GOVERNMENT
OF
THE DISTRICT OF COLUMBIA
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BOARD OF ELECTIONS
+ + + + +

REGULAR BOARD MEETING
+ + + + +

WEDNESDAY

JANUARY 10, 2024
+ + + + +

The District of Columbia Board of Elections convened via Video Teleconference, pursuant to notice at 10:30 a.m. EST, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
KARYN GREENFIELD, Member
J.C. BOGGS, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel
CECILY COLLIER-MONTGOMERY, Office of Campaign Finance
MARISSA CORRENTE, Registrar of Voters
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Adjourn
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(10:32 a.m.)

CHAIR THOMPSON:  Good morning. Hello everybody. Happy Wednesday, January 10, 2024, if you can believe that. My name is Gary Thompson, the Chair of the DC Board of Elections.

With us today by Zoom are my fellow Board Members Karyn Greenfield and J.C. Boggs. We have a quorum so we are open for a regular monthly meeting.

The very first thing we do is adopt our agenda which has been distributed to the Board members in advance and we've all had a chance to look at that. At this time I would move that we adopt the agenda.

MS. GREENFIELD: I second.

CHAIR THOMPSON: All in favor.

MR. BOGGS: Aye.

MS. GREENFIELD: Aye.

CHAIR THOMPSON: Second quick housekeeping measure is we've distributed the meeting minutes from our meeting of December 6,
2023. We've had a chance to review those and I
would also move that we adopt those minutes.

MS. GREENFIELD: I second.

CHAIR THOMPSON: All in favor.

(Chorus of aye.)

CHAIR THOMPSON: Three ayes. Moving
onto Board matters, just a few brief remarks.
Happy New Year to everybody. We are in the
election calendar year obviously. We're very
excited about it.

What I want everybody to know is the
DC Board of Elections is ready. We are ready
with respect to all of the many date milestones
that are coming up, and ultimately with respect
to the primary and general elections in June and
November respectively.

We have a big day on Friday, January
12th, just two days from now. Candidates will be
able to pick up nominating petitions so our
calendar is well underway. It's posted on our
website.

If you look at it, you'll see that we
have important calendar-driven dates almost every week that we will keep pace with in order to stay on track for the primary election. We are very excited about it.

We had a tremendously productive 2023 where a whole lot of detail and important matters were addressed, and now we're ready.

We're excited that the election year is here.

We obviously have a long way to go and we have the work ethic and the tenacity to see it through. Thank you in advance everybody because there's a lot of great work ahead.

One person I wanted to thank in particular is we've had an intern the last couple weeks. Jill Jones has joined us as an intern from a D.C. high school and we really appreciate Jill's fabulous contributions, especially with respect to preparing for this meeting so thank you, Jill.

That's it for me in terms of opening comments. Anything from you, Karyn, or J.C.,
that you would like to say at the outset of the
calendar year?

    MS. GREENFIELD: Just wishing
everybody a happy new year and hope you had safe
and happy holidays. I am looking forward to a
successful election process and election year
thanking Monica and her team what they've done so
far and what they are going to be doing
throughout the next year.

    MR. BOGGS: Karyn, you said it all and
we've got a big year in front of us. I really
enjoy working with you and Gary and the whole
team, Monica and Terri. You make our job a lot
easier and I think better. I've enjoyed the
experience so far and look forward to a very
productive 2024.

    CHAIR THOMPSON: Okay. Well, thank
you.

    With that we'll turn now to the
Executive Director's Report from Monica Evans.

    MS. EVANS: Thank you and good
morning. Happy 2024. I am providing the
Executive Director's Report for December 2023.

First addressing the data breech. As previously reported, BOE became aware that a hacking group known as Ransom VC claimed to have breached BOE's records and accessed U.S. photo data including D.C. voter records.

The incident occurred as a result of a compromise to Datanet, our website hosting provider. The update is as follows:

Notification. Between December 22nd and December 24, 2023, Datanet sent out an email notification to approximately 400,000 District of Columbia registered voters whose voter data may have been part of the October data breech. The notification provided steps that voters can take to protect their personal information including details about credit monitoring.

In addition to this email, Datanet engaged a public relations firm to distribute a press release to the media and establish a customer service number for voters to call.

Additional information can be found on Datanet's
website.

Per recommendations and requirements from legal counsel, their insurance company and other cybersecurity partners, Datanet led the voter contact process including the timing of the release, methods of distribution, and media outreach efforts.

If voters have questions, they may reach out to Datanet at 1-888-817-5125 Monday through Friday. That's 9:00 a.m. to 9:00 p.m. eastern time. Datanet also provided an email address to receive questions. BOE issued a press release on December 27, 2023, detailing the information provided by Datanet.

Website status. Datanet successfully deployed the latest version of Kentico Experience for BOE on November 15. The platform now posts both the previous and updated content. The essential check your voter registration status link is fully operational providing users with a reliable resource to check their voter registration status.
As previously stated, BOE set up an email account where residents can ask questions about the breech. That email address is questions@dcboe.org. Throughout this process it remains safe and secure to register to vote in the District of Columbia. D.C. residents can still register to vote online using a paper form or in person at BOE offices.

Precinct mapping. As required by our regulations, the Board is looking at our current precinct boundaries to divide the District into appropriate voting precincts based on our election wards.

A file has been sent to the OCTO to verify the SMDs and precinct alignments. As I previously mentioned, the precinct mapping plan was sent to Councilmember Bonds for review on November 7. We have a meeting scheduled with Councilmember Bonds to discuss the proposal.

ANC vacancies. We currently have 11 ANC vacancies for the 2023/2025 term. These positions are in different stages of being filled
and after candidate filing requirements are met,
an open vote of registered voters of the affected
SMD will be held during regularly scheduled ANC
meetings.

As stated, we have been working with
the Department of Corrections to fill the vacancy
at the ANC that represents the jail and that is
7F08. This election was held on December 13 and
Shameka Hayes won that election.

List maintenance. Our 2023 list
maintenance process is ongoing. A nonforwardable
and a second forwardable postcard were sent to
voters who did not vote in the November 2022
general election. The forwardable postcard was
also mailed to voters who had a ballot returned
as undeliverable in 2022. We are still receiving
responses to our postcard mailers.

