

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 12, 2011
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, EVS CONFERENCE ROOM
NEW YORK, NY 10004

PRESENT: President Juan Carlos "J.C." Polanco
 Secretary Gregory C. Soumas

Commissioners Araujo, Dent, Ryan, Schacher, Sipp, Stupp

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Raphael Savino, Director, Campaign Finance Enforcement
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez, Director, Communications and Public Relations
John Naudus, Senior System Analyst, EVS
John O'Grady, Chief Voting Machine Technician
Rosanna Rahmouni, Coordinator, Election Day Operations
Beth Fossella, Coordinator, Voter Registration
Richard Byrne, Summer Law Student Intern, OGC
Daniel Dugan, Summer Law Student Intern, OGC
Giacomo Kmet, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV
 Francisco Olivier, for Council Member Gale Brewer
 Marianna Blume
 Teresa Hommel
 John D. Smith
 Alex Voetsch
 Alan Flacks, Member of NY County Democratic Committee
 A.B. Britton, KLC USA
 Zach Nathanson, for Assembly Member Brian Kavanaugh

President Polanco called the meeting to order at 1:48 P.M.

President Polanco announced that there was no quorum yet and the Managers will report only on informational items.

Mr. Ward presented the Comparative Expenditures report dated July 5, 2011. A copy of the report is in the agenda.

President Polanco noted that Commissioners Ryan and Sipp joined the meeting. A quorum is now present.

Commissioner Araujo moved to adopt the minutes of the June 28, 2011 and July 5, 2011 meetings. Commissioner Stupp seconded the motion, which was adopted unanimously.

Ms. Rahmouni reported on the Poll Worker training stipend and Election Day bonus for 2011. A copy of her Request for Training Stipend and Election Day Bonus for Coordinators, Inspectors and Poll Clerks report was distributed to the Commissioners. Ms. Rahmouni requested to

increase the training stipend from \$25 to \$100 and the Election Day bonus from \$35 to \$100. She stated that the training is vital to the success of each election and increasing the training stipend would be an incentive for the applicants to attend the class and to work on Election Day. Ms. Rahmouni stated that the increase in the bonus is needed to maintain and to recruit new Poll Workers. She requested approval to increase the training stipend from \$25 to \$100 and the Election Day bonus from \$35 to \$100. President Polanco asked if there was a statutory maximum amount of payment. Mr. Richman stated that there is no statutory provision with respect to training compensation or a performance incentive. The Commissioners have developed the policy and has to do it within the amounts available. In the past, Poll Workers were paid with a fixed Other Than Personal Services (OTPS) allocation. Due to the IRS ruling last year, Poll Workers are employees now and paid with Personal Services (PS) funds. Ms. Sandow reported that this matter was included in the Board's Budget Testimony and was brought before the City Council's Finance Committee, but it was not funded. President Polanco recalled that the Commissioners discussed this matter last year and they agreed to recruit the best Poll Workers. He felt it is important to adopt this request. Mr. Richman stated that they would be continuing the practice from last year, not adopting it. He recalled that the Commissioners agreed to the

increase in pay due to the implementation of new voting machines. Commissioner Araujo asked what the previous year's figures were. Mr. Richman replied that in 2010 the performance bonus was \$100 and the training stipend for the six (6) hour class was \$100. In 2009, the performance bonus was \$35 and the training stipend for a three (3) hour class was \$25. Mr. Richman stated that the Board would be continuing last year's policy. President Polanco clarified that the Poll Worker must pass in order to receive the bonus. Ms. Sandow noted that the Coordinator classes are eight (8) hours and the Inspector classes are six (6) hours. Commissioner Stupp asked if the Borough Office's Poll Worker Departments are having a difficult time recruiting Poll Workers because they have earned \$100 and it is now reverted back to a lesser amount. Ms. Rahmouni replied yes. Commissioner Araujo asked Ms. Vazquez what she is telling people during her Poll Worker Recruitment Outreach events with respect to payment. Ms. Vazquez stated that there is no dollar amount indicated. Commissioner Araujo asked how many people she has recruited to this date. Ms. Vazquez replied over 3,000. Ms. Sandow stated that a training stipend for \$25 will equal to \$3.13 an hour. She stated that if they revert to 2009 pay, then they might have to reduce the hours in the training class. She noted that there have been changes to the Poll Worker's Manual so it is important that the Coordinators receive eight (8) hours of

training and the Inspectors receive six (6) hours of training. President Polanco moved to adopt the proposal presented by Ms. Rahmouni regarding the incentive pay for the Poll Workers. Commissioner Stupp seconded the motion. In a roll call vote with three (3) in favor (Schacher, Stupp, Polanco) and four (4) opposed (Araujo, Ryan, Sipp, Soumas), the motion was not adopted.

