

MEETING OF THE BOARD OF CANVASSERS AND  
MEETING OF THE COMMISSIONERS OF ELECTIONS  
IN THE CITY OF NEW YORK  
HELD ON TUESDAY, MAY 29, 2018 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 Rosanna Vargas  
Secretary John Wm. Zaccone

Commissioners Jose Araujo, John Flateau, Michael Michel, Alan Schulkin,  
Simon Shamoun, Frederic M. Umane

Michael J. Ryan, Executive Director  
Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Georgea Kontzamanis, Operations Manager  
Steven H. Richman, General Counsel  
Steven Guglielmi, Director, Personnel  
Valerie Vazquez, Director, Communications and Public Affairs  
Troy Johnson, Coordinator, Candidate Records Unit  
Rayvon Weaver, Project Coordinator, Candidate Records Unit  
Raquel Torres, Administrative Assistant, Candidate Records Unit  
Sherwin Suss, Agency Chief Contracting Officer, Procurement  
Amanda Berinato, Chief Clerk, Queens Office  
Bart Haggerty, Deputy Chief Clerk, Queens Office  
Kenneth Moltner, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV NYC  
Katharine Loving, NYC CFB  
Wendy Byrne, LWV NYC  
Alan Flacks, Member of NY County Democratic Committee

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President Vargas called the meeting to order at 1:41 P.M.

Pursuant to the provisions of Title 2 of Article 9 of the New York State Election Law, President Vargas called the meeting of the Board of Canvassers in the City of New York to order for the purposes of recertifying the recanvass of votes cast on April 24, 2018 in the Special Elections conducted in Queens County for Member of the New York State Assembly in the 39<sup>th</sup> A.D.

To serve as the other Democratic Member of the Canvassing Board, President Vargas designated the Democratic Commissioner of Queens County to be the second signature on the Amended Statement and Return of Canvass.

Secretary Zaccone designated the Republican Commissioner for Queens County to serve with him as the second signature on the Amended Statement and Return of Canvass.

The Chief Clerk and Deputy Chief Clerk of Queens and their staff have prepared and signed an Amended Statement and Return of Canvass for the April 24, 2018 Special Elections conducted in the 39<sup>th</sup> State Assembly District within Queens County. Ms. Berinato and Mr. Haggerty presented the Amended Statement and Return of Canvass to the

Canvassing Board for review and approval. Ms. Berinato and Mr. Haggerty summarized the circumstances that caused them to submit an Amended Statement and Return of Canvass. When the Queens Office staff was preparing the invalid/valid affidavit ballot letters for the April 24, 2018 Special Election, a clerk discovered one (1) affidavit ballot was invalidated in error. Upon consultation with the Queens Chief Clerks, Queens Commissioners and Executive Management, this affidavit ballot was deemed valid. Ms. Berinato and Mr. Haggerty confirmed that the correction reflected in the Amended Statement and Return of Canvass did not change the overall outcome of the contest, and the amended results presented are accurate and correct. Based on that report, Commissioner Araujo moved that the Board of Canvassers certify the Amended Statement and Return of Canvass for the April 24, 2018 Special Election for the 39<sup>th</sup> State Assembly District in the County of Queens. Commissioner Michel seconded the motion, which was unanimously adopted.

Commissioner Araujo moved for staff to electronically affix the appropriate Commissioners' signatures as previously designated on the Amended Statement and Return of Canvass. Secretary Umane seconded the motion, which was unanimously adopted.

Commissioner Schulkin moved to adjourn the meeting of the Board of Canvassers and convene the regular stated meeting of the Commissioners of Election in the City of New York. The motion was seconded, and unanimously adopted.

Commissioner Araujo moved to adopt the minutes for the May 15, 2018 meeting. Secretary Zaccone seconded the motion, with Commissioner Umame abstaining. The motion was adopted.

Mr. Ryan reported that the last day to register to vote for the June 26, 2018 Federal Office Primary Election is Friday, June 1, 2018. Executive Management proposed for the Borough Offices to remain open until 9:00 P.M. on Friday, June 1, 2018 to accept voter registrations using a skeleton crew, and the General Office will remain open during regular business hours. Commissioner Umame moved to adopt Executive Management's proposed schedule for Friday, June 1, 2018. Commissioner Michel seconded the motion, which was unanimously adopted.

