

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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SPECIAL BOARD MEETING

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MONDAY
MAY 20th, 2019

+ + + + +

The District of Columbia Board of Elections convened a Special Board Meeting in Suite 750, 1015 Half Street, S.E., Washington, D.C., 20003, pursuant to notice at 11:30 a.m., Michael Bennett, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

MICHAEL BENNETT, Chair
MIKE GILL, Member
DIONNA MARIA LEWIS, Member

BOARD OF ELECTIONS STAFF PRESENT:

ALICE P. MILLER, Executive Director
KENNETH MCGHIE, General Counsel
KAREN F. BROOKS, Registrar of Voters
RENEE CHRISTENSEN
CECILY COLLIER-MONTGOMERY, Director,
Office of Campaign Finance
LINDA JOHNSON, Assistant to the Executive
Director
WILLIAM SANFORD, General Counsel, Office
of Campaign Finance

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Adjourn. 110

1 P-R-O-C-E-E-D-I-N-G-S

2 (11:48 a.m.)

3 CHAIRMAN BENNETT: Let me call the
4 meeting to order. This a Special Meeting of the
5 D.C. Board of Elections. Actually we had
6 intended just to deal with one matter. That's
7 the hearing regarding the Jack Evans recall that
8 was filed by Mr. Eidinger. But we actually have
9 one other item we need to deal with before that,
10 and that's to approve as final the regulations
11 for the Fair Elections Program.

12 And so what I'm going to do first,
13 other than call the meeting to order and go
14 through the agenda, I want to introduce who's
15 here.

16 To the far right, Ms. Cecily
17 Montgomery.

18 MS. MONTGOMERY: Good morning.

19 CHAIRMAN BENNETT: Director of the
20 Office of Campaign Finance.

21 To my right is Mr. Ken McGhie. Your
22 last name's not Montgomery. Ken McGhie, the

1 general counsel to the Board of Elections.

2 To my left is Board Member Dionna
3 Lewis.

4 MEMBER LEWIS: Good morning.

5 CHAIRMAN BENNETT: And to her left is
6 Executive Director of the Board of Elections, Ms.
7 Alice Miller.

8 We're waiting on another Board Member,
9 Mr. Michael Gill. We will -- we don't need him
10 to get through the final rulemaking for the Fair
11 Elections Program, so we're going to go ahead and
12 do that. And then when he gets here, we'll start
13 the hearing regarding the recall of Jack Evans
14 filed by Mr. Eidinger.

15 So, anyway, first thing I'd like to do
16 is open the meeting up and get adoption of the
17 agenda.

18 Ms. Lewis.

19 MEMBER LEWIS: So moved.

20 CHAIRMAN BENNETT: It's properly been
21 moved, and I second. And it is unanimously
22 approved with the two of us here as a quorum.

1 The next thing I want to do is to open
2 up and address the matter around final rulemaking
3 for the regulations for the Fair Elections
4 Program.

5 I want to just explain very quickly
6 that we are going to adopt as final rules the
7 regulations that were issued in March for public
8 review in the D.C. Register and that came back --
9 got through the 30-day period in April. We will
10 do additional modifications to those regulations
11 based on legislation, emergency legislation that
12 the Council passed but the Mayor has not signed
13 as of yet, that should be signed prior to May
14 29th.

15 We will modify the final regulations
16 that we approve today on May 29th at our regular
17 board meeting based on that emergency
18 legislation. We're not able to address that
19 today because those legislative changes to the
20 Fair Elections Program have not been finally
21 approved yet.

22 So what I'd like to do is to turn it

1 over to Mr. McGhie, and we'll start the process
2 of Final Rulemaking.

3 MR. MCGHIE: Okay. The first thing on
4 the agenda is Final Rulemaking to Title 3, DCMR.
5 It's Chapter 3, Advisory Opinions of the Board;
6 Chapter 37, Investigations and Hearings; Chapter
7 42, The Fair Elections Program; and Chapter 43,
8 The Verification Process.

9 These are all Office of Campaign
10 Finance Regulations, so I will defer to the
11 general counsel for the Office of Campaign
12 Finance to explain what these regulations entail.

13 MR. SANFORD: Good morning, Mr.
14 Chairman and distinguished Board Member Lewis.
15 My name is William SanFord, general counsel for
16 the Office of Campaign Finance. As the general
17 counsel for the Board of Elections indicated, we
18 are requesting final approval of the final
19 rulemaking of Chapters 30, Chapter 34, Chapter
20 37, and Chapter 99.

21 Chapter 30 includes the organizational
22 requirements for the Fair Election Program.

1 Chapter 34 implements an audit and
2 bookkeeping and record keeping requirement for
3 the Fair Election Program.

4 Chapter 37 includes the investigative
5 and hearings and penalties provisions that affect
6 the Fair Elections Program.

7 And Chapter 99 includes the
8 definitions which will be expanded under the Fair
9 Elections Program.

10 As the Chairman of the Board has
11 indicated, these regulations were published in
12 the D.C. Register in April, and they were
13 finalized after 30 days. And so on today's date,
14 we'd ask the Board to approve final rulemaking.

15 MR. MCGHIE: Okay. At this point I
16 would ask the Board to entertain a motion to
17 approve the -- as final rulemaking the
18 regulations of as outlined by the -- Mr. SanFord.

19 MEMBER LEWIS: So moved.

20 CHAIRMAN BENNETT: It's been properly
21 moved, and I second that.

22 MS. BRIZILL: Mr. Chairman, can

1 someone from the public make a comment about what
2 Mr. -- the legal counsel for the Office of
3 Campaign Finance has just said? Because this is
4 not in the agenda.

5 CHAIRMAN BENNETT: It is on the agenda
6 today, Ms. --

7 MS. BRIZILL: This is not on the
8 printed agenda that the citizens were given when
9 they came in. It says Rulemaking regarding
10 Chapter 37, 42, and 43. And the general counsel
11 for the Office of Campaign Finance indicated that
12 it's Rulemaking for Sections 30, 34, 37, and 99.
13 That is not what is on the public notice.

14 CHAIRMAN BENNETT: Mr. SanFord?

15 MR. SANFORD: The Chairman indicated
16 -- I mean initially the Chapters that are noted
17 on the agenda were supposed to be part of this
18 hearing. But as the Chairman indicated, that has
19 not been signed by the -- that legislation has
20 not been signed by the Mayor so that has not been
21 offered today for final rulemaking for approval.

22 So we are requesting approval of the

1 chapters that have been published in the D.C.
2 Register for the notice and comment period that
3 was -- that expired in April of this year.

4 CHAIRMAN BENNETT: Ms. Brizill, would
5 you properly identify yourself for the record.

6 MS. BRIZILL: My name is Dorothy
7 Brizill. I'm Executive Director of D.C. Watch;
8 our address is 1327 Girard Street, Northwest.

9 Mr. Chairman, let me put on the record
10 a concern I have. Number one, the five items you
11 have on today's agenda are not the items that are
12 on the website for the Board of Elections hearing
13 today.

14 But, in addition, when we arrived at
15 this meeting today, the printed agendas were on
16 the table. And item 2 on that agenda says Final
17 Rulemaking, Title 3, D.C. Municipal Regulations,
18 Chapter 3, Chapter 37, 42, and 43.

19 What we've just heard is you want to
20 adopt Final Rulemaking for Chapter 30, 34, 37 and
21 99. So I'm voicing a concern regarding the fact
22 that if you're going to add four additional items

1 to the agenda for today other than the recall,
2 they were not posted on the D.C. -- on the Board
3 of Elections website in a timely matter.

4 Moreover, you're changing the agenda
5 as we sit here versus the agenda that we were
6 given when we came into the room. This is --
7 this is not the way this is supposed to go. This
8 is not acceptable, and I don't think this is
9 legal.

10 CHAIRMAN BENNETT: It is legal. Thank
11 you for your comment, Ms. Brizill.

12 MS. BRIZILL: Why do you think it's
13 legal? Why do you think it's legal?

14 CHAIRMAN BENNETT: Because we have the
15 authority to do so.

16 Do you have any other comments, Ms.
17 Brizill?

18 MS. BRIZILL: Why do you have the
19 authority? The open governments law requires you
20 to give the public notice. You give the public
21 notice by publishing on your website and by
22 putting the agenda here. None of those documents

1 coincide with what you're about to do. So why is
2 it legal?

3 CHAIRMAN BENNETT: Ms. Brizill, I
4 don't intend to have a --

5 MS. BRIZILL: I just would like a
6 civil explanation, not just for a ruling from the
7 Chair saying that it's legal.

8 CHAIRMAN BENNETT: The agenda can be
9 amended at any time, Ms. Brizill.

10 Is there something else that you want
11 to -- that you want to tell us? If you'd like to
12 come and address those issues with the other
13 changes we're going to make to the regs on the
14 29th, we would love to see you.

15 MS. BRIZILL: No. Mr. Chairman, you
16 know repeatedly for the past several months I
17 have been raising concerns about what's not on
18 your website, and you have dismissed it.

19 Now it's not only not on your website
20 -- if you look at the homepage of your website it
21 says special meeting, it doesn't say all these
22 other -- and if it's going to be regular board

1 meeting.

2 CHAIRMAN BENNETT: This is not a
3 regular board meeting. It is a special meeting.

4 MS. BRIZILL: Why do you think this is
5 legal given D.C. law on the subject matter in
6 terms of you have to publish --

7 CHAIRMAN BENNETT: The agenda can be
8 changed at any time, Ms. Brizill.

9 MS. BRIZILL: Can I have a ruling from
10 the legal counsel? Where does it say the agenda
11 can be changed --

12 CHAIRMAN BENNETT: Ms. Brizill, you're
13 not going to hijack this meeting.

14 MS. BRIZILL: I'm not hijacking. I'm
15 asking a simple question. I would like an answer
16 to it.

17 CHAIRMAN BENNETT: Ms. Brizill, do you
18 have any other comments?

19 MS. BRIZILL: Why did you decide to
20 change the agenda from a special board meeting to
21 a regular board meeting -- putting five things on
22 the agenda?

1 CHAIRMAN BENNETT: Ms. Brizill, you
2 are not going to hijack this meeting. I
3 explained what we were doing in the beginning.
4 I'm sorry that is not something that meets your
5 requirements. That's what we're going to do.
6 We're going to proceed.

7 MS. BRIZILL: It's not meeting my
8 requirements, not making the legal requirements.
9 It's not meeting the legal requirements.

10 CHAIRMAN BENNETT: Ms. Brizill, we're
11 done. Do you have anything else to say?

12 MS. BRIZILL: I would like a ruling
13 from the --

14 CHAIRMAN BENNETT: You're not going to
15 get a ruling.

16 MS. BRIZILL: I don't want a ruling.
17 I want his comment because his office is
18 responsible in a large part for putting up the
19 agenda. How are citizens supposed to know --

20 CHAIRMAN BENNETT: Ms. Brizill, you
21 have got to stop doing this. He can -- I'm happy
22 to allow him to respond to you --

1 MS. BRIZILL: Cite me a section of the
2 code --

3 CHAIRMAN BENNETT: I am happy to allow
4 you --

5 MS. BRIZILL: -- on the regulations
6 governing the Board of Elections that say that
7 you can willy-nilly change your agenda. Cite me
8 a section.

9 MEMBER LEWIS: Ms. Brizill, we do
10 appreciate your concern and your activism, but we
11 have to have and maintain a decorum in our
12 meetings. And so if you wouldn't mind letting
13 the Chairman speak, and then he'd let you speak,
14 it would be a better and more efficient dialogue
15 if we could have just that decorum and the
16 respect present here today for the meeting.

17 MS. BRIZILL: I appreciate your
18 comment, Ms. Lewis. But I also want respect and
19 decorum. Okay. You have a room full of people
20 who came down here not knowing half of these
21 items were on the agenda. You have people who
22 come to the meetings, who don't come to the

1 meetings, who try to follow what the Board of
2 Elections is doing, to be checking the Board
3 website on a regular basis as regards to the
4 agenda for the meetings, and then to find out
5 that you have changed it this morning, but then
6 you change it again in the course of the meeting.

