

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, APRIL 6, 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, Ryan, Schacher, Sipp, Soumas, Stupp,
Umane

George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Dorothy Delayo, Director, Personnel
John Ward, Finance Officer
Lucille Grimaldi, Manager, Electronic Voting Systems
Daniel Lavelle, Supervisor, Phone Bank
Diane Rudiano, Chief Clerk, Brooklyn Borough Office
Maryrose Sattie, Deputy Chief Clerk, Brooklyn Borough Office
Thomas Sattie, Associate Staff Analyst, Candidate
Nicholas Zimmitti, Associate Staff Analyst & President of CWA Local 1183
Steven B. Denkberg, Counsel to the Commissioners
Charles S. Webb, III, Counsel to the Commissioners

GUEST: Laurent Lawrence, Burson Marsteller
Jerome Koenig
Diana Medina, Latino Justice
Rima McCoy, CIDNY
Stewart Armstrong, VAC
Andrea Senteno, CUF
Alexander M. Dillon, DOI
Teresa Hommel, WheresThePaper.org
Adrienne Kivelson, League of Women Voters
Marjorie Shea, WCC
Jim Robbins, NYVV
Jose Adames
Chyann Sapp, VAC

Mark B. Herman
Alan Flacks, Member of NY County Democratic Committee
Dan Gorapoh, NYC Law Department

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

President Dent reported that Nicholas Zimmitti requested to discuss personnel matters with the Commissioners in Executive Session.

President Dent inquired if Mr. Gonzalez received any resumes as it relates to the position of the Executive Director. Mr. Gonzalez stated that no resumes have been submitted.

President Dent convened the meeting of the Board of Canvassers for the City of New York relating to the Certification of the March 23, 2010 Special Election for Member of City Council, 44th Council District in Kings County.

President Dent called upon Diane Rudiano, Chief Clerk, and Maryrose Sattie, Deputy Chief Clerk for Kings County, to present the Statement and Return of Canvass for the March 23, 2010 Special Election

for certification.

Ms. Sattie requested that the Board of Canvassers certify the Statement and Return of Canvass for the 44th Council District contest in Kings County. There were no reported discrepancies. Commissioner Schacher moved to certify the Statement and Return of Canvass for the March 23, 2010 Special Election for Member of City Council in the 44th Council District in Kings County. President Dent seconded the motion which was adopted unanimously.

President Dent designated Commissioner Ryan to sign the certification on her behalf because she is the President and Democratic Commissioner of Brooklyn.

President Dent and Commissioner Schacher thanked the Brooklyn Office for doing a fantastic job as always and encouraged them to keep up the good work.

Commissioner Araujo moved to table the minutes of March 16, 2010 and March 16, 2010 Finance Committee. The motion was adopted unanimously. Commissioner Araujo submitted an edit to the Secretary of

Record.

Mr. Gonzalez recalled that last week he informed the Commissioners that he received a letter from Latino Justice-PRLDEF who seeks a letter of support from the Board for them assisting to recruit poll workers for the 2010 election cycle. They are applying for a grant issued from the Election Assistance Commission. At the previous meeting, the Commissioners requested a representative from Latino Justice-PRLDEF to give a presentation.

President Dent welcomed and opened the floor for Diana Medina, President of Latino Justice-PRLDEF.

Ms. Medina stated that Latino Justice is a civil rights organization that has been working on behalf of the Latino community for approximately 40 years. A key piece of their work is leadership development and community engagement. They created a youth civic engagement network approximately 18 months ago and it includes Latino college students from all over the nation. The students in New York City have participated in voter information canvassing and helped register newly naturalized citizens to vote. PRLDEF intends to recruit approximately 200-300 poll workers in

the next few months to work in the 2010 election cycle and continue to work with them until 2012. Ms. Medina stated that PRLDEF has requested from the U.S. Election Assistance Commission a grant under the college poll worker program to recruit, train and work with the students on an ongoing fashion. Ms. Medina asked the Board to endorse the request. Commissioner Umame inquired if PRLDEF endorses any candidates for election. Ms. Medina replied that PRLDEF is nonpartisan and does not endorse any candidates. Commissioner Schacher inquired what PRLDEF does in particular in New York State. Ms. Medina replied that they do impact litigation to protect Latinos from hate crimes and who cannot afford counsel, protect housing rights, and education programs. Commissioner Schacher inquired how PRLDEF is funded. Ms. Medina replied that they are funded primarily through foundation grants. Commissioner Stupp inquired if their poll workers would be trained by the Board. Ms. Medina replied that she understands that their poll workers would have to be trained by the Board, and in addition, PRLDEF would supply other training. Commissioner Stupp inquired if their poll workers would receive both Board funds and PRLDEF funds. Ms. Medina replied that PRLDEF would provide stipends to train with PRLDEF and for transportation to the poll sites on Election Day. Secretary Polanco inquired how much is the grant and who would do the training. Ms. Medina replied the grant is \$65,000 and the

