

THE MEETING OF
THE COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, DECEMBER 20, 2011
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

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

Commissioners Araujo, Barrera, Dent, Guastella, Schacher, Sipp, Stupp,
Umane

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Ward, Finance Officer
Valerie Vazquez, Director, Communications and Public Affairs
Raphael Savino, Director, Campaign Finance Reporting Enforcement
Daniel Lavelle, Supervisor, Phone Bank and Front Counters
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: Alberto Gonzalez, Brooklyn County Democratic Committee
A.B. Britton, K.L.C.G.O.P.
Jerome Koenig
Mariana Blume
Marjorie Shea, Women's City Club
Liz Brown, for Council Member Gale Brewer
Kate Doran, LWV
Kevin Maloney, Citizens Union
John D. Smith
M. Aronson
Alan Flacks, Member of NY County Democratic Committee

President Polanco called the meeting to order at 1:34 P.M.

Commissioner Araujo requested to discuss an Executive Office personnel matter in Executive Session.

Commissioner Dent requested to discuss a Brooklyn personnel matter in Executive Session.

Commissioner Barrera requested to discuss a Bronx personnel matter in Executive Session.

Commissioner Dent moved to approve the minutes of the December 13, 2011 meeting. Commissioner Stupp seconded the motion, with Commissioners Guastella and Sipp abstaining. The motion was adopted. Commissioners Guastella and Sipp noted that they were not present at that meeting.

Mr. Richman presented the guideline for the creation of Election Districts determination of the number of active voters following the adoption of the 2012 New York State Congressional and Legislative Redistricting Plans. A copy of his memorandum is in the agenda. Mr. Richman stated

that Section 4-100 of the NYS Election Law prescribes the requirements that Boards of Elections must observe when drawing election district (ED) boundaries. It also grants the Board some discretion in the drawing of such EDs with respect to the number of active voters allowed in each ED. Mr. Richman summarized that the EDs must be in compact form, wholly within an assembly, senatorial or congressional district, boundaries must be street, rivers, railroad lines or other permanent characteristics of the landscapes which are clearly visible to any person without any technical or mechanical assistance, and within a City, an ED may divide a block, provided that the Board prepares an alphabetical list of all the streets in such city with the ED for each street. Mr. Richman explained Section 4-100(3)(a) of the NYS Election Law; the Election District shall not contain more than 1,500 registrants, excluding registrants in inactive status, and an Election District may be created for the convenience of the voters. In the last redistricting in 2002 and 2003, the Board was concerned with compliance with the then statutory mandate of a second lever machine for an Election District with more than 800 active voters. With the introduction of the new optical scanning system, the State Board's requirement is one (1) scanner for every 1,400 active voters; a higher number should be used when drawing ED boundaries. Mr. Richman stated that in his November 29, 2011 memorandum, he outlined that under the current

statutory framework including the statutory amendments enacted in 2010 particularly Sections 9-102 and 9-106 of the NYS Election Law and the current configuration of the certified voting equipment used by the City Board, each and every Election District must have its own scanner. Mr. Richman stated that the City Board's proposal to increase the number of voters in each Election District has not been acted upon by the State of New York. The proposal was to increase the maximum number of active voters in an ED to 4,000. Mr. Richman stated that he consulted with the Board's staff and it is his recommendation to take advantage of the new voting system. He stated that in order to minimize the number of additional scanners needed to be compliant with State Election Law, this Board should determine, in accordance with the current statutory requirements of Section 4-100, that its staff shall draw ED boundaries in accordance with the following directive:

- That each such Election District, when permitted by law, contain between 1,050 and 1,100 active voters.

Mr. Richman stated that this provides the Board with some time before it would have to divide EDs, according to Section 4-100(4) of the NYS Election Law. He noted that the Board will have to reevaluate each of the EDs drawn in 2012 following adoption of the Federal and State Legislative District boundaries in 2013, upon the adoption of a new redistricting plan

for the City Council, to be used for 2013 municipal elections. Mr. Richman recommended for the Commissioners to make the determination now so that when Board Staff training for redistricting begins, this clear guideline has been established. Commissioner Dent asked Mr. Richman if this information discussed had any changes since it was presented at the Commissioners' Sub-Committee meeting. Mr. Richman replied that there were no changes since it was circulated. Commissioner Umame stated the Sub-Committee agreed that this recommendation was a good idea because it leaves the Board room to increase EDs in the future. He stated that the Borough Office Staff should still do their own analysis to anticipate larger EDs where they see proposed housing developments. Mr. Richman noted that an ideal ED would have 2,000 - 2,500 voters. Commissioner Umame moved to adopt Mr. Richman's recommendation. Before a vote, President Polanco inquired how much time the Board Staff has to get the job completed legally, the amount of staff that is needed to complete the task, and if the City Board is funded. Mr. Richman stated that Board Staff has already been identified in Mr. Ferguson's ED Redistricting plan which was approved at the previous meeting. He stated that the Board is not fully funded, but was authorized to purchase the necessary software so staff has the technical ability. Mr. Richman stated that the time needed to complete the task depends on how fast the Legislature acts and what the

