

THE MEETING OF  
THE COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, SEPTEMBER 27, 2011  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, COMMISSIONERS' HEARING ROOM  
NEW YORK, NY 10004

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PRESENT:       President Juan Carlos "J.C." Polanco  
                  Secretary Gregory C. Soumas

Commissioners Araujo, Barrera, Dent, Guastella, Schacher, Sipp, Stupp,  
Umane

Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Steven H. Richman, General Counsel  
Raphael Savino, Director, Campaign Finance Reporting  
John Ward, Finance Officer  
Dorothy Delayo, Director, Personnel  
Valerie Vazquez, Director, Communications and Public Affairs  
John Naudus, Manager, Electronic Voting Systems  
John O'Grady, Chief, Voting Machine Technician  
Tom Sattie, Associate Staff Analyst, Ballot Coordinator  
Steven Ferguson, Director, MIS  
Daniel Lavelle, Supervisor, Phone Bank and Front Counters  
Timothy Gay, Deputy Chief Clerk, Manhattan Office  
Gregory Lehman, Chief Clerk, Manhattan Office  
Maryrose Sattie, Deputy Chief Clerk, Brooklyn Office  
Diane Rudiano, Chief Clerk, Brooklyn Office  
Katherine James, Deputy Chief Clerk, Queens Office  
Robert Pataky, Chief Clerk, Queens Office  
Giacomo Kmet, Temporary Attorney, OGC  
James Barron, Temporary Attorney, OGC  
Charles S. Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Judd Ryan, ES&S  
                  Jerome Koenig  
                  Marjorie Shea, Women's City Club

Alex Camarda, Citizens Union  
Rima McCoy, CIDNY  
Kate Doran, LWV  
Elizabeth Brown, for Council Member Gale A. Brewer  
John Smith  
Teresa Hommel  
A.B. Britton

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President Polanco called the meeting to order at 1:32 P.M.

President Polanco announced that the Commissioners would conduct the meeting of the Board of Canvassers in the City of New York for the purpose of certifying the results of the September 13, 2011 Special Elections conducted in the 9<sup>th</sup> Congressional District in Queens and Kings Counties, 23<sup>rd</sup> and 27<sup>th</sup> Assembly Districts in Queens County, 54<sup>th</sup> Assembly District in Kings County, 73<sup>rd</sup> Assembly District in New York County and the September 13, 2011 Primary Elections in Queens, Kings and New York Counties.

President Polanco designated Commissioner Stupp as the second Republican Commissioner for the respective counties and to sign the certified statements for the district wide recapitulation in the 9<sup>th</sup> Congressional District. Secretary Soumas designated Commissioners Araujo and Dent as the second Democratic Commissioners to sign the New

York County Certifications as well as the district wide recapitulation for the 9<sup>th</sup> Congressional District.

President Polanco noted that Ms. Sandow and Commissioner Stupp joined the meeting.

Ms. James and Mr. Pataky presented the Statement and Return of Canvass for the Special Elections, in the Queens portion of the 9<sup>th</sup> Congressional District, the 23<sup>rd</sup> and 27<sup>th</sup> Assembly Districts, and for the Democratic and Republican Party primaries conducted in Queens County. Commissioners Araujo and Stupp reported that they reviewed the Certifications and discrepancy reports, and all issues have been resolved, including the 3% Audit which has been successfully completed. Commissioner Araujo moved to certify the Statement and Return of Canvass for Special Elections, in the Queens portion of the 9<sup>th</sup> Congressional District, the 23<sup>rd</sup> and 27<sup>th</sup> Assembly Districts, and for the Democratic and Republican Party primaries conducted in the Queens County on September 13, 2011, including the discrepancy reports. Commissioner Stupp seconded the motion, which was adopted unanimously.

Commissioner Araujo moved to authorize the use of the Commissioners' signature stamps as appropriate on each Statement and Return of Canvass. Commissioner Stupp seconded the motion, which was adopted unanimously.

