

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JUNE 19, 2012
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Maria R. Guastella
 Secretary Frederic M. Umame

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

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez, Director, Communications and Public Affairs
Raphael Savino, Director, Campaign Finance Enforcement Reporting
Joel Bermejo, Temporary Contract Attorney, OGC
Giacomo Kmet, Temporary Contract Attorney, OGC
Byron Zinonos, Law Student Summer Intern, OGC
Jeffrey Lederman, Law Student Summer Intern, OGC
John O'Grady, Chief Voting Machine Technician, VEOU
Rachel Knipel, Coordinator, Language Assistance Program
Diane Rudiano, Chief Clerk, Brooklyn Office
Stephen Thompson, HAVA Training Specialist, EDO
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Monica Bartley, CIDNY
 Al Roundtree, NYDLC
 Kate Doran, League of Women Voters
 Marjorie Shea, League of Women Voters
 Patrick McClellan, for Assembly Member Kavanagh
 Dan Rehill, Associate Press
 Artyou Matisov, City Council

Seth Grossman, City Council
Joseph Waldman, for Council Member Jumaane D. Williams
Jelanie Deshong, for Council Member Jumaane D. Williams
Sen C.
Alex Camarda, Citizens Union
Michelle Bright, Citizens Union
A.B. Britton, K.L.C. GOP USA
Cathy Gray
John D. Smith
Mariana Blume
Barabara Taylor
Michael Aronson
Andrew Moesel, ES&S

President Guastella called the meeting to order at 1:39 P.M.

Commissioner Barrera moved to adopt the minutes of the June 5, 2012 meeting. Commissioner Stupp seconded the motion, which was unanimously adopted.

Judd Ryan, a representative of ES&S, conducted a public demonstration of the Election Night Reporting Options. Mr. Ryan distributed copies of his report to the Commissioners. The options and descriptions follow:

- Option #3A – DS200 3rd USB, Send Unofficial Results from Police Precinct. When the DS200 is closed, enhanced DS200 software

(firmware) writes results data to the 3rd USB memory stick. This memory stick is a WORM stick, meaning once it is written it cannot be erased or changed, but it can be read many times. The Poll Worker removes this 3rd USB stick from the DS200. The Police Officer takes the USB stick to the Police Precinct where the USB stick is read. Data is sent to the Associated Press (AP) election results reporting system. Additional software (ERM Lite) will be needed to read, validate, and translate the data contents from the USB stick at the Police Precinct. The data on WORM USB sticks is protected since it is encrypted and can be trusted since it is digitally signed and cannot be altered or deleted. The total estimated price is \$790,600. This does not include the cost for Poll Worker training or materials. The solution must be New York State certified. This option assumes the Police Precincts will then upload a file generated by ERM Lite to the AP System. Two (2) additional USB sticks must be purchased for every scanner for every election and the reoccurring cost would be approximately \$176,000. The ERM Lite software can be used on laptops, Android App, Tablet, or Cell Phone.

- Option #3B – DS200 3rd USB, Send Unofficial Results from Poll Site.

When the DS200 is closed, enhanced software (firmware) writes

results data to the 3rd USB memory stick. This memory stick is a WORM stick, meaning once it is written it cannot be erased or changed, but it can be read many times. The Poll Worker removes this 3rd USB stick from the DS200. The Police Officer uploads USB sticks into ERM laptop and wirelessly transmits results to Data Center. Data is forwarded onto the Police/AP election results reporting system. ERM Lite will be needed to read, validate, and translate the data contents from the USB stick at the Police Precinct. The data on WORM USB sticks is protected since it is encrypted and can be trusted since it is digitally signed and cannot be altered or deleted. The total estimated price is \$3,006,600. This does not include the cost for Poll Worker training or materials. The solution must be New York State certified. Two (2) additional USB sticks must be purchased for every scanner for every election and the reoccurring cost would be approximately \$176,000. This option does not resolve issue of having consolidated report by Election District (ED) at each poll site.

- Option #4 – DS200 Internal Wireless Modem System Configuration. Wireless modems are added to the DS200. When the DS200 is closed, enhanced DS200 software (firmware) is used to transmit

unofficial results data to a set of redundant servers at a secure NYC data center(s). ES&S transmission systems and software at the data center validate the transmission data for integrity. Data is forwarded on to the Police/AP election results reporting system. The total estimated price is \$3,477,400. This does not include the cost for Poll Worker training or materials. The solution must be New York State certified. NYC would provide a secure network and infrastructure. Use EVS 5.0 or newer release. This option assumes ERM will export results in a file format that can be uploaded to the AP and no other system is required. This is the fastest election night reporting solution and simplest poll site procedure for Poll Workers and Police Officers. Data transmissions are protected since the data is encrypted and can be trusted since the data is digitally signed. It is a dial-out, one way, modem only which protects the integrity of the machine. This option will require revisions to the NYS Election Law and does not resolve the issue of having a consolidated report by ED at each poll site. Chicago, IL, Minneapolis, MN and Toronto, Canada are currently using this wireless option. Jacksonville, FL will be launching this option for their August 14, 2012 election which could be viewed by City Board Staff.

