

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 21, 2009
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR EVS CONFERENCE ROOM
NEW YORK, NY 10004

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

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Sipp, Stupp

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
Rosanna Rahmouni, Coordinator, Election Day Operations
Rachel Knipel, Associate Staff Analyst, Election Day Operations
Steve Thompson, HAVA Training Specialist, Election Day Operations
Beth Fossella, Coordinator, Voter Registration
Lucille Grimaldi, Manager, EVS
Steve Ferguson, Director, MIS
Troy Johnson, Coordinator, Candidate Records Unit
Tom Sattie, Associate Staff Analyst, Candidate Records Unit
Katherine James, Deputy Chief Clerk, Queens Office
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Stewart Armstrong, Voter Assistance Commission
 Rima McCoy, CIDNY
 Teresa Hommel, Community Church of New York
 Marjorie Shea, Women's City Club
 Andrea Senteno, Citizen's Union
 John Haggerty

President Umane called the meeting to order at 1:38 P.M.

President Umane announced that the Coordinator of the Candidate Records Unit and the Finance Officer requested items be added on the agenda. Commissioner Schacher requested to add a personnel matter in public session.

Secretary Dent moved to adopt the draft minutes of June 16, 2009, June 23, 2009 and June 30, 2009. Commissioner Araujo seconded the motion, which was adopted unanimously. President Umane made a motion to table the draft minutes of the Finance Committee Meetings for June 9, 2009 and June 16, 2009, and the draft minutes of July 14, 2009 which was adopted unanimously. President Umane requested for the Secretary of Record to re-circulate the draft minutes via e-mail of the Finance Committee for June 9, 2009 and June 16, 2009. President Umane moved to adopt the draft minutes of the Finance Committee Meeting for July 14, 2009. Commissioner Polanco seconded the motion, which was adopted unanimously.

Commissioner Polanco recognized that the Board staff has been working very long hours and exceptionally hard during the petition filing

cycle.

Commissioner Polanco requested that a Labor Management meeting be scheduled between Local 1183, CWA and the Commissioners' Human Resource Committee and Executive Management within the next two weeks.

The Executive Director reported that the project on behalf of the City Clerk is complete. Mr. Cederqvist summarized that the City Clerk's Office needed assistance in verifying signatures on petitions filed with them for a November 2009 voter initiative. Mr. Cederqvist reported that the five (5) boroughs looked up approximately 51,000 signatures and hundreds of subscribing witness signatures to ensure that they were registered and qualified to sign the petition. Mr. Cederqvist acknowledged that the staff did an amazing job and did so quickly and efficiently. President Umane inquired if there were enough signatures to qualify. Mr. Cederqvist reported that the preliminary determination based on the staff's review was that there were not enough valid signatures to qualify for the voter initiative, but that the City Clerk's office must now review the work and make the ultimate determination.

The Executive Director reported that last week the Board was focused on the work for the 2009 petition filing cycle. He summarized the petition filing calendar for the September 15, 2009 Primary Election.

The Executive Director presented the HAVA update. He distributed draft questions that one of the project workstreams had prepared concerning the SBOE's Rule concerning the requirement for a Three Percent Audit of Ballots for the new voting system. The State Board requested for public comment on their website. After review, the workstream developed ten (10) questions that they felt merited clarification by the SBOE. Mr. Cederqvist requested approval from the Commissioners to submit the questions to the State Board. President Umame moved to authorize the Executive Director's request to submit the questions. The motion was adopted unanimously.

The General Counsel requested guidance from the full Board for several referrals from the Commissioners' Cover Sheet Review Committee. Commissioners Araujo and Polanco was the Cover Sheet Review Committee yesterday, where three (3) separate issues were raised. Mr. Richman presented the issues. The first involves a variation of a Popkin petition. Within the same volume, the petition contains sheets for the Male

Assembly District Leader in the 71st Assembly District, Parts A and D. They both do not appear on the same petition pages, but on the same Cover Sheet and there is no schedule attached. The Commissioners reviewed the petition. After discussion, President Umane made a motion to have staff send a letter to the candidate for District Leader whose name does not appear on the first page of the petition, stating that he needs to file a schedule of the pages on which his name appears in the petition volume. Secretary Dent seconded the motion, which was adopted unanimously.

