

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, FEBRUARY 17, 2009
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR HEARING ROOM
NEW YORK, NY 10004

P R E S E N T: President Frederic Umane
 Secretary Julie Dent

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Soumas, Stupp,
Yennella

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
John O'Grady, Chief, Voting Machine Technician
Joseph LaRocca, Coordinator, Candidate Records Unit
John Naudus, Senior Systems Analyst, Electronic Voting Systems
Charles Webb, Counsel to the Commissioners
Steve Denkberg, Counsel to the Commissioners

GUEST: Adam O'Brian, Election Protection
 Mary Lou Urban, League of Women Voters
 Teresa Hommel, Community Church of New York
 Rima McCoy, CIDNY
 Marjorie Shea, Women's City Club
 Andrea Senteno, Citizen's Union

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

Commissioner Umame made a motion to table the minutes of January 27, 2009 and February 3, 2009. Commissioner Schacher seconded the motion, which was adopted unanimously.

The Executive Director gave his HAVA update in a PowerPoint presentation titled "Overview of HAVA Compliance Projects." Mr. Cederqvist discussed the implementation of potential new voting systems. President Umame stated that the entire voting process may change. The Board would have to train poll workers to operate the ballot marking devices, revise the poll worker guidelines and manuals, and rework poll site set up. President Umame suggested that poll worker training and poll site set up should be the first step on preparing the implementation of new voting systems. President Umame recommended that the Executive Director demonstrate the HAVA PowerPoint presentation to City Officials and others as well.

The General Counsel distributed the "2009 Recommended Revisions in the New York State Election Law" to the Commissioners. Mr. Richman stated the package will be mailed to all members of the State Legislature and Executive Branch this week.

The General Counsel reported that the scheduled meetings on the Education and Information Day on March 10, 2009 have been confirmed. A meeting with the Chair of the Assembly Election Law Committee and the Assembly key staff members is scheduled for 10AM, and a meeting with the Senate Committee Chair is scheduled for 10:30AM. Mr. Richman stated the confirmed luncheon will host members of the New York City Delegation and members of the Election Law Committees from 12PM - 2PM and a meeting is scheduled with the Governor's Counsel and other staff members of the Executive Chamber at 2:30PM.

Commissioner Polanco requested a meeting with the ranking Republican members of the Election Committees. President Umame suggested the General Counsel extend the invitation. The General Counsel stated he will try to organize a meeting in the free 11AM – 12PM timeslot.

The General Counsel reported that he had been advised by a Staten Island Court Clerk that candidate John Tabacco filed an Order to Show Cause challenging the determination of the Commissioners Committee last Thursday, February 12, 2009 to remove John Tabacco from the ballot because of insufficient signatures. One of the allegations in the Order to

Show Cause is the Board has no authority to reconsider matters once it made a determination. In accordance with the Executive Committee's direction, the Board through the NYC Law Department will defend the right of the Board to reconsider its own prior determinations and its actions in this instance. Mr. Richman stated the Staten Island Supreme Court has advised the Staten Island Office on notice that in the event that a line-by-line is necessary, it would commence as soon as the hearing is conducted on the morning of Thursday, February 19, 2009.

President Umane stated that if a change is required on the voting machine, the Staten Island Office may need extra staff to help re-set them. He added that the Staten Island Office has done a great job assisting other borough offices in the past. The General Counsel noted that the 100+ voting machines are scheduled to be delivered to the poll sites Thursday morning and the ballots are already printed. Mr. Richman stated public schools will be closed Friday so the voting machines have to be delivered either Thursday or Monday, and the Special Election is on Tuesday. President Umane suggested that it would be easier for the Voting Machine Technicians to set up the voting machines in the Staten Island Voting Machine Facility rather than at the poll sites. Mr. Richman added that the Chief Voting Machine Technician would have to reprogram the BMDs as

well.

Secretary Dent requested that the Chief Voting Machine Technician explain how the Staten Island Office should operate in this event. Mr. O'Grady recommended that the Board should go forward with the original plan to deliver the machines to the poll sites on Thursday. He noted there are 86 voting machines and 44 poll sites in use in the 49th City Council District. The Chief Voting Machine Technician explained there will be two sets of deliveries - the BMDs and lever machines are shipped separately. President Umane suggested the Staten Island Office and Staten Island Commissioners make the decision on how to proceed with the Special Election.

