GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

BOARD OF ELECTIONS

REGULAR BOARD MEETING

WEDNESDAY

DECEMBER 3, 2014

The Regular Board Meeting of the District of Columbia Board of Elections convened in Room 280 North, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:30 a.m., Deborah K. Nichols, Chairman, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

DEBORAH K. NICHOLS, Chairman
DEVARIESTE CURRY, Member
STEPHEN I. DANZANSKY, Member

BOARD OF ELECTIONS STAFF PRESENT:

CLIFFORD D. TATUM, Executive Director
KENNETH MCGHIE, General Counsel
CECILY COLLIER-MONTGOMERY, Director of the Office of Campaign Finance
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CHAIR NICHOLS: Good morning. I hereby call to order the regular meeting of Board of Elections for December 2014. It's Wednesday, December 3rd, 2014. The time is 10:41 a.m. We are meeting in Room 280 North of One Judiciary Square.

I am Deborah K. Nichols, Chairman of the Board. Present with me this morning are board members Devarieste Curry and Stephen Danzansky. Also present this morning are Mr. Kenneth McGhie, our general counsel; Mr. Clifford Tatum, our executive director; and Ms. Cecily Collier-Montgomery, the board's director of campaign finance.

MS. COLLIER-MONTGOMERY: Good morning.

CHAIR NICHOLS: Without objection, the agenda for this morning is hereby adopted. Unless there are corrections to the minutes of the regular board meeting of October 2014, they are adopted subject to minor edits.
Are there any matters that board members wish to address in this public meeting?

(No audible response.)

Hearing none, we will now move on to the report of the board's executive director, Mr. Clifford Tatum.

MR. TATUM: Thank you, Madam Chair.

The items on my report today include the certification of the November 4th, 2014 general election results. As a result of those election results, a certification of the vacancy of the Office of Ward 4, member of the council of the District of Columbia and other general election matters.

I would propose that for the sake of time and brevity of the record that I will read the election results for the citywide and the ward based contests into the record by naming the winner of each contest. And as we move down the ballot in to the ANCs, I would propose that we incorporate the official result's summary report into the record so that the winners of the ANCs
become a part of the record as opposed to reading each individual name.

Madam Chair, at the conclusion of the November 4th general election day, the board began processing absentee ballots and special ballots. We concluded the tabulation of all special ballots on November the 21st, 2014 and pursuant to D.C. Code 1001.09(a), a post-election audit began on November 24th and concluded on December the 1st.

During the audit we experienced a few discrepancies in the hand tally of the results compared to the machine count. But only one precinct's results exceeded the margin of error. As a result of that discrepancy, we chose a second precinct from the same Ward and audited its results.

The results of the second audit, precinct audit, was within the margin of error as provided by the statute and we were able to conclude the audit.

Accordingly -- and I might add, the
discrepancies noted did not effect any of the contests for the November 4th election.

Therefore, I propose that we certify and announce the winners of the November 4th general election. And I will do so by announcing their names accordingly and ask the board to adopt the certification.

For the delegate to the U.S. House of Representatives, the winner is Eleanor -- the highest vote getter was Eleanor H. Norton, Eleanor Holmes Norton, with 143,923 votes.

The winner of the mayor of the District of Columbia, the highest vote getter, Muriel E. Bowser, with 96,666 votes.

The winner of the chairman of the council of the District of Columbia is Mr. Phil Mendelson with 137,889 votes.

The winner of the at-large member of the council of the District of Columbia seat, there are two seats that were vacant for this particular election, the first seat goes to Anita D. Bonds, with 85,575 votes. And Elissa
Silverman with 41,300 votes.

The next contests are the Ward-based contests, Ward 1, member of the council, the winner and highest vote getter is Brianne K. Nadeau with 17,024 votes.

The Ward 3 member of the council winner, with the highest votes, is Mary M. Cheh, with 20,314 votes.

The winner of the Ward 5 member of the council, with the highest votes, Kenyan McDuffie, with 19,290 votes.