Ms. Rudiano and Ms. Sattie presented the Statement and Return of Canvass for the Special Election in the 54<sup>th</sup> Assembly District and for the Democratic and Republican Party Primary Elections conducted in Kings County. Commissioners Dent and Schacher reported that they reviewed the Certifications and discrepancy reports and all issues have been resolved, including the 3% Audit. Ms. Rudiano and Ms. Sattie confirmed that the results presented in the reports are accurate and correct. There were discrepancies reported which did not affect the outcome of the results and the 3% Audit has been successfully completed. Commissioner Dent moved to certify the Statement and Return of Canvass for the Special Election in the 54<sup>th</sup> Assembly District, and for the Democratic and Republican Party primaries conducted in Kings County on September 13, 2011. Commissioner Schacher seconded the motion, which was adopted unanimously.

Commissioner Dent thanked the Chief Clerks and staff of the

Brooklyn Office and Voting Machine Facility (VMF) for their hard work and dedicated service.

Commissioner Araujo thanked the Chief Clerks and staff of the Queens Office and VMF for their hard work. In addition, he thanked the Staten Island and Bronx Offices for providing assistance during the 2011 Primary Election.

Commissioner Schacher thanked the Brooklyn Office and VMF staff for their hard work, as well as the Bronx Office and Staten Island Office staff for assisting them.

Commissioner Stupp thanked the Chief Clerks and staff of the Queens Office and VMF for their hard work. In addition, she thanked the staff from the other boroughs that helped them. Commissioner Stupp confirmed that there were no discrepancies in the results which were then certified. She stated that it was a tough election, having both the Specials and Primaries, and congratulated staff for a job well done.

Mr. Lehman and Mr. Gay presented the Statement and Return of Canvass for the Special Election in the 73<sup>rd</sup> Assembly District and for the

Democratic Party primaries conducted in New York County. Secretary Soumas and Commissioner Umane stated that they reviewed the Certifications and discrepancy reports and all issues have been resolved, including the 3% Audit. Mr. Lehman and Mr. Gay confirmed that the results presented in the reports are accurate and correct. There were discrepancies reported which did not affect the outcome of the results and the 3% Audit has been successfully completed. Secretary Soumas moved to certify the Statement and Return of Canvass for the Special Election in the 73<sup>rd</sup> Assembly District and for the Democratic Party primaries conducted in New York County on September 13, 2011. Commissioner Umane seconded the motion, which was adopted unanimously.

Commissioner Umane thanked all Board staff for their hard work conducting the complex Special and Primary Elections.

Mr. Johnson presented the Recapitulation Report for the 9<sup>th</sup> Congressional District, reflecting the complete vote totals for the entire Congressional District by combining the respective certified reports for both the Brooklyn and Queens portions of that district. He submitted the report to the Commissioners. Commissioners Araujo, Stupp, Dent and Schacher reported that they have reviewed the report. Mr. Johnson confirmed that

the Recapitulation Report is accurate and correctly reflects the combined tabulations for both the Brooklyn and Queens portions of this Congressional District Special Election as reflected on the respective reported just adopted by the Board. Commissioner Araujo moved to certify the Recapitulation Report of the Statement and Return of Canvass for Special Election in the 9<sup>th</sup> Congressional District conducted on September 13, 2011. Commissioner Dent seconded the motion, which was adopted unanimously.

Mr. Richman reported on the recommended plan for compliance with the requirements of Section 10-108 of the Election Law as well as Section 8-406 relating to Military and Absentee ballots for the November 8, 2011 General Election. He stated that with certifying the results of the September 13, 2011 Primary Elections, and this being the last day in which a political party can submit a Certificate of Nomination for the public office of a Justice of the Supreme Court made at a judicial convention, he asked that the Board, in accordance with past practice and procedure, authorize and direct the Board staff to print as of tomorrow, Wednesday, September 28, 2011 the Military, Absentee and Special Ballots for the November 8, 2011 General Election for all contests, except for the 4<sup>th</sup> Municipal Court District in Manhattan, with the names of the candidates