The Senior Systems Analyst of EVS presented the draft 2009 BMD Ballot Canvassing Procedures for the February 24, 2009 Special Election. Mr. Naudus explained that after the November 4, 2008 General Election he received input from Board staff of the smaller boroughs regarding the BMD ballot canvassing procedures. Mr. Naudus revised the procedures according to their requests. He stated the procedures are now easier to comprehend and there is an added appendix. Commissioner Schacher moved to adopt the draft 2009 BMD Ballot Canvassing Procedures

submitted. Commissioner Stupp seconded the motion, which was adopted unanimously.

Commissioner Sampel reported that during the Commissioners' meeting he called the Staten Island Office to discuss with them how they want to proceed if John Tabacco is successful in his court challenge. He stated that Staten Island planned to ship the voting machines Thursday morning because the public schools will be closed on Friday. However, if they have to change the candidate strips it would be easier to do so in the Voting Machine Facility and deliver the voting machines on Monday. Commissioner Sampel stated the staff noted that they will need additional trucks for shipping, but questioned if they will be available and at what cost. President Umane reported that while Commissioner Sampel was on the phone, the Chief Voting Machine Technician stated that the Staten Island could get additional trucks if needed, but it will cost more money.

Commissioner Umane made a motion to authorize the Staten Island Commissioners and Borough Staff to make the determination and take whatever actions necessary to comply with any Court Order, including requesting help from other borough staff if needed. Commissioner Sampel seconded the motion, which was adopted unanimously.

The Deputy Executive Director stated the ballot strips take at least one day to be printed. Mr. Gonzalez strongly recommended that the Staten Island Office should go forward with the original plan of deploying the voting machines on Thursday, February 19, 2009.

The General Counsel stated the Board should advise the Staten Island Supreme Court about this situation because the Board might have practical difficulties. He also said the Judge might decide to hold the Special Election for another week. Mr. Richman assumed that if the Judge requests a line-by-line of over 600 signatures, the Staten Island Office will have to work on them beginning on Thursday. Once the Staten Island Supreme Court receives the Referee's Report, the Judge can issue his decision on Friday which would then be impossible to order the ballots in time for the Special Election.

Commissioner Polanco inquired what line John Tabacco is on if he gets placed back on the ballot. The Coordinator of the Candidate Records Unit stated he will check with his unit.

After discussion, Commissioner Sampel stated the Staten Island Office should proceed with the original plan. The voting machines will be

delivered to the poll sites on Thursday as scheduled, and if there should be any changes to the ballot by Friday, the candidate strips will be added at the poll sites.

The Finance Officer provided the Commissioners with the Vacancy Report dated February 17, 2009.

President Umane suggested the General Counsel to prepare procedures for the March 4, 2009 public hearing for the next Commissioner Meeting on March 3, 2009.

Commissioner Silie gave a report on the Black, Puerto Rican and Asian Legislative Caucus she attended over the weekend in Albany, New York on behalf of the Board. Commissioner Silie reported that she networked with New York State Senators and spoke with Assembly Member Ruben Diaz, Jr., Chair of the Assembly Election Law Committee, who was receptive to the Board's budget needs.

Commissioner Sampel inquired if the Election Day car service contract will be in operation for the February 24, 2009 Special Election. The Executive Director stated the Agency Chief Contracting Officer spoke

with the vendor and confirmed that “Election Day” car service will be available on Election Day. The contract has not been registered by the Comptroller’s Office, but the vendors are willing to provide the service “at risk.”

Commissioner Dent reported that she also attended the Black, Puerto Rican and Asian Legislative Caucus in Albany, New York. Commissioner Dent stated she had the opportunity to speak with Senator Martin Dilan and others. She said they understand the Board’s plight and are willing to assist the Board. Commissioner Dent distributed the Board’s letter to Speaker Quinn regarding the Board’s budget to the elected officials she came in contact with as well.

Commissioner Soumas made a motion to authorize the granting of 210 sick leave from the sick leave bank for John Wolf, Project Coordinator in the Executive Office. The General Counsel reported that the grant of 210 hours from the sick bank request was approved by the Sick Leave Bank Review Committee comprised of the Director of Personnel and the Administrative Manager. Mr. Richman reported there are over 3,000 donated hours in the sick leave bank. President Umane seconded the motion, which was adopted unanimously.

President Umane directed the Commissioners attention to Page 7 of the Agenda. He reminded the Commissioners and public of the scheduled public demonstrations of the potential new voting systems in the five boroughs. President Umane announced the public hearing will be held on Wednesday, March 4, 2009 in the 6th Floor Commissioners' Hearing Room from 6:00PM – 8:30PM.

Commissioner Umane made a motion to adjourn the meeting. Secretary Dent seconded the motion, which was adopted unanimously.

The next Commissioners' meeting is scheduled for Tuesday, March 3, 2009 at 1:30 PM.