

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON FRIDAY, APRIL 23, 2010
AT 2:00 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, Soumas

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
Tom Sattie, Associate Staff Analyst, Candidate Records Unit
Nicholas Zimmitti, Associate Staff Analyst, Election Day Operations
Valerie Vazquez-Rivera, Director, Communications & Public Affairs
Daniel Lavelle, Supervisor, Phone Bank
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Jerome Koenig

President Dent called the meeting to order at 2:20 P.M.

President Dent reported that she added the minutes of March 23, 2010 to the agenda. She noted that the minutes were already approved, but she made a few edits. President Dent will announce the corrections at the end of the meeting.

President Dent reported that Ms. Vazquez-Rivera has an added item to the agenda.

Mr. Gonzalez reported on the draft response to the Office of Management and Budget letter. He stated that as directed by the full Board on Tuesday he prepared a draft letter. A copy of the letter is in the agenda. Mr. Gonzalez requested review, comments and approval of the letter from the Commissioners. Commissioner Barrera stated that she has some changes for the letter. President Dent moved to table this matter after Mr. Richman reports on his item.

Mr. Richman presented the draft Designating Petition and Opportunity to Ballot Petition Rules for the September 2010 Primary Election. He noted that this matter was tabled from the previous meeting. The revised draft rules were circulated via email and attached are comments from Commissioners Araujo and Umane. Secretary Polanco requested a summary. Mr. Richman summarized the significant changes. The changes are as follows:

1. Clarifying information such as uniformly referring to the Board of Elections as "Board" throughout the Rules, and cross referencing where applicable the Rules to the

appropriate statutory provisions;

2. Clearly stating in the Rules, the recent decision of the Appellate Division, 2nd Department in the “Judge” case. The Board has to be open at least from 9am – 5pm, but there is nothing prohibiting the Board from opening earlier and any documents filed, for example at 8:30am, are legally filed;
3. Explicitly defining “complete residence address” on the cover sheet and requiring the cover sheet information to match that contained on the petition sheets themselves. Last year there was considerable discussion on a petition and the Cover Sheet Review staff asked for guidance. Mr. Richman recited the revised rule: “The name and complete residence address (which shall include the house number, street name, apartment or suite number, name of the postal delivery zone and at least a five digit zip code) of each candidate.” After discussion, Commissioner Soumas moved to leave the existing Rule C2-b as is. President Dent seconded the motion, which was adopted unanimously. Commissioner Soumas moved to adopt Rule C2-i. Secretary Polanco seconded

the motion, which was adopted unanimously.

4. Requiring the posting of notices to better inform the citizens we serve; Rule C6 – The Board shall post conspicuously at the front counter at the place of petition filing during the petition circulation and filing period a sign with the following notices:

- A COVER SHEET IS TO BE FILED SEPERATELY from any petition volume; a cover sheet is not to be attached to any petition volume;

- All Sheets of each Petition Volume are to be SECURELY FASHIONED;

- All sheets of each Petition Volume are to be SEQUENTIALLY NUMBERED.

Commissioner Araujo moved to adopt Rule C6 with an amendment to correct the typographical error (fashioned to fastened.) Commissioner Schacher seconded the motion, which was adopted unanimously.

5. In the preamble, “These Rules are adopted by the Board of Elections in the City of New York [hereinafter “Board”] pursuant to Election Law § 6-154 (2).”

6. In the definition of Petition, the following sentence will be

added: “It includes an “opportunity to ballot” petition as set forth in Section 6-166 of the Election Law.”

7. In the General Requirements, the revised Rule A1 is as follows: “A designating petition shall comply with the provisions of Section 6-134 of the Election Law. An opportunity to ballot petition shall comply with the provisions of Section 6-166 of the Election Law.” Revised Rule A-2 is as follows: “Pursuant to Sections 1-106 and 3-214 (3) of Election Law, all papers required to be filed shall, unless otherwise provided, be filed between the hours of 9:00 a.m. and 5:00 p.m. at the Executive Office of the Board, 32 Broadway, 7th Floor, New York, N.Y. 10004.” and “The Board of Elections shall be open for the receipt of any document from at least 9:00 a.m. until Midnight on the last day to file any such document.” After discussion, Commissioner Soumas moved to table these revisions until the end of the report. The motion was adopted unanimously.

Commissioner Barrera reported that she has received a written request from Co-Op City. She moved to authorize RiverBay Corporation

Co-Op City to use 70 voting machines as been done in previous years. Co-Op City will be borrowing the machines without the use of any Board personnel, and in particular, they will contract directly with the approved ballot printers, outside technicians, truckers and ancillary services. They will be utilizing the approved Inspector list comprised evenly of Democrat and Republican enrollees and will seek to pay those Inspectors directly, in addition to paying the Supervisors independent from the Board. They will self certify the election without the use of any City Board personnel and they will indemnify the Board if damage occurs to the voting machines. Secretary Polanco seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported on the draft response to the Office of Management and Budget letter which was tabled at the beginning of the meeting. Commissioner Barrera reported on her recommendations for paragraph #2. She added the first sentence and recited the re-ordering of sentences in the paragraph. Paragraph #2 follows: "Lack of funding can result in disastrous effects such as inability to effectively prepare and carry out Primary, General or Special Elections as required by the U.S. and New York State Constitution and applicable laws. Such proposed reduction will place the rights of our citizens in serious danger of obligation. The Board does not have the discretion to delay or cancel an election based on

municipal budget or shortfalls. The Board is required to obtain approval under the Federal Voting Rights Act of 1965 as amended for any change which effects how a person registers to vote, how the Board communicates with its voters, and most importantly how a voter casts his or her vote. These proposed reductions could not come at a more critical time for the Board as the State of New York which includes the City of New York is under Federal Court Order mandating us to implement a new voting system to be used in this year's elections.”

