

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, OCTOBER 27, 2009  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR COMMISSIONERS' ROOM  
NEW YORK, NY 10004

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PRESENT:                   President Frederic Umane  
                                  Secretary Julie Dent

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Sipp, Soumas,  
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  
Tom Sattie, Associate Staff Analyst, Candidate Records Unit  
Beth Fossella, Coordinator, Voter Registration  
Valerie Vazquez-Rivera, Director, Communications and Public Affairs  
Christopher Manos, Temporary Attorney, Office of the General Counsel  
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, Member of NY County Democratic Committee  
          Mary Lou Urban, LWVNYC  
          Joseph Garber, Poll Worker  
          Jerry Koening  
          Jose Adames

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President Umane called the meeting to order at 1:39 P.M.

Commissioner Sampel stated that approximately a year and a half ago, Commissioner Soumas requested that Board staff from the Executive Office should not attend the Commissioners' meetings unless they have official business before the Commissioners. Commissioner Sampel requested President Umane and Executive Management reissue that instruction. The Executive Director stated that they reissued that order at the previous Managers' Meeting. Commissioner Polanco inquired if the staff is permitted to attend the Commissioners' Meeting on their own time. The Executive Director stated yes, but only if the staff member is clocked out. Commissioner Polanco stated that he agreed with the instruction last year, but his feelings have changed. He does not want to deprive the staff of the right to attend the meetings, but he also agrees they should not "hang out." Commissioner Sampel stated that the staff can read the Commissioners' Minutes on the Board's website. The Executive Director stated that if a staff member has a compelling reason to attend the Commissioners' Meeting, then they can discuss it with the manager of their department. President Umane stated that the current policy is reasonable. It states that the Board staff should perform their regular duties, but if there is an official matter to be brought to the Commissioners' attention they can

attend the meeting. However, if there is a particular reason or issue to be determined, a staff member can speak with their manager to get permission to attend the Commissioners' Meeting. Secretary Dent was in agreement after stating the meetings to her knowledge are usually conducted in this matter, for example, staff attending the meeting when they are addressing Commissioners with a report or presentation.

President Umane convened a meeting of the Board of Canvassers for the purposes of making a correction to the Return of Canvass involving certain races. President Umane called upon the General Counsel to specify the correction.

The General Counsel reported that the correction involves the September 15, 2009 Democratic Primary for City Council in the 16<sup>th</sup> City Council District in Bronx County reflecting a missing write-in vote. The Board was served an Order to Show Cause returnable yesterday in Federal Court by Brother T. Williams-Bey and Mark Escoffery-Bey alleging the Board failed to give them the opportunity to write-in votes. In preparing to defend the Board, pursuant to the direction of the Executive Committee, it was found that Mr. Williams-Bey was not eligible to vote in that Primary because he resides in the 15<sup>th</sup> City Council District. Accordingly, Judge

Kote dismissed the proceeding yesterday. Mr. Escoffery-Bey who was a candidate on the ballot, but removed by court order, stated that he wrote in his name. The Bronx Borough Office was directed to recheck the write-in canvass rolls in the 20<sup>th</sup> Election District of the 77<sup>th</sup> Assembly District. The Bronx staff determined that they recorded Mr. Escoffery-Bey's name as a candidate for Mayor, Public Advocate and City Comptroller, but failed to include the City Council write-in which was at the bottom of the paper roll. Mr. Escoffery-Bey stated that as long as the Board records his write-in vote he was willing to discontinue the proceeding. Mr. Richman advised the Federal Court that the Board would correct the inadvertent error. The Bronx Deputy Chiefs submitted an amended certification for the September 15, 2009 Democratic Primary in the 16<sup>th</sup> City Council District to show one write-in vote for Mr. Escoffery-Bey. President Umane moved to adopt the amended Statement and Return of Canvass. Commissioner Schacher seconded the motion, which was adopted unanimously.

President Umane moved to authorize the use the appropriate Commissioners' signature stamps on the amended Statement and Return of Canvass and directed Mr. Richman to advise the Corporation Counsel to make the appropriate representation that the Board complied with the agreement. Secretary Dent seconded the motion, which was adopted

unanimously.

President Umane adjourned the Board of Canvassers meeting and reconvened the regular meeting.

Commissioner Schacher requested an Executive Session to discuss personnel matters.

President Umane added a personnel matter for the public meeting.

President Umane moved to table the minutes of September 22, 2009, October 6, 2009, and October 6, 2009 – Finance Committee. Commissioner Araujo seconded the motion, which was adopted unanimously.

The Executive Director reported that the candidate inspection of voting machines occurs today. Mr. Cederqvist noted that there is a situation in the Brooklyn and Queens Voting Machine Facilities where the machines are being tested in some Assembly Districts, so the window for candidate inspection has been extended. Executive Management has instructed the Borough Chiefs and Chief Voting Machine Technician to

extend the hours for candidate inspection and to not preload the voting machines until all candidates who wanted to view the machines had the opportunity to do so. Mr. Cederqvist stated that there were some challenges due to the Runoff Primary Election's tough time constraints and the BMDs' set-up which is a huge task for the Voting Machine Technicians.

