

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 14, 2009
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR EVS CONFERENCE ROOM
NEW YORK, NY 10004

P R E S E N T: President Frederic Umane
 Secretary Julie Dent

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Soumas, Stupp

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Steven H. Richman, General Counsel
John Owens, Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Rosanna Rahmouni, Coordinator, Election Day Operations
Beth Fossella, Coordinator, Voter Registration
Valerie Vazquez-Rivera, Director, Communications and Public Relations
Lucille Grimaldi, Manager, EVS
Steve Ferguson, Director, MIS
Nicholas Zimmitti, Associate Staff Analyst, EDO & President, Local 1183
Greg Lehman, Chief Clerk, Manhattan Office
Tim Gay, Deputy Chief Clerk, Manhattan Office
Michael Kinara, Gartner, Associate Director
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Teresa Hommel, Community Church of New York
 Stewart Armstrong, Voter Assistance Commission
 Marjorie Shea, Women's City Club
 Andrea Senteno, Citizen's Union
 Rima McCoy, CIDNY
 Alan Flacks, New York County Democratic Committee
 Jerome Koenig
 Thomas K. Small

President Umane called the meeting to order at 1:33 P.M.

President Umane introduced Greg Lehman, the new Chief Clerk of the Manhattan Office. The Commissioners wished him well in his new position.

President Umane made a motion to table the draft minutes of June 6, 2009, June 16, 2009, June 23, 2009 and June 30, 2009. Commissioner Araujo seconded the motion, which was adopted unanimously.

The Executive Director reported that Stanley Zalen, Co-Executive Director of the State Board, is retiring effective October 1, 2009. Mr. Cederqvist stated that Mr. Zalen has been working at the State Board since 1974. He noted that Mr. Zalen is a hard worker and will be greatly missed.

The Executive Director presented the HAVA update. He distributed the New Poll Site Voting System (PVS) Implementation Project - July 2009 Project Status Update packet to the Commissioners. Mr. Cederqvist did a PowerPoint presentation which was an overview of the PVS

Implementation Project. The presentation was coordinated with the help of the staff and Gartner consultants.

The Executive Director discussed that the City Board is required to replace all lever machines with new poll site voting equipment for the Primary Election in 2010. Mr. Cederqvist reminded that Judge Sharpe approved the State Board's Pilot Program for limited deployment of new voting systems. New York City is not participating in the 2009 Pilot Program due to among other thing, the expectance of a large voter turnout and the strong possibility of a citywide runoff election only two weeks after the Primary Election. Mr. Cederqvist reported that the State Board estimated that final certification of all voting systems will be by December 15, 2009.

The Executive Director reported that the City Board staff has identified twenty (20) areas of work that needs to be addressed for the 2010 implementation. Workstreams have been created to address these work areas and are comprised of Executive and Borough Office staff to address each area of work. All Chief and Deputy Chief Clerks are invited to participate in any workstream. The Staten Island Chief Clerk and Brooklyn Deputy Chief Clerk were selected among their peers to participate

in the Steering Committee and have been a tremendous help in the workstream. Mr. Cederqvist gave an overview of the project organization of the twenty (20) areas of work.

The Executive Director reported that the Board staff is finalizing the project schedule for the 2010 implementation. The critical paths tasks are poll worker procedure development and poll worker training, and PVS equipment delivery, receipt, State and City acceptance testing. He reported that the upgrades of the Voting Machine Facilities are scheduled to be completed by March 1, 2010. Commissioner Araujo inquired if there will be enough time by March 1, 2010 to perform these tasks with DCAS. Mr. Cederqvist replied that DCAS is hesitant to start construction work in the Board's facilities until the new voting machines are certified and while the lever machines are still in the facility as they make it difficult to perform the necessary work. After the elections, the Board will start moving the voting machines into storage. The Board expects to start receiving the new voting machines by April 1, 2010.

