

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

May 5, 2020

1:35 p.m. - 2:35 p.m.

May 5, 2020

PRESENT:

President Patricia Anne Taylor

Secretary Frederic Umane

Commissioner Jose Araujo

Commissioner Miguelina Camilo

Commissioner Gino Marmorato

Commissioner Michael Michel

Commissioner Simon Shamoun

Commissioner Tiffany Townsend

Commissioner John Wm. Zaccone

Michael J. Ryan, Executive Director

Dawn Sandow, Deputy Executive Director

Kenneth Moltner, Counsel to Commissioners

Steven Denkberg, Counsel to Commissioners

Georgea Kontzamanis, Operations Manager

Pamela Perkins, Administrative Manager

Steven Richman, General Counsel

Rafael Savino, Deputy General Counsel

David Fuchs, Legal Clerk

Matthew Graves, CRU

Sherwin Suss, Chief Contracting Attorney

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2 (The meeting commenced at 1:35 p.m.)

3 MR. MICHAEL J. RYAN: We are now live
4 with the live stream on both video and sound. And
5 I would like to go through the roll call of
6 attendance of commissioners and then I'll
7 announce the staff members that are also
8 participating in the meetings and then after that
9 we'll move into the hearings. President Taylor?

10 PRESIDENT PATRICIA ANNE TAYLOR: I am
11 here.

12 MR. RYAN: Secretary Umane?

13 SECRETARY FREDERIC UMANE: Here.

14 MR. RYAN: Commissioner Araujo?

15 COMMISSIONER JOSE ARAUJO: Present.

16 MR. RYAN: Commissioner Camilo?

17 COMMISSIONER MIGUELINA CAMILO: Present.

18 MR. RYAN: Commissioner Marmorato?

19 COMMISSIONER MARMORATO: Good afternoon,
20 present.

21 MR. RYAN: Commissioner Michel?

22 COMMISSIONER MICHAEL MICHEL: Present.

23 MR. RYAN: Commissioner Shamoun?

24 COMMISSIONER SIMON SHAMOUN: Present.

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2 MR. RYAN: Commissioner Townsend?

3 COMMISSIONER TIFFANY TOWNSEND: Present.

4 MR. RYAN: And Commissioner Zaccone?

5 COMMISSIONER JOHN WM. ZACCONE: Present.

6 MR. RYAN: I will note the presence,
7 participation I should say of both Mr. Steven
8 Denkberg and Kenneth Moltner, who are
9 commissioners' counsel. I am Michael Ryan, I'm
10 the executive director. Seat to my left is Dawn
11 Sandow, the deputy executive director, and
12 participating remotely but in the building are
13 both Georgia Kontazmanis, the operations manager
14 and Pamela Perkins, the administrative manager.
15 Seated at the table in front of me are Steven
16 Richman, general counsel, deputy general counsel
17 Rafael Savino, and David Fuchs from the legal
18 department. Also participating in the hearings,
19 or present I should say, to assist in the
20 hearings will be Matthew Graves from CRU and
21 later on the agenda proper for item number three,
22 will also be Mr. Sherwin Suss. That --

23 COMMISSIONER ARAUJO: This is
24 Commissioner Araujo. Can I have the discussion

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2 regarding the ballots put on the agenda?

3 MR. RYAN: Sure.

4 COMMISSIONER ARAUJO: Thank you.

5 MR. RYAN: And then, are there items for
6 -- there should be some items for executive
7 session I would imagine or not legal related but?
8 Okay. Ballots. Alright. Okay. Now, the first item
9 on the hearing agenda is CRU prima facie, there
10 is one item and no appearances, the cut off was
11 3:00 p.m. yesterday and it's Working Families
12 Party delegate to the Judicial Convention from
13 the 57th Assembly District and the names are
14 Bernette Carway-Spruiell, Eric Spruiell, Joe
15 Dinkin, William Lipton, Pete Naji, and Scott
16 Somer, legal please proceed.

17 MR. RICHMAN: Commissioners, the party
18 call specifies that in the 57th AD, the Working
19 Families Party shall set, nominate five delegates
20 to the Judicial Convention. The petition attached
21 contains six. Accordingly, it's on over
22 designation under the Election Law, Section 6-
23 143, Subdivision 3. And accordingly, all the
24 candidates should be stricken from the ballot.

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2 That's the recommendation of CRU.

3 MR. RYAN: Is there a motion?

4 COMMISSIONER MICHEL: I make a motion --

5 SECRETARY UMANE: Move the CRU report.

6 COMMISSIONER MICHEL: Second.

7 MR. RYAN: There's a motion and a
8 second. Are there any objections? Hearing none --

9 SECRETARY UMANE: No objection.

10 MR. RYAN: -- the motion carries.

11 MR. RICHMAN: The candidate will not
12 appear on the primary ballot.

13 MS. SANDOW: Candidates.

14 MR. RYAN: Candidates, yeah.

15 MR. RICHMAN: Candidates.

16 MR. RYAN: Multiple, yeah.

17 MR. RICHMAN: There's six.

18 MR. RYAN: Alright. So that moves us,
19 that concludes the CRU prima facie calendar and
20 we will move then to the legal prima facie
21 report. There are only three matters on the legal
22 prima facie and no appearances as of the deadline
23 of 3:00 p.m. yesterday. Item number one is
24 Working Families Party candidate Marie Laverne

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2 from the delegate to the Judicial Convention 49th
3 Assembly District, candidate does not reside in
4 the district. And then there are two others, Liza
5 Moreta and Jose Fleet, both democratic
6 candidates, female and male district leader
7 respectively for the 78th Assembly District and
8 both of these are Armwood v. McCloy issues, Mr.
9 Richman.

10 MR. RICHMAN: Commissioners, for the
11 first matter, for Ms. Laverne, the applicable
12 case law, you have a copy of the case included in
13 your packet, which is the matter of Corbin v.
14 Goldstein and the Working Families Party rules,
15 which you have a copy of, requires that
16 candidates for delegates to, or alternate
17 delegate to the Judicial Convention reside in the
18 judicial district. As you can see from the
19 petition, Ms. Laverne is running in Kings County,
20 the 2nd judicial district, resides in Queens
21 County, the 11th judicial district, so it's a
22 prima facie defect and the recommendation would
23 be to remove her from the ballot.

