

THE MEETING OF  
THE COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, JANUARY 10, 2012  
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 Maria R. Guastella  
                  Secretary Frederic M. Umame

Commissioners Araujo, Barrera, Dent, Polanco, Sipp, Soumas, Stupp

Dawn Sandow, Deputy Executive Director  
Steven H. Richman, General Counsel  
John Ward, Finance Officer  
Valerie Vazquez, Director, Communications and Public Affairs  
Raphael Savino, Director, Campaign Finance Reporting Enforcement  
Steve Ferguson, Director, MIS  
John Naudus, Manager, Electronic Voting Systems  
John O'Grady, Chief, Voting Machine Technician  
Marie Lynch, Director, Equipment  
Nicholas Zimmitti, Associate Staff Analyst, Election Day Operations  
Bonnie Bibula, Administrative Associate, Election Day Operations  
Giacomo Kmet, Temporary Attorney, OGC  
Charles S. Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       A.B. Britton  
                  Mariana Blume  
                  Marjorie Shea, Women's City Club  
                  Liz Brown, for Council Member Gale A. Brewer  
                  Kevin Maloney, Citizens Union  
                  Chi-Ser Tran  
                  Stewart Armstrong, CFB  
                  M. Aronson  
                  John D. Smith

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President Guastella called the meeting to order at 1:34 P.M.

Commissioner Dent announced that Commissioner Schacher is well and will be released from Long Island College Hospital today. She noted that Board Staff and the public can send their well wishes to her home.

Mr. Savino requested to discuss a litigation matter in Executive Session.

Commissioner Araujo moved to approve the minutes of the January 3, 2012 meeting. Commissioner Dent seconded the motion, which was unanimously adopted.

Mr. Richman reported that the Governor issued a Proclamation today calling for a Special Election for the 27<sup>th</sup> State Senate District in Kings County on March 20, 2012. A copy of his memorandum is in the agenda. Mr. Richman stated that the Board has posted/issued the appropriate Calendars in accordance with the provisions of the NYS Election Law. He stated that the issue for the Commissioners' determination is the scheduling of hearings on any challenges relating to this Special Election. In accordance with the provisions of Chapter 4 of the Laws of 2011, this

Board is required to mail military and federal ballots at least 45 days before the election, which is Friday, February 3, 2012. In addition, under Chapter 4 of the Laws of 2011, this Board is required to certify the Special Election ballot 53 days before the Special Election, which is January 27, 2012. Mr. Richman stated that under the NYS Election Law the last day to file a specification of objection to a Certificate of Nomination is January 30, 2012, which is 3 days after this Board is to certify the ballot. The last day to file a specification of objection to an Independent Nominating Petition is February 1, 2012, which is 5 days after this Board is required to certify the ballot. Mr. Richman noted that this problem has been identified and addressed in the Election Commissioners' Association's (ECA) proposal amending the Election Calendar to provide for sufficient time for the boards of elections to perform their statutory duties. Mr. Richman recommended that the Commissioners:

- Schedule their hearings for Tuesday, February 7, 2012 at 1:30pm;
- Direct that the military ballots be printed forthwith after January 23, 2012 and mailed by the February 3 deadline and posted on the State Board's website for use by military voters;

- Direct that all other absentee ballots be printed and mailed immediate upon the conclusion of the Board's hearings on said certificates and petitions.

Secretary Umame inquired why the Federal MOVE Act requirements apply to the State Senate's Special Election. Mr. Richman replied that the NYS Election Law changed in 2011 with the enactment of Chapter 4 of the Laws of 2011 which changed the deadline for mailing military ballots in all Special Elections to 45 days before the date of the Special Election. Secretary Umame moved to adopt Mr. Richman's recommendation. Commissioner Dent seconded the motion, which was unanimously adopted. Mr. Richman stated that the Calendars will be revised.

President Guastella noted that Commissioner Soumas and Ms. Sandow joined the meeting.

Ms. Lynch, Ms. Bibula and Mr. Zimmitti presented the final update on the Board's 2010 Recycling Program. Ms. Lynch stated that the program focused on reusing consumable supplies per each election event in order to reduce costs. Such items reused were table displays, badge holders, pens, et al. The Inventory Team is Ms. Lynch, Ms. Bibula, Mr. Zimmitti and Mr. O'Grady. Ms. Lynch stated that the MIS Staff implemented the new

inventory system by expanding the existing in-house Fleet Management System rather than purchasing a new system. This resulted in a cost savings of approximately \$50,000. Ms. Lynch reported that inventory procedures were created to formalize the process of retrieving, sorting, counting and packaging the recyclable supplies. The Inventory Team worked closely with the clearing house to ensure that all supplies were properly sorted, counted and packaged so they can be reused. Ms. Lynch reported that the Board saved approximately \$149,000 due to the initial success of the Recycling Program. She stated that it was a borough wide effort and the assistance of the Voting Machine Facility (VMF) Staff made the program a success. Commissioner Stupp inquired which elections saved the Board approximately \$149,000. Ms. Lynch replied the Primary and General Elections. Commissioner Polanco thanked the Inventory Team for developing the Recycling Program to save funds.

