

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, AUGUST 10, 2010
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: President Julie Dent
Secretary Juan Carlos "J.C." Polanco

Commissioners Araujo, Barrera, Ryan, Schacher, Sipp, Soumas, Stupp,
Umane

George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
Dorothy Delayo, Director, Personnel
John Ward, Finance Officer
Valerie Vazquez-Rivera, Director, Communications & Public Affairs
Daniel Lavelle, Associate Staff Analyst, Phone Bank & Communications
Katherine James, Deputy Chief Clerk, Queens Borough Office
Gregory Lehman, Chief Clerk, Manhattan Borough Office
Timothy Gay, Deputy Chief Clerk, Manhattan Borough Office
Troy Johnson, Coordinator, Candidate Records Unit
John O'Grady, Chief, Voting Machine Technician
Stephen Thompson, HAVA Training Specialist, EDO
Jose Polanco, HAVA Training Specialist, EDO
Matthew Graves, Administrative Associate, Candidate Records Unit
Ted Anastasiou, Law Student Summer Intern, OGC
Kate Nowadly, Law Student Summer Intern, OGC
Jeremy Fredericksen, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Marjorie Shea, Women's City Club
David Cirrer, for Addabbo
Rima McCoy, CIDNY
Stewart Armstrong, VAC

Sally Goldenberg
Isaac Dovero
Alex Voetsch, NYDLC
Kate Doran, LWV

President Dent called the meeting to order at 2:00 P.M.

President Dent asked Mr. Gonzalez if he has received any other resumes as it relates to the Executive Director position. Mr. Gonzalez replied no. President Dent reported that she has received the resumes of former Senator Serphin R. Maltese and Mark Salinger.

Commissioner Barrera requested to add a Party Caucus to the agenda.

President Dent announced that the Commissioners would conduct the continued Hearings on challenges to Designating Petitions prior to the stated Commissioners' Meeting.

Mr. Richman called the calendar for Hearings relating to the CRU Prima Facie Matters and Specifications of Objections for the September 14, 2010 Primary Election.

Mr. Richman reported that in accordance with the Commissioners' direction, notice was given to all interested and necessary parties concerning today's Public Hearing to consider the Board's staff Preliminary Findings of Prima Facie Defects as well as Specifications of Objections and other concerns relating to the September 14, 2010 Primary Election.

The determinations regarding the various Preliminary Findings of Prima Facie Defects as well as Specifications of Objections are recorded on the respective Clerks' Reports.

Mr. Richman requested for the President and Secretary to appoint a Cover Sheet Review Committee at the end of the stated meeting.

President Dent adjourned the hearings and convened the stated Commissioners' Meeting.

Commissioner Stupp requested to add an item to the agenda.

Commissioner Stupp moved to nominate Serphin R. Maltese as Executive Director of the Board of Elections in the City of New York. Commissioner Schacher seconded the motion.

Commissioner Barrera requested to add an item to the agenda.

Commissioner Barrera moved to nominate George Gonzalez as Executive Director of the Board of Elections in the City of New York.

Commissioner Barrera moved to approve the minutes of the June 15, 2010 Commissioners' Meeting and the June 15, 2010 Finance Committee Meeting. Commissioner Araujo seconded the motion with Commissioner Umame abstaining. The motion was adopted.

Mr. Gonzalez presented the HAVA update. He summarized the status for scanners as of August 9, 2010. A copy of the report is in the agenda.

Mr. Gonzalez reported on the letters he received from Assembly Member William Colton and Senator Carl Kruger regarding the Board's requirement in translating voting materials into Russian. Copies of the letters are in the agenda. Mr. Gonzalez asked for the Commissioners' guidance concerning this matter. Commissioner Umame requested for Mr. Richman to explain the new law. Mr. Richman explained Chapter 244, No. 7 of the New York State Election Law. It was a compromise to

translate voter registrations and the FAQ guide. They were posted on the Board's website. The Board has complied and was made available to the Russian communities and legislation. The bill did not create Russian as a full covered language. The Board is in strict compliance with the statutory requirements. They are seeking for the Board to take steps beyond what the law mandates and for which the Board is not funded. Russian is not a covered language. President Dent moved for the Executive Staff to respond to the Assembly and Senate using the same terms as indicated by Mr. Richman and to CC: the people in the two (2) letters. Commissioner Umane seconded the motion, which was adopted unanimously.