7 CHAIRMAN BENNETT: Ms. Brizill, what
8 we'll do is we'll table the matter just to check
9 the citations that you indicate that were not
10 proper, and we'll bring it up right after the
11 hearing again.

12 So thank you for your -- thank you for
13 pointing that out.

14 All right. Thank you, Mr. SanFord.

15 Let's check the citations, and we'll
16 table it and bring it up for a vote after the
17 hearing.

18 Has Mr. Gill gotten here yet?

19 We're going to -- if the
20 representative for Mr. Evans and the
21 representative for Mr. Eidinger, who's here, if
22 you guys could get set up. We're going to

1 adjourn the meeting for a few minutes until Board
2 member Michael Gill can find his way upstairs and
3 get into the room. Okay?

4 We'll reconvene in about five or ten
5 minutes. Thank you.

6 (Whereupon, the above-entitled matter
7 went off the record at 12:00 p.m. and resumed at
8 12:07 p.m.)

9 CHAIRMAN BENNETT: We are back, and we
10 are officially reconvened. I want to introduce
11 to the right of Mr. McGhie is Mr. Michael Gill,
12 Board Member.

13 Prior to moving to the hearing we will
14 conclude the issue around for the rulemaking. To
15 your credit, Ms. Brizill, we were actually wrong
16 in terms of the citations. Thank you for
17 pointing that out. There were two public filings
18 with regard to rulemaking. So we will address
19 that after we have a hearing with regards to
20 that. Okay?

21 Mr. McGhie.

22 MR. MCGHIE: Okay. The next matter on

1 the agenda is a challenge to the eligibility of
2 Adam Eidingger who filed as proposer of a recall
3 measure of Jack Evans of Ward 2.

4 Before I outline the procedures, can
5 I have the parties identify themselves beginning
6 with Mr. Eidingger?

7 MR. EIDINGER: Hi. Adam Eidingger,
8 2448 Massachusetts Avenue NW, Washington, D.C.,
9 20008. I am the proposer.

10 MR. MCGHIE: And is that counsel next
11 to you?

12 MR. EIDINGER: No.

13 MR. NORMAN: I'm just here to consult.

14 MR. MCGHIE: So could you please state
15 your name and address?

16 MR. NORMAN: Tony Norman, 533 Gresham
17 Place.

18 MR. MCGHIE: Is that Northeast,
19 Northwest --

20 MR. NORMAN: Northwest.

21 MR. MCGHIE: Okay. Great. Thank you.
22 And are you an attorney or just --

1 MR. NORMAN: I'm an attorney, but I'm
2 not representing Mr. Eidinger here today.

3 MR. EIDINGER: He is consulting me on
4 process and procedure but not speaking on my
5 behalf. I'm speaking on my own behalf.

6 MR. MCGHIE: Okay. Great. Mr. Dinan?

7 MR. DINAN: Donald Dinan, and I
8 represent the respondent, Councilmember Jack
9 Evans.

10 MR. MCGHIE: Okay. So procedurally,
11 this is how we're going to do it.

12 Mr. Evans, this is a challenge by Mr.
13 Evans to your qualifications, so they will have
14 the burden of proof. So they will have, what I
15 call, two bites of the apple.

16 MEMBER GILL: It's a challenge to
17 Eidinger's --

18 MR. MCGHIE: Eidinger's
19 qualifications. So they'll have two bites of the
20 apple. So what we'll do is first the challenger
21 will have 15 minutes to present their case in
22 chief, followed by you having 15 minutes to

1 present your case, and then they will have 5
2 minutes in rebuttal.

3 What we will do additionally, though,
4 is that we will it open it up for any public
5 comments that want to be heard. Anybody that
6 wants to be heard, either for or against the
7 measure, will be given time to present any
8 comments.

9 And then we'll end it with closing
10 arguments. Each party will be given two minutes
11 for closing arguments.

12 CHAIRMAN BENNETT: Can we see how many
13 people we have that would like to speak either on
14 behalf of the proponent or the opponent? Would
15 you raise your hand so I can get a count?

16 One, two, okay. Three. Four. Okay.
17 When we open it up to additional comments, we
18 will limit that to two minutes, okay. So please
19 gather your thoughts and be succinct.

20 MR. MCGHIE: Okay. So Ms. Christensen
21 is behind me, and she will be holding up your
22 time. So she'll let you know when there's ten

1 minutes left, five minutes left, and one minute
2 left. We're going to try to strictly follow the
3 time limits.

4 So does anybody have any questions?
5 No? You have no questions.

6 MR. DINAN: No questions.

7 MR. MCGHIE: Mr. Dinan, you may
8 proceed.

9 CHAIRMAN BENNETT: What we'll do --
10 I'm sorry. Just from a procedural standpoint.

11 Once we finish, the Board will convene
12 and try to make a determination today prior to
13 your leaving. And if we're not able to do that,
14 then we'll let you know when we will have a
15 decision. But we'll certainly try to do that
16 today. Okay?

17 MR. DINAN: Thank you very much, Mr.
18 Chairman, Members of the Board. My name is
19 Donald Dinan, and I represent Councilmember Jack
20 Evans in this matter.

21 First, and I will not use my time to
22 reiterate the procedural history of this case,

1 which the Board well knows, which has been set
2 forth, but we would take this opportunity to, as
3 we did in our brief, incorporate by reference the
4 transcripts of the April 3rd hearing, previous
5 petition, both those of Mr. Eidinger and myself.

6 As Mr. McGhie has just pointed out,
7 the legal standard that's in front of us, as set
8 forth in D.C. Code Section 1.1001.17, is that a
9 request for petitions must be filed by a Ward 2
10 elector, that is a Ward 2 registered voter.

11 At the pretrial -- not pretrial, pre-
12 hearing conference held within this case on May
13 3rd, Mr. Eidinger produced for the first time a
14 driver's license where he was registered at 2448
15 Massachusetts Avenue. From the face of this
16 driver's license, he obtained it after the April
17 3rd hearing, but before he refiled his petition
18 on April 12th.

19 Therefore, he got his driver's license
20 after the first rejection but soon thereafter he
21 did change it and then almost immediately filed
22 this recall.

1 At the pre-hearing conference we were
2 informed by the Board of Elections that the
3 obtaining of this driver's license lifted the, in
4 quotes, flag on his voter registration that we
5 had pointed out previously, that in order for the
6 registration to become final he had to show a
7 proof of address.

8 It is submitted that having a D.C.
9 driver's license does not prove, per se, that one
10 is a bona fide resident. As the ground rules of
11 this hearing have set, it may create a prima
12 facie case rebuttable presumption, thus shifting
13 the burden of proof to the opposer.

14 But that it does not, in and of
15 itself, it's not an irrebuttable presumption.
16 And, in fact, particularly in the light of facts
17 and history of this case in determining whether
18 Mr. Eidinger is a bona fide resident of Ward 2,
19 a real resident, that all the facts and documents
20 in this case have to be taken in their totality.
21 No one piece of evidence proves anything. It
22 must be -- weight must be given to the totality

1 of the facts.

2 And in the totality of the facts, you
3 know, I'm going to come back to vehicle
4 registration, Mr. Eidinger's two vehicles are
5 registered at Mintwood Place. I'll return to
6 that soon.

7 His mobile phone numbers are
8 registered to the Mintwood Place. He has filed
9 no forwarding address with the United States
10 Postal Service of moving his address to 2448
11 Massachusetts Avenue. We reference our
12 opposition at 4.

13 According to the IRS records, his
14 address, his tax address, residency is still at
15 Mintwood Place. And on August 15th of this year,
16 Mr. Eidinger was under the requirement to make an
17 IRS filing, which -- presumed he did. So in
18 other words, he told the IRS on April 15th, three
19 days after he filed the renewed request for
20 petitions under oath that he lives on Mintwood
21 Place.

22 And then there's the issue of him

1 filing with OCF that his address, when he made
2 the donation to Elissa Silverman, that he lived
3 at Mintwood Place. That also -- this is for the
4 past election. That also is in our opposition at
5 4.

6 Now returning to the issue of the
7 driver's -- of the vehicle registration, Mr.
8 Eidinger today has produced a registration for
9 one of his vehicles, Chevrolet, for 2448
10 Massachusetts Avenue. That was on May 5th.
11 Excuse me, May 11th that he got that. That was
12 after it was pointed out on May 3rd at the pre-
13 hearing conference that his vehicles were still
14 registered at Mintwood Place.

15 What this evidence is showing is that
16 in -- taken in its totality, Mr. Eidinger has
17 used a friend's address where he is allegedly
18 illegally operating a business. That's because
19 he has employees and clients come there, and this
20 is the reason he had utility bills at that
21 address.

22 It appears that Mr. Eidinger used a

1 completely coincidental fact, coincidentally that
2 he operated a business in Ward 2 in a friend's
3 house, and he is using that to now claim that on
4 -- that he lives there, and he's doing that for
5 the sole purpose of trying to recall Jack Evans.

6 While at the same time, and this was
7 published by the Baltimore Sun on April 10th, he
8 has announced his intention to move, not only
9 move out of Ward 2, but to move out of the
10 District of Columbia, back to the State of
11 Maryland where he can continue his battles
12 against Congressman Andy Harris.

13 One looks, and today Mr. Eidinger
14 produced some new documents, but in the utility
15 bills that he produced at the last hearing on
16 April 3rd, this is Exhibit 1 in our supplement,
17 on the face of them, the utility bills and the
18 license bills predate any time that he claims he
19 lived at Massachusetts Avenue. The WASA bill
20 dates back to at least March 2018, and the
21 business tax, DCRA records show that that was
22 issued in April 2016.

1 Today Mr. Eidinger produces some new
2 documents, including one, two PEPCO bills, one
3 from March and April. And this is not surprising
4 because he's been conducting a business there
5 since at least April 2016.

6 Again, the coincidence, the address of
7 convenience for the sole purpose of claiming to
8 have a residence there to get the recall
9 petitions and then leave town. Well, the -- and
10 that addresses those new documents.

11 As we -- there is a pattern of conduct
12 here, Mr. Eidinger and his addresses of
13 convenience, all of which are on the record. You
14 have Salisbury, Maryland so he can fight Andy
15 Harris; Massachusetts Avenue so he can recall
16 Jack Evans; Mintwood Place, which he has owned
17 and lived in since 1999.

18 The purpose of the recall statute, the
19 purpose of the law, if one does a close reading;
20 two -- Title 1 Section 1001.17. That the purpose
21 cannot be that one can move into Ward 2, use an
22 address of convenience that is enabled only by

1 blind coincidence; two, go get a driver's
2 license, which he could, because even under the
3 new DHS regulations, we have to show enhanced
4 documentation. He had the utility bills because
5 he had them for the business. And then less than
6 one week later, four, request petitions to
7 recall.

8 And while he's doing all this,
9 announced to the press, as published in the
10 Baltimore Sun, republished in the Washington
11 Post, he's leaving town as soon as this is done.

12 And as we have cited, statutes --
13 agencies in the District of Columbia have an
14 inherent right of discretion. We cite People's
15 Counsel v. The Public Service Commission 474 A.2d
16 1274, D.C. 1984. Where at page 1279 the Court of
17 Appeals says it is -- which it inherently does,
18 this is agencies, referring to agencies'
19 discretion, when statute entrusts a decision at
20 agency discretion.

21 In quotes, it implicitly withholds
22 some measure of the reviewing court's authority

1 to set aside that agency decision.

2 Put it another way, to the extent that
3 the decision is committed to an agency's
4 discretion, the reviewing court cannot replace
5 the agency's judgment with its own. And
6 supported by the 4th Circuit case, Laytel v.
7 Morton 445 F.2d, 1207, 4th Circuit, 1971.

8 So we have this fact pattern. The
9 Board has discretion, and in the interests of
10 time, is that we provided a time line of the
11 possibilities of the inherent chaos that this
12 could create, this being granting Mr. Eidinger's
13 petition, and we did set forth that the Board in
14 the exercise of its discretion has to look at the
15 maximum times. They can't look that he's going
16 to get the petitions in 30 days or 60 days,
17 whatever.

