



**DISTRICT OF COLUMBIA**  
**BOARD OF ELECTIONS**  
WASHINGTON, D.C. 20003



**MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING**  
**May 29, 2019**

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, May 29, 2019 in the Board's Hearing Room, located in Suite 750, 1015 Half Street, SE, Washington, D.C. 20003. Board Chairman Michael Bennett and Board Member Dionna Lewis were present (Ms. Lewis participated telephonically for the initial portion of the meeting), and Board Member Michael Gill participated telephonically. Also present on the dais were Alice Miller, the Board's Executive Director, and Cecily Collier-Montgomery, the Director of the Office of Campaign Finance (OCF).

**Call to Order** (10:43 a.m.)

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting.

**OCF MAY 2019 REPORT (DIRECTOR COLLIER-MONTGOMERY)**

- **Fair Elections Program (FEP)**
  - Jordan Grossman for Ward 2, Ward 2 City Council, registered to participate in the Fair Elections Program on May 16, 2019.
  - The FEP program conducted training for its new staff on May 7, 2019.
  - On May 10, 2019, OCF provided a 30-second PSA on the FEP to WTOP-FM Radio for dissemination for six months, and forwarded the FEP brochures to DCTV. The FEP brochures will air throughout the remainder of the 2020 election cycle.
  - On May 20, 2019, the Board adopted final rulemaking to Chapters 3, 37, 42, and 43 of the DCMR to take into account the FEP. Proposed rulemaking to Chapters 42 and 43 have been submitted to the Board for adoption at today's meeting.
  - FEP staff visited the following ANCs during the month of May as part of its ANC Outreach program to provide information on the FEP: 8C, 7B, 7C, and 8D.
  - On May 13, 2019, two auditors were hired onto the FEP staff; their start date is June 9, 2019.
  - FEP is on schedule for the electronic filing system to be available for the filing of reports by the public on July 31, 2019.
- **Public Information and Records Management Division (PIRM)**
  - There were no filing dates during the month of May.
  - New candidates and committees who registered:
    - Recall Jack Evans Now, a Recall Committee, registered on May 8, 2019.
    - Jordan Grossman, Jordan Grossman for Ward 2 City Council, *registered on* May 15, 2019.

- Brandon Todd, Re-Elect Brandon Todd 2020, Ward 4 City Council, registered on May 15, 2019.
- James Jennings, Vote Jennings Ward 7 DC Council 2020, Ward 7 City Council, registered on May 16, 2019.

- **Reports Analysis and Audit Division (RAAD)**

- Conducted desk reviews of ten reports
- There are five ongoing full field audits:
  - Sheika Reid for Ward 1, initiated August 29, 2018
  - DC Proud 2019 Inaugural Committee, initiated April 22, 2019
  - Frazier O'Leary for Ward 4, initiated March 4, 2019
  - Committee to Elect Zachary Parker 2018, initiated March 5, 2019
  - Emily for Education, initiated March 4, 2019
- There is one ongoing periodic random audit:
  - Ward 4 Constituent Service Fund, initiated April 1, 2019
- Two audits issued:
  - Do Something Constituent Service Fund, Ward 8, issued May 15, 2019
  - The Ward Seven Constituent Service Fund, issued May 15, 2019

- **OCF Office of the General Counsel (OCF OGC)**

- Received 2 referrals from RAAD
- Conducted 1 informal hearing, and issued 5 orders:
  - Three orders regarding failure to timely ANC Summary Financial Statements in which no fines were imposed or issued
  - One order for failure to timely file regarding a Principal Campaign Committee in which no fine was imposed or issued
  - One order for failure to timely file a report regarding a Political Action Committee in which a \$1,500 fine was imposed against the SEIU Political Action Committee
- Collected \$1,500 in fines as part of an installment payment plan that was agreed upon between OCF and Jeffrey Thompson
- Transmitted 20 petitions for enforcement to the Office of the General Counsel for the Board of Elections (BOE OGC)

## **EXECUTIVE DIRECTOR'S MAY 2019 REPORT (EXECUTIVE DIRECTOR MILLER)**

- **Implementation of New Voter Registration System**

- The contract was awarded to implement the Board's new voter registration system, Voter Focus, in late February or late March. The implementation of Voter Focus, which will replace the Board's old voter registration system (Integrity), is underway. The target date for completion is late October 2019.

