

THE MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, JULY 20, 2010  
AT 1:30 P.M.  
42 BROADWAY, 7<sup>th</sup> FLOOR EXECUTIVE UNIT  
NEW YORK, NY 10004

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

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

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  
Valerie Vazquez-Rivera, Director, Communications  
Daniel Lavelle, Associate Staff Analyst, Phone Bank/Communications  
Lucille Grimaldi, Manager, Electronic Voting Systems  
Katherine James, Deputy Chief Clerk, Queens Borough Office  
Amanda Conacchio, Clerk, Queens Borough Office  
Matthew Graves, Administrative Associate, Candidate Records Unit  
Kate Nowadly, Law Student Summer Intern  
Ted Anastasiou, Law Student Summer Intern  
Jeremy Fredericksen, Temporary Attorney, OGC  
James Barron, Temporary Attorney, OGC  
Charles Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Jon Stockman, NYDLC  
                  Andrew Schwartz, City Hall Newspaper  
                  Isaac Dovere, City Hall Newspaper  
                  Ken Carbulido, ES&S  
                  Marjorie Shea, Women's City Club  
                  Andrew Sider, Citizens Union  
                  Rima McCoy, CIDNY  
                  Stewart Armstrong, VAC

Alan Flacks, Member of NY County Democratic Committee  
V. Crosby  
J. Amick  
Barbara Taylor  
Lee Pinzou  
Kate Doran, LWV  
K. Kulas-Levy, OCE  
V. Holland, OCE

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President Dent called the meeting to order at 1:33 P.M.

Commissioner Schacher moved to table the minutes of the June 8, 2010 Commissioners' Meeting and June 8, 2010 Finance Committee Meeting. Secretary Polanco seconded the motion, which was adopted unanimously.

Mr. Gonzalez requested for Ms. Vazquez-Rivera to present her item first so she can attend a public demonstration in Brooklyn.

Ms. Vazquez-Rivera reported that she received a request for a meeting with Granicus Inc. They would like to discuss streaming the Commissioners' Meetings on the Board's website. The company works with other government agencies. Ms. Vazquez-Rivera requested approval to meet with members of Granicus Inc. this week. She will compile information and report at the next meeting. Commissioner Umame

requested for background information on the company. Secretary Polanco stated that he will attend the meeting as well.

President Dent noted that Commissioner Barrera has joined the meeting.

Ms. Vazquez-Rivera reported that there have been 64 public demonstrations with 3,587 participants to this date and there are 98 scheduled demonstrations. Secretary Polanco noted that he supported a fantastic public demonstration in Brooklyn yesterday. Commissioner Schacher thanked Ms. Vazquez-Rivera for chairing the excellent demonstration. Ms. Vazquez-Rivera noted that President Dent did a great job on the interview session with NY1 News and she emailed the video link to the Commissioners. President Dent commended the Board staff for doing an excellent job as well. Secretary Polanco noted that he was excited to have the ability to reach out to the Russian community in their own language. Commissioner Umane stated that it was good that the Board was able to reach out to them, but is concerned that there are many other languages in which the Board may not have the capacity to do. Commissioner Stupp stated that she was happy that NY1 News attended the demonstration because it was another opportunity for public education.

Mr. Gonzalez presented the HAVA update. He summarized the status for scanners as of July 19, 2010. A copy of the report is in the agenda. Mr. Gonzalez noted that he will keep the Commissioners updated on the status of equipment. Commissioner Araujo requested for some Privacy Booths to be delivered to the Queens Borough Office's Learning Center.

Mr. Gonzalez reported on temporary staff for the Voting Machine Facilities (VMFs). He stated that the Board has to prepare for test decks and the related functions which is a time consuming project. Board staff has to fill out the test deck ballots following a particular pattern which is prescribed by the law. Mr. Gonzalez requested for authority to hire temporary staff to assist the Voting Machine Technicians (VMTs) to meet the short time frame and alleviate the concern. The temporary staff would begin early August through the certification of the General Election. He proposed to assign two (2) temporary clerks (1 Democrat and 1 Republican) to each of the 60 VMTs citywide. Mr. Gonzalez stated that he will have a final proposal for review at next week's meeting and hopes for favorable action.

