

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

PRESENT: President Julie Dent
Secretary Juan Carlos "J.C." Polanco

Commissioners Araujo, Barrera, Schacher, Sipp, Soumas, Stupp

George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
Dorothy Delayo, Director, Personnel
John Ward, Finance Officer
Daniel Lavelle, Supervisor, Phone Bank
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
John O'Grady, Chief, Voting Machine Technician
Rosanna Rahmouni, Coordinator, Election Day Operations
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Dan McGinnis, NAZTEC
Sal Pazhoor, NAZTEC
Keith McGinnis, NAZTEC
Ish Peopee
Alexander M. Dillon, DOI
Marjorie Shea, WCC
Jim Robbins, NYVV
Stewart Armstrong, VAC
Frank Salerno
Jerry Koenig
Rima McCoy, CIDNY
Teresa Hommel, WheresThePaper
Margaret Ognibene
Mark B. Herman
Alan Flacks, Member of NY County Democratic Committee

President Dent called the meeting to order at 1:41 P.M.

President Dent announced that she received a resume from George Gonzalez, Deputy Executive Director, submitted for the vacancy position of Executive Director. She inquired if the Board received other resumes. Mr. Gonzalez reported that no resumes were received. President Dent announced that if any good government group can recommend anyone who is qualified and is interested in said position to submit their resume to the Executive Office, 42 Broadway, 7th Floor, NY, NY 10004.

President Dent thanked Mr. Gonzalez, Ms. Perkins, Mr. Richman, Mr. Ward, and Secretary Polanco for attending the New York City Council Preliminary Budget Hearing for 2011 yesterday. She stated that Mr. Gonzalez did a wonderful job expressing the fiscal needs for the Board.

President Dent wished a Happy St. Patrick's Day to all.

Commissioner Araujo moved to table the minutes of February 23, 2010 and March 3, 2010. Commissioner Barrera seconded the motion,

which was adopted unanimously.

The Deputy Executive Director asked to discuss a personnel item in Executive Session.

Mr. Gonzalez presented the HAVA update. He reported that he attended the New York City Council Preliminary Budget Hearing for 2011 yesterday, along with Ms. Perkins, Mr. Richman, Mr. Ward, and Secretary Polanco. Mr. Gonzalez read the Board's Testimony into the record and there were many questions with regard to the new voting machine implementation concerning poll worker training, ongoing needs, funding issues, and the public education campaign. The Chairs were very concerned and stated that they will work closely with the Board to implement the new voting system. Mr. Gonzalez reported that the media attended the hearing and there is a copy of newspaper article from the Daily News concerning the Board in the agenda. Mr. Richman requested to mail the testimony to all Members of the City Council. Secretary Polanco requested to send the Testimony attached with one (1) separate, summary page with highlights.

Mr. Gonzalez reported on the BMD upgrades. As of today, ES&S has upgraded the operating and firmware on 1,229 BMDs. The Board staff has downloaded 1,176 BMDs with the operating and firmware files, and recorded and verified results on 818 BMDs. Mr. Gonzalez reported that the Board received the first shipment of fifty (50) BMDs, as well as ballot bins and carry cases on March 9, 2010.

Mr. Gonzalez reported on the cardboard privacy booths. At the previous meeting, this item was tabled to allow the workstream to evaluate the booths. The Chief Voting Machine Technician distributed the Cardboard Privacy Booth Report to the Commissioners. The report was also emailed. Mr. O'Grady summarized the cardboard privacy booth poll space requirements, quantities and cost. The total amount of privacy booths needed is 16,213, as well as 4,054 tables and 16,213 chairs. The total price of cardboard booths is \$62,235. Per election, the cost for renting tables is \$36,729 and the cost of renting chairs is \$18,483. The cost of accessories is not included in the total price (i.e. lights, pens, tethers, plastic sleeves, ID tag). President Dent stated that some poll sites are limited to space and because of the amount of voters it is easy to knock down the cardboard privacy booths. In addition, voters can see over the cardboard privacy booths. She recalled when the Commissioners initially