- **Canvass Report**

- 218,000 voters who did not vote in the November 2018 General Election were canvassed beginning in January 2019.
- As of May 22, 2019, 25,952 (16%) of the canvassed voters responded.
- We will be sending a second mailer to approximately 17,618 registered voters whose mail was returned undeliverable.
- The remaining 182,000 voters from whom we did not get a response will remain on the voter registry.

- **Poll Worker Training**

- On May 22, 2019, we began refresher course training for Precinct Captains and Special Ballot Clerks.
- This 1<sup>st</sup> round of training for these positions will end in June, and the 2<sup>nd</sup> round will begin in September.
- Trovonder Wray, who worked with us for a number of years, recently succumbed to breast cancer. She most recently assisted with training for our last election cycle. Her funeral was on May 20, 2019. She will be missed by this agency.  
**MR. BENNETT:** And we certainly, on behalf of the Board and the City for that matter, we certainly want to express condolences and thank her for all the services she provided for all her years.

- **Berlinda Stanback**

- The Board collected \$1000 in donations in memory of Berlinda Stanback, a Board employee who recently succumbed to cancer. The donation was presented to Ms. Stanback's church, Antioch Baptist Church.

## **BOE OGC MAY 2019 REPORT (EXECUTIVE DIRECTOR MILLER)**

- **Litigation Status**

- ***William Hunt v. the D.C. Board of Elections.*** Mr. Hunt filed a complaint in federal court on October 18, 2018, asking that the court require the Board to count the write-in votes cast in the November 2018 mayoral contest. Because the number of write-in votes cast in the mayoral contest was not sufficient to elect a write-in candidate, the Board was not required to tabulate the votes cast in that contest.

The Board was not made aware of the complaint until April 25, 2019 due to filing and service errors on the Plaintiff's part. The Board was not formally served until April 26, 2019. The Board filed a motion to dismiss on Wednesday, April 24, 2019. We are awaiting the Court's decision in that matter.

- ***James Butler v. the D.C. Board of Elections.*** Mr. Butler filed a complaint in Superior Court on April 15, 2019 for a Writ of Mandamus to compel the Board to

accept the D.C. Term Limits Initiative. The scheduling conference for this matter is set for July 19, 2019.

- ***Graham v. the D.C. Board of Elections***. This matter involves the Board’s appeal of a permanent injunction issued in the D.C. Superior Court on December 12, 2018 preventing the Board from taking any action on Referendum 008. The permanent injunction was entered on the basis that the Board had failed to provide adequate public notice of the meeting at which the Board formulated Referendum 008’s short title and summary statement. The proposer of Referendum 008 also appealed, and our appeals were consolidated. The Court of Appeals issued a scheduling order, requiring that our brief be filed on June 26th.

- **Rulemaking**

- **Final Rulemaking**

- To amend 3 DCMR, Chapter 5, Voter Registration (Regulations in support of the Address Confidentiality Act of 2018) The purpose of this rulemaking is to provide a means for voters who are victims of covered offenses to make their voter registration records confidential.

**BOARD ACTION:** The Board unanimously adopted the rules as final.

- To amend 3 DCMR Chapter 5, Voter Registration (Regulations listing the District's National Voter Registration Agencies) The purpose of this rulemaking is to enumerate the agencies designated as voter registration agencies in the District of Columbia.

