

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, SEPTEMBER 11, 2012  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, COMMISSIONERS' HEARING ROOM  
NEW YORK, NY 10004

---

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

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  
Raphael Savino, Director, Campaign Finance Enforcement Reporting  
Valerie Vazquez, Director, Communications and Public Affairs  
Steven Ferguson, Director, Management Information Systems  
Troy Johnson, Coordinator, Candidate Records Unit  
Ryan Deahn, Administrative Assistant, Candidate Records Unit  
Shanette Brown, Administrative Associate, Candidate Records Unit  
Tom Sattie, Associate Staff Analyst, Ballot Department  
John O'Grady, Chief Voting Machine Technician, VEOU  
Marie Lynch, Deputy Chief Clerk, Queens Office  
Robert Pataky, Administrative Associate, Queens Office  
Amanda Conacchio, Clerk, Queens Office  
Joel Bermejo, Temporary Contract Attorney, OGC  
Giacomo Kmet, Temporary Contract Attorney, OGC  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Garth Marchant  
                  Frank Bolz  
                  Nadia Gareeb  
                  Kate Doran, LWV

Sharif Sheng  
Teodora Popousei  
John D. Smith  
Leo Glickman  
Andre Ditto  
Stanley Schlein  
Rosanne Yaspar  
Barbara Taylor  
Marianna Blume  
A.B. Britton, KLC GOP USA  
Seth Grossman, City Council  
Amanda Lekert  
Joseph Hayon

---

President Guastella called the meeting to order at 1:36 P.M.

President Guastella announced that there will be hearings on both preliminary determinations of prima facie defects as well as specifications of objections to the independent nominating petitions filed for the November 6, 2012 General Election. In accordance with the Commissioners' direction, notice was given to all interested and necessary parties concerning these public hearings. President Guastella announced the procedures to be followed for the hearings.

Mr. Richman called the Calendar for the hearings.

Mr. Johnson presented the CRU Prima Facie Report for Queens County. In selected instances, there were appearances by candidates and/or their representatives which are noted on the CRU Prima Facie Report on file at the Board. Commissioner Araujo moved to adopt the CRU Report concerning QN1201271, Member of Assembly, Citizen's Truth, 40<sup>th</sup> District, John Scandalios. Commissioner Schacher seconded the motion, which was unanimously adopted. Secretary Umane moved to adopt the CRU Report concerning Representative in Congress, Independent, 5<sup>th</sup> District, Vladimyr St. Fleur. President Guastella seconded the motion, which was unanimously adopted.

Mr. Johnson presented the CRU Prima Facie Report for Richmond County. Commissioner Araujo moved to adopt the CRU Report concerning State Senate, School Choice, 23<sup>rd</sup> District, Lisa Grey. Secretary Umane seconded the motion, which was unanimously adopted.

Mr. Richman reported that the petition filed for Nachman Caller's Community First Party, 48<sup>th</sup> District, Kings County, exceeded the 15 character limit. Notice was mailed to candidate Dov Hikind on August 30, 2012 requesting he submit a revised name within seven (7)

days. There was no response. Mr. Richman requested for the Commissioners to designate a new name for the party which is required under the statute. Secretary Umame moved to appoint the Brooklyn Commissioners to designate a new name and to report back to the full Board. Commissioner Schacher seconded the motion, which was unanimously adopted.

President Guastella recognized Barbara Taylor, a member of the public, who spoke about petitions.

Mr. Richman presented the Queens County Clerk's Reports on Specifications of Objections. In selected instances, there were appearances by candidates and/or their representatives which are noted on the Clerk's Reports on file at the Board. The Commissioners' determinations are reflected on each Clerk's Report acted upon.

Mr. Richman presented the Kings County Clerk's Reports on Specifications of Objections. In selected instances, there were appearances by candidates and/or their representatives which are noted on

the Clerk's Reports on file at the Board. The Commissioners' determinations are reflected on each Clerk's Report acted upon.

President Guastella adjourned the Hearings and convened the regular stated meeting.

Mr. Richman requested to discuss a matter concerning a Certificate of Substitution and to add an Executive Session to discuss litigation.

Commissioner Stupp moved to adopt the minutes of the August 14, 2012 meeting. Commissioner Dent seconded the motion, which was unanimously adopted.