There was a Q&A session after the public demonstration. Alex Camarda, a representative of Citizens Union, asked why three (3) USB sticks are necessary for the first two (2) options, and if the unofficial results could be posted onto the City Board's website on Election Night. Mr. Ryan explained that one USB stick is delivered to the Police Precinct, one USB stick is stored at the Board's Warehouse, and one USB stick remains in the voting machine. Mr. Richman stated that unofficial results could be posted on the Board's website, but the NYS Election Law does not allow for that for the City of New York. Commissioner Polanco asked what prevents the Board from implementing one of the options for the next election. Mr. Ryan replied that the State Board has an extensive certification process. Commissioner Polanco stated that it is very important for the City Board to choose an option and to inform the State Legislature. He asked Mr. Naudus which option he recommends for the City Board. Mr. Naudus recommended the wireless option because it allows the minimal movement of PMDs (USB sticks). He stated that the 3rd USB options require reoccurring costs per election. Mr. Naudus stated that the NYS Election Law would have to be changed and the State Board would have to certify the option. A new option may be seen in the 2014 Elections. Commissioner Polanco moved to adopt the DS200 Internal Wireless

Modem System Configuration option. Before a vote on the motion, there was further discussion. Secretary Umame suggested for the City Board to contact the board of elections in Chicago, Minneapolis and Toronto that currently use the wireless option. He stated that election security is extremely important and recommended for staff to demonstrate to the State Board that no hacking of the voting machines is possible. Commissioner Polanco stated that he would like to see this option implemented for the November 6, 2012 General Election. Mr. Richman stated that it could take up to one (1) year to implement a new option due to legislation change and certification by the State Board. Secretary Umame suggested reaching out to media contacts because historically they have provided funding for Election Night Reporting. He suggested for ES&S to conduct their Election Night Reporting Options presentation to the media, City Council, and Advisory Groups as well. There was a consensus among the Commissioners to further discuss these options at the next Commissioners' Meeting on July 3, 2012.

Ms. Sandow presented the status report on the upcoming June 26, 2012 Federal Primary Election. Testing for all scanners in all boroughs was completed on Saturday, June 16, 2012. The deployment of

all election equipment began on Monday, June 18, 2012 with the exception of 346 Supply Carts in Queens which required translated Bengali materials. The City Board received the required Bengali templates from the State Board on Friday, June 15, 2012. Board Teams worked through the evening on Friday to print and package these materials. On Monday, eight (8) Board Teams were sent to the Queens VMF to insert the required materials into the 346 Supply Carts and the task was completed. These Supply Carts will be deployed on June 20, 2012. Due to the timing of the translated materials from the State Board, the "How to Vote" signs for the Privacy Booths have been inserted into all Coordinator and AD Monitor packets to be set up on election morning. Ms. Sandow reported that a total of 1,353 poll sites will be used on Election Day with 3,084 Scanners, 1,382 BMDs, 4,808 Supply Carts, 9,031 Privacy Booths, 28,266 Chairs, and 6,035 Tables. A total of 6,282 EDs were combined into 4,808 EDs. Board Teams were sent to the Borough Offices to double check all Supply Carts and Privacy Booths before deployment. The Voting Machine Technicians are scheduled for citywide poll site equipment checks this week. Ms. Sandow reported that the Board has worked closely with the NYC Department of Education (DOE) because many schools are scheduled for graduation on Election Day. As conflicts arose, the DOE was

notified and Board Poll Site Surveyors were immediately dispatched to the respective poll site to try to locate another area in the facility that is accessible. The DOE moved their graduation site to another area if no other location was found. There was an emergency poll site issue due to construction that required the poll site to be relocated. Board Staff immediately made necessary changes to the system and notified the Poll Workers assigned at that site. Change of poll site cards were mailed to those voters and two (2) Door Clerks will be placed at the original poll site to direct any voters to the relocated poll site. Ms. Sandow reported that all reports have been generated and sent to the NYPD, as well as any changes that have recently occurred. All Police Envelopes will be delivered to all Borough Commands on Friday, June 22, 2012. Interpreter positions for Bengali have been filled and 98 of the 100 Hindi Interpreter positions have been filled. Ms. Sandow thanked the Queens Staff, Ms. Knipel and the HAVA Team for working diligently with the working groups to recruit and train these Interpreters in a very short time frame. The citywide Poll Worker vacancies, as of June 29, 2012, follow:

- Manhattan – 604 with 660 in their stand-by pool
- Bronx – 192 with 500 in their stand-by pool
- Brooklyn – 646 with 400 in their stand-by pool

- Queens – 433 with 300 in their stand-by pool
- Staten Island – 123 with 100 in their stand-by pool

All boroughs are still conducting classes for new Poll Workers. Once classes are completed and Poll Workers have successfully passed the exam, they will be entered into the system to work. All AD Monitors will receive their Election Day packets by June 23, 2012 and will be prepared with extra supplies for their poll sites, if needed. All refresher classes for the Call Center are completed and all boroughs will be ready to receive calls starting at 5:00 A.M. on Election Day. The Executive Office will be deploying twenty-one (21) Board Teams on Election Day to cover accessibility, language assisted poll sites, and hot contest areas. Ms. Sandow reminded the public that all Borough Offices will remain open for absentee voting on Saturday, June 23, 2012 from 9:00 A.M. to 5:00 P.M. and on Sunday, June 24, 2012 from 10:00 A.M. to 4:00 P.M.