The Executive Director reported on the project risk areas to be monitored. The project schedule does not allow for "slippage" of key activities in order for workstreams to meet September 2010 Primary

Election date. Key decisions out of the control of the Board could significantly impact the project schedule, for an example, the State Board certification. Some other project risks discussed included ensuring that the Board has adequate training and resources for poll workers and staff, as well as the availability of sufficient funds for training, staffing, supplies and ballots for the transition. Mr. Cederqvist reported that the Board is continuing to be proactive by working generically in anticipation of State Board certification and City Board system selection. He noted that the Board would face huge challenges in accomplishing the full implementation of a new voting system under any circumstance, and has been made more difficult by the projected certification date and the resulting limited implementation timeframe. Commissioner Polanco inquired if the Board staff is currently working longer hours due to the workstreams. Mr. Cederqvist replied that the staff is not working longer hours quite yet, but it will change with the busy election season. Commissioner Polanco inquired if the staff who will be working longer hours are union or non-union members. Mr. Cederqvist replied that both union and non-union members will be working longer hours. Commissioner Sampel inquired if the Voting Machine Technicians in the Voting Machine Facilities will receive formal training on the new voting machines. Mr. Cederqvist replied that it is an area covered in the twenty (20) workstreams list which is named Voting

Machine Facilities Readiness.

President Umane noted that the Board has been working diligently under pressure due to deadlines and court orders. If something should happen to delay Board work further, then the Board can try to show what they have been doing in anticipation of the new voting systems. The Board staff has been working for a long time to try and get as far ahead as possible.

Commissioner Polanco suggested sending the New Poll Site Voting System Implementation Project Status Update to City Council. President Umane suggested that the Executive Director give the PowerPoint presentation instead, as he and the Board staff have done in the past. President Umane also recommended that the Executive Director give a presentation for the State Legislature staff as well. Commissioner Polanco suggested that the presentations should be conducted as soon as possible.

Commissioner Stupp expressed concerns that the State Board estimates the certification date for December 15, 2009 and inquired if the date can be mandated. Mr. Cederqvist stated that if the State Board fails to meet that deadline then they would not be in compliance with the plan that

they agreed to with DOJ and Judge Sharpe.

President Umame opened the floor for brief comments from Marjorie Shea, a member of the public.

The General Counsel reported on the State Legislative update for Bill Nos. S552, S4244 and S1554. Bill No. S552 directs the Board of Elections in a city of over one (1) million to furnish voting materials in Russian language as well as in English; further directs the Board of Elections to produce and disseminate a citywide booklet that includes a voter registration form in English with instructions in Russian and other instructions. Mr. Richman presented a preliminary cost estimate prepared by the City Board's Finance Office if this Bill is enacted. He sought direction from the Commissioners because it is an unfunded mandate and the potential creation of an equal protection problem because it singles out one specific group. President Umame recommended advising the Governor of those two (2) potential problems. President Umame moved to authorize the General Counsel to prepare and submit a response including the two (2) potential problems and preliminary cost estimate to the Governor. Commissioner Soumas seconded the motion with Commissioner Polanco abstaining. The motion was adopted.

The General Counsel reported on Bill No. S4244. The Bill relates to the checks of registrants and information notice by mail; provides that between August first and August fifth of each year the Board of Elections shall notify individuals of their polling place and other information. The General Counsel stated that the Bill changes the date of mailing earlier than later. President Umane stated that it would be better to mail the information notices to voters closer to Election Day. It is less chance that the voters may lose or discard the notice which contains their poll site information.

President Umane opened the floor for brief comments from Alan Flacks, a member of the public.

President Umane opened the floor for brief comments from Teresa Hommel, a member of the public.

The Director of MIS indicated that Bill No. S4244 will have the MIS Department cut the voter files earlier to send to the printer, and therefore will lose registrants whose voter registrations are received later, which will result in fewer voters receiving the information notice.

President Umane suggested that Bill No. S4244 would be better for a city less than one (1) million. President Umane moved to authorize the General Counsel to draft a letter to the Governor indicating the concerns which have been discussed. Commissioner Sampel seconded the motion, which was adopted unanimously.