Mr. Sattie reported on bilingual ballots. A copy of his memorandum is in the agenda. Mr. Sattie recalled that he presented a high-level plan at the June 8, 2012 meeting that described the time, costs and additional responsibilities that it would take to change from the current full-face ballot to ballots printed bilingually. He requested authorization for staff to be able to delve into this further and create a full plan for the Board to begin producing bilingual ballots. In addition, draft a letter to the State Board

requesting guidance on how to proceed. Mr. Sattie stated that this plan will not be implemented for the 2012 November General Election because there is not enough time to rewrite the Poll Worker's Manual and to retrain the Poll Workers. Secretary Umane moved to authorize staff to move forward and create a full plan for the Board to begin producing bilingual ballots, and to draft a letter to the State Board requesting guidance on how to proceed. Commissioner Dent seconded the motion, which was unanimously adopted. Secretary Umane and Commissioner Schacher requested for Mr. Sattie to research the additional costs for single language ballots for all covered languages. Commissioner Dent thanked Mr. Sattie for being proactive.

Commissioner Dent requested for a moment of silence for all who lost their lives in the September 11, 2001 attacks.

Mr. Sattie presented the proposed ballot layout for the 2012 General Election. A copy of his memorandum is in the agenda. He distributed copies of the draft four (4) language ballot layout to the Commissioners. Mr. Sattie stated that he worked with Mr. Naudus, Mr. Thompson and Mr. Laramy, a representative of ES&S, on this layout which is the same as

the 2010 General Election ballot. The ballot would have eight (8) columns across opposed to six (6) columns to allow for the expected increased amount of independent candidates. Mr. Sattie confirmed that the font size would not be larger if it were six (6) columns. Commissioner Dent noted that the size of the font is an improvement. Mr. Richman stated that this is the standard order of the ballot for the federal election. Secretary Umame moved to approve the 2012 General Election ballot layout as presented. Commissioner Sipp seconded the motion, which was unanimously adopted.

Mr. O'Grady reported that there was an emergency poll site change in Queens County due to street construction in front of the facility. The facility's entrance is obstructed and the water has been turned off. Mr. O'Grady stated that Poll Site Change Notices were mailed to the effected registered voters last week. Proper signage will be posted at that facility and Door Clerks will be assigned to direct voters to their new poll site on Primary Day. Commissioners Araujo and Stupp requested for the candidates to be informed of this issue and to post signage in this site before Primary Day.

Mr. Ward presented the Vacancy Report dated September 11, 2012.

A copy of the report is in the agenda.

Mr. Richman reported that the Board received a Certificate of Substitution by Committee to Fill Vacancies after Declination, Death or Disqualification for Roselyn Johnson, Democratic, 12<sup>th</sup> Judicial Delegate, 87<sup>th</sup> AD, Bronx County. There is consent by substituted candidate Mirza M. Rashid. Copies of the certificate were distributed to the Commissioners. Under the provisions of Article 6 of the NYS Election Law, Ms. Johnson passed away last Wednesday, more than seven (7) days before the Primary Election. The Certificate of Substitution was filed yesterday for candidate Mirza M. Rashid to fill that vacancy and is timely filed. Under the provisions of Article 7 of the Election Law, specific requirements relating to the printing, testing and securing of voting equipment and the Rules and Regulations adopted to implement the same by the State Board will not allow the Board to make this change. The Board has repeatedly advised State and Federal Courts that any ballot change requires at least a ten (10) day window in order to conduct elections. Mr. Richman recommended that while the Certificate is timely filed, that the Commissioners determine that such a change cannot be

made without jeopardizing the Primary Election in the Bronx in that all the ballots are printed, the scanners tested and sealed and in the process of being delivered. He also recommended that the Board call these inconsistent provisions of the Election Law to the attention of the Governor and the State Legislature and ask them to resolve the conflict between the provisions of Article 6 and 7 of the Election Law.

President Guastella recognized Stanley Schlein, Esq., the representative for candidate Mirza M. Rashid. Mr. Schlein requested for the Board to effectuate the substitution and in effect, ignore the testing requirements of Article 7 of the NYS Election Law. He recommended that the Board place a sticker over the deceased candidate's name on the ballot with the substituted candidate's name. Commissioner Sipp inquired about a hand canvass for this election. Commissioner Soumas stated that only if there is not a certified system then the hand canvass option could be used. Mr. Sattie stated that the scanner would jam if there was a sticker on the ballot. Mr. Schlein stated that he does not advocate for an entire hand canvas for the Primary in the entire Assembly District. He sought to limit it to the Judicial Delegate contest only. Mr. Richman stated that such a situation would create problems for the Poll Workers less than two (2) days

before Primary Day. Mr. Sattie stated that it was unlikely that these ballots could even be printed in time for the Primary. Mr. Schlein stated that he leaves this decision to the Commissioners and would not take judicial appeal of the Board's actions. He noted that the hand count would be a slow process. Mr. Sattie stated that he will call the ballot print vendor. The Commissioners placed this item on the second call.

