

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, MAY 29, 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  
Pamela Perkins, Administrative Manager  
Steven H. Richman, General Counsel  
John Ward, Finance Officer  
Dorothy Delayo, Director, Personnel  
Raphael Savino, Director, Campaign Finance Enforcement Reporting  
Valerie Vazquez, Director, Communications and Public Affairs  
Joel Bermejo, Temporary Contract Attorney, OGC  
Nicholas Squicciarini, Manager, Facilities  
Troy Johnson, Coordinator, Candidate Records Unit  
Stephen Thompson, HAVA Training Specialist, EDO  
Charles S. Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Dee Stevens  
                  Zach Bolodkin  
                  Kate Doran, LWV  
                  John D. Smith  
                  Isabel Pitaro  
                  Artyou Matassi  
                  A.B. Britton, KLC USA CEO  
                  Cathy Gray  
                  Stewart Armstrong, CFB  
                  Alan Flacks, Member of NY Democratic County Committee  
                  Mariana Blume

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

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

Commissioner Araujo moved to table the minutes of the May 8, 2012 and May 15, 2012 meetings. Commissioner Sipp seconded the motion, which was unanimously adopted.

Mr. Richman reported on the Board's 2012 State Government Information and Education Day which was held on May 22, 2012 in Albany, NY. He stated that the City Board was well received as demonstrated by the welcoming banner provided by the Chairs of the Election Law Committee at the Board's noon event. Mr. Richman displayed the banner for the Commissioners and public. He stated that representing the Board were President Guastella, Secretary Umame, Commissioner Dent, Mr. Savino and himself. In addition to formal meetings with Senator Thomas O'Mara, Chair of the Senate Elections Committee, Jason Litwak, the Counsel to the Assembly Election Law

Committee, and Jeremy Creelan, Special Counsel to the Governor. The Board talked with Senator Martin Dilan, Ranking Member on Senate Elections Committee, Assembly Member Ray Walter – Ranking Member of the Assembly Election Law Committee, Judy Rapfogel, Chief of Staff to Assembly Speaker Sheldon Silver, Senator Martin Golden, Senator Joseph Addabbo, Senator Bill Perkins, Senator Toby Stavisky, Senator Diane Savino, and Assembly Members Keith Wright, Carl Heastie, Vito Lopez, Peter Abbate, Helene Weinstein, Alec Brook Krasny, David Weprin, Tom Abonanti, Jeffrey Dinowitz, Joan Millman, Jeff Aubrey, Brian Kavanaugh, Micah Kellner, Michael DenDeker and Nicole Malliatakas. Mr. Richman stated that they also spoke with Peter Kosinski, Counsel to the Senate Majority for Election Law Matters, and the Board's colleagues from the State Board, Todd Valentine, Bob Brehm, Paul Collins, Tom Connolly, as well as Monroe County Commissioner of Elections Tom Ferrace. Mr. Richman expressed his thanks to Peter Ellis, Chief of Staff to Senator O'Mara, as well as the Senator's entire staff for their assistance in making last Tuesday both productive and successful.

Mr. Richman reported on the specific legislative action as follows:

- There appears to be movement to develop a common bill to address the design of the ballot and to make it more voter friendly. The so-called Article 7 bill may emerge as a Governor's Program Bill in the next few weeks;
- There is also a consensus with respect to expanding the size of an Election District. Following the City Board's meeting, Senator O'Mara introduced S.7466 which would permits EDs up to 3,000 active voters. The Assembly intends to pass the same bill. While the Board asked for authority to create EDs up to 4,000, (Proposal #14), the Senate and Assembly heard us, and our colleagues around the State. We have always talked about an ideal ED size of between 2,000 and 2,500 so enactment of this bill would give us that authority;
- The newest proposal, #22 relating to combining EDs with less than 10 voters, has picked up traction. Assembly Member Cusick introduced the bill as A.10389 and it is scheduled to be reported out of the Election Law Committee next week;
- There is no meeting with respect to modifying the Election Night closing procedures, and does not anticipate significant action in that regard in the next month.

Mr. Richman stated that one issue was raised regarding this Board's manual canvass procedure. In implementing the City Board's existing policy and procedure, how will this Board deal with those districts which cross the New York City line. No other jurisdiction in New York State has the City Board's mandatory manual canvass when the margin is less than ten (10) votes or one-half of one percent. He stated that questions of equal protection may arise as well as the City Board's own internal determination if that threshold is met. Mr. Richman stated that he presented this matter for the Commissioners' thoughts. He has not yet concluded his own evaluation of this question or developed a recommendation for action.