voted in favor of the NAZTEC privacy booth. It was preferred because it was sturdy and it did not put additional responsibilities on poll workers and coordinators, like setting up folding tables and folding chairs. The NAZTEC privacy booth is stackable and easy to set up on Election Day. President Dent stated that during today's Special Election in Queens County, Commissioner Araujo reported that a principal pushed over the Board's designated poll site into a small corner of the public school, and the staff has to take it into consideration that situations might happen like this again in the future. President Dent stated that she reviewed the Commissioners' Minutes of January 12, 2010 and recalled that Mr. O'Grady reported that the NAZTEC booths were \$160 each. Then it was indicated that NAZTEC could not get the booth approved in time, so they "piggy backed" onto Dominion's contract so the price increased. President Dent voted in favor last week because the Board cannot put too much responsibility on the poll workers and coordinators on Election Day. There are too many changes taken place at one time, and to give them the responsibility of setting up tables, chairs, and cardboard privacy booths is not fair. President Dent asked the Commissioners to reconsider their vote on the cardboard privacy booths at their previous meeting. Commissioner Barrera stated that the cardboard privacy booth does not provide sufficient privacy for the voters which is a huge issue. The voters should be able to vote without being

concerned that another voter is looking over their shoulder. Commissioner Barrera reiterated that the NAZTEC privacy booth is the ideal booth for the public. Secretary Polanco stated that at the previous Executive Session, the Commissioners authorized Ms. Perkins to reach out and try to expedite the contract process, and request the exception because of time restraints in hopes of keeping the NAZTEC privacy booth price at \$160 each. He asked for an update. Ms. Perkins stated that in order for it to be expedited there has to be an emergency request and a justification. Secretary Polanco stated that this matter constitutes for an emergency because there are five (5) months left. Ms. Perkins stated that she misunderstood the request and will look into the matter. President Dent inquired if the add-on requirements were included in the original price of \$160 for the NAZTEZ privacy booth. Mr. O'Grady stated that the \$160 per booth was without the lighting system, and \$230 per booth includes all add-ons. Mr. O'Grady stated that the booths were presented without lighting at the presentation on November 20, 2009. Commissioner Sipp inquired why the Commissioners were presented with a privacy booth that did not meet the requirements. Commissioner Barrera stated that there was confusion about the price, but the booth was presented as \$160 each without the New York City requirements and before getting on the Dominion contract. Mr. Richman stated that it was a preference of the privacy booth.

Commissioner Sipp stated that he voted on the NAZTEC booth because it cost \$160 each and thought it met the requirements, but it was not clear that the price might increase. Secretary Polanco expressed that he feels very uncomfortable about the price increase. Mr. Richman clarified that when the Commissioners voted in January in favor for the NAZTEC privacy booth, it was for the preference, not a choice, so the Board can negotiate with the vendors to see if they can get added on the OGS contract. The New York City procurement would require a sealed bid proposal which can take up to ten (10) months. The only option to purchase the privacy booth is to be added to a pre-existing OGS contract. ES&S declined to add NAZTEC, so when added to the Dominion contract they priced the booths at a not to exceed price which can be negotiated. Commissioner Sipp stated that the NAZTEC representatives did not describe the increase in the price at the previous meeting. Commissioner Barrera recalled an email from NAZTEC that the Commissioners received earlier stating that they discounted the booth from \$230 to \$220; NAZTEC waived the shipping cost. She inquired if NAZTEC has the authority to reduce their current price of \$220 per booth even further.

President Dent opened the floor for Sal Pazhoor, Dan McGinnis and Keith McGinnis, representatives of NAZTEC.

Mr. Pazhoor stated that in the Minutes of January 12, 2010 the Commissioners voted in favor of the NAZTEC privacy booth at a cost of \$160 each and the warranty was not included. On February 4, 2010 it was requested by the Board for NAZTEC to add thirteen (13) additional items. Mr. Pazhoor presented the privacy booth with, and without, the thirteen (13) add-on requirements to the Commissioners for review.

