

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, AUGUST 31, 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 Barrera, Ryan, Schacher, Sipp, Soumas, Stupp, Umane

George Gonzalez, Executive Director
Dawn Sandow, 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 & Public Affairs
Daniel Lavelle, Associate Staff Analyst, Phone Bank & Communications
John O'Grady, Chief, Voting Machine Technician
Katherine James, Deputy Chief Clerk, Queens Borough Office
Gregory Lehman, Chief Clerk, Manhattan Borough Office
Timothy Gay, Deputy Chief Clerk, Manhattan Borough Office
Kate Nowadly, Law Student Summer Intern, OGC
Jeremy Fredericksen, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Alan Flacks, Member of NY County Democratic Committee
Michael Fanning
Marjorie Shea, WCC
Alex Voetsch, NYDLC
Rima McCoy, CIDNY
Stewart Armstrong, VAC
Adrienne Kivelson, NYC LWV
Kate Doran, NYC LWV
Mac Beeson, ES&S

Judd Ryan, ES&S
Vick Crosby, ES&S

President Dent called the meeting to order at 1:44 P.M.

President Dent submitted revisions for the minutes of the June 29, 2010 meeting. Commissioner Schacher moved to table the minutes of the June 21, 2010 and June 29, 2010 meetings and the June 29, 2010 Finance Committee meeting. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner Umane requested to add an item to the agenda concerning errors and corrections to the ballots.

Mr. Richman requested for the President and Secretary to designate a Cover Sheet Review Committee to be held after the meeting.

Mr. Ward requested to add an item to the agenda regarding the transfer of poll workers as City employees.

Mr. Owens requested to add an Executive Session to discuss a personnel matter.

Mr. Gonzalez presented the HAVA update. He summarized the status for scanners as of August 31, 2010. A copy of the report is in the agenda. Mr. Gonzalez stated that he has been in contact with NAZTEC and they confirmed that the Board will receive all privacy booths by September 3, 2010.

Mr. Gonzalez reported that Board staff notified him that it appears when there is a change to the ballot the Board will have to reprint all ballots in the borough where the problem occurred. Mr. Gonzalez stated that it is a technical issue and requested for Judd Ryan, a representative from ES&S, to explain this issue.

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

Commissioner Umane explained that there are last minute poll site changes in New York County. He was informed that the Board has to reprint the entire borough's ballots because there is no software to fix this issue. Mr. Ryan addressed the issue. He stated that the Board can introduce a voting machine to those locations for specific Election Districts or reprint the ballots. Commissioner Umane inquired how the new machine

would work and questioned if it is a legitimate alternative for the Board. He stated that it is not the first time a poll site in a large jurisdiction has shifted at the last minute and thought that the software could accommodate the change. Mr. Ryan explained that an additional Portable Memory Device (PMD) could be programmed that has the Election Districts, for example, the 106 and 109 E.D.s. The PMD for the 106 E.D. could be inserted into the 109 E.D. machine and vice versa. The voters would go to a particular voting machine to cast their ballot similar to the lever machine in the past which was labeled for the ED/AD. There will be appropriate totals in the opening and closing of polls. Mr. Ryan stated that it would not compromise the integrity of the election. President Dent inquired if ES&S had this issue in the past in another jurisdiction. Mr. Ryan replied that he would research that information and report at the end of the meeting.

Mr. Gonzalez reported that the City of New York Office of the Comptroller will be conducting an audit of the Board to determine whether the Board's procurement practices comply with City rules and regulations. A copy of the letter is in the agenda. Mr. Gonzalez requested direction from the Commissioners because the Board is very busy with the implementation of new voting systems. He preferred for the Board to be audited in December 2010 after the elections. Commissioner Umame

moved to authorize Executive Management to respectfully request delaying the audit after the certification of the 2010 General Election. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported that the City Council Governmental Operations Committee Hearing is scheduled for September 7, 2010. He circulated the email to the Commissioners and they felt that the Board is very busy preparing for the 2010 Primary Election. Mr. Gonzalez relayed that message to the City Council and the alternate date for the hearing is September 8, 2010. The City Council requested for an update of the implementation and how the Board is notifying the public of the new voting system. Mr. Gonzalez requested approval for Ms. Vazquez-Rivera to present a detailed report of the Public Education Campaign before the Committee. Copies of the Public Education Report were distributed to the Commissioners for review. Commissioner Umame moved for Ms. Vazquez-Rivera to use the detailed report as a basis for the testimony at the City Council Governmental Operations Committee Hearing. President Dent seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported that last Friday he held a meeting with members of the Public Advocate's Office concerning public education of the new voting system. He noted that it was a very productive meeting.

