

THE MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, MAY 25, 2010  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR COMMISSIONERS' ROOM  
NEW YORK, NY 10004

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

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

George Gonzalez, Deputy Executive Director  
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 & Public Affairs  
Stephen Thompson, HAVA Training Specialist, Election Day Operations  
Charles S. Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Rima McCoy, CIDNY  
Marjorie Shea, WCC  
Stewart Armstrong, VAC  
Andrea Senteno, CUF  
Carol Green, DCAS

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President Dent called the meeting to order at 1:43 P.M.

Mr. Richman requested to add two (2) additional items on the agenda.

Commissioner Araujo moved to approve the minutes of April 13, 2010. Commissioner Schacher seconded the motion, which was adopted unanimously.

President Dent reported on the appointment of the Commissioners Poll Worker Training Committee. She thinks that the Poll Worker Training Committee needs the input of the Commissioners. President Dent reached out to Commissioners Barrera, Ryan, Sipp and Stupp regarding this matter. She requested to table this item until all Commissioners are present in Executive Session, then she will report on any actions taken concerning this matter in public session.

Mr. Gonzalez presented the HAVA update. He summarized the status of scanners that have been received to this date. A copy of the report is in the agenda. Commissioner Barrera reported that she read a Board email stating that there was no seal on the Bronx delivery truck and asked for a solution to this matter. Mr. Gonzalez stated that the Board and ES&S staffs are comparing the list of scanners expected to be delivered. In addition, the staff will proceed to open each box to ensure that the scanners' serial numbers matches what the Board has on file. Mr. Gonzalez stated that he advised the State Board of this matter.

Mr. Gonzalez reported on the Federal Audit. He recalled that last week he received notification from the State Board that the Federal Auditor will be visiting county board of elections. The Federal Auditor visited the Board's Queens and Brooklyn Borough Offices and VMFs last week. The purpose of the audit was to verify that thirty (30) scanners and related equipment which were purchased with federal funds are present at the Board. They also ensured that the VMFs are secured for protection of the equipment. Mr. Gonzalez reported that the Federal Auditor gave the Board the highest rating and he was very impressed with the Board's operations. President Dent stated that she is very pleased with the audit and asked the staff to keep up the good work. Commissioner Schacher requested a written copy of the audit for the Commissioners once it is issued. Commissioner Araujo requested for Mr. Gonzalez to post a copy of the audit report on the Board's website. President Dent agreed that is an excellent idea.

Mr. Gonzalez reported on the HAVA Transition Certification. A copy of an email from the New York State Election Operations concerning this matter is in the agenda. Mr. Gonzalez stated that they are asking the Commissioners to certify that the implementation will be complete for the 2010 Primary Election. A copy of the County Board of Elections HAVA

Transition Certification is in the agenda. Mr. Gonzalez summarized the form for the Commissioners. He stated that the implementation is an ongoing process and recommends not signing the form. Commissioner Soumas questioned the form. Commissioner Araujo inquired if there is a legal basis to require this certification for the Commissioners. Mr. Richman replied that the State Board will have to certify that the state is in compliance with the HAVA requirements. He added that there is a requirement in HAVA that each state must certify that it is in compliance with the provisions in HAVA relating to five (5) different elements which are statewide voter registration system, transition to new voting machines, poll worker training, paper audit trail and public education. The State Board has to certify in order to access the remainder of the requirements payments. President Dent stated that when the Commissioners sign this form they have to ensure that all items are carried out and need it in writing from Executive staff. After discussion, President Dent tabled this item for one (1) week.

Mr. Gonzalez reported on the list of attendees for the ECA Summer Conference. A copy of the list is in the agenda. Mr. Gonzalez noted that he will not be attending the conference. President Dent stated that it is very important for the Board to report at the conference. Mr. Gonzalez was

scheduled to conduct a presentation on the Board's implementation for the Primary Election. President Dent suggested that if a report is written, both she and Commissioner Stupp can present at the conference. After discussion, President Dent tabled this item for one (1) week.

President Dent thanked Ms. Vazquez-Rivera and the Board's HAVA staff for doing a wonderful job at the Community Board #4 meeting. People had the opportunity to try the new voting machines. There were approximately 80 people in attendance and Ms. Vazquez-Rivera answered a lot of their questions concerning the new voting machines and Ballot Marking Device (BMD.) President Dent told Ms. Vazquez-Rivera and the HAVA team to keep up the good work. She reiterated that education is the key.

Mr. Richman reported on Bill No. A08693. He stated that the Office of the Governor requests comment from the Board concerning this bill. The bill authorizes the board to set standards for the change of mailing address and requires a candidate to provide the board with depository information. After discussion, Secretary Polanco moved for the Board to take no position on Bill No. A08693. Commissioner Schacher seconded the motion, which was adopted unanimously.

Mr. Richman reported that he received an invitation from the Office of the Governor to participate in a follow-up meeting concerning the Polling Site Access bill (Bill No. A584/S.1058.) He distributed a copy of an email concerning this matter to the Commissioners. Mr. Richman stated that the Office of the Governor invited representatives of the State Senate and Assembly, City Board, State Board, Office of the Mayor, and CIDNY. The Board participated in the previous two (2) meetings. Mr. Richman requested authorization to participate in this follow-up meeting and noted that the Commissioners can join as well. Commissioner Araujo moved for the Board to participate in the follow-up meeting concerning the Polling Site Access bill. President Dent seconded the motion, which was adopted unanimously.

