

MEETING OF THE
COMMISSIONERS OF ELECTIONS
IN THE CITY OF NEW YORK
HELD ON TUESDAY, MAY 14, 2013
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Frederic M. Umame
 Secretary Gregory C. Soumas

Commissioners Jose Araujo, Julie Dent, Maria R. Guastella, Michael Michel, Simon Shamoun, J.P. Sipp

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Raphael Savino, Deputy General Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez, Director, Communications & Public Affairs
John Naudus, Manager, Electronic Voting Systems
John Luisi, Agency Chief Contract Officer, Procurement
Thomas Sattie, Associate Staff Analyst, Ballot Management
Giacomo Kmet, Temporary Contract Attorney, OGC
Anibal Luque, Temporary Contract Attorney, OGC
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV
 Stephen Narloch
 Alexander Dillon, DOI
 Alex Camarda, Citizens Union
 Alex Voetsch, NYDLC
 Michael Benjamin
 David Seitzer, NYC Council
 Artyou Matsov, NYC Council

John D. Smith
K. Loving, CFB
M. Lloyd
C. Salazar, Gotham Gazette
Alan Flacks, Member of NY County Democratic Committee

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

President Umane stated that an Executive Session will be added to the agenda for purposes of litigation.

Commissioner Araujo moved to adopt the minutes of the May 7, 2013 meeting. Commissioner Guastella seconded the motion, which was unanimously adopted.

President Umane discussed the applicability of Sections 7-104 and 7-116(6) and Section 7-106 of the NYS Election Law with respect to the form of the ballot for primary, general and special elections conducted entirely within NYC. He recalled that he brought this matter to the Commissioners' attention at a previous meeting and would like the Commissioners to make a decision. President Umane stated that there are two (2) sets of rules in the NYS Election Law; one set relates to Lever

Machine Rules and one set relates to Paper Ballot Rules for the electronic voting machine. President Umane explained the statutory provisions for lever machines (Section 7-104). He stated that if a candidate is on two (2) of the parties with ballot status then he/she is not allowed to have a third ballot position as a candidate of an independent body. The candidate is entitled to be a candidate on as many lines of these parties with ballot status that endorse him/her, but not independent bodies. President Umane explained the statutory provisions relating to Election Day paper ballots (Section 7-106). This section allows the candidate as many independent lines that he/she gets by petitioning. There is no requirement for candidate rotation under the Election Day paper ballot statute. The Election Day ballot provision is advantageous for the Board because the lever machine statute requires each ballot order of candidates be rotated in each Election District (ED). President Umane recommended for the Board to follow the Election Day paper ballot rules so there is no need to rotate the ballot for each ED which would create many separate ballot styles, and an extraordinary amount of time to test each scanner. Commissioner Sipp inquired if the independent nominations would affect the readability of the ballot. Mr. Richman stated that additional nominations could affect the ballot. Commissioner Sipp confirmed that the Board would follow the lever

machine rules if the NYS Assembly passes the use of lever machines for the upcoming election. Commissioner Araujo inquired if the font size would decrease if the candidate ran on many party lines. Mr. Sattie stated that it is possible and he could produce sample ballots. Commissioner Araujo inquired if Section 7-106 is the most cost effective for the Board. Mr. Richman replied yes; cost effective relating to materials and manpower. Commissioner Araujo moved for the Board to follow Section 7-106 of the NYS Election Law, with respect to the form of Election Day Paper Ballots used with the poll site optical scanning system, as the applicable and controlling statutory provisions for all such ballots. Commissioner Sipp seconded the motion, which was unanimously adopted. Commissioner Araujo requested for a statement to be prominently posted on the Board's website. Mr. Richman stated that the statement will be posted in the "Notice to Candidates" section on the website and it will also be included in the Petition Rule Book.

President Umane recognized Alex Camarda, a representative of Citizens Union, who requested clarification on the previous resolution. Mr. Richman stated that the Commissioners determined that those provisions of the Election Law relating to the form of the ballot for voting

machines (including but not limited to Sections 7-104 and 7-116(6) of the Election Law) are not applicable to any Election Day Paper Ballot used with the poll site optical scanning system.

Ms. Sandow provided an overview on the Board's Testimony which was presented at the City Council's Committee on Finance and Governmental Operations Hearing on May 13, 2013. A copy of the Board's Testimony is in the agenda. Ms. Sandow reported that the following topics were discussed:

- Ballot pricing issues;
- Additional funding that is required for the potential 2013 Run-off Primary Election;
- Board's Recommended Revisions to the NYS Election Law;
- Proposed Borough Voting Systems (BVS) Unit for each borough office;
- Mayor's Management Report;
- Tablet and kiosk devices;
- Board's capacity registering immigrant voters;
- Webcasting meetings;

- Third-party poll site surveyor to ensure ADA compliance per Court Order;
- Proposed DOI Unit to be established at the Board;
- Post Hurricane Sandy poll sites;
- Proposed bi-partisan attorneys to serve as poll workers.

President Umane inquired if it was a positive Hearing. Ms. Sandow replied yes.

Mr. Luisi presented options for printing Election Day Ballots for the 2013 and 2014 elections. The current contract expires January 2014. He reported that the Board has been working with the Department of Citywide Administrative Services (DCAS) to create a new ballot printing contract for Election Day ballots for the scanners. During the course of these discussions, a vendor submitted an unsolicited offer to provide ballots at a reduced price over the current prices; \$.46 per ballot. The Board brought this to the attention of DCAS, and DCAS requested a meeting with the current vendor ES&S. As a result of that meeting, ES&S unilaterally offered to reduce their pricing by more than 30% contingent upon DCAS extending the existing contract for one (1) additional year through January

2015. The current price of ES&S' 19" and 17" ballots are \$.65 each.

Mr. Luisi gave an overview of the two (2) options:

- Option A – Accepting the ES&S proposal of \$.45 per 19" ballot and \$.39 per 17" and 14" ballots, effective immediately.
- Option B – Not accepting the ES&S proposal and using a Competitive Sealed Bid for 2014. In a short window of time, DCAS would conduct the bidding process, and they advised that this may not occur due to time considerations.

Mr. Luisi stated that DCAS recommended for the Board to accept Option A. Based on DCAS' opinion and analysis of the costs, Mr. Luisi also recommended Option A. Commissioner Michel raised concerns that ES&S dropped their prices after another vendor bid, and then asked for the Board to extend the contract an additional year. Commissioner Michel inquired how long it would take DCAS to conduct a Competitive Sealed Bid. Mr. Luisi replied nine (9) months. Commissioner Michel raised concerns that nine (9) months is too long to secure a contract. Commissioner Sipp inquired if the ballots' paper quality would change if the Board chose ES&S' reduced price. Mr. Luisi stated that there would be no changes to the ballot specifications. Ms. Sandow noted that the Board has been proactive with respect to reducing ballot costs since they received the ballot specifications

in March 2011. Commissioner Araujo moved to adopt Option A for cost savings. Commissioner Guastella seconded the motion, which was unanimously adopted. Commissioner Michel stated that he voted in favor because the Board cannot conduct an election without ballots and noted that this should never happen again with a vendor.

Mr. Ward presented the Comparative Expenditure's Report dated May 14, 2013. A copy of the report is in the agenda.

President Umane moved to convene an Executive Session for purposes of personnel and litigation matters. Commissioner Dent seconded the motion, which was unanimously adopted.

President Umane stated that the Commissioners will not be meeting next week due to the State Government Education and Information Day. The next stated meeting of the Commissioners is scheduled for Tuesday, May 28, 2013 at 1:30 P.M.