Mr. Ryan reported that the Board received notification from the New York State Election Commissioners' Association (NYSECA) that their

Summer Conference is scheduled from July 24, 2018 through July 27, 2018 in Niagara Falls, NY. A copy of the invitation and agenda was distributed to the Commissioners for review. Executive Management requested approval for appropriate staff members to attend NYSECA's Summer Conference. Mr. Richman noted that a Commissioners' Committee might be needed for Amended Cover Sheets that specific week because the following week is the petition hearings. Legal staff would not be able to attend the Conference. Commissioner Schulkin moved to approve Executive Management's request. Commissioner Shamoun seconded the motion, which was unanimously adopted.

Mr. Ryan reported on a U.S. Post Office issue in Brooklyn. The Brooklyn Chief Clerk and Deputy Chief Clerk had reported a matter verbally and then in writing to Executive Management in April 27, 2018. The Board received written correspondence from Mr. Elvin Mercado, a representative of the U.S. Postal Service, concerning mail which should have been delivered to the Board in November 2017. On April 24, 2018, the Board received a total of 725 absentee ballots. On April 25, 2018, the Board received 352 pieces of mail which included general correspondences and Voter Information Notices. A total of 828 pieces were returned absentee ballots. 295 of the 828 were absentee ballots

which were post marked after November 7<sup>th</sup> deadline date, and 15 absentee ballots had either a missing or ineligible post mark. Mr. Ryan noted that those ballots would have not been counted under any circumstances. A total of 187 individuals received notification, pursuant to Section 8 – 412 (1) of the NYS Election Law, indicating the Board was in receipt of their late absentee ballot. According to the NYS Election Law, these absentee ballots were received late and the Commissioners do not have any discretion to extend that timeframe. There is a fixed deadline in the law to begin the election certification process. A total of 533 absentee ballots were timely delivered to the Post Office and the Post Office did not timely deliver those ballots to the Board. The post mark categories are as follows:

- 13 envelopes out of 533 had two (2) post marks that were both stamped prior to November 7, 2017;
- 174 envelopes out of 533 had two (2) post marks - one post mark prior to November 7, 2017 and the second post mark was either ineligible or blank, (OR), one post mark prior to November 7, 2017 and the second post mark after November 7, 2017 – many were marked after November 16, 2017. A total of 346 were post marked after November 16, 2017.

If the Post Office makes such an error again in the future, Mr. Ryan recommended that the first post mark should serve as confirmation of the voter's actions assuming the first post mark is not ineligible. A detailed report was provided from the Brooklyn Chief Clerks to the Brooklyn Commissioners and Executive Management. The Board has been working with the Post Office on this issue. Mr. Ryan reported that First Class Mail is the Post Office's responsibility to deliver to the Board and they have accepted full responsibility. Baskets of Board mail were put off to the side in the Brooklyn Post Office processing facility which was discovered and delivered to the Board. With respect to the double cancellations, the Postal Service indicated that both pieces having their original cancellation on October 31, 2017, in different areas of the country and both receiving subsequent cancellation at "NY100" (local processing) on November 16, 2017, is most probably cause is that the mail was delayed at "NY100" for several weeks after it was placed back into the cancellation mail stream at "NY100". Mr. Ryan reported that the Brooklyn Office staff did everything they could possibly do to serve the voters, and the Board is thankful that the Postal Service took responsibility for this matter. Mr. Ryan noted that this was a highly unusual circumstance. Executive Management will be working with the Brooklyn Office staff to prepare a mailing to the affected voters with a detailed explanation and a copy of the Postal Service's letter.

Secretary Zaccone requested for a copy of the Postal Service's letter to be included into the Commissioners' Meeting record. (See attachment.) Mr. Ryan reported that the Postal Service's letter and returned affidavit ballot envelope will be scanned into the AVID voter registration system for each affected voter. Commissioner Flateau commended the Brooklyn Office and General Office staff for their due diligence following up on this matter as every New Yorker's vote should be counted. Commissioner Shamoun echoed the sentiments of Commissioner Flateau and reiterated that First Class Mail is supposed to be delivered by the Post Office to the Board. Brooklyn Office staff made many trips to the Post Office before and after the November election as a courtesy and there was no mention of these mail bins and it is not acceptable. Commissioner Shamoun requested for the dialogue between the Board and the Postal Service to continue so it does not happen again in the future. Mr. Ryan clarified that Board staff is sent to the local Post Office at high volume times to pick-up bulk mail deliveries to better serve the voters to overcome deadlines even though it was not the Board's responsibility. It was noted that the Board's election mail materials are labeled to be expedited on the envelopes so it is prioritized by the Post Office. Commissioner Shamoun reported that the returned absentee ballots were spread out across the borough of Brooklyn and not concentrated in one specific area. Brooklyn staff created an



ED/AD breakdown of the returned absentee ballot envelopes in Brooklyn's detailed report.