guidelines will be. He stated that the Board requested for the guidelines by December 31, 2011. Mr. Richman stated that during the last redistricting process the Board Staff from each of the five (5) boroughs needed overtime to finish the task because there was not enough time. There was consultation with appropriate political leadership as well. President Polanco asked if the Board has a legal requirement to complete the process within a certain amount of time. Mr. Richman stated that the process must be completed prior to the first day to the circulation of petitions. He noted that the Department of Justice (DOJ) has been very cooperative with the Board. Commissioner Dent stated that the Board's Executive Staff has informed the City Council about this task previously and inquired if it would be feasible to inform them again. She stated that the Board is moving forward on this initiative and suggested to inform the City Council again about the funding that will be needed to complete this initiative. Mr. Richman recalled that Mr. Ward notified the Office of Management and Budget (OMB) of the needs that are not funded for the balance of the fiscal year. He stated that the Board could advise the City Council's Staff with the same materials that were submitted to OMB. Commissioner Dent noted that the City Council has stated in the past that they are not always aware of the Board's funding needs to complete these tasks, even though the Board advises them when they testify before the

City Council. She stated that it would be helpful to the Board if they advised the City Council again. Mr. Richman stated that he and Mr. Ward will share the information with the City Council's Finance Committee. Commissioner Umame moved to adopt Mr. Richman's recommendation concerning the guideline for the 2012 redistricting plans. Commissioner Dent seconded the motion, which was unanimously adopted.

Mr. Richman reported on the draft Independent Nominating Petition Rules for 2012 Special Elections. He distributed copies of the draft Rules to the Commissioners. Mr. Richman stated that he is requesting expedited consideration based on reports that a Special Election may be called within the City of New York before the end of the year. He stated that these rules are unchanged from the adopted 2011 Special Election and originally the 2010 General Election Rules. Mr. Richman stated that these Rules were pre-cleared by the Attorney General of the United States. There are no substantive changes to these Rules and do not require resubmission to the Attorney General for an additional review. Mr. Richman requested for the Commissioners re-adoption of the Independent Nominating Petition Rules with the conforming modifications as to the year of applicability and the dates of their action.

President Polanco recognized Jerry Koenig, a member of the public, who recalled there was a discussion in the past for possibly changing the rule for the order of the ballot concerning filing. He noted that there was a technical problem with the wording of a particular rule as well.

Commissioner Araujo moved to adopt the Independent Nominating Petition Rules for 2012 Special Elections. Secretary Soumas seconded the motion, which was unanimously adopted. Mr. Richman stated that the Rules will be posted on the Board's website. He noted that if a vacancy occurs and a proclamation is issued then he will need a Commissioners' Cover Sheet Review Committee.

Mr. Ward presented the Vacancy Report dated December 20, 2011. A copy of the report is in the agenda.

President Polanco recognized Alan Flacks, a member of the public, who inquired about who gave orders to the Coordinator at his poll site to not speak with the press on Election Day. President Polanco stated that he was not aware of that matter and asked Mr. Flacks to ask the Coordinator. Mr. Flacks asked if the Board received any new resumes for the position of

Executive Director. Ms. Sandow replied that no new resumes have been received.

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

Following the Executive Session, the open public meeting resumed and President Polanco reported on the actions taken in Executive Session:

- I. The Commissioners authorized the appointment of temporary employees in accordance with the schedule submitted by Executive Management. These temporary employees are required to enable the Board to perform all of its mandated responsibilities relating to the 2012 Presidential Primary, the anticipated Special Elections for the 27th Senate District, responsibilities relating to the redistricting of Election Districts citywide, and the Primary Election(s) to be scheduled anytime between June and September, as well as the November 2012 General Election.
- II. The Commissioners unanimously granted Brenda Johnson, an Administrative Assistant in the Brooklyn Office, an advance of

105 sick leave hours, effective December 13, 2011.

The employee meets all of the requirements to receive such hours.

III. The Commissioners unanimously granted Verna Lee-Legall, a Clerk in the Brooklyn Office, an advance of 140 sick leave hours, effective December 13, 2011. The employee meets all of the requirements to receive such hours.

IV. Disciplinary Hearings were conducted on November 23, 2011 and December 8, 2011 for Sylvia Ancrum, an Administrative Associate in the Executive Office. The Commissioners Committee recommended that Ms. Ancrum be placed on one (1) year probation and to change her title to Administrative Assistant at a salary of \$42,659, effective this date. That report was unanimously adopted by the Commissioners.

President Polanco moved to adjourn the meeting. Commissioner Dent seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners is scheduled for Tuesday, January 3, 2012 at 1:30 P.M.