President Dent asked when the Brooklyn and Queens Voting Machine Facilities will receive the privacy booths. Mr. Gonzalez stated that he does not know exactly when the boroughs will receive the shipments, but will report the information via email after the meeting. Commissioner Stupp inquired if the Board is on target with the deliveries. Mr. Gonzalez replied yes.

Commissioner Barrera stated that she does not need to add a Party Caucus to the agenda anymore.

Commissioner Barrera requested an addition to her previous added item to the agenda. She nominated Dawn Sandow as Deputy Executive Director of the Board of Elections in the City of New York.

Mr. Gonzalez reported on the letter from Michael A. Cardozo, Corporation Counsel, regarding election ballots - "Turn the Page" instructions. Mr. Gonzalez stated that the Executive Staff met with him and other staff members from the Office of the Mayor. They requested for the Board to provide clearer instructions for the voter referenda questions and instructions on the ballot. Mr. Richman stated that he advised them that the Election Law, as amended, provides specific instructions on what to be on the ballot and there is instructions on the ballot informing propositions are on the reverse side. He noted that any change has to be approved with the State Board. Mr. Richman stated that the Commissioners have limited authority in what the State Law provides. Commissioner Sipp inquired if there is a conflict. Mr. Richman replied no. Commissioner Umame stated that they discussed adding arrows and a note to the ballot like the Board did with the lever machines. He noted that there are instructions on the upper right hand corner of the ballot in small type and suggested to bold the type. Commissioner Soumas was concerned that the Board would be influenced to format the ballot in such a way as to extract a particular result

on the ballot questions set forth by the Charter Revision Commission. Commissioner Umane asked staff to advise the Commissioners if there is a possibility to include a notification to inform voters that there is something on the reverse side; similar to the arrows. Mr. Richman stated that the old statute stated that ballot proposals may be on the back of the ballot or on a separate ballot. He will review the revised statute. Mr. Richman stated that to his understanding there has never been anything on the bottom of a paper ballot in New York State. Commissioner Soumas stated that it is the Board's job to administer the election without influencing the voters to vote in a particular way whether by bolded, highlighted or italicized. He suggested for the Voter Assistance Commission to publicize the actual content of the ballot and the Board will ensure to format the ballot to be completely neutral in all respects. Mr. Richman added that if there is a Charter Revision question in place, then the Campaign Finance Board, under the Charter, will be required to produce a comprehensive voter's guide for every registered voter. They could include clear instructions in their guide to turn over the ballot. Mr. Gonzalez stated that under the Election Law the Board will provide a face card, front and back, at every poll site. Commissioner Soumas stated that they are requesting for the Board to alter the ballot such as to influence the result which is a very serious problem. Commissioner Umane stated that it would make sense to

add information on both sides of the ballot, but he does know if it is appropriate. He does not think adding a note will tell voters how to vote in a particular way. Commissioner Dent thanked the Commissioners for their input on this matter.

Mr. Gonzalez reported on a meeting request from Sammi Naim, Deputy Counsel to the Mayor. Mr. Naim asked to meet with the Board's Senior Staff and his co-workers to assist in the implementation of the new system, budget issues, telephone operations with the 3-1-1 Call Center, and generators, if electric should fail at poll sites. The meeting is tentatively scheduled for tomorrow afternoon with Mr. Gonzalez, Ms. Perkins and Mr. Richman. Mr. Gonzalez asked for guidance from the Commissioners. President Dent added that it is a follow-up meeting. The Commissioners agreed for staff to attend the meeting. Mr. Gonzalez stated that he will report on the actions at the next meeting.

Mr. Gonzalez reported that he received a data request via email from Anthony Crowell, member of the Charter Revision Commission. Ms. Perkins, Mr. Richman and Mr. Ferguson informed Mr. Gonzalez that the Board does not produce the data that he is seeking. Mr. Gonzalez stated that Mr. Richman had a telephone conversation with Mr. Crowell

concerning this matter. Mr. Richman explained to Mr. Crowell that all election information is available on the Board's website in Assembly District/Election District form, not census tracks. Mr. Crowell stated that he would need the data within 24 hours. Mr. Richman indicated that there are no resources or funding to convert the data given the Board's responsibilities at this time.

President Dent requested to move up the added items from Commissioners Barrera and Stupp because some Commissioners may have to leave the meeting early.