Prior to December we removed 65,544
voters from our voter rolls. In December, an
additional 37,962 inactive voters were removed as
a result of our list maintenance process. Based
on reports we received regarding deceased voters,
we removed 5,192 voters in December.

In total, we removed 108,698

individuals from our voter registry in 2023. We
moved another 92,772 active voters to an inactive
status. Our Communications and Outreach
Divisions are working to establish partnerships
with local universities to aid in maintaining the
accuracy of our voter roll.

These divisions are identifying ways
to utilize university registrars, alumni
associations, and housing offices in the process.
They are also exploring ways to leverage
university newsletters, mailing lists, and
graduation ceremonies.

2024 election cycle year planning.
Our draft primary and general election calendars
for the 2024 election cycle are posted on our
website. As mentioned by our chair, the first
day for candidate pickup is Friday, January 12th.

ES&S, one of our election vendors, on
December 14, 2023 concluded the preventative
maintenance and software upgrades for express
vote, touch screens, and DS200 units. Those are
the ballot counters at the vote centers.

Additionally, the installation and
testing of the two new DS950 units, the machines
that count voted ballots, have been successfully
completed and training is set for Tuesday,
January 30th.

We are regularly meeting with KNOWiNK
as we prepare for the 2024 election cycle. We
are focusing on testing the workflow for
processing noncitizens in the poll pads. Runvac
has completed preventative maintenance on the
ballot-on-demand units and the existing mail
sorter.

We are maintaining a regular schedule
of bi-weekly meetings with VR Systems to address
priority tasks. VR Systems conducted onsite
training in December to review how noncitizen
attributes that will be displayed in the voter
registration database will be completed.

Local Resident Voting Rights Amendment
Act. VR Systems provided a database solution to
house noncitizens who registered to vote in local elections. We plan to deploy online voter registration of noncitizens for local elections this week. However, noncitizens may currently register to vote in our office at 1015 Half Street, Southeast, using a paper registration form.

2024 voting options. During the 2024 election cycle all registered voters will receive a mail-in ballot. Voters may vote by mail, in person, or by depositing a ballot in a dropbox. BOE will have 55 mail ballot dropboxes that will be placed throughout the city. We will also operate 25 early vote centers and a total of 75 election day vote centers.

Accessibility. We are conducting an accessibility survey of all 2024 vote centers before the primary election to ensure they are accessible. We have partnered with disability rights at University of Legal Services and the Office of Disability Rights to conduct surveys. As is our practice, we will also work with DGS to
ensure vote centers are structurally accessible.

Election Work Division. The Election Workers Training Division is revising the Election Worker Handbook and the training curriculum based on recently-passed legislation. During the 2024 election cycle, our goal is to recruit and to train between 2,000 and 2,500 election workers.

We will deploy approximately 1,700 election workers to serve at vote centers. Election worker training will begin on Tuesday, March 12, 2024, and election workers are also able to access an online training module to complement the required in-person classes.

Voter education and outreach. During the month of December the Voter Education and Outreach Division conducted 11 outreach events on behalf of the agency. The events included the naturalization ceremony at the U.S. District Court.

In December, we registered 1,701 new voters and processed 3,089 registration changes.
In total we prepared 4,790 voter registration cards to be mailed. Additionally, 728 registered voters moved out of D.C., and 350 voters canceled their registrations and registered with other jurisdictions. And 843 voters registered in D.C. after canceling their registrations in other states.

We are continuing to register voters using our website portal. To date we have processed over 40,567 applications using the portal. These include new voter registrations and updates to existing registrations.

That concludes my report. Thank you.

CHAIR THOMPSON: All right. Thank you very much.

Turning now to General Counsel Terri Stroud who is going to lead us through a series of matters.

MS. STROUD: Thank you and good morning. Happy new year to everyone.

The first item on my agenda is the issuance of the petition in support of Initiative
Measure No. 83, ranked-choice voting and open the primary elections to independent voters, active 2024. I see that Lisa Rice, who is the proposer of the initiative, is present.

Hi, Lisa.

If you could unmute her for this part of the proceeding.

Lisa Rice. There she is.

MS. RICE: Good morning and happy new year.

MS. STROUD: Good morning. Happy new year.

I'm going to lay out how we're going to proceed with respect to this matter. I'm going to have the proposer state her name and address for the record. I'm going to have our Voter Services representative come forth and state her name and work address for the record.

Marissa, you can come up now if you want.

Then I'm going to provide some background on how we got to where we are today.
with the issuance of the petition from the time that the measure was submitted. Then we're going to have the proposer adopt the form. Then the registrar voters will read some information into the record regarding next steps for this measure, and the petition in particular.

Okay. So, Ms. Rice, if you could state your name and address for the record.

MS. RICE: My name is Lisa Rice. My address is 1205 33rd Place, Southeast, Washington, D.C. 20019.

MS. STROUD: Thank you.

Ms. Corrente.

MS. CORRENTE: Good morning. My name is Marissa Corrente. I serve as the registrar of voters here at the D.C. Board of Elections. The address of the building is 1015 Half Street, Southeast.

MS. STROUD: Thank you.

Okay. So by way of background, Ms. Rice filed a measure which was a revised version of a previous measure which was then titled Make
All Votes Count Act of 2024 on June 16, 2023.

The measure seeks to implement ranked-choice voting for District elections for President of the United States and all District elected officials in contest with three or more candidates on the ballot.

And open primary elections to voters who have not affiliated with any party by the 21st day prior to a primary election. The measure was approved as a proper subject on July 21, 2023, at a public Board hearing, a written order issued on July 25, 2023.

On August 23, 2023, the Board formulated the short title and summary statement and legislative form for the measure. On September 1, 2023, the formulations for the measure were published in the D.C. Register.

The notice informed the public in that notice that any registered qualified elector who objected to the summary statement short title in our legislative form could seek review in the Superior Court for the District of Columbia ten
calendar days from the date such formulations
were published in the D.C. Register.

It also informed the public that
registered qualified electors could also file
objections on other grounds during this period
including the Board's proper subject
determination.

Notwithstanding that the 10-day period
for challenging Initiative Measure No. 83 began
on September 1st and expired on September 11th,
the time frame during which no challenge was
filed to the measure, the D.C. Democratic Party
chair Charles Wilson and Keith Silver filed an
untimely challenge against the measure on August
1, 2023.