Mr. Richman reported that Bill No. S07610/A.8540 has passed both Houses of Legislature and will shortly be sent to the Governor. The Mayor is opposing the enactment of this bill. Mr. Richman distributed copies of an email concerning this matter to the Commissioners. The bill permits the lease or purchase of equipment, supplies, printing and publications for use by the Board of Elections in New York City to be procured by the purchasing agency of such city, subject to compliance with the rules and regulations of the New York City procurement policy board and state law.

President Dent requested clarification. The current statute mandates that everything, except newspaper ads, has to be purchased using the City's purchasing agency as the sole vehicle. They have delegated to all City agencies small purchases which are \$100,000 or less. The Board would have to follow the Board's procurement policy, but could purchase ballots directly and get the lowest Competitive Sealed Bid. The Board could choose what is best. Mr. Richman noted that it is a very long process purchasing ballots which are time sensitive. President Dent moved for Mr. Richman to communicate with the Governor urging him to sign the bill. Secretary Polanco seconded the motion, with Commissioner Soumas opposing. The motion was adopted.

President Dent noted that Commissioner Ryan has joined the meeting.

Commissioner Ryan reported on the draft Poll Worker's Manual and Procedures. Mr. Thompson distributed copies of the draft manual to the Commissioners. Commissioner Ryan recalled that at last week's meeting this matter was tabled so the Commissioners could review the draft manual in detail. He stated that the Poll Worker Procedures Committee made a very good effort and the draft manual is as complete as it can be. He

requested to implement the policies so that the manuals can be distributed to the poll workers as quickly as possible for their training. Commissioner Ryan summarized the recommendations. The individual policy procedures that need to be voted on by the full Board are as follows:

1. List of new penalties for poll worker non-compliance – The failure to return the BMD mat has been an issue in the past and may result in a penalty of \$28.40 from the responsible person. It is the cost of the mat. The failure to report the Portable Memory Device (PMD) may result in a forfeiture of one (1) day's pay. It was called into question the viability of the election results and it will eliminate the influence of the election. The Commissioners would make the determination on these penalties.
2. Time limit – The Board staff is concerned that voters may be confused using the new voting system. If a poll worker notices a voter who seems to be confused and taking an inordinate period of time, it would give the poll worker the opportunity to ask the voter if they need assistance. The committee agreed to a three (3) minute time limit.
3. Smaller party voting procedures for Primary Elections - Mr. Thompson explained that in the past there was an issue



that there may only be one (1) or two (2) voters per Election District. The Board could not fit the smaller party on the lever machine and there was a voter privacy issue because if the ballots were counted by E.D. you may know how a voter has voted. In past procedure, a voter in a smaller party Primary Election would cast their ballot by hand, place it in a small envelope, and it would be counted in the respective Board's borough office by Assembly District or larger subgroup. Mr. Thompson inquired if the process should be continued as described and not be placed in the scanner, or should the entire election be done on the scanner. President Dent recalled that this matter was discussed previously and was brought to the Poll Worker Procedures Committee for review. Commissioner Ryan stated that currently the Commissioners have the discretion to choose. It was agreed that the smaller party procedure should remain the same as practiced in the past.

Commissioner Ryan moved to adopt the Poll Worker's Manual and Procedures. Commissioner Sipp seconded the motion, which was adopted unanimously.

President Dent commended the Poll Worker Procedures Committee, Commissioners Ryan and Umame, and Mr. Thompson.

Ms. Delayo reported on the Overtime Request Form. She distributed copies of the revised Board's Policies and Procedures manual page concerning overtime, and the draft Request for Overtime form to the Commissioners. Ms. Delayo noted that she emailed the Commissioners these items as well. Mr. Richman was concerned with a policy which was adopted in 2005. He explained that the policy states that Managerial employees could earn comp time, not paid overtime. The Office of Payroll Administration (OPA) stated that they could not change their system and therefore could not accept comp time for Managerial employees. When that was reported, the Board equally divided on that issue. Mr. Richman stated that the Commissioners have the right to affect the terms and conditions of employment, not the OPA. Secretary Polanco urged for the Commissioners to pursue Article 78 to compel OPA to acknowledge the Managerial employees' hard work. He stated that Managerial employees should be rewarded. Mr. Richman suggested waiting until the Mayor's budget is released. Commissioner Ryan agreed to wait to address this issue because the Board is going to make a decision today to reduce overtime usage. After discussion, President Dent stated that the

Commissioners agree that they would like the Executive staff to receive comp time. She recommended tabling this item until the budget is passed. President Dent commended Commissioner Ryan and agreed with Secretary Polanco that the staff should be compensated in some fashion because they work very hard especially when carrying out an election. Ms. Delayo requested any comments concerning the draft Request for Overtime form from the Commissioners. President Dent stated that she had the opportunity to read the information and thought that the form is a great idea. She stated that the Board will have written proof from the employee who was granted overtime indicating the tasks they were doing and will protect the Board in the future. Commissioner Ryan reported that he edited the Board's Policies and Procedures overtime chapter and summarized the changes for the Commissioners. In addition, he suggested using the Department of Citywide Administrative Services Overtime Authorization Form as a template for the Board's form. Mr. Gonzalez noted that the form will be produced in quadruple copies so that there will be a paper trail. The Commissioners agreed to table this item for one (1) week.

Mr. Ward presented the Vacancy Report dated May 25, 2010.

Secretary Polanco moved to convene an Executive Session to

discuss personnel and litigation matters. Commissioner Soumas 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. The appointments of the Commissioners Poll Worker Training Committee are Commissioners Stupp, Barrera, Ryan and Sipp.
- II. George Smith, Clerk in the Executive Office, is terminated by the close of business today.

Commissioner Ryan 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, June 1, 2010 at 1:30 P.M.