

Approved # 3057

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MAY 15, 2012
AT 1:30 P.M.

42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: Secretary Frederic M. Umane

Commissioners Araujo, Barrera, Dent, Polanco, Schacher, Soumas

Dawn Sandow, Deputy Executive Director

Pamela Perkins, Administrative Manager

John Ward, Finance Officer

Dorothy Delayo, Director, Personnel

Valerie Vazquez, Director, Communications and Public Affairs

Joel Bermejo, Temporary Contract Attorney, OGC

John Naudus, Manager, Electronic Voting Systems

John O'Grady, Chief, Voting Machine Technician, VEOU

Stephen Thompson, HAVA Training Specialist, EDO

Rosanna Rahmouni, Coordinator, Election Day Operations

Steven B. Denkberg, Counsel to the Commissioners

GUEST: Victor A. Jordan

Kate Doran, LWV

Monica Bartley, CIDNY

Marjorie Shea, Women's City Club

Seth Grossman, City Council

Judd Ryan, ES&S

Gene Berardelli, Esq., for David Storobin

Chi-Ser Tran, AALDEF

Alex Camarda, CU

John D. Smith

A.B. Britton, KLC GOP USA

Horres C., KLC USA

Secretary Umane called the meeting to order at 1:45 P.M.

Secretary Umane announced that President Guastella and Commissioner Sipp will not be attending the meeting because they are participating in the Staten Island Court matter concerning Congressman Michael Grimm.

Secretary Umane stated that he is aware of one matter to be added to the agenda.

Commissioner Araujo moved to adopt the minutes of the May 1, 2012 meeting. Commissioner Barrera seconded the motion, which was unanimously adopted.

Ms. Sandow reported that there is a City Council Hearing on Proposed Executive Expense, Revenue, Capital and Contract Budgets for Fiscal Year 2013 on May 30, 2012 at 1:30 P.M. A copy of the City Council's letter is in the agenda.

Secretary Umane noted that Mr. Richman and Mr. Savino are attending the Staten Island Court matter as well. He suggested tabling Mr. Richman's first item on the agenda. Commissioner Schacher stated that his memorandum concerning the item was distributed to the Commissioners. Commissioner Soumas recommended discussing the item concerning the follow up on Civil Rights Law, Section 50, concerning the revised draft Exit Letter. He stated that after all of the issues regarding the Civil Rights Law and statutory requirements and limits, the reality and right thing to do is for the Board to mention that the Department of Education (DOE) has a policy. He stated that the Board is not looking to enforce it and mentioning the DOE's policy does not infringe upon anybody's rights. Commissioner Soumas moved to accommodate the DOE's request to add their statement to the Exit Letter as it stands. Commissioner Polanco seconded the motion, which was unanimously adopted.

Mr. Naudus presented the draft Manual Canvass Preliminary Process Guidelines. A copy of the draft guidelines are in the agenda. Mr. Naudus stated that in order to conduct a manual re-canvass of all paper ballots utilizing the Board's current poll site scanner configuration, the draft

guidelines for the preliminary preparation process were created. Mr. Naudus summarized the guidelines. These guidelines would be used for the Kings County, 27th Senate District, March 20, 2012 Special Election matter. Secretary Umane inquired about the amount of staff that will assist in the re-canvass. Mr. Naudus stated that there will be thirty (30) staff members from the Brooklyn Office. Executive Management stated that they are sending ten (10) staff members (five (5) Democrats and five (5) Republicans) from the General Office to help with the manual recount so that Brooklyn does not fall behind in the pre-election tasks for the June 26, 2012 Federal Office Primary Election. Secretary Umane stated that Gene Berardelli, Esq., the representative for Candidate David Storobin, requested to discuss this matter with the Commissioners. Secretary Umane recognized Mr. Berardelli. Mr. Berardelli questioned the entire need for the hand count. He stated that the procedures for every county outside of New York City are valid. Commissioner Soumas stated that the City Board has to protect the voters of the City of New York. He stated that the City Board developed these procedures to safeguard the sanctity of the ballot. Mr. Berardelli questioned the additional protection for the voters. Commissioner Soumas explained that in 2010, the City Board Commissioners implemented procedures because he did not trust the