Mr. Richman invited the Commissioners that were in attendance last Tuesday to share their observations.

Secretary Umane stated that the City Board is currently using the City Board's manual procedures for the 27<sup>th</sup> State Senate District Special Election matter in Brooklyn. He reported that several people in Albany were critical of the procedures that the City Board implemented because the State adopted the position that the City Board has to rely on the new voting machines. Secretary Umane state that the manual count

may confuse members of the public because the numbers generated by the voting machines in the original count may be different than the numbers in the hand count. He explained that the hand count may find evidence of the voter's intent because they may have not necessarily filled in the oval, or filled in the oval sufficiently to be picked up by the Scanner. He stated that these issues have to be discussed as soon as possible before the June 26, 2012 Primary Election because there may be issues outside of NYC lines. Commissioner Soumas stated that before they can maintain the public trust they first have to establish it. He stated that it would be a great first step in establishing trust in the voting machines if the manual recount matches the machines totals. Commissioner Soumas stated that the manual procedures issue is a good point raised, but he thinks it is a bit premature because if the manual recount is dramatically different than the machine totals, then the State Board and State Legislature might reconsider their position. Secretary Umane stated that the issue is that the City Board is using a different standard so it may develop different results even though the City Board is doing all procedures correctly. Mr. Richman stated that the City Board has to develop a policy for this matter.

President Guastella noted that Commissioner Dent joined the meeting.

Commissioner Dent requested to discuss a Brooklyn personnel matter in Executive Session.

President Guastella noted that Commissioner Barrera joined the meeting.

Mr. Richman reported that the 27<sup>th</sup> State Senate District Special Election manual recount in Brooklyn may be completed by next Tuesday. Commissioner Dent thanked Ms. Sandow and Ms. Perkins for sending General Office Staff to the Brooklyn VMF to assist with the manual recount.

Commissioner Dent reported that the City Board was well accepted by the Elected Officials at the Board's State Government and Information Day in Albany, NY. She stated that Secretary Umame and Mr. Richman did a marvelous job. She thanked President Guastella, Secretary Umame, Mr. Richman and Mr. Savino.

On behalf of Mr. Ferguson, Mr. Richman presented the update on Election District (ED) Redistricting and the status of publications. The activities relating to the ED redistricting process have proceeded ahead of the schedule contained in the Project Plan distributed to the Commissioners earlier this year. As a result of exceptional work by the Board Staff and the consultants, and excellent cooperation with the Board's governmental partners, he provided the following update:

- The Department of City Planning completed its work for the ED Redistricting Process late last week. Board staff was able to update all of the Voter Registration Records in AVID with the new political subdivision information including Congressional, State Senate, State Assembly and Election Districts.
- The updated information was transmitted to the State Boards' Statewide Voter Registration List. However, last week, that system was down as a result of the move of the State Board's offices in Albany and system upgrades. When the State Board receives the updated information from all county boards of elections, the State Board will post the new enrollment numbers by ED and then all can make their own 5% calculations with respect to petition signature requirements.

- Through the diligent and dedicated efforts of BOE staff, the first run of Enrollment Books, reflecting the new political subdivisions has been completed and these books will be placed on sale to the public tomorrow, May 30, 2012, both at the Executive Office and each Borough Office. In addition, the production of electronic versions of the voter registration files has begun for those who had placed orders with the Board.
- The next phase involves the production of maps of political subdivisions. The Board will begin with Assembly District (AD) Maps followed by Senatorial and Congressional Districts. The best estimate of when the first run of AD Maps will be done is early next week. In addition, as soon as the Maps are ready, they will also be posted on the Board's website.

Mr. Richman reported on the decision for the Staten Island redistricting case involving congressional candidate Michael Grimm. He stated that Justice Anthony Giacobbe affirmed that the City Board performed all of their legal obligations and dismissed the attempt to put the candidate on the ballot or extend the time period. Commissioner Polanco

thanked the Board's MIS Staff for working on their redistricting project in a timely fashion.

Mr. Thompson requested approval of the combined EDs for the June 26, 2012 Federal Office Primary Election. The total ED combines citywide is 1,474. Secretary Umame explained that the Board cannot combine into districts that have more than 500 eligible voters. He noted that New York County has two (2) Democratic races where the Board could not combine. There will not be as many combines as there was with the previous Republican Presidential Primary. Mr. Thompson added that there will be cost savings due to a reduction of poll workers. Commissioner Barrera moved to approve the combined EDs for the June 26, 2012 Federal Office Primary Election. Commissioner Dent seconded the motion, which was unanimously adopted.