The winner of the Ward 6 member of the council, with the highest votes if Charles Allen, with 23,668 votes.

The attorney general contest of the District of Columbia, the winner with the highest votes was Karl A. Racine, with 63,774 votes.

The winner of the United States Senator, with the highest votes, was Paul Strauss, with 116,901 votes.

The winner of the United States Representative, with the highest votes, I
Franklin Garcia, with 114,073 votes.

Going back to the Ward-based contest for the State Board of Education, the Ward 1 member winner with the highest votes is Laura Wilson Phelan, with 6,903 votes.

The Ward 3 member of the State Board of Education winner is Ruth Wattenberg, with the highest votes of 7,869 votes.

The winner of the Ward 5 member of the State Board of Education, with the highest votes, Mark Jones, with 17,410 votes.

And the Ward 6 member of the State Board of Education winner, with the highest votes, is Joe Weedon, with 13,225 votes.

And the last citywide measure was the Initiative Measure Number 71, Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014, for the initiative there were 115,050 votes, against was 49,168.

Madam Chair, I'd ask that we incorporate the summary report generated on December 2nd, 2014 into the record to incorporate
the AMC winners into the official record.

CHAIR NICHOLS: All right. It is done.

I will now entertain a motion to certify the results of the November 4th, 2014 general election as read by the executive director.

MR. DANZANSKY: So moved, Madam Chair, that we certify the results of the November 4 election, 2014 election.

MS. COLLIER-MONTGOMERY: I second.

CHAIR NICHOLS: All in favor, aye.

(Chorus of ayes.)

All opposed.

(No audible response.)

Ayes have it.

(Interruption due to public service announcement.)

MR. TATUM: Madam Chair, as a result of the certification, the election results, the mayor-elect, Ms. Muriel Bowser, who was the sitting Ward 4 council member has submitted a
letter of resignation to the board, announcing
her resignation to be effective as of noon on
January 1, 2015. By submitting that resignation
to us today, we are able to certify a vacancy for
the Ward 4 council member seat. And accordingly,
would need to certify the vacancy and then
proceed with establishing a special election
date.

CHAIR NICHOLS: All right. So having
received a letter of resignation on December 2nd
from Mayor-elect Muriel Bowser, who is the Ward 4
member of the council, and that resignation being
effective January 1, 2015 at noon, the board must
now certify a vacancy in the office and schedule
a special election.

Mr. McGhie will outline the procedure
for certifying a vacancy and scheduling the
special election.

MR. McGHIE: Yes, Title 3 DCMR Chapter
9 governs the procedure of the District of
Columbia Board of Elections, in the event a
vacancy occurs prior to the expiration of the
term of office of a ward member of the council in
the District of Columbia.

As you stated, the board received a
letter of resignation from Muriel Bowser on
December 2nd, 2014. Accordingly, 3 DCMR Section
903.3 states that within five working days of
receipt, the board must certify the seat vacant.

Therefore, pursuant to 903.3, I'm
requesting that the board, at this time, consider
a motion declaring the office of Ward 4 member of
the D.C. council vacant as of January 1st, 2015,
noon, pursuant to the letter of resignation from
Mrs. Bowser.

(Interruption due to public service
announcement.)

CHAIR NICHOLS: All right. I will
entertain a motion to certify the vacancy in the
office of Ward 4 member of the D.C. council as of
January 1, 2015 at noon.

MR. TATUM: Madam Chair, so moved.

CHAIR NICHOLS: May I have a second?

MR. DANZANSKY: Second.
CHAIR NICHOLS: All in favor, aye.

(Chorus of ayes.)

All opposed.

(No audible response.)

Ayes have it.

MR. McGHIE: The next three -- Title

3 DCMR Section 910.2 states, "At the time of certification of a vacancy, the board shall, if applicable, call a special election. A call for a special election shall include the following: the date upon which the special election is to be held, the date upon which nominating petition forms will be made available to candidates, and other relevant election calendar information." I believe the executive director has a recommendation at this time as to the date that we should schedule a special election.