Ms. Sandow and Ms. Perkins presented the Election Night Results Reporting item on behalf of Mr. Naudus. Ms. Sandow distributed copies of the proposed Staffing and Plan for Election Night Results Reporting and PVS Pre & Post Election Activity report to the Commissioners. She stated that the report was emailed previously to the Commissioners. Ms. Perkins reported that the Sub-Committee worked very hard compiling the procedures and there were some factors beyond the Board's control that may prevent the Board from implementing the plan for the upcoming 2011 Primary Election. President Polanco asked if staff has shared that information with the members of the Sub-Committee yet. Ms. Sandow replied no because the budget was just announced. She reported that currently there is no funding for the ES&S support staff in the contract. In addition, the Board is waiting for the State Board to certify ES&S's new software in order to make the plan come to fruition. President Polanco

asked if this matter should be presented to the Sub-Committee first and then the full Board for action. Ms. Sandow stated that this proposal was adopted in March and was always contingent on receiving adequate funding in the Board's budget. The Board was given the capital funding to acquire the equipment, but was not given sufficient expense funding for ES&S and the support staff. Ms. Sandow stated that this was a proposal that they planned to pilot for the Primary Election in one (1) borough which was contingent on the budget. The budget was not approved at the adequate funding level and Executive Management wanted to propose to hold off on implementing the pilot due to the upcoming Primary and Special Elections. They would like to move forward with the pilot in one (1) borough for the General Election. Secretary Soumas asked for more clarification on the matter. Ms. Sandow stated that Executive Management feels it is best to wait until the General Election because they still have not identified the funds to move forward with staffing. She stated that Executive Management and staff would continue to work with the NYPD to prepare for the General Election, but the Board is very behind schedule due to the budget and will not be ready to implement the pilot for the Primary Election. The Board has to modify the contract and submit it to the Office of the Comptroller. Ms. Sandow noted that Mr. Ward will work on identifying funds so that the Board can implement the pilot.

Commissioner Ryan stated that Mr. Ward and Mr. Luisi will have to coordinate the budget work together. He clarified that Executive Management just wants to delay the pilot for the Primary Election and if the funds are identified then the Board could proceed for the General Election. There will be a separate Commissioners' vote for the General Election. Ms. Perkins stated that the Procurement Department needs time to register the contract with the Office of the Comptroller which can take approximately thirty (30) days. Commissioner Araujo asked if staff needs approval from the Commissioners to make the modifications to the contract. Mr. Richman stated that the contract is separate and that they will present a proposal of the modifications. Commissioner Stupp asked if the Commissioners have to vote on this matter once it is resolved. Ms. Sandow stated that the proposal was approved in March 2011. She added that Executive Management may request where the Commissioners would prefer to receive the staffing from, but it is contingent on the budget. President Polanco noted that Executive Management will discuss this matter again in approximately six (6) weeks.

Ms. Fossella presented the Interim Procedures for Processing Death (Code 3) File and the Interim Procedures for Processing Felon (Code 4) File from the State Board. Copies of her procedures were distributed to the

Commissioners. Ms. Fossella requested approval for the two (2) procedures. Commissioner Sipp asked if the procedures are legal. Mr. Richman replied that they meet the statutory requirements. Commissioner Araujo asked if the new procedures change the Board staff's procedures as done in the past. Mr. Richman replied that it is the same process. Commissioner Sipp moved to adopt the Interim Procedures for Processing Death (Code 3) File and the Interim Procedures for Processing Felon (Code 4) File from the State Board. President Polanco seconded the motion, which was adopted unanimously.

Ms. Vazquez presented the Poll Worker recruitment update. She requested approval to intensify the efforts by launching a Poll Worker Awareness Month. Ms. Vazquez explained that the month of August would be dedicated to educate New Yorkers about the opportunity to get paid for serving their community. The goals of the initiative are to heighten the awareness of community engagement, promote appreciation for Poll Workers, and to employ a final push to increase the number of Poll Worker applicants. Ms. Vazquez stated that the plan would be low cost and she hopes it would generate positive press for the Board. She would launch a press release on August 1, 2011 targeting community websites, community newspapers and placing op eds. She would like to pitch for the

Commissioners to interview in their respective boroughs as well. Ms. Vazquez stated that she would send the community groups the Election Connection e-newsletter, engage elected officials, deploy an email blast to over 400 community groups, and distribute flyers and literature. Lastly, she would like to plan an Open House at the Board joining all of the community groups together so they can educate their respective constituents and to spread the word. President Polanco stated that the plan is a wonderful idea. Commissioner Stupp inquired about the low cost of the plan. Ms. Vazquez stated that it would be essentially no cost because it is all electronic except for the production of the flyers and literature. Ms. Sandow stated that they have received great feedback from the organizations and she believes that the Poll Worker applications that the Board has been receiving are from the Poll Worker Outreach events. Secretary Soumas moved to adopt Ms. Vazquez's plan. President Polanco seconded the motion, which was adopted unanimously.

