo of my Special Election ballot.
 - August 2, 2020, the BOE retweeted a tweet from Pete R. Hasmentori about registering seniors to vote.
 - When the ANC 2B retweeted about the 17th Street Festival, it was not to support or oppose any candidate but about the 17th Street Festival.

- **The following individual(s) testified regarding Aaron Landry and Daniel Warwick v. D.C. Office of Campaign Finance**
 - **Peter Sacco - Executive Director of ANC 2B**
 - Handled all postings, as well as any retweets from the ANC 2B Twitter account.
 - Tweeted and retweeted several tweets in support of the 17th Street Festival, including tweets that included commissioners, then Council Member Jack Evans, a representative from the Mayor's Office, and others. Also retweeted a tweet from Aaron Landry which stated, "I love the 17th Street Festival".
 - Was never contacted by anyone from the OCF regarding the complaint.
 - **Gottlieb Simon - Executive Director of the Office of Advisory Neighborhood Commissions**
 - Oversees office operations and provides technical, administrative, and financial reporting assistance and oversight to the Advisory Neighborhood Commissions.
 - If the order is upheld, the conclusion is for me to advise commissioners to delete the accounts and refrain from establishing new accounts. There would be a considerable liability in their continued operation.
 - Aware of three commissions that have deleted their Twitter account.
 - **Edward Hanlon – ANC Commissioner 2B09**
 - Filed the original complaint on September 2, 2020, with the OGC against ANC 2B.
 - The ANC Twitter account is a government resource that belongs to ANC 2B. The Policy and Procedures Manual makes clear that it's supposed to be used for commission business only.
 - There was concern among ANC 2B members that the Twitter account was being used to promote Patrick Kennedy's candidacy.
 - The photo in question showed a picture of Patrick Kennedy campaigning in front of his campaign election booth with his campaign sign behind him, "Patrick Kennedy for Ward 2" during the 17th Street Festival.
 - **Kerry Beddard**
 - Believes all candidates should have been promoted, not just Mr. Kennedy, and Mr. Kennedy's posting or the posting made on his behalf should be removed.
- **OCF – (GENERAL COUNSEL WILLIAM SANFORD)**

- Whether or not the commissioners from ANC 2B are allowed to retweet any tweet is not the issue.
- The (telephonic interference) and link to Mr. Kennedy's Twitter page which identifies him as a candidate for Ward 2 City Council.
- Of all the eight candidates that ran for the Ward 2 City Council seat, only Patrick Kennedy is prominently featured; only his Twitter page was linked to the ANC 2B Twitter account.
- Mr. Landry and Warwick, are entitled to support Mr. Kennedy's campaign, but they do not have a right to use government resources to facilitate the candidate or candidates of their choices.
- The commissioners received notice of an investigation being initiated from OCF, but instead of contacting OCF, they went to BEGA.
- BEGA did not have jurisdiction, so they took no action.

PUBLIC MATTERS

- Dorothy Brizill
 - Inquired why the BOE and OCF continued to be closed, and why the BOE was operating out of the office warehouse.
 - Asked about status of BOE working with PR firm to handle community contact and outreach.
 - Made inquiries regarding the name of the mail order firm handling absentee ballots and the amount of contract.

- Michael Sindram
 - Asked for updates about the periodic random audit of the Ward 4 Constituent Service Program and clarification of the Verizon Communications, Inc. random audit.

ADJOURNMENT (12:50 p.m.)