President Umane stated that the Commissioners may want to amend the Designating Petition Rules for the next petition filing cycle to deal with this matter.

The General Counsel presented the second issue for review. When the Cover Sheet Review Team reviewed the cover sheets for Alan Gerson as Member of City Council, the team checked the first page of petitions. There were about a thirteen (13) volumes filed. There was a handwritten modification to the printed petition in one volume and an incorrect address in another. The question relates to the cover sheet not conforming since there are two (2) different addresses listed in that volume. President

Umane moved to ratify the Cover Sheet Review Committee's determination of yesterday and place both items on the Prima Facie Calender. Commissioner Silie seconded the motion, which was adopted unanimously.

The General Counsel presented the third issue for review. Two defects were identified: (1) none of the addresses included a zip code; is it a complete residence address? The second concern the Committee had was the placement of labels and when they were placed. In one instance, there was a label stuck on top of another label. Commissioner Polanco expressed some concerns because past Board practice a candidate would be taken off the ballot because of the first issue. He suggested the Board takes a position and remain consistent. The Commissioners reviewed the petition. Commissioner Schacher expressed concerns and stated that the candidate should comply with the requirements set forth and they should be held to a certain responsibility. Commissioner Araujo inquired if it changes the Board's position on how it handled a petition similar to this before. The General Counsel stated that if they did not have a complete second line for city, state and zip code the Board found the petition not to be valid. Commissioner Polanco recommended that the Board should create language that should be consistent. President Umame stated that the Board's rules are subject to interpretation and what constituents as an

address could be for example, NY, NY, or New York, New York, with no zip code. President Umane personally felt it was sufficient for compliance for purpose for County Committee. Commissioner Polanco moved to accept that the term “complete address” does not have to contain a zip code. No one seconded the motion. After discussion, Commissioner Polanco moved that New York, New York is sufficient to qualify as an address on the petition. President Umane opposed the motion. Commissioner Polanco withdrew his motion. President Umane advised the General Counsel to send a notice regarding these issues of a complete address, and the use of labels be considered on the Prima Facie Calendar.

Commissioner Araujo made a motion to clarify “complete address” in next year’s Designating Petition Rules which should include house number, street name, apartment #, postal name and zip code. President Umane seconded the motion, which was adopted unanimously.

The General Counsel requested the appointment of Petition and Cover Sheet Review Committees for Designating Petition matters for the week of July 21-27, 2009, pursuant to the provisions of the NYS Election Law, the Rules and Regulations of the NYS Board of Elections (9 NYCRR 6215) as well as the Board’s Designating Petition Rules (Parts D and Rule

J). The President and Secretary designated the members of the Petition and Cover Sheet Review Committee, for Tuesday, Wednesday and Thursday of this week and Monday next week.

The General Counsel requested guidance on the following State Legislation about to be sent to the Governor: Assembly Bill No. 8492 relates to the qualifications used by the board of elections for establishing the minimum number of voting machines required in each polling place. President Umane moved to oppose the bill suggesting that it would not benefit the City Board. He stated that the City Board should make the decision, not the State Board. Commissioner Polanco seconded the motion, which was adopted unanimously. President Umane directed Mr. Richman to prepare a memorandum to the Governor reflecting the Commissioners' determination.