training would be done primarily by PRLDEF attorneys. Secretary Polanco inquired what kind of training. Ms. Medina replied that their training will reinforce the Board's training and New York City voter education and trying to engage the students to understand the resonance in the Latino community and the critical nature of what their providing to their community as poll workers and retain them for future elections. President Dent suggested that it will be very helpful for Ms. Medina, or someone from their Executive Staff, to attend the Board's training as well because there are a lot of changes taking place with the Board and they have to know what is happening in order to provide training to the students that are involved in their organization. Ms. Medina replied that PRLDEF's Project Manager will be responsible for the group and will attend training with the attorneys. PRLDEF intends to work directly with the Board of Elections. Secretary Polanco stated that he votes in favor with PRLDEF's request providing they follow President Dent's request. Commissioner Soumas inquired who does the training. Ms. Medina stated that it is a group of three (3) people – two (2) attorneys and one (1) Project Manager. Commissioner Soumas requested for Ms. Medina to email the Commissioners their resumes. Commissioner Soumas inquired which colleges PRLDEF recruits from. Ms. Medina replied that in New York they recruit from community, state and private colleges. Some examples are St. John's University, Columbia

University and City College. Commissioner Soumas inquired if PRLDEF would confirm if the students are registered voters. Ms. Medina replied yes. Commissioner Umane was concerned that the Board pays a poll worker only \$200 per day and PRLDEF is offering a \$225 stipend per day per poll worker. He feels that is a significant amount of money comparison wise to get someone to work for \$200. Ms. Medina stated that the money that they are requesting is also for training, trainers, and students going to the colleges with printed materials for recruitment activity to educate students. Commissioner Araujo inquired if their poll workers would be paid by both the Board and PRLDEF. Ms. Medina clarified that PRLDEF would not pay their poll workers for Election Day, but for the transportation to Election Day, training and work at college campuses. Commissioner Barrera stated that the Board previously discussed that we may be short-handed and should not frown upon this request. She felt that as long as there is proper screening then this is great because college students who are accustomed to using computers will be able to assist the Board. Commissioner Soumas stated that he was concerned that the students are legally registered in New York. Ms. Perkins stated that Executive Management and Rosanna Rahmouni, Coordinator of Election Day Operations, met with PRLDEF last week and they explained to them the requirements of becoming a poll worker. Secretary Polanco moved to

support the Latino Justice-PRLDEF request providing they follow President Dent's request. The motion was amended to include that Ms. Medina email the Commissioners the resumes of the PRLDEF poll worker trainers. Commissioner Barrera seconded the motion with Commissioner Sipp opposing, and Commissioners Stupp and Umane abstaining. The motion was adopted.

President Dent thanked Ms. Medina for her presentation and doing a wonderful job. She reiterated for Ms. Medina to forward the resumes to the Commissioners.

Mr. Gonzalez requested to table the update on the Voting Machine Facility (VMF) renovations item for next week's meeting. He reported that Nicholas Squicciarini, Facilities Manager, will give a VMF renovation presentation. Commissioner Araujo requested to add an update concerning the leaking roof at the Queens VMF.

Mr. Gonzalez reported on the operating and firmware upgrades on the Ballot Marking Devices (BMDs). He reported that 1,786 BMDs have been upgraded except for 12 BMDs that need repairs. Once they are repaired then their operating and firmware will be upgraded. The Board

staff has verified the codes on 1,689 BMDs and 1,522 BMDs have been verified and recorded.

Mr. Gonzalez reported on the EMS Settings and Voting Messages. A copy of a memorandum concerning these settings and messages on the new Ballot Marking Devices (BMDs) is in the agenda. Mr. Gonzalez noted that he emailed the Commissioners' Agenda packet to the Commissioners yesterday.

Mr. Gonzalez reported on the Undervote. He stated that the State Board has not decided that if a voter undervotes one, or several contests, no query will be made to voters. He noted that there are copies of screen shots in the agenda of the messages to the voters. Secretary Polanco inquired if it is the Legislature's issue to decide on the undervote. Commissioner Sipp corrected Mr. Gonzalez that the memorandum states that the State Board has decided that if a voter undervotes one, or several contests, no query will be made to voters. Mr. Gonzalez stood corrected.