Mr. O'Grady requested to present some items regarding the NAZTEC privacy booth. He distributed the Privacy Booth Selection Workstream Minutes and sign-in sheet of November 20, 2009 to the Commissioners. Secretary Polanco inquired about the warranty and add-on requirements. Mr. O'Grady reported that at the NAZTEC vendor demonstration it was stated that there would be a five (5) year warranty. The lights and accessories were not included in the presentation. Secretary Polanco reviewed the add-ons with Mr. Pazhoor which includes rechargeable batteries, lights, serial numbers, pouches, tethers, and an upgraded anti-slip. Also, there would be a five (5) year warranty and the delivery charge would be waived. Mr. O'Grady reported that on January 13, 2010 he received an email from ES&S stating that their privacy booth is \$203 per unit, which includes the add-on requirements. He distributed the email to the Commissioners. Mr. O'Grady presented the ES&S privacy booth to the

Commissioners for review. Commissioner Araujo asked Mr. Pazhoor if he has the authority to deduct \$10 from the current price, or can Dominion do so. Mr. Pazhoor replied that he understands that Dominion can reduce the current price by \$10. Mr. Richman asked if NAZTEC can get that in writing. Mr. Pazhoor replied yes.

President Dent opened the floor for Gene Seets, a representative of ES&S.

Mr. Seets stated that ES&S were approached to place the NAZTEC booth on their OGS price list, but they declined because there were some patent infringements. After review, it would be dangerous for ES&S to put them on their price list. ES&S has a privacy booth that is outfitted with the requirements for \$206 – it can be brought to the Board this afternoon. It comes with the five (5) year warranty. Commissioner Barrera asked Mr. O’Grady why the ES&S privacy booth was not presented to the Commissioners as one of the top three. Mr. O’Grady replied that the booths were rated by the workstream and did not make the top three. Commissioner Sipp inquired if the price was considered in the privacy booth evaluations. Mr. O’Grady replied no. Commissioner Stupp inquired how many locks are on the ES&S wheels. Mr. Seets stated that there are

two (2) locks and would be upgraded with bigger casters and larger locks for the same price. Commissioner Stupp inquired if there is a ballot lip. Mr. Seets stated that there is no lip, but there is an anti-slip, powder coated top so the ballot stays in place. Mr. Seets added that the ES&S booth would fit the largest ballot which is 19” in size. President Dent inquired about the warranty. Mr. Seets stated that it is a five (5) year warranty. President Dent stated that ES&S indicated that they do not have the privacy booth with the requirements today, so she inquired with the Commissioners if they have time to table this item for one (1) week, and allow ES&S to bring in their booth to compare with the NAZTEC booth. Commissioner Soumas requested for a public demonstration of the privacy booths to be held from 11:30am – 1:30pm before the next Commissioners’ Meeting. Commissioner Araujo requested for a notice to be posted on the Board’s website. President Dent agreed that those are great ideas. Commissioner Soumas moved for the Privacy Booth Selection Workstream to invite all privacy booth vendors, who submitted their bid, to the public demonstration. Commissioner Araujo seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported on Project Readiness. He distributed the Summary of March Readiness Assessment Report to the Commissioners.

Mr. Gonzalez reported that six (6) workstreams are behind schedule and Executive Management held a meeting with the workstream leads to review their progress. Mr. Gonzalez presented a detailed review of the Summary of March Readiness Assessment Report for the Commissioners.

President Dent recognized Jerry Koening, a member of the public.

Mr. Gonzalez reported on the workstreams that have a significant risk of falling behind schedule and/or impact on the ability to conduct the election. They are as follows: Delivery, Receipt and Tracking for OGS Contract, Poll Worker Procedures, Poll Worker Training, Poll Site and Training Site Readiness, Transportation for Election, and Privacy Booths.