18 And this chaos, and it's really
19 regardless of the actual times, is we're going to
20 have in Ward 2 three elections within about a
21 five to six-month period. Maybe even shorter.
22 And, indeed, the specter that the recall election

1 will be just before the primary election. The
2 primary election, currently scheduled for June
3 16th, whoever wins that is going to be the
4 overwhelming presumptive winner in the general
5 election. The Democratic candidate can't really
6 lose.

7 If the Board disrespects to follow the
8 request of Petitioner, three elections in a four
9 or five-month period, the voters are going to be
10 completely confused. They could be voting after
11 they voted in the primary for the person they
12 want. And let's, for the sake of argument say it
13 is Jack Evans, and then they're going to be asked
14 afterwards to vote in a special election to fill
15 a vacancy.

16 And, of course, if it's not Jack Evans
17 on June 16th then the matter's over. Whoever
18 wins that election will become the Ward 2
19 candidate. And all of this is going to be at the
20 cost of hundreds of thousands of dollars to the
21 taxpayers in the District of Columbia.

22 We would submit that under this fact

1 pattern, the totality of the evidence Eidinger is
2 not a bona fide resident, and the Board should
3 use its inherent discretion and the
4 interpretation of the statute and not costing the
5 taxpayers hundreds of thousands -- I believe it's
6 a little over \$200,000 election for a Ward,
7 create chaos as to what they're voting on, but
8 rather exercise its discretion, have the primary
9 on June 16th, and let the voters speak.

10 Thank you very much.

11 MR. MCGHIE: Okay. Do any of the
12 board members have any questions for Mr. Dinan?

13 CHAIRMAN BENNETT: I don't.

14 Ms. Lewis, do you have any questions?

15 MEMBER LEWIS: Possibly. Give me one
16 second.

17 CHAIRMAN BENNETT: Okay. Mr. Gill, do
18 you have anything right now?

19 MEMBER GILL: No questions.

20 CHAIRMAN BENNETT: Excuse me just one
21 second.

22 MR. MCGHIE: Well, let me ask you some

1 questions in this time. Just to make sure we
2 have all the documents that you referenced in
3 your presentation just now. We have his driver's
4 license.

5 Now I know you mentioned he had
6 another vehicle, another vehicle that's
7 registered?

8 MR. DINAN: Yes, in our opposition
9 supported by cite to DMV records, both his
10 vehicles were registered at Mintwood Place, which
11 was the status of things up to May 3rd.

12 Today Mr. Eidinger has produced a
13 statement with some exhibits, I presume, either
14 they're in the record or he's going to put them
15 in, but in that he shows that after the hearing
16 on May 3rd, where -- the pre-hearing conference,
17 where it was pointed out his cars were still all
18 registered at Mintwood Place, he runs down to
19 DMV, and he changes the address. And he did that
20 apparently on May 11th.

21 And this falls into our argument of
22 the address of convenience. Every time it's

1 pointed out that he hasn't done something, he
2 runs down and does it.

3 MR. MCGHIE: Okay. I just want to
4 make sure I have track on everything that you
5 just mentioned. So we've got the two vehicles,
6 we have the cell phone bill that says Mintwood,
7 the tax address, tax information that he's using,
8 you know, he filed on April 15th. That's
9 Mintwood also?

10 MR. DINAN: Yes.

11 MR. MCGHIE: Yes. And the OCF
12 donation to -- I forgot which Councilmember he
13 donated to.

14 MR. DINAN: Ms. Silverman.

15 MR. MCGHIE: Elissa Silverman, that
16 also indicates a Mintwood address.

17 MR. DINAN: Yes. And that's in the
18 record.

19 MR. MCGHIE: There's a PEPCO bills you
20 say. That has Massachusetts Avenue.

21 MR. DINAN: That has Massachusetts
22 address, but they predate any time -- those

1 accounts predate any time that he's ever claimed
2 he lived there.

3 MR. MCGHIE: Okay.

4 MR. DINAN: And he has admitted he's
5 run the business there, and we concede to that.

6 MR. MCGHIE: All right. Do we have
7 anything else, Ms. Lewis?

8 MEMBER LEWIS: Yes. Mr. Dinan, when
9 you were -- Mr. Dinan, when you're referencing
10 the renewal, are you referring to this exhibit?
11 This is Eidinger's packet, the registration for
12 residential parking renewal notice? What are you
13 referring to?

14 MR. DINAN: Yes, I'm -- he just
15 produced this today.

16 MEMBER LEWIS: Oh, I see.

17 MR. DINAN: Yeah.

18 MEMBER LEWIS: Okay. All right. Is
19 it --

20 MR. DINAN: And that's what I'm
21 referencing.

22 MEMBER LEWIS: Is it that you're

1 saying he went down there on May 11th and did
2 renewal?

3 MR. DINAN: Well, that's what it says.

4 MEMBER LEWIS: I think it says it
5 expires on May 11th.

6 MR. DINAN: But there -- well, it does
7 say that, but it's the time that he would have
8 had to renew it.

9 MEMBER LEWIS: Okay.

10 MR. DINAN: And because of the time
11 that -- in reading this, he either got a one year
12 or a two year registration, which means he either
13 got on May 11, 2017 or May 11th, 2018. Okay.
14 Both those times predate the time that -- any
15 time he claims he lives on Massachusetts Avenue.

16 It appears from this document that one
17 of the vehicles it was going to run out on May
18 11th, 2019, so -- but this is after it was
19 pointed out that that vehicle was still
20 registered at Mintwood Place on May 3rd, 2019.

21 MEMBER LEWIS: In which document? Are
22 you still referencing the same renewal document

1 when you're saying that, or are you now
2 referencing one of the Allstate or insurance --

3 MR. DINAN: No, this is the same
4 registration and RPP.

5 MEMBER LEWIS: Okay. And where are
6 you seeing that something was running out? I
7 just want to make sure I'm following you.

8 MR. DINAN: Well, it says it's going
9 to expire on May 11th, 2019.

10 MEMBER LEWIS: Okay.

11 MR. DINAN: So what I'm saying is
12 after the pre-hearing conference on May 3rd,
13 where it's pointed out both vehicles are still at
14 Mintwood Place, again another coincidence, one of
15 them is going to expire, well he runs down after
16 the hearing and he has to renew his registration,
17 well he renews it at Massachusetts Avenue.

18 MEMBER LEWIS: Do you have some
19 documentation supporting that? I'm just trying
20 to make sure I'm following --

21 MR. DINAN: What he did --

22 MEMBER GILL: We don't seem to have

1 anything that shows that he had vehicles
2 registered at Mintwood. You're saying he did.
3 I think that's what Dionna is getting at is just
4 where does it show they were registered at
5 Mintwood?

6 This to me just looks like he pulled
7 a renewal notice that was coming and it shows
8 Massachusetts. So he obviously had a car
9 registered at some point in the last year
10 Massachusetts. But you're saying Mintwood. So
11 I just -- I think that's what Dionna is saying is
12 that you have some evidence that there was a car
13 registered at Mintwood.

14 MR. DINAN: That evidence came from an
15 online search of DMV records.

16 MEMBER LEWIS: Do you have copies of
17 those online searches?

18 MR. DINAN: We do have the
19 investigator's printouts.

20 MEMBER LEWIS: Can we see those?

21 MR. DINAN: I -- I don't believe -- we
22 did not put them in the record. I don't believe

1 we have them here today. I mean we could
2 supplement the record if you want. But I would
3 again emphasize the date that he had to have
4 gotten this registration is before any date that
5 he claims he lived there.

6 MEMBER LEWIS: And then I guess
7 another question I have, could you just explain
8 the relevance in your perspective of the time
9 line that you offered in the appendix?

10 MR. DINAN: It was just to show my
11 example of what maybe could be called the worst
12 case scenario, but to show by example that no
13 matter how soon they realistically get the
14 petitions in, that it's going to cause this Board
15 to potentially have three elections in a very --

16 (Simultaneous speaking.)

17 MEMBER LEWIS: So you're just making
18 a projection?

19 MR. DINAN: Which in the brief I said
20 in the most optimistic in a five to six-month
21 period.

22 MEMBER LEWIS: I see. Okay. I see.

1 You're just making a projection. This isn't
2 necessarily a --

3 MR. DINAN: No. On the one side we
4 sort of gave what it's probably going to be; then
5 we showed a worst case scenario.

6 MEMBER LEWIS: I don't think I have
7 any further questions.

8 CHAIRMAN BENNETT: Mr. Gill.

9 MEMBER GILL: No, I just -- just so
10 your point is that regardless -- I get you on two
11 separate points here. You're trying to make the
12 one point that he had cars registered at Mintwood
13 Place, but the only thing in the record just
14 shows that he has a renewal for Massachusetts
15 Avenue.

16 Your point is he didn't previously
17 claim to live at Massachusetts Avenue when he had
18 his car registered there. And so we're just
19 trying to get --

20 MR. DINAN: Okay. Yes --

21 MEMBER GILL: I think I got it.

22 MR. DINAN: Okay. It's a subpoint to

1 the fact that he keeps changing the documents as
2 this case has gone on. But we have -- our main
3 point is, is that just having the driver's
4 license and I would even say moving the
5 registration ex post facto, you still have to
6 take the totality of all the documents in
7 evidence, which are the documents that Mr. McGhie
8 summed up to be that we've stated, the IRS, the
9 mobile phones, the other car's still registered
10 there, and the like.

11 And that's our argument, when you take
12 together the totality of the evidence and how it
13 keeps changing, you know, renewing things, that
14 he's not a bona fide resident. I think it's
15 clear by overwhelming preponderance of the
16 evidence is that --

17 CHAIRMAN BENNETT: Mr. Dinan, I'm
18 going to stop you. You're kind of getting into
19 rebuttal.

20 You have another question?

21 MEMBER LEWIS: Yeah, I do. I'm sorry.
22 You mentioned this friend. How or who's the

1 friend and how do you identify the friend that
2 lives at this other alternative address? And do
3 you have any documentation supporting that?

4 MR. DINAN: Well, on the -- again, in
5 public records it shows who lives there. And I
6 believe Mr. Eidinge'r's going to address this, but
7 it's one of his business associates who we
8 believe is a Mr. Nikolas Schiller.

9 MEMBER LEWIS: Can you spell that name
10 for us?

11 MR. DINAN: Nikolas is spelled with a
12 K, N-I-K-O-L-A-S. And Schiller is S-C-H-I-L-L-E
13 R.

14 But the presumption, that's who we
15 believe it is. Mr. Eidinge'r may say no, it's
16 somebody else. But he was running the business
17 out of that address. He wasn't living there, all
18 that's undisputed, before November of 2018.
19 Somebody else was, and that somebody else is his
20 business associate, so it's to be presumed he was
21 a friend or a friendly associate.

22 We think that person is Nikolas

1 Schiller; it could be somebody else. But he did
2 have the coincidence he's running a business out
3 of somebody else's apartment. And this was all
4 -- predates any time that he makes any claim of
5 moving, which I believe was November of 2018.

6 CHAIRMAN BENNETT: Any other
7 questions, Ms. Lewis?

8 MEMBER LEWIS: No.

9 CHAIRMAN BENNETT: Mr. Gill?

10 MEMBER GILL: Nope.

11 CHAIRMAN BENNETT: Okay. Let's
12 proceed.

13 MR. MCGHIE: Thank you. So, Mr.
14 Eidinger.

15 MR. EIDINGER: Yes. Eidinger.

16 MR. MCGHIE: Okay. You have 15
17 minutes.

18 MR. EIDINGER: Okay. Does that
19 include time for witnesses because we had
20 prescheduled witnesses?

21 (Simultaneous speaking.)

22 MR. MCGHIE: No, that will be more

1 time.

2 In his case in chief if he has any
3 witnesses, they should be included.

4 MR. EIDINGER: All right. Well first
5 I'd like to say the packet of evidence is my
6 rebuttal information here I present today I'd
7 like to be entered into the record. This packet
8 here, you should all have a copy.

