

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

May 26, 2020

1:30 p.m. - 2:40 p.m.

May 26, 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

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

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2 (The meeting commenced at 1:30 p.m.)

3 MR. MICHAEL J. RYAN: We are live. So,
4 good afternoon everyone, today is Tuesday, May
5 26, 2020 and this is a public meeting of the
6 Commissioners of Elections for the City of New
7 York. My name is Michael Ryan. I'm the executive
8 director. To start the meeting, I will commence
9 with the roll call of commissioners. President
10 Taylor?

11 PRESIDENT PATRICIA ANNE TAYLOR: I am
12 present.

13 MR. RYAN: Secretary Umane?

14 SECRETARY FREDERIC UMANE: Present.

15 MR. RYAN: Commissioner Araujo?

16 COMMISSIONER JOSE ARAUJO: Present.

17 MR. RYAN: Commissioner Camilo?

18 COMMISSIONER MIGUELINA CAMILO:

19 [unintelligible] [00:12:45].

20 MR. RYAN: Commissioner Camilo?

21 COMMISSIONER CAMILO: Present.

22 MR. RYAN: Okay. Commissioner Marmorato?

23 COMMISSIONER GINO MARMORATO: Present.

24 MR. RYAN: Commissioner Shamoun?

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2 COMMISSIONER SIMON SHAMOUN: Here.

3 MR. RYAN: Commissioner Townsend? Oh,
4 sorry.

5 PRESIDENT TAYLOR: Not instated.

6 MR. RYAN: Not going to be, not going to
7 be attending. Commissioner Zacccone?

8 COMMISSIONER ZACCONE: Present.

9 MR. RYAN: Okay. So, we are, have a
10 sufficient number of commissioners for a quorum.
11 As I stated, my name is Michael Ryan. Seated to
12 my left is Deputy Executive Director Dawn Sandow.
13 Participating in this meeting remotely, within
14 the building are administrative manager Pam
15 Perkins and operations manager Georgea
16 Kontazmanis. Seated at the table in front of me
17 are general counsel, Steven Richman, deputy
18 general counsel Rafael Savino and the agency
19 chief contracting officer, Sherwin Suss. And
20 also, and I missed it, commissioners' counsel
21 Steven Denkberg and Kenneth Moltner are also
22 appearing remotely.

23 Commissioners, for your update, before
24 we get to the report from the finance committee,

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2 the absentee ballots have begun to drop as of
3 this morning, so we did get the absentee ballot
4 applications out, starting last Monday and
5 working through the week, and the absentee
6 ballots themselves, based on fulfilled requests
7 to date have started to go out in the mail today,
8 and that will continue on a rolling basis as we
9 continue to fulfill application requests. And
10 we'll have, at the end of each day, we'll have a
11 tally of what was completed for the day and we
12 should be able to share that not only internally
13 with the commissioners, but certainly publicly
14 next week, once we have a full week under our
15 belt.

16 So that was one update for this
17 election. And then we also have the finance
18 committee matters that were addressed.
19 Commissioner Taylor, would it be okay if I just
20 have Mr. Suss give a brief description?

21 PRESIDENT TAYLOR: That'd be a good
22 idea.

23 MR. RYAN: After a brief description,
24 then the commissioners can indicate what the

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2 committee recommendation is. Mr. Suss?

3 MR. SHERWIN SUSS: Yes, thank you, Mr.
4 Ryan. Yes, commissioners, there are two matters
5 before the finance committee that I would like to
6 bring forward. One is a contract for a company
7 called White Glove. They are a nursing temporary
8 agency, they'll be providing licensed practical
9 nurses to all the board offices as temperature
10 screeners. This was an OGS state contract. They
11 were the lowest bidder and the rate was \$35.10
12 per hour. And we have an amount that we
13 calculated based upon usage through the end of
14 the contract, which is October 31, 2020, which
15 mirrors the current OGS contract, which we're
16 basing this contract on.

17 That was the first item. The second item
18 was for Clear Ballot. This was a matter to
19 provide equipment for automated auditing as
20 allowed by the State Board. In fact, Clear Ballot
21 is the sole, the only entity that's been
22 authorized by the State Board for this type of
23 equipment and this type of software. The Board
24 actually, commissioners actually approved this

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2 back in December of last year. However, when we
3 tried to, December 18th, to be honest with you,
4 and we didn't implement it right away because of
5 the early voting, and we didn't have the
6 resources. We started to implement it this year,
7 and it turned out that when we brought it to the
8 borough deputies and chiefs, that they requested
9 additional equipment so they can fully implement
10 it in their borough offices.

11 So this is a request for an additional
12 amount over and above what the commissioners
13 approved at this point a year and a half ago to
14 allow for the additional equipment purchases so
15 they can fully implement the automated system.
16 That amount is \$503,067.

17 And that would be the two items that
18 came out of the finance committee.

19 MR. RYAN: Commissioner Taylor, as a
20 member of the finance committee, do you have
21 anything you'd like to add?

22 PRESIDENT TAYLOR: I don't believe so,
23 except that the committee did discuss these
24 issues and asked some questions that were

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2 answered. There was a concern about earlier
3 temperature taking equipment, having to touch the
4 person of the person being tested. I'm assuming
5 that the new equipment that we are receiving will
6 have disposable covers for the thermometers?

7 MR. SUSS: Well, actually commissioner,
8 we have infrared thermometers that don't have to
9 touch. And what happened, that instance you're
10 referring to was the beginning, we had a
11 different type of thermometer, when we first
12 started, the first couple of days. It's now been
13 corrected and I understand that everything's
14 operating properly this time. You don't have to
15 touch the forehead. It's infrared either to here
16 or the forehead.