Mr. Gonzalez reported on the MOVE Act (Military Overseas Voting Empowerment) which was passed this year. The legislation requires all county Board of Elections to mail out the Military and Federal ballots within 45 days prior to the election. This year the mailing is scheduled to begin on July 31, 2010. In anticipation, the staff ensured that all candidates' names are entered into the system as well as transliterated into Chinese and Korean languages. The City Board is waiting for the State Board to certify the statewide candidates for the ballots and they have to develop the final form and arrangement of the ballots which is required by law. Mr. Gonzalez reported that he spoke with the State Board and they stated that the City Board has to design the final form and arrangement of the ballots and then send it to them so they can keep it on file. Mr. Gonzalez reported that the City Board might be jeopardy of meeting the July 31, 2010 deadline due to these delays. Mr. Richman stated that the State Board and county boards have to make the Federal ballot available electronically in a .PDF file so the voters overseas could download the ballot. Mr. Richman stated that the City Board has not received further notice on that requirement. President Dent asked if the Commissioners could help in this matter. Ms. Perkins asked the Commissioners if they could contact the State Board Commissioners. Commissioner Umane suggested taking a practical approach to this matter and to create the ballots after the Board's

hearings. Commissioner Stupp inquired if in the future the Board would have to push up the voting season in order to give the Military voters a full ballot. Mr. Richman stated that it is a decision by the Legislature and Governor or the Federal Courts. He stated that the Commissioners could include that issue in next year's legislative package. He added that there was a recommendation in the past to hold a Primary Election in June to allow time to do the necessary administrative work for the General Election.

President Dent noted that Commissioners Ryan and Sipp have joined the meeting.

Mr. Gonzalez reported on the change to Phone Bank response inquiries. A copy of his memorandum is in the agenda. Commissioner Soumas brought this matter to his attention last week because he received a complaint by a member of the public. The caller stated that the Phone Bank staff was not answering inquiries, but it was found that the caller was asking for additional information on a registered voter. The staff informed the caller that they cannot provide that information. The Phone Bank staff asks the caller for the voter's name, address and date of birth in order to honor the request. If the caller does not have all information then the request needs to be in writing and provide the appropriate fees for the

search. If a caller wants any specific information then it is limited to one call. If, for example, a child support agency is requesting for a voter search then it needs to be a written request. Mr. Richman added that in review of this matter it was found that collection agencies are attempting to use the Board's system as well. The records are public information, but this new policy will protect the privacy of the voters. Mr. Gonzalez stated that there was a conference call with the Executive Committee concerning this matter and they asked Executive Management to develop a policy for the Phone Bank. Commissioner Umane moved to ratify the decision of the Executive Committee. Commissioner Barrera seconded the motion, which was adopted unanimously.

President Dent recognized Alan Flacks, a member of the public.

Mr. Gonzalez reported that last week he informed the Commissioners that the Corporation Counsel and the Counselor to the Mayor are requesting a meeting with the Board. There is a scheduled meeting for Thursday, July 22, 2010 at 11:30 A.M. at the Board's Executive Office.

Mr. Gonzalez reported on the FY2011 Budget Analysis. He distributed a copy of the analysis of the Board's budget allocations for