**BOARD ACTION:** The Board unanimously adopted the rules as final.

- To amend 3 DCMR, Chapter 30, Campaign Finance Operations, Committees, Candidates, Constituent Service Programs, Statehood Funds; Chapter 34, Campaign Finance Recordkeeping and Audits; Chapter 37, Investigations and Hearings; and Chapter 99, Regulations (Regulations in support of the Campaign Finance Reform and Transparency Amendment Act of 2016 and the Campaign Finance Reform and Transparency Temporary Amendment Act of 2016)

**BOARD ACTION:** The Board unanimously adopted the rules as final.

- **Emergency and Proposed Rulemaking**

- To amend Title 3 DCMR Chapter 42, “The Fair Elections Program,” and Chapter 43, “The Verification Process” (Regulations in Support of the Fair Elections Emergency Amendment Act of 2019).

OCF requested that the Council amend the Fair Elections Act for operational purposes, and the Council complied through the emergency legislation, which the proposed regulations support.

**BOARD ACTION:** The Board approved the emergency and proposed rulemaking.

- **Issuance of Petition to Recall Jack Evans, Ward 2 Member of the Council of the District of Columbia**
  - Don Dinan appeared on behalf of Evans in opposition to the issuance of the petition
    - Grounds for opposition:
      - Issuance of another recall petition is a redundancy, and could create confusion among the electorate
      - The statement in support of the recall contains false statements, and inappropriate accusations of corruption against Evans' staff
  - Kerry Kemp, Proponent of the Recall
    - Filed petition out of concern that 1<sup>st</sup> petition might not get through
    - Stated that the petition would not be circulated, but would be held as a backup in the event of a challenge to the Board's order regarding the 1<sup>st</sup> petition
    - Ms. Kemp opted to amend the statement in support of the recall to exclude the language regarding Evans' staff, as it is not essential to the larger purpose of the recall effort.
  - Comments in support of the Proponent
    - John Hanrahan: Asked what the timeframe was regarding an appeal of the Board order regarding the issuance of the 1<sup>st</sup> petition. Executive Director Miller responded that Evans had 30 days from the date the order is issued to appeal the Board's order to the court, and that there is no way to determine when the matter would be resolved
    - Debby Hanrahan: Asked if Evans could raise issues in the appeal that had not been before the Board. Executive Director Miller responded that Evans could not. Hanrahan also asked if Evans had to have a committee, a treasurer, and a bank account to show how he is defending himself concerning the recall. Director Collier-Montgomery responded that if Evans collects contributions to oppose the recall, or makes expenditures to oppose the recall, he would be required to register as a committee with OCF.
    - Michael Sindram: Expressed his concern with Evans, and asked the Board to look at the matter very closely.
  - Matter was temporarily tabled so that the recall petition could be amended as the Proponent indicated.
- **Appeals from Advisory Neighborhood Commission 7B Resolutions**
  - Appeal by Phillip Hammond from Resolution issued by Advisory Neighborhood Commission 7B regarding Nicole Smith-McDermott, ANC Commissioner for ANC SMD 7B04

- **Challenger Hammond** is appealing the Resolution of ANC 7B which found that there is no vacancy in the office of ANC Commissioner for ANC SMD 7B04 because Smith-McDermott meets the residency qualifications necessary to serve in that office
- **Challenger Hammond:**
  - Submitted the following documents in support of his claim that Smith-McDermott does not reside at 3525 Highwood Drive SE in ANC SMD 7B04 (documents are indicated below as Challenger Hammond characterized them):
    - His statement from ANC 7B meeting on April 4, 2019
    - Voting history for Lester Cameron, the individual Mr. Hammond claims lives at 3525 Highwood Drive SE
    - Photographs that show Mr. Cameron moving from 3525 Highwood Drive SE on March 30, 2019
    - Letters from residents and the Penn Branch Citizen's Civic Association (PBCCA)
    - Smith-McDermott's Office of Tax and Revenue Tax and Revenue homestead exemption at 4011 Clay Place NE
- Testimony in support of Mr. Hammond's appeal:
  - Jacqueline Cannon, Vice President of the PBCCA:
    - Several residents attest that Smith-McDermott did not reside at 3525 Highwood Drive SE during the 60-day period before the election, and did not reside at that address until April 2019
    - PBCCA records contain no indication that Smith-McDermott resides in the community
    - 3525 Highwood Drive SE had been rented Mr. Cameron
    - Board should disqualify election of Smith-McDermott
- **Smith-McDermott, Respondent**
  - Submitted the following documents in support of her residency:
    - D.C.-issued identification
    - W-4 tax document
    - D.C. government personnel action paperwork
    - Work paystubs listing
  - Testified that:
    - 3525 Highland Drive SE has been her primary residence since 1987, although she was away at school from 2003 through 2008
    - Up until approximately 2 years ago, she co-resided at 59 Hawthorne Court NE, but she primarily resided at 3525 Highland Drive SE more than 50% of the time during that period
    - Lester Cameron is a family friend who also resided at 3525 Highwood Drive SE until he moved to take care of his sick mother in February or March of 2019.

