

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, SEPTEMBER 22, 2009
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: President Frederic Umane
 Secretary Julie Dent

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

Marcus Cederqvist, 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
Troy Johnson, Coordinator, Candidate Records Unit
Tom Sattie, Associate Staff Analyst, Candidate Records Unit
Stephen Graves, Administrative Associate, Candidate Records Unit
John O'Grady, Chief, Voting Machine Technician
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
Christopher Manos, Temporary Attorney, Office of the General Counsel
Diana Scopelliti, Temporary Attorney, Office of the General Counsel
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Stewart Armstrong, Voter Assistance Commission
 Marjorie Shea, Women's City Club
 Teresa Hommel, Community Church of New York
 Rima McCoy, CIDNY
 Andrea Senteno, CUF
 Alan Flacks, New York County Democratic Committee
 Adrienne Kivelson, LWV
 Kate Dorain, LWV
 Jim Robbins, NYVV

President Umame called the meeting to order at 1:35 P.M.

President Umame moved to table the minutes of August 18, 2009, August 25, 2009 and September 1, 2009. Commissioner Araujo seconded the motion, which was adopted unanimously.

The Executive Director presented the HAVA report. He reported that the HAVA Compliance Updates for the previous two (2) weeks are in today's Agenda. Mr. Cederqvist stated he will present the HAVA Pilot Program report when he receives it.

The Executive Director reported that at the special meeting on September 16, 2009 the Commissioners authorized the Board to start producing ballots and ballot strips for the Runoff Primary Election for Comptroller and Public Advocate. The Board has since recanvassed the voting machines, and canvassed the Affidavit, Emergency and Military paper ballots. Mr. Cederqvist reported that for Public Advocate the top two (2) vote getters are Bill DeBlasio (32.56%) and Mark Green (31.48%), and for City Comptroller the top two (2) vote getters are John Liu (37.84%) and David Yassky (30.94%). It is clear from these results that the Board is required to conduct a Runoff Primary Election for both offices. He noted

that the results are not final and ready for certification yet as Absentee Ballots that are post marked before the Primary Election Day could still be delivered by the USPS and received by the BOE today. He noted that the number of outstanding Absentee Ballots were not enough to change whether a Runoff would be necessary or who the candidates would be. The Executive Director requested authorization from the Commissioners to conduct the Runoff Primary Election. President Umane moved to conduct the Runoff Primary Election. Secretary Dent seconded the motion, which was adopted unanimously.

The Executive Director inquired if the Commissioners had a scheduling preference for certifying the Primary Election results. Secretary Dent made a motion to schedule a special meeting on September 24, 2009 at 3:00 P.M. to determine the certification for the September 15, 2009 Primary Election. Commissioner Silie seconded the motion, which was adopted unanimously. President Umane moved to amend Secretary Dent's motion that in the event assuming all Commissioners cannot be present, a subcommittee consisting of two (2) Democratic and two (2) Republican Senior Commissioners can vote on the certification. The motion was unanimously adopted.

The Executive Director reported on an email from the Department of Education (DOE) regarding funding for keeping public schools open on a Saturday to deliver voting machines and noted that the e-mail is in today's agenda for review. Mr. Cederqvist explained that public schools would be closed for the Yom Kippur holiday and the delivery schedule was compressed due to the short time between the Primary Election and the Runoff Primary Election. The DOE requested that the Board reimburse it for costs associated with opening the schools for these deliveries. Mr. Cederqvist stated that the Runoff Primary Election is entirely not funded in the City's budget and suggested that the Board communicate that to the Office of the Mayor to seek additional funding. Secretary Dent inquired if there were any other ways to approach this matter. President Umane stated that normally the Board would be able to deliver the voting machines on Monday, but it is Yom Kippur and public schools are closed. He added that in the event of Special Elections, public schools are required to be opened to accommodate the Board of Elections. Other City controlled buildings cannot charge for additional rent. Every City agency is under tight budgeting as well as the Board. Commissioner Schacher inquired what the public school poll site lease statement entails. The General Counsel replied that the statute provides that a public school building must be made available for use as a poll site and a local voter registration site.

The statute requires that any cost incidental to that use is a charge against the City of New York. Both the Board and DOE have the same structural deficit. Mr. Richman suggested that Executive Management should include the DOE's request with the Board's request when they submit it to the Office of the Mayor. President Umane and Commissioner Schacher strongly opposed to provide funds for the DOE as the Board is already underfunded and operating under a deficit. President Umane respectfully stated that the DOE public schools have to remain open with no incurred cost by the Board, and they have to try and seek a budget modification like the Board has done in the past. There are no funds at the Board to reimburse the DOE. President Umane moved for Executive Management to respond to the Department of Education in writing and explain to them that there are no Board funds to cover the DOE. Also, the Board will expect the DOE to do their civic duty and comply what the statute requires and hope that both the DOE and Board will get reimbursed by the City. Commissioner Araujo seconded the motion, which was adopted unanimously.

The General Counsel presented an update in litigation. The documents are in today's agenda. Mr. Richman thanked the New York City Law Department for all of their great assistance to the Board.

