

Approved #3419

MEETING OF THE COMMISSIONERS OF ELECTIONS
IN THE CITY OF NEW YORK
HELD ON TUESDAY, NOVEMBER 23, 2021 AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Frederic M. Umane
Secretary Rodney L. Pepe-Souvenir

Commissioners Jose Miguel Araujo, Michael J. Coppotelli, Jenny Low,
Gino A. Marmorato, Simon Shamoun, Patricia Anne Taylor

Michael J. Ryan, Executive Director
Georgea Kontzamanis, Operations Manager
Wilma Brown Phillips, Administrative Manager
Hemalee J. Patel, General Counsel
Raphael Savino, Deputy General Counsel
Sherwin Suss, Agency Chief Contract Officer, Procurement
Kenneth Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

President Umane called the meeting to order at 1:48 P.M.

Mr. Ryan added the Commissioners' Finance Committee Report and
Executive Session for personnel to the agenda.

On behalf of the Commissioners, President Umane welcomed the newly
appointed Staten Island Republican Commissioner Michael J. Coppotelli and

Queens Republican Commissioner Keith Sullivan to the Board. President Umane reported that he and fellow Republican Commissioners Marmorato and Shamoun were reappointed by the New York City Council last Wednesday, November 17, 2021. The Commissioners thanked Commissioners Zacccone and Michel for their substantial contributions to the Board and the voters of the City of New York. Commissioner Coppotelli expressed his thanks to the Commissioners for the warm welcome and recognized Commissioners Zacccone and Michel for all of their hard work they have done at the Board.

Secretary Pepe-Souvenir moved to adopt the November 16, 2021 Commissioners' Meeting Minutes. Commissioner Marmorato seconded the motion, with Commissioners Araujo and Coppotelli abstaining. The motion was adopted.

Mr. Ryan provided an update on the November 2, 2021 General Election. The information follows:

- The canvass of Absentee, Military, Affidavit and Emergency ballots in the five (5) Borough Offices has been completed;
- The Borough Offices are in the process of pre-certification work including the audit of the equipment;

- A total of 2,335 Cure Notices for absentee ballots were mailed out to voters;
- A total of 13 Cure Notices are outstanding. The Board is currently waiting to receive back the Cures as required by law;
- A total of 180,630 Absentee ballots and 184 Accessible ballots were mailed out to voters;
- A total of 91,850 Absentee ballots were returned to the Board;
- A total of 82,866 Absentee ballots have been marked preliminary valid;
- A total of 4,054 Absentee ballots have been marked preliminary invalid; and
- The Board is currently on schedule to certify the General Election on Tuesday, November 30, 2021.

Ms. Patel provided a report on a matter concerning the Independent Nominating Petitions for the Special Election in the 30th Senate District, New York County. She recalled that the Hearings were conducted on October 19, 2021 and Specifications of Objections were filed by Keith Lilly to the petitions of Shana Harmongoff. Ms. Harmangoff was represented by Jerry Goldfeder, Esq. and he made a public accusation that the staff of the Manhattan Borough Office had

committed fraud on behalf of the Objector, but did not explain the basis of the claim. After the hearing, at the direction of Mr. Ryan, the Office of the General Counsel conducted an administrative inquiry into the claims. Ms. Patel asked Mr. Goldfeder to provide a written claim with proof and he submitted a letter and copies of specifications/worksheets that his client received. He claimed that the specifications/worksheets that the Manhattan Borough Office staff reviewed were substantially different from the ones his client was served, in that many additional objections had been added to the specifications/worksheets that were worked by Manhattan Borough Office staff. Ms. Harmongoff and Mr. Goldfeder claimed that Board staff had added objections which were sustained and resulted in signatures being invalidated. The OGC requested all the original documents from the Manhattan Borough Office and discovered that the facts were much less insidious. Based on findings and conversations with Mr. Lilly, the OGC found that Mr. Lilly filed one set of Specs (NY-1) and having them served them incorrectly, he came back at 11:57 P.M. to serve an entirely new set with added objections (NY 1-2). Mr. Lilly added the objections, not the Manhattan Borough Office staff. Mr. Lilly signed a sworn notarized statement prepared by Ms. Patel based on what transpired and the findings. Board staff did not work NY 1-1 because they were informed that the Specifications of Objections were improperly served and would therefore be found “Not As Stated.” Mr. Lilly acknowledged that he likely did not serve the second objections (NY 1-2) upon Ms. Harmongoff, instead again sending her