President Vargas recognized Alan Flacks, a member of the public, who requested for a copy of the Postal Service's letter and the Brooklyn Office's report.

Mr. Suss provided a report from the Commissioners' Finance Committee meeting. Copies of Mr. Suss' report were distributed to the full Board for review. The information follows:

- Handrail Installation Contract – This contract is for the permanent installation of handrails at the New York City Department of Education sites to remove barriers and make the locations ADA accessible. There are presently identified 18 poll sites which can be fixed under this contract which would remove 21 temporary ramps from the Board's inventory and storage. The Board would receive a cost savings of \$32,959 per election by performing permanent repairs at these poll sites. The cost of this contract is eligible for federal HAVA grant money with 95% covered by the HAVA grant and 5% from the Board's budget. The lowest responsible bidder was Frankie

Sofia LLC at a not to exceed cost of \$775,800 for fabrication and installation of up to 2,500 linear feet of handrails. The 18 identified sites would cost the Board approximately \$186,560. Mr. Suss requested for full Board approval of this contract. Commissioner Umame move to adopt the Commissioners' Finance Committee's report to adopt the Handrail Installation Contract as submitted. Secretary Zaccone seconded the motion, which was unanimously adopted. Commissioner Flateau requested for the Brooklyn Commissioners and Brooklyn Chief Clerks to review the ten (10) sites in Brooklyn prior to installation;

- Envelope Printing Contract – This contract is for Election Day materials and ballot envelopes. DCAS has rebid out the Board's envelope contract, which was set to expire on 5/31/18, and after two (2) bids submitted, DCAS is going to award the contract to Vanguard. This contract is a not to exceed amount of \$427,984 for four (4) years. Mr. Suss requested for full Board approval of this contract. Commissioner Umame moved to adopt the Commissioners' Finance Committee's report to adopt the Envelope Printing Contract as submitted.

Commissioner Schulkin seconded the motion, which was unanimously adopted.

President Vargas recognized Katharine Loving, a representative of the NYC Campaign Finance Board, who thanked the Board for providing documents in the past in accordance with the Open Meetings Law.

Secretary Zaccone moved to convene an Executive Session for personnel and litigation matters. Commissioner Michel seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed and Mr. Ryan reported the following actions that were taken in Executive Session:

- I. The Stipulation of Settlement executed on May 23, 2018 by Francis Maldonado with the Union and Personnel was ratified by the full Board of Commissioners pursuant to the terms and conditions as set forth in the Stipulation;
- II. The full Board of Commissioners ratified the action of the Executive Committee made on May 22, 2018 to grant an advance of 210 hours to Frank Correa, retroactive to

May 14, 2018. Mr. Correa's agency start date is August 29, 2014.

Commissioner Flateau moved to adjourn the meeting. President Vargas seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners will be held on Tuesday, June 5, 2018 at 1:30 P.M.



Michael Ryan  
Executive Director  
32 Broadway 7TH Floor  
New York, NY 10004

EXECUTIVE OFFICE  
BOARD OF ELECTIONS  
IN THE CITY OF NEW YORK

2018 MAY 29 P 12: 16

Dear Mr. Ryan,

Let me assure you we constantly seek ways to improve service to customers and meet or exceed the standards that have been set. While we are generally very proud of the manner in which the mail is processed, it is disappointing to recognize and accept that sometimes, no matter how hard we try, errors and delays will occasionally occur.

Upon investigation, the Board of Elections and management had a verbal agreement that allowed your office to pick-up your ballots during the political election during the months of October- November. Regrettably, local management failed to follow up and did not continue delivery because they expected a pick up even after the October – November agreement. While we had a verbal agreement the post office should have started the delivery after the election season was over.

In reference to the double cancellations, both pieces having their original cancellation on October 31<sup>st</sup> 2017, in different areas of the country and both receiving subsequent cancellation at NY 100 on November 16<sup>th</sup> 2017 the most probable root cause is that the mail was delayed at NY 100 for several weeks after which time it was placed back into the cancellation mail stream at NY100. The cancelled mail that NY100 receives from other areas should not have been sent to the cancellation operation. This is an un-necessary and un-orthodox flow at NY100 that caused the double cancellation.

Mrs. Jimenez-Bruno, Manager, at the Cadman Plaza Post Office and her staff has been made aware of the service issue to ensure there are no future occurrences.

Moving forward the local post office will correspond with your office intermittently and continue to deliver your mail consistently.

An apology is no substitute for good service, but I want to offer one on behalf of the Postal Service. We appreciate your reporting this matter to us. It helps to know the kinds of difficulties our customers have so we can work toward improvements. Your business is very important to us.

Sincerely,

Elvin Mercado