Mr. Gonzalez reported on the supply carts. He distributed the Transportation Workstream Space Calculations and Researched Carts Report to the Commissioners. He recalled that at the previous Commissioners' Meeting, the Commissioners tabled the supply cart matter for one (1) week. The six (6) supply carts that were presented and examined by the Commissioners were: Vistamation, Ergo, ES&S, Election Source, Myton Industries, Inc., and Global Industrial. Mr. O'Grady noted that only the ES&S supply cart is currently on the OGS contract.

Commissioner Araujo inquired if there will be one (1) supply cart for each Election District, even if it is a combined district. Mr. O'Grady replied yes. Commissioner Stupp inquired about the comparison of the ES&S CA Storage Cart (\$490 each) and ES&S Pivot Storage Cart (\$475 each). Mr. O'Grady stated that the CA Storage Cart metal is stronger and more durable, it is larger in size, and has recessed push handles. President Dent stated that she tested the cart and it was very sturdy. She inquired if ES&S can lower the price of their carts.

President Dent opened the floor for Gene Seets, a representative from ES&S.

Mr. Seets stated that when ES&S manufactured the supply cart for the Board it included all the specifications. The goal was to make the carts under \$600 each, but the Board's workstream stated that they should be under \$500 each. ES&S spent three (3) weeks with multiple manufacturers and feels that it is an outstanding supply cart for the price. Commissioner Soumas inquired why the supply cart is outstanding. Mr. Seets replied that the locking mechanisms are heavy duty and easy to operate for the poll workers, the doors swing all the way open so a poll worker can reach inside, and the shelf is adjustable. Commissioner Soumas inquired if those

features are viable to the Board. Mr. O'Grady stated that the features are viable because the cart should last for years and it is very strong. It has bumpers on the corners, heavy duty wheels and casters, recessed push handles and recessed loops for seal. Commissioner Araujo inquired if anything else has to be added to the cart. Mr. O'Grady replied no, just the labels, serial numbers, plates, and pouch. Commissioner Schacher expressed that she was very concerned about the price. The Commissioners requested for a price reduction for the next Commissioners' Meeting.

President Dent recognized Jerry Koening, a member of the public.

Mr. Gonzalez distributed the draft 2010 Poll Worker Training Program Strategy Report to the Commissioners. He stated that he emailed the report as well. Mr. Gonzalez reported that at next week's meeting, the workstream leads will present the report to the Commissioners and public. President Dent asked for the Commissioners to please review the report.

Mr. Gonzalez reported that the State Board's Annual Election Officials Conference is April 26 through April 28, 2010 in Albany, NY. He will distribute a list to the Commissioners containing the staff members who

are interested in attending the conference at next week's meeting. Mr. Gonzalez requested authorization from the Commissioners to allow the staff members to attend the conference. President Dent moved to authorize permission for the staff members to attend the State Board's Annual Election Officials Conference. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez requested guidance from the Commissioners concerning a litigation matter. The issue regards litigation and the involvement of Executive Committee and Executive Management. He stated that yesterday a matter came up regarding the 44th Council District and he was not aware of it until the General Counsel issued an email to the Commissioners and Executive Management. He asked about the role of Executive Management and litigation, and anything involving a conference call with the Executive Committee and the General Counsel. Commissioner Soumas stated that the Corporation Counsel should take care of litigation because Mr. Richman has a lot of Board work. Secretary Polanco stated that he was on the conference call yesterday with Mr. Richman and the NYC Law Department, and he inquired more detail about this issue. Mr. Richman stated that the past practice has been that he provides information to the New York City Law Department concerning