appropriately filed with this Board. He noted that under NYS Election Law, the ballots for the military voters must be mailed no later than Friday, October 7, 2011. Even though this is not a federal election year, the DOJ will be monitoring NYS to see if the State and its Boards of Elections comply with the state statutory mandate. He stated that with respect to the 4<sup>th</sup> Municipal Court District in Manhattan, he has a unique set of facts. The Democratic Judicial Convention for the 1<sup>st</sup> Judicial District (Manhattan) has nominated for Justice of the Supreme Court, Deborah Kaplan, a nominee of the party for Judge of the Civil Court In the 4<sup>th</sup> Municipal District. That Certificate of Nomination was filed yesterday. If that candidate chooses to run for Justice of the Supreme Court, that candidate has three days after the certificate of nomination for the second judicial office is filed to decline. That would be Thursday, September 29, 2011. Then the appropriate party committee has 10 days to file a substitution after the last day to submit a declination. Accordingly, the substitution process for Judge of the Civil Court, 4<sup>th</sup> Municipal District may not be concluded until Tuesday, October 11, 2011 (as a result of the weekend and Columbus Day legal holiday). Therefore, Mr. Richman recommended that the Commissioners authorize and direct the Board staff to print and mail only the Military ballots within the 4<sup>th</sup> Municipal Court District in Manhattan to reflect the nominations and declinations received by the Board at the close of business on Friday,

September 30, 2011. This will enable the Board to comply with the statutory mandate set forth in Section 10-108 of the Election Law. Additionally, in accordance with past Board practice, Mr. Richman recommended that the Commissioners direct that Absentee and Special ballots for the 4<sup>th</sup> Municipal Court district be printed and distributed as soon as a Certificate of Substitution is filed, provided that a declination is filed by this Thursday night. Commissioner Umame moved to accept and approve the recommendations made by Mr. Richman with respect to printing and distribution of Military, Absentee and Special ballots for the November 8, 2011 General Election. Commissioner Schacher seconded the motion, which was adopted unanimously.

Commissioner Schacher moved to adjourn the meeting of the Board of Canvassers and to convene the stated meeting of the Board. Commissioner Dent seconded the motion, which was unanimously adopted.

Commissioner Dent moved to approve the minutes of the August 30, 2011, September 8, 2011 and September 20, 2011 meetings. Commissioner Schacher seconded the motion. Commissioners Araujo and Barrera abstained on the August 30, 2011 minutes because they were not

present at the meeting. Commissioners Stupp and Barrera abstained on the September 8, 2011 minutes because they were not present at the meeting. The motion was adopted.

Ms. Sandow reported on the NYC Council Governmental Operations Committee Hearing on September 22, 2011. A copy of the Board's Testimony is in the agenda. Ms. Sandow stated that the Board was recognized positively on the following items:

- Engaging in an open process to improve the ballot design for the 2011 elections despite the constraints of the NYS Election Law, as well as developing proposals for future changes;
- Posting sample ballots on the Board's website;
- Poll Worker recruitment events;
- Improving transparency by quickly posting the weekly Commissioners' Meeting Minutes on the Board's website;
- Posting the Voter Survey on the Board's website.

Ms. Sandow reported that the Committee recognized that there are needs for improvement. The items follow:

- Knowledgeable Poll Workers;
- Lengthy closing procedures on Election Night and amending Article 9 of the NYS Election Law. Many poll sites closed late

due to Poll Workers cutting the Scanners' results tapes and manually transcribing the data onto the Return of Canvass sheets. In addition, 3-page Return of Canvass sheets are not carbon copied, therefore, the Poll Workers have to fill out the Candidates' names and results in triplicates.

