

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 10, 2007
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR HEARING ROOM
NEW YORK, NY 10004

P R E S E N T: Anthony Como, President
 James Sampel, Secretary

Commissioners Dent, Graham, O'Connor, Schacher, Umane, Yennella

John Ravitz, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Phil Donahue, Director, Personnel
John Ward, Finance Officer
Elliot Borack, ACCO
Valerie Vazquez, Director, Public Relations and Communications
Joseph LaRocca, Coordinator, Candidate Records Unit
Peter Halprin, Law Student Intern
William Markle, Law Student Intern
Jack Courtney, Temporary Attorney
Samantha Kim, Temporary Attorney
Lucille Grimaldi, Director, EVS
John Naudus, Sr. Computer Programmer
Mona Huang, Sr. Computer Programmer
Philip Mione, Computer Data Analyst
Gladys Fernandez, Technical Liaison
Marilyn Reyes, Technical Writer
Marguerite Chin-Hong, Gartner Consultant
Karen Viggiano, Gartner Consultant
Michael Kinara, Gartner Consultant
Charles Webb, Counsel to the Commissioners
Steve Denkberg, Counsel to the Commissioners

Guests: Adrienne Kivelson, League of Women Voters
Andrea Senteno, Citizen Union
John Kyte, Burson-Marsteller
Frieda Foster-Tolbert, Burson Marsteller
Jeff Sia, Burson-Marsteller
EJ Boyer, Burson-Marsteller
Jose Adames

President Como called the meeting to order at 1:30 P.M.

President Como introduced Julie Dent, the new Democratic Commissioner for Brooklyn. He welcomed her on behalf of all the Commissioners.

President Como moved to adopt the minutes of May 29, 2007 and June 12, 2007. Commissioner O'Connor seconded the motion, which was adopted unanimously.

President Como moved to table June 19, 2007 until the next meeting. Secretary Sampel seconded the motion, which was adopted unanimously.

The General Counsel introduced to the Commissioners the two Temporary Staff Attorneys who will work at the Board of Elections throughout the 2007 election process, Samantha Kim and Jack Courtney.

The Executive Director gave brief comments regarding the actions taken at the New York State Election Commissioners' Association's (ECA) Summer Conference and the proposal to change the State's statutory date prohibiting the use of lever machines. Mr. Ravitz stated that Lucille Grimaldi would discuss the timeline for possible deployment of the Ballot Marking Devices (BMDs) for the 2007 Election Cycle.

The General Counsel reported that considerable discussions have focused on Section 11 of Chapter 181 of the Laws of 2005 – The Election Reform and Modernization Act of 2005 ["ERMA"]. Both houses passed one-house bills attempting to deal with this problem but no effective negotiation has been reported. The General Counsel noted that at the State Board meeting held on Wednesday, June 27, 2007 the State Board (by a vote of two in favor; one opposed) did not endorse the ECA proposal. The Election Commissioners Association's proposal would:

- a) Change the effective date to prohibit use of the lever voting machines to the first federal election after March 1, 2008;
- b) Require that, until that time, each county provide at least one site in to accommodate voters with disabilities who wish to use a Ballot Marking Device;
- c) Provide that if the State Board does not certify at least two new voting system by December 31, 2007 all provisions are continued and the effective implementation date for new voting technologies is moved to December 31, of the year in which certifications are made.

The General Counsel further reported that discussions at the New York State Election Commissioners' Association Conference were very clear in terms of the effect of the current provisions of ERMA. The ECA directed that copies of the proposed legislation be transmitted to the Governor, the Speaker of Assembly, the Temporary President of the Senate and the State Board of Elections with a request for prompt enactment. The General Counsel asked each of the Commissioners to share this proposal with their local legislators, urging them to support this bill and to communicate their position to the leader of their respective house of the Legislature.

Commissioner Umame expressed his concerns to the provisions of Section 11 of the Election Reform and Modernization Act of 2005 stating that none of the Commissioners would intentionally break the law but by complying with its mandate, voters would have to use the “old fashioned” method of marking a paper ballots with a pen/pencil and have that ballot counted, by hand, at the close of the polls which creates the potential for many things that could go wrong.