The Executive Director reported on the New York State Assembly Committees on Election Law, Education, Libraries and Education Technology Hearing that was held on October 22, 2009. The copy of the testimony is in the agenda. He noted that the hearing went well and was lengthy compared to others. The State Board spoke for approximately two (2) hours and Commissioner Virginia Martin from Colombia County spoke for about an hour and half. The City Board discussed the fiscal impact of implementing a new voting system and is not prepared for the costs of the additional resources that will be needed. Mr. Cederqvist stated that he wanted to stay after he testified, but it was late in the day and he was extremely busy preparing for the November 3, 2009 General Election. Commissioner Sipp inquired why Commissioner Virginia Martin from Colombia County testified for so long. Mr. Cederqvist stated that she was a new Commissioner and made some provocative statements regarding the optical scanning machines and lever machines which raised great

discussion. The General Counsel added that the City Board had a great deal of support from the NYS Assembly Committee members. He stated that Assembly Member Michael Benjamin worked for the Board in the past, and he said that he will try hardest to obtain resources for the Board. Mr. Cederqvist stated that Chair Millman was very supportive as well. He added that Commissioner Polanco did an excellent job advocating for the Board staff specifically discussing pay equity.

The Executive Director reported on voter registration forms that were received late at the Board which were submitted by an anonymous group. He stated that he was angry because he told all groups that collect voter registration forms to submit them as soon as they receive it. In the past, some groups have held onto people's forms to show a big stack for press opportunities. Mr. Cederqvist presented an unidentified envelope which was received at the Board on October 22, 2009 and postmarked October 21, 2009. It contained 234 Chinese voter registration forms. He stated the forms are late and the voters who filled out the forms are not eligible to vote in this year's General Election, and unfortunately, most of the voter registration forms are dated in August and July 2009. There is no return address on the envelope and he cannot contact the person or group who mailed it to the Board. Nonetheless, there are 234 voters who filled out a

voter registration form and under Election Law they are not allowed to vote on Election Day. He stated that it is extremely important for groups who perform a voter registration effort to be aware of the responsibility to submit them to the Board as soon as possible in order to be processed and entered in the system. He stated that it is not fair to the people who filled out the forms.

President Umane stated that as a result of the accurate testimony the Board gave at the Assembly Hearing, there was publicity regarding the Board's ability to pay poll workers who work on November 3<sup>rd</sup>. The Board has read of assurances from various people in the City in the media, that every poll worker will be paid for working Election Day. He wanted to clarify that poll workers will get paid even though the Board's budget does not currently provide for it.

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

The Executive Director reported that to this date the Board received 167, 380 voter registration forms since January 1, 2009.

President Umane opened the floor for brief comments from Marjorie Shea, a member of the public.

The Executive Director reported on the exact number of voter registration forms that were received late. The information follows per borough:

- Queens - 47
- Bronx - 1
- Manhattan - 65
- Brooklyn - 121

The collection of forms was not concentrated in one area of New York City. Mr. Cederqvist made photocopies of the voter registration forms for file. Commissioner Araujo suggested that the Board send a letter to these voters before Election Day to let them know what happened. Secretary Dent stated that it was a great idea. Mr. Cederqvist replied a letter could be sent. Commissioner Polanco inquired if the Board has sent letters in the past. Mr. Richman replied no. Commissioner Polanco recommended that the Board should not send the letters because he was concerned there might be other voters in the same situation and the Board cannot single out one group. The Coordinator of Voter Registration added that some voters might be registered already, but submitted a new voter registration form for

an address change or party change.

President Umane opened the floor for brief comments from Jose Adames, a member of the public.

The Deputy Executive Director requested approval from the Commissioners for all offices of the Board to close on Friday, November 27, 2009 in lieu of the Election Day holiday. Commissioner Schacher moved to close all offices of the Board on November 27, 2009. Commissioner Sampel seconded the motion, which was adopted unanimously.

The Finance Officer reported on the Vacancy Report dated October 27, 2009.

President Umane opened the floor for brief comments from Alan Flacks, a member of the public.

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

Following the Executive Session, the open public session resumed and President Umame reported on the actions which were taken in Executive Session:

- I. Unanimously approved an advance of 210 hours of sick leave for Michele Heitzner, Project Coordinator in the Executive Office;
- II. Unanimously approved an advance of 210 hours of sick leave for Benjamin Acevedo, Administrative Assistant in the Manhattan Voting Machine Facility;
- III. Unanimously approved an advance of 210 hours of sick leave for Richard Kanar, Voting Machine Technician in the Brooklyn Voting Machine Facility.

President Umame adjourned the meeting.

The next stated meeting of the Commissioners is scheduled for Tuesday, November 10, 2009 at 1:30 P.M.