

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, FEBRUARY 16, 2010
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: Secretary Juan Carlos "J.C." Polanco

Commissioners Araujo, Barrera, Schacher, Soumas, Stupp, Umane

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

Steven B. Denkberg, Counsel to the Commissioners

GUEST: Keith McGinnis, NAZTEC

Todd Mullen, NAZTEC

Sal Pazhoor, NAZTEC

Marjorie Shea, WCC

Andrea Senteno, CUF

Carol Green

Rima McCoy, CIDNY

Teresa Hommel, WheresThePaper

Alan Flacks, Member of NY County Democratic Committee

Secretary Polanco called the meeting to order at 1:32 P.M.

Secretary Polanco moved to table the minutes of February 2, 2010.

Commissioner Stupp seconded the motion, which was adopted

unanimously. Commissioner Schacher moved to approve the minutes of January 5, 2010 and January 19, 2010. Commissioner Araujo seconded the motion with Commissioner Umame abstaining. The motion was adopted.

The Deputy Executive Director presented the HAVA update. He reported that the Executive Committee of the Board signed two (2) purchase requisitions last Friday, and the staff is currently working on the other supporting documentation that is needed to be submitted to OGS by close of business today.

Mr. Gonzalez presented an update on the privacy booths. He distributed packets concerning the NAZTEC privacy booths to the Commissioners. The packet includes emails and information which can assist the Commissioners' determination of the privacy booth they would like to select. He circulated the packet via email last week to the Commissioners. Commissioner Umame summarized the privacy booth issue. The General Counsel stated that the packet contains an email from OGS which states that they received a verbal communication that the New York State Office of the State Comptroller approved the request by Dominion to add several items to their contract. Once OGS receives the

documentation showing this approval, the contract listed on their website will be updated to show the new items. Mr. Richman added that there is an updated ES&S and NAZTEC Privacy Booth Pricing Comparison chart in the packet. Commissioner Barrera asked for clarification on the price list because the amount for a NAZTEC booth was originally \$160 each when they voted and now the price has increased. Mr. Richman stated that the value has increased because they are on Dominion's contract. Secretary Polanco inquired what the voters will receive in return for the extra money that is added to the original price. Mr. Richman stated that NAZTEC and Dominion had to agree upon a price in order for them to get on the Dominion contract. Commissioner Barrera stated that she wished the sales quote was expressed before they voted on the booth. She stated that the Commissioners voted on the booth because it was the best one, but also with the knowledge that it would be cheaper. Commissioner Soumas suggested for the Commissioners to vacate their original vote and start over again. Commissioner Schacher stated that the Commissioners voted on a different agreement and would like to vacate their original vote. Commissioner Umame stated that he would like a lesser price because the price for NAZTEC is almost the same price for the ES&S booth now. He added that the Board still has the ability to negotiate the price and maybe have the add-ons "thrown in." Commissioner Schacher was concerned

about the breach of agreement. Secretary Polanco requested for the NAZTEC representatives present to address their concerns.

Secretary Polanco opened the floor for brief comments from Keith McGinnis, Todd Mullen and Sal Pazhoor of NAZTEC. Mr. McGinnis stated that the Board gave NAZTEC a list of items which needed to be added to the privacy booths. Secretary Polanco stated that when the Commissioners voted on the NAZTEC privacy booth they took into consideration the presentation, design, durability, and price of the booths. Mr. Pazhoor stated that NAZTEC was asked by the Board to be added on the Dominion contract. Commissioner Soumas stated that the Board was originally given a price of \$160 and inquired the name of the person at NAZTEC who gave that price. Mr. McGinnis replied that estimates were given at the presentations through the workstream process. He added that Mr. O'Grady gave the presentation in the absence of Ms. Rahmouni. Commissioner Soumas called upon Mr. O'Grady to explain who gave the original price. Mr. O'Grady stated that the price estimate was given at the privacy booth presentation; he did not have a name. Commissioner Stupp requested clarification, if the Commissioners vacate their original vote will they consider the ES&S privacy booth or the original three (3) privacy booths they voted among on January 12, 2010? Mr. Richman replied in

order to be accommodating to September's Primary Election the Commissioners would have to choose from the existing contracts; several of the privacy booths are on either the ES&S or Dominion contracts. If the Board does an independent procurement it can take up to 9-12 months. Commissioner Soumas stated that the Commissioners can choose any privacy booth. Mr. Richman stated that the Commissioners preferred a single privacy booth for the ease of use for the poll workers and voters. Secretary Polanco inquired what the Commissioners' exact vote was. Mr. Richman replied that the NAZTEC booth was the preferred choice of the Commissioners and they were given an estimate provided by the workstream report. Commissioner Barrera stated that she agrees with Commissioner Soumas that the Commissioners were not fully informed, and if they vacate the original vote and vote again they will be informed. She also agreed with Commissioner Umane that the NAZTEC booth is the best one and the Commissioners will end up in the same place. It upsets her that NAZTEC did not give an actual price, and it appears now that the price is out of their control because they are on the Dominion OGS contract. Commissioner Schacher added that all the Commissioners were interested in the price of the booths at the demonstrations. Commissioner Umane requested for the NAZTEC speakers and Mr. O'Grady to explain all items and upgrades that are included in the privacy booth price. Mr.