The General Counsel reported on Assembly Bill No. 8527. The bill provides that all ballots printed for use on a voting system approved by the State Board of Elections may be printed and arranged in a manner which would permit them to be counted by such machine; ensures ballots can be configured in a manner that will allow scanners to sufficiently and adequately discern votes cast by voters and eliminates outdated ballot

layout provisions. This bill amends the Election Law to reflect the transition from a limited use of paper ballots to the full use of paper ballots with new scanning systems. Commissioner Polanco moved to oppose Assembly Bill No. 8527. President Umane seconded the motion, which was adopted unanimously. President Umane directed Mr. Richman to prepare a memorandum to the Governor reflecting the Commissioners' determination.

The General Counsel reported on Assembly Bill No. 3367. The bill provides that people who are primary care givers and who have responsibilities in which they cannot leave the person for whom they are caring shall be entitled to absentee ballots in general elections and school district elections. This bill would allow primary care givers of persons who are suffering from a physical disability or illness to vote by absentee ballot. The bill raised some concerns among the Commissioners. Commissioner Stupp stated that parents can say that they are primary care givers. The General Counsel stated that the voter would have to swear on the absentee ballot application that they are a primary care giver. President Umane stated that any parent could argue that they have to take care of their children on Election Day, and then any parent would be entitled to vote by absentee ballot. Secretary Dent stressed that the bill states that it only allows a primary care giver of persons who are suffering from a

physical disability or illness to vote by absentee ballot. Commissioner Schacher argued that a primary care giver is a regular job and it depends if their shift is 9 A.M. – 5 P.M. or 24-hours, and it should be included in the bill. In a vote of four (4) opposed (President Umane, Commissioners Schacher, Sipp and Stupp), four (4) in favor (Secretary Dent, Commissioners Araujo, Sampel, and Silie), and one (1) no position (Polanco), on the bill, the General Counsel was directed to advise the Governor's Office that the Board would take no position on this bill.

The General Counsel reported on Assembly Bill No. 584. The bill requires each polling place to be accessible to physically disabled voters and provides guidelines which shall be in accordance with the accessibility requirements mandated pursuant to the federal Americans with Disabilities Act of 1990, as amended. Mr. Richman explained at a minimum each poll site in the City would require two (2) handicap accessible reserved parking spaces. President Umane stated that there were at least sixty-four (64) poll sites that were not ADA compliant. He stated that the bill will be costly to implement and opposed not the thought of the bill, but the unfunded mandate. Commissioner Polanco moved to take a positive position on the bill.

President Umane moved that the full Board should inquire of the Chief and Deputy Chief Clerks and Election Day Operations Department to obtain their opinions on the input of this bill, and review it at next week's meeting.

President Umane opened the floor for brief comments from Rima McCoy, a member of the public.

President Umane stated that the Commissioners are committed to make all poll sites handicap accessible.

Commissioner Araujo seconded President Umane's motion with an amendment that the Chief Voting Machine Technician also review the bill and his report be included for next week's meeting as well. The motion as amended was adopted unanimously.

Commissioner Polanco raised some concerns regarding Assembly Bill No. 3367 as previously discussed. He inquired if the Borough Offices could provide any information regarding the bill.

The Deputy Chief Clerk of the Queens Office reported that there was

an issue regarding a primary care taker's absentee ballot in the contested 11th State Senate contest last year. The care taker's absentee ballot was denied during the canvassing process. One (1) lawyer at the canvassing table stated they will change the Election Law regarding that practice. The Deputy Executive Director added that the canvassing team saw a few absentee ballots where the voter was providing care to someone. Some of the Democratic and Republican Parties at the canvassing table agreed the voters were qualified for an absentee ballot. The ballot was put aside for a judge to decide if the ballot should be counted.

The Coordinator of Election Day Operations requested approval to post the in-house produced BMD instructional video on the Board's website and to distribute the BMD DVD to the Trainers and Trainer Assistants. Ms. Rahmouni presented the BMD video at the prior meeting and sent each Commissioner a BMD DVD for full review. The Administrative Manager added that the DVD was made in-house at the Board for low cost, and it is an additional tool to train the poll workers. Commissioner Araujo moved to approve Ms. Rahmouni's request to post the BMD video on the website and to distribute to the Trainers and Trainer Assistants. Commissioner Schacher seconded the motion, which was adopted unanimously. Ms. Rahmouni inquired if the Commissioners would like their

names, as well as Executive Management names, to be included in the closing credits of the video. The Commissioners did not feel it was necessary.