Mr. Ferguson presented the update on the Statewide Duplicate List, Felon List and Deceased List. He recalled that in May 2011 the Commissioners approved the City Board Staff to work with the State Board Staff concerning an interim process not using the State Board's website for these three (3) categories. The City Board received the first batch of Deceased and Felon files from the State Board in June. He stated that

MIS Staff provided user friendly formats of the lists to the Borough Office Staff. Mr. Ferguson reported that the City Board received a total of 11,490 Felons from the State Board and 5,966 voters were purged from the City Board's Voter Registration System. In addition, the City Board received a total of 41,495 Deceased and 31,659 voters were purged. He noted that these lists are received and processed on a monthly basis. Lastly, the City Board received a total of 42,730 Duplicates and 39,100 voters were purged. Mr. Ferguson stated that there were 3,929 potential Duplicates last week and Notices of Intent to Cancel have been mailed to those voters. If the voter does not respond to the Notice then he/she will be purged from the system. Mr. Ferguson stated that the State Board requested for a report from the City Board for to the Department of Justice (DOJ). The DOJ requests for a report on this matter every ninety (90) days. Mr. Ferguson reminded that this is an interim process and staff is working on a permanent solution. Commissioner Sipp inquired if the City Board has a great working relationship with the State Board. Mr. Ferguson replied yes.

Mr. Naudus, Mr. O'Grady and Mr. Richman presented the draft recommended modifications to the Policies and Procedures of the City Board for the deployment of Election Day equipment. Mr. Richman

distributed copies of the draft report to the Commissioners. Mr. Naudus stated that the Board's current policy of deployment is one (1) scanner for each 1,400 eligible voters with a minimum of two (2) scanners at every poll site. Last year, the Board asked the DOJ to increase the number of eligible voters up to 4,000. Mr. Naudus stated that they suggest making that a permanent solution moving forward. He suggested that at least 30 days before each election, the Commissioners shall determine if additional scanners should be deployed for that election to ensure compliance with the provisions of 9 NYCRR § 6210.19 (2)(c)(1). Mr. O'Grady reported that the Board would prepare a replacement scanner for each poll site that has only one (1) scanner deployed for that election and place said replacement scanner on a "zone truck" which is pre-deployed to specific coverage area throughout the city on Election Day. For poll sites that have more than one (1) scanner deployed for that election, the current practice of programming a replacement scanner at the Borough VMF upon receipt of a report that a scanner has been placed out of service and then delivering that replacement scanner to that poll site will continue. Commissioner Sipp inquired why the replacement scanners would not be delivered to the poll sites instead of sitting on the "zone truck." Mr. Naudus stated that it is part of the effort to simplify the process for the Poll Workers. If there is only one (1) scanner throughout the entire day then that results tape can be the

Return of Canvass. The Poll Workers would not have to add the numbers across on a Return of Canvass Sheet. The results tapes would be placed into an envelope and sent to the NYPD. Mr. Richman stated that the only time the Poll Workers would have to do a manual count would be if there are Emergency ballots that cannot be scanned or if a replacement scanner was used. Commissioner Sipp appreciated that the staff worked hard on this recommended procedure, but he was concerned that there may be longer lines for the voters on Election Day. Mr. Naudus stated that scanning a ballot is completed within seconds; the wait time is from the other processes at the poll site which leads up to the scanner. Mr. Richman stated that the Board can submit this plan to the DOJ for pre-clearance and the Commissioners could always add on additional equipment in a uniform non-discriminatory matter throughout the City. Mr. Richman noted that this would be an interim step. Commissioner Sipp asked if this recommendation is intended to be submitted to the DOJ in order to have the ability for one (1) scanner for every 4,000 voters and also have the flexibility of how much equipment they can send out. Mr. Richman replied yes. Secretary Umame stated that he shared the same concerns as Commissioner Sipp. He asked if there would be DOJ issues if the Board needed to add additional scanners to a poll site due to new housing developments which lead to an increase of voters in a certain

area. Mr. Richman stated that matter could be addressed countywide, but he felt that New York City poll sites should be uniform throughout the five (5) boroughs. Secretary Umame stated that these recommendations are not the final solution to the post-election counting issues and the Board still needs to focus on that issue. Commissioner Araujo inquired how these recommendations coincide with the combined Election Districts (EDs) and the benefit of having a scanner in a “zone truck” opposed to having it in the VMF. Mr. Richman stated that if a scanner should fail at a poll site then the “zone truck” reduces the transportation time of the replacement scanner which then reduces the amount of Emergency ballots and work for the Inspectors at the end of the night. Mr. Richman stated that the concept is to try to minimize the time that voters would be voting on paper ballots and not being able to scan them. Commissioner Araujo asked if the current trucking contract permit for “zone trucks.” Mr. Richman replied yes. He stated that this procedure does not affect the combined EDs. Mr. Richman stated that for the Primary and General Elections in the current year, the Board is only allowed to combine an ED if there are less than 100 eligible voters in the ED and the combined ED results in 500 eligible voters which is a total number per poll site. This reduces the number of table Inspectors which is a cost savings. Commissioner Polanco stated that he was interested in what the public thinks about this matter.