Commissioner Stupp moved to appoint Serphin Maltese as Executive Director, effective immediately. Commissioner Schacher seconded the motion. In a roll call vote:

- Voting in favor – (4): Commissioners Schacher, Sipp, Stupp & Umane
- Voting in the negative – (2): Commissioners Barrera & Soumas
- Voting to abstain – (4): President Dent, Secretary Polanco, Commissioners Araujo, & Ryan

The motion, failing to obtain six (6) favorable votes, was not agreed to.

Commissioner Barrera moved to appoint George Gonzalez as Executive Director with an annual salary of \$172,753, and Dawn Sandow as Deputy Executive Director with an annual salary of \$155,478, effective immediately. Secretary Polanco seconded the motion. In a roll call vote:

- Voting in favor – (6): President Dent, Secretary Polanco, Commissioners Araujo, Barrera, Ryan & Soumas
- Voting in the negative – (4): Commissioners Schacher, Sipp, Stupp & Umane

The motion was adopted.

Commissioner Barrera stated that the Board could not be without an Executive Director any longer with the upcoming elections. She is confident that Mr. Gonzalez will do an excellent job since he has been with the Board from September 1988, has been the Deputy Executive Director from 2003, and has done an excellent job.

Secretary Polanco stated that he and Mr. Gonzalez has not always agreed, but was very excited about this opportunity and looks forward to working with him as the Board moves into the new election cycle.

Mr. Gonzalez thanked the Commissioners for their confidence and stated he will move the agency forward.

President Dent agreed with Commissioners Barrera and Polanco. She thanked Mr. Gonzalez and stated that the Board must move forward because it is a new way to vote. The Board has to make sure that there will be positive elections and to remember that they work on behalf of 4.5 million voters.

Mr. Gonzalez requested for Ms. Vazquez-Rivera to report on her items early because she has to attend a public demonstration in Queens.

Ms. Vazquez-Rivera reported that the Board has conducted 107 public demonstrations with 6,064 participants to this date. There are 217 scheduled demonstrations.

Ms. Vazquez-Rivera reported that she has sent out the Senior Center requests from each of the Borough Commissioners and received 57 Senior Center requests in return.

Ms. Vazquez-Rivera reported that she has received a request from the Director of Communications at the Campaign Finance Board (CFB) to include the Board's information from the "1-2-3 Vote the New Way" campaign in their Voter Guide for the General Election. The Voter Guide will be mailed to all registered voters. Ms. Vazquez-Rivera requested approval to share information with the CFB. Secretary Polanco moved to approve the request. President Dent seconded the motion, which was adopted unanimously. Ms. Vazquez-Rivera stated that the CFB will forward their page design to her prior to print to ensure that it is consistent with the Board's message.

Ms. Vazquez-Rivera reported on the 3-1-1 script. Mr. Lavelle distributed copies of the script to the Commissioners. The 3-1-1 script will contain Frequently Asked Questions (FAQs) from the Board's website and public demonstrations. The Commissioners' Public Education Committee approved to share the information with 3-1-1 and would like approval from the full Board. Secretary Polanco moved to authorize the use of the FAQs for 3-1-1. President Dent seconded the motion, which was adopted unanimously.

Mr. Lavelle distributed copies of a dedicated mailing from State Senator Bill Perkins, 30th Senate District, to the Commissioners. Ms. Vazquez-Rivera stated that he dedicated the mailing for the new voting system and it highlights that Senator Perkins has an upcoming public demonstration in his district. President Dent stated that the newsletter is wonderful and contains a lot of information. She hopes that other elected officials will give the Board some space in their newsletters as well.

Ms. Vazquez-Rivera stated that she would like to create a FaceBook webpage for the Board's Public Education Campaign. Mr. Lavelle presented a mock-up of the webpage to the Commissioners. FaceBook is free, allows for community engagement and participation, and is the largest source for traffic of news and media sites. The Commissioners Public Education Committee approved the request and Ms. Vazquez-Rivera asked for full Board approval. She stated that she will post upcoming events, news stories, photos and links to the Board's website. Secretary Polanco asked how to prevent inappropriate comments on the FaceBook webpage. Ms. Vazquez-Rivera stated that she would control the privacy settings to limit comments on the page. Secretary Polanco inquired if you have to be a FaceBook member in order to view the webpage. Ms. Vazquez-Rivera replied yes. Commissioner Umame was concerned that

candidates could be friends which are visible on the webpage. Ms. Vazquez-Rivera stated that she can make the friends not be visible on the webpage. Commissioner Barrera stated that the Board could target the youth using FaceBook. Secretary Polanco moved to approve the request to create a FaceBook webpage for the Board's Public Education Campaign. Commissioner Stupp seconded the motion, with Commissioners Umane and Sipp opposing. The motion was adopted.