That challenge is the subject of an
ongoing litigation in D.C. Superior Court as I
will mention later during the litigation status.
There is an initial hearing set for Friday,
February 23rd.

After the challenge period during
which, again, no challenge was filed to the
measure, the Board prepared to issue the petition in support of the measure to the proposer at its Board meeting which was held on September 13th.

However, at that meeting the proposer requested that the Board hold the issuance of the petition in abeyance until January 2024 and the Board agreed to do so. So we are now in January and the Board is prepared to issue the petition.

I have provided a courtesy copy of the petition to the proposer for her review and no changes have been made to that petition. Now it remains for the proposer to indicate whether or not she adopts the petition as her own.

I'll ask you, Ms. Rice, you did receive a courtesy copy of the petition. Correct?

If you could unmute her. Okay.

CHAIR THOMPSON: We'll get there.

MS. STROUD: Okay.

MS. RICE: Yes, I received the courtesy copy.

MS. STROUD: Did you adopt it as your
own, the petition for Initiative Measure 83?

MS. RICE: Yes, I adopt it as my own.

MS. STROUD: Thank you. So we will --

the registrar of voters is going to read the next

steps with respect to the petition, and also

inform you of how you can obtain it at this time.

MS. RICE: Okay. Thank you.

MS. CORRENTE: Good morning. So first

I'm going to read a memo that will be provided to

you later today after this meeting for your

records. The memo is titled Initiative 83,

Ranked-Choice Voting and Open the Primary

Elections to Independent Voters Act of 2024.

With the preparation of the petition

form, it is important to note that in order for

the measure to be placed on the ballot, the

petition submitted in support of Initiative 83

must contain the valid signatures of at least

five percent of registered District of Columbia

voters provided that this total includes five

percent of the registered voters, and at least

two of the eight wards.
Pursuant to D.C. Official Code 1-204.102A the number of registered voters used to compute these requirements is the latest official count of registered voters by the D.C. Board of Elections which was issued 30 or more days prior to the submission of signatures.

While the signature requirement cannot be determined yet, current calculations can be determined using the published December 31, 2023 monthly voter registration statistics report. I won't go through and outline each individual ward's numbers but that notation is included in the memo.

The proponent is advised to check with the Board on a monthly basis as new statistics are issued to get up-to-date estimates of the signature requirement. In addition, the 180-day period for circulating the petition pursuant to D.C. Official Code 1-1001.16J1 expires on Monday, July 8th, 2024, at 5:00 p.m.

That concludes the memo. Then we will follow up with an email to you, Ms. Rice, with
your petition attached, the memo attached, and a
link to a secure link to other documents that are
helpful for the ballot access process.

MS. RICE: Okay. Thank you.

MS. STROUD: Of course.

CHAIR THOMPSON: I just wanted to also
add my thanks to the proposer for working with us
on the petition form. Thank you for suggesting
some changes. We've been able to improve the
form in a few respects. You know, create some
more space for the signers. Small things but
important things. Thank you for that.

And I also wanted to remind everybody
about something obvious. We at the Board, our
three-member Board and our Board of Elections,
we're shepherds of this process. We don't
endorse, or oppose, or have any position
whatsoever on the substance of the initiative
itself.

The right of D.C. voters to propose
laws is part of our charter itself. It's in the
D.C. Code and there's a number of standards steps
to follow before a proposal appears on the ballot. We are going through those steps.

The first step was the proper subject matter determination. The second step was the adoption of the short title and summary statement. I guess I would call this the third major step which is the issuance of the petition.

Now, as the registrar explained, the proposers have to go forth and gather proper signatures, being five percent of the denominator which currently is the December 31st published voter rolls.

That will change a little bit on January 31st and so forth. We all know that the denominator is a fixed number and we can track it over the next month or two or three as you gather signatures and try to meet your thresholds.

Just so people know, it's your option but February 5th, I believe, is the deadline for submission of those signatures if you wanted to appear on the primary election ballot. All that has to happen 90 days in advance of an election.
That's marked on our calendar, but that's optional. Obviously it can take additional time, all the way up through July 8th, I think the registrar said, in which case you would appear on the general election ballot.

Do I need to make a motion?

MS. STROUD: No, that was the action for the proposer to take to adopt it.

CHAIR THOMPSON: Okay. No motion required. Anything else?

MS. STROUD: Not with respect to that matter, no.

MS. RICE: I would like a moment to thank the Board for your guidance and for your patience. I'm very new at this and so I appreciate the work that you helped me understand I needed to do to make this happen. It's not just me, it's a team of people and we are very excited to really make democracy work here in D.C.

I am absolutely thrilled that we are here today and I appreciate the work each and
every one of you have done at the Board. Thank you so much.

To quote my favorite children's book, let the wild rumpus start.

CHAIR THOMPSON: Okay.

MS. STROUD: Thank you.

CHAIR THOMPSON: Thank you.

MS. STROUD: And so next on my agenda we have, in fact, a proper subject hearing for an initiative that was submitted. This proposed subject matter determination hearing is going to be conducted for the proposed initiative measure Humane Environment Block Up Plan S.W.A.P.O.U.T. for Movements & Minds for the Bad for the Good Amendment Act of 2024.

At this meeting the Board will conduct a hearing to determine whether the proposed initiative measure presents a proper subject of initiative in the District of Columbia. Here in the District voters are permitted to participate directly in the legislative process via the right of initiative.
The term initiative is defined in the District charter which is the constitution for the District as the process by which the electors of the District of Columbia may propose laws -- emphasis on the word laws -- except for laws appropriating funds and present such proposed laws directly to the registered qualified electors of the District for their approval or disapproval. It's clear that at a minimum a proposed measure must propose a law.

Pursuant to D.C. Official Code Section 1-1001.16 the Board upon receipt of a proposed initiative measure must refuse to accept the measure if it determines that the measure does not meet certain criteria. This is what the Chair was referring to when he talked about how the Board is the gatekeeper of this process.

