

**MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING  
October 2, 2019**

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Wednesday, October 2, 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 Michael Gill were present. Also present on the dais were the Board's Executive Director, Alice Miller, the Board's General Counsel, Terri D. Stroud, and the General Counsel of the Office of Campaign Finance (OCF), William O. SanFord, who was standing in for OCF Director Cecily Collier-Montgomery.

**CALL TO ORDER (10:55 a.m.)**

**ASCERTAINMENT OF QUORUM**

- Board Member Michael Gill and Board Chairman Michael Bennett constitute a two-member quorum until the Council moves forward with the Mayor's previous nomination or the Mayor makes a new nomination.

**ADOPTION OF AGENDA/APPROVAL OF BOARD MINUTES**

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on September 5, 2019.

**BOARD MATTERS**

- **ORDERS AND ISSUANCES:** None
- Member Gill asked General Counsel Stroud for clarification regarding the two recall efforts concerning Councilman Jack Evans that are currently circulating. Specifically, he asked if the two petitions could be combined so as to achieve ballot access if neither petition met the minimum signature requirement for ballot access, either because of not meeting the requirement initially or failing to meet it after the challenge period and/or verification process.

General Counsel Stroud advised that the two recall petitions represent unique efforts that could not be combined in order to meet the minimum signature requirement in the event that both individually failed to get the requisite number of signatures.

- The Board and staff recognized former Board Member Dionna Maria Lewis for her service to the Board.
  - Chairman Bennett noted that Ms. Lewis had served with distinction, brilliance, and commitment, that she is one of the young bright minds in our community, and that her input was invaluable to the Board when difficult issues arose.

- Member Gill noted his appreciation for Ms. Lewis' legal mind and her commitment to and passion for the city, and stated that it was a pleasure to have had her as a colleague and an honor to call her friend.
- Executive Director Miller stated that she has known Ms. Lewis since she was a rising collegiate at the University of Virginia, and that, having been a witness to all she has accomplished since then, she is not at all surprised by Ms. Lewis' onward/upward mobility.
- General Counsel Stroud stated that Ms. Lewis was a model for attorneys of any age, and that it was an honor to have met and worked with her.
- OCF General Counsel Sanford concluded by stating that Ms. Lewis is a great attorney, a great legal mind, and was a fantastic Board Member with whom it has been an honor and a privilege to work.
- Ms. Lewis said that she appreciated the familial relationships and collegial relationships that she enjoyed, and will continue to enjoy, while serving on the Board. She further stated that it was an honor to have had the privilege to see the hard work that the Members and the Board's staff do every day to ensure that voters are enfranchised.

## **IDENTIFICATION OF PUBLIC MATTERS**

- **Dorothy Brizill**
  - Requested an update on the Board's preparations for the 2020 election cycle, particularly with respect to election security and federal funding
  - Requested information regarding the status of any settled lawsuits against OCF
  - Requested clarification on OCF's recent hire of an attorney in the Fair Elections Program (FEP)
  - Inquired as to Kenneth McGhie's current position and pay grade
- **Michael Sindram**
  - Requested clarification regarding the Board's ability to ensure that the two Evans recall efforts are not duplicative

## **OCF SEPTEMBER 2019 REPORT (GENERAL COUNSEL SANFORD)**

- **Fair Elections Program (FEP)**
  - New Registrants:
    - Committee to Elect Taurus Phillips, September 11
    - Yilin Zhang from Ward 2, September 12
    - Markus for DC Council At-Large, September 13
    - Boston for State Board of Education, September 14
  - New Certifications:
    - John Fanning, 163 contributions totaling \$6,390
    - Janeese Lewis George, 307 contributions totaling \$12,290

- **Community Outreach**
  - On September 3, OCF attended the ANC 4A02 meeting at the Metropolitan Police Department.
  - On September 4, OCF attended the ANC 3D meeting at Wesley Theological Seminary.
  - On September 14, OCF participated in a forum for DC Women in Politics at the Greater Washington Urban League Building.
  