accuracy of the new electronic voting systems. Mr. Berardelli thanked the Commissioners for his time. Secretary Umane moved to adopt the Manual Canvass Preliminary Process Guidelines. Commissioner Araujo seconded the motion, which was unanimously adopted. Commissioner Polanco asked how long it will take for the hand count to be completed in Kings County. Mr. Naudus estimated a total of twenty-five (25) days.

Secretary Umane noted that Mr. Savino is not present, but he would like to discuss his item concerning the proposed revision to Section 9-124 and Section 9-126 of the NYS Election Law. He explained that the City Board would use their staff instead of the NYPD Officers in certain cases to collect the post Election Day information to try to speed up the process on Election Night. He stated that if this proposed revision is adopted then it will be presented on May 22, 2012 at the Board's State Government Education and Information Day in Albany, NY. Commissioner Araujo stated that this proposed revision would allow for flexibility on Election Night which is based on the Board's workstream. He stated that the proposal would be to the Board's benefit without opting out the NYPD completely. Ms. Sandow stated that the past legislation made the NYPD the sole entity to pick up and upload the PMDs on Election Night. The

NYPD was in agreement because the Associated Press stated that they would like to provide new computer systems in the Police Precincts. Ms. Sandow stated that matter has changed since their previous meeting. She stated that the Board has met with the NYPD to discuss how they can move forward to implement the results reporting citywide as done in the pilot program in Queens. She stated that the legislation needs to be amended to allow Board appointed bi-partisan teams or NYPD to pick up the PMDs and results tapes on Election Night. Ms. Sandow stated that Election Night Reporting (ENR) Bi-partisan Teams would report at 8:00 P.M. on Election Day and would be given approximately six (6) sites to the closest PMD upload location. They would pick up the PMD and results tapes by car and then report to the upload site. Once the team delivers their PMD packages, they would report to a Monitor to immediately start the uploading of results. This would decrease the amount of staff used from Good Temps. Good Temps was used in the Queens pilot program. Ms. Sandow stated that if this plan was implemented citywide, the Board would use approximately three (3) teams from Good Temps in each location, the Board's AD Monitor Teams, and ENR Teams. The three (3) teams from Good Temps would be at the upload location just in case the AD Monitor Teams come in with PMDs ahead of the ENR Teams.

Secretary Umane stated that the amendment would allow the Board to designate their staff or “Super” Coordinators. He stated that it would be important to communicate with the NYPD in case the Board needs additional staff from the NYPD. Secretary Umane moved to include the proposed revision to Section 9-124 and Section 9-126 of the NYS Election Law in the Legislative Package for the May 22, 2012 State Government Education and Information Day in Albany. Commissioner Araujo seconded the motion, with Commissioner Soumas opposing, and Commissioner Dent abstaining. The motion was not adopted. Ms. Sandow was concerned that the previous legislation that allows only the NYPD to pick up the PMDs on Election Night will not get passed because there are no finances available. She stated that the Pilot Program in Queens County was to gauge the timing of the PMD pick-ups, how long it would take to upload the PMDs, and the accuracy of the results. She stated that if this legislation does not move forward then the Board will not be able to move citywide. Commissioner Schacher suggested tabling this matter for the next Commissioners’ Meeting to be scheduled this week. Ms. Sandow reported that President Guastella asked her if there will be a meeting scheduled this week, either Thursday or Friday, since there is no meeting on May 22, 2012. The Commissioners stated that they will check their schedules.

Commissioner Soumas recalled that several months ago there were long term proposals from ES&S to modify the Scanners and one option was to add an additional PMD to the Scanners. He inquired about the outcome of this option and requested to speak with a representative from ES&S.