9 CHAIRMAN BENNETT: Yes, sir.

10 MR. EIDINGER: Have you read -- have
11 you read this?

12 CHAIRMAN BENNETT: Yes.

13 MR. EIDINGER: I won't necessarily
14 read this verbatim. I'll just highlight some
15 points before I call my witnesses.

16 The new evidence that is being, you
17 know, brought forward here is it only further
18 confirms where my residence is. The fact is I
19 had vehicles that were registered at a prior
20 residence that are now coming for re-
21 registration, and they're being re-registered at
22 the correct location.

1 I own the other apartment in question
2 here, but I've not lived there for many years.
3 I've only recently made word to my super, you
4 know, residence where I am, everything matches up
5 because I did that back in the fall of last year.
6 So I have been a Ward 2 voter since the fall of
7 last year. There should be no issue here.

8 All these other bills and things that
9 are going to another address, I own that
10 property, and I wouldn't change an address on a
11 property I own. Okay. So when he says why
12 didn't you go to the post office and change your
13 address? And I said well, because I'm still
14 receiving important mail there and I still can
15 receive mail there if I want to.

16 You know, people own properties in
17 multiple states, they rent properties in multiple
18 states and multiple places in one city. That's
19 the confusion here. And he's trying to conflate
20 that with, you know, that I'm somehow trying to
21 pull one over on the Board.

22 When I bring up my witnesses you'll

1 see that -- okay. Thank you. You'll see that
2 there is actually plenty of evidence that I live
3 there.

4 So since you've read all this, I'm not
5 going to repeat it all, but I do want to go to
6 the conclusion here because I think it's kind of
7 important.

8 You know, Councilmember Jack Evans is
9 arguing some incorrect facts when it comes to the
10 possible time line and the burden on D.C.

11 If you look on the document that was
12 provided by his attorney, it shows the election
13 happening in -- the first one happening in
14 November of 2020. What I'm trying to do is have
15 the election in November or December of 2019 if
16 we succeed in collecting the petitions.

17 I am kind of complimented by you all
18 and the Councilmember assuming that we'll collect
19 the signatures to put this on the ballot. We
20 have a tremendous burden of 10 percent of
21 registered voters in Ward 2 to put this on the
22 ballot. And I think that should instruct whether

1 or not it's a good use of taxpayers' funds to pay
2 for a recall vote.

3 There's no other way to look at it.
4 I don't think this Board should decide whether
5 it's okay to do a recall. I don't think the
6 Councilmember should decide if it's okay. It's
7 up to the 10 percent who sign that petition. And
8 we -- you have to let us get at least a shot at
9 doing that before you decide this is a waste of
10 money. Because you don't know what the intensity
11 is for this recall.

12 Plus, of course, the statute makes
13 clear that you can only do recalls in the third
14 year of a term. This is actually going into his,
15 I think, 28th year in office. So for someone to
16 be in office for so long to finally have a recall
17 is actually kind of reasonable. And we're only
18 doing it in the third year. So we're not having
19 -- it's not right after an election and it's not
20 right before election, an election as has been
21 stated here today.

22 So, yes, please don't prejudge voter

1 intent by denying us the right to collect
2 signatures for the recall. It's important to
3 note that this is only once every four years.

4 At this time I'd like to call Nikolas
5 Schiller. I guess have a seat here.

6 MR. DINAN: Mr. Chairman, if we could
7 ask for instruction from the bench, are we going
8 to have the right -- the opposing have a right to
9 cross-examination of these witnesses?

10 MR. MCGHIE: Yes, you have the right
11 to cross-examine them. And when you're cross-
12 examining the witness, his time will stop. So
13 cross-examination is not going to take up his
14 time.

15 MR. DINAN: In that case, we would
16 respectfully request the Board invoke the rule on
17 witnesses, that the other witnesses has to leave
18 the room while each is testifying and that they
19 be instructed not to talk to each other while the
20 case in chief is being put on.

21 MEMBER LEWIS: I'm fine with that.

22 CHAIRMAN BENNETT: Okay. You good

1 with that, Mr. Gill? Mr. Gill?

2 MEMBER GILL: I'm fine.

3 MR. MCGHIE: Do you have any other
4 additional witnesses that you --

5 MR. EIDINGER: I object. This isn't
6 a court of law. This is a public hearing.

7 MEMBER GILL: Yeah. I want to -- I
8 want more discussion on this before we just say
9 yes.

10 This whole idea of being cross-
11 examined when you take time out and come to a
12 public hearing. We're trusting people are coming
13 here with the truth. If you've got documentary
14 evidence to question that -- but if we're going
15 to turn this into every time we do one of these,
16 cross-examination of witnesses, I wouldn't show
17 up to be put to that.

18 I mean there's only so many facts at
19 issue here, right? I think we, as a Board, can
20 ask the questions of witnesses. We're not -- no
21 one's under oath, for goodness sakes, as it is.
22 So I don't know what --

1 MR. MCGHIE: I will put him under
2 oath.

3 MR. EIDINGER: Either way this is
4 evidence I'm presenting --

5 CHAIRMAN BENNETT: Your time is not
6 running.

7 MR. EIDINGER: -- and he can talk
8 about it on rebuttal.

9 CHAIRMAN BENNETT: Ms. Lewis.

10 MEMBER GILL: I'm just -- I'm sorry.
11 I'll shut up.

12 CHAIRMAN BENNETT: No, you're fine.
13 I just want to make sure we hear everybody.

14 MEMBER LEWIS: I think that's valid.

15 CHAIRMAN BENNETT: What?

16 MEMBER LEWIS: -- court of law. I
17 mean it's obviously up to our discretion. They
18 will be under oath so the protection -- is
19 already there.

20 CHAIRMAN BENNETT: Okay. Anything
21 else?

22 MEMBER GILL: No.

1 CHAIRMAN BENNET: What we'll do is we
2 will allow witnesses to stay. We will allow you
3 to, Mr. Dinan, to ask additional questions. I
4 hate to even call it cross-examination. We'll
5 allow you to ask additional questions. We'll
6 limit those questions still and not allow you to
7 kind of go on and on. I won't put a time limit
8 on it, but we'll limit those questions to the
9 specific things they they're testifying to.

10 We're not looking for additional
11 evidence that you may draw out of a witness that
12 Mr. Eidinge did not put on. But we're not going
13 to ask them to leave the room, and we will stop
14 the time for Mr. Eidinge.

15 And, Mr. Eidinge, you'll have the
16 same opportunity.

17 But we'll stop the time for Mr.
18 Eidinge in terms of his 15 minutes while you ask
19 those questions. I caution you, those questions
20 should be pretty short and succinct and not try
21 to draw out additional evidence in that regard.
22 Just to address the issues that are there.

1 I'd like to move forward.

2 MR. DINAN: Okay. We understand the
3 Board's direction.

4 CHAIRMAN BENNETT: Thank you.

5 Okay. Mr. Eidinger, sorry for the
6 interruption. Please go ahead.

7 MR. MCGHIE: Okay, sir. Can you raise
8 your right hand?

9 Do you swear or affirm that the
10 testimony that you give will be the truth?

11 Please say I do.

12 MR. SCHILLER: I do.

13 MR. EIDINGER: Okay. Can you state
14 your name for the record?

15 MR. SCHILLER: My name is Nikolas
16 Schiller, spelled N-I-K-O-L-A-S. S-C-H-I-L-L-E-
17 R.

18 CHAIRMAN BENNETT: Can we do this --
19 just to move the other microphone so you don't
20 have to go back and forth like that, if you don't
21 mind. Thank you.

22 MR. SCHILLER: I'm a resident of Ward

1 1 at 942 Westminster Street, NW, Washington, D.C.
2 Last Friday was my 15-year anniversary of living
3 at that address.

4 So the idea that I am a friend of
5 Adam's that is somehow living at 2448
6 Massachusetts Avenue is wholly incorrect and
7 almost makes me a little bit annoyed to think
8 that I have to defend my own address when Mr.
9 Eidinger has lived at 2448 Massachusetts Avenue
10 for no less than, I believe, four years over --
11 through different iterations.

12 I am his employee at his small
13 business, Mintwood Strategies, which operates out
14 of the basement floor of 2448 Massachusetts
15 Avenue. Adam's bedroom, where he lives and
16 resides, is on the third floor of that residence.

17 Therefore, I think it's very spurious
18 to even question that Adam even doesn't live at
19 this house, that he has proven that with a
20 driver's license that he lives there, registered
21 to vote, and the current regulations don't
22 provide -- require any other burden of proof

1 than he has already offered.

2 Councilmember Jack Evans's counsel,
3 which I question who's being paid for, if he's
4 even created an office of campaign finance
5 committee to fight this, and if you're doing your
6 time on pro bono or not, it's very questionable
7 how that is even operated and I can --

8 CHAIRMAN BENNETT: If you would direct
9 --

10 (Simultaneous speaking.)

11 CHAIRMAN BENNETT: -- your comments to
12 the -- to the Board as well, please.

13 MR. EIDINGER: How long have you known
14 me?

15 MR. SCHILLER: I've worked with Mr.
16 Eidinger for no less than 15 years. When he ran
17 for U.S. Shadow Representative in 2004, I built
18 his campaign website.

19 MR. EIDINGER: Okay. Do I sleep
20 anywhere else in town?

21 MR. SCHILLER: No, he does not. He
22 sleeps --

1 MR. EIDINGER: Where can you find me
2 on the weekends?

3 MR. SCHILLER: Either at your house or
4 you have another land that you own also in
5 Virginia that you sometimes --

6 MR. EIDINGER: But how often do I go
7 there?

8 MR. SCHILLER: Very rarely.

9 MR. EIDINGER: Yes. So as far as you
10 know, I'm sleeping at 2448 Massachusetts Avenue
11 on a nightly basis?

12 MR. SCHILLER: On a nightly basis.

13 MR. EIDINGER: And does my daughter
14 live there with me?

15 MR. SCHILLER: Yes, your daughter
16 lives there on week nights.

17 MR. EIDINGER: All right. Thanks for
18 your time. I need to get the next witness up.

19 MR. SCHILLER: All right. Thank you
20 very much for your time.

21 MR. MCGHIE: Thank you.

22 MR. EIDINGER: Thanks, Nick. Oh, we

1 were going to do cross examination. Why don't we
2 do that during the rebuttal? I don't -- how much
3 time is he going to get --

4 (Simultaneous speaking.)

5 CHAIRMAN BENNETT: Your time stops.

6 Your time stops.

7 MR. EIDINGER: But how much time does
8 he get? Because I think he should have a
9 specified amount of time on the rebuttal. It's
10 not fair that he can just ask endless questions
11 at the end.

12 CHAIRMAN BENNETT: No, he's not going
13 to be asking endless questions, sir.

14 MR. EIDINGER: All right.

15 CHAIRMAN BENNETT: I want him to ask
16 questions that are specific to what your witness
17 testified to.

18 MR. EIDINGER: Sorry. Tried to get
19 you out of the hot seat.

20 MR. SCHILLER: Any questions, I
21 welcome them.

22 MR. DINAN: Mr. Schiller, I just have,

1 oh, a couple questions. Does anyone else live at
2 the 2448 Massachusetts Avenue?

3 MR. SCHILLER: Throughout the time
4 period that Adam has lived at 2448 Massachusetts
5 Avenue, he has actually rented out a guest
6 bedroom in the house to actually help, I think,
7 offset some of the rent that he has to pay. At
8 this time there are other people that currently
9 live at the house as well. I do not and have
10 never lived at that house.

11 CHAIRMAN BENNETT: I'm going to ask,
12 just for brevity, if you could ask the questions
13 succinctly and then, please, give just a succinct
14 answer, sir.