Fiscal Year 2011 and recommended modifications in the OMB allocation for Other Than Personal Service (OTPS). In accordance with the Commissioners' direction, Executive Management, the Finance Officer and General Counsel reviewed the projected/anticipated expenses of the Board which must be incurred in order to enable the Board to meet the constitutional and statutory obligations. Mr. Gonzalez thanked the Board staff for their hard work during this hectic petition cycle. Secretary Polanco thanked Mr. Gonzalez for compiling this report for the Commissioners. Mr. Gonzalez and Mr. Richman summarized the report for the Commissioners and requested approval of the report. They would like to discuss the report on Thursday with the Corporation Counsel and Counselor to the Mayor. Commissioner Ryan stated that the report is great, but it is missing Personal Service (PS) per Borough Office, the amount of overtime, and when to expect the exhaustion of the currently allocated funds. He suggested that this type of report should be prepared monthly by the Fiscal Office. After discussion, Commissioner Schacher moved to approve the analysis of the Board's budget allocations for Fiscal Year 2011 and recommended modifications in the OMB allocation for Other Than Personal Service (OTPS) with an amendment to include Commissioner Ryan's comments and suggestions. Commissioner Ryan seconded the motion, which was adopted unanimously.

President Dent recognized Marjorie Shea, a member of the public.

Commissioner Ryan moved for the Board to create a comprehensive monthly OTPS and PS report in a similar framework that was prepared today. Commissioner Schacher seconded the motion, which was adopted unanimously.

Ms. Perkins confirmed with the Commissioners that Executive Management will inform the Borough Offices that there will be six (6) hour Poll Worker training classes and to pay the Poll Workers a \$100 performance bonus if requirements are met. Ms. Perkins clarified that staff will amend the Poll Worker recruitment flyer and application.

Ms. Perkins requested to send Board staff to Omaha, Nebraska to supervise the final changes to the Poll Worker training video produced by ES&S. Ms. Perkins distributed copies of an email to the Commissioners which includes the costs of Board travel and the ES&S video. Ms. Perkins summarized the Poll Worker Training Workstream's request. The workstream requests to send one (1) Gartner staff member along with Amanda Conacchio (D) and Emily DeBiase (R) to Omaha on Wednesday, July 21 through Friday, July 23. Ms. Perkins stated that 40,000 copies of

training DVDs will be produced for the poll workers. Commissioner Sipp stated that changes need to be made due to the new legislation and is at no fault of the Board. He thanked the Poll Worker Training Workstream for working very hard on the video. Commissioner Sipp moved to authorize the request. Commissioner Barrera seconded the motion, which was adopted unanimously.

Mr. Richman reported that the Governor's Office asked for the Board's comments on State legislation. Copies of the legislation are in the agenda. The following bills are:

- Bill No. S7222 requires the Board of Elections in the City of New York to maintain a voting machine storage and preparation facility in each borough of the city. Commissioner Umane moved to support Bill No. S7222. President Dent seconded the motion, which was adopted unanimously.
- Bill No. S5477C relates to the creation of election districts; provides that deployment of voting systems, election workers and election resources shall be in sufficient number to accommodate the numbers of voters eligible to vote in such polling places. Commissioner Schacher moved to support Bill

No. S5477C. President Dent seconded the motion, which was adopted unanimously.

- Bill No. A35063 authorizes withdrawal from a primary election run-off. Commissioner Schacher moved to support Bill No. A35063. Commissioner Barrera seconded the motion, which was adopted unanimously.

Mr. Richman reported on the draft Independent Nominating Petition Rules for the November 2, 2010 General Election. He distributed copies of the draft rules at the previous meeting and today's meeting. Mr. Richman summarized the changes and requested approval of the draft petition rules. President Dent moved to adopt the Independent Nominating Petition Rules for the November 2, 2010 General Election. Commissioner Barrera seconded the motion, which was adopted unanimously.

Mr. Richman reported that the Board received two (2) Court Orders involving the Bronx and Manhattan Borough Offices which directs the Board to provide extended hours. The weekday hours are 9:00 A.M. – 9:00 P.M. and extended hours on the weekends. The Court Orders follow through next Monday which is the last day to file

Specifications of Objections. It was noted that copies of the Court Orders will be sent to OMB.

Mr. Richman requested for an appointment of a Cover Sheet Review Committee. The President and Secretary announced the Commissioners names for the schedule. Mr. Richman thanked the Commissioners for their great help.

President Dent requested to discuss a Brooklyn personnel matter in public session.