Ms. Sandow reported that Board staff reported on the Election Night Results Reporting Pilot Program for the 2011 General Election, and that the Commissioners have directed the Office of the General Counsel to review and develop proposed changes to Article 9 of the NYS Election Law. Ms. Sandow reported that Resolution 671-A was discussed and the Board staff voiced their concerns regarding a mandatory font size of 12 point. Using the 2010 General Election contests as a baseline for the Board's analysis, each ballot would have been three (3) pages increasing the cost from over \$6 million to over \$18 million. Staff submitted a copy of the Board's Proposed Revisions to the NYS Election Law which was submitted to the Leaders of the State Executive and Legislative Branches on June 10, 2011. Ms. Sandow stated that staff explained that many of the Recommended Revisions are similar to the provisions of the proposed Council's resolution. MIS staff reported on the ability to complete and submit Poll Worker applications on the Board's website. Staff is currently researching the capability of the Board's network system. They also

discussed webcasting the Commissioners' Meetings and providing archived video on the Board's website, reporting Board data to the Mayor's Management Report (MMR), and the Board's failure to accurately conduct a citywide search for an Executive Director. President Polanco thanked senior staff and the Commissioners who were present at the City Council Hearing for doing a great thorough job. He stated that it was an improvement from the past Hearings. Commissioner Stupp asked if the NYC Council's Committee was still supportive of Resolution 671-A after they heard the cost of the ballots. Ms. Sandow believed that the Committee is more supportive of NYS Assembly Member Brian Kavanaugh's bill where there is no mandatory font size. Mr. Richman explained that it is called the Voter Friendly Ballot Bill where it requires only the maximum font size, and there will be a Hearing this Fall to solicit his bill. President Polanco stated that the Board should provide answers to those questions that remain unanswered. Ms. Sandow thanked NYPIRG and Citizens Union for their support at the Hearing.

President Polanco recognized Alex Camarda, a representative of Citizens Union, who noted that one (1) page from their Testimony which contained positive remarks is missing in the agenda. Mr. Camarda recalled that he provided Executive staff with information about webcasting.

He stated that there is a no cost alternative using LiveStream, but there are pop-up advertisements. Secretary Soumas was concerned about the nature of the advertisements. Mr. Camarda urged the Board to research LiveStream.

Mr. O'Grady presented an update on Mobile Poll Sites. He recalled that he presented this item at a previous meeting and was directed to contact the vendor. The vendor denied driving the Mobile Poll Site from West Virginia to New York, even at a cost, because they are not the lowest bidder. Mr. O'Grady stated that the Mobile Poll Site would be bought using HAVA Grant funds which expire soon. President Polanco moved to send two (2) senior staff members to West Virginia to view the Mobile Poll Site. There was no second. Mr. O'Grady reported that the Mobile Poll Site would cost \$185,000. Commissioner Umame inquired if there are other items to purchase to make a poll site temporarily accessible on Election Day. Mr. O'Grady recalled that he bought equipment such as ramps, platforms, hand rails, cones, door bells, door stops, and door handles with the HAVA Grant funds. Commissioner Schacher inquired if the Board can purchase an item that is sturdier than a tent. Mr. O'Grady stated that he researched other options, but the Mobile Poll Site is the only option. Ms. Sandow reported that the tents cost approximately \$10,000 to rent for

one (1) Election Day. Mr. O'Grady stated that the HAVA Grant funds can be used to make a poll site temporarily accessible on Election Day. Secretary Soumas asked if the funds could be modified. Mr. Richman responded that the funds are for temporary accessible improvements at poll sites only on Election Day. President Polanco urged to send staff to view the Mobile Poll Site. Mr. O'Grady stated that he has CAD drawings of the vehicles. Ms. Sandow asked for the vendor to send a video to the Board. Commissioner Sipp asked if there was an alternative that could serve as a poll site besides a Mobile Poll Site. Mr. O'Grady replied that he researched and could not find anything in the market. Commissioner Araujo asked if the Mobile Poll Site could be used for public demonstrations and training. Mr. Richman stated that the grant requires the funds to be used as temporary accessible improvements to a poll site on Election Day. He stated that additional uses may be possible. Commissioner Schacher asked when the grant expires. Mr. O'Grady replied September 2012. He stated that he will request a video from the vendor. Commissioner Dent stated that the video should be shown to staff and the public. Commissioner Schacher inquired how many Mobile Poll Sites the vendor has sold in the past. Mr. O'Grady replied that they have not sold one yet, but they rent the Mobile Poll Site in West Virginia. President Polanco inquired what the board of elections in Miami or Los Angeles does for a

temporary accessible poll site on Election Day.

