

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

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

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

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens, Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
Tom Sattie, Associate Staff Analyst, Candidate Records Unit
John O'Grady, Chief, Voting Machine Technician
Beth Fossella, Coordinator, Voter Registration
Christopher Manos, Temporary Attorney, Office of the General Counsel
Diana Scopelliti, Temporary Attorney, Office of the General Counsel
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Stewart Armstrong, Voter Assistance Commission
 Marjorie Shea, Women's City Club
 Teresa Hommel, Community Church of New York
 Rima McCoy, CIDNY
 Jose Adames
 Alan Flacks, New York County Democratic County Committee

President Umane called the meeting to order at 1:39 P.M.

The General Counsel requested to appoint a Cover Sheet Review Committee and discuss litigation matters in Executive Session. Commissioner Silie and the Executive Director requested to discuss personnel matters in Executive Session.

President Umane made a motion to table the minutes of July 14, 2009, July 21, 2009, July 28, 2009, August 3, 2009 and August 11, 2009. Commissioner Soumas seconded the motion, which was adopted unanimously.

The Executive Director presented the HAVA report. He reported that the State Board is primarily focused on the 2009 HAVA Pilot Program. The City Board is not participating in the Pilot Program. Mr. Cederqvist pointed out that in the State Board's HAVA Compliance Update there is an item for testing, certification, and selection of voting systems and devices. For many weeks the State Board stated that testing was on schedule, but this week it states that the status of tasks in the category is in jeopardy and behind schedule. Mr. Cederqvist stated that he never received any e-mails expressing that there were problems with the schedule. He will contact the State Board and report the discussion at next week's meeting. Commissioner Sipp expressed concerns about this schedule. He

expressed doubts that the machines will be certified in time for the 2010 election, and inquired what options the City Board has that they can follow up on. Commissioner Sipp suggested that the Board needs to address a form of action, or announce a public statement, that the Board has a real concern for the new voting machines. President Umane stated that the Board is working generically on plans, and the workstreams are working on new procedures in anticipation of approval of the new voting machine. Commissioner Sipp acknowledged that the City Board is waiting for results from the State Board, and feels that the non-result will fall on the City Board and the Board will receive the criticism. He suggested that the Board should release a public statement to address these concerns to push the issue.

The General Counsel stated that at the end of 2005 when the Board faced the deadline of implementing a new machine in 2006, the Commissioners from the City and State Boards outlined the concerns that anything less than a full six (6) month lead time will result in disorder. The Judge of the Court and State Board are fully aware of this and it was repeated in public statements. Mr. Richman stated that the Federal Court may direct the Board to use the voting machines whether or not they are certified; the Federal Court order will trump the State Constitution and legal

requirements. Commissioner Sipp stated that New York City does not have the same positions as small counties. He inquired about the proactive legal steps that have not been addressed yet and if it is a public relations matter. President Umame recommended the Board could alert the Good Government Groups, editorial boards and NYC Elected Officials around the Primary and Run-off Elections when New Yorkers are focused on elections. The Board could send out a press release to alert the people in general where the Board stands with the new voting machines, and include that the Board is planning as much as possible in advance so when the machine gets certified the Board is prepared. The Executive Director stated that he will contact the State Board regarding the HAVA Weekly update. He noted that the State Board uses a template and it might be a typographical error. Mr. Cederqvist stated that he will report on this issue at next week's meeting.

The Executive Director presented an overview of a status report with regard to voting machine preparations for the September 15, 2009 Primary Election. Mr. Cederqvist received the update today from the Chief Voting Machine Technician. The information follows per borough:

- Bronx – 222 BMDs will be deployed. The BMDs are complete with their set-up, and 978 lever machines are on schedule for

testing on Thursday.

- Brooklyn – 410 BMDs will be deployed. 304 BMDs are set-up and the remaining will be completed by tomorrow. 2,032 lever machines are on schedule for testing on Monday.
- Manhattan – 362 BMDs will be deployed. 200 BMDs are set-up and the remaining will be completed by close of business tomorrow. 1,247 lever machines are on schedule for testing on Monday.
- Queens – 347 BMDs will be deployed. 170 BMDs are set-up and the remaining will be completed by Friday. 1,536 lever machines are on schedule for testing on Tuesday.
- Staten Island – 86 BMDs will be deployed. The BMDs are complete with their set-up. 857 lever machines are currently being tested today and will be sealed by tomorrow.