Secretary Umane recognized Judd Ryan, a representative from ESS&S, who addressed Commissioner Soumas' concerns. Mr. Ryan stated that there were various proposals from ES&S that were submitted to the Board, but there was no direction or decision to act upon yet. Ms. Sandow stated that there were long-term ES&S options which included the costs that were distributed to the Commissioners in the past. Secretary Umane stated the options would have to be proposed to the State Board and then quality control tested for certification in order to change the voting machines. Ms. Sandow stated that the ES&S options were discussed with the Election Night Results Committee and were presented to the Commissioners in the past. Commissioner Soumas requested for the ES&S options and pricing list. The Commissioners tabled the item until Ms. Sandow returned with the ES&S options list.

Ms. Perkins reported that Assembly Member Brian Kavanagh is currently making changes to Article 9 in the NYS Election Law which concerns Election Night Reporting. She will circulate the revised bill to the Commissioners as soon as she receives it.

Mr. Thompson and Mr. Naudus presented the proposed revision to the NYS Election Law, Section 4-104(5), New Subdivision (e). A copy of the proposed revision is in the agenda. Mr. Thompson stated that the proposed revision would allow the combining of EDs if it has less than ten (10) voters provided it does not exceed the statutory maximum of voters. He stated that on some of the new district lines there were zero (0) eligible voters. Mr. Thompson stated that the proposal would prevent the Board from printing ballots and deploying poll workers and voting equipment where there are no voters in an ED. He noted that these are primarily “water” EDs located in the ocean/river where no one resides. Commissioner Araujo moved to adopt the proposed revision to the NYS Election Law, Section 4-104 (5) New Subdivision (e). Commissioner Barrera seconded the motion, with Commissioner Soumas abstaining. The motion was adopted. Secretary Umane confirmed that this proposal will be

included in the Board's Legislative Package for the State Government Education and Information Day on May 22, 2012.

Ms. Vazquez gave a presentation of the proposed Redistricting Mailer. She distributed mock-ups of the mailers to the Commissioners. Ms. Vazquez stated that the mailer would advise voters of their new ED/AD and poll site change. She stated that Council Member Gale Brewer and various good government groups requested this mailer. The total estimated cost for the mailer would be \$1.9 million. She stated that the Board has \$1.2 million in FY12, but would have to make a request to OMB to roll over the funds to FY13 since it would be mailed in July 2012. She stated that the Board would have to submit a request to OMB for the remainder amount of \$700,000. Commissioner Polanco stated that this would be a very important mailer for the voters of New York City and the Board should request the additional funds from OMB. Secretary Umane stated that the City Board mails all registered voters a legally required Information Notice in August which contains their poll site information. He requested for the new ED/AD information to be included in that notice. He stated that the Board needs funds for other important issues. Secretary Umane stated that he does not support the proposed mailer.

Secretary Umane recognized Kate Doran, a representative of League of Women Voters, and Marjorie Shea, a representative from Women's City Club. Ms. Shea suggested for the Board to send the proposed mailer only to the voters who's ED/AD were affected by the redistricting process and to target the Asian American voters in Queens County. Ms. Doran agreed with Ms. Shea. She stated that the proposed mailer is expensive and suggested for a blank space to be created on voter registration forms for an email address in the future. She stated that the Board could email voters with important information in order to save on printing costs.

Commissioner Barrera stated that the proposed mailer for July would be excess along with the required Information Notice in August. Commissioner Schacher stated that the proposed mailer is too expensive. Commissioner Araujo asked Ms. Vazquez to contact Elected Officials to request that they add information about the new ED/AD lines in their newsletters. Secretary Umane stated that there is no motion to support the proposed mailer.