Mr. Gonzalez reported on the Blank Ballot. He stated that the State Board has not yet offered an opinion on this issue. The Steering Committee recommends to alert the voter that no votes were read as cast

so that voters who incorrectly marked their ballots do not inadvertently lose their votes. Mr. Gonzalez requested approval from the Commissioners. He noted the Blank Ballot (Query Voter Option) screen shot in the agenda. Secretary Polanco inquired if this is a State issue or City issue, or if the Board is recommending it. Mr. Gonzalez stated that he understands that this is a State issue and the City Board is recommending these methods to appear on the screen when a voter decides to cast a blank ballot. Secretary Polanco inquired why the Board's Steering Committee would recommend this. Commissioner Soumas inquired who is on the committee. Mr. Gonzalez replied the Executive Director, Deputy Executive Director, Administrative Manager, General Counsel, Campaign Finance Enforcement Counsel, Director of MIS, Coordinator of Election Day Operations, Project Manager of Electronic Voting Systems, and Director of Communications and Public Affairs. The Steering Committee was created in 2005 when the Board started the implementation and the Commissioners approved it at the time. Secretary Polanco inquired if the Steering Committee is evenly bi-partisan. Commissioner Umane noted that the Steering Committee consists of Democrats and Republicans, but on the chart the four (4) person group, with one (1) vacancy, above the Steering Committee only consists of Democrats. Commissioner Umane recommended that a message should not appear because it is the voter's

right to cast a blank ballot. Secretary Polanco agreed with Commissioner Umane. Commissioner Umane stated that this issue relates to the lever machine latch many years ago when the Board was sued. A voter can express their view and sign in at the poll site and vote for nobody, and the voters do not need to be prompted because once they are everyone knows what their vote is or wasn't. President Dent noted that in 2005 John Ravitz was the Executive Director, and Republican, and he was in the Steering Committee. Also, Marcus Cederqvist, then Executive Director and Republican, was a part of the committee as well.

Commissioner Ryan inquired if the message applies also to circumstances if someone may insert the ballot the wrong way (ex: upside down) into the machine, or to just a properly inserted ballot with no markings. Mr. Gonzalez understands that the message will only appear when it is a properly inserted blank ballot. Commissioner Ryan inquired if there will be a different message if someone inserts the ballot the wrong way. Mr. Gonzalez stated that he thinks that the machine will automatically reject the ballot. Commissioner Ryan inquired if this is not covering an honest mistake, but an intentional non-vote. Commissioner Soumas stated that it can be an honest mistake. Commissioner Umane suggested that the City Board should not recommend this issue to the State Board.

President Dent recognized Jerome Koenig, a member of the public. He inquired if only the voter will see the message that indicates it is a blank ballot. Mr. Gonzalez replied yes.

Ms. Perkins stated that there are instances when a voter may not color the oval in dark enough and the scanner cannot read the mark. The scanner would tell the voter that it is a blank ballot, and then the voter can take it out and mark the ballot heavier so the scanner can read it. Ms. Perkins feels that it is important to notify the voter that the ballot is blank. There are times when people just want credit for voting or for a protest vote, but this is a new voting system and people will make mistakes.

President Dent recommended that it should be presented to the State Board because it is important to the voter. President Dent moved to send a letter to the State Board indicating the Blank Ballot (Query Voter Option) to inform the voter on the screen that it is a blank ballot. Commissioner Araujo seconded the motion, with Secretary Polanco, Commissioners Umane, Schacher, Sipp, Soumas, and Stupp opposing. The motion was not adopted.

Commissioner Barrera commented that voters who have never used computers before and are now voting on the new system can make an error and then they are stuck with their errors. Commissioner Umane stated that the vote was for a voter who wants to cast a blank ballot. Commissioner Araujo disagreed and stated that if the scanner does not pick up the choice then the scanner will not inform the voter. He explained the example that Ms. Perkins stated earlier; if a voter fills in the oval lightly then it will be cast as a blank ballot. Commissioner Barrera stated that the Board was trying to update a difficult voting system to a new easier voting system and now it will make it difficult. She felt that the reality is that the bulk of voters will not submit blank ballots. Commissioner Umane stated that the voter has to make a choice on their own. Commissioner Ryan stated that the Board is creating a system that ends the disfranchisement of voters. People who grew up on Scantron exams or SRA tests know how to fill the ovals in correctly, but there is a generation that does not know how to fill the ovals in. If an elderly person does not fill in the oval dark enough then the system will scan it in as a no vote. Commissioner Umane stated that there are 16 pixels in the oval and if someone draws a check in it then the scanner will read it. The government should not question a vote. Commissioner Ryan stated that it is possible that the oval might be colored too lightly and appear as a blank ballot. Secretary Polanco stated that will not

happen because when the Board asked questions with the people selling the new voting systems they wanted to make sure that any marking on the circle will be picked up by the scanner. He stated that a voter has a right to sign in and protest a vote and no one has to remind them of the blank ballot. He feels that it would be violating to the voter. Commissioner Barrera stated that if a voter wants to do that, then it will make them feel even better pressing, "Yes, I want to cast a blank ballot." President Dent agreed with Commissioner Barrera. Commissioner Umane stated that they voted on the issue and should move on.