CHAIR NICHOLS: Mr. Executive Director, what is your recommendation?

MR. TATUM: Madam Chair, the recommendation is for the special election to be held on April 28th, 2015.
CHAIR NICHOLS: All right. Mr. General Counsel.

MR. McGHIE: At this time, I would ask the board to consider a motion accepting the executive director's recommendation.

CHAIR NICHOLS: All right. I'll entertain -- all in favor?

(Chorus of ayes.)

All opposed?

(No audible response.)

Ayes have it.

MR. McGHIE: Okay. Then there's nothing further with respect to certifying the vacancy and scheduling the special election.

CHAIR NICHOLS: All right. Mr. Tatum.

MR. TATUM: Madam Chair, as it relates to the April 28th, 2015 special election, the staff will make nominating petitions available on Monday, December 8th, 2014. And the circulation period will be from Monday, December 8th, 2014 through January 28th, 2015. The deadline is at January 28th, 2015 at 5 p.m.
CHAIR NICHOLS: All right.

MR. TATUM: And we will make the
calendar available to anyone that would like to
see it, in our office and as well as posting it
to the website. And that's all I have.

CHAIR NICHOLS: All right. Thank you,
Mr. Tatum.

Are there any questions from members
of the board?

(No audible response.)

All right. We will now hear the
report of the board's General Counsel, Mr.
McGhie.

MR. McGHIE: Yes. The first thing I
have on my agenda is emergency and proposed
regulations to amend the 3 DCMR Section 910,
special elections.

The amendment, through Chapter 9,
establishes the timeframe in which the board must
conduct special elections to fill vacancies.
This is a regulation that we should have done a
while back. The regulations currently state that
the -- the special election the board has up to 144 days to schedule a special election. That's the old law; the new law states that the special election should be held on a Tuesday, occurring at least 70 days and not more than 174 days after the date of a vacancy. So this just puts our regulations in compliance with the law.

And so I would -- I request, at this time, a -- I'll entertain a motion to adopt this as an emergency and proposed rulemaking.

CHAIR NICHOLS: I'll entertain a motion to that --

MR. TATUM: Yes, I move we --

CHAIR NICHOLS: -- extent.

MR. TATUM: -- we adopt the emergency proposed regulations on Section 3 DCMR Section 910. I'm sorry. 3 DCMR Section 910, special elections.

CHAIR NICHOLS: All right.

MR. TATUM: Conform to the law.

CHAIR NICHOLS: All right. A motion is before us. All in -- all in favor, say aye.
(Chorus of ayes.)

All opposed?

(No audible response.)

Ayes have it.

MR. McGHIE: Okay. The second thing I have on my agenda is just a litigation status update. There's just two matters that are pending in court.

The first one is Sewell versus the D.C. Board of Election Ethics. This was a strange complaint that we got where -- from Mr. Sewell alleging that the board and campaign finance was harassing him. We filed a motion to dismiss with failure to state a claim, which was originally granted. But then Mr. Sewell re-filed this complaint, and so, we had to file another motion to dismiss, and that is currently pending.

The second one is -- is one that I guess the board familiar with. We've mentioned in several of our meetings, McMillian versus the Board of Election. And this is the one dealing with the rent is too damn high complaint. We
filed our motion to dismiss, and that is still pending.

CHAIR NICHOLS: All right. Thank you, Mr. McGhie.

Are there any questions of Mr. McGhie?

(No audible response.)

All right. We'll move on to the report of our campaign finance director, Ms. Cecily Collier-Montgomery.

MS. COLLIER-MONTGOMERY: Yes. I will submit the stats for the Office of Campaign Finance for the months of November 2014 and also for October 2014, for the record.

And the stats will be presented at the website of the Office of Campaign Finance before the close of business today.