- **Public Information and Records Management (PIRM)**
  - New candidates and committees who registered during the month of September:
    - Veda Rasheed for Ward 7 registered on September 9
    - Taurus Phillips, Committee to Elect Taurus Phillips, City Council, Ward 8, registered as an FEP candidate on September 11
    - Yilin Zhang, Yilin Zhang for Ward 2, City Council, registered as an FEP candidate on September 12
    - Markus Batchelor, Markus for DC City Council At-Large, registered as an FEP candidate on September 13
    - Charles Boston for the State Board of Education for Ward 7 registered as an FEP candidate on September 19
    - D.C. Legal Defense Committee for Jack Evans registered on September 23
  - Entrance conferences for new candidates and committees were held on the following dates with the participants indicated:
    - September 11, 2019:
      - Taurus Phillips, Candidate for Ward 8 Council
    - September 25, 2019:
      - Charles Boston, Candidate for State Board of Education
      - Robert Lee, Candidate for City Council Ward 2
      - Leola Jenkins, Treasurer, D.C. Political Action Candidate Election
      - Robert White, Friends of Robert White, Candidate for At-Large Council
      - Veda Rasheed, Candidate for Ward 7
      - Sean Watson, Treasurer, Veda Rasheed for Ward 7
      - Donald Dinan, Treasurer for D.C. Legal Defense Committee for Jack Evans
  
- **Reports Analysis and Audit Division (RAAD)**
  - Reviewed reports from five political action committees (PACs)
  - Reviewed and amended 16 reports from principal campaign committees (PCCs)
  - Issued 19 audit letters or requests for additional information
  - Resolved nine cases
  - Referred five cases to the OCF Office of the General Counsel
  - Terminated 15 cases
  - Conducted three in-house training seminars
  - Conducted two full field audits:
    - The Committee to Elect Zachary Parker 2018, initiated on March 5
    - Emily for Education, initiated on March 4

- There are three ongoing periodic random audits:
  - Reelect Brandon Todd 2020 PCC, initiated September 4
  - Gertrude Stein PAC, initiated September 10
  - D.C. Democratic State Committee PAC, initiated September 10
- **OCF Office of the General Counsel (OCF OGC)**
  - There were five referrals from RAAD
  - There were 11 informal hearings and 11 orders issued:
    - One order for failure to timely file an ANC Summary Financial Report
    - Six orders for failure to timely file the FEP \$500 exemption confirmations; no fines were imposed
    - Two orders denying Motions for Reconsideration
    - Two orders in which a total of \$3,300 in fines were issued for failure to timely file reports:
      - \$2,300 against the Karen for the Ward 7 State Board of Education.
      - \$1,000 against DC Bike Life Campaign.
  - \$1,550 in fines were collected:
    - \$1,500 from Jeffrey Thompson; this was the final installment payment concluding his obligation to pay \$80,000
    - \$50 from the Economic Protection PAC
  - OCF conducted one full investigation into a complaint filed by ANC Commissioner Edward Hanlon on September 5 alleging that the following ANC Commissioners used the government ANC Twitter account to promote the candidacy of a candidate for Ward 2, City Council:
    - Daniel Warwick, SMD 2B02
    - Aaron Landry, SMD 2B04
    - Randy Downs, SMD 2B05
    - Matthew Sampson, SMD 2B01
    - Mike Silverstein, SMD 2B06
    - Kari Cunningham, SMD 2B07
  - There were no requests for opinions.
  - There were no show cause proceedings.

**EXECUTIVE DIRECTOR’S SEPTEMBER 2019 REPORT (EXECUTIVE DIRECTOR MILLER)**

- **Proposed polling place relocations/Final approval of creation of precinct (Mr. Arlin Budoo)**
  - Precinct No. 14 had been relocated from St. Thomas Episcopal Church to the M.A.A. Carriage House meeting space due to construction. We propose relocating back to the multipurpose room at St. Thomas (1517 18th Street, NW). The building is accessible with slight modifications. There is no push-button door to enter the facility, but that can be addressed through poll worker training.
  - Precinct No. 27 must be relocated from Eaton Elementary School due to renovations. We propose relocating to the multipurpose room at Cleveland Park Library (3310 Connecticut Avenue, NW). The facility is accessible.

