

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 17, 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, 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
Valerie Vazquez, Director, Communications and Public Affairs
Raphael Savino, Director, Campaign Finance Enforcement Reporting
John O'Grady, Chief Voting Machine Technician, VEOU
John Naudus, Manager, Electronic Voting Systems
Stephen Thompson, HAVA Training Specialist, EDO
Matthew Graves, Administrative Associate, CRU
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, League of Women Voters
 Monica Bartley, CIDNY
 Stewart Armstrong, CFB
 Alex Katz, AP
 Cristian Salazar, Gotham Gazette
 Dick Dadey, Citizens Union
 Alexander Dillon, DOI
 M. Patel, DOI
 Teresa Hommel
 Eric Friedman, CFB

John D. Smith
Kate Taylor, NY Times
Alex Camarda, Citizens Union
Pat McClellan, for NYS Assembly Member Kavanagh
Jenna Adams, for NYS Assembly Member Kavanagh
Christine Billy, NYC Law Department
Alex Camarda, Citizens Union
Will Colegrove, for Council Member Gale A. Brewer
Abraham Kanter, Intern at Common Cause
Gurmeet Kaur, Intern at Common Cause
A.B. Britton, KLC GOP USA
Kevin Ramnarain, CFB

President Guastella called the meeting to order at 1:30 P.M.

Commissioner Araujo moved to adopt the minutes of the June 12, 2012 meeting. Commissioner Polanco seconded the motion, with President Guastella and Commissioner Barrera abstaining. The motion was adopted.

Commissioner Polanco requested to move Item #6 to Item #2 on the agenda. The Commissioners unanimously agreed.

President Guastella noted that Douglas A. Kellner, Co-Chair of the State Board, was in attendance. The Commissioners welcomed Mr. Kellner.

Mr. Naudus presented the proposed Election Night Results Reporting procedures for the 2012 Primary and General Elections. A copy of the draft report is in the agenda. Mr. Naudus provided a summary of his report. He stated that the goal of remote reading of PMDs (Portable Memory Devices) is to increase the accuracy of reporting the Unofficial Election Night Results. The NYPD will provide space at 75 Police Precincts to serve as these remote locations. On Election Night, a bi-partisan team of Poll Workers (ENR Team) will be deployed to each Police Precinct to receive and read the PMDs. A Police Officer will pick up the SVR bags, (containing the PMDs) from the poll sites and transport them to their local precincts. The ENR Team will receive the SVR bags and will track and confirm their contents. Once the contents of the SVR bags are confirmed, the bag will be opened and the PMDs will then be read by the ENR Team. The results will then be transmitted from the Police Precinct to the Board's General Office. Board Staff will transfer the results to the NYPD Staff at the Board's General Office.

Commissioner Polanco stated that the Commissioners' Committee, Executive Management, and the Board's Counsels extensively discussed this proposal. He stated that the Commissioners' Committee unanimously

supports the proposal and the NYPD as well. Commissioner Soumas stated that the Board received a letter from Michael Benjamin, a former Deputy Clerk at the Board's Bronx Office, and he urged the Board to give the back-up PMDs to the Police Officers on Election Night to transport and upload the unofficial results. Commissioner Soumas stated that he has personally suggested for a third PMD to be installed on the voting machines to act as a back-up system, but Mr. Benjamin suggested for the paper trail to act as the ultimate back-up system. Commissioner Soumas stated that Mr. Kellner advised him that Mr. Benjamin's suggested procedures could be done according to the NYS Election Law. Mr. Kellner confirmed that it is an option for the Board. Mr. Richman stated that the procedures can be changed, but the Inspectors would still have to fill out the Return of Canvass form. Commissioner Soumas noted that the Board always gets criticized by the media for the unofficial results. Commissioner Barrera raised concerns about the NYPD having a system implemented to read the encrypted PMDs by September. Mr. Kellner stated that the NYPD Precincts would have to implement a system to decrypt the results on the readable PMDs. Commissioner Sipp inquired if the City Board can ignore the requirements of Section 9-126(1) and Section 9-126(2) of the NYS Election Law. Mr. Kellner replied yes because they are alternative

procedures to Section 9-126(3). Commissioner Barrera stated that the Queens County Pilot Program met all requirements and expedited the process to get the unofficial Election Night results. She suggested for the Board to move forward and implement those Election Night procedures citywide.

President Guastella noted that Commissioner Dent joined the meeting.