Mr. O'Grady reported on the number of scanners and Ballot Marking Devices (BMDs) per poll site for the Primary and General Elections. Copies of his report were distributed to the Commissioners. Mr. O'Grady reported that in the 2007 Primary Election there was a 6% voter turnout. He stated that Section 6210.18 of the NYS Election Law allows increasing

the number of voters per scanner per poll site for 4,000. Mr. O'Grady recommended changing the number of scanners per voter at the poll site in order to save funds this year. It would still maintain two (2) scanners per poll site as the minimum, but increasing to 4,000 voters per scanner. Mr. Richman stated that the Commissioners adopted a lower level last year which was pre-cleared by the U.S. Department of Justice (DOJ) – one (1) scanner per 1,400 voters. He clarified that the request would be a change in the Commissioners' policy which would then require a pre-clearance by DOJ. Commissioner Schacher asked what the State's statutory minimum is. Mr. Richman replied 4,000. Mr. O'Grady stated it costs a total of \$80 to deliver one (1) scanner to and from a poll site. Commissioner Schacher requested for a total amount of savings. Mr. O'Grady replies that he will work on the request. Commissioner Stupp asked if this request is only for this year. Mr. O'Grady replied yes. Secretary Soumas asked for the highest poll site turnout for the General Election citywide in 2007. Mr. O'Grady stated that he will research that information and report it at the next meeting. Mr. Richman stated that DOJ has sixty (60) days to pre-clear a change and sixty (60) days from the Primary Election is tomorrow. Mr. Richman stated that the Board is pre-cleared for 1,400 voters. Secretary Soumas asked what would happen if the Board submitted pre-clearance for the statutory maximum. Mr. Richman stated that it is a

change in practice and procedures that preserves the potential disenfranchisement of covered voters. Secretary Soumas suggested submitting the number of the statutory requirement to DOJ and then the Commissioners can adjust their policy. Mr. Richman stated that a specific plan was approved and future plans need to be pre-cleared as well. Commissioner Ryan stated that the Board has to make sure that there are no disenfranchised voters. Mr. Richman stated that New York City has a history of discrimination against racial minorities and therefore are targeted under the Voting Rights Act of 1965. Mr. Richman stated once a policy is made and pre-cleared then it becomes iron clad. Commissioner Araujo asked if they could submit a range of the numbers. Mr. Richman replied no. Ms. Sandow referred to the pre-clearance submission number 2010 CW 03 which states that every site selected by the City Board meets or exceeds the minimum requirements as specified in Section 6210.19 of the NYS Election Law. Ms. Sandow stated that if the Board is meeting or exceeding the numbers then it would be legal.

President Polanco recognized Alan Flacks, a member of the public, who asked if the three (3) NYC boroughs under the Voting Rights Act are due to the percentage of voter turnout compared to the number of

registered voters. Mr. Webb replied no and that it is determined by the number of minorities in the particular county.

Commissioner Stupp asked if the 1,400 voters is based on eligible voters or previous voters of Primary Elections. Mr. O'Grady replied eligible voters. President Polanco confirmed that Mr. O'Grady is asking approval of the plan so it can be submitted and pre-cleared by DOJ. He asked Mr. Richman's opinion on the matter. Mr. Richman stated that the Board cannot plan on making the changes unless DOJ pre-clears the plan. Ms. Sandow and Ms. Perkins recommended submitting the plan to DOJ. President Polanco moved to adopt Mr. O'Grady's plan. Secretary Soumas seconded the motion, which was adopted unanimously. Mr. Richman asked for clarification for which elections the plan is for. Secretary Soumas stated that it is for the 2011 Primary, Special and General Elections.

Mr. Richman reported that the Board has received a formal request from the Counsel to the Governor for comments on Bill Number A7602A. The Bill provides that absentee ballots shall be retained by the board of elections and canvassed as provided by law. A copy of his report is in the agenda. Mr. Richman recommended for the Board to endorse the Bill.

Secretary Soumas moved to endorse Bill Number A7602A. President Polanco seconded the motion, which was adopted unanimously.

Mr. Richman requested to discuss a litigation and enforcement matter for Executive Session.

Mr. Richman reported that he distributed copies of a memorandum to the Commissioners regarding the Board's random draw procedure for their review.

President Polanco recognized Alan Flacks, a member of the public, who asked questions about the Board's Security Guard.

Commissioner Ryan reported that he has gathered sufficient signatures to qualify him as a candidate on the Democratic Party and Conservative Party lines in Staten Island for District Attorney which will be filed by the deadline on Thursday. He stated that it is the appropriate time to resign his position as a Commissioner of Elections in the City of New York. Commissioner Ryan stated that he will be submitting his formal resignation to President Polanco today. He thanked everyone for his wonderful tenure and will miss the staff. Commissioner Ryan stated that

he hopes to move on to a different endeavor in life and hopes it will be successful. He added that he is aware of his successor and is certain that the Board will be happy to work with her. On behalf of the Board, President Polanco thanked Commissioner Ryan for his professionalism, management techniques, and finance experience. The Commissioners expressed their thanks and wished Commissioner Ryan good luck.

President Polanco announced that there will be a Commissioners' Cover Sheet Review after the meeting is adjourned.

President Polanco moved to convene an Executive Session to discuss personnel, enforcement and litigation matters. Commissioner Ryan seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and President Polanco reported that there was no action taken in Executive Session.

President Polanco moved to adjourn the meeting. Secretary Soumas seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, July 19, 2011 at 1:30 P.M.