Ms. Vazquez-Rivera reported that the Public Education website has been completed. There is a community outreach toolkit so people could print the brochures and flyers for their organization. The website has options to be in color, black and white, or text only. People can request a public demonstration or find a demonstration by zip code, and view a photo gallery of past events. Ms. Vazquez-Rivera reported that the most popular link is how to use the new voting system and the calendar of events. She noted that when the old Statute of Liberty image was replaced on the Board's website with the new public education image and was linked that it increased traffic on the Public Education website.

Ms. Vazquez-Rivera reported that the Board is losing various members of HAVA Outreach staff because they are going back to school.

There will be nine (9) staff members remaining on Monday and the Board will need a proper staff for the public demonstrations. She requested for the Commissioners to hire more outreach staff members.

Ms. Vazquez-Rivera thanked Rima McCoy, Voting Rights Coordinator of CIDNY, for working with the Board creating the flyers into black and white and text only. CIDNY mailed the flyers to 275 constituents. They also used the Board's images to create a CIDNY webpage on the new voting system on their website and linked it to the Board's website. Ms. McCoy also sent an email concerning the new voting systems to 250 people and 20 disability organizations. Ms. Vazquez-Rivera stated that she would like to continue her relationship with Ms. McCoy and other good government groups.

Ms. James congratulated Mr. Gonzalez and Ms. Sandow on their new positions at the Board.

Ms. James reported on the poll worker DVD project. The DVD will be a learning tool for the poll workers to reinforce the poll worker training program. She added that legislative decisions were late-coming so the closing procedures had to be finally produced late. The Poll Worker

Workstream requested approval of the educational poll worker DVD from the Commissioners. The Borough Offices will distribute the DVDs in the poll worker training classes rather than the cost incurred in mailing. Commissioner Umane asked if a poll worker can watch the DVD in segments and view a table of contents. Ms. James replied yes. Commissioner Barrera stated that she is very happy with the DVD and that poll workers could choose to watch specific segments of the video. Commissioner Umane moved to adopt the DVD and to authorize the Borough Offices to distribute and post it on the Board's website. Commissioner Barrera seconded the motion, which was adopted unanimously.

Commissioner Stupp stated that she is very grateful as well because the DVD is a necessary tool for the poll workers. She attended the Poll Worker Workstream and creating the video was a monumental task. Commissioner Schacher was very impressed with the video as well and thanked the staff who created it. President Dent thanked the staff for their hard work. Commissioner Araujo requested for hard copies of the video for the Commissioners.

President Dent thanked Ms. Perkins for working very hard along with Mr. Gonzalez, Mr. Richman and Board staff while working without an Executive Director. She thanked Ms. Perkins for her hard work and dedication to the Board.

Mr. Sattie reported on the layout of the poll site ballot. He distributed five (5) samples of the poll site ballot to the Commissioners. The samples were all Democratic and New York County because that is where the “heaviest” contests are. Mr. Sattie reported that all ballots that will be produced for the Primary Election will be on a single page. The ballots for New York and Queens Counties will be on a 19” ballot, Richmond and Bronx Counties will be on a 17” ballot, and Kings County will be determined. Mr. Sattie asked the Commissioners to review the layout of the poll site ballot and noted that there are three (3) different ways to differentiate between offices. Mr. Sattie stated that the standard BMD ballots in the past have bolded lines in between each of the office titles to differentiate the contests. Another option is to have 2 (two) lines to serve the same purpose. Commissioner Umame stated that the bold line is the easiest way to differentiate between the office and asked Mr. Richman if it meets the requirements under State Law. Mr. Richman stated that the ballots require same type size and typeface, and the ballots must be clearly

marked between offices. Commissioner Umane suggested the bold line and the Commissioners agreed. Commissioner Umane moved to accept the bold lines in between the offices as the best way to differentiate between the offices. Commissioner Sipp seconded the motion, which was adopted unanimously.