President Polanco reported that the Commissioners' Finance Sub-Committee held a meeting today. He requested to add their recommendation to the full Board on the agenda.

Mr. Naudus and Mr. O'Grady reported on the Grant survey from the State Board for the Federal Court. He stated that the State Board's Executive Director directed the City Board to complete a survey in August 2011. Mr. Naudus reported that staff has completed the survey except for the last question. The last question asks if both Commissioners agree, instead of ten (10) Commissioners, to the answers in the survey. Mr. Naudus and Mr. O'Grady asked the Commissioners for authorization to submit the survey to the State Board. Ms. Perkins noted that she emailed the survey to the Commissioners on Friday and requested for Mr. O'Grady to make copies and distribute to the Commissioners. The Commissioners tabled the item until they receive copies to review.

President Polanco recognized Judd Ryan, a representative from ES&S. Mr. Ryan presented the option for Election Night Results Reporting. He distributed copies of his report to the Commissioners. Mr. Ryan

recalled that Secretary Soumas inquired how much it would cost to modify the Scanners to have two (2) read-only CDs in addition to the back-up PMD at the previous meeting. ES&S created six (6) options which include Police Precincts. Mr. Ryan stated that there are other options to offer, but they require legislative change. President Polanco asked if ES&S is prepared for a quick turnaround on a modification. Mr. Ryan stated that it would take approximately six (6) months to one (1) year before providing an enhancement due to testing and the certification process. Mr. Ryan stated that they are working with lever machine rules for an optical scanning system. Secretary Soumas stated that he preferred option #3 and asked Mr. O'Grady how many Poll Workers would be eliminated with each of the options when they implement the enhancement. He stated that the Board could recoup expenses quickly. Mr. Ryan stated that the manual transcribing of results is contributing to the lack of speed on Election Night, but it is not the Board's fault; the law needs to be changed. Secretary Soumas stated that the Board has to proactively recommend an option that is useful to the City Board and strongly recommends option #3. Commissioner Schacher asked how option #3 would improve the closing of polls on Election Night. Mr. Ryan stated that the option #3 is a variation of Commissioner Soumas' suggestion at the previous meeting; another copy of the election results would be on a Write-Once Read Many (WORM) USB

memory stick in the DS200 Scanner which would be a different color. Mr. Ryan stated that the Poll Workers and Police Officers would be trained to take that colored USB stick back to their Police Precinct to upload it to the AP. Commissioner Schacher was concerned about the cost of the enhancement. Ms. Sandow stated that the USB sticks are expensive and the amount of sticks would increase every year. Mr. Ryan explained that there are two (2) types of USB sticks. He stated that currently the Board has USB sticks that can be reused and requires twenty-two (22) months of storage. The Board has to have enough sticks to meet the election cycle within those months and then staff can start recycling the sticks. Ms. Sandow stated that the recycling procedure is tedious and time consuming. She stated that there would have to be two (2) extra USB sticks. Mr. Ryan explained that the USB sticks can be recycled without extracting the data after the twenty-two (22) months of storage. Mr. Ryan explained that there are Write-Once USB sticks as well, but they would have to be disposed of after they are utilized once and cost \$17 each. The reusable USB sticks cost \$104 each. The Write-Once USB test would require one (1) stick for the VMF and one (1) stick on Election Day. There would be two (2) sticks per election and per Scanner. Secretary Soumas suggested giving the Write-Once USB sticks to the Police Precincts so they do not have to return them back to the Board. Mr. Ryan stated that could be done.

Commissioner Umame asked if the Board could purchase the USB sticks at a cheaper cost at Staples. Mr. Ryan explained that single-cell formatted USB sticks are certified with the voting system and are the most reliable USB sticks. He stated that Staples sell multi-cell formatted USB sticks which are less reliable. Commissioner Stupp thanked Mr. Ryan for his report and reminded the Commissioners that the Board has to try to modify the NYS Election Law to fulfill the needs of the City Board's new voting system which would be the cheapest modification. She stated that New York City is very different from other NYS counties. Commissioner Umame thanked Mr. Ryan and ES&S for preparing the report within a week. He asked Mr. Naudus and Mr. O'Grady to work with ES&S staff on this matter and for the Board staff to make a recommendation to the full Board. Commissioner Umame reminded Board staff to incorporate the prices as well. He agreed that the Board needs to fix the slow Election Night Results Reporting process. Secretary Soumas asked Mr. O'Grady to research the number of Poll Workers that would be eliminated and the savings for the proposed options. Mr. O'Grady will research the information for the next meeting.