President Dent moved to advance 210 hours of sick leave for Harold Williams, Administrative Associate in the Brooklyn Borough Office. Commissioner Schacher seconded the motion, which was adopted unanimously.

Mr. Zimmitti reported on the draft Poll Worker Training Site Lease. He distributed copies of the lease and summary sheets to the Commissioners. Mr. Zimmitti summarized the changes between the 2009 and 2010 Private Training Site Leases. Commissioner Umame asked if this draft was reviewed by Mr. Richman. Mr. Zimmitti replied yes.

Commissioner Stupp moved to adopt the Poll Worker Training Site Lease. Commissioner Araujo seconded the motion, which was adopted unanimously.

Mr. Thompson presented the Scanner Replacement Options. He introduced Ken Carbulido, Senior Vice President of ES&S, to answer any questions or concerns that the Commissioners had at their previous meeting. Mr. Thompson distributed a summary report on High-Level Steps Alternatives for Replacing Inoperable Scanners on Election Day to the Commissioners. He stated that the report originally went before the Commissioners' Committee on Procedures, but the full Board had questions and concerns. He indicated that the revised report meets the statutory requirements. Mr. Thompson stated that Option #1 replaces the inoperable scanner unit with a new scanner unit and to scan ballots from the inoperable scanner on a working scanner; Option #2 replaces the inoperable scanner unit with a new scanner unit and manually canvass ballots from the inoperable scanner. The basics of the steps have the technicians identifying the ballot bin liner case that it occurs with a special padlock and having reports in the voting records bag so when it returns to the Borough Office they know that there was an issue with that scanner with that ballot bin liner case. Mr. Thompson noted that the option that was

previously brought before the full Board did not count the ballots at the poll site, but were sealed and counted in the Borough Office. Mr. Richman advised the team that it did not meet statutory requirements. Commissioner Stupp requested for clarification. Mr. Thompson stated that these steps primarily deal with what to do with the ballots in an inoperable scanner that have already been scanned. The steps discuss how the Board would count them so they would be part of the election results. Commissioner Umane stated that his preference would only to have the ballots scanned once. He questioned if there is a way of telling easily whether or not the scanned ballots on the broken scanner have been registered into the Portable Memory Device (PMD). An easy way the poll workers can tell on Election Day. Mr. Carbulido stated yes and they are 100% highly confident that those ballots are on the PMD, which is a specialized thumb drive. He stated that you can take the PMD from the inoperable scanner and put it into another scanner. The second scanner will validate and bring up the public count so you know exactly how many ballots are on the thumb drive. It can contract from the ballots in the bin or the number of people who checked in. Commissioner Umane asked if in those circumstances there is a permanent record. Mr. Carbulido replied yes. Commissioner Umane stated that you would not have to manually canvass or rescan the ballots then. Mr. Richman stated that the record has

to be produced on election night and certified by the Inspectors. He stated that the scanner has to have a 0 tape, and if you take the PMD from one scanner to another, they have never scanned the ballots, it is just reading the drive. The purpose of the election night return shows how many ballots the scanner read that day, not the PMD which is part of the recanvass. Commissioner Umame stated that he views it as the old lever machine and if the sheer pin comes out you can't use it anymore and there were still ballots totals on that machine. Mr. Richman stated that the statute says that if there are any ballots that have not been recorded and produced the results then they should be put through the scanner as an Emergency ballot. If you do not want to scan them in then they have to be hand counted. Mr. Carbulido stated that the system was designed just for this eventuality; all the votes and ballots are on the PMD. Ms. Grimaldi stated that the only time the Board would make this decision is after the Board technician with the support of an ES&S technician has gone to the poll site and has determined there is not a way to fix the scanner. The ideal is to fix the scanners at the poll site like a ballot jam, etc. because takes a lot of time to replace the scanner. Mr. Richman stated that the reason it takes a while to get a new scanner is because the technicians have to run a pre-qualification test. The spare scanners will be in the VMF, not zone trucks. Commissioner Umame stated that in the Poll Worker Procedures