the Board's records. President Dent stated she was on the conference call and affirmed that is the past practice, and there is no problem involving Executive Management in future conference calls. She added that it is important for Mr. Richman to be involved as well. Commissioner Soumas argued that all Commissioners should have been notified about the litigation. President Dent asked if all Commissioners should be included on future conference calls. Secretary Polanco thanked Mr. Richman for his great guidance on yesterday's conference call and found him very helpful to both the Executive Committee and Corporation Counsel. He expressed that the discussion on this issue feels like an attack session on Mr. Richman. Mr. Richman stated that he provided the documentation to the Corporation Counsel of when they were filed, and the timeline, so that the Corporation Counsel was able to prepare a letter brief. President Dent inquired if Mr. Richman reported to the Commissioners after the conference call was held. Mr. Richman replied yes; the matter was emailed to the Commissioners and Executive Management immediately after the conference call, and the litigation matter was noted in a previous Commissioners' Agenda. Mr. Gonzalez asked for direction because he is the acting Executive Director and would like to be "kept in the loop" at all times. President Dent indicated that no one wants to exclude Executive Management, but there were times when the Executive Committee did

make conference calls without Executive Management. She stated that from this day forward, when there is any concern, Executive Management will be involved. Commissioner Stupp stated that the Board has been without an Executive Director for four (4) weeks now, there are only two (2) resumes, and the Commissioners should move forward so he/she can resolve these issues more quickly and clearly.

Mr. Richman reported on the New York State Legislative Information and Education Day in Albany. Pursuant to the Commissioners' direction, he contacted the Legislature about meeting during the State Board's Annual Conference. The Legislature is concerned about accommodating the Board because the Senate Election Committee has a meeting conflict. Mr. Richman requested for the Commissioners to reconsider the schedule. The Commissioners discussed their schedules. Mr. Richman stated that he will inquire if May 4, 2010 is an available date for the Senate Election Committee to accommodate the Board and will report at the next meeting.

Ms. Vazquez-Rivera reported on creative concepts for the new voting system advertisements. Copies of the creative concepts are in the agenda. She requested approval from the Commissioners to proceed with the advertisements and taglines. Commissioner Schacher requested for the

new voting system to be the focus in the ad. Secretary Polanco thanked Ms. Vazquez-Rivera for her hard work. Secretary Polanco moved to accept the creative concepts and taglines. Commissioner Stupp seconded the motion, which was adopted unanimously.

Ms. Perkins requested clarification concerning the Commissioners' previous motion to invite all privacy booth vendors to the public demonstration before next week's meeting. She asked if the workstream should contact every vendor or just the single privacy booth vendors. Ms. Perkins noted that there are approximately fifty (50) vendors, in which two (2) that manufacture the single privacy booth. Commissioner Soumas stated that the general public should see all privacy booths. Commissioner Barrera stated that the Commissioners initially chose the single privacy booth because the other booths would be too much work for the poll workers. It was agreed that they will invite the single privacy booth vendors only. Commissioner Stupp stated that the vendors should bring their full model and a best and final price at the public demonstration.

Secretary Polanco stated that he has a Bronx personnel matter for public session.

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

Secretary Polanco requested an advance of 210 hours of sick leave for Frank Tosi, Administrative Associate in the Bronx Borough Office, effective for March 3 – March 13, 2010. Commissioner Barrera seconded the motion, which was adopted unanimously.

President Dent reminded the Commissioners to review the draft 2010 Poll Worker Training Program Strategy Report which was distributed at today's meeting. The draft report will be discussed at the next Commissioners' Meeting.

Secretary Polanco recalled that at the previous Commissioners' Meeting he requested a meeting with the Human Resources Committee to discuss the search for the Executive Director. He expressed that it is important at this time to review the resumes and have the good government groups and public assist the Board in recruiting a candidate. Secretary Polanco stated that he would like schedule a meeting and develop guidelines. Commissioner Barrera stated that she will look at her schedule. Secretary Polanco requested for creating a separate Executive

Search Committee to set-up guidelines. Mr. Richman added that it would have to be a bi-partisan committee. Commissioner Sipp requested for this matter to be tabled until the next Commissioners' Meeting. President Dent reminded that the Commissioners need six (6) votes in whichever direction they take.

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

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

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

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