President Polanco recognized Jerry Koenig, a member of the public, who spoke about tallying the results on Election Night.

Commissioner Dent stated that one of the biggest concerns is the font size on the ballot. She asked Mr. Ryan what ES&S could do to make the font size larger. Commissioner Dent stated that the Commissioners, NYC Council and voters are concerned about the size of the font. Mr. Ryan stated that the font size issue stems from the full face ballot requirement and having everything printed on one side of paper. He stated that the software which lays out the ballot is capable of using any font size that the Commissioners dictate within reason. Mr. Ryan stated that due to the Party grid format and the size of the ballot, it only allows for a smaller font. He stated that there are four (4) covered language requirements and ballot width restrictions for the optical scanning system as well. Mr. Ryan stated that a standard portrait layout with a column format would allow the ability to enhance the size of the font, but would require a legislative change. Commissioner Sipp questioned the TBD estimated prices on Mr. Ryan's report and asked for a price range. Mr. Ryan explained that it stems from the number of Police Precincts that would be utilized to read the results. ES&S staff did not know if they would be reduced or not. Commissioner Sipp stated that Board staff needs to clarify that issue for the options. Secretary Soumas asked if it would be the same figures for the six (6) options. Mr. Ryan replied yes. Commissioner Dent revisited her question again concerning the font size on the ballot. She stated that the

Commissioners and Executive staff need to develop a plan because there must be larger print on the ballot. Commissioner Dent stated that voters, especially seniors, cannot read the ballot. She has received many calls and letters from voters and Election Officials concerning this matter. Commissioner Dent stated that the Board has invested in the Scanners and there has to be a way to make the font size larger under the constraints of having four (4) covered languages on the ballot. She stated that the other NYS counties do not have that requirement. Commissioner Dent reported that at the NYC Council Hearing they compared the Board's ballot to another county's ballot, but there were only two (2) languages on it. She stated that the Legislators need to change the NYS Election Law.

President Polanco recognized Teresa Hommel, a member of the public, who requested for a copy of ES&S's draft report. President Polanco stated that he would like to provide the report to the public. Commissioner Stupp moved to provide the draft report to the public. Secretary Soumas seconded the motion, which was adopted unanimously. Commissioner Dent suggested stamping the report as a draft.

Mr. Naudus and Mr. O'Grady distributed copies of the Grant survey from the State Board which was presented at the beginning of the meeting.

Commissioner Umane moved to provide the survey to the State Board. Commissioner Dent seconded the motion, which was adopted unanimously.

Mr. Ward presented the Vacancy Report dated September 27, 2011. A copy of the report is in the agenda.

President Polanco inquired if Ms. Delayo has received any resumes as it relates to the position of Executive Director. Ms. Delayo replied no.

President Polanco reported on the Commissioners' Finance Sub-Committee recommendations. Mr. Ferguson stated that they discussed a new contract for equipment for the Board's Print Shop. It is called Document Imaging and Services Contract. The new contract would save approximately \$2,000 per month over five (5) years while giving more capabilities and newer equipment. The Sub-Committee approved the contract. Commissioner Umane moved for the full Board to adopt the recommendation of the Sub-Committee. President Polanco seconded the motion, which was adopted unanimously.

President Polanco moved to convene an Executive Session to discuss personnel matters. Commissioner Barrera seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and President Polanco reported on the following action taken in Executive Session:

- I. The Commissioners hired John Bonhomme, Jr. as an Administrative Assistant in the Manhattan Office, at an annual salary of \$42,659, effective June 12, 2011.

President Polanco moved to adjourn the meeting. Commissioner Dent seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, October 4, 2011 at 1:30 P.M.