Ms. Vazquez reported that she has two (2) additional items for the agenda.

Ms. Vazquez recalled that Susan Lerner, a representative of Common Cause, incorrectly stated at the City Council Hearing on August 8, 2012 that the Board's website had a disclaimer that it would not be able to provide accurate voter poll site information through the Poll Site Locator function. Ms. Sandow advised Ms. Lerner that she was referring to a link on the State Board's website. Ms. Sandow contacted the State Board about this matter and asked them to post a link on their website that forwards NYC voters to the City Board's website. The State Board complied and posted a link on their website.

Ms. Vazquez reported that the Board held a press conference yesterday on the Election Night Results Reporting (ENR) process. Members of the public, media, good government groups, community organizations and elected official offices were in attendance. President Guastella, Commissioners Polanco, Dent, and Schacher attended as well. Executive Management, Mr. Naudus, Mr. O'Grady and Mr. Thompson demonstrated the ENR process from beginning to end. The focus was the accuracy of the unofficial results.

Ms. Vazquez reported that the Board's newly redesigned website has been launched and has been translated in all covered languages. Ms. Vazquez provided a demonstration of the new functions and features of the website which include the following:

- Prominent banner on the homepage that states the date of the upcoming election;
- Ability to enlarge the text size;
- Social media sharing;
- Email sign-up for Board updates;
- Links for the mobile Poll Site Locator App;
- Search box function.

After the demonstration, a member of the public requested for the Commissioners' Agendas to be archived for a longer period of time. Ms. Vazquez stated that she would look into that request with the MIS Department.

Ms. Vazquez reported on the Board's Poll Site Locator App. She stated that there is a link on the Board's website that users could use to download the App for BlackBerry devices. Links for other smart phone platforms will be available soon. Ms. Vazquez stated that people can go to their respective App Store and type in "NYC BOE Poll Site" in the search engine to find the Board's Poll Site Locator App. This App will be available for Apple devices in October.

Secretary Umane moved to convene an Executive Session to discuss litigation. President Guastella seconded the motion, which was unanimously adopted.

Following the Executive Session, the open public meeting resumed.

Secretary Umane resumed discussion on the Certificate of Substitution for candidate Mirza M. Rashid. Secretary Umane moved that since the Board cannot advise the Poll Workers in time before the Primary Election, and obtain and distribute the necessary ballots to conduct a hand canvass in the 87<sup>th</sup> AD in the Bronx, the Board has no choice but to offer regrets to the candidate seeking to be substituted. There is no way for the Board to effectively conduct the election, and effectuate this substitution without causing chaos on Primary Day. The Board will advise the candidate of its determination. The Board will notify the Legislature of the conflict the current law caused in these circumstances. Commissioner Schacher seconded the motion, which was unanimously adopted.

President Guastella recognized Stanley Schlein, Esq., representing candidate Mirza M. Rashid. Mr. Schlein thanked the Board for considering his request and recognized the Board's difficult situation and the conflict in the statute. He thanked the Board for hearing his application.

Mr. Richman reported on the following actions unanimously taken by the Commissioners in Executive Session relating to the Board's revised practices to ensure poll site accessibility on Election Day:

1. The Board will communicate to every AD Monitoring Team that they shall be instructed to specifically check that the ADA Journal, that is being sent to each poll site Coordinator with a set of Special Instructions, is being properly filled out in a timely matter. If they find that it is not being done, to immediately direct the Coordinator to cause the most recent check to be done and that it continue to be done at the schedule set forth in Special Instructions;
2. The Board will remind the AD Monitors that they are required to completely fill out their Poll Site Inspection Report for each poll site they visit, and that the failure to comply with that direction constitutes a material and substantial breach of the terms of their employment, and will subject them to a hearing, removal, and the potential loss of compensation, pursuant to Section 3-416 of the NYS Election Law;
3. The Board will ask the Borough Managers and Staff to reach out to each AD Monitor to orally communicate the same to them as well as seek to obtain an email address to submit this in writing. The Board will post this Notice in the Poll Worker Section on the Board's website as soon as it is written. The

Board will seek to have a copy of this Notice delivered to each of the four (4) hired vehicle transport companies to be included with their Drivers when they pick up each of the AD Monitoring Teams.

President Guastella moved to adjourn the meeting. Secretary Umare seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, September 18, 2012 at 1:30 P.M.