McGinnis replied that it includes two (2) expandable tethers to allow the pens to be secured in the booth, clear plastic sleeves on two (2) sides, serial bar code tags on two (2) sides, American flag image, five (5) year warranty, swivel lockable casters on all wheels, plastic bumpers to prevent scratching and damage, and an anti-slip writing surface to prevent slipping of paper ballot. Commissioner Polanco stated that he does not feel comfortable because the Board was given different prices. Commissioner Umame stated that they have the maximum price, but they still have the ability to negotiate. Mr. McGinnis added that the NAZTEC booth is \$30 cheaper than the ES&S booth. Commissioner Umame requested clarification for the price of the add-ons. The Deputy Executive Director directed the Commissioners to the ES&S and NAZTEC Privacy Booth Pricing Comparison chart in the packet he distributed at the meeting.

Commissioner Polanco moved to start the privacy booth selection process all over again with a new privacy booth report presented to the Board by the workstream which includes the new price differences - no estimates. Commissioner Araujo seconded the motion, which was adopted unanimously.

Mr. Gonzalez added an item to the agenda concerning the severe weather conditions last Wednesday. He stated that the Executive Committee authorized the Executive Director to close all offices of the Board at 2:30 P.M. Mr. Gonzalez asked the full Board to ratify the Executive Committee's direction. Commissioner Schacher moved to approve the Executive Committee's direction. Commissioner Barrera seconded the motion, which was adopted unanimously.

Mr. Gonzalez stated that some of the Board staff who made it in to work during the snow storm on Wednesday arrived late because of public transportation delays. He requested to excuse one (1) hour of lateness. Secretary Polanco moved to forgive one (1) hour lateness due to the weather conditions last Wednesday. Commissioner Schacher seconded the motion, which was adopted unanimously.

The General Counsel reported that last week he distributed the proposed draft City Board Recommended Revisions in the New York State Election for the Commissioners review and consideration. Mr. Richman requested for the approval of the first eleven (11) proposals with a cover letter outlining that the Board is identifying additional changes to accommodate the new voting systems. The proposals will be distributed to

Albany next week. Commissioner Umane stated that the language is not clear regarding the bipartisan electronic signoff proposal. Mr. Richman stated that he can remove that proposal for further review, but submit the others.

Secretary Polanco recognized Alan Flacks, a member of the public who requested a copy of the draft proposals that were distributed to the Commissioners. Mr. Richman stated that it is internal communication and once it is approved by the Commissioners it will be made available to the public.

Commissioner Umane stated that there are some typographical errors in the draft which need to be corrected. Commissioner Stupp moved to accept the draft of the first part of the recommended revisions in the 2010 New York State Election Law, subject to typographical corrections. Commissioner Schacher seconded the motion, which was adopted unanimously.

Mr. Richman reported on the hearings for the March 16, 2010 Special Election to fill the vacancy in the New York State Senate in the 13th State Senate District, Queens County. He recommended that in the event that

hearings on challenges to said certificates and petitions are required to be held, set Friday, March 5, 2010 at 2:00 P.M. for said hearings. In the event specifications are filed on Wednesday night, March 3, then the hearings on those will have to be continued early in the day on Monday, March 8, 2010. Commissioner Araujo moved to approve Mr. Richman's recommendation for the said hearings. Commissioner Stupp seconded the motion, which was adopted unanimously.

The Director of Personnel presented a draft agency bereavement form to the Commissioners. She noted that the form was emailed to the Commissioners last week and a copy of it is in the agenda. Ms. Delayo distributed a copy of the Board's Policies and Procedures Manual page that states the requirements for bereavement leave. She stated that it has been brought to her attention that grandparents and grandchildren are not in the requirements. Ms. Delayo requested approval from the Commissioners to add grandparents and grandchildren on the form. Commissioner Umame suggested aunts and uncles to be included too. Ms. Delayo stated that the draft form was reviewed by the Chief Clerks, Deputy Chief Clerks, and the Administrative Manager for their suggestions. Commissioner Polanco moved to approve the draft agency bereavement form to add grandparents and grandchildren, and to amend the Board's Policies and Procedures

Manual accordingly. Commissioner Schacher seconded the motion, which was adopted unanimously.

The Finance Officer presented the Vacancy Report dated February 16, 2010.

Secretary Polanco opened the floor for brief comments from Alan Flacks, a member of the public.

Secretary Polanco moved to convene an Executive Session to discuss personnel matters. Commissioner Umame seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and Secretary Polanco reported that in Executive Session, the Commissioners took the following personnel actions:

- I. Unanimously approved the promotion of Jesse Fleming, a Clerk in the Manhattan Borough Office, to the title of Administrative Assistant with the annual salary of \$42,659, to fill the vacancy of Valerie Marshall, Administrative Assistant.
- II. Unanimously authorized the reimbursement of any legal fees

incurred by Commissioner Polanco in connection with his official duties and responsibilities.

Secretary Polanco adjourned the meeting.

The next stated meeting of the Commissioners is scheduled for Tuesday, February 23, 2010 at 1:30 P.M.