He stated that he does not know if this recommendation addresses the needs of the voters. Commissioner Polanco inquired if the staff has worked with the good government groups on this project. Mr. Richman replied no. Commissioner Polanco asked if this recommendation would increase the trucking costs. Mr. O'Grady stated that the trucking costs would decrease. A "zone truck" is \$1,300 per day, whereas, it is \$56 per scanner to deploy back and forth from the VMF. Commissioner Sipp stated that Staten Island is not covered by the Voting Rights Act. He asked if the Staten Island Commissioners determined to provide their voters with a lesser ratio, for example, one (1) scanner to 2,500 voters, if they would be legally able to deploy more scanners to their poll sites opposed to the boroughs that are covered in the Voting Rights Act. Mr. Richman replied yes, but it would create some concerns. Commissioner Dent inquired where the location of the "zone trucks" would be in the five (5) boroughs. Mr. O'Grady stated that the "zone trucks" would be in the zones where the VMT's currently reside. He noted that Brooklyn has nineteen (19) different zones and there would be one (1) truck in each zone. Commissioner Araujo asked what would happen if more than one (1) scanner malfunctioned simultaneously. Mr. O'Grady stated that approximately twenty-five (25) scanners fit on a "zone truck" and it would be driven to the poll sites to deliver a scanner. Commissioner Araujo asked how the VMT's

would determine the dispatches. Mr. O'Grady stated that they would deliver the scanner immediately. Commissioner Araujo asked if there would be a different Call Center monitoring system for the "zone trucks." Mr. O'Grady stated that the "zone trucks" would be dispatched from the borough's VMF's Call Center. He noted that the Board replaced twenty-five (25) scanners citywide in 2010. In the 2011 General Election, the Board replaced twelve (12) scanners citywide. Mr. O'Grady stated that most scanners are repaired by the VMTs at the poll site. Commissioner Dent stated that two (2) scanners per poll site gives it a cushion just in case one (1) scanner malfunctioned. She was concerned about the scanner's delivery time, especially if scanners malfunctioned simultaneously. Commissioner Dent noted that Brooklyn is a very large borough and one (1) poll site would have to wait if the two (2) poll sites were in the same zone. Mr. Richman stated that there are 19 zones and 21 ½ Assembly Districts in Brooklyn so there would not be a long wait time. Commissioner Barrera asked if this is the best year to implement these changes. Mr. Richman believed that it would be suitable for the Presidential Primary Election. President Guastella requested to move on to the modifications relating to the deployment of privacy booths. Mr. Naudus stated that the Board's current policy is to deploy one (1) privacy booth for each 250 eligible voters at all elections. This policy would be modified to deploy

one (1) privacy booth per every 300 registered voters (excluding voters in inactive status), except that in a general election when the offices of either Governor, or electors for President of the United States appear on the ballot, one privacy booth for every 250 registered voters (excluding voters in inactive status) except for those poll sites which have more than 6,000 registered voters (excluding voters in inactive status), where the Board will deploy one (1) privacy booth for every 350 registered voters (excluding voters in inactive status) when the offices of either Governor, or electors of President of the United States appear on the ballot and one privacy booth for every 400 active voters in all other elections. The Commissioners would determine, at least 30 days before each election, if additional privacy booths should be deployed for that election to ensure compliance. Secretary Umare agreed with this recommendation because he found that there was a lot of unused privacy booths stacked at poll sites during previous elections. He recommended adding language to the recommendation concerning the disabled privacy booths as well. Commissioner Araujo stated that he saw a lot of unused privacy booths as well which created clutter in the poll sites' rooms. He noted that voters do not have to use a privacy booth if he/she do not want to and he saw some voters exercise that right. Commissioner Guastella agreed with Commissioner Araujo. Commissioner Umare asked if the 30 day window

gives the VMF's sufficient time to prepare. Mr. Richman replied yes and it could be determined earlier as well. Commissioner Polanco moved to table this item for one (1) week to review further. Commissioner Sipp seconded the motion, which was unanimously adopted.

Mr. Ward presented the Comparative Expenditures Report dated January 10, 2012. A copy of the report is in the agenda.

Mr. Richman reminded the Commissioners to submit their dues to remain as an active member of the Election Commissioners' Association of the State of the New York for 2012. A copy of the invoice was distributed to the Commissioners. Mr. Richman noted that a designation form for the 2012 ECA Winter Meeting was distributed to them as well.

Secretary Umane moved to convene an Executive Session to discuss a litigation matter. Commissioner Polanco seconded the motion, which was unanimously adopted.

Following the Executive Session, the open public meeting resumed and President Guastella reported that no action was taken in Executive Session.

Secretary Umane moved to adjourn the meeting. Commissioner Sipp seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners is scheduled for Tuesday, January 17, 2012 at 1:30 P.M.