The General Counsel reported on Bill No. S1554. The Bill requires the board of inspectors to cast and canvas an affidavit ballot of an eligible voter if the voter appeared at the correct polling place but in the incorrect election district. Commissioner Polanco expressed some concerns regarding this Bill. President Umane stated that maybe in the future it can be possible for a universal ballot, but the Bill follows the Board's current practice. President Umane moved to authorize the General Counsel to draft a letter concerning Bill No. S1554 including the reasons which were discussed. Commissioner Sampel seconded the motion, which was adopted unanimously.

The General Counsel reported on the draft resolution implementing the anticipated 2009 Gelb extender. With the enactment of the bill, the Commissioners are authorized and empowered to make certain determinations as to the method of conducting this year's primary election.

Mr. Richman recommended that the Commissioners adopt the revised resolution, contingent upon enactment of A. 6825 and authorize the staff to insert the appropriate Chapter number into the final version of the resolution. President Umame moved to adopt the General Counsel's draft resolution implementing the anticipated 2009 Gelb extender. Secretary Dent seconded the motion, which was adopted unanimously. The General Counsel sought authorization that upon the enactment the staff inserts the appropriate Chapter number into the final version of the resolution. President Umame moved to adopt the General Counsel's request. Secretary Dent seconded the motion, which was adopted unanimously.

The General Counsel requested for appointment of a Petition and Cover Sheet Review Committee for Designating Petition matters, pursuant to the provisions of the NYS Election Law, the Rules and Regulations of the NYS Board of Elections (9 NYCRR 6215) as well as the Board's Designating Petition Rules (Parts D and Rule J). The Commissioners accepted the General Counsel's schedule for the Petition and Cover Sheet Review Committee.

The General Counsel requested approval for the draft 2009 Independent Nominating Petition Filing Calendar. President Umame moved

to adopt the draft 2009 Independent Nominating Petition Filing Calendar. Commissioner Silie seconded the motion, which was adopted unanimously.

The Coordinator of Voter Registration reported on the 2009 Information Notices to Inactive Voters. Ms. Fossella distributed a memorandum to the Commissioners and reported on the active and inactive voter enrollment figures for the five (5) boroughs of New York City. The past practice of the Board has been to mail the annual Information Notices to both active and inactive voters. However, given the fiscal climate, the Voter Registration Department is seeking guidance from the Commissioners as to whether it should continue this practice. According to Election Law § 4-117 the Board is not required to send an Information Notice to a voter in inactive status. Ms. Fossella explained that inactive voters are marked status "X" in the AVID system, but are still eligible to vote. The General Counsel stated that voters are marked inactive if their prior Information Notice is undeliverable and returned to the Board by the Postal Service, so this would be a second Information Notice mailing. Ms. Fossella reported on the approximate cost of mailing the notices to all inactive voters throughout the City this year. Commissioner Polanco noted that the mailing is very costly. Commissioner Polanco moved to accept the Coordinator of Voter Registration's recommendation not to mail Information

Notices to inactive voters. Commissioner Schacher seconded the motion, which was adopted unanimously.

The Coordinator of Election Day Operations presented the edited version of the BMD instructional video which was discussed at a prior Commissioners' meeting. The BMD video is 30 minutes run time and was produced in-house at the Board. Commissioner Sampel requested copies of the DVD for the Commissioners. Ms. Rahmouni reported that the cost of six hundred (600) DVD copies would be approximately \$850.00. If the Board purchased a DVD burner it would cost approximately \$500.00 plus the cost of the blank DVDs. The Board could produce copies at any time. The DVDs will be duplicated in English.

The Commissioners viewed the BMD instructional video for approximately five (5) minutes.

President Umane mentioned that the sound on the video was low due to the in-house production, but it would be a functional learning tool. He thanked the staff for creating the video.

President Umane opened the floor for brief comments from T.K.

Small, a member of the public.