But I would like to point out, for members of the public, that a notice has been published at our website on November the 17th, 2014, of the significant amendments to the Campaign Finance Act, which will be effective January the 31st, 2015, pursuant to the Campaign

There will be training in the Office of the Campaign Finance -- in the Office of Campaign Finance, starting tomorrow, on the new law. And that will be in our office at 2000 14th Street. We are located on the fourth floor, and the training will start at 12 o'clock. And it's held between 12 to 1, for anyone who would like to attend.

And that completes my report.

CHAIR NICHOLS: Thank you, Ms. Montgomery.

Are there any public matters to come before the board this morning?

Ms. (inaudible), would you please come to the table and identify yourself for the record.

MS. BRIZILL: Good morning. My name is Dorothy Brizill. I'm a resident and vote in the District of Columbia. And my home address is 1327 Girard Street, Northwest, Washington, D.C.

I would like to ask the board a
question with regards to the election returns for the November election. And it's a question that was put to me two weeks ago, at a meeting at the -- of the Ward 7 Democrats.

And essentially, I would like Mr. Tatum to give some of his input as regards -- why there were so many under-votes in the November election. Especially for the position of at-large member of the council. I don't have the final certified returns, but I do have your printout of the return that you posted on your website on November the 20th.

And you're correct in that Anita Bonds received 85,424 votes. And the next highest vote getter was Elissa Silverman, who received 41,285 votes. But the under-votes in that race were 81,552 votes. So, yes, Ms. Bonds was the highest vote getter, but as a candidate, even though unofficial, the next highest vote getter was the under-votes. Do you have any idea of why there were so many under-votes? Was it because of the design of the ballot? Was it people targeting
their vote? Do you have any sense? Because this became a major subject of discussion at this Ward 7 Dems meeting.

MR. TATUM: No. Generally what we see are voters who are going to the -- into the polling place and would simply make one selection. Some voters simply will not go to the bottom of the ballot. I think, anecdotally, we had voters who said they didn't want to vote for a second person, is what we saw in the early voting. So I suspect it was just simply voter choice.

MS. BRIZILL: Are you -- are you confident that the voter guide -- the design of the ballot informed people that they had the option of voting for two people? Because the question was raised to me that there was a concern about -- in that area.

MR. TATUM: Well, the instructions on the paper ballot indicate that it's a vote for two as well as on the touch screen. And the paper ballot is included as a sample ballot
within the voter's guide.

MS. BRIZILL: And the position was on the face of the ballot, and you didn't have to turn it over on the paper ballot?

MR. TATUM: No. It was on the front side of the ballot.

MS. BRIZILL: Okay. And in the voter guide, you just said you could vote for two, but you didn't -- you didn't, you know, highlight it?

MR. TATUM: I don't recall whether it was highlighted, but it did say "vote for two." And I think, historically, it's been --

CHAIR NICHOLS: It's always --

MR. TATUM: -- vote for two.

CHAIR NICHOLS: -- it's nothing new about the way it's been designed as I --

(Interruption due to public service announcement.)

MS. BRIZILL: Prior to this board being in place, we've had a situation wherein there was an under-count in certain races, because people failed to flip over the ballot.
And that certain races were on the other side of a ballot. So that's why -- I did not vote a paper ballot, so I never saw a paper ballot. But I just was wondering whether or not the problem was that -- the design of the ballot.

CHAIR NICHOLS: Everything was on --

MR. TATUM: The ANC and the --

CHAIR NICHOLS: Initiative.

MR. TATUM: -- Initiative were on the back side of the ballot. But all the main -- all the major contests were on the front side.

MS. BRIZILL: Thank you.

CHAIR NICHOLS: Thank you. Any other members of the public who wish to come before the board?

(No audible response.)

All right. There being no further business before us, this meeting is adjourned.

The time is 11:02 a.m. It is still Wednesday, December 3rd.

(Whereupon, the above-entitled matter went off the record at 11:02 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Regular Board Meeting

Before: DC BOE

Date: 12-03-2014

Place: Washington, D.C.

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

______________________________
Neal R. Gross
Court Reporter

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(202) 234-4433 www.nealgross.com