15 MR. DINAN: We have no other
16 questions.

17 CHAIRMAN BENNETT: Okay. Thank you.
18 Thank you so much.

19 Mr. Eidinger, your next witness, sir.

20 MR. EIDINGER: Caitlin Miller, please.

21 MR. MCGHIE: Ms. Miller, could you
22 raise your right hand?

1 MS. MILLER: Yes.

2 MR. MCGHIE: Do you swear or affirm
3 that the testimony that you give will be the
4 truth? Please say I do.

5 MS. MILLER: I do.

6 MR. EIDINGER: All right, Caitlin.
7 I'm going to ask you a question here.

8 You are my girlfriend, right?

9 MS. MILLER: Yes.

10 MR. EIDINGER: Your residence is in
11 Virginia?

12 MS. MILLER: Yeah. My permanent
13 residence is in Virginia.

14 MR. EIDINGER: How often do you come
15 to 2448 Massachusetts Avenue?

16 MS. MILLER: Most nights in the week.

17 MR. EIDINGER: So you basically are
18 living at the house most nights of the week, but
19 you still have a permanent residence in Virginia?

20 MS. MILLER: Correct.

21 MR. EIDINGER: Is that because we're
22 dating?

1 MS. MILLER: Yes.

2 MR. EIDINGER: Have you ever been to
3 another house in D.C. where I've slept?

4 MS. MILLER: No.

5 MR. EIDINGER: Have you ever heard me
6 say I'm going to go sleep at another house in
7 D.C.?

8 MS. MILLER: Never.

9 MR. EIDINGER: Okay. No further
10 questions.

11 CHAIRMAN BENNETT: Thank you. Do you
12 have any questions, Mr. Dinan?

13 MR. DINAN: We have no questions.

14 CHAIRMAN BENNETT: Thank you. Thank
15 you.

16 MR. EIDINGER: I'd like to call Debby
17 Hanrahan.

18 Thank you for coming, Debby.

19 MR. MCGHIE: Okay. Ms. Hanrahan,
20 would you raise your right hand?

21 Do you swear or affirm that the
22 testimony that you give will be the truth?

1 Please say I do.

2 MS. HANRAHAN: I do.

3 MR. EIDINGER: I just -- are you a
4 Ward 2 resident?

5 MS. HANRAHAN: Yes, I am.

6 MR. EIDINGER: Can you state your
7 address for the record?

8 MS. HANRAHAN: 1505 Q Street NW, D.C.,
9 20009.

10 MR. EIDINGER: So I just wanted to ask
11 you if you recently attended a meeting at my
12 home?

13 MS. HANRAHAN: Yes, I have.

14 MR. EIDINGER: And was that 2448
15 Massachusetts Avenue?

16 MS. HANRAHAN: Yes, sir. Yes, it was.

17 MR. EIDINGER: Was it in early April?

18 MS. HANRAHAN: Yes.

19 MR. EIDINGER: Before the -- this
20 current filing?

21 MS. HANRAHAN: Yes.

22 MR. EIDINGER: Okay. No further

1 questions.

2 CHAIRMAN BENNETT: Thank you. Do you
3 have any questions, Mr. Dinan?

4 MR. DINAN: No, we do not.

5 CHAIRMAN BENNETT: Thank you.

6 MR. EIDINGER: I'm not going to call
7 any more witnesses.

8 CHAIRMAN BENNETT: Okay.

9 MR. EIDINGER: So I think I have like
10 a few minutes left, maybe?

11 MR. MCGHIE: How much time does he
12 have left?

13 MS. CHRISTENSEN: Seven minutes.

14 MR. EIDINGER: Seven minutes. Wow.

15 (Simultaneous speaking.)

16 CHAIRMAN BENNETT: Don't feel
17 compelled to use them all.

18 MR. EIDINGER: Do you have some
19 questions? Do you want to start with the
20 questions for me?

21 CHAIRMAN BENNETT: I have a couple
22 questions for you.

1 MR. EIDINGER: Okay.

2 CHAIRMAN BENNETT: But I'll ask my
3 colleagues if they have any.

4 Mr. Gill, do you have any questions?

5 MEMBER GILL: No. I mean -- my
6 question is where do you lay your bed -- your
7 head at night, and you've answered that with
8 witnesses.

9 The only other observation I would
10 make is that are there other Ward 2 residents
11 that -- I mean, we are now having to do this the
12 second time. There was a large discussion about
13 this. The Ward 2 residents that are here, why do
14 you got to do this?

15 MR. EIDINGER: Wait a second. I am a
16 Ward 2 resident, first of all. And this was me
17 initially doing it, my treasurer did not file the
18 proper campaign finance report. The issue of
19 residency wasn't brought up as a reason why it
20 was denied.

21 On the second round, this is an
22 allegation from the target of the recall and

1 we're responding overwhelmingly saying look, no,
2 I really live in Ward 2 and this is kind of
3 ridiculous of having to prove this, but here we
4 are proving it.

5 I've been consistent the entire time
6 that I've registered to vote there. I've been
7 registered there since December. I explained in
8 the previous hearing why I didn't change my voter
9 registration in D.C. in the first place and it's
10 irrelevant to this. It just doesn't matter.

11 Secondly, my treasurer and a new
12 treasurer, who is here today, and all of our
13 campaign finance paperwork is on file, is also
14 from Ward 2. And there are numerous Ward 2
15 residents here today. I've got about 40
16 volunteers signed up ready to go. We're waiting
17 on this petition.

18 You know, and I do appreciate you
19 doing your due diligence here and when
20 allegations like this are brought up, but these
21 are really, you know, dramatic allegations that
22 you better have the proof. And I just don't

1 think there's -- this comes even close to
2 presenting enough proof.

3 And in the totality of it all, you
4 know, he's asking to prejudge the voters. You
5 don't know what the voter intent is yet. The
6 voters might really want this recall. So if they
7 don't, it will go away.

8 And as was noted by Nikolas Schiller,
9 I'm concerned that a private investigator was
10 hired to do this work, that it's not just pro
11 bono work, perhaps friend of the Councilmember.
12 I think at this point the Councilmember should
13 have filed a rebuttal or a no recall campaign
14 committee by D.C. law.

15 Yes, he's entitled to representation,
16 but I think it's gone beyond that. I think there
17 has been -- I don't have -- unfortunately I don't
18 have a receipt for a payment to a private
19 investigator, but it does seem like that that's
20 what's going on in this case.

21 And there is a second recall -- I'm
22 sorry, a third recall committee that's been

1 formed you may have heard about. Some of those
2 people are here in the room right now. They have
3 told me they're going to drop that recall
4 position as soon as my petition is issued. But
5 that's just so to hold this Board accountable
6 that someone is going to get this recall started.

7 And, you know, it really shouldn't be
8 denied to me at this point. It is correct, I've
9 lived at the house, I've slept at the house for
10 four years. It took a while for me to move my
11 residency because I own the other place. And I
12 have a right to have all four residencies. I'm
13 blessed by this city and I've been really
14 fortunate in my career in being able to support
15 multiple residencies at the same time.

16 But, you know, my girlfriend was here,
17 my friend was here, my activist colleague is
18 here, they've all been to my house. It's a home
19 and I welcome -- I would invite any of you into
20 my home today to come see it if that's what it
21 took to convince you.

22 CHAIRMAN BENNETT: Ms. Lewis, do you

1 have any questions?

2 MEMBER LEWIS: No, I don't.

3 CHAIRMAN BENNETT: Mr. Dinan, do you
4 have any other questions?

5 MR. DINAN: No questions. I got the
6 answer.

7 MR. EIDINGER: You got the answer that
8 you want.

9 CHAIRMAN BENNETT: Ms. Lewis.

10 MEMBER LEWIS: Yes. Mr. Eidinger, is
11 it true that you will be moving back to Maryland
12 to fight Congressman Andy Harris in the next
13 election?

14 MR. EIDINGER: Not the next election
15 actually. The comment was taken out of context.
16 I am interested in seeing what happens in that
17 district in 2022 after Congressional
18 redistricting. It has -- I'm being perfectly
19 honest. It has occurred to me as a political
20 animal that I might move to another state in the
21 future.

22 But I'm here now and I'm here for the

1 rest of this election cycle through 2020. I'm
2 going to be voting in D.C. in 2020. And, you
3 know, 2022, if we get a good redistricting, I
4 might even move to Maryland and run for that
5 office. It's my right, you know. And I've done
6 a lot of activism in Salisbury and I'm proud of
7 it. And it was on behalf of the District of
8 Columbia and our lack of voting rights in
9 Congress. That's why I was there.

10 You know, I wasn't -- and I'm not
11 trying to throw away my life here. I love my
12 life in D.C. And the fact that the media,
13 Washington Post, Baltimore Sun, AP, they all want
14 to write about this, this is good for D.C. It
15 shows that people are standing up for D.C.

16 So, yeah, you know, I think this is,
17 you know, desperation by the Jack Evans camp here
18 to raise this issue.

19 MEMBER LEWIS: Thank you.

20 CHAIRMAN BENNETT: I have no
21 additional questions.

22 Were we going to do rebuttal now or --

1 MR. DINAN: Yes, if --

2 MS. CHRISTENSEN: Five minutes.

3 MR. MCGHIE: You have five minutes
4 left. If you want to relinquish your time, Mr.
5 Eidinger, then we'll just begin with the rebuttal
6 of Mr. Dinan.

7 MR. EIDINGER: I mean, you've all
8 affirmed that you've read my statement here so
9 I'm not going to read it all.

10 I just also included, you know,
11 excessive proof. There's a statement here from
12 my Temple, Temple Micah, which is just up the
13 road. You know, it's very close. Jewish people
14 like live close to where they pray. Okay. So
15 this is, you know, it doesn't say in the statute
16 I have to prove with a PEPCO bill, but I figured
17 this Temple bill is a little more relevant.

18 And it's true, I did have a PEPCO bill
19 sent out when I first rented the property as a
20 home office. So, yes, the PEPCO bill's been
21 there for a long time.

22 And then lastly, the registration

1 residential parking renewal, doesn't that show
2 that in renewing it at an address? So whatever
3 allegation they're making about me having the
4 cars registered at the old address is old
5 information.

6 And then there's a renters and a
7 policy bill here. It doesn't have any business
8 name on it, it just has my name, Adam Eiding.
9 Because this is a home renter's policy. Which I
10 just used at this home when the house caught on
11 fire two years ago. And that's also in the
12 newspaper if you want to pull out public record.
13 I've had it there for a long time.

14 Many people move to Washington, D.C.
15 for -- and they don't register to vote here right
16 away. That's your right, you know, and many
17 people keep registration if they have multiple
18 properties at a desired location. And then they
19 move it when it's convenient for them.

20 And so, you know, I didn't even know
21 I was going to be doing this recall in December
22 when I registered to vote there. I had no

1 intention of doing this. It was only after
2 reading in the Washington Post about the
3 corruption for these FOIAs that -- and then the
4 lack of holding them accountable that I decided
5 I had to do this.

6 And I have said to Jack Evans' counsel
7 here I will withdraw the petition for recall if
8 he simply agrees not to run for office again.
9 That would save the taxpayers the cost of a
10 recall as well. So why don't you just not run
11 for office? And he's not taken me up on that
12 offer.

13 CHAIRMAN BENNETT: Thank you.

14 MR. MCGHIE: Okay. Mr. Dinan, you
15 have another five minutes for rebuttal.

16 MR. DINAN: Okay.

17 CHAIRMAN BENNETT: And please pull the
18 mic over to you, sir.

19 MR. DINAN: I will limit our rebuttal
20 to matters that came up on the petition's case.

21 First of all, the -- again, we
22 reiterate the address of convenience argument and

1 the coincidence that he had this business at
2 Massachusetts Avenue which gave him the utility
3 bills, which gave him the right, the ability to
4 transfer the driver's license, even under the
5 DHS, the new regulations. Which is really the
6 crutch pin.

7 We did say that we believe Mr.
8 Schiller lived there. He says he doesn't. He
9 just works there. We would accept that. We
10 think that that distinction's immaterial. Other
11 people that we have living there is Sean Robinson
12 and Keith Carr again when I snooped around.

13 But as to the other witnesses, on the
14 record, and it's Exhibit 2 to our opposition,
15 there's an article in the Washington Post, and it
16 was dated April 10th, 2018, and that's when Mr.
17 Eidinger says that he's moving to Maryland.