They look at these criteria and examine the measure to see whether or not it meets these qualifications. If it does not, then it cannot be placed on the ballot for the voters to vote up or down on.
The measure can't conflict with or seek to amend Title 4 of the D.C. Home Rule Act, the District Charter. The measure cannot conflict with the U.S. Constitution. The measure must have been properly filed in the proper form. The proposer must have filed a verified statement of contributions which is the measure's committee statement of organization and report of receipts/expenditures. That has to be timely filed. The measure cannot authorize discrimination in violation of the D.C. Human Rights Act. The measure cannot negate or limit a budgetary act of the D.C. Council. And the measure cannot impermissibly appropriate funds under applicable D.C. Court of Appeals rulings.

Let me just check and see if the proposer of the initiative, Demanne Cutchin, Sr. (phonetic), is present. I see that there is an iPhone. I'm not sure if that individual is the proposer of the initiative measure. If you are, please raise your hand. It does not appear that Demanne Cutchin, Sr. is here.
Okay. I see a couple of numbers, telephone numbers. If either of those numbers belongs to Mr. Cutchin, if you could so indicate either in the chat or by raising your hand.
I see there is a comment in the chat. Okay.
Ms. Pembroke, if you could come forth.
I'm going to have the senior staff attorney come forth and indicate the means by which we tried to reach Mr. Cutchin, Sr.

MS. PEMBROKE: So the Board is --
(Simultaneous speaking.)

MS. PEMBROKE: I'm sorry, yes. My name is Christine Pembroke. I work in the Office of General Counsel for the Board of Elections.

Once the notice of this meeting and the proper subject hearing did appear in the Federal Register and we knew that it had been posted I attempted to contact Mr. Cutchin.

Although the Board's regulations require that proposers provide an attestation as to their contact information, including a phone number, Mr. Cutchin had included only the address
of the D.C. Jail, which we knew was essentially a temporary address for him.

So I reached out to the D.C. Jail and confirmed that he had been released just shortly before the notice appeared in the D.C. Register. I then researched his voter files and found that the address there was also the D.C. Jail address but there was a phone number.

I contacted the person who had that phone number, it was a third party, and that individual advised me of a mail address that could be used for Mr. Cutchin.

I then sent him a copy of the notice and instructions on how to access the Board Meeting through Zoom. I have had no response from him.

MS. STROUD: Okay. Thank you, Ms. Pembroke. Notwithstanding Mr. Cutchin's lack of appearance here today with respect to his measure, the Board can proceed with this Proper Subject Hearing.

So we received the measure via U.S.
mail on November 15th and the first page
indicated the title of the measure and that it
was proposed by Mr. Cutchin.

The measure did not comply with
several initiative measure filing requirements.
Specifically, the measure was not filed in person
at the Board's office. It did not include five
printed or typewritten copies of its full text.

It did not include the sworn affidavit
that Ms. Pembroke referenced as to the proposer's
name, telephone number, and residence address and
status as a registered qualified elector in the
District of Columbia and it did not include a
copy of the statement of organization and report
of receipts and expenditures filed with the
Office of Campaign Finance.

Although the measure failed to comply
with the aforementioned filing requirements the
Board's Office and the General Counsel proceeded
with processing of the measure as pertinent
election laws do not authorize the Board to
summarily reject a purported proposal because it
is facially defective.

What we do is we receive the measure but the Proper Subject Hearing is the point at which the measure is either refused or accepted.

So we sent notice of a Proper Subject Hearing to the D.C. Register to inform the public that the Board would hold a meeting on January 3rd to determine whether the measure presented a proper subject.

That notice was published in the D.C. Register on December 8th. Due to the Board's January meeting being rescheduled from January 3rd to January 10th an updated notice was published in the D.C. Register on December 22nd indicating that the Board would hear this matter today.

On November 16th we requested advisory opinions from the Attorney General for the District of Columbia and the D.C. Council's general counsel as to whether the proposed initiative met certain proper subject requirements as required by law.
On December 6th the General Counsel for the Council provided an advisory opinion on the measure which concluded that the measure was not a proper subject of initiative primarily because the proposed initiative, and I quote, contains lengthy and confusing narrative discussions, but nothing that could be construed as legislative text that could be adopted or implemented.

She further noted that an initiative must propose a law but that the measure contains no text that could be construed as a legislative proposal.

On December 7th the Attorney General for the District of Columbia provided his advisory opinion to the Board.

That opinion states because we conclude that the proposed initiative does not meet the threshold requirements to propose a law it is not a proper subject and the Board must refuse to accept it.

The measure is not legislative in
nature. It does not propose to make new law. It consists primarily of commentary on policy, problems, theory, and the need for solutions.

It does not cite any law that it seeks to amend or add. Even construing the initiative right liberally the proposed initiative does not propose law.

I just want to indicate that both of these opinions will be a part of the record for this proceeding.

We have not seemed to obtain the presence of the proposer for the measure, but I want to ask now if there are any representatives from either the Office of the Attorney General or the General Counsel for the D.C. Council who are present that wish to comment on the proposed measure beyond what they provided in their advisory opinions and if there are individuals from those offices if they could raise their hand through the Zoom platform.

They do not appear to be present.

Okay. Does the Board have any questions about
anything thus far?

CHAIR THOMPSON: I don't have any
questions. I just want to note for the record
that, you know, we carefully read the proposed
initiative that was handwritten but quite
legible.

I carefully reviewed the two opinions,
one from the Attorney General and one from the
General Counsel to the D.C. Council. They each
conclude that the proposed initiative contains no
text that could be construed as a legislative
proposal.

I am inclined to agree with that
analysis and, therefore, at this time I will make
a motion --

MS. STROUD: Make a recommendation
first, yes.

CHAIR THOMPSON: Apologies. Go ahead.
I'll wait for the General Counsel to respond.

MS. STROUD: Yes. So, the Board
Office's and the General Counsel also analyzed
the opinion, the measure, as the Chair indicated,
and the Office of the General Counsel agrees with the opinions rendered by both the OAG and the General Counsel for the Council and also offers that the measure did not comply with several initiative measure filing requirements as noted earlier.

Accordingly, it is the Office of the General Counsel's recommendation that the Board refuse to accept the measure on the grounds that it isn't a proper subject under the terms of Title IV of the D.C. Home Rule Act because it does not propose a law, because the verified statement of contributions has not been filed, and because the measure is not in the proper form as required by the law on initiatives.

So at this time I would ask for the motion from the --

CHAIR THOMPSON: All right. Thank you very much, sorry to jump the gun.

MS. STROUD: Mm-hmm.

