

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

May 19, 2020

1:32 p.m. - 2:10 p.m.

May 19, 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 John Wm. Zaccone

Michael J. Ryan, Executive Director

Dawn Sandow, Deputy Executive Director

Pamela Perkins, Administrative Manager

Georgea Kontzamanis, Operations Manager

Steven Richman, General Counsel

Rafael Savino, Deputy General Counsel

Kenneth Moltner, Counsel to Commissioners

Steven Denkberg, Counsel to Commissioners

Sherwin Suss, Chief Contracting Attorney

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2 (The meeting commenced at 1:32 p.m.)

3 MR. MICHAEL J. RYAN: And we are in fact
4 broadcasting. My name is Michael Ryan, and today
5 is May 19th and this is the meeting of the Board
6 of Commissioners of Elections. To start the
7 process formally, I will do a roll call.
8 President Taylor?

9 PRESIDENT PATRICIA ANNE TAYLOR: I am
10 here.

11 MR. RYAN: Secretary Umane? Secretary
12 Unmane? Alright, you're muted, Secretary Umane,
13 but I see you. Commissioner Araujo?

14 COMMISSIONER JOSE ARAUJO: Present.

15 MR. RYAN: Commissioner Camilo?
16 Commissioner Camilo?

17 COMMISSIONER MIGUELINA CAMILO: Present.

18 MR. RYAN: Okay. Commissioner Michel is
19 -- sorry, Commissioner Marmorato?

20 COMMISSIONER GINO MARMORATO: 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 Zaccone?

3 COMMISSIONER JOHN WM. ZACCONE: Present.

4 MR. RYAN: Okay. I'm Michael Ryan. I'm
5 the executive director. Seated to my left is Dawn
6 Sandow, the deputy executive director. Remotely
7 within the building appearing are Pam Perkins,
8 administrative manager and Georgea Kontazmanis,
9 operations manager. Seated at the table before me
10 are Steven Richman, general counsel, Rafael
11 deputy general counsel and appearing remotely for
12 the commissioners' counsels are both Kenneth
13 Moltner and Steven Denkberg. And we have also, a
14 member of staff, Sherwin Suss, the agency chief
15 contracting officer that will be available for
16 any questions on a committee report.

17 So first, we have the borough hours of
18 operations for in person registration for the
19 last night to file for in person registration for
20 the Presidential Primary, federal, state and
21 local primaries on May 29, 2020. My understanding
22 is that staff chiefs and deputies were conferred
23 with and for this election, they're recommending
24 that the last night hours be until 9:00 p.m.

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2 under the circumstances and that no hours of
3 operation for the general office, as the
4 Manhattan office will be open until 9:00 p.m. Is
5 there any discussion that needs to be had on that
6 particular issue? If there's no discussion and
7 the commissioners are prepared to take the
8 recommendation of staff, then a motion is in
9 order, Madam President?

10 PRESIDENT TAYLOR: Let me make sure that
11 I've got it correct? It's 9:00 p.m. at the
12 headquarters office and each borough office?

13 MR. RYAN: No. Just at each borough
14 office and not at the headquarters.

15 PRESIDENT TAYLOR: And not at the
16 headquarters?

17 MR. RYAN: Correct.

18 PRESIDENT TAYLOR: Okay. Okay. So the
19 motion is that that the borough offices will be
20 open until 9:00 p.m. on May 29, 2020, the last
21 day for persons to register to vote in the
22 President Primary?

23 MR. RYAN: And for the federal, state
24 and local as well, yes.

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2 PRESIDENT TAYLOR: And the state and
3 local.

4 MR. RYAN: Right. Is there a second?

5 SECRETARY UMANE: Second.

6 MR. RYAN: Are there any objections?

7 Hearing none, the motion carries. Commissioners,
8 last week, we provided an update with respect to
9 recalling of staff here at the Board of Elections
10 to prepare for the primary election that's going
11 to be conducted on June 23rd. The staff at each
12 borough has proceeded with the plans that were
13 previously submitted and approved by the borough
14 chiefs and deputies and the reintegration of
15 staff back into the active process and the
16 transition from the work from home footing to
17 coming into the office seems to be working as
18 well as can be expected under the circumstances
19 and just so that we will say publicly, the plans
20 were discussed with, in a conference call between
21 executive management and union management which
22 included the area director of CWA, as well as
23 local representatives within the agency. And all
24 phases of the plan were discussed with the union

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2 and the union was appreciative of the discourse
3 and the dialogue and felt that the plan that was
4 put in place an effective plan to meet the needs
5 of the agency and the safety and security of the
6 workers.

7 Moving forward, we will remain with an
8 open dialogue between management and union to
9 ensure that the plan as put in place is in fact
10 adhered to and followed by the boroughs. It was
11 recommended and agreed with the union that the
12 first course of action, if there is any deviation
13 from the plan or any concerns that an employ
14 might have is to follow the regular chain of
15 command with the office, supervisor, local
16 management, executive management. And if for some
17 reason, an issue would still go unresolved, then
18 it would follow the natural course through union
19 and then have the union advise executive
20 management. We do not anticipate that we should
21 have such issues. They should be able to be
22 resolved expeditiously should anything occur. But
23 so far we have nothing to report in that regard.

24 The other issue with respect to the

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2 planning for this election is the mailing for the
3 absentee ballot applications began yesterday as
4 it is a mailing of slightly over 3.6 million
5 pieces of mail. Clearly, that could not be mailed
6 all at once, and will happen in stages over the
7 next several days and will be completed by
8 Wednesday or Thursday of this week, it should all
9 be completed and we'll get daily reports on how
10 that process has gone.

11 But so far, so good and the mail will
12 begin to drop. The vendor worked on finalizing
13 it over the weekend. And yesterday, I did not
14 get a final report, but yesterday the mailing was
15 scheduled to be between 800,000 and a million
16 pieces to drop yesterday, depending on the work
17 that was completed over the weekend. So that's
18 happening, so people should be aware that that
19 mail is coming. We still would encourage people
20 to utilize the website because it will make the
21 back end processing for the Board of Elections
22 easier. But if they choose not to, certainly the
23 paper application process will work as well and
24 we have the resources necessary in place to

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2 handle those pieces of mail as they come back in
3 and we will be able to process them expeditiously
4 for each borough.

5 So that 3.6 million pieces of mail,
6 includes per the executive order, mailings to all
7 voters in jurisdictions where there are contests
8 and it's a primary, it's not a full citywide,
9 although every borough is impacted. It includes
10 inactive voters as well. And that was required by
11 the executive order. And I believe in that 3.6
12 million is about 300,000 inactive voters. So
13 everyone who should be getting an absentee ballot
14 application has been accounted for and will be
15 part of this ongoing mailing process throughout
16 the week.

17 I would also encourage folks who might
18 be listening to this to look out for that mail if
19 they're going to utilize the mail process,
20 complete the application and get it back to us as
21 quickly as possible. The sooner we get them back,
22 the more lead time we'll have in terms of
23 processing the ballot requests and we don't want,
24 for the voter's sake to get this too close to the

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2 actual day of election, although we'll continue
3 to process by law up to and including the time
4 that we need to. But it's just better for
5 everyone, if you're going to do it, do it quickly
6 and we'll get the ballots out to you quickly and
7 the process will move forward.

8 So there's an item that is sitting in
9 front of me, that I hope is clearly visible. It
10 seems like it is visible on the -- Mr. Savino,
11 would you mind, do me a favor, just for a second,
12 could you just stand behind this, to give a
13 little contrast, so people can see it. So that is
14 a screen that we are recommending and had made a
15 recommendation to the finance committee to
16 purchase for all of the poll sites, which will
17 then be the -- okay, Vanna [laughter]. Thank you,
18 Mr. Savino, that we'll purchase for all of the
19 poll sites that will be at each ED, as well as
20 the translator tables and the information tables
21 wherever poll workers would interact with voters
22 the screen would be there.

23 And we had this prototype made and I
24 think it looks pretty visible. If you can see the

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2 poll pad on the table, the cutout on this
3 prototype was made so that the poll pad could
4 easily fit under the screen and have that
5 interaction with the voter and the poll worker,
6 that sign in interaction be unimpeded.

7 As with all things related to this
8 process, New York City is doing things on a scale
9 that's not seen elsewhere in the state, but the
10 recommendation, and Mr. Suss is available for
11 questions if necessary, the recommendation from
12 staff is to purchase 10,000 of these, which would
13 be available at all 1,200 poll sites plus the
14 other 80 or so early voting sites that we have
15 and still have some in reserve in the event that
16 we would need to do that.

17 The cost is \$83 apiece, bringing the
18 purchase to \$830,000 and that would be from ePaul
19 Dynamics, Inc. I will say that several prototypes
20 were evaluated and this one was ultimately
21 chosen. It's made of acrylic, because it's light
22 and easy to assemble and easy then to ship to get
23 to the poll sites, and will not create too much
24 difficulty for the poll workers as you really

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2 can't see it on the screen, but there are insert
3 legs that are basically a triangle where the
4 screen gets inserted down into those two pieces
5 and stays there.

6 Now, Mr. Suss, can you please briefly
7 discuss the procurement process and the changes
8 to it and why it is permissible for the staff to
9 recommend and ultimately for the commissioners to
10 consider and perhaps proceed with this purchase,
11 given the amount and the recent temporary changes
12 to the procurement rules.

13 MR. SHERWIN SUSS: Yes, commissioners
14 the mayor issued an executive order, number 101,
15 which suspended procurement rules, in particular
16 the procurement policy board rules in regard to
17 dealing with the COVID-19 emergency, as this, Mr.
18 Ryan as pointed out, there's no way to socially
19 distance as per regulations and requirements when
20 a poll worker is interacting with a voter in
21 getting a signature in a poll site. So this would
22 be in response to that.

23 I actually have asked for guidance from
24 the New York City Department of Law over them the

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2 governor's executive which they had already and
3 the mayor's order, and they -- I have an e-mail
4 from them that this would be an appropriate
5 purchase.

6 The reason we did that is we could not
7 do a completely sealed bid, which would normally
8 be the process because there's no time left for
9 the bidding process had to have the stipulated
10 time. So with the e-mail from the New York City
11 Law Department saying we're acting appropriately,
12 with the memo I received from the mayor's office
13 of contract services, it's appropriate for us to
14 proceed with this. As Mr. Ryan indicated we did
15 actually solicit five different companies, the
16 prototypes and pricing to find the best model.
17 And actually, this is one of the least expensive
18 ones that we did get.

19 This is going to be done as a negotiated
20 acquisition under the, so we're following the
21 [unintelligible] [00:17:24] policy board rules,
22 but we don't have to do the competitive sealed
23 bidding process.

24 SECRETARY UMANE: The committee voted in

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2 favor of doing this, so I would move the
3 committee report and say that we thought this was
4 pretty nice, pretty workable, and that we thought
5 we needed it for the reasons already stated. So
6 based on that committee report, it needs a motion
7 and a second.

8 COMMISSIONER SHAMOUN: Second.

9 SECRETARY UMANE: But I would call a
10 question.

11 PRESIDENT TAYLOR: So moved.

12 MR. RYAN: And hearing none, no
13 objections --

14 COMMISSIONER ZACCONE: If I may, I just
15 have one brief question. In determining that this
16 is the best course of action and this is the best
17 available barrier for us to use, are we sure
18 we'll get them in a timely manner?

19 MR. RYAN: That was one of the
20 requirements and that's why we didn't give as
21 much notice as we'd like to, to the finance
22 committee because if we get approval today, and
23 we can tell the contractor today, he assured us
24 that these would be delivered, manufactured and

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2 processed and delivered, so they can be sent out
3 for early voting sites and election day.

4 COMMISSIONER ZACCONE: Thank you for
5 that. That was my one [unintelligible]
6 [00:18:46].

7 COMMISSIONER SHAMOUN: What was the
8 number purchased?

9 MR. RYAN: Pardon, Commissioner Shamoun?

10 SECRETARY UMANE: Ten thousand, ten
11 thousand.

12 COMMISSIONER SHAMOUN: Ten thousand, so
13 get one for each point of interaction? The
14 tables, the info tables?

15 PRESIDENT TAYLOR: Translators.

16 COMMISSIONER SHAMOUN: Okay.

17 COMMISSIONER CAMILO: One for every --

18 MR. RYAN: Anywhere where the public and
19 the poll workers would have to interact.

20 COMMISSIONER SHAMOUN: Okay.

21 MR. RYAN: Commissioner Camilo, did you
22 have a question?

23 COMMISSIONER CAMILO: No, I was just,
24 from our committee discussion, we asked that

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2 question and it was, we're estimating on per
3 every ED, per every point of contact, just like
4 Commissioner Shamoun was restating.

5 MR. RYAN: Okay. Anyone else? So the
6 question was called, it was seconded by
7 Commissioner Taylor, there appearing no
8 objections, we'll move forward with this purchase
9 as stated by Mr. Suss. Now, the other, we don't
10 need a motion on that right, because it's a
11 committee report?

12 MR. RICHMAN: Committee report,
13 [unintelligible] [00:19:52].

14 MR. RYAN: Right. So the committee
15 report is adopted. The reason I moved down here
16 as well, was just to make one more point. Next to
17 the acrylic was a basket of pens. What we did to
18 ensure that there would be -- to minimize
19 potential cross contamination at the poll sites
20 with people interacting, we bought a disposable
21 pen that will be given to each voter and it also
22 is a stylus, so we will not be using the reusable
23 stylus that we used for the poll pads in the last
24 election. The voters will take this pen. It will

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2 act as their stylus so they can sign in, and then
3 when they go to the privacy booth, it also can be
4 clicked open for a pen and they can use that for
5 their ballot so that they won't have to use the
6 tethered pens at the privacy booths. And this
7 will be another way to ensure the safety of the
8 poll workers and the voters as well, so that they
9 can take that pen with them when they leave and
10 it'll be theirs. Alright. I'm going to go back --

11 MR. RICHMAN: [unintelligible]

12 [00:21:10].

13 MR. RYAN: [unintelligible] [00:21:12]

14 [laughter] I don't remember off the top of my
15 head, but it's a lot of pens. Now, that concludes
16 the formal agenda, but I believe that the
17 commissioners would like a brief rundown of the
18 most recent matters of litigation. Right, it's
19 all public. So, there is some litigation to
20 discuss, but everything that we need to discuss
21 is otherwise public information so we can move
22 forward with that.

23 MR. RICHMAN: Commissioners, this
24 morning, just so you're aware, the U.S. Second

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2 Circuit Court of Appeals in a unanimous decision
3 affirmed the district court's decision requiring
4 the conduct of the Democratic Presidential
5 Primary on June 23rd. Commissioners Spano and
6 Kellner have indicated they will not seek a
7 Supreme Court review, so the primary is on.

8 This morning, as well, the Appellate
9 Division considered the applications for leave to
10 appeal -- the Court of Appeals, I should say,
11 considered leave to appeal from the Appellate
12 Divisions and we have five matters that the court
13 has agreed to entertain.

14 The first is, relates Ferreyra against
15 Arroyo. It's a challenge to Candidate Arroyo's
16 designating petitions for member of the Assembly.
17 They also granted leave to appeal in the three
18 cover sheet review cases in the Matter of Naheer
19 [phonetic] against the Board, Mujaddid [phonetic]
20 v. the Board, and Seawright against the Board.
21 And they also granted leave to appeal for a Third
22 Department case, Hiwathmith [phonetic] against
23 the State Board of Elections. This involves a
24 late mailed certificate of acceptance.

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2 They denied all the other requests for
3 leave to appeal, which includes the two cases
4 related to the 37th City Council District and the
5 number of signatures required to qualify for the
6 ballot. It includes the case in, two Richmond
7 County cases, the Parascando case against Monheit
8 63rd AD Conservative Party. The motion for leave
9 to appeal was dismissed upon the grounds that the
10 order sought to be appealed from does not
11 determine the proceedings finally. This is where
12 the Appellate Division sent the matter back for a
13 line by line review by the Supreme Court and then
14 the petitioner in the case declined to go
15 forward.

16 They denied leave for appeal in the
17 Matter of Quart against Kaufman. The residency
18 issue, Mr. Kaufman remains on the ballot. They
19 declined leave to appeal in Robleto against
20 Gowda, so the candidate Gowda remains on the
21 ballot for the State Senate seat in Brooklyn and
22 Staten Island, the 23rd District. And the other
23 cases relate to cases outside the City of New
24 York.

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2 And finally, this morning, the Appellate
3 Division, Second Department heard the third
4 appeal relating to the 37th City Council
5 District, the manner of Echevarria against the
6 Board, oral argument went well, and this is the
7 case where the Supreme Court ruled back on April
8 30th. Rather than originally appeal to the
9 Appellate Division, the parties sought review in
10 federal court. The federal court said that there
11 is no [unintelligible] [00:24:43] federal claim
12 and so last minute, they went to the Second
13 Department. The Second Department did not appear
14 at least to be pleased with the idea that they
15 became the second choice for relief and so we'll
16 expect a decision from the Second Department
17 either later today or tomorrow.

18 And then the only other matter pending
19 is the request to conduct the application to
20 audit the conduct of the Queens borough president
21 special election was denied by Supreme Court. The
22 petitioner in that meeting, Mr. Quinn, filed a
23 notice of appeal last night and this morning
24 filed a request for a temporary restraining order

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2 from the Appellate Division to mandate us to
3 conduct the special election. We're waiting for a
4 response from the Appellate Division. Your
5 executive committee has already authorized us to
6 oppose such a relief matter. And if you read the
7 decision that was circulated, one of the key
8 factors Queens cited was the lateness of this
9 attempt and the potential adverse impact it could
10 have on all the voters of Queens. So we'll see
11 what happens. Right now, the Appellate Division
12 has scheduled oral argument on the appeal itself
13 for next Tuesday morning. I think that's
14 litigation up until the last 15 minutes.

15 MR. RYAN: Alright. So that concludes
16 the litigation matters that are pending, or
17 recently decided. And the executive management
18 does not have any manners for the commissioners
19 to consider in executive session. So the last
20 question then is there a motion to go into
21 executive session for commissioner related
22 matters or is there a motion to adjourn?

23 COMMISSIONER SHAMOUN: Or --

24 COMMISSIONER ZACCONE: No, I'd like

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2 executive session.

3 MR. RYAN: Okay. Is there a second to go
4 into executive session.

5 SECRETARY UMANE: Second.

6 COMMISSIONER SHAMOUN: Second.

7 MR. RYAN: Is --

8 SECRETARY UMANE: You should say if it's
9 for personnel or litigation.

10 COMMISSIONER ZACCONE: Litigation.

11 MR. RYAN: Okay. So there's a motion
12 for, to go into executive session for litigation,
13 and I believe there was a -- well, we'd have to
14 re-second it, I guess, Commissioner Michel is
15 seconding it. Is there any objections? Hearing
16 none, the motion carries and if, assuming that
17 there is nothing to report, I will come back
18 down, so perhaps we can agree on the next meeting
19 date and have that motion be done now, so we can
20 simply make the announcement post executive
21 session. Today's the 19th, so the next meeting
22 would otherwise be the 26th of May, keeping in
23 mind, that is the day after the Memorial Day
24 holiday. So the question I think the

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2 commissioners have to entertain is do we want to
3 have a meeting the first day back from the
4 holiday or not.

5 COMMISSIONER ZACCONE: Where we going?
6 [laughter]

7 SECRETARY UMANE: Yeah, we should. We
8 should.

9 MR. RYAN: Okay. So then is there a
10 motion to set the meeting for next Tuesday?

11 SECRETARY UMANE: So moved.

12 PRESIDENT TAYLOR: Seconded.

13 MR. RYAN: Okay. Any objections? Hearing
14 none, the motion carries. Okay. So, executive
15 session it is.

16 [OFF THE RECORD]

17 [ON THE RECORD]

18 MR. RYAN: The meeting for May 19th is
19 adjourned, and the next meeting of the Board of
20 Commissioners will be May 26th at 1:30 p.m. There
21 are no matters to report from executive session.

22 (The meeting concluded at 2:10 p.m.)

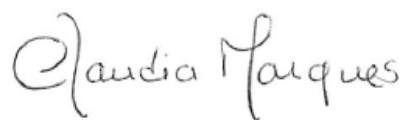
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CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on May 19, 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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