Commissioner Stupp asked Mr. Richman if, “Vote for 1” or “Vote for 2” etc. can be bolded or underlined to help prevent over votes. Mr. Richman stated that the ballot must be uniform in the size of type for printing of names, titles of office and political designations. Commissioner Umane felt that it could be confusing with all type bolded in a box. Commissioner Soumas stated that nothing should be bolded. Mr. Richman clarified that the ballot would be bolded in the four (4) covered languages. Commissioner Barrera stated that the ballot is daunting and the Board should assist the voters with bolding the titles in all four (4) languages because it helps separate the sections in the ballot. Mr. Gonzalez stated that there might be an issue if the Board bolds Chinese and Korean characters. It might change the transliteration of the candidates’ names or information. The translators expressed concerns with bolding and recommended not to bold anything. Mr. Sattie stated that the Chinese and Korean characters get “fuzzy” or distorted when bolded. Commissioner

Barrera asked if there is a sample with nothing bolded. Mr. Sattie stated not at this time. President Dent clarified that it was indicated that the lines and ovals will be bolded and all other information on the ballot will be uniform and in plain type.

Secretary Polanco requested to add an item to the agenda.

Secretary Polanco moved to promote Anthony J. Ribustello, Administrative Associate, to the vacant Deputy Chief Clerk position in the Bronx Borough Office. Commissioner Barrera seconded the motion, with Commissioner Stupp opposing. The motion is adopted.

Mr. Thompson reported that he and Mr. Polanco have conducted the NYPD training on August 2 and 9, 2010. Mr. Thompson stated that the NYPD Academy compiled the training documents based on the Police Officers' responsibility on Election Day. Mr. Thompson and Mr. Polanco trained the Police Officers on the new voting system. The first training session had approximately 100 Police Officers in attendance and the second session had approximately 150. It consisted of Borough Commanders, One Police Plaza Senior Staff and Election Sergeants. Commissioner Umane asked if the transportation of ballots on election

night has been resolved yet. Mr. Gonzalez stated Executive Staff will be discussing that issue in tomorrow's meeting with the representatives from the Office of the Mayor. Mr. Richman stated that he spoke with NYPD Legal and they are looking into the provisions of the statute. They may use Police Officers or Peace Officers to perform those functions. They designated all public school Safety Officers as Peace Officers because the cost is less than a Police Officer and most of the School Safety vehicles are not used after 9pm. The NYPD Commissioner has the responsibility of making the designations. President Dent directed Mr. Gonzalez to follow-up on the meeting with the Office of the Mayor as it relates to the outcome at the next Commissioners Meeting and via email. Mr. Thompson added that the last NYPD training session is on Monday.

Mr. Ward presented the Comparative Expenditures dated August 10, 2010. A copy of the report is in the agenda.

Mr. Richman reported on his litigation item. The Board was served on August 5, 2010 with a summons and complaint from the United Spinal Association and Disabled in Action. He requested for the New York City Law Department to represent and defend the Board in this matter. The relief sought is for every poll site to be made fully accessible and enjoining

the Board from selecting poll sites that do not meet those requirements as well as a range of fees for the attorneys. Commissioner Umane moved to rigorously defend the lawsuit. President Dent seconded the motion, which was adopted unanimously.

Commissioner Stupp clarified that there are only two (2) poll sites in New York City that are not ADA compliant. Mr. Richman stated that they are not functionally accessible and in each of those cases, in accordance with State Law, the Board sends notices to the voters at those poll sites advising them that if they need to vote in an accessible poll site then they should notify the Board. The Board would reassign their voter registration records to an accessible poll site with the identical ballot they would get in the inaccessible poll site. President Dent asked if staff has searched for alternate sites. Mr. Richman stated that Board staff has searched continuously for accessible sites, but has not found any to this date. Mr. Gonzalez stated that a vendor at the past Summer Conference had a possible solution such as a mobile poll site. Board Staff is contacting the vendor for cost to rent for Election Day and how they could accommodate the Board. The mobile poll site would replace the whole poll site. He stated that he will report back to the Commissioners when he receives the vendor's proposal.

Commissioner Umane moved to convene an Executive Session. President Dent seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and President Dent reported the action that was taken in Executive Session:

- I. By a vote of seven (7) in favor, two (2) opposed, and one (1) abstention, the Commissioners will terminate all temporary employees in the Executive Office Phone Bank and hire thirty (30) new temporary employees for the Executive Office Phone Bank for the Fall 2010 Election Cycle, effective immediately.

The next stated meeting of the Commissioners is scheduled for Tuesday, August 17, 2010 at 1:30 P.M.