Mr. Gonzalez reported on the Overvote. He stated that if a voter casts an overvote for any particular office the screen would alert the voter that if they try to cast the ballot with the overvotes then the office that they overvote for will not be counted. A copy of the Overvoted Ballot screenshot is in the agenda. The message would give the voter an opportunity to get a new ballot to correct the overvotes for the office they inadvertently voted for. Commissioner Umane stated that the message reads, "Please take your ballot and see the election official for a new ballot." It does not ask the question and it takes the decision making away from the individual. President Dent stated that it is ridiculous not to inform the voter of anything.

Secretary Polanco requested for a Party caucus.

The Commissioners went into Party caucus. After the caucus, the regular stated meeting resumed.

Secretary Polanco urged the Commissioners to support reminding the voter if they overvoted in a contest. Secretary Polanco moved to adopt the recommendation to inform the State Board that the City Board believes to remind the voter if they overvoted in a contest. Commissioner Araujo seconded the motion.

Before the motion was voted on, Commissioner Umame stated that the overvote screenshot does not ask a question to a voter, but it automatically rejects the ballot. It is not accurate to say that it gives a voter the choice based on the screenshot because it is an automatic reject of the ballot. He requested clarification. Mr. Gonzalez referred the Commissioners to the memorandum in the agenda. It states that the Steering Committee is recommending the following message: "The following contests on the ballot are over voted" and the overvoted contest are listed. The voter will be given the choice of casting the ballot as is, or taking the ballot back and going to a pollworker for a new ballot, marking it

correctly for their choices, and re-inserting it. Commissioner Umane stated that the screenshot in the agenda does not reflect that message. Commissioner Stupp commented that if you give a voter the choice of casting the ballot as an overvote then it is a nullified vote. Commissioner Umane stated that it is nullified for the office that has an overvote. Mr. Denkberg noted that there are two (2) overvote screenshots in the agenda: Overvoted Ballot (Auto Reject) and Overvoted Ballot (Query Voter Option.) It was discovered that some Commissioners' Agendas were missing Page 7; it was a blank page. Commissioner Soumas recommended tabling this issue for one (1) week for review. He stated that the Commissioners had no time to consider the issue and the Commissioners need all the facts. President Dent reminded that there was a motion on the floor. Secretary Polanco withdrew his motion. The Commissioners agreed to table the issue for one (1) week. Commissioner Umane requested for the material to be complete. Commissioner Soumas requested a list of staff in the Steering Committee.

Mr. Gonzalez requested to table the type of affidavit ballots item for one (1) week. He explained that during the preparation of the new Ballot Marking Devices a question arose on which type of affidavit ballot will be used for the implementation. Presently, the affidavit ballot is prepared and

counted by the current teamwork system. The proposed affidavit ballot for the new BMD is the same ballot that the voters will be casting on Election Day. There were some concerns switching affidavit ballots because in a Presidential election year, the Board can receive up to 250,000 affidavit ballots citywide. The Borough Chief and Deputy Chief Clerks were concerned about switching ballots because there is a system in place to assist the staff in counting. If the ballots are switched then there will be no system in place to count them except manually. Mr. Gonzalez stated that a copy of the affidavit ballot memorandum is in the agenda. Commissioner Umane requested for a summary of the extra costs for the ballots, if any. President Dent added that it is a great suggestion.

Mr. Gonzalez reported on the response to the Office of Management and Budget letter dated March 23, 2010. The Board has not responded to the letter to this date. Mr. Gonzalez asked for direction from the Commissioners. Commissioner Soumas requested to table this item after Executive Session.

President Dent recognized Teresa Hommel, a member of the public.

President Dent recognized Jose Adames, a member of the public. President Dent kindly and respectfully reminded Mr. Adames that the Board cannot help him if it is the same issue he addresses at previous meetings. Mr. Adames has been given many opportunities to speak before the full Board.

Mr. Ward presented the Comparative Expenditures report dated April 6, 2010.

Commissioner Umame moved to convene Executive Session to discuss personnel matters. President Dent seconded the motion, which was adopted unanimously.

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

- I. A letter will be going out to the Office of Management and Budget as it relates to the 109 people that the Mayor had instructed to lay-off. The Commissioners will share more of this information with the Board as things develop.
- II. President Dent created a subcommittee of Commissioners that

will help and work closely with the Poll Worker Procedures Workstream. President Dent appointed Commissioners Umane, Schacher, Ryan and Araujo.

Commissioner Araujo moved to adjourn the meeting. Commissioner Ryan seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, April 13, 2010 at 1:30 P.M.