CHAIR THOMPSON: Yes, for all the reasons General Counsel Stroud just recited I
would make a motion at this time that we reject
the proposed voter initiative as a proper subject
matter. I think we're going to have to --

MS. STROUD: Oh, we'll unmute.

CHAIR THOMPSON: We're going to have
to unmute the Board Members.

MS. STROUD: Yes. And first I will
ask -- The Chair has given his vote and then I
will ask Ms. Greenfield whether she adopts the
motion made by the Chair.

MS. GREENFIELD: Yes, I do. Also, I
think there is a question in the chat about it,
but, yes, I do adopt the motion.

MS. STROUD: And, Mr. Boggs, if you
could indicate whether or not you adopt the
motion of the Chair.

MR. BOGGS: I do.

MS. STROUD: Okay. I think he was
speaking generally. There was a question. I
don't know if he was speaking generally about the
meeting entirely or just this part.

CHAIR THOMPSON: Probably a public
comment. So if anybody has a comment specifically about this voter initiative, I was unclear from the chat question if that's what somebody was asking about.

Well why don't we recognize Mr. Amene for your comment regarding this initiative. We'll unmute you, Abel Amene. There you go.

MR. AMENE: Thank you for this opportunity. My name is Abel Amene. I live at 506 Longfellow Street.

My comment is just from a personal perspective as a resident here. I don't dispute, you know, the opinions or what the motion has been made or anything that is about to happen.

I just wanted to comment on some of the difficulties a resident of the D.C. Jail or someone being held at the D.C. Jail would have to propose an initiative in that, you know, it would be a laudable goal for us to ensure that that continues to happen, that that opportunity continues to happen.

So I wonder if the Board would, you
know, consider this an opportunity to do some outreach. I know there is photo registration outreach already done, but to educate, you know, the people that may in the future propose initiatives from while, you know, being held at the D.C. Jail about the proper way to do that, you know.

Things like having an address of contact after release and things like that are things, you know, that the Board may want to recommend to people that in the future propose things.

And then also just ensuring that, you know, someone who is at the D.C. Jail currently doesn't have as much access to this meeting itself, so, you know, there is many opportunities and many ways that those, you know, people living or being held at the D.C. Jail are in some ways disenfranchised by this, so I just wanted to comment on that and leave that for your later consideration. Thank you.

CHAIR THOMPSON: Yes, thank you so
much, Mr. Amene. I think, indeed, in this situation we waived I think four different process requirements in this case under the circumstances of the proposer being incarcerated with respect to, you know, the need for five copies and some other process requirements.

So I was pleased to hear that our Board set those aside and went straight to the substance of what was being proposed and, you know, the next step in our process with respect to the substance is to reach out to the Attorney General and D.C. Council's GC and ask for their opinions on whether this is, indeed, a proper subject matter.

So I mean I am pleased we got to the merits of the proposal and did not reject it on, you know, one or more of the process grounds that, you know, technically it didn't meet.

So hopefully that speaks to your point and I am positive that in the future we would, we will always be sensitive to that issue, not just with respect to a proposer, you know, that
happens to be incarcerated, but in other
situations as well.

We really do want to get to the merits
of what is being proposed, and we have done that
here, and, you know, asked for outreach and
we'll, you know, that's a great comment and we'll
take that under advisement with our project in
that regard. Thank you.

MS. STROUD: Thank you. So in light
of the fact that the Board has moved to refuse to
accept the proposed measure as it does not
present a proper subject of initiative I just
wanted to lay out what the proposer's appeal
rights are.

The proposer may within ten days after
the Board's refusal apply to the Superior Court
of the District of Columbia for a writ in the
nature of mandamus to compel the Board to accept
the measure, so that opportunity is available for
Mr. Cutchin, Sr., and with that we can move on to
the next matter.

The next item on my agenda is the
referral hearing for Ashley Harris, if Ms. Pembroke could come forward again. This matter involves, is a continuation of a matter that was held before the Board during the last hearing involving a double voting incident that occurred in the 2020 general election, so, Ms. Pembroke, if you could state the matter.

MS. PEMBROKE: Thank you. Christine Pembroke again for the Office of General Counsel. Yes, this matter was continued from the December 6th Board Meeting.

It involved evidence presented by the Office of General Counsel that Ashley McArthur Harris had voted in person in the Florida 2020 general election and that a ballot had been passed in her name by mail but under the name Ashley Godwin Harris in that same election.

The evidence at the last hearing indicated that Ms. Harris was in Florida at the time the mail ballot was sent in, so the Office of General Counsel presented evidence regarding the premises where the mail ballot was sent,
which were owned by Elby Godwin at the time of that election, and had made a recommendation based on the available information that this matter be referred for enforcement.

That recommendation was based in part on the fact that we were not able to interview Mr. Godwin because he would not make himself available.

He only provided a residential lease that covered the period of the time of the 2020 general election for the property where the ballot was sent.

We also noted for the Board that the signature on the D.C. ballot did not match other examples of Ms. Harris' signature and that the middle initial used on that ballot appeared very clearly to be the Letter M, although the ballot was issued to Ashley Godwin Harris and the middle name of M is associated with her Florida voter file.

The Board had continued the matter to provide Mr. Godwin with a further opportunity to
appear. So I reached out to him and his counsel
to set a pre-hearing conference for December
28th. The day before that hearing I received an
e-mail from new counsel for Mr. Godwin asking if
the pre-hearing conference could be continued.

I reminded him that the Board had
given 30 days for this matter to be continued,
and so he agreed to a pre-hearing to be scheduled
for January 2nd.

Shortly before the pre-hearing was to
commence I received an e-mail from counsel which
said we are declining your offer to participate
in a voluntary interview at this time.

So although Mr. Godwin has been
provided with an opportunity to provide details
about his access to the property where that mail
ballot was sent during the 2020 general election,
he has declined to do that.

At this time the Office of General
Counsel is recommending, as the Board indicated
it would at the last meeting, that it be referred
for further investigation and possible
prosecution by law enforcement.

CHAIR THOMPSON: Thank you for that.

So at this time I will make a motion that we do refer this to the U.S. Attorney's Office for further investigation.

Just to state the obvious, we are not making any factual determinations, we are not drawing any conclusions, not with respect to Ms. Harris, not with respect to Mr. Godwin or anyone else.