Mr. Richman presented the recommended provision for inclusion in Ex-Parte Orders to Show Cause relating to petition challenges and plan of implementation. A copy of the memorandum is in the agenda. Mr. Richman stated that during the Federal Primary Petition Process, the Office of the General Counsel while reviewing various Orders to Show

Cause (OSC) filed relating to those petitions, noticed that many of the OSC imposed mandates and obligations on the Board, which interfered with the activities of the Board and its staff and at a cost to the Board and the City's taxpayers. In order to address what has been ordered in the OSC which are typically obtained on an ex-parte basis, the Office of the General Counsel and the NYC Law Department drafted the recommended provision that they seek to be inserted in all such OSC. Mr. Richman provided background information that is indicated in his memorandum. Secretary Umame moved to adopt the recommended provision for inclusion in Ex-Parte Orders to Show Cause relating to petition challenges and plan of implementation. Commissioner Dent seconded the motion, with Commissioner Araujo opposing. The motion was adopted.

Commissioner Polanco reported that the NYC Campaign Finance Board (CFB) Voters Assistance Advisory Committee (VAAC) does not enforce the Board's Russian language requirements in their "NYC Votes" booklet. He stated that the Board fully met this legally mandated obligation contrary to what the CFB VAAC has stated. The Board notified Chair Parkes about this matter. A copy of the Board's letter is in the agenda.

Ms. Vazquez presented an update on the Board's Information Notice. The revised notice is the original twenty-four (24) page mailer which includes all covered languages. There will be a perforated tear-out section to inform the voters of their poll site change. Ms. Vazquez recalled that the Board needed additional funding for this Information Notice. This issue was included in the Board's Testimony when they went before the City Council. She reported that the Board received approval from the Office of Management and Budget (OMB) to use the Surplus Fiscal Year 12 funds to purchase the paper. Ms. Vazquez requested authorization from the Commissioners to move forward on the original 24-page Information Notice with the vendor. Commissioner Polanco moved to authorize Ms. Vazquez's request. Commissioner Dent seconded the motion, which was unanimously adopted.

In Mr. Luisi's absence, Ms. Knipel presented the selection of a staffing agency to provide Asian-Indian language services on a short term basis. The service would staff Phone Bank Clerks fluent in Bengali, Hindi and Punjabi, and Translators capable of performing written translations in Bengali. A copy of Mr. Luisi's informational memorandum is in the agenda. Ms. Knipel confirmed that Mr. Luisi requested for the temporary staff to be

registered in either the Democratic or Republican Party, on a bi-partisan basis, if possible. Ms. Sandow stated that this temporary service would be used until the Board fills the permanent positions. Commissioner Araujo stated that the Board has tried to hire qualified Asian-Indian language Interpreters and Translators. Ms. Knipel reported that she interviewed two (2) Asian-Indian language applicants, but they were not comfortable with the level of written translation that would be required by a full time Translator. Commissioners Araujo and Stupp stated that they are exercising as many avenues as possible to hire permanent Asian-Indian language Interpreters and Translators. Ms. Sandow stated that the Board needs these Interpreters and Translators as fast as possible to assist with the Board's Phone Banks for the upcoming election and to access the sixty-seven (67) designated Asian-Indian language poll sites. Ms. Sandow confirmed that all Asian-Indian language requirements have been met for the upcoming election.

Mr. Ward presented the Vacancy Report dated June 19, 2012. A copy of the report is in the agenda.

Ms. Perkins reported that Executive Management received a copy of Assembly Member Brian Kavanagh's amended draft Article 9 bill last night. Ms. Sandow stated that Board Staff and Assembly Member Kavanagh worked together on Article 9 and the amended draft addresses most of the Board's recommendations. Board Staff will conduct a line-by-line review of the amended draft today. Mr. Richman reported that there is a "B" version of the bill (A10175-B) that was amended by Senator Martin Golden. Bill No. A10175-B is live on the floor in Albany and the State and Assembly plan to vote on it this week. Mr. Richman stated that Bill No. A10175-B addresses 90% of the Board's concerns. If the bill is passed, it will be effective for the November 6, 2012 General Election. Commissioner Dent stated that Bill No. A10175-B would require Poll Worker retraining. Secretary Umane moved to recommend Bill No. A10175-B to the Legislature which reflects 90% of the Board's recommended changes. Commissioner Polanco seconded the motion, which was unanimously.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, July 3, 2012 at 1:30 P.M.