copies of NY 1-1. Because she was not properly served with NY 1-2, she assumed Board staff had tampered with the submitted documents. Ms. Patel reported that nothing that happened was the fault of any of the Board staff, nor did the Board have any control over the actions of Mr. Lilly. President Umane and Secretary Pepe-Souvenir thanked the Counsel's Office for investigating the matter and clearing the Manhattan Borough Office staff of the allegations of any wrongdoing. Mr. Ryan noted that Board staff takes petition filings very seriously and to have any allegation irresponsibly cast against their work and ethics is very unfortunate. It was important for the Board, the staff and for public confidence to investigate this claim and report the findings publicly.

President Umane presented the Commissioners' Finance Committee Report. The Commissioners' Finance Committee met with Mr. Suss and unanimously recommended to adopt the following contracts:

1. Derive Technologies – This is a contract to provide new networking equipment to the Board to replace agency wide networking equipment with latest Cisco networking equipment. This network will be upgraded to comply with the latest cyber security requirements. This contract was acquired through a competitive sealed bid under the NYS OGS Umbrella Technology contract. This is a not to exceed

contract amount of \$3,285,855. The full Board of Commissioners unanimously adopted the contract;

2. Penda Aiken – This is a request to raise the contract ceiling of the temperature screeners' contract being used by all boroughs to comply with the City's mandate. The request is for an increase of the amount of \$90,000 for a total of \$390,000. This is a not to exceed contract.

The full Board of Commissioners unanimously adopted the contract;

3. Dominion Voting Systems Corporation – This is a four (4) year contract to supply ballot stock to the Board which is used in the Ballot on Demand (BOD) printers during Early Voting. The winning bid is \$.08 per sheet with a request for 10,000 sheets or 2,500,000 per year average for a not to exceed price of \$800,000. The vendor will store and maintain the ballot stock for the Board in a temperature controlled environment and supply amounts upon request. The full Board of Commissioners unanimously adopted the contract; and

4. Election System & Software (ES&S) – This is a contract to provide maintenance and support from ES&S. The purchase was made under the NYS OGS Voting Systems and Supplies contract. This contract provides the maintenance and support for the ES&S Scanners, Ballot Marking Devices (BMDs) and software owned and operated by the Board. In addition, the contract provides for additional purchases of

equipment and parts, if required by the Board. The existing programs for the Board's Voting Machine Technicians (VMT) training on maintenance of the equipment will be continued. This is a four (4) year contract with a not to exceed amount of \$51,498,776. These funds will only be spent if the services are rendered and equipment is purchased from the vendor. President Umane noted that this contract was discussed very thoroughly. The BMD equipment is outdated and lacks sufficient memory which cannot handle additional languages, if required. The Finance Committee recommended for a letter to be drafted from the Commissioners and Executive Management to the State Board, Mayor and City Council advising them of the concerns of the current BMDs and Scanners. The full Board of Commissioners unanimously adopted the contract and recommendation to draft a letter as presented.

President Umane moved to convene an Executive Session for personnel matters. Commissioner Taylor seconded the motion, which was unanimously adopted.

Following Executive Session, the open meeting resumed.

The following action was taken by the unanimous decision of the Board of Commissioners:

- I. Phillip Kebreau, a Voting Machine Technician, was granted 119 hours of an advance of sick time. This grant is effective November 1, 2021. Mr. Kebreau's agency start date is July 17, 2021.

The meeting was adjourned.

The next stated meeting of the Commissioners is scheduled for Tuesday, November 30, 2021 at 1:30 P.M.