Ms. Vazquez-Rivera presented the public education update. She reported that the Board has conducted 224 public demonstrations with 13,211 participants to this date. There are 282 scheduled demonstrations. The Board's FaceBook page is the main referring website to the Board's Public Education website. The most popular page is the public demonstration schedule.

Ms. Vazquez-Rivera reported that she received a phone call last week from John Groh, Director of Communications for ES&S, requesting to "shadow" her tomorrow for the entire day. Mr. Groh would like to observe a poll worker training class, a public demonstration, and to visit Burson Marsteller. Ms. Vazquez-Rivera requested approval from the Commissioners. Commissioner Umane questioned the request. Ms. Vazquez-Rivera stated that ES&S would like to help coordinate the effort with the Board's Public Education Campaign. Commissioner Umane stated that if ES&S receives any inquiries concerning the Board then the information should be forwarded to Ms. Vazquez-Rivera. After discussion,

Commissioner Umane moved to authorize ES&S to observe only a poll worker training class and public demonstration. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner Soumas inquired if Mr. Ryan has finished researching if ES&S has had the issue of last minute poll site changes in the past in other jurisdictions. Mr. Ryan stated that ES&S has not encountered this particular issue in the past. Commissioner Sipp inquired if the change will affect just the ballot and not the voting machine. Mr. Ryan confirmed yes. Commissioner Umane stated that the choice is to either reprint the ballots for the whole borough of Manhattan at a cost of approximately \$900,000 or use the extra two (2) voting machines. Mr. Richman added that these last minute poll site changes would be added to the contingency plan which will be submitted to the Department of Justice. After discussion, Commissioner Umane moved to use the two (2) extra scanners in this matter. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner Umane strongly suggested for the Board to make note of this occurrence and to research a way to amend the computer programming to be able to accommodate this situation for future election

cycles. The City Board has to make an application to the State Board because it may require recertification for the future.

Mr. Richman reported on the request by the New York City Police Department (NYPD) to issue a uniform Request to Arrest Form for use by poll workers at poll sites on Election Day, in accordance with the requirements of the Election Law. A copy of Mr. Richman's memorandum and the draft form are in the agenda. Mr. Richman stated that Lester Paverman, Esq., an attorney with the NYPD Legal Bureau, has requested that the Board promulgate the form to use for a person who is violating the Election Law on Election Day. The Legal Bureau has provided Mr. Richman with a draft form. The Commissioners reviewed the draft. Commissioner Sipp was concerned that the form might create liability for the Board. Mr. Gonzalez stated that in his years at the Board this was not an issue on Election Day and he does not know why the form was created. He noted that the Police Officers maintain law and order at the poll sites. Commissioner Umane explained that he would not want the forms distributed among the poll workers because it could create many problems, but to comply with the NYPD he would make the forms available. Commissioner Ryan stated that he would not want these forms distributed to the poll workers because they cannot constitute an arrest. An arrest

does not have to be authorized in writing. Commissioner Ryan stated that it is the NYPD's responsibility to enforce the law on Election Day. Commissioner Sipp moved to reject the NYPD's Request to Arrest form. Commissioner Schacher seconded the motion, which was adopted unanimously.

The President and Secretary designated a Cover Sheet Review Committee which will be held after the meeting.

Ms. Rahmouni submitted copies of the Poll Worker Exception Reports for the September 14, 2010 Primary Election for the five (5) boroughs to the Commissioners. She was notified that the Bronx Office submitted Democratic and Republican Inspector Tables, but the positions no longer exist in the Board's system. Ms. Rahmouni stated that she will notify the Bronx Borough Office to place them as a Release Poll Clerk. Commissioner Sipp moved to accept the Poll Worker Exception Reports for the September 14, 2010 Primary Election. Commissioner Schacher seconded the motion, which was adopted unanimously.

Mr. Ward presented the Vacancy Report dated August 31, 2010. A copy of the report is in the agenda.

Mr. Ward reported that he had a meeting last Thursday with FISA regarding the transfer of poll workers as City employees. FISA staff will be performing the initial data “dump” which will be completed next week. Mr. Ward has set-up Borough Office liaisons, one (1) person per Poll Worker Department, to assist in this process. Commissioner Ryan asked if the FISA system has the same data dictionary as the Board’s system. Mr. Ward replied yes, but there is minor adjusting of the systems; the data is not automatically “dumped.”

President Dent recognized Kate Doran, Adrienne Kivelson and Marjorie Shea, members of the public.

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 actions were taken in Executive Session.

President Dent moved to adjourn the meeting. Secretary Polanco

seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, September 7, 2010 at 1:30 P.M.