Mr. Johnson presented the draft Notice to All Candidates for the June 26, 2012 Federal Office Primary Election. Commissioner Sipp asked if the notice meets all legal requirements. Mr. Richman replied yes. Secretary Umame moved to adopt the Notice to All Candidates for the

June 26, 2012 Federal Office Primary Election. Commissioner Polanco seconded the motion, which was unanimously adopted.

Ms. Vazquez presented an update on the Board's Information Notice. She recalled that at the previous meeting she presented a proposed Redistricting Mailer, but it was not approved due to the high cost. Commissioner Polanco inquired if this Information Notice could be translated in Russian as well. Mr. Richman stated that Russian is not a required covered language and that the Board is in full compliance. He noted that there are over one hundred languages spoken in NYC and adding Russian would create an issue. Ms. Sandow stated that there is information posted on the Board's website in Russian. Mr. Richman stated that the Frequently Asked Questions (FAQs) and the English voter registration form with instructions in Russian is required and posted. Secretary Umane stated that he was concerned about the funding for the Information Notice with the additional pages. He recommended for Board Staff to discuss the Information Notice at the City Council Hearing, and for staff to develop a "Plan B" if the Board does not get funded. Ms. Vazquez stated that in order to reduce the number of pages in the notice, "Plan B" will not have the "Easy as 1-2-3, Mark It, Scan It" section. She reported

that information is not legally required. Mr. Richman stated that the only required information for the Information Notice is the date of the election and the voter's poll site. Commissioners Dent and Polanco expressed that they do not want to remove the added educational information. Commissioner Polanco inquired about Bengali language on the Information Notice. Mr. Richman stated that Bengali is a federal ordered covered language. The Commissioners stated that they want to be helpful to all voters in New York City. Secretary Umame moved to approve the Board's Information Notice subject to funding, and in the event that the funds are not approved, then the Board will use the "Plan B" notice which only contains the legally required information. Commissioner Soumas seconded the motion, which was unanimously adopted.

President Guastella recognized Alan Flacks, a member of the public, who commended Ms. Vazquez's public information plans and noted that funding is always an issue. Mr. Flacks suggested for the Board to print the Commissioners' Agenda on both sides of the paper for cost savings.

Mr. Squicciarini requested approval to salvage the Board's old lever voting machines. He explained that the machines are stored in two (2)

Voting Machine Facilities (VMFs) in Brooklyn, and there are approximately 7,445 machines as well as various parts. Mr. Squicciarini contacted DCAS about the salvage and there would be no cost to the Board. The salvage would eliminate the need for the 645 Clinton Street VMF at a cost savings of \$1,191,471. At the 4312 Second Avenue VMF, the two (2) floors could be consolidated into one (1) floor at a cost savings of approximately \$1 million. Mr. Squicciarini requested approval from the Commissioners to move forward with the salvage. Secretary Umame suggested retaining the lever machines for a longer period. Commissioner Araujo inquired if there are any legal obligations to retain the lever machines. Mr. Richman replied that there are no legal requirements. He stated that the lever machines have been de-certified when the new electronic voting machines were certified. Commissioner Araujo inquired if the Board would keep some lever machines for historical purposes. Mr. Squicciarini stated that there are ten (10) lever machines retained in the Manhattan VMF that were located in poll sites near the September 11, 2001 terrorist attack. Mr. Richman stated that the Board could retain other machines as well. Mr. Squicciarini confirmed that the lever machines are serial numbered. Commissioner Barrera moved to table this item. Commissioner Dent seconded the motion, which was

adopted unanimously. President Guastella thanked Mr. Squicciarini for his efforts on this matter.

Mr. Ward presented the Vacancy Report dated May 22, 2012. A copy of the report is in the agenda.

Mr. Ward presented the Comparative Expenditures Report dated May 29, 2012. A copy of the report is in the agenda.

Commissioner Sipp moved to convene an Executive Session to discuss personnel and litigation matters. Commissioner Dent seconded the motion, which was unanimously adopted.

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

- I. The Commissioners unanimously granted several weeks of sick leave for Frances Maldonado, an Administrative Associate in the Brooklyn Office.

Secretary Umame 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, June 5, 2012 at 1:30 P.M.