Meeting it was discussed to have a number of machines that had borough wide capability on the trucks. Mr. Richman stated that he spoke with Mr. O'Grady and that option would not be available. President Dent stated that Commissioner Umane is correct. If something is changes, then the Commissioners should be aware of it. Ms. Grimaldi stated that they have been developing procedures and learned that they cannot do that. Ms. Grimaldi stated that she will never deploy equipment that has not been adequately tested. President Dent stated that the whole Board feels that way. She stated that the PMD on an inoperable scanner has already been tested and the new replaceable scanner has already been tested with a test deck. She recommended for ES&S to explain in further detail about the amount of testing that is needed. Mr. Richman was concerned that a PMD can get corrupted as well and it cannot be analyzed in the field. The proposed procedure would have the PMD isolated, sealed and wrapped. Commissioner Barrera stated that Option #2 seems like the ideal option. Mr. Richman stated that they do not have a guarantee that the broken scanner scanned the ballots or not and staff cannot test it unless you actually took the PMD out, printed the results and hand counted the ballots. Commissioner Barrera asked Mr. Carbulido to answer their concerns and if they have had similar breakdowns. Mr. Carbulido replied that the fall out may be .5%; there is a small percentage of issues. He stated that there are

a couple of options. One option involves rescanning the ballots and the other option is manually counting the ballots. An additional option is the reuse of the PMD stick because it was built that way. Mr. Carbulido stated that ballots will not go in the box unless they were counted and there is no chance that what is in the box is not on the PMD. Further, the PMD will be validated automatically in the new scanner. The first thing that it does is makes certain that there is complete integrity, checks the digital signature box, matches the counts and makes certain that there is no corruption on that stick. Technically speaking, that stick is solid and if there is any compromise on it then it will not start up. Commissioner Umame asked if the Board would be better off taken the original PMD stick from the broken scanner and putting it in the new scanner. Mr. Carbulido stated yes, it is the simplest and fastest way to start up. It does not disrupt the polling place, there are no extra procedures and it is all on the audit record. The staff will know how many ballots which were cast on previous machines and new machines. If there are any concerns, staff could 100% double-check. Commissioner Araujo asked if the PMD stick in any way have any type of programming that can effect the operations of the scanner itself. Mr. Carbulido replied yes and no. The PMD has a code that matches data elections and every scanner has to have a matching code to that election. Commissioner Araujo confirmed that if there is a malfunction

on the scanner it does not necessarily mean the PMD stick is corrupt. Mr. Carbulido agreed. President Dent requested for clarification from Mr. Carbulido on how this would be handled in other jurisdictions. He stated that they take the PMD and put it in another scanner. After discussion, Commissioner Umame moved that in the event a scanner becomes inoperable on Election Day for any reason, and in the event a technician is unable to make appropriate repairs so that it is no longer inoperable, the technician would try to obtain a replacement scanner to be used solely for the purpose of reading the existing PMD to determine at the end of the day the votes to produce the report of the voting on the machine that has become inoperable. In the event for any reason the replacement scanner which is being used as a reader is unable to produce a report from the PMD, then the paper ballots cast on the inoperable machine shall be counted by scanning in an operable machine in accordance with the provisions in Option #1 set forth on the handout. In the event that Option #1 does not work then the ballots are to be hand counted. As part of the recanvass of the poll site which had the inoperable scanner that there be a full audit and/or manual recanvass of those paper ballots attempted to be cast at the inoperable scanner. Commissioner Barrera seconded the motion, which was adopted unanimously. It was noted that Commissioner Sipp had to leave the meeting early and did not vote on this matter.

On behalf of Mr. Johnson, Mr. Graves presented an item concerning the Candidate Records Unit. He distributed copies of the Record of Objections Filed for the 2010 Primary Election to the Commissioners.

Mr. Ward presented the Vacancy Report dated July 20, 2010.

President Dent recognized Alan Flacks, a member of the public.

Commissioner Umane 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, July 27, 2010 at 1:30 P.M.