The Executive Director reported on the August 27, 2009 meeting with staff from the Office of the Mayor. The Office of the Mayor requested the meeting to inquire how they can assist the Board. Attending the meeting were Commissioners Umame, Silie and Dent, and the Office of the Mayor's staff included Anthony Crowell – Special Counsel to the Mayor, Emily Rubenstein - Office of Operations, Michael Pastor – Legal Counsel, and a

DOITT employee. Mr. Cederqvist stated that they discussed the Board's Phone Bank and Website issues. The Commissioners inquired about the Board's pay inequity compared to other New York City and State agencies. Another issue discussed was Election Day parking permits for troubleshooting. The car service cannot wait outside the poll site for the Voting Machine Technician, so the driver has to circle the car around the block. It is a huge issue which severely slows down the response time on Election Day. The Mayor's staff stated that they will look into that issue. President Umame added that he discussed the staging of cars in front of the Board of Elections which is very important as well. He explained that currently, a Voting Machine Technician has to call the car service, and then the car will be dispatched to arrive at the office, whereas if it was outside waiting it would be faster response time to the poll site. The Executive Director reported that they discussed the Board's facilities as well. In the past, the Board's Executive Office has received fire code violations for storage in the hallways. He noted, for example, that seven (7) employees are working in a small workspace which was converted from a kitchenette. Mr. Cederqvist stated that the Executive Office is too small, and the Board has tried for many years to acquire the 3rd floor in 42 Broadway to alleviate this issue and even received funding for it in last year's budget. He reported that DCAS has not negotiated with the landlord yet, so the

Mayor's staff stated that they will look into that issue as well. Secretary Dent reiterated that the Commissioners addressed the Board's salaries compared to other New York City agencies. Commissioner Polanco inquired if the Office of the Mayor will help revamp the Board's website. President Umane reported that DOITT had a number of suggestions to significantly improve the website, subject to the Board's review and supervision. He explained to the Mayor's staff that the Board did not have titles of webmasters, but the staff from time to time would work on the website. President Umane also reported that they discussed 3-1-1 Call Center phone responses for the day before and on Election Day. Some of their statistics were different from what the Board heard before. They established some questions that the 3-1-1 Call Center operators could answer for the Board.

President Umane reported that at the beginning of the meeting he made a statement that he was looking forward to the Office of the Mayor's assistance, but did not want to read about the results of the meeting in the newspapers. He stated that when he previously met with the Office of the Mayor, there was a newspaper account of it soon thereafter, so he wanted to make it clear from the beginning of the meeting that hopefully it will not reoccur.

Commissioner Silie stated her impression of the meeting. She reported that when the website issue was discussed she expressed to the Mayor's staff that the Board needs resources for a webmaster.

The Deputy Executive Director requested the authority to direct the Chief and Deputy Chief Clerks that upon receiving the lever machines in their Voting Machine Facilities, for the staff to immediately start retrieving the poll list books, affidavit and emergency ballots, and other Election Day miscellaneous supplies, in order to start processing the paper ballots to start preparing for the possible run-off election that is scheduled two (2) weeks after the Primary Election. He added that the voting machines will be returned to the VMFs by close of business on Thursday, September 17, 2009. Mr. Gonzalez reiterated that just the backs of the voting machines would be opened. The Executive Director stated that the plate in the back of the voting machine would be covered and sealed to prevent tampering. Commissioner Stupp inquired if a bi-partisan team will open the machines. Mr. Gonzalez replied yes. He gave an overview of the election night process. Secretary Dent inquired if this procedure will be supervised by the Chief Voting Machine Technician. Mr. Gonzalez stated that the process is supervised by the Chief and Deputy Chief Clerks. President Umane moved to advance the opening of the back of the voting machines only to

retrieve any miscellaneous Election Day materials that are needed, but no staff member should touch the machines' back plates and seals that secure the back of the mechanicals. Commissioner Stupp seconded the motion, which was adopted unanimously.

Tom Sattie, Associate Staff Analyst in the Candidate Records Unit, reported his item on behalf of Troy Johnson, Coordinator of the Candidate Records Unit. Mr. Sattie distributed the revised draft Notice to all Candidates letter for the September 15, 2009 Primary Election. President Umane noted that the draft letter was circulated via e-mail to the Commissioners previously. Commissioner Stupp made a motion to adopt the revised Notice to all Candidates letter. Secretary Dent seconded the motion, which was adopted unanimously.

The Finance Officer reported on the Vacancy Report dated September 1, 2009.

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

President Umane moved to convene an Executive Session to discuss

personnel and litigation matters. Commissioner Sipp seconded the motion, which was adopted unanimously.

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

- I. Unanimously authorized to hire four (4) additional temporary employees for each borough office assisting in the anticipated run-off election, commencing effective tomorrow and terminating on September 28, 2009.
- II. Unanimously approved to authorize the Executive Director and the Deputy Executive Director to review any contracts as per the PPB small purchases from \$5,000 – \$100,000. (New York City Procurement Policy Board Rules (PPB) Section 3-08.)
- III. Following a disciplinary hearing, the Commissioners unanimously authorized Joe Olivencia, Senior Voting Machine Technician in the Bronx Voting Machine Facility, six (6) months probation and to attend the Employee Assistance Program (EAP).
- IV. Unanimously authorized an advance 210 hours of sick leave for Evelyn Domenech, Associate Staff Analyst in the Executive Office, effective retroactive from August 24, 2009.

V. Unanimously designated President Umane and Commissioner Silie to serve on the Cover Sheet Review Committee today.

President Umane moved to adjourn the meeting. Commissioner Schacher seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, September 8, 2009 at 1:30 P.M.