The General Counsel asked the Commissioners to authorize the Board to write to the appropriate officials outlining the situation we face if the State does not amend Section 11 of the Election Reform and Modernization Act of 2005. Commissioner O'Connor moved to authorize the Board to write this letter on behalf of the Commissioners to the appropriate officials outlining our concerns. Commissioner Umame seconded the motion, which was adopted unanimously.

Lucille Grimaldi presented the Commissioners with the 2007 BMD Deployment Schedule and gave an overview of the report. Following extensive discussion, the Commissioner Umame moved to:

- 1) Take all steps necessary to comply with State Law

including but not limited to writing to the State Board of Elections for guidance;

- 2) Contact Voting System Vendors, including Avante, to compile information that would enable the Board to meet current statutory requirements;
- 3) Have staff continue to work on possible BMD deployment with the hope that the Legislature enacts something comparable to what the Board is seeking; and
- 4) Develop a contingency plan to train poll workers on whatever method of voting will be used in the September and November 2007 elections.

Commissioner Schacher seconded the motion, which was adopted unanimously.

The Executive Director reported with respect to Commissioner Umane's motion that the staff would continue its work in hopes that the Legislature enacts remedial legislation.

In response to a question, the General Counsel stated that the Board has a current contract with Phoenix Graphics/Sequoia to print all

required Emergency/Absentee/Affidavit Paper Ballots.

Commissioner Umame requested that the staff of the General Counsel's Office conduct research into whether paper ballots can be used to cast votes in the September 18, 2007 Primary Election and whether our current centralized Optical Scanners can be used to canvass those ballots.

The General Counsel provided an update on New York State Legislation by Memorandum dated July 10, 2007. Both A.641/S.6003 - "The Gelb Extender" and A.9243/S.6318 - mandating the election of delegates to the national party convention, were signed by the Governor on July 3, 2007.

The General Counsel reported that a bill extending the provisions for military voting under Chapter 237 of the Laws of 2005 (A.8130/S.6299) passed both houses. The General Counsel reported that the Governor's Office is seeking comments from the Board with respect to this bill and asked the Commissioners for authorization to transmit the Board's position by close of business today.

Commissioner Schacher moved to authorize the General Counsel to advise the Governor's Office that the Board does not object to the enactment of A.8130/S.6299, extending the provisions for military voting. President Como seconded the motion which was adopted unanimously.

The General Counsel submitted a draft resolution to implement the 2007 Gelb Extender Legislation and asked Commissioners to adopt the resolution.

Commissioner Umame moved to adopt the draft resolution to implement the 2007 Gelb Extender Legislation as amended. Commissioner O'Connor seconded the motion which was adopted unanimously.

Finance Officer John Ward provided the Commissioners with the Vacancy Report dated July 10, 2007 as well as the Comparative Expenditure Report dated July 3, 2007.

Commissioner Schacher moved to grant a 30-days sick leave extension for Mary Lee John, a clerk in the Brooklyn Office.

Commissioner O'Connor seconded the motion, which was adopted unanimously.

Commissioner Schacher moved to grant a 30-days sick leave extension for Ameriar Feliciano, a clerk in the Brooklyn Office.

Commissioner O'Connor seconded the motion, which was adopted unanimously.

Commissioner Graham moved to grant a 30-days sick leave extension for Kim Patterson, a clerk in the Bronx Office. President Graham seconded the motion, which was adopted unanimously.

The President moved to convene an Executive Session to discuss personnel matters. Secretary Sampel seconded the motion which was adopted unanimously.

The President reported that in the Executive Session the Commissioners unanimously approved the following personnel actions pursuant to Section 3-300 of the NYS Election Law:

- 1) Unanimously authorized the Board to contract with an

agency to provide temporary services of a Korean translator for the Board's Election Day Operations Unit, effective immediately.

- 2) The authorization of 16 temporary positions (8 Democratic & 8 Republican) at each Borough Offices through the September 2007 Primary.

Commissioner Schacher moved to adjourn. Commissioner Yennella seconded the motion, which was adopted unanimously.

President Como announced that the next Commissioners' meeting is scheduled for Tuesday, July 17, 2007 at 1:30 p.m.