18 The focus of the article had to do
19 with DCPS. We're not going to go into that.
20 April 10th it says he's moving to Maryland. And
21 he gives as his address Mintwood Place. Totally
22 contradicts the evidence with which we just

1 heard.

2 Tell me time, please.

3 Mr. Eidinger in his previous testimony
4 has stated that he moved to Mintwood Place in
5 November of 2018. The evidence we just heard is
6 totally contradicted by that.

7 And then we hear evidence, statement
8 from Mr. Eidinger well, I really don't have a
9 present intention of moving to Maryland. In
10 fact, I'm thinking about 2022. Yet he goes and
11 tells the newspaper, in particular the Baltimore
12 Sun, this was a big issue in Maryland, on April
13 11th, published on April 11th, that he's moving
14 back. And the Board can read this article.
15 Plain -- and it's republished by the Post. No
16 offer asking for retraction.

17 But if you read this article it can
18 only be read in the present tense. It doesn't
19 mean he's moving back this afternoon, but it
20 doesn't mean he's moving back in 2022. There's
21 no way that his statements given to the press can
22 now be squared with the evidence that's just put

1 on.

2 As for the testimony of Ms. Hanrahan
3 attending a meeting there, I had no doubt she
4 attended a meeting there. She had a business
5 there, a marijuana business.

6 So, we reiterate -- I'm running out of
7 time -- address of convenience, the law cannot be
8 read that you can just move into a place, use the
9 coincidence, get a driver's license, get a recall
10 petition and then leave.

11 This Board has discretion and it
12 should use it to deny this petition in the sound
13 use of discretion and the fact he is not a bona
14 fide resident. And as to the evidence that was
15 just put on, it is completely rebutted by his own
16 words in other fora.

17 Thank you very much.

18 CHAIRMAN BENNETT: Okay. Great. Go
19 ahead.

20 MEMBER LEWIS: Mr. Eidinger, just to
21 make sure I'm clear. Did you testify that you
22 changed your address in November of 2018?

1 MR. EIDINGER: In November of -- well,
2 after the election I moved back from Maryland to
3 D.C. And I believe I was on the voter rolls the
4 first week of December in D.C. I re-registered
5 here in D.C. I reported my prior address in
6 Maryland and my former voting address and, you
7 know, submitted the card and got the card in the
8 mail at my residence at 2448 Massachusetts
9 Avenue.

10 MEMBER LEWIS: Thank you.

11 CHAIRMAN BENNETT: Any others?

12 Mr. Gill.

13 MEMBER GILL: No questions.

14 CHAIRMAN BENNETT: All right. None
15 from me. Can we get the public comments?

16 MR. MCGHIE: So at this point is there
17 anybody in the public that would like to be heard
18 in support on the challenge?

19 In support of the challenge?

20 CHAIRMAN BENNETT: That would be in
21 support of Mr. --

22 MR. MCGHIE: Evans.

1 Seeing none, is there anybody that
2 would like to be heard in support or in
3 opposition to the challenge? Let me just count
4 first. One, two, three, four, five, six. Let's
5 go from -- this is left, my left to right.

6 CHAIRMAN BENNETT: How many people did
7 we have?

8 MR. MCGHIE: Seven.

9 CHAIRMAN BENNETT: Seven. Okay.
10 Please limit to two minutes, please.

11 Can you time?

12 MS. ORY: Two minutes?

13 CHAIRMAN BENNETT: Yes.

14 MR. MCGHIE: Just please state your
15 name and address for the record and then you have
16 two minutes.

17 MR. EDEN: My name is Art Solutionator
18 Eden. And I want to beseech this Board that it
19 comes a moment in history where you can stand for
20 something, not fall for anything.

21 And that the children of the city
22 deserve professionals who stand for the elements

1 that make this country a free country. So think
2 of the children when you're going to vote.

3 Thank you.

4 CHAIRMAN BENNETT: Thank you, sir.

5 MS. ORY: My name is Eleanor Ory. I
6 go by Echo for short and I am the Ward 2
7 Committee Woman for the Statehood Green Party.
8 And I want to speak in favor of the recall.

9 D.C. is at a critical and sensitive
10 point in time in the fight for statehood with
11 historic endorsements for D.C. statehood passed
12 in HR1 and record number of cosigners for HR51
13 and now listed as a top priority of the Senate
14 Minority leadership.

15 The ongoing ethics investigation and
16 the dangerous distraction that frames to paint
17 D.C. as having a corrupt political culture and
18 sent damaging swamp tropes which conceivably risk
19 chilling and hampering D.C.'s effort of
20 encouraging hesitant members of Congress to
21 cosign.

22 The statehood movement has worked too

1 hard to separate the reputation of D.C. residents
2 from the toxic environment of Congress to be
3 ruined by one elected official's impropriety.

4 In a city that has taken the lead in
5 prosecuting a high profile elected official's
6 abuse of office on the national level, I believe
7 elected officials should be held to the highest
8 standards of ethics and integrity as we complete
9 our final sprint for D.C. statehood.

10 Furthermore, as someone who lives in
11 Ward 2, I've spoken to many residents who are not
12 only concerned with the conduct of Evans, but
13 with the stonewalling of this process. Recalls,
14 like impeachment, are a critical democratic check
15 on our elected officials.

16 If you choose to stop this petition
17 for recall, you will only create more petitions.
18 Already one person has already filed an
19 additional recall and others that I have spoken
20 to have considered and speculated considered by
21 them. Worse, we will further erode the public
22 trust in our system.

1 Already between Don't Mute DC, zero
2 vision, and lack of congressional representation,
3 there is damage to the public trust. I urge you
4 to recognize Adam's residency and issue the
5 petition as it will only delay what many in Ward
6 2 want.

7 CHAIRMAN BENNETT: Thank you.

8 MR. MCGHIE: Next lady behind Ms.
9 Miller.

10 MS. DIENER: Hello, Board Members. My
11 name is Robin Diener. I live in Ward 2. I have
12 for approximately ten years been the President of
13 the Dupont Circle Citizens Association. And I
14 would just like to say in answer to the question
15 from the gentleman, second person in, these
16 signs, by the way, terribly hard to read. You
17 might want to get them rethought. It's usually
18 nice to know who's speaking.

19 CHAIRMAN BENNETT: Thank you.

20 MS. DIENER: I don't think it is that
21 unusual to not find easily as someone, you know,
22 ongoing, a solid 25 year resident, let's say, of

1 a particular residence to do a recall. Because
2 it is a negative thing. It comes after really
3 quite terrible things have occurred.

4 And for most of us, like myself, a
5 little community leader who's working watering
6 trees and taking care of gardens and seeing that
7 rats are fought, and has been eradicated, I mean
8 these are not big, big deals but they make up the
9 daily life in any neighborhood.

10 And in order to do that work, we work
11 with our Councilmember and his representatives.
12 The NCs the same thing as the citizens
13 association. So that someone like an Adam
14 Eidinger who has, frankly, political expertise
15 and a willingness to take this on, is quite
16 welcome by the residents who are doing the work
17 on an everyday basis and who frankly rely on the
18 support and open communication with the
19 Councilmember that they have.

20 So I present that to you for your
21 consideration. Thank you.

22 CHAIRMAN BENNETT: Thank you.

1 MR. MCGHIE: Sir?

2 CHAIRMAN BENNETT: Could you just
3 state your name and address for the record?

4 MR. HANRAHAN: Yes. My name is John
5 Hanrahan, 1505 Q Street NW. Lived there for 46
6 years, I guess it is.

7 Just in response to a couple points
8 that the -- that Mr. Evans' attorney made that I
9 just was struck by.

10 The one thing, the cost of the
11 election. This is a matter of public corruption.
12 We should not be putting a price tag on what it
13 might cost. We don't have these kind of
14 elections very often. In fact, I think there
15 have only been two or three that were for ANC and
16 there's none for a Councilmember. This
17 unprecedented, it doesn't happen every other
18 year.

19 As I said, democracy does not come
20 cheap especially when a matter of public
21 corruption is involved. And also we're dealing
22 with a structure that Mr. Dinan does a terrific

1 job, I must say.

2 What I do want to say though is this
3 is again -- Mr. Evans is attempting to thwart the
4 role of the people. He has done that in three
5 different initiatives where he has overturned
6 citizen initiatives. That's probably the least
7 of the things that we're dealing with in this
8 recall. But overturned Initiative 77 recently.
9 Overturned term limits and he overturned campaign
10 contribution limits some years ago. So I bring
11 that only in the context of this, that I think
12 this is another effort to sort of run out of the
13 clock, thwart the procedure, et cetera.

14 There will be another petition, as
15 you've heard. There's already been one been
16 filed. You have it in front of you. I think
17 they were supposed to respond to it by maybe
18 today, another 10-day limit.

19 But, in any event, that's why we're
20 very much in support of this. I've known Adam
21 for years. I can't -- you know, I don't go to
22 his house. I know where he lives, though.

1 Thanks very much.

2 CHAIRMAN BENNETT: Thank you, sir.

3 MR. MCGHIE: Okay. Ma'am. Yes.

4 MS. HOBSON: Good afternoon.

5 CHAIRMAN BENNETT: Good afternoon.

6 MS. HOBSON: I'm Tina Hobson. I'm the
7 wife of Julius Hobson who was on the first
8 elected City Council Can D.C. I have lived at
9 1330 Massachusetts Avenue at Thomas Circle for
10 seven years here.

11 And I want to tell you that the reason
12 why I am speaking is because I don't believe that
13 my husband, Julius, would have tolerated the
14 councilman we're talking about for this long.
15 And, therefore, because of his problems as we
16 have read them and as I have lived them in my
17 community, so I am asking for a chance for us to
18 vote, to have a recall election.

19 So let the community that Evans lives
20 in -- let us vote. And if we don't want him
21 there and do not feel he now represents the best
22 of the community, then let us have a chance to

1 say so. And I ask you that, and I thank you very
2 much for considering it.

3 CHAIRMAN BENNETT: Thank you.

4 (Applause.)

5 MR. MCGHIE: Okay. The gentleman
6 sitting behind to Ms. Hanrahan.

7 MR. OTTEN: Good afternoon. My name
8 is Chris Otten. I'm a 19-year resident in the
9 District of Columbia. And I'm tired of the
10 corruption.

11 CHAIRMAN BENNETT: Can you state your
12 address, sir?

13 MR. OTTEN: My address is 1830 Belmont
14 Road NW. Actually I have -- I'm a former elected
15 ANC Commissioner and what we see from Jack Evans,
16 I mean none of this would be happening right now
17 if he didn't flip the term limits initiative
18 back, what, 12 years ago?

19 And, I mean, Jack Evans represents
20 corruption. And the flip side is somebody like
21 Adam Eidinger who I've known since April of 2000.
22 He's run as a candidate, he's supported

1 campaigns. He was a leader in the Statehood
2 Green Party. He's now in the Democratic Party.

3 He's helped us get to initiatives and
4 helped folks stay out of jail, like Issue 71.
5 And I think he's proved beyond a doubt that he's
6 lived at his residence for some time.

7 I have watched Game of Thrones at his
8 house regularly and I've even stayed there. His
9 daughter lives there. I've known him, like I
10 said, since 2000 so I've been to both locations.

11 Mintwood Place residence is a one
12 bedroom. He had a daughter, you know, more than
13 a decade ago, almost 13 years ago now and he
14 needed more space and I remember, to raise his
15 family. So that's part of why he has a big home
16 now, bigger home.

17 And so I just suggest we get past this
18 little obstacle and let's get on to the recall
19 because we have the right people ready to go and
20 we're going to get the signatures ASAP so we'll
21 have the election this year.

22 Thank you.

1 CHAIRMAN BENNETT: Thank you.

2 (Applause.)

3 CHAIRMAN BENNETT: Is there one more?

4 MR. MCGHIE: Yes. That will be the
5 last one as Ms. Hanrahan.

6 MS. HANRAHAN: Debbie Hanrahan, 1505
7 Q Street NW, Washington, D.C., 20009. I've lived
8 there more years than I want to admit. Probably
9 50. I don't know.

