

MEETING OF THE COMMISSIONERS OF ELECTIONS  
IN THE CITY OF NEW YORK  
HELD ON TUESDAY, APRIL 10, 2018 AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, EVS CONFERENCE ROOM  
NEW YORK, NY 10004

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PRESENT: Secretary John Wm. Zaccone

Commissioners Jose Araujo, John Flateau, Maria R. Guastella, Michael Michel, Alan Schulkin, Simon Shamoun, Robert Siano, Frederic M. Umame

Michael J. Ryan, Executive Director  
Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Georgea Kontzamanis, Operations Manager  
Steven H. Richman, General Counsel  
Steven Guglielmi, Director, Personnel  
Valerie Vazquez, Director, Communications and Public Affairs  
Kenneth Moltner, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Wendy Byrne, LWVNYC  
Kate Doran, LWVNYC

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In President Vargas' absence, Secretary Zaccone, as Acting President, called the meeting to order at 1:37 P.M.

Commissioner Siano moved to adopt the minutes for the April 3, 2018 meeting. Commissioner Guastella seconded the motion, with Commissioner Flateau abstaining. The motion was adopted.

Mr. Richman requested for the designation of Commissioners' Cover Sheet Review Committees for anticipated petition filings for the June 26, 2018 Federal Office Primary Election. He reported that the petitions filed yesterday contained no Cover Sheet defects. The following Cover Sheet Review Commissioners' Committees and schedule were designated:

- Thursday, April 12, 2018 at 3:30 P.M. via Video Conference in the General Office
  - Commissioners Araujo and Michel
- Tuesday, April 17, 2018 immediately following the Commissioners' Meeting in the EVS Conference Room
  - Commissioners Flateau and Siano

Mr. Richman reported that notice of the adopted schedule will be posted for the public.

Mr. Ryan requested to schedule the Board's hours of operation for Saturday, April 14, 2018 which is the last day to register in person to vote in the April 24, 2018 Special Elections in Manhattan, Queens, and the Bronx. Executive Management recommended 9:00 A.M. to 9:00 P.M. in the respective Borough Offices, and the General Office to be remained closed. Commissioner Araujo moved to adopt Executive Management's proposed

schedule. Commissioner Umane seconded the motion, which was unanimously adopted.

Mr. Richman requested to add an item to the agenda. He presented an issue of first impression which has arisen concerning the applicability of Section 1-106 of the New York State Election Law and the Board's Designating Petition Rule A-2. Mr. Ryan clarified that the requirement in Section 1-106 applies only to the five (5) counties in the City of New York. Mr. Richman reported that last Friday, a Certificate of Authorization was filed by a minor Party and as a result the Board was open until Midnight yesterday to accept any potential Objections. Yesterday was the first day to file Designating Petitions for the June 26, 2018 Federal Office Primary Election. The Board's hours to file petitions were between 9:00 A.M. to 5:00 P.M. according to the Board's Designating Petition Rule A-2 and the Petition Filing Calendar. A Designating Petition with three (3) Cover Sheets was filed at the Board last night at 11:58 P.M. Mr. Richman stated that the question becomes what date should the clock start to classify the receipt of this Designating Petition since the Board was open to receive any potential Objections to the Certificate of Authorization until Midnight. Mr. Richman circulated and summarized five (5) case law matters to the Commissioners. Mr. Ryan clarified that the case law presented only

touches this issue; there is no specific case law on this matter. Mr. Richman explained that there could be an issue of prejudice against any potential Objector who read the Board's Petition Filing Calendar and Petition Rules that the filing period was between the hours of 9:00 A.M. to 5:00 P.M. yesterday. He asked the Commissioners to clarify which date this petition should be counted being filed by the Board for purposes of General Objections and Specification of Objections. Numerous issues were raised by the Commissioners and there was extensive discussion. Secretary Zaccone clarified that the petition was received by the Board, but the Commissioners' decision is to determine when the clock starts in the CRU Petition Ledger system for purposes of General Objections and Specifications of Objections. Mr. Richman reported that according to Rule G-1, the Commissioners reserve the right to conduct an inquiry into the fact and circumstances of the filing of any document, and reserve the right to make a determination of when the time period starts for General Objections. Mr. Richman reported that the Office of the General Counsel recommends starting the clock for General Objections today at 9:00 A.M. based on the 9:00 A.M. to 5:00 P.M. filing period in the Rules, Calendar and statute. The Counsel to the Commissioners concurred with the Office of the General Counsel. Following an extended discussion, Commissioner Flateau moved to count the petition that was filed on

Monday, April 9, 2018 at 11:58 P.M. on the date and time it was time stamped by the Board for terms of filing General and Specific Objections in this specific case only. Commissioner Umane seconded the motion. In a vote of three (3) in favor (Araujo, Flateau, Umane), five (5) opposed (Guastella, Michel, Schulkin, Shamoun, Zacccone) and one (1) abstention (Siano), the motion was not adopted. Commissioner Shamoun moved that the petition filed Monday, April 9, 2018 after 5:00 P.M. to be deemed filed as of Tuesday, April 10, 2018 at 9:00 A.M. for purposes of the Board's Petition Calendar that was posted for the public. Commissioner Schulkin seconded the motion. In a vote of five (5) in favor (Guastella, Michel, Schulkin, Shamoun, Siano), two (2) opposed (Flateau, Araujo), and two abstentions (Umane, Zacccone), the motion was not adopted. Commissioner Umane noted that bad cases make for bad law and reported that he is willing to switch his vote for purposes of this particular case only, since there is no determination. Commissioner Umane moved to deem any petition and/or cover sheets received after 5:00 P.M. yesterday as received today April 10, 2018 at 9:00 A.M. for purposes of this situation only. Commissioner Siano seconded the motion. In a vote of seven (7) in favor (Guastella, Michel, Schulkin, Shamoun, Siano, Umane, Zacccone) and two (2) abstentions (Araujo, Flateau), the motion was adopted. Mr. Richman reported that staff will make the appropriate entries in the CRU

Petition Ledger system. There was consent among the Commissioners to address this matter in the future.

Mr. Denkberg requested to discuss a potential litigation matter in Executive Session.

Commissioner Guastella requested to discuss a Staten Island personnel matter in Executive Session.

Commissioner Araujo moved to convene an Executive Session for litigation and personnel matters. Commissioner Siano seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed and Mr. Ryan reported the following action that was taken in Executive Session:

- I. The Commissioners granted 210 hours Advance of Time to Nicole Smith, a Clerk in the Bronx Office, retroactive to April 8, 2018. Ms. Smith's agency start date is July 2010.

Secretary Zaccone moved to adjourn the meeting. Commissioner Siano seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners will be held on Tuesday, April 17, 2018 at 1:30 P.M.