Ms. Sandow distributed ES&S's long-term options list to the Commissioners. She stated that the Board has been working on a

long-term solution and at the request of the Commissioners Board Staff was looking options for the Presidential Election this year. Commissioner Soumas asked Mr. Ryan if it would be possible to present Option #3 to the State Board for certification. Mr. Ryan stated yes and noted that there would be development time, quality control testing, and certification which would take approximately 9 – 12 months. He stated that ES&S can pursue this option if requested by the Commissioners. Commissioner Soumas explained that Option #3 allows for the additional PMD to be given to the Police Officer on Election Night for immediate uploading at the Police Precinct. Mr. Naudus stated that Option #3 would require two (2) read-only PMDs for each election; one for testing and one for Election Day. He stated that Option #3 solves the issues with the press, but does not eliminate the need of the Return of Canvass. Mr. Naudus stated that the proposed law change would eliminate some of those requirements, so the results tapes themselves would be the Return of Canvass. He stated that there could be Emergency ballots which would require adding by the Poll Workers. Mr. Naudus stated that he developed Option #14 which would network all the Scanners at a poll site to print a single results tape which would eliminate the adding and cutting of tapes. Secretary Umane stated that another option was to change the legislature to report the results by

Scanner and not by ED/AD. It would provide the results quickly to the candidates, voters, and press on Election Night. He stated that the ED/AD results could be reviewed a week later. Commissioner Schacher asked Mr. Naudus how much Option #14 would cost. Mr. Naudus stated approximately \$4 - \$8 million. He stated that the wireless modem would be the most expensive option, but the results would be downloaded the fastest on Election Night. Commissioner Schacher stated that she would be in favor of Option #14. Commissioner Soumas recommended submitting Options #3 and #14 to the State Board for certification. Mr. Ryan asked the Commissioners if they would like to see a demonstration of the modem, laptop, and additional PMD options. Commissioner Dent asked Mr. Ryan if any of the options presented are used by any other states as it relates to Election Night Results Reporting. Mr. Ryan replied that the modem option is used in some states, but not the networking of Scanners and the laptop option has been used as well. Ms. Sandow asked Mr. Naudus if the pricing is accurate for ES&S Option #3. Mr. Naudus stated that the Board would need a firm estimate due to the additional read-only PMDs needed for testing. Commissioner Araujo stated that he is in favor of the wireless option and would like to see a demonstration. Commissioner Soumas moved for ES&S to submit Option #3 and Option #14 (Mr. Naudus' option)

to the State Board for certification. He suggested for these demonstrations to be conducted during the public Commissioners' Meeting and asked about the timeframe. Mr. Ryan stated that he believed it would take approximately one (1) month, but he will check with his Corporate Office and get back to the City Board. Ms. Sandow stated that those options are long-term and asked for guidance for this year's election. She reiterated that the Board's Government Education and Information Day is on Tuesday. Ms. Sandow asked if the Commissioners are available to meet either Thursday or Friday to discuss this matter again. The Commissioners determined that they will have to check their schedules.

Ms. Rahmouni presented the preliminary report on the number of Poll Workers assigned versus the actual report for April 24, 2012 Presidential Primary Election. A copy of the report is in the agenda. Ms. Rahmouni stated that a total of 22% of Poll Workers, who were assigned to work, did not show up to on Election Day. She stated that the Board assigns extra Poll Workers for this reason.

Mr. O'Grady reported on the DS200 Scanner roller replacement. He stated that there are a total of 1,729 Scanners that need new rollers. The

Board's Voting Machine Technicians (VMTs) will learn from ES&S Staff how to install the new rollers throughout the Preventative Maintenance process. Mr. O'Grady stated that the rollers and instruction would be no cost to the Board. Commissioner Barrera moved to replace the rollers. Commissioner Schacher seconded the motion, which was unanimously adopted.

Mr. Ward presented the Comparative Expenditures Report dated May 15, 2012. A copy of the report is in the agenda.

Secretary Umane moved to convene an Executive Session to discuss personnel matters, which was unanimously adopted.

Following the Executive Session, the open public meeting resumed and Secretary Umane reported there was no action taken in Executive Session.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, May 29, 2012 at 1:30 P.M.