- Precinct No. 40. Bancroft Elementary School. We propose relocating back to the gymnasium at Bancroft Elementary School (1755 Newton Street, NW), now that scheduled renovations are complete. The site is accessible with some slight paving modifications at the entrance.
  - Precinct No. 54 must be relocated from West Education Campus due to construction. We propose relocating to the church hall at St. Luke's Baptist Church (1415 Gallatin Street, NW). It is accessible with a few modifications.
  - Precinct No. 57 must be relocated from the Hattie Holmes Senior Wellness Center due to construction. We propose relocating to the gymnasium at Washington Latin Public Charter School (5200 Second Street, NW). It is accessible with slight modifications. The double door entrance requires temporary removal of the center bar for accessible access.
  - Precinct No. 89 had been combined with Precinct No. 88 at Eastern Market because no location in the latter precinct meets the Board's polling place requirements. We propose relocating Precinct No. 89 to the fellowship hall at Capitol Hill United Methodist Church (421 Seward Square, SE).
    - Chairman Bennett noted the need for additional equipment and resources for Precinct No. 89, as well as the need for messaging to inform the affected voters of the new site. Ms. Miller noted that all voters affected by each of the relocations will be informed of the new sites.
  - Precinct No. 99 had been combined with Precinct No. 98 at Smothers Elementary School due to reconstruction after the 2011 earthquake. We propose relocating back to the fellowship hall at Ward Memorial AME Church (241 42nd Street, NE).
  - The new proposed Precinct 144, which was submitted for the Board's review at the August 7 Board meeting, has approval from ANC Commissioners. Thus, Board staff requests that the Board take final action to create the new precinct.
    - **BOARD ACTION** All proposed polling place relocations and the creation of Precinct No. 144 were approved unanimously.
- **National Voter Registration Act (NVRA) Training Manual**
    - Twelve District government agencies are designated as Voter Registration Agencies (VRAs). This means that they are required to offer voter registration services as part of their core duties. The Board developed a training manual to instruct staff at these VRAs on how to comply with District and federal law as they carry out their responsibilities under the NVRA.
  - **Continuing Poll Worker Training (CPT)**
    - Stipends were distributed to poll workers who attended the two CPT sessions for Precinct Captains and Special Ballot Clerks.
      - The first session had 251 participants and the second had 276 participants.
      - Each participant received a stipend of \$80 per session attended.
    - CPT sessions for Check-in Clerks began on October 1, and training sessions will be held twice daily for this position for the next two weeks.

- **Voter Education and Outreach Division (VEOD)**
  - In the month of September, VEOD staff coordinated and attended 37 events, including 19 events during National Voter Registration Week, which was the last week in September. VEOD events are designed to identify and register eligible voters, recruit poll workers, and provide targeted outreach to underrepresented populations including returning citizens, incarcerated eligible voters, and high school students.
- **Voter Registration System Training**
  - Staff training on the Board's new voter registration system began this past Monday.

**BOE OGC SEPTEMBER 2019 REPORT (GENERAL COUNSEL STROUD)**

- **OCF PETITIONS FOR ENFORCEMENT (Senior Staff Attorney Rudolph McGann)**
  - **Justin Greene At-Large**, (OCF Docket #17C-027) was fined \$1650 for failure to file the October 10, 2017 Report of Receipts and Expenditures (R & E Report).
  - **Justin Greene At-Large**, (OCF Docket #18C-002) was fined \$1400 for failure to file the January 31, 2018 R & E Report.
  - **Toliver for Ward 4**, (OCF Docket #18C-003) was fined \$2150 for failure to file the February 16, 2018 R & E Report.
  - **Committee to Elect Khalid Pitts**, (OCF Docket #18C-005) was fined \$2150 for failure to file the February 16, 2018 R & E Report.
  - **Patterson for Ward 8**, (OCF Docket #18C-007) was fined \$2150 for failure to file the February 16, 2018 R & E Report.
  - **Justin Greene At-Large**, (OCF Docket #18C-018) was fined \$1,000 for failure to file the May 10, 2018 R & E Report.
  - **MMC Foundation**, (OCF Docket #18C-021) was fined \$500 for failure to file the March 10, 2018 R & E Report. Mr. Manley is now in compliance with his filings, and he attended a scheduled pre-hearing conference on July 11, 2019, but noted that he could only afford payments of around \$5 a month.
  - **MMC Foundation**, (OCF Docket #18C-001) was fined \$1050 for failure to file the January 31, 2018 R & E Report. The Respondent has filed his report and is in compliance with the statute. He offered to pay \$5 a month for a \$ \$1,050 fine.
    - **BOARD ACTION:** The Board moved that the OGC could proceed with filing the petitions in the D.C. Superior Court.
- **LITIGATION STATUS**
  - General Counsel Stroud noted for the record that there are no current cases involving OCF, and that the Board's OGC handles such litigation on behalf of OCF.
  - **William Hunt v. the 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 6, 2018 General Election. Mr. Hunt was a

Mayoral write-in candidate in that election, and he filed a complaint asking the court to require the Board to count the write-in votes cast in the Mayoral contest.