Commissioner Schacher stated that she asked the Brooklyn Chief and Deputy Chief Clerks what would happen if the Mayor's budget is approved. The Chiefs stated that the voter registration cancellation work will be put on hold from July until December, which is petition filing through the election cycle. As a result, both the active and canceled files would be inaccurate for most of the year because they would need to save employee time for the peak period at the Board. Mr. Gonzalez stated that when the letter was prepared the staff took into consideration the peak period at the Board, i.e. July through the certification of the General Election. He indicated in the OMB letter all of the work that the Board does in the time period and how it would be affected if the Board had to “cut corners.”

Mr. Denkberg stated his recommendation for the OMB letter which was on page 4 in the second paragraph. The revised sentence follows: “Any suggestion to reduce or eliminate any of the Board’s current full time staff is below minimum level of service ability to implement a new voting system and conduct elections.” Commissioner Ryan suggested shortening the sentence to, “Any suggestion to reduce or eliminate any of the Board’s current full time staff would prevent the Board from implementing the new voting system and conducting elections.”

Commissioner Ryan stated that he reviewed and edited the draft letter to OMB. His comments are incorporated into the letter presented today.

President Dent recognized Jerome Koenig, a member of the public.

Secretary Polanco moved to accept the draft OMB letter with the additions as amended. Commissioner Soumas seconded the motion, which was adopted unanimously.

President Dent authorized Executive Staff to use the President and Secretary stamps.

Ms. Vazquez-Rivera requested approval for five (5) trucks for the public demonstrations. The proposal was approved by the Public Education Committee. The overall cost is \$527,785 and includes the securing of the trucks, wrapping, fuel, storage, drivers, all insurance, parking, maintenance, and uniforms. Ms. Vazquez-Rivera distributed an informational hand-out to the Commissioners. Secretary Polanco stated that the Public Education Committee discussed, reviewed and amended the plan for a month and they reduced the costs. Secretary Polanco moved to accept Ms. Vazquez-Rivera's request. Commissioner Araujo seconded the motion, which was adopted unanimously.

Commissioner Soumas stated that the Public Education Committee recommends in the conduct of the public demonstrations of the voting systems throughout New York City to do a formal link-up with Community Boards and the Borough Presidents' Offices for a variety of reasons. Their meeting places are all handicapped accessible and are public places. The committee received requests from various law firms, but they are not very inviting or public places. The Public Education Committee recommends that as requests are received from any particular group or individual for the respective borough Commissioner to process them. President Dent added that is a wonderful idea. She stated that since 2007, when she became a

Commissioner of the Board of Elections in New York City, she always felt that the Community Board was the vehicle to really get the word out to the communities. Commissioner Soumas moved for Ms. Vazquez-Rivera to proceed and arrange contact with the Community Boards and Borough President Offices. Commissioner Araujo seconded the motion, which was adopted unanimously.

President Dent reported on the corrections of the approved minutes of March 23, 2010. She recited her changes which were on pages 5, 6 and 9. President Dent thanked the Secretary of Record for doing a wonderful job on the minutes. President Dent moved to adopt the amended minutes of March 23, 2010. Secretary Polanco seconded the motion, which was adopted unanimously.

The Commissioners continued the discussion on the Designating Petition and Opportunity to Ballot Petition Rules for the September 2010 Primary Election which was tabled. Mr. Richman reported on Rule A2. Commissioner Araujo moved to leave the language for existing Rule A2 as is. President Dent seconded the motion with Commissioner Soumas abstaining. The motion was adopted.

Commissioner Araujo moved to adopt the change to Rule B1. The motion was adopted unanimously.

Commissioner Araujo moved to adopt Rule D2 as revised. Commissioner Ryan seconded the motion, which was adopted unanimously.

Commissioner Araujo moved to adopt Rule D3 as revised: “If the candidate files with the Board’s written authorization, signed by the candidate, for the Board to give notification by facsimile transmission, then the Board shall send in its discretion such notice by facsimile transmission and/or next day delivery on the day of the determination to the number set forth on the signed written authorization and shall, in addition, mail a copy of the determination to the candidate by first class mail.” Commissioner Barrera seconded the motion, which was adopted unanimously.

Commissioner Araujo moved to adopt Rule D6 as revised. Commissioner Ryan seconded the motion, which was adopted unanimously.

Commissioner Araujo moved to adopt Rule H1 as revised.

Commissioner Ryan seconded the motion, which was adopted unanimously.

Commissioner Ryan moved to adopt Rule H11 as revised. Commissioner Araujo seconded the motion, which was adopted unanimously.

Commissioner Ryan moved to adopt Rule H12 as revised. Commissioner Barrera seconded the motion with Commissioner Soumas opposing and President Dent abstaining. The motion was not adopted.

Commissioner Araujo moved to adopt Rule J7. Commissioner Ryan seconded the motion, which was adopted unanimously.

President Dent recognized Jerome Koenig, a member of the public.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, May 11, 2010 at 1:30 P.M.