That said, to me the circumstances are such that it appears that somebody intercepted that mail ballot and filled it out and it's possible knowingly, you know, voted improperly and may constitute voter fraud under the relevant statutes.

That is all something we will leave for the U.S. Attorney's Office to consider as they further investigate the facts and they may or may not decide that there are charges to bring against somebody, whose name we might not even know at this point.
There is certainly enough circumstances here to warrant us passing this on to the U.S. Attorney. That's what we do. That's our role in the process. We don't reach conclusions or make determinations, we just refer.

I just wanted to explain my reasons for accepting the recommendation and moving that we refer this matter to the U.S. Attorney's Office.

MS. STROUD: Okay. And then we'll do another roll call vote. The Chair has made his motion. Ms. Greenfield, do you vote yes or no with respect to the motion?

MS. GREENFIELD: Yes.

MS. STROUD: Mr. Boggs?

MR. BOGGS: Yes.

MS. STROUD: Thank you.

CHAIR THOMPSON: Thank you, Ms. Pembroke.

MS. PEMBROKE: Thank you.

MS. STROUD: The next item on my
agenda is Rulemaking for Title 3 of the D.C. Municipal Regulations.

The purpose of this rulemaking is to conform the Board's regulations to the Elections Modernization Act of 2022, provide for consistency between Board regulations, adopt rules of conduct for attendees at Board meetings, and to clarify the commencement of the appeal process with respect to Board decisions, and to make other non-substantive housekeeping updates and corrections of typographical errors.

So we will publish this rulemaking on the Board's website. We will also send it for publication to the D.C. Register and it should appear in the January 19, 2024 edition of the D.C. Register.

So we will publish it on our website immediately after this meeting once the Board moves that we can transmit it to the D.C. Register for appearance in the D.C. Register which will lead to this public comment period.

So although the public comment period
won't end until 30 days after January 19th it
will be available for review, so the public will
have an even longer amount of time to review the
regulations.

So with that I ask that the Board
allow for the Office of the General Counsel to
submit the proposed rulemaking to the D.C.
Register for publication for a 30-day public
comment period during which the public may weigh
in with respect to the regulations, and they,
again, will be available today.

The Board Members have had the
opportunity to review and so if they want to
discuss anything with respect to the rulemaking
they are, of course, able to do so.

We just clarified some meeting
requirements. We included some rulemaking that
has to do with the conduct of the meeting so that
we can ensure the safety and orderly conduct of
meetings and the consequences of not permitting
the orderly conduct of a meeting.

We also, again, had some changes that
we needed to make with respect to changes to the ballot access process. A major one is that declarations of candidacy will be required to be filed before petitions are issued as opposed to at the end of the, I suppose at the time of the filing deadline for nominating petitions and ballot access materials.

We made additional changes to correct errors that have been made with respect to certain other matters, including clarifying who could sign petitions for federal candidates as opposed to local candidates.

So those are some of the things that the rulemaking covers, but, again, it will be available on the Board's website today and will be published in the D.C. Register on January 19th for a 30-day comment period.

CHAIR THOMPSON: Would you like a motion?

MS. STROUD: Yes, please.

CHAIR THOMPSON: All right. Thank you so much. Thank you to General Counsel Stroud and
Christine Pembroke and others. I know everybody put a lot of thought into these proposed changes to our regulations, so it's very much appreciated.

You know, indeed, it's perhaps a timely moment in history to revisit the roles that govern the safe and orderly conduct of public election meetings and I was really pleased to see this and I think it was really well and thoroughly prepared.

You know I love to explain things as, you know, with the intern around lately I just like to explain things, so I think everybody might know this, but when you go through the level of laws, we've got a D.C. Charter, which is like our Constitution, and that's not what this is, and then our D.C. Code, we don't change that, that's up to the D.C. Council, but below that and sort of the third level of laws, if you will, these are our regulations that are promulgated pursuant to the, you know, D.C. Municipal Register.
So at the agency level the agencies propose their own changes to their own rules, so that's what this is and, as the General Counsel mentioned, this will now go out for publication in the D.C. Register and will have a very robust and transparent opportunity for public comment.

So, you know, there will be plenty of time ahead for anybody who is listening today or otherwise to make comment on these proposed changes.

So with that I will make my formal motion that we transmit these to the D.C. Register for publication and for public comment.

MS. STROUD: Okay. Again I will take the roll call vote with respect to the motion that was made by the Chair. Ms. Greenfield, do you vote yes or not to adopt the motion of the Chair?

MS. GREENFIELD: Yes.

MS. STROUD: Mr. Boggs?

MR. BOGGS: Yes.

MS. STROUD: Thank you. With that we
will be publishing in the D.C. Register. Again, it will be the January 19, 2024 edition of the D.C. Register, not this coming Friday but the next Friday, and then we will also have it on our website today.

The final item on my agenda is Litigation Status. The first matter is PIL, Public Interest Legal Foundation versus Monica Evans in her capacity as the Executive Director for the Board of Elections. This matter is in the U.S. District Court.

So we had a Motion to Dismiss that was filed and there were pleadings filed after that. On December 4th at a hearing the Court denied the Motion to Dismiss and stayed the case pending settlement negotiations. There is a status report due next Wednesday on January 17th.

The next matter is Stacia Hall versus the Board. All pleadings have been filed in this matter and there has been no action on the matter since the filing of the Reply and we await the Court's ruling in this matter.
This involves the challenge to the section of the Code that allows non-citizens to participate in local elections in the District of Columbia.

The next matter is the D.C. Democratic Party versus Muriel Bowser, et al., including the Board, and this is a case that I referenced earlier in connection with Initiative 83.

This was a challenge to Initiative 83 that was untimely filed. All pleadings in this case have been filed. An initial hearing which had been set for December 1, 2023 has been continued to February 23, 2024.

The next matter is Dr. Shiva Ayyadurai versus Merrick Garland, et al., including the District and the Board. This matter is in the U.S. District Court for the District of Columbia.

This is a matter in which the Plaintiff seeks a declaration that he is eligible to serve as President of the United States, notwithstanding the constitutional natural born citizens clause, or, alternatively, that this
qualification matter presents a non-justiciable political issue for the voters. The OJ is coordinating with the OAG on next steps regarding this matter.