The General Counsel reported on the selection of name and emblem for an independent body seeking to elect Jimmy McMillan for Mayor. The Board sent notice to Jimmy McMillan advising that the name selected for his independent body "THE RENT IS TOO DAMN HIGH" and the emblem did not comply with the requirements of Section 7-104(2) of the Election Law. Mr. Richman stated that the name exceeded the number of characters allowed on the ballot and the choice of emblem was not an emblem, it was the full name selected for the independent body. It afforded him the opportunity to select a name and emblem pursuant to Sections 6-138(3)(b) and 7-104(2) that conformed to the statutory requirements. By a certificate filed on August 24, 2009, Mr. McMillan filed a certificate seeking to use the same name and emblem. Therefore, said designation still does not conform to Section 7-104(2) in that the name exceeds fifteen (15) letters, and it is not an emblem for the independent body. Mr. Richman stated that pursuant to Sections 6-138(3)(f) and 7-104(2) of the Election Law, the selection of a name and emblem falls to the Board of Elections in the City of New York. President Umane moved to follow precedent of the State Board and changed the name to "RENT IS TOO HIGH." Commissioner Sampel seconded the motion, which was adopted unanimously. Commissioner Silie moved for the emblem to be the word "RENT" with a circle around it. Commissioner Araujo seconded the motion,

which was adopted unanimously.

The General Counsel reported on the Designating and Independent Nominating Petitions of Walter Iwachiw, Candidate for Mayor. Some Commissioners have requested that the petitions filed during this election cycle by Mr. Iwachiw deserve further review by the Board and consideration of a referral of his submissions to the appropriate investigatory authority. The candidate was removed from the November 3, 2009 ballot at a hearing scheduled on September 8, 2009 for an insufficient number of signatures on its face. He was also removed from the Republican Party ballot for insufficient signatures based on Specifications of Objections that were filed. Mr. Iwachiw filed the exact same petition twice, once as his Designating Petition and then again as his Independent Nominating Petition. Mr. Richman requested guidance and inquired if this matter should be referred to the District Attorney for New York County. President Umane moved to not refer this matter to the District Attorney. Commissioner Silie seconded the motion, which was adopted unanimously. In Commissioner Sipp's absence from the motion, President Umane mentioned for the record that Commissioner Sipp indicated that this matter should be sent to the District Attorney.

The General Counsel reported on the Independent Nominating Petitions of Osaretin Ighile, Candidate for Member of the City Council. He stated that during the course of the hearing before Justice David Schmidt in Kings County Supreme County last Thursday, (in a proceeding where the candidate seeks to be restored to the ballot, notwithstanding his omission of the Council District Number from each sheet of the petition), he reviewed the petition itself. He explained that the Commissioners removed the candidate from the November 3, 2009 ballot at a hearing held on September 8, 2009 for failing to include the Council District number on each sheet of his petition. When Mr. Richman reviewed the petition, he observed the following issues which had not been presented to the full Board or a Committee thereof to date. The following matters are:

(1) The volumes of the petition are not securely bound. They are held together by black metal paper clips.

(2) The Independent Nominating Petition submitted contains labels containing the candidate's name and address and public office as well as the committee to fill vacancies which have been placed on Designating Petition sheets or Opportunity to Ballot petition sheets. The dates printed next to the signatures often overlap for the period of both Designating Petitions and OTB Petitions.

The Commissioners reviewed the petitions.

Mr. Richman recommended directing staff to issue a Notice of Non-Compliance with respect to the petition volumes not being securely fastened. This would give the candidate three business days to attempt to cure the defect. Also, issue a Notice of a Preliminary Finding of a Prima Facie Defect, the use of labels on a claimed Independent Nominating Petition consisting in large part of petition pages that were printed as Designating or OTB petitions, and setting a hearing.

President Umane moved to schedule a hearing for Osaretin Ighile on Tuesday, October 6, 2009 at 1:30 P.M. Commissioner Schacher seconded the motion, which was adopted unanimously.

The General Counsel inquired if a Notice of Non-Compliance with respect to the petition volumes not being securely fastened should be issued to Osaretin Ighile. President Umane stated that the notice is not necessary.

Secretary Dent thanked Mr. Richman and all of the Counsels for the Board for doing such a wonderful job. She also thanked senior staff and

the staff in general for all of their hard work. President Umane added that is a “thank you” from all of the Commissioners.

The General Counsel reported that today President Umane received a letter addressed to him and Governor David Paterson, from Norma Ramirez, Candidate for the Democratic Party Female District Leader in the 64th Assembly District, Part B. Ms. Ramirez requests that the Board conduct a re-run Primary Election on September 29, 2009. She claims that inspection of E.D. books, under the supervision of Board employee Tim Gay, revealed a significant number of voting books uncertified and the voting records creates question. After discussion, it was found her request is not clear. President Umane moved that the Board should file the letter; there is no clear basis from the letter. Ms. Ramirez has the rights to go to court. Commissioner Polanco seconded the motion, which was adopted unanimously.

The Coordinator of the Candidate Records Unit reported on the provisional Certification for Delegate and Alternate Delegate to Judicial District Conventions and Members of the County Committee. Mr. Johnson distributed copies of party positions to the Commissioners. President Umane provisionally authorized and certified the Delegate and Alternate

Delegate to Judicial District Conventions and Members of the County Committee. He also authorized the use of the Commissioners' signature stamps and it is subject to further revision based upon the final numbers as determined by the clerks. Commissioner Schacher seconded the motion, which was adopted unanimously.

President Umane opened the floor for brief comments from Teresa Hommel, a member of the public.

President Umane opened the floor for brief comments from T.K. Small, a member of the public.

The Finance Officer reported on the Comparative Expenditures dated September 22, 2009 and the Vacancy Report dated September 15, 2009.

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

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

Session.

President Umame moved to adjourn the meeting. Commissioner Schacher seconded the motion, which was adopted unanimously.

The next stated regular meeting of the Commissioners is scheduled for Tuesday, October 6, 2009 at 1:30 P.M.