Commissioner Soumas made a motion to post the BMD instructional video on the Board's website as soon as possible. Commissioner Schacher seconded the motion. President Umane, Commissioners Dent and Stupp opposed. The Commissioners stated they wanted to view the entire video before posting it on the website. Commissioner Soumas withdrew his motion.

The Director of Communications and Public Affairs requested approval of a 2009 BMD Learning Center. She distributed a memorandum to the Commissioners, and reported that public demonstrations of the Ballot Marking Devices (BMDs) are not being conducted in 2009, and representatives from disability organizations have requested access to BMDs to allow voters with disabilities time to practice using the BMD at their own pace. The hands-on time with the BMD in poll worker training classes is limited due to class size and duration. Poll workers and voters, especially voters with disabilities, would benefit from the opportunity to have extended, hands-on practice on the BMD prior to the Fall 2009 elections. Ms. Vazquez-Rivera reported that the BMD Learning Center would be set up in the Commissioners' Hearing Room in the Executive

Office, and she discussed the dates and times. Commissioner Polanco moved to approve the 2009 BMD Learning Center. Commissioner Soumas seconded the motion. Commissioner Araujo inquired if the BMD Learning Center could be set up in the borough offices as well. Ms. Vazquez-Rivera stated that the staffing and spacing in the borough offices is not suitable. There is specially trained BMD staff working in the Executive Office. Commissioner Araujo inquired if one day a week the Executive Office BMD staff could travel to the borough offices since it is a month long Learning Center. President Umane suggested that the motion be passed, and included an amendment to have Ms. Vazquez-Rivera research with the Chief and Deputy Chief Clerks to see if the borough offices are suitable. She noted that public outreach is limited because the Board does not have the funds for paid advertising. Commissioner Sampel seconded the amended motion, which was adopted unanimously.

President Umane opened the floor for brief comments from Thomas K. Small, a member of the public.

President Umane opened the floor for brief comments from Teresa Hommel, a member of the public.

The Director of Communications and Public Affairs explained that the BMD Learning Center is very low cost, as it uses existing facilities, equipment and staffing. Only a small amount of overtime is required to open the Center on two (2) evenings to provide access for poll workers and voters who work during normal business hours.

The Finance Officer provided the Commissioners with the Vacancy Report dated July 7, 2009 and the Comparative Expenditures dated July 14, 2009.

President Umane opened the floor for brief comments from Thomas K. Small, a member of the public.

President Umane inquired if the Popkin Bill was passed. The General Counsel stated that it was signed on June 24, 2009.

Commissioner Polanco stated that he requested at a previous Commissioners' meeting for the Finance Officer and Director of Personnel to prepare a salary breakdown between Board and Campaign Finance Board employees. The Finance Officer stated that the most current breakdown is from 2004 and has provided it at a prior meeting. President

Umane stated that historically the Board has submitted a testimony to the Office of the Mayor and the City Council each year since 2004, and the numbers have not changed. President Umame stated that the Campaign Finance Board employees are paid roughly 40% more than the Board. Mr. Ward will reach out to the Union and provide the information for Commissioner Polanco.

President Umame moved to convene an Executive Session to discuss personnel matters. Commissioner Soumas seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public session resumed and President Umame reported that in Executive Session, the Commissioners took the following personnel actions:

- I. Unanimously agreed that the Board would adopt the Mayor's Personnel Orders 2009/1 and 2009/2 issued July 10, 2009 relating to pay increases for employees in managerial and original jurisdiction (OJ titles), and directed the Finance Officer to take the necessary steps to implement this motion.
- II. Unanimously authorized 210 hours of sick leave for

Michael Cortez, Administrative Assistant, in the Executive Office.

- III. Unanimously authorized 210 hours of sick leave for Gerald Isaac, Voting Machine Technician, in the Manhattan Voting Machine Facility.
- IV. Unanimously established one (1) additional Temporary Clerk position for the Phone Bank in the Executive Office until the end of August 2009.

President Umane adjourned the meeting.

The next Commissioners' meeting is scheduled for Tuesday, July 21, 2009 at 1:30 P.M.