The final matter is Long versus the D.C. Board of Elections. This is in the D.C. Superior Court. This is the re-submission of a matter previously dismissed without prejudice.

Mr. Long is seeking $10,000 in damages based on a claim concerning an overdraft cost to his bank account when a stop payment was imposed on a $500 check for his service as an election worker.

There is an initial hearing date set for February 2, 2024. OGC is coordinating with the OAG on next steps for this matter as it involves actions by the Office of Finance and Resource Management for the District of Columbia.

That concludes this item and my report in its entirety.

CHAIR THOMPSON: Well thanks very much, that was a lot. Turning now then to our
Campaign Finance Report from Director Collier-Montgomery.

MS. COLLIER-MONTGOMERY: Good morning and Happy New Year. For the record the full report of the activity of the Office of Campaign Finance for the month of December 2023 will be posted at our website before the close of today. The website is www.ocf.dc.gov.

I will, however, at this time highlight a few matters of interest for the public from the report.

First, in the Office of the Director during the month of December information on the Agency's Judicial and Fair Elections Program were presented at the virtual meeting of Advisory Neighborhood Commission 1D in furtherance of our Community Outreach Program.

In our Fair Elections Program Division for the 2024 election cycle as of this date there are five certified participating candidates in the Fair Elections Program and 12 registered candidates who are seeking to participate in the
Fair Elections Program for the 2024 election cycle.

During the month of December 2023 the OCF certified two candidates in the Fair Elections Program for the 2024 election cycle and disbursements were made to participating candidates as follows.

First, Veta Rasheed, The Veta for Ward 7 Principal Campaign Committee. On December 9, 2023 the candidate Veta Rasheed was certified as a participating candidate in the June 4, 2024 primary election for the covered office of Member of the Council for Ward 7.

Matching payments in the amount of $35,450 and the first half of the base amount payment in the amount of $20,000 were authorized for disbursement on December 9, 2023.

Brooke Pinto, the Re-Elect Brooke Pinto 2024 Principal Campaign Committee. On December 19, 2023 matching payments were authorized in the amount of $32,825 and the first half of the base amount payment was authorized in
the amount of $20,000.

Christina Henderson, Re-Elect

Christina Henderson. On December 19, 2023 the
candidate Christina Henderson was certified as a
participating candidate in the November 5, 2024
general election for the covered office of At-
Large Member of the Council.

Matching payments in the amount of
$102,005 and the first half of the base amount
payment in the amount of $20,000 were authorized
for disbursement.

With respect to desk reviews and other
activity, the Fair Elections Program Division
conducted 31 desk reviews of amended reports of
receipts and expenditures which have been filed
with the Agency and also issued 15 requests for
additional information letters to committees
based on the review of the report.

There was one candidate, Treasurer of
Consultation, for the month of December and that
was with Wendell for Ward 7, 2024 on December 28,
2023.
The amount of remitted funds which has been remitted for deposit in the Fair Elections Fund from the campaign operations of participating candidates in the 2022 election cycle has not changed. The total sum of $803,207.20 remains a constant.

With our ongoing 2020 post-election full field audits in the Fair Elections Division, again, for background information I would point out that the OCF initiated 34 full field audits of the campaign operations of the candidates who were certified to participate in the program during the 2020 election cycle.

There are currently 11 2020 post-election audits which are ongoing in the Division at various stages of the audit process. The status of the ongoing audits is listed in our activity report for this month.

For this record I would point out that the FEP Division has issued a total of 23 final audit reports of the post-election audits which were initiated for the 2020 election cycle.
With the ongoing 2022 post-election audits for the 2022 election cycle we issued 42 post-election audit letters for the primary, which was conducted on June 21, 2022, and for the general election, which was conducted on November 8th, to the candidates who were certified to participate in this 2022 election cycle.

To date the FEP has issued 20 preliminary statements of audit findings and 19 final audit reports for the 2022 election cycle, including the following which were issued during the month of December, D.C. for Sharece Crawford final audit report was issued on December 11, 2023. Beyond for D.C. final audit report was issued on December 12th, David for Ward 3 the final audit report was issued on December 20th, and the Committee to Elect Sabel Harris the final audit report was issued on December 20, 2023.

All of the final audit reports are available at the OCF website for review by the public and I would also point out that the final audit reports which were issued that I just
referenced were all compliance audit reports,
meaning that the committees did comply with the
reporting requirements of the Campaign Finance
Act.

In our Public Information and Records
Management Division during the month of December
there was one due date on December 10, 2023 for
the filing of reports of receipts and
expenditures by candidates and principal campaign
committees in both the traditional campaign
finance and the Fair Elections Program by
Political Action Committees and also by our
Independent Expenditure Committee.

All reports were received and
expenditures are available by members of the
public at our website. The reports are available
in real time once the reports are filed at the
website.

With new candidates and committees for
the 2024 election cycle and traditional campaign
finance program there are currently a total of
eight candidates who are registered to
participate in the June 2024 primary election.

There were no new registrations for
the month of December in our traditional program.
In the Fair Elections Program there are currently
17 candidates who are registered to participate
in the program, including the five new candidates
who registered during the month of December 2023.

First, Lisa Gore, candidate for Member
of the Council for Ward 4, who registered to
participate in the June 4, 2024 primary election. The candidate registered on December 4th.

Eboni-Rose Thompson, who is a
candidate for Member of the Council for Ward 7 in
the June 7, 2024 primary election. The candidate
registered on December 4th.

Wendell Felder, who is a candidate for
Member of the Council for Ward 7 in the June 4,
2024 primary election. The candidate registered
on December 4th.

Last, Allister Chang, candidate for
the Office of the State Board of Education for
Ward 2 in the November 5, 2024 general election.
The candidate registered on December 11, 2023.

There also were two new ballot committees that registered during the month of December. The first is the vote no on Initiative 83 and that's Initiative Committee, Nina Murphy marked as the Treasurer. The committee registered on December 12, 2023.

The second is the Committee to Re-call Charles Allen. That is a re-call committee. The Treasurer is April Randall and the registration date was December 13, 2023.

Also during the month of December we had 12 candidates and treasurers who attended the mandatory entrance conference. The names of those candidates and treasurers are listed in our activity report.