The Coordinator of the Candidate Records Unit distributed copies of the candidacy totals for the September 15, 2009 Primary Election. Mr. Johnson summarized the report for the Commissioners.

Mr. Johnson requested guidance from the Commissioners on how CRU should process the one (1) Citywide Specification that they received. Tom Sattie, Associate Staff Analyst in CRU, added that they received multiple General Objections against Citywide candidates. He inquired which boroughs should receive the objections. President Umame recommended that they should check how many General Objections are in each borough and assign it based on current staffing as they did in previous years.

The Finance Officer provided the Commissioners with the Vacancy Report dated July 21, 2009.

The Finance Officer reported that at the previous June 16, 2009

Commissioners' Meeting both he and the Chief Voting Machine Technician distributed a draft Memorandum of Understanding (MOU) with the Department of Education. The MOU will seek to formalize a partnership with the Department of Education to make permanent handicap accessible improvements to poll sites to be ADA compliant using a \$1.7 million HAVA grant. Some Commissioners requested a list of poll sites that were considered for the HAVA grant. Mr. O'Grady and his team compiled an updated list containing the poll sites that were selected. Mr. Ward distributed the updated list to the Commissioners. Mr. O'Grady stated that he spoke with the Chief and Deputy Chief Clerks about the proposed poll sites. Mr. Ward stated that the next step will be sending the draft MOU and poll site list to the Department of Education's Division of School Facilities, so they can begin pricing the construction jobs. President Umame moved to authorize the draft MOU to DOE. Commissioner Araujo seconded the motion, which was adopted unanimously.

The Finance Officer distributed his updated Analysis of Wages for New York City Board of Elections staff. At a prior meeting, Commissioner Polanco requested an updated comparison of salaries of the Board and Campaign Finance Board. Mr. Ward summarized his analysis for the Commissioners.

Commissioner Schacher made a motion to advance an additional 210 hours of sick leave for Angela Petit, Clerk in the Brooklyn Office. Secretary Dent seconded the motion, which was adopted unanimously.

John Haggerty, a member of the public, addressed the Board. He claimed that there are six (6) candidates filed for Republican Duty Positions who are employees for the Board, some of which are subject to General Objections. Other Board employees who are subordinates of some of those candidates were subscribing witnesses. Mr. Haggerty expressed his concern about the potential conflict of interest. The General Counsel explained that the Board had adopted Policies and Standards to govern Board employees and political activity. If they are candidates for Public Office and do not intend to spend more than \$3,000 then they get a waiver to stay on payroll, and are directed to not work with any petitions, poll sites, and ballots within their district. If they are seeking Party positions, the same rules apply and they cannot be involved in review of petitions, specifications, preparations of ballots, assignments of voting machines and poll workers within their district. President Umame asked the Queens Commissioners to remind their Chief and Deputy Chief Clerk and the Queens staff of the Board's policy. Mr. Richman stated that the rules can be found in the Board's Policy and Procedures manual. Commissioner

Araujo inquired how the Queens Office monitors the rules. The Deputy Chief Clerk of Queens stated that both she and the Chief Clerk adhere to the rules and procedures. Ms. James explained an overview of how both she and Ms. Conacchio monitor the Queens Office.

President Umane moved to convene an Executive Session to discuss personnel and litigation matters.

Following the Executive Session, the open public session resumed and President Umane reported that no action was taken in Executive Session.

President Umane adjourned the meeting.

The next Commissioners' meeting is scheduled for Tuesday, July 28, 2009 at 1:30 P.M.