10 We want to assert the importance of a
11 level playing field when citizens come forward
12 trying to exercise their rights.

13 When Mr. Evans can hire a very
14 expensive lawyer, investigators and other people
15 to use to fight our interests and our wanting to
16 move forward, it's very difficult and it ceases
17 to be a level playing field.

18 It is this Board's job to make sure
19 that there is a correction that we are not
20 overwhelmed by his money and the expertise of his
21 experts that he's been able to hire and for us to
22 use our -- I don't know -- basic approach to

1 democracy and fairness.

2 And so I was struck by the Chairman
3 saying to Adam -- or somebody on our side -- oh,
4 no, talking to Dorothy Brizill, you're not going
5 to take over this process. Well, I would ask you
6 to have the same concern about our effort to get
7 a recall against Mr. Evans, that Mr. Evans does
8 not take over this process. He's a very powerful
9 figure. All of your political appointees.

10 This recall is not an unnoticed event
11 by the power structure of this city and it is
12 your moment for basically -- I forget the name of
13 the book that Kennedy wrote, but this is your
14 moment to stand up and be independent and show
15 some courage. And let us go forward.

16 And, as we have mentioned, we have
17 another group of people who are prepared to take
18 Mr. Eidinger's place. And if you turn those
19 people down because of this unfair system, we
20 will have another group. Now, you don't want
21 that. We don't want that. Nobody wants that.

22 So please do your job. Thank you.

1 (Applause.)

2 CHAIRMAN BENNETT: Any other?

3 MR. MCGHIE: Okay. If there's no more
4 public comments, can I have the parties at the
5 table again for their closing argument?

6 CHAIRMAN BENNETT: Prior to you
7 starting, let me thank those persons who provided
8 statements relative to their views on recall.
9 This is a big deal, it's very important, and they
10 are very much appreciated, and you're serving the
11 District of Columbia citizens when you do come in
12 and make your perspective also. Thank you for
13 taking the time to come and speak with us.

14 MR. MCGHIE: Okay, since, Mr. Dinan,
15 you're the challenger, you have the burden of
16 proof. You'll have the last say. So you have
17 two minutes for closing, Mr. Eidinger.

18 MR. EIDINGER: Well, I mean I don't
19 want to take any more -- much more time except to
20 say that I feel like I've proven beyond any doubt
21 that this is my residence today. And that, you
22 know, this should be a matter of just issuing the

1 recall today. And I want to encourage you to do
2 it today.

3 Waiting -- I was told at the last
4 meeting where I presented on the first effort
5 that this could be done at the next meeting,
6 which it didn't happen at the next meeting. We
7 had this special meeting. I was anticipating
8 that to happen in early May.

9 So there's already been a significant
10 delay from my perspective in just getting to be
11 heard. I understand, general counsel explained
12 to me that this was a matter of scheduling with
13 the Board members and I respect that.

14 But to have another delay, I think
15 there's overwhelming evidence today right now
16 that I am a registered voter in Ward 2 and that
17 I've met all the qualifications to bring this
18 recall.

19 And so I hope you'll do your job and
20 approve it today and issue the petition today so
21 we can really start collecting signatures
22 tonight. Which is what our intention is.

1 So I just want to thank everybody on
2 this Board. I know you are here to ensure the
3 public trust and I thank you for your serious
4 consideration today.

5 CHAIRMAN BENNETT: Thank you.

6 MR. DINAN: Mr. Chairman, members of
7 the Board, we would just reiterate our arguments
8 that driver's license is not a rebuttable
9 presumption. That it is not, per se, evidence.
10 That you have to look at the evidence in its
11 totality that we went through, including all the
12 items that he uses -- been for an address
13 including current account items like your income
14 tax, your cell phones, et cetera.

15 We again submit to use the huge
16 coincidence that he had this place of business in
17 Ward 2. Just today he admits well, he was moving
18 in Maryland. And then when he moved back to the
19 District he took up a Ward 2 address.

20 But he did, as the overwhelming
21 evidence shows, for the sole purpose of using
22 this business -- this coincidence address to

1 recall Jack Evans and then following it lists
2 statements publically in the press that he's
3 going to move back to Maryland.

4 As for the evidence the witnesses have
5 put on, we believe is contradicted by Mr.
6 Eidinger's own statements in the newspaper where
7 in April of 2018 he told the newspaper he lived
8 in Mintwood Place. Then he told them he moved in
9 Maryland, that he was moving to Maryland, which
10 he did.

11 And, therefore, looking at the
12 totality of the evidence, this is an address of
13 convenience. It's not a bona fide address. And
14 that within that, this Board should use its
15 inherent agency discretion as stated by the D.C.
16 Court of Appeals and also in United States Court
17 of Appeals for the 4th Circuit, which is in
18 Richmond, and that discretion should --

19 CHAIRMAN BENNETT: It's time. Thank
20 you.

21 MR. DINAN: And just to -- and thank
22 you very much.

1 CHAIRMAN BENNETT: Thank you.

2 Mr. Gill, do you have any questions.

3 MEMBER GILL: No questions.

4 CHAIRMAN BENNETT: Do you have any
5 questions, Ms. Lewis, for the parties?

6 MEMBER LEWIS: I do. Mr. Eidinge,
7 just one last question. Mr. Eidinge, just one
8 last question that was raised, I believe it was
9 at the last hearing that we had.

10 The proponent raises issue -- or the
11 proponent raises issue about the Homestead waiver
12 or withdrawal of the Homestead deduction. Would
13 you mind just explaining that for us and what
14 actually happened?

15 MR. EIDINGER: On the last page of the
16 packet you'll see a corrected bill from D.C.
17 Government. This is the bill without the
18 Homestead deduction. So when we had our last
19 hearing, I had not concluded my taxes. And this
20 was something that at the beginning of 2018 the
21 Homestead deduction was still on the books and it
22 was a couple months later that I moved to

1 Maryland, in April of 2018, registered there, set
2 up a residence there and then moved back to D.C.
3 in November of 2018.

4 So, you know, this should have been
5 done within 30 days of moving. Like when I moved
6 to Maryland I should have changed the Homestead
7 deduction from the old address. I did not. I
8 hadn't even -- wasn't even thinking about the
9 Homestead deduction. And I bought the house in
10 1999, the apartment on Mintwood Place, so this
11 was me report -- self-reporting to D.C. Office of
12 Tax and Revenue that, in fact, I should have
13 notified them earlier that I had moved and then
14 they sent me a corrected bill, which you can see
15 -- well, it says paid for 15. But basically
16 that's me paying the D.C. Government extra tax
17 revenue because I'm not entitled to the Homestead
18 deduction on that property.

19 And, you know, I'm an Eagle Scout, Boy
20 Scouts of America, and I honestly like paying my
21 taxes. It's a good feeling to be caught up on
22 paying your taxes. I'm sure some of you

1 experience the same feeling.

2 So I actually thanked Jack Evans
3 counsel here today because -- not today but in
4 our prior meeting for bringing it to my attention
5 because I -- this could have gone on for years
6 and I would have had an even bigger tax bill and
7 penalty. So he actually kind of saved me from
8 having a bigger penalty. And thanks for getting
9 me up to date on my taxes.

10 So does that answer your question?

11 MEMBER LEWIS: Yes. Thank you.

12 MR. EIDINGER: Thank you.

13 CHAIRMAN BENNETT: Any other
14 questions?

15 Mr. McGhie, do you have anything else?

16 MR. MCGHIE: No.

17 CHAIRMAN BENNETT: Okay. What we're
18 going to do is, one, Mr. Sanford is going to get
19 with Ms. Brizill and make sure that the --
20 because I'd like to do some final rulemaking when
21 we get back. Can you get with Ms. Brizill and
22 make sure that those chapters are clear, if you

1 don't mind?

2 We will take a 15-minute recess,
3 convene and we'll come back out and let you know
4 where we are. Okay.

5 All right. Thank you.

6 (Whereupon, the above-entitled matter
7 went off the record at 1:26 p.m. and resumed at
8 1:39 p.m.)

9 CHAIRMAN BENNETT: Okay. We'd like to
10 reconvene.

11 Procedurally what we're going to do is
12 we're going to give you a decision on the
13 challenge today and then we'll also walk through
14 some procedural matters.

15 Once that is concluded, we intend to
16 go back to the item that was tabled and hopefully
17 move through those regulations relatively
18 quickly.

19 So I'm going to ask that as we finish
20 up on the recall petition matter that if you
21 decide to leave, try to do so quietly. If you
22 stay, that will be great because we can kind of

1 get through that and I'd like not to have a lot
2 of disruption.

3 So, from that I would like -- just for
4 the record, we are reconvened the meeting.

5 Mr. McGhie, would you go through what
6 we need to do procedurally?

7 MR. MCGHIE: Okay. At this point of
8 the proceeding the Board is prepared to give you
9 its oral order on this matter and a written order
10 will follow, which either party can appeal.

11 CHAIRMAN BENNETT: And the oral order
12 is -- is that Mr. Evans did not reach the
13 threshold necessary to prove that you are not a
14 resident of Ward 2. We concluded that the
15 evidence was simply not sufficient. Your recall
16 petition, since you have met all the filing
17 requirement, will go forward.

18 (Applause.)

19 CHAIRMAN BENNETT: And we will issue
20 -- this is Mr. Eiding, we will issue that
21 petition now.

22 However, I have one more member, maybe

1 two, who'd like to make a comment as we go
2 forward.

3 Mr. Gill? You want to go ahead with
4 the --

5 MEMBER GILL: Yeah, with this --

6 CHAIRMAN BENNETT: And then we'll
7 correct that.

8 Are there any questions?

9 MEMBER GILL: So far no.

10 CHAIRMAN BENNETT: Okay.

11 MR. MCGHIE: Okay. The third matter
12 on our agenda being concluded with respect to the
13 challenge to Mr. Adam Eiding, we move to the
14 fourth matter on our agenda, which is issuance
15 and formal adoption of a petition to Adam
16 Eiding for the proposed recall of Jack Evans,
17 Ward 2 Member of the Council of the District of
18 Columbia.

19 And I ask the Registrar of Voters --
20 (Off-mic comments.)

21 CHAIRMAN BENNETT: We have to have the
22 Registrar of Voters have to make a certification.

1 She stepped out. She hasn't come back yet.

2 We'll hold on for a second.

3 Is there anything else we need to do
4 before proceeding?

5 MR. MCGHIE: No.

6 CHAIRMAN BENNETT: Okay.

7 MR. MCGHIE: Unless you want to move to
8 the regulations.

9 CHAIRMAN BENNETT: No, I'll wait for
10 her. Thank you for your indulgence.

11 (Pause.)

12 MR. EIDINGER: I do have a question on
13 the procedure. So either you're saying as the
14 Chairman that this will go forward but there was
15 no vote taken in public. Or is that necessary?
16 I just wanted to know.

17 CHAIRMAN BENNETT: You received a
18 majority vote to go forward.

19 MR. EIDINGER: Okay. But I didn't --
20 that vote was -- when did that vote take place?

21 CHAIRMAN BENNETT: It just took place.
22 It just took place when we convened to discuss

1 the evidence that we --

2 MR. EIDINGER: Back behind closed
3 doors?

4 CHAIRMAN BENNETT: Yes, sir.

5 MR. EIDINGER: Okay. I'm just curious
6 why that isn't done in public so we know who
7 voted how and what way?

8 CHAIRMAN BENNETT: Well, it was
9 unanimous if you want to know, but --

10 MR. EIDINGER: All right. Well,
11 that's good to know. I just -- just my question
12 is -- we're both wondering and he's giving me
13 advice too on procedure and thought that that was
14 part of the procedure was to do it in public.

15 MEMBER GILL: So -- pardon me. It's
16 not nefarious at all. But in the regular
17 hearings that we have on matters we like to take
18 in information and then talk amongst ourselves.
19 If we were going to then wait to have a public
20 vote, we would have to wait a month every time.
21 So generally how these work is that we take in
22 information. We don't sort of show our cards

1 here, talk amongst ourselves, vote and then issue
2 an order based on that vote.