In our report the Analysis and Audit Division, and that is our traditional campaign finance program, during the month of December the program conducted desk reviews of 51 reports of receipts and expenditures and issued ten requests for additional information based on the review of
There were no final audit reports which were issued by the traditional program during the month of December, but there are ongoing audits.

First, there is the ongoing audit of a newly elected official, and that is a full field audit. It is the Kenyan McDuffie 2022 principal campaign committee. The audit field work has been completed and the Division has issued a preliminary draft statement of findings on November 21st to the Committee.

A meeting was held with the Committee on January 4, 2024 to discuss the findings and the recommendations are noted in the preliminary draft statement of findings.

The second is the inaugural committee, and this is a full field audit, and it is of the D.C. Proud and Noble Committee. The audit notification letter was issued on September 9th with a due date of October 11, 2023.

For the record the records were
received on November 28th and the audit field work is in progress.

Last, with our Constituent Service Program we do have two ongoing periodic random audits and these were initiated with respect to the October 1, 2023 report of receipts and expenditures which was filed with the Agency.

The first is the Ward 5 Council Office Constituent Service Fund Program. The records were received on October 16, 2023, and the audit field work has been completed.

Second is the Citizens Outreach Fund. The records have not been received and a reminder email was sent in October with a due date of October 17th.

In this particular case the Constituent Service Program was referred to the Office of the General Counsel on November 22, 2023 for the initiation of the enforcement process.

That concludes my report, but I would ask our General Counsel to present the report,
the legal report for the Office of Campaign Finance.

CHAIR THOMPSON: All right. Mr. Sanford, welcome.

MR. SANFORD: Good morning, Mr. Chairman and esteemed Board Members Greenfield and Boggs. I am William Sanford, General Counsel for the Office of Campaign Finance.

During the month of December 2023 the Office of the General Counsel completed four informal hearings and issued four orders which included the following, one order to vacate was issued and three orders in which a total of $3,850 in fines was imposed.

During the month of December 2023 the Office of the General Counsel imposed fines against the following respondents, a total of $3,850 was imposed against the following respondents, Dems for Progress, a fine of $2,200 was imposed, Dems for Progress again, a fine of $1,450 was imposed, and further, a fine of $200 was imposed.
During the month of December 2023 the Office of Campaign Finance collected a total of $3,450 in fines from the following respondents, Butler for Mayor, Principal Campaign Committee paid a fine of $200, and 1199SEIU New York State Political Action Fund paid a fine of $3,250.

During the month of December 2023 the Office of the General Counsel maintained four docketed investigation and they included the following.

Docket Number FI2023002 was docketed on the 23rd of October 2023. The Complainant was Edward Hanlon. The Respondent was Committee to Elect Brooke Pinto, to Re-Elect Brooke Pinto 2024. The allegation, use of government resources for campaign-related purposes. The status of that investigation is pending.

The second investigation was also filed by Edward Hanlon also identifying the Respondent Brooke Pinto, however, Brooke Pinto for Ward 2 2020 Principal Campaign Committee, that docket number is FI2023003 and that was
docketed on the 13th of November 2023, the same
allegation, use of government resources for
campaign-related purposes.

Mr. Hanlon filed a third and fourth
complaints that are docket numbers 2023004 and
2023005. Both were filed on December 29th. They
were both filed against the Committee to Re-Elect
Brooke Pinto 2024.

Here again the allegation is the use
of government resources for campaign-related
purposes and the status of those investigations
is pending.

During the month of December 2023
there were no requests for interpretative
 opinions and no show cause proceedings were
conducted. That should conclude my report.

The contents of my report will be
published at the Office of Campaign Finance
website by close of business on today's date, the
10th of January 2024.

CHAIR THOMPSON: Okay. And just a
quick question, those investigations relating to
these complaints that date back to October 23rd,
I believe that's something that takes place in
the 90-day window?

MR. SANFORD: That's correct.

CHAIR THOMPSON: Okay. And they're
all pending, obviously, so --

MR. SANFORD: Yes. For the record
there was a fifth complaint that was filed that
was not docketed because that was a matter that
we believe the Council of the District of
Columbia has jurisdiction over.

The expenses that were cited and
questioned were approved by the Council and we
have received verification from the Council that
they did approve, that the Secretary of the
Council, that those expenses were approved.

CHAIR THOMPSON: Okay. Thank you, Mr.
Sanford.

MR. SANFORD: Thank you.

CHAIR THOMPSON: Thank you very much.

Okay, so we are at the conclusion. If anybody
else out there has any general comments or
further comments they would like to make you can email us at opengovoffice@dc.gov. Oh, that's for the meeting, okay. So what's our email for that purpose?

MS. STROUD: If anybody has comments that they wish to send me, email them to ogc@dcboe.org.

CHAIR THOMPSON: Okay. All right, well thank you for that. So, yes, please let us know if you have any comments or questions. You can email us and we'll follow up.

So once again Happy New Year. I'll give it a thumbs up even though my hand is injured, 2024, and with that I would move we adjourn. Do I hear a second?

MS. GREENFIELD: Second.

CHAIR THOMPSON: All in favor?

MR. BOGGS: Aye.

MS. GREENFIELD: Aye.

CHAIR THOMPSON: Thank you, everybody.

MR. BOGGS: Thank you.

MS. GREENFIELD: There is a question,
guys. I don't think they heard me.

MR. SCHILLER: Yes, I'm sorry to --

Usually the Board of Elections publishes in
December the calendar of monthly meetings in the
D.C. Register and I was unable to find that
calendar of public meetings last month and I was
curious if that will be published in the D.C.
Register.

MS. EVANS: We will follow up with
that. The individual who does that is on
extended medical leave and so that may have been
something that was not reassigned, but I will
follow up with that. Thank you for bringing that
to my attention.

MR. SCHILLER: My pleasure. Thank you
again for all of your work.

MS. EVANS: Mm-hmm.

OPERATOR: The recording has stopped.

(Whereupon, the above-entitled matter
going off the record at 11:51 a.m.)
challenging 20:9
change 4:14, 5:1
Chang 62:20
change 25:10, 51:17
changed 59:5
changes 15:22, 21:11
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51:2 52:2, 10
charges 46:20
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Board Meeting

Before: DC BOE

Date: 01-10-24

Place: teleconference

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

__________________________
Court Reporter

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