24 With respect to Ms. Moreta and Mr.

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2 Fleet, a petition volume was filed, Bronx 117,
3 for which consisted of 35 pages, and no cover
4 sheet was filed for either candidate. It was only
5 filed for the assembly candidate on that
6 petition. That candidate is on the ballot.
7 Therefore, under *Armwood v. McCloy*, both Ms.
8 Moreta and Mr. Fleet should be stricken from the
9 ballot.

10 SECRETARY UMANE: So moved.

11 PRESIDENT TAYLOR: Second.

12 MR. RYAN: Any objections? Hearing none,
13 the motion carries.

14 MR. RICHMAN: The legal prima facie
15 report is adopted. Those three candidates will
16 not appear on the ballot and that concludes the
17 hearings, Mr. Ryan.

18 MR. RYAN: As Mr. Richman indicated the
19 hearings are now concluded. We will move on to
20 item two A, which is the approval of the notice
21 of candidates for the June 23, 2020 primary
22 election and I believe Mr. Richman has an
23 application regarding an edit.

24 MR. RICHMAN: Yeah. Commissioners, in

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2 the draft notice prepared by CRU, on the last
3 page of the text, under the heading of absentee
4 military, special, federal and affidavit ballots,
5 at the end of the first sentence when they talked
6 about the type of ballots they omitted the word
7 federal. So it should be observe the canvas of
8 the votes cast on any and all ballot absentee,
9 military, special, adding the word federal, and
10 affidavit ballots, period. And the next sentence
11 should be deleted. The only time there's a
12 different time frame for military ballots is for
13 the general election. In a general election or a
14 special election, the military ballots can be
15 received up to 13 days. CRU just made the correct
16 change for the primary, but it's really not
17 needed, since everybody's under the same rule,
18 which is we have to receive the, any of these
19 paper ballots no later than seven days after the
20 date of the election. So with that editorial
21 changes, we would recommend all the other dates
22 are appropriate based on staff recommendation,
23 discussion with the respective chief clerks and
24 deputy chief clerks as to the location for the

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2 activities and the appropriate timeframes. So
3 with the exception of that edits in the absentee,
4 military, special, federal and affidavit ballot
5 section, we'd recommend the notice to be adopted
6 with that change.

7 MR. RYAN: Is there a motion?

8 COMMISSIONER ARAUJO: About the notice?

9 As amended.

10 COMMISSIONER ZACCONE: Second, John

11 Zaccone.

12 MR. RYAN: Are there any objections?

13 Hearing none, the motion carries.

14 MR. RICHMAN: Thank you, commissioners.

15 Staff will begin getting them into the mail
16 either today or tomorrow at the latest. The first
17 activity is next, the end of next week with the
18 audio inspection of the -- of the inspection of
19 the audio ballots, so we'll have enough time that
20 everybody should receive it at least five days in
21 advance.

22 MR. RYAN: Okay. Item number three is a
23 report from the finance committee. Commissioner
24 Umame, typically you have taken a lead on the

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2 committee report. Do you have the documentation
3 in front of you, or would you care for me to --

4 SECRETARY UMANE: No, I have it.

5 MR. RYAN: Okay.

6 SECRETARY UMANE: I have it. The
7 committee, after some significant questioning and
8 due diligence on two potential contracts, the
9 first having to do, the company is called United
10 Rentals, and they're the people who provide the
11 temporary generators for both early voting and
12 election day. United Rental is a DCAS vendor who
13 provides generators for our early voting in
14 October of 2019 and the few days of the March
15 Queens special election.

16 There was a competitive sealed bid and
17 the vendors were requested to price out cost for
18 125 early voting sites and 35 sites for election
19 day. The contract is through December 31, 2023.
20 And they had also included the April election
21 that was not held and postponed. The contract
22 also has a variable, which is the fuel cost
23 published by DCAS in the week preceding the early
24 voting period, plus a fixed markup of 18 percent,

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2 as stated in the bid sheet.

3 The contract is a not to exceed cost is
4 \$11,489,588. The expectation is, is that we're
5 not using 125 sites, maybe one-third less, maybe
6 81 or so and we may not need 35 for each of the
7 election days over the course of those elections,
8 so the theoretical cost would be about \$2 million
9 a year, which is quite a bit less. But as we
10 usually do, we approve something on the high side
11 to cover us for eventual new elections or other
12 sorts of issues.

13 So, it was unanimous approval for the
14 United Rentals contract in the finance committee.
15 And I would, we don't need a motion and a second,
16 because it's a committee recommendation. So it
17 just requires a vote. Madam President.

18 PRESIDENT TAYLOR: All those in favor?

19 SECRETARY UMANE: Aye.

20 COMMISSIONER CAMILO: Aye.

21 COMMISSIONER ARAUJO: Aye.

22 COMMISSIONER ZACCONE: Aye.

23 PRESIDENT TAYLOR: Any opposition?

24 Hearing none, the vote is accepted. Thank you,

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2 finance committee.

3 SECRETARY UMANE: The second contract
4 that we reviewed was for Dreamland Security and
5 this is a contract that provides security for the
6 closed times for early voting. So once the site
7 is closed, we have our equipment out in the field
8 and these are for unarmed guards to be on site
9 for the period of time when there is no voting
10 going on. And theoretically, the office, or
11 wherever we're located is locked up. This is a
12 New York State Office of General Services
13 contract. The bidders were requested to provide
14 an hourly rate to provide guard services for up
15 to 100 sites.

16 There were four responsive bids and
17 we've gone with Dreamland Security, the lowest
18 bidder, at an hourly rate of \$27,078 per guard
19 per hour and the contract runs from April 1, 2020
20 through December 31, 2022, encompassing seven
21 election events. I think that's minus the one in
22 April, but it's still included in the contract.
23 Again, it's only what we use. And the math on it,
24 I could lay it out, but it's relatively simple.

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2 The total cost, on a not to exceed contract is
3 \$2,780,788 and we're only going to pay for the
4 number of hours used and the number of early
5 voting sites that are being used during the
6 particular election.

7 I asked and was told that it is not a
8 requirement that there be a either policeman or a
9 public officer. They're only required for the
10 period of time during the voting. And I was also
11 advised that New York City is the only place
12 that, where we provide guards for the equipment
13 when it's not being used for the election. I
14 still think we're being prudent and we're doing
15 the right thing. And the committee agreed and
16 unanimously recommends this also to the
17 commissioners.

18 PRESIDENT TAYLOR: Not needing a motion.

19 SECRETARY UMANE: We need to take a
20 vote. Again, it's no motion because it's a
21 committee report.

22 PRESIDENT TAYLOR: All those in favor?

23 COMMISSIONER ARAUJO: Aye.

24 COMMISSIONER CAMILO: Aye.

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2 PRESIDENT TAYLOR: Are there any
3 objections? Hearing none, the report is accepted.
4 Thank you, finance committee. Mr. Suss.

5 MR. WILLIAM SUSS: Thank you,
6 commissioners.

7 MR. RYAN: Thank you, Mr. Suss. At the
8 request of Commissioner Araujo, there was fourth
9 item added to the agenda, a discussion on
10 ballots. Commissioner Arajuo, would you like to
11 take this issue, please?

12 COMMISSIONER ARAUJO: Sure. Is Tom
13 Sattie there as well?

14 MR. RYAN: He is not, but I can get him
15 if you, if he's needed to be here.

16 COMMISSIONER ARAUJO: Yeah, I -- they
17 circulated a copy of the sample ballots for the
18 upcoming June election. I just wanted him to
19 discuss, or if anyone present there can tell us
20 the font size of the ballot, just so it's on the
21 record and that it's the largest size that we
22 have.

23 MS. SANDOW: It's 12.

24 COMMISSIONER MICHEL: I, commissioner,

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2 it was, he said it was 12 I believe all, 12
3 points across the five boroughs.

4 COMMISSIONER ARAUJO: Okay. So a simple
5 ballot would --

6 MS. SANDOW: It's 12, yes, commissioner
7 it's 12 font.

8 COMMISSIONER ARAUJO: Okay. Great, thank
9 you. A sample ballot has been provided to each
10 commissioner for each county for their review and
11 purview. I looked over the Queens and the other
12 counties. We had an informal discussion with the
13 ballot committee prior to this meeting, and it's
14 the recommendation that we accept the ballot
15 format as laid out.

16 MR. RYAN: Mr., Mr. Sattie is now here
17 in case there are any other questions.

18 COMMISSIONER TOWNSEND: I have another
19 question. So my question is actually just,
20 forgive my ignorance on this. So how are we
21 handling, aside from fonts and format and that
22 sort of thing, any issues around candidates who
23 may be, who may have pending litigation about
24 their candidacy and appearing on the ballot? Just

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2 given the timing I think of how things are sort
3 of working out in this sort of COVID environment
4 if that makes sense.

5 MR. SATTIE: Absentees, especially when
6 it comes to federal and military ballots are
7 always handled as an as is-situation, where since
8 there's a requirement that they have to be out by
9 this coming Friday, they're going to be going out
10 as they stand now. There are I know at least a
11 couple of cases that are still pending in
12 Appellate Court I believe and those --

13 MR. RICHMAN: And Supreme.

14 MR. SATTIE: -- and Supreme. So, so
15 those federal and military ballots will be going
16 out as they currently stand. And if there's to be
17 a change to the ballot, we would make it --

18 MR. RICHMAN: [unintelligible]
19 [00:21:59]. Again, when we went to ballot on
20 demand, we were implementing changes as a court
21 order came in, and with anything going out in the
22 future. But the statute specifically provides
23 that for absentee, military, special and federal
24 ballots, at the date that you made the

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2 determination last Tuesday that this is the
3 certified ballot, that remains.

4 COMMISSIONER TOWNSEND: Mm-hmm.

5 MR. RICHMAN: If a candidate is removed
6 from the ballot, any votes cast for that
7 candidate are disregarded, and if a candidate is
8 added, that candidate doesn't have the
9 opportunity to have his name on the ballot, if
10 somebody writes it in, it'll count that way.

11 For the election day ballots, we have to
12 do our best efforts to ensure that they meet the
13 court requirements. But I believe testing is
14 scheduled for next week to begin.

15 MR. SATTIE: The following week.

16 MR. RICHMAN: Oh, the following week.

17 MR. SATTIE: Beginning May 18th.

18 MR. RICHMAN: The week of the 18th, so
19 we have the Appellate Division scheduled for next
20 week for the First Department. The Second
21 Department's hearing cases right now that have
22 been settled for Richman County and Kings County
23 tomorrow. So again, hopefully, they'll get them
24 completed and try to implement them, but even a

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2 last minute change, the Court of Appeals doesn't
3 meet until the 19th of May to hear the arguments,
4 so again, if there's a last minute change, we
5 will try the best to accommodate them. But given
6 the fact that early voting now took away 11 days
7 of the calendar ahead of that, we're going to be
8 cutting it very close now, given the judicial
9 calendar as well.

10 COMMISSIONER TOWNSEND: So there is an
11 environment where we have candidates who may very
12 well not actually end up on the ballot but they
13 will actually appear on the ballot just based on
14 the way that the dates that the court cases are
15 lining up?

16 MR. RICHMAN: For absentee, correct.
17 That's definitely. We hope that the courts will
18 move expeditiously, so that we will be able to at
19 least complete the Appellate Division review
20 before we actually begin printing and then
21 testing the election day and early voting
22 ballots. And then the Court of Appeals is a week,
23 two weeks from tomorrow and we'll see if they'll
24 entertain any appeals. In the past, unless it's

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2 an extraordinary issue, they have generally
3 declined to grant leave to appeal.

4 COMMISSIONER TOWNSEND: Okay. Thank you.

5 COMMISSIONER MICHEL: It's not an
6 uncommon situation, though. This does --

7 MR. RYAN: And, yes, Commissioner
8 Townsend, these kinds of things happen regularly
9 throughout the elections process and we've even
10 had scenarios where the litigation scheduled has
11 taken the process beyond a point where the court
12 could craft a useable remedy for a candidate and
13 basically, we submit an affidavit to the court,
14 under those circumstances, with the approval of
15 the commissioners indicating that this is too
16 late, it's beyond the point where we could get
17 the candidate back on the ballot and still
18 conduct the election. So you have on, closer to
19 the beginning of the process, you have the
20 overseas and military issues that we have to
21 content with because of the 45 day deadline. And
22 then as the process stretches out, closer to
23 election day we do confront similar issues,
24 although not identical.

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2 COMMISSIONER TOWNSEND: Okay. Thank you.

3 COMMISSIONER SHAMOUN: I have a
4 question, Commissioner Shamoun, about ballots. I
5 think in the past, I think we separated the
6 offices with the contests either with a
7 separation or a gap or a double line. I'm looking
8 at the 64th and the, I guess CD11 ballots for
9 reference. Is there any way we can do that? Or is
10 there a limitation on it?

11 MR. SATTIE: Those separators I think
12 you're speaking of that are the thicker, bolder
13 lines are separations generally between public
14 office contest and party position contests. So if
15 those, I believe if that's the 64th, it would
16 just be the public office contest, which is the
17 reason why there's a thicker line at the top and
18 just a normal separator between the Congressional
19 contest and the Assembly contest.

20 COMMISSIONER MICHEL: Excuse me, Tom.
21 Didn't we discuss that, we would bold each race
22 separately?

23 MR. SATTIE: There are bolded. I think
24 he was talking --

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2 COMMISSIONER MICHEL: Would he have
3 that?

4 MR. SATTIE: -- about a thicker -- yeah.

5 COMMISSIONER MICHEL: Does he have that
6 one?

7 MR. SATTIE: Yeah.

8 COMMISSIONER MICHEL: Oh, okay.

9 COMMISSIONER SHAMOUN: Yeah, I'm talking
10 about there's two, there's two races in one
11 column. And basically it goes Congress,
12 candidate, candidate, write-in and then it moves
13 into Assembly, the next race. But there's no,
14 nothing that really makes it seem like they're
15 two different contests unless you read the next
16 spot. It's a minor point, but if we don't do
17 that, then that's fine.

18 MR. SATTIE: The change that we spoke
19 about prior was to actually unbold the candidate,
20 the candidate boxes to allow those office boxes
21 to pop a little bit more and stand out. So if
22 that's, if that's what you're referring to, and
23 I'm sorry, I don't have the ballot that you're
24 referring to in front of me. But that is the

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2 slight change that we made to make, to make that
3 stand out a little bit more. Separate, make the
4 separation between the contest stand out a little
5 bit more.

6 COMMISSIONER ARAUJO: Commissioner
7 Shamoun, this is Jose Araujo. That discussion was
8 had because the Queens ballot seemed very
9 convoluted and confusing and it was hard to
10 [unintelligible] [00:27:41]. So that's the
11 compromise that we came up with after, after
12 inquiring. So hopefully, that will
13 [unintelligible] [00:27:50] and alleviate the
14 concern that you have once you actually see the
15 hard copy. Commissioner Michel was there, so he
16 was looking at the hard copy and he said it
17 looked a lot better than it does on the
18 [unintelligible] [00:28:00].

19 COMMISSIONER SHAMOUN: Oh, so that the
20 candidates won't be bolded, but the con-

21 COMMISSIONER MICHEL: The contest, each
22 contest would be bolded, the candidates will not
23 be bolded, so it does look [unintelligible]
24 [00:28:09].

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2 COMMISSIONER SHAMOUN: That's exactly
3 what I'm talking about. Okay, great. Thank you.

4 MR. SATTIE: I apologize, Commissioner,
5 Shamoun. I'm glad that --

6 COMMISSIONER SHAMOUN: Yeah, the sample
7 I got has everything bolded.

8 MR. SATTIE: Got you.

9 COMMISSIONER SHAMOUN: Alright.

10 COMMISSIONER MICHEL: It's only going to
11 be the races bolded. The candidates will be
12 unbolded.

13 COMMISSIONER SHAMOUN: Alright. Thank
14 you.

15 MR. RICHMAN: The public office or
16 public position title, okay.

17 COMMISSIONER SHAMOUN: Perfect, thank
18 you.

19 COMMISSIONER ARAUJO: So I mean I would
20 ask that the motion be made to adopt the
21 recommendation of the ballot committee with
22 respect to this issue.

23 COMMISSIONER MICHEL: I second it.

24 PRESIDENT TAYLOR: All those in favor?

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2 SECRETARY UMANE: Aye.

3 COMMISSIONER ARAUJO: Aye.

4 COMMISSIONER MARMORATO: Aye.

5 PRESIDENT TAYLOR: Any objections?

6 Hearing none, the motion carries. Thank you.

7 MR. SATTIE: Thank you very much,
8 commissioners.

9 COMMISSIONER ARAUJO: I had a second
10 point with respect to having a discussion with
11 the full board with respect to the amount of
12 ballots we're going to order in light of these
13 executive orders, in light of the early voting
14 and what's the timeframe for that.

15 MR. SATTIE: The, again, we begin, we
16 intent to begin building the ballots during next
17 week and would want to order the ballots by the
18 end of next week. So if that's a, you know, if --
19 I would like to have a conversation about that,
20 yeah, if possible to put it by next week, next
21 commissioners' meeting next Tuesday, to make a
22 determination on that.

23 COMMISSIONER ARAUJO: Are there any
24 pending discussions with the state board with

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2 respect to the ballot itself or polling sites
3 that may affect the number of ballots that we're
4 going to be ordering and/or printing?

5 MR. RYAN: So, as of right this minute,
6 we have to follow the law. We're not aware of any
7 planned, further executive orders or any planned
8 further guidance from the State Board of
9 Elections. But I would say that like all things
10 elections for the last two months, what we think
11 of in a moment could change in the following
12 moment. So these issues have begun to be
13 addressed over the past several weeks. And I did
14 circulate an e-mail to the commissioners earlier
15 regarding conversations that we've had with the
16 State Board of Elections, seeking guidance on how
17 we conduct our business of the agency in the face
18 of all of the restrictions for COVID-19. The
19 reason that I bring that up is all of it is
20 interrelated, right. How many poll sites we're
21 going to be opening up will then dictate how many
22 staffers we need to prepare for those poll sites.

23 So we've been trying to extract
24 information from the appropriate authorities up

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2 and down the chain. And right now, we haven't
3 received any guidance further than we have an
4 election on June 23rd, we have to put on the
5 election, we have nine days of early voting. You
6 know, to some extent, the early voting sites are
7 within the control of ultimately the Board of
8 Commissioners, but then the election day sites,
9 you know, are what they are and the equipment
10 provisions are fairly well detained in New York
11 State Election Law.

12 So that's what we're up against right
13 this minute. But I also think that given the way
14 that things have transpired it is certainly quite
15 possible that we might get guidance that changes
16 our course.

17 MR. RICHMAN: Pending litigation.

18 MR. RYAN: Right, and then we -- right
19 and as well, Mr. Richman points out that there is
20 a lawsuit pending in federal court which could
21 change the entire direction of everything that
22 we're doing, so, you know, and that would be the
23 lawsuit that's challenging the governor's
24 authority I believe --

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2 MR. RICHMAN: It's the determination of
3 the State Board of Elections Democratic
4 commissioners based on the language in the
5 adopted budget with regard to the conduct of the
6 Democratic Presidential primary. The hearing was
7 yesterday for almost two hours. And Judge Torres,
8 here in the Southern District reserved decision.

9 MR. RYAN: Alright. So, we have a
10 federal court that may weigh in on the
11 Presidential Primary, which then of course
12 changes other things that we're doing as well.
13 We're in the process of preparing for the mailing
14 of just around 3.5 million absentee ballot
15 applications, which would cover the eligible
16 voters for the primary elections as presently
17 set, which includes active and inactive voters.
18 If the Presidential Primary is quote/unquote back
19 on, that number will be driven up closer to, you
20 know, somewhere probably between 4.5 million and
21 five million. Not quite a full mailing of all
22 registered, active and inactive voters, but
23 certainly much closer to that than we are right
24 now.

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2 We have about 4.6 million active voters
3 and another 600,000 inactive voters, 650,000
4 inactive voters, so that's going to put us closer
5 to 5.3 million. Right now, our mailer is almost
6 two million shy of that, 1.8 million shy of that.
7 But that will go back up, depending on the
8 outcome of this litigation. So we live in a
9 constant state of fluidity that we're doing our
10 very best to respond to minute-by-minute, hour-
11 by-hour.

12 COMMISSIONER ZACCONE: So if I may,
13 Director Ryan, you suggested we wait until next
14 week to take up the question of how many ballots
15 we should be ordering?

16 MR. RYAN: On the ballot issue for
17 certain, but I think there was another issue that
18 Commissioner Araujo was raising within that
19 context and I may have buried it. Commissioner
20 Araujo, did you have something else that you
21 wanted to discuss?

22 COMMISSIONER ARAUJO: Yeah, the question
23 was whether or not -- well, the discussion should
24 be whether or not we're actually ordering 100

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2 percent of the ballots, but also whether or not
3 we're going to be using the early voting sites
4 possibly as the -- is it possible to use the
5 early voting sites as election day sites or that
6 discussion with respect to what are we going to
7 be doing with poll sites in light of the poll
8 workers and that's going to affect how many
9 ballots we order and the distribution.

10 MR. RYAN: So without, all things being
11 equal and without further action of the board, we
12 are in the early voting sites, the early voting
13 sites will be the early voting sites. And the
14 election day sites would be the election day
15 sites.

16 If the commissioners wanted to consider
17 another plan, under the State Board regulations,
18 the commissioners have the authority to petition
19 the State Board of Elections for the approval of
20 a plan different from what we are presently
21 engaged in. But that would be something that
22 would have to come from the commissioners.

23 PRESIDENT TAYLOR: This was brought up -
24 - this is Commissioner Taylor. It was brought up

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2 in the earlier meeting and we wanted to bring it
3 forward I believe to all the commissioners to
4 consider. I don't know whether we want to hold
5 that consideration for executive session or want
6 to discuss it right now.

7 COMMISSIONER MICHEL: I think -- this is
8 Commissioner Michel, I think what we should do is
9 that it's out there that we're looking at it. I
10 think we should go back to our chief and deputies
11 and get more information that we could evaluate
12 because there's a few things that laid out there
13 is how many absentee ballots. There's so many
14 things, I think we should go back to the chiefs
15 and deputies and come up with a plan or they
16 might have a plan already. I know they're always
17 working. So then we can get a little more and
18 then maybe we can come up with a solution or an
19 idea. But I think I would like to hold off until
20 the chiefs and deputies are now aware we're
21 looking at it. I'm pretty sure they've been
22 thinking about it.

23 MR. RYAN: Right.

24 COMMISSIONER MICHEL: So now if we ask

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2 them for their input, I think it would be
3 valuable.

4 MR. RYAN: And there have been, I know
5 certainly for sure the chiefs and deputies are,
6 like the rest of us, concerned with the staffing
7 issues. So all of that needs to be evaluated and
8 we're hoping we did get at least a preliminary e-
9 mail back from the State Board within the last
10 hour that the matter of staffing and what an
11 office is supposed to look like and a whole
12 laundry list of questions that we posed seeking
13 guidance have been forwarded along through proper
14 channels.

15 And it should also be noted that we have
16 been in regular communication with the union and
17 have been giving them telephone briefings
18 regarding the efforts that we're making so that
19 when the decisions have to be made, it's not
20 coming as a surprise, either the dates or what we
21 need to do. I've also asked and I'm waiting for
22 the union to get back to us, for a conference
23 call between executive management and the
24 hierarchy of the union so that we can formulate a

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2 plan that's mutually agreeable and more
3 importantly, meets the safety needs of all of the
4 employees at the Board of Elections, management,
5 union and nonunion employees, so that when we
6 endeavor to do the work necessary to conduct the
7 election, we're doing it as safely and securely
8 as we possibly can under the circumstances.

9 COMMISSIONER ZACCONE: Director Ryan,
10 this is John Zaccone again. Thank you for doing
11 that, for taking the steps to do it. I would only
12 ask that you include the State Department of
13 Health on any conversations you have with this
14 because it's their guidelines that will really
15 controlling what we can and can't do with our
16 employees.

17 MR. RYAN: Alright, Commissioner
18 Zaccone, that's a welcome suggestion. And excuse
19 me for the lack of clarity. The reason that we
20 were going through the State Board of Elections
21 was to establish a point of contact with the
22 State Department of Health, because the efforts
23 that we've made to this point to establish that
24 point of contact have not borne fruit. And so

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2 we're trying our best to see if we can get a
3 contact person or if there's already printed,
4 published guidance that we can follow, just point
5 us in that direction. We're not asking anybody to
6 do our jobs for us. But what we do need is some
7 understanding by medical experts and others, not
8 lawyers sitting in 42 Broadway, you know, what
9 are we supposed to do under these circumstances.
10 And if get told what we're supposed to do, we'll
11 make our very best efforts to make that happen.

12 COMMISSIONER MICHEL: Right. And I agree
13 with you 100 percent, but one of the problems is
14 that in this climate, nobody's making any
15 decisions. And sooner or later, we're going to
16 have to make a decision to open up because we
17 have a primary in I think Georgea told me today
18 50 days. And so sooner or later, without any
19 guidance or anything, we here have to make a
20 decision that we have to start opening, because
21 we can't turn around and let's pick a date and
22 all of a sudden, we're going from zero to 100
23 percent. We've got to get our staff acclimated to
24 the new rules or whatever guidelines, so even if

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2 we don't get anything from the state or city or
3 whatever, we have to look at it and try to create
4 our own guidelines if we had to, just like we're
5 doing now.

6 MR. RYAN: Right. I think all of that
7 is, is accurate and understood. And the efforts
8 that executive management have made to this point
9 is to try to avoid that if we can and to ask the
10 questions that we feel needed to be asked and if,
11 but we are keeping our eye on the clock. There's
12 no question about that and for folks that have
13 seen the movie Apollo 13, the earth is getting
14 big in the window. And we are definitely aware of
15 that and we're trying our best to come up the
16 procedures. But by the same token, if there was
17 thought given and preparation made for guidance
18 that was going to be disseminated to agencies and
19 businesses when New York Pause is lifted, we
20 certainly wanted to take advantage of that
21 analysis and expertise rather than, you know,
22 jump headlong into our own interpretation of what
23 it should be, which may or may not be the right
24 thing to do.

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2 And the series of questions that we've
3 asked the State Board of Elections, some are very
4 basic and some are more detailed, like for
5 example, do we have to take the temperature of
6 employees as they arrive to work every day, a
7 relatively basic question. If the answer to that
8 question is no, we can check that off the list
9 because the State Department of Health is saying
10 that it's not necessary. But then you start to
11 get into much more detail. How do we -- what is
12 the square footage versus employee ratios that we
13 should be using for office space, what is the
14 square footage to employee ratio that we should
15 be using for warehouse space, how do we treat
16 common areas, bathrooms and lunchrooms. Are those
17 one use per employee facilities now.

18 I mean these are some of the questions
19 that we've raised that I don't personally have an
20 answer to, and I haven't been able to find it
21 printed anywhere. And, you know, the CDC has
22 given guidance with respect to the operation of
23 poll sites, which is good guidance, but that's a
24 50 day from now problem, not a tomorrow problem.

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2 And so we're trying to solve the tomorrow
3 problems today and then deal with the others in
4 turn.

5 COMMISSIONER SHAMOUN: This is
6 Commissioner Shamoun. My, in Brooklyn, based on
7 the amount of work that's ahead of us before the
8 primary, we need some, if not all employees to
9 start coming back to work next week. I don't know
10 that there's a way around it. So as long as I
11 guess we're still on the pause, we should be
12 figuring out what the protocols are now just like
13 we already are, just with more people. And if the
14 guidance right now is certain separation and
15 certain number of employees based on the layout
16 of the office or the warehouse, then that's fine.
17 And then I guess it comes down to equipment and
18 PPE and basic guidelines from the executive
19 office if Brooklyn is not going to be the only
20 office or borough that's trying to get back to
21 work next week. And I don't know it has to be 100
22 percent, but more, we're on a severely reduced
23 staffing right now and based on the amount of
24 work that needs to be done, we need employees to

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2 start coming back to work next week. So I would
3 just say executives should work with the chiefs
4 and deputies to come up with short term basic
5 guidelines that will fit for each borough and if
6 things change over the next few weeks, then they
7 change, then we'll have to be nimble and adapt to
8 them, but you know, at the end of the day, we're
9 essential and we have an election in 50 days, we
10 need to get back to work.

11 COMMISSIONER MICHEL: This is
12 Commissioner Michal and I agree. But it's the
13 same thing as that the chiefs and deputies to
14 look at what's going on. So I think we should get
15 feedback from them when is the best time to open
16 up each borough because we all have different
17 concerns, different boroughs have different
18 things. So I think this is a bigger conversation
19 to when we're going to do it. We have to get the
20 input from the deputies and chiefs and at the
21 same time, the execs can find out what type of
22 rules we need. Do we need the temperatures, do we
23 [unintelligible] [00:46:11]. So we all have the
24 same idea, we all have to get back. But it's just

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2 to pull the trigger and figure it out.

3 MR. RYAN: Right. And in terms of basic
4 issues, we are sufficiently situated with PPE
5 equipment right now to bring the employees back
6 and we have enough masks and enough gloves. And
7 the reason that we're in that situation is
8 because we had bought sufficient PPE equipment
9 for two elections that really didn't occur, the
10 Queens borough president special in March and
11 then the Presidential Primary in April, which we
12 had anticipated to give some of those to the poll
13 workers that now didn't take them because the
14 elections were canceled. So our stockpile right
15 now is good with respect to the basic stuff.
16 Where I have been seeking the guidance is in
17 stuff that is not quite so intuitive, right. I
18 mean you can tell people here's your care
19 package, here's your mask and gloves for the week
20 wear them. But then once we get the people into
21 an office setting, can two employees sit next to
22 each other in a cubicle area because they're both
23 wearing gloves and masks, or do we have to now
24 start moving furniture and separate people or

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2 block this desk off and tell these people that
3 they have to sit a desk or two away from each
4 other. These are the kinds of specific inquiries
5 that will impact our operation. And if we did get
6 guidance that told us that based on a certain
7 number of square footage, you cannot exceed a
8 certain number of individuals, well then
9 Commissioner Shamoun, to your point, well then
10 all of a sudden, we don't have room for 100
11 percent of our employees and does that somehow
12 practically cap us and what impact would that
13 have on our ability to prepare for and ultimately
14 conduct an election.

15 And I think it still goes back to
16 exactly what we discussed from the very beginning
17 of this when we were talking about it for the
18 Queens special election. There's a different
19 between I won't do my job and I can't do my job.
20 And it's been a constant, steady flow of
21 attempting to evaluate and reevaluate and comb
22 over these same issues, you know for the last two
23 months. And unfortunately the city at large and
24 the state at large and the country at large is

1 May 5, 2020

2 dealing with a very, very difficult time. But it
3 goes back to the cancellation of the Presidential
4 Primary or the move of the Presidential Primary
5 from April to June.

6 All that really did for us in the grand
7 scheme of things was defer all of the issues that
8 we would have otherwise had to confront in April
9 and moved them to June. We were hoping that the
10 specific issues associated with COVID-19 would
11 have presented us, to be in a more clear
12 situation today. That hasn't happened.

13 So, needless to say, the virus has not
14 cooperated with our schedule and has caused a lot
15 of harm to people and it's a bad thing. So we are
16 looking at all these things, and it's just not an
17 easy calculus to come by because at the end of
18 it, while we are essential, there is no doubt
19 about that, and we, there's no doubt about the
20 fact that we have to put our work forward, we
21 also have a responsibility to our employees and
22 to each other, as human beings, to make certain
23 that whatever we do, we do it in the safest way
24 possible, whatever, that means. And so I'm trying

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2 to not leave any rocks in the forest unturned
3 before we just strap it on to our own shoulders
4 and move forward.

5 COMMISSIONER TOWNSEND: Can I also just
6 ask another question about this list as well too?
7 And I think that this is, it's a question that
8 there is DOH guidance on it and would love to get
9 that, but also asking chiefs and deputies to
10 consider and weigh in on the staggering of staff
11 as well. I think so, and forgive me if I
12 overlooked this, but that seems to be the one
13 thing that I don't see on this list in terms of
14 knowing that we're going to have space issues to
15 content with and it's going to be unique to all
16 five borough offices, but looking at staggering
17 schedules for both start times and the different
18 days that our staff are going to need to be in
19 the office. So, you know, do we have to extend
20 the day so that there are folks that are coming
21 in very early and folks coming in on the later
22 side so that we can try to shift out -- you know,
23 just speaking for the Manhattan office, I think
24 it's a challenge to try to move, to try to sort

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2 of, you know, reconfigure the office as it
3 exists. And I'm sure that all the other offices
4 are contending with that, you know, to maintain
5 appropriate distancing. So yeah, can we, is that
6 something that you've been discussing, and if
7 not, can we A, get guidance from the state if
8 they are providing any and then B, ask chiefs and
9 deputies to look at how we can stagger that
10 workday and I'm making this up, perhaps there's a
11 Monday, Wednesday Friday schedule and I don't
12 know if we need to go to a weekend and it's a
13 Tuesday, Thursday, Saturday in terms of being
14 able to appropriately staff some things. So just
15 throwing that out there as an idea, but I'd love
16 to understand what the thinking is around that at
17 his point.

18 MR. RYAN: Sure, Commissioner Townsend,
19 the reason that that particular issue was not put
20 on the list of inquiries to the State Board of
21 Elections is we don't need their input to do
22 that. The contract, the collective bargaining
23 agreement between the board and the employees
24 already provides for a changing of employees work

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2 schedules to meet the needs of the agency on
3 appropriate notice.

4 So, any emergency circumstances
5 appropriate notice could be tomorrow, you're
6 coming in at noon instead of coming in at 9:00,
7 right. I mean, so all of that is subject to
8 discussion. It was one of the, on the list of
9 reasons why I have requested a conference call
10 with the union as well, so that we could go over
11 those provisions and say, hey, this is among the
12 things that we're thinking about and we may have
13 to pull the trigger on it and you guys should
14 know that ahead of time and here's the provision
15 of the contract that we're relying overtime make
16 that so that it's not coming as, you know, a
17 blindsided scenario with the union.

18 We don't really, we don't need the State
19 Board of Elections on that, we can handle that
20 internally and it may also not be, right, it may
21 not be the same in each borough, especially for
22 primary elections when the number of contests
23 vary from county to county, you may not have the
24 need for as much staff in one borough for their

1 May 5, 2020

2 election prep, you may have a need for greater
3 staff and we could extend the day perhaps by
4 staggering the schedule. So yes, all of that is
5 on the table, and it wasn't on that list because
6 it's not something the State Board of Elections
7 needs to weigh in on.

8 COMMISSIONER TOWNSEND: Okay. Even
9 better, so then it's something that we can move
10 ahead on, on our own as individual offices see
11 fit for what their needs are?

12 MR. RYAN: Correct. And so we just would
13 like to, you know, of course do it in a
14 reasonable and measured way so that everybody
15 knows borough A might be doing something one way
16 because of their needs in a moment, and another
17 borough might be doing it differently, but yet
18 with a measure of consistency, right. And that's
19 what the thing that we want to infuse in this
20 process, so that we don't have a problem later on
21 with the union saying well, this one was doing it
22 that way and somebody else was doing it a
23 different way.

24 PRESIDENT TAYLOR: So that Commissioner

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2 Townsend's issue would be added to the two issues
3 already brought up by Commissioner Michel for
4 discussion with the chiefs and deputies, in other
5 words, we're going to discuss with them the early
6 voting site decisions and their returning to work
7 discussion and you'll add this idea rearranging
8 or staggering or whatever in terms of dates for
9 staff return.

10 MR. RYAN: Right. And I think -- I think
11 what's really being discussed here is to take the
12 heretofore informal conversations that have gone
13 on and crystallized them and make them more
14 formal. I have --

15 PRESIDENT TAYLOR: And I think it --

16 MR. RYAN: -- I have been concerned
17 about not getting some external guidance because
18 you want to make sure whatever you do that the
19 safety and security of the employees, all
20 employees are taking into deep consideration.

21 PRESIDENT TAYLOR: I think that we might
22 want to set a time to have those talks with the
23 chiefs and deputies and get back together again,
24 and we might want to do that prior to next

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2 Tuesday. I don't know how others feel about it,
3 but I would be open to --

4 MS. SANDOW: I think Ms. Kontazmanis has
5 something planned for this week if I'm not
6 mistaken.

7 COMMISSIONER MICHEL: I believe, I mean
8 I think I also --

9 PRESIDENT TAYLOR: I would --

10 COMMISSIONER MICHEL: -- I, I have
11 spoken to my deputy and chief, you know, just as
12 a conversation, saying what do you think. Now I
13 will tell them, ask them the same, put it in
14 formal writing or something, what you think you
15 would like or what you think is necessary and
16 then I will give it over to the exec and then
17 they'll get it from every borough and try to come
18 up with one master plan.

19 PRESIDENT TAYLOR: Do we need a
20 conference call or Webex to talk to each other
21 about this or are we willing to just do these and
22 put something in, in writing? I'm just
23 considering whether we want to schedule another
24 get together before next Tuesday's public

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2 meeting.

3 COMMISSIONER CAMILO: This is
4 Commissioner Camilo. I think we could communicate
5 directly with our staff, because I do believe
6 that they've been using staggering throughout
7 this time, you know, with the number of staff. So
8 at least for my office, I know they have some
9 plan in place that they could just elaborate on
10 to see how they would actually implement it once
11 more staff members return. So I think that
12 communication can be given to exec, as
13 Commissioner Michel said. And that we would be in
14 a better position to then do one plan.

15 COMMISSIONER ZACCONE: I agree with
16 Commissioner Camilo because I think one, we
17 should take time and speak to our staff, and not
18 put an artificial deadline on them. It may take a
19 day or two for them to get back to us if not
20 longer, so let's give them the opportunity. Let's
21 get their suggestions, communicate them with the
22 executive staff so they can provide it into one
23 uniform plan if possible and then we can address
24 it at next week's meeting because I don't think

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2 there is immediate need to discuss this since
3 we're still under New York Pause until the 15th
4 of May, we do have time.

5 COMMISSIONER MICHEL: And this is
6 Commissioner Michel and I believe that the chiefs
7 and deputies are probably watching this, so they
8 already got the start, right, guys. [laughter]

9 COMMISSIONER ZACCONE: [unintelligible]
10 [00:58:31] Commissioner Michel, but I think we've
11 beaten this horse enough right now and we can
12 move on to other matters.

13 PRESIDENT TAYLOR: But we do want to
14 have a composite plan from the executive staff by
15 our meeting, our scheduled meeting next week. Is
16 that correct?

17 MR. RYAN: That's [unintelligible]
18 [00:58:54] and we'll be able --

19 PRESIDENT TAYLOR: Right, which means
20 that we then want to have the input from all
21 boroughs by later this week? Friday morning,
22 something like that? Only to -- and not to put an
23 artificial deadline, but to simply give us a goal
24 as to we're all working towards the same

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2 timeframe if you want [unintelligible]

3 [00:59:18].

4 COMMISSIONER ZACCONE: Well, let's say,
5 I mean my suggestion, as soon as possible,
6 Commissioner Taylor. I think you and I can have
7 offline discussions with our staff and come up
8 with some ideas. And I'm sure the commissioners
9 can do the same.

10 COMMISSIONER MICHEL: And I believe
11 everybody has been working on it all in the
12 background anyway.

13 MR. RYAN: Correct.

14 COMMISSIONER MICHEL: So I think there's
15 so many ideas out there, informal discussions
16 have been going through exec, through people and
17 all that. Now, all we're trying to do is put it
18 into one pile and come up with a solution, so I
19 don't want to sound like this is just something
20 new. Everybody, it's been on everybody's mind for
21 the last three months of how this is going to be
22 pulled off, but now that we're doing to 50 days,
23 now we just have to pull the trigger a little
24 faster, trying to get some good ideas there, some

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2 bad ones, and maybe every borough is different.
3 But I think this discussion, having it open like
4 this right now is good. But, you know, I know in
5 Queens and all the other boroughs and the exec
6 they have to do these things and then all of a
7 sudden, two hours later, there's another rule and
8 they have to drop it and they've got to go
9 something else. I've been here and I have seen
10 it, and I also, the same thing, I'm under rules
11 and regulations where I work and every day
12 they're changing the rules on me, so I go into
13 work, say I'm going to get this done, and then
14 all of a sudden, a rule changes. So I think
15 everybody, you know, we're all aware of all the
16 hard work everybody's doing and I think if we can
17 get the chiefs and deputies to now put their
18 ideas down on paper so the execs can turn around
19 and say okay, let's get a formal one that we can
20 present to the commissioners, I think that would
21 be a great idea.

22 MR. RYAN: Right. And just, just to be
23 clear as well, we're just coming off the
24 conclusion of the petition hearing process, which

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2 the borough, the general office staff that worked
3 on that and the borough office staff that worked
4 on that was not the full complement of staff that
5 we would normally have, so I think those folks
6 need to be commended as well for getting their
7 job done and getting a ballot set that you guys
8 have voted on today and without that work, we
9 wouldn't even be here.

10 And unfortunately, we are operating
11 without the full complement of staff so we have
12 been forced by necessity to take things in much
13 smaller segments. Okay, we're getting through the
14 petition process, we've got to get that. We know
15 the other, the other issues are breathing down
16 our neck, but we've been taking it as a day-by-
17 day kind of hour-by-hour process.

18 But we're there now, and that was the
19 reason that we pushed for the conference call
20 with the State Board of Elections yesterday, so
21 that we could ring the alarm bell and say, like I
22 said earlier, that the earth is looking pretty
23 big in the window right about now and the earth
24 is June 23rd. So, but, just so that we don't get

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2 lulled into the false sense of security that the
3 only thing we have to worry about is June 23rd,
4 we still have to, just a reminder that the May
5 8th deadline needs to be attended to as well. We
6 don't have to do that today, but that may be the
7 subject of a meeting later in the week.

8 COMMISSIONER MICHEL: They said yes, we
9 are watching. [laughter]. They're texting me, yes
10 we are watching.

11 MR. RYAN: With that all having been
12 said, I suppose we can entertain a motion to
13 adjourn as long as we pick a next day, which I
14 think has already been said is May 12th?

15 PRESIDENT TAYLOR: Correct.

16 COMMISSIONER ZACCONE: Do we have any
17 items for executive session? I thought we had
18 personnel and possible litigation matters.

19 MR. RYAN: I don't, I don't have any
20 items for executive session, does legal?

21 MR. RICHMAN: No, commissioners, we're
22 just in the stage of still waiting for decisions.

23 MR. SAVINO: Commissioner Michel then?

24 COMMISSIONER MICHEL: I make a motion to

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2 adjourn.

3 MR. RYAN: And before we do that, May
4 12th is the next meeting date?

5 PRESIDENT TAYLOR: Yes.

6 MR. RYAN: Okay. So 5/12, and then
7 Commissioner Michel has made a motion to adjourn.
8 Is there a second?

9 SECRETARY UMANE: Second.

10 MR. RYAN: Are there any objections?
11 Hearing none, the motion carries. We are
12 adjourned. Please disable the live stream.

13 (The meeting concluded at 2:35 p.m.)

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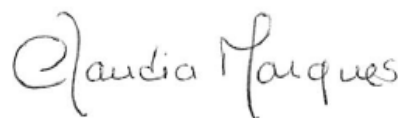
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CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on May 5, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: March 2, 2021

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