3 It actually just speeds things up.

4 MR. EIDINGER: Okay. I appreciate
5 it's being issued today a lot.

6 MEMBER LEWIS: And that talk amongst
7 ourselves is actually called executive session.
8 And so we go into executive session and then we
9 discuss the evidence or the information that we
10 received and then we take a vote at that point in
11 time.

12 CHAIRMAN BENNETT: Good question, but
13 we're not trying to be clandestine.

14 MR. EDEN: You said it was a unanimous
15 vote?

16 CHAIRMAN BENNETT: Yes, sir.

17 PARTICIPANT: No, majority.

18 MEMBER LEWIS: No, it was actually a
19 unanimous vote.

20 (Simultaneous speaking.)

21 MEMBER LEWIS: He said it was
22 majority, and I was just clarifying to say no, it

1 was actually unanimous.

2 MR. EDEN: For Adam?

3 MEMBER LEWIS: Yes.

4 MR. MCGHIE: Okay. Ms. Brooks, you --

5 CHAIRMAN BENNETT: We need you today.

6 MR. MCGHIE: Have you received a copy
7 of the petition with the parties?

8 MS. BROOKS: I think it was emailed on
9 Friday.

10 MR. EIDINGER: We got an email, yes.

11 MS. BROOKS: Did you have any changes
12 to it?

13 MR. EIDINGER: No changes.

14 MR. DINAN: No changes.

15 MR. MCGHIE: Okay. So both parties
16 had the opportunity to look at the petition. Is
17 there any other parties that object to any of the
18 language that's in the petition?

19 CHAIRMAN BENNETT: Before you
20 continue, did you get the registrar's name for
21 the record?

22 MR. MCGHIE: Yes. Brooks.

1 CHAIRMAN BENNETT: Okay. Ms. Brooks.

2 MR. MCGHIE: No, you did. He said he
3 did.

4 CHAIRMAN BENNETT: I'm sorry. I just
5 wanted to make sure the record was clear.

6 MR. MCGHIE: Okay.

7 CHAIRMAN BENNETT: Please continue.

8 MR. MCGHIE: All right. So if neither
9 party has any objections to the language in the
10 petition, I ask that the Board entertain a motion
11 to adopt the petition as presented by the
12 Registrar of Voters.

13 CHAIRMAN BENNETT: Okay, I think I'd
14 like to ask one of the Board Members to make a
15 motion and then we'll have a point.

16 Can I get a motion from one of the
17 Board members to adopt the petition?

18 MEMBER GILL: So a motion to adopt the
19 petition as written.

20 MEMBER LEWIS: So moved and second.

21 CHAIRMAN BENNETT: Okay. Questions.
22 Points.

1 Mr. Gill?

2 MEMBER GILL: Yes. When this was
3 first presented, I raised -- I felt that portions
4 of the Eidinger -- the recall verbiage talked
5 about staff. And I didn't think that was
6 appropriate. And essentially because our
7 newspaper has reported on some things, the
8 staff's name is thrown in this petition. So I've
9 gone round and round with the general counsel on
10 the law as it's written and I think -- I think
11 it's a really unfair language. But that's not
12 important. It's -- at the end of the day the
13 language is what people will read.

14 But what I've mentioned to our general
15 counsel and I wanted to state for the record, I
16 think the Board should be given more discretion
17 on the language that's put forth. And that the
18 way the law is written, we have to accept
19 whatever the petitioner writes down.

20 And I think there's a certain stamp of
21 approval that comes with a Board of Election
22 petition and I'm still confused as to why bother

1 having a Board if there's no adult supervision
2 over what gets the Board of Election's approval.

3 So, if there is given discretion on
4 this, I would have requested and I would not have
5 voted for a petition that disparages staff who
6 have no -- have no way to defend themselves and
7 no way to be on the opposite side of this
8 petition. But I do not have that discretion and
9 so I, based on the law and based on, you know, as
10 I said the objective of the petition, the points
11 in the petition are immaterial to the Board. We
12 just make sure it follows within our statute.

13 But I do believe that one sentence
14 there, I would have requested to be changed or I
15 would not have voted for it had I had that power.
16 That's my point.

17 CHAIRMAN BENNETT: Before I ask you
18 further, Ms. Lewis, did you have a comment on the
19 record?

20 MEMBER LEWIS: Yes. I believe at the
21 last hearing I also echoed Councilmember Gill's
22 sentiments just concerning --

1 CHAIRMAN BENNETT: Board Member.

2 MEMBER LEWIS: Excuse me.

3 Councilmember. I'm promoting you. Board Member
4 Gill's --

5 CHAIRMAN BENNETT: I'm not sure on
6 that.

7 (Laughter.)

8 MEMBER LEWIS: Board Member Gill's
9 sentiments concerning that language. It just was
10 also concerning to me as well.

11 And I do think and I understood your
12 arguments, Mr. Eidinger, regarding kind of
13 looking at the totality of the circumstances.
14 You know that I, of course, humbly disagree with
15 that similar to how Board Member Gill in that I
16 would also requested that that language about the
17 staff specifically be stricken. Particularly
18 considering that the staff doesn't have the right
19 to respond to that.

20 And, I guess, there is concern when
21 the media publishes these articles and seems to
22 implicate not only the candidate but also those

1 working for him. While there's an argument of
2 what was used or who was using the means to an
3 end there, I don't think that it is proper, per
4 se, to have the staff implicated in that
5 particular manner.

6 And so I also just wanted to echo for
7 the record what I presented at the very first
8 hearing regarding this matter just concerning the
9 concerns that I have with the language.

10 MR. EIDINGER: It's totally germane to
11 this, both your points. I took your comments to
12 heart and I resubmitted with new language I took
13 out the remaining reference to his staff. So if
14 you look at the draft, it just says Jack Evans'
15 office. Doesn't say staff. And, yeah, so I took
16 it to heart.

17 I actually thought it was a really
18 legitimate point and we talked about it
19 internally like it's not necessary for us to make
20 our point to disparage his staff. And, you're
21 right. They have no way of defending themselves
22 and they're not recallable. But I will note --

1 CHAIRMAN BENNETT: It's been properly
2 moved and seconded. And we'll take a vote. And
3 is it a unanimous vote to -- I assume -- for the
4 petition to move forward?

5 (Chorus of aye.)

6 CHAIRMAN BENNETT: Okay. So you got
7 a unanimous vote.

8 MR. EIDINGER: All right. Thank you.

9 CHAIRMAN BENNETT: It's properly
10 issued. This is an oral order and you'll get a
11 written order at some point in the coming days.
12 And I think you'll be getting -- we'll actually
13 issue the petition for you guys to get started.

14 MR. MCGHIE: Ms. Brooks? Ms. Brooks,
15 can you outline -- the process?

16 MS. BROOKS: A notice of potential
17 recall --

18 CHAIRMAN BENNETT: Can you pull the
19 mic close to you. Thank you.

20 MS. BROOKS: A notice of intention to
21 recall Jack Evans, Ward 2 Member of the Council
22 of the District of Columbia, was filed by Adam

1 Eidinger and a resident in District of Columbia
2 who resides in the same ward as the subject of
3 the recall on Friday, April 12th, 2019.

4 Councilmember Jack Evans filed with
5 the Board a response to Mr. Eidinger's statement
6 of recall, reason to recall on Monday, April
7 22nd, 2019. Pursuant to the D.C. Official Code
8 1, Section 1001.17(g) the proposer of the recall
9 to have 180 days to collect signatures beginning
10 on a date when the proponent of the recall
11 formally adopts the original petition form as his
12 or her own form.

13 Accordingly, the deadline for Mr.
14 Eidinger to file his petition in support of the
15 recall is 5:00 p.m. on Monday, November 18, 2019.

16 Pursuant to D.C. Official Code 1,
17 Section 1001.17(h)(1), the petition submitted in
18 support of the recall of Councilmember Evans must
19 contain the signatures of 10 percent of the
20 registered qualifying voters in Ward 2.

21 Pursuant to D.C. Official Code
22 1204.112, the signatures required must be

1 computed from the total number of registered
2 voters of the Election Board from which he or she
3 was elected according to the latest official
4 count of registered voters and determined by the
5 Board 30 days prior to the submission of the
6 signatures for the recall petition.

7 While the signature requirement cannot
8 yet be determined if the most recent registration
9 figures published by the Board were used, the
10 petition filed in support of the notice of intent
11 to recall Councilman Evans will require to
12 include the signatures of 5,195 newly registered
13 voters in Ward 2. Both the proposer of the
14 recall and the elected official who is the
15 subject of the recall are advised to check with
16 the Board's Voter Services Office on a monthly
17 basis as the reports are published.

18 Also as a reminder, when filing your
19 petition, make sure they are assembled in serial
20 number.

21 MR. EIDINGER: I'm sorry, and what?

22 MS. BROOKS: As a reminder, when you

1 file your petitions, make sure they are assembled
2 in serial number.

3 MR. EIDINGER: Serial number.

4 MS. BROOKS: Serial number, yes.

5 MR. EIDINGER: Not organized in any
6 other way? Like by addition or anything like
7 that?

8 MS. BROOKS: Exactly. One through
9 whatever.

10 MR. EIDINGER: And just to be clear,
11 they don't have to be organized by petitioner,
12 they have to be organized just to number?

13 MS. BROOKS: Yeah, one through however
14 many pages you submit. And two we only -- you
15 can file as many as you want, but we only going
16 to count up to that amount of the signature
17 requirement.

18 CHAIRMAN BENNETT: Okay. Anything,
19 Mr. McGhie?

20 MR. MCGHIE: Does anybody have any
21 questions?

22 CHAIRMAN BENNETT: Okay. All right,

1 thank you, sir. We're going to go back to the
2 item that was tabled.

3 Mr. SanFord, would you please come
4 forward?

5 Mr. SanFord, can we move forward,
6 please, on that?

7 MR. SANFORD: Yes.

8 CHAIRMAN BENNETT: Thanks for waiting.

9 MR. SANFORD: Good afternoon, Mr.
10 Chairman, distinguished Board Members. William
11 SanFord, general counsel for the Office of
12 Campaign Finance. The first thing I need to do
13 is apologize to Ms. Brizill.

14 Earlier during these proceedings I
15 actually read the wrong Chapters into the record
16 and I think that's the reason for the mistaken
17 misunderstanding. So I have discussed that with
18 Ms. Brizill, and the agenda was not incorrect.
19 It was me; I was the person who was incorrect.
20 So it was my error, and I'd like to correct that
21 on the record.

22 The Final Rulemaking that will occur

1 today will be of Chapters 3, Chapter 37, Chapter
2 42 and Chapter 43 of the District of Columbia
3 Municipal Regulations, and previously I had cited
4 the wrong Chapters because we had two proposed
5 rulemakings that went over the D.C. Register and
6 they were published and the Chapters I cited are
7 currently still running until close of business
8 today. But the Chapters, the correct Chapters,
9 as indicated by the agenda expired on the 22nd of
10 April. And those are ready for Final Rulemaking.

11 CHAIRMAN BENNETT: Okay.

12 MR. MCGHIE: So at this point can I
13 ask that the Board entertain a motion to accept
14 as Final Rulemaking the Chapters as indicated by
15 Mr. SanFord?

16 MEMBER LEWIS: So moved.

17 MEMBER GILL: Second.

18 CHAIRMAN BENNETT: It has been
19 properly moved and second. I don't have any
20 additional questions. It's unanimous.

21 Rulemaking are final. We will, as I
22 said earlier, address the legislative changes at

1 our May 29th meeting.

2 And, for the record, thank you, Ms.

3 Brizill.

4 MR. SANFORD: Thank you again, Ms.

5 Brizill, for pointing that out. Grateful.

6 CHAIRMAN BENNETT: Okay, thanks. This

7 meeting is adjourned.

8 (Whereupon, the above-entitled matter

9 went off the record at 1:56 p.m.)

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This is to certify that the foregoing transcript


In the matter of: Special Board Meeting

Before: DC BOE

Date: 05-20-19

Place: Washington, DC

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