The Board filed a Motion to Dismiss on April 24, 2019. Mr. Hunt has filed various motions, including several motions to amend his complaint and several motions to extend the time to respond to the Board's Motion to Dismiss, all of which the Board has responded to. At this point, we are awaiting the Court's decision.

- **James Butler v. the D.C. Board of Elections.** This is an action to compel the Board to accept the DC Term Limits Campaign Initiative and treat it as a proper subject. Dispositive motions are due on November 21, 2019, at which time both parties will file cross-motions for summary judgment.
- **Graham v. the 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 008. Briefing in this matter is complete, and the D.C. Court of Appeals has ordered that the case be scheduled for consideration before its Merit Division as soon as the calendar permits.
- **Phillip Hammond v. the 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, the D.C. Court of Appeals consolidated this case with **Robin Marlin v. the D.C. Board of Elections** (an appeal of Board Order 19-33, which upheld the resolution issued by ANC 7B which found no vacancy in the office of ANC Commissioner for ANC SMD 7B05), and directed the Board to file the designations of record in these matters on or before September 30. The Board complied on September 30.
- **Robin Marlin v. the D.C. Board of Elections.**  
(See **Phillip Hammond v. the D.C. Board of Elections.**)
- **RULEMAKING**
  - Final 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 Amendment Act of 2019)
  - Emergency and Proposed Rulemaking
    - To amend Title 3 DCMR Chapter 30, "Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds," Chapter 37, "Investigations and Hearings," Chapter 38, "Legal Defense Committees," Chapter 39, "Campaign Finance Operations: Inaugural Committees," Chapter 40, "Campaign Finance Operations:

Transition Committees,” Chapter 41, “Campaign Finance Operations: Exploratory Committees,” and Chapter 99, “Definitions.” (Regulations in Support of the Campaign Finance Reform Act)

- OCF General Counsel SanFord explained the need for and impact of the two rulemakings and, in response to questions from Ms. Brizill, General Counsel Stroud briefly explained the process for combined emergency and proposed rulemaking.

**BOARD ACTION:** The Board unanimously moved to approve both rulemakings and have them sent to the D.C. Register for publication.

## **PUBLIC MATTERS**

- **Michael Sindram**

- Asked if there was a mechanism for merging the two recall petitions so that the objectives of the recall could be achieved.
  - Board Member Gill offered that he would rather keep the rules as they are and encourage people that have the same objective to join forces before they put together two separate petitions.

- **Dorothy Brizill**

- In response to Ms. Brizill’s request for information concerning the Board’s preparations for the 2020 election cycle as they pertained to election security:
  - Chairman Bennett offered to share the Board’s letter to Councilmember Mary Cheh which addressed those issues.
  - Executive Director Miller further explained that all District voters use paper ballots on which voters mark their ballots using either pens or ballot marking devices.
  - Member Gill clarified that the fact that the results from the DS200s are modemed to Board headquarters on Election Night does not mean that the District’s voting equipment is connected to the internet.
- In response to Ms. Brizill’s inquiry as to whether the Board received federal funding, Executive Director Miller stated that the Board received a \$3 million grant from the Election Assistance Commission (EAC) in Fiscal Year 2018 for election administration that will be used in the four areas indicated by the Board to the EAC: cybersecurity, voting equipment, voter registration, and communication.
- In response to Ms. Brizill’s inquiry regarding Kenneth McGhie’s current position and salary, Executive Director Miller replied that Mr. McGhie currently holds the title of Election Management Advisor, and General Counsel Stroud stated that the salaries of all government employees can be found on the Public Employee Salary Information listing on the D.C. Human Resources agency website, a listing that is referenced on all District government agency websites.
  - Member Gill objected to members of the public being permitted to air grievances about Board personnel matters during Board meetings.

- In response to Ms. Brizill’s inquiry as to the name of the “new attorney who was hired in [OCF] to oversee the [FEP],” OCF General Counsel SanFord stated that no new attorney had been hired by OCF to oversee the FEP.
- In response to Ms. Brizill’s inquiry regarding “the status of the lawsuit that was just completed regarding [OCF] and the charge that was upheld in Superior Court regarding discrimination against an employee by the [OCF Director],” OCF General Counsel SanFord responded that he was not aware of the matter and that OCF had not been served with that information.

**Adjournment** (12:31 p.m.)