- Further testimony in support of Mr. Hammond's appeal
  - Robin Marlin testified that:
    - Mr. Cameron said that he was being forced to move out of the house.
    - During the ANC 7B special meeting on April 4, 2019, Smith-McDermott's son yelled out during that meeting that he and his mother do not live at 3525 Highwood Drive SE
  - Robin Diener testified that:
    - She has worked with Robin Marlin and Phil Hammond for many years, and they are hugely respected, incredibly hard working people.
- **BOARD ACTION:** The Board took the matter under advisement.
- **Issuance of Petition to Recall Jack Evans, Ward 2 Member of the Council of the District of Columbia (Resumed)**
  - Board staff member Myisha Thompson read procedural history of petition to recall Evans into the record:
    - Kemp filed Notice of Intent to Recall on May 8, 2019
    - Evans filed a response to the Notice on May 16, 2019
    - Kemp must obtain signatures of 10% of registered voters in Ward 2 within 180 days after the date the Proponent adopts the petition (by November 25, 2019)
  - Executive Director Miller indicated that the Proponent was in compliance with OCF filing requirements
  - Ms. Kemp adopted the petition.  
**BOARD ACTION:** The Board unanimously approved the petition for recall.
- **Appeals from Advisory Neighborhood Commission 7B Resolutions (Resumed)**
  - Appeal by Robin Marlin from Resolution issued by Advisory Neighborhood Commission 7B regarding Villareal Johnson, ANC Commissioner for ANC SMD 7B05
    - **Challenger Marlin** is appealing the Resolution of ANC 7B which found that there is no vacancy in the office of ANC Commissioner for ANC SMD 7B05 because Commissioner Johnson meets the residency qualifications necessary to serve in that office
    - **Challenger Marlin** testified that:
      - During the ANC 7B special meeting on April 4, 2019, Johnson texted his expired driver's license with address 2411 33<sup>rd</sup> Street SE to the ANC Commissioners
      - She had already submitted all of her documented evidence to the Board prior to the hearing, and proved that Mr. Johnson did not reside at 2411 33<sup>rd</sup> Street SE in ANC SMD 7B05 for the requisite

60-day period by way of an affidavit from Mr. Johnson's now deceased landlord that was previously submitted to the Board

- **Villareal Johnson, Respondent**
  - Testified that:
    - He has not seen any evidence that he did not reside at 2411 33rd Street 60 days prior to submitting his petition
    - He has lived at 2411 33rd Street SE from May of 2018 to the present
  - Submitted the following documents in support of his residency:
    - Driver's license with 2411 33rd Street SE address (issue date September 1, 2016)
    - Pepco Notice to Start Utility Services with 2411 33rd Street SE address dated May 21, 2018.
- **BOARD ACTION:** The Board took the matter under advisement.
  
- **Public Matters**
  - **Michael Sindram**
    - Asked if both Evans recall petitions were similarly worded. Chairman Bennett indicated that they would be in light of the amendment
    - Expressed concerns with Jack Evans
    - Asked that, going forward, if the ADA Coordinator was not in the office, someone else contact him to notify him of Board meetings
    - In light of Memorial Day, acknowledged veterans and thanked them for their service

**Adjournment (1:11 p.m.)**