President Guastella recognized Alex Camarda, a representative of Citizens Union (CU), who stated that CU supports the State Board's rationale of using Section 9-126(3) of the NYS Election Law. Mr. Camarda asked how the PMDs would be read once they are delivered to the Police Precincts.

Mr. Naudus explained that there would be a total 150 laptops, two (2) per Police Precinct, with ENR software that could read the encrypted PMDs. Secretary Umame asked if there are funds for the laptops. Mr. Naudus stated yes. The total cost is \$300,000 which is part of the existing ES&S contract. Secretary Umame questioned \$2,000 per laptop

which has limited uses. Secretary Umane and Commissioner Soumas asked Mr. Naudus to research laptops that are less than \$2,000 each.

Commissioner Soumas inquired if Michael Benjamin's proposal is possible and what the costs would be for the new NYPD mainframe computer systems. Mr. Naudus replied yes, but he would have to research those costs. He noted that Mr. Benjamin's suggested option would not be possible to implement for the 2012 September Primary Election.

Commissioner Dent asked if any other county boards of elections are using the proposed ENR system. Mr. Naudus replied Nassau County, but it is not conducted on a New York City scale. Commissioner Dent stated that the Board has to move forward with a plan to get the unofficial results faster to the public. Mr. Kellner stated that the four (4) State Board Commissioners support this ENR proposal and strongly urge the City Board to move forward. In addition, the State Board suggests for the City Board to look into the closing procedures to conform to the State Board's procedures that were pre-cleared with the U.S. Department of Justice (DOJ). Commissioner Polanco stated that the City Board's Counsels and Commissioners have been legally following the correct

closing procedures according to the NYS Election Law. Mr. Kellner stated that a different interpretation could make the Election Night closing procedures easier.

President Guastella recognized Susan Lerner, a representative of Common Cause, who supported the State Board's suggestions and the proposal for the new Election Night Results Reporting system in order to eliminate the cutting and pasting of the results tapes.

Commissioner Polanco asked what the public can expect with the proposed Election Night Results Reporting procedures. Mr. Naudus replied that the public will receive the unofficial election results faster and there will be better accuracy as well. Commissioner Polanco reiterated that the Commissioners' Committee, Executive Management, and the Board's Counsels extensively discussed this proposal. Commissioner Polanco moved to adopt the City Board's Election Night Results Reporting option. Commissioner Barrera seconded the motion, which was unanimously adopted.

Secretary Umame stated that the City Board has been complying with the NYS Election Law and has been researching this Election Night Results Reporting issue. He stated that the State Board's recommendation is a new interpretation of the law and he is still concerned with the Return of Canvass form. Secretary Umame stated that the forms should be streamlined because Poll Workers should not have to cut and paste. He noted that the Board has felt constrained to do that based on the interpretation of the NYS Election Law. Secretary Umame requested for Board Staff to research having laptops at each poll site on Election Night to read the PMDs' unofficial results instantaneously. He reminded the members of the press that in the past the Associated Press and Election News Service funded the original computer programs that were used by the NYPD on Election Night. He stated that the City of New York would not turn away if the press provided all or some funding for these computer systems. Secretary Umame stated that the proposal will greatly improve the Election Night Results Reporting system for future elections.

Commissioner Stupp asked Mr. Kellner to elaborate what the State Board's procedures are for the Return of Canvass on Election Night. Mr. Kellner stated that the State Board interprets the statute permitting a

consolidated canvass for the entire poll site on a single canvass sheet. A Primary Inspection Team (PIT Team) is in charge of doing the reconciliation of the paper ballots, by ED, for the poll site which has a reconciliation form. Then, the PIT Team would close the machines which print the three (3) sets of results tapes, (1st set is posted on the wall, and the 2nd and 3rd sets are stapled to the consolidated canvass form). If there are unscannable ballots, then they would have to be manually counted and added to the canvass form. Mr. Kellner stated that according to the State Board's interpretation of the law there is no requirement for the Inspectors to total the results tapes by ED on Election Night. The EDs have to be broken down, but not manually added together. The breakdown by ED is provided on the results tape. Mr. Kellner stated that there would be one (1) Return of Canvass form per poll site. Mr. Kellner recommended for the City Board to follow those procedures.

President Guastella requested to move Item #6 to Item #3 on the agenda. The Commissioners unanimously agreed.

Mr. Naudus presented the Election Night Results Proposal #14. A copy of the draft proposal is in the agenda. Mr. Naudus provided a summary of the draft proposal. The three (3) recommendations follow:

- Part 1 - To request that ES&S modify the DS200 Scanner to display not only the total ballots counted on the scanner, but the number of ballots counted by ED/AD and Party (in a Primary) as well;
- Part 2 - To request that ES&S modify the DS200 Scanners so that all scanners in a poll site can be connected in a closed network. Also, to modify that pressing the “close poll” button on one (1) scanner closes the polls on all scanners in the poll site. One combined tape for each ED/AD will then be printed by that scanner only. The one results tape is then signed and attached to a Return of Canvass form. The results would only need to be copied to the form if there were unscannable Emergency ballots for that ED/AD;
- Part 3 - To request that ES&S modify each DS200 with a wireless modem. Once the polls are closed, the scanner will automatically transmit results data to a set of servers at the General Office. ES&S software on these servers will validate the transmission data for integrity. Data is translated and reformatted, if necessary, and

forwarded on to the NYPD's central election system. The NYPD will then forward them to the press.

President Guastella recognized Alex Camarda, a representative of Citizens Union (CU), who stated that CU supports the State Board's consolidated canvass procedures and that the wireless option would require a change in the law.

Commissioner Araujo and Mr. Naudus explained that Proposal #14 is a long term solution to solve Election Night issues which may be implemented by the 2014 elections. Commissioner Soumas stated that he prefers the wireless option, but in order for the State Board to certify that system, the Legislature needs to change one (1) sentence in the Election Law which prohibits wireless transmission. He asked Mr. Kellner if the State Board's counsels would repeal that law. Mr. Kellner replied no because there are complicated technical issues. Mr. Savino stated that the Board's wireless option would only transmit unofficial election results and would not receive.

President Guastella recognized Teresa Hommel, a member of the public, who opposed the Board's wireless option due to computer security issues. She suggested for the Board to run a hacking test on the scanners if they move forward with the wireless option.

Mr. Richman stated that the State Board needs to certify a voting system with a Protective Counter to appear on the scanner's screen visible to the Inspectors and Poll Watchers which is required under Section 7-202 (1)(l) of the NYS Election Law. Mr. Naudus stated that he will amend his Part 1 recommendation to include the Protective Counter.

Commissioner Araujo moved for the Board to move forward with Parts 1 and 3 of the Election Night Results Proposal #14, as amended. Commissioner Polanco seconded the motion, which was unanimously adopted.

Commissioner Polanco thanked Board Staff for doing a phenomenal job compiling the proposals.

Ms. Vazquez presented the Board's website redesign concept. A copy of the draft concept is in the agenda. The main features follow:

- Text can be enlarged;
- All covered languages will be available to translate the website, as well as Russian, which is required by law;
- Social media links will be highlighted;
- Email sign-up feature for users to receive updates from the Board;
- The Board's Annual Report will be available to view.

Ms. Vazquez stated that she would work with DOITT to go live with the Board's redesigned website by the 2012 September Primary Election. She will also work with CIDNY to test the website for user readability. Ms. Vazquez stated that she will present the final redesigned website to the Commissioners before it goes live.

President Guastella recognized Susan Lerner, a representative of Common Cause, who suggested for the Board to add a prominent banner to the Board's Homepage stating the date of the upcoming election.

Commissioner Araujo moved to authorize Ms. Vazquez to move forward on the proposed website redesign concept. Commissioner Polanco seconded the motion, which was unanimously adopted.

Mr. Richman requested for the appointment of the Commissioners' Cover Sheet Review Committees for July 17, 2012 through July 23, 2012. Public Notice will be posted on the Board's website and the Board's Front Counters. The Commissioners discussed their schedules and the appointment follows:

- July 17th (after Comm. Mtg.) - Secretary Umame and Comm. Barrera
- July 19th (4:30 PM) - Commissioners Schacher and Soumas
- July 23rd (4:30 PM) - Commissioners Soumas and Stupp

Mr. Graves presented the Candidate Records Unit's (CRU) Citywide Petitions Volumes Filed Report. A copy of the report is in the agenda. Copies of the Citywide Records of Objections Filed reports were distributed to the Commissioners as well.

Mr. Richman reminded the Commissioners that the Hearings on Designating Petitions starts on Monday, July 31, 2012 at 10:00 A.M. and continues on Tuesday, July 31, 2012, if necessary.

Mr. Ward presented the Vacancy Report dated July 24, 2012. A copy of the report is in the agenda.

Commissioner Polanco 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, July 24, 2012 at 1:30 P.M.