17 PRESIDENT TAYLOR: Okay. Of course, I
18 must say of course, I am not actually a member of
19 this committee. I'm terribly sorry. I think our
20 chair is Commissioner Umane and Commissioner
21 Camilo, so if one of them has something to say.

22 MR. RYAN: As president, you are a de
23 facto member of every committee.

24 PRESIDENT TAYLOR: I know. That's why I

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2 always attend and ask questions.

3 MR. RYAN: Your authority is pervasive,
4 for sure. Commissioner Umame?

5 SECRETARY UMANE: Okay. So we, as
6 Commissioner Taylor indicated, we had ample
7 discussion on both the White Glove and the Clear
8 Ballot. And on the Clear Ballot, we ensured that
9 the request came from our people and not on up
10 sell on the contract, which is what my concern
11 was. And the committee recommends both of these
12 contracts to the full board. And as such, we
13 don't need a second, because it's a committee
14 report and the committee voted it out
15 unanimously.

16 MR. RYAN: Thank you, Commissioner
17 Umame. Commissioner Camilo, do you want to add
18 anything to that?

19 COMMISSIONER CAMILO: No, I second
20 Commissioner's Umame's report in support of it.

21 MR. RYAN: Okay. Thank you. So if there
22 are no other questions from any of the
23 commissioners, we can proceed to a vote at this
24 point.

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2 PRESIDENT TAYLOR: Any other questions?

3 Please proceed.

4 MR. RYAN: Okay. So I think it's
5 probably best we take a roll call on that.
6 Commissioner Taylor?

7 PRESIDENT TAYLOR: I vote yes to support
8 the committee recommendation.

9 MR. RYAN: Commissioner Umane?

10 SECRETARY UMANE: Aye.

11 MR. RYAN: Commissioner Araujo?

12 COMMISSIONER ARAUJO: Yes.

13 MR. RYAN: Commissioner Camilo?

14 COMMISSIONER CAMILO: Yes.

15 MR. RYAN: Commissioner Marmorato?

16 COMMISSIONER MARMORATO: Yes.

17 MR. RYAN: Commissioner Shamoun?

18 COMMISSIONER SHAMOUN: Yes.

19 MR. RYAN: And Commissioner Zaccone?

20 COMMISSIONER ZACCONE: Yes, as to both.

21 MR. RYAN: Okay. We're going to have an
22 executive session for personnel matters, but
23 before we get to that, I believe I would be
24 remiss if I did not give Mr. Richman an

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2 opportunity to publicly brief the commissioners
3 on some recent litigation matters that were
4 decided I believe Thursday and Friday of last
5 week, if my memory serves me correct.

6 COMMISSIONER ZACCONE: Thank you, Mr.
7 Ryan.

8 MR. RICHMAN: Commissioners, last week
9 on Tuesday, the Court of Appeals heard, granted
10 leave to appeal in five different matters, four
11 of which related to the City Board of Elections.
12 On Thursday, they issued their decisions, copies I
13 believe have been sent to you. In their
14 decisions, the overriding principle is they
15 overrode the First Department consistently.

16 In the matter of Ferreyra against
17 Arroyo, the court, in a four to three decision
18 found that the petition was permeated with fraud
19 and removed the candidate from the ballot.

20 In the matters relating to Seawright
21 against the Board of Elections, as well as Maher
22 against the Board and Mujaddid [phonetic] against
23 the Board, which was decided along with a case
24 from the Third Department, Ola Hawatmeh against

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2 the State Board, the Court of Appeals very
3 clearly in a five to two majority in each case,
4 determined that the failure to file required
5 documents within the timeframes prescribed by the
6 Election Law are fatal defects.

7 In the case of Seawright and Hawatmeh,
8 the failure to timely file a certificate of
9 acceptance was a fatal defect removing the
10 respective candidates from the ballot. And the
11 Third Department decision was affirmed the First
12 Department reversed and then with Seawright,
13 Maher and Mujaddid, all relate to the failure to
14 file a cover sheet. The Court of Appeals has
15 enunciated now a clear, statewide rule affirming
16 the decision in Armwood. So the new Seawright
17 principle is that the failure to timely file a
18 cover sheet is a fatal, non-curable defect.

19 MR. SAVINO: [unintelligible]

20 [00:22:46].

21 MR. RICHMAN: And, yeah, Mr. Savino
22 notes, I guess we'll have to change the reference
23 in next year's versions of the rules to cite to
24 Seawright now since the Court of Appeals outranks

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2 the Second Department.

3 So that's where we are on those cases.

4 In addition, since we last met, the Second

5 Department affirmed the dismissal of the

6 proceeding by Echevarria against the Board.

7 Again, it did not timely commence the challenge

8 to the invalidation of their proceedings and the

9 court found that notwithstanding the current

10 state of emergency, the statute of limitations

11 does not vary.

12 And we are now waiting, the Second

13 Department this morning heard the appeals

14 relating to the special election for Queens

15 Borough president. Queens Supreme Court ruled

16 that the special election will not be conducted.

17 The Appellate Division had the arguments this

18 morning at 10:00 a.m. I expect the decision in

19 the next day or so.

20 And the only other pending matters that

21 we're aware of is a new appeal that was filed

22 today by Craig Schley trying to get back on the

23 ballot in the Democratic Primary for member of

24 the Assembly in the 70th AD. He's waited a little

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2 over a month to begin the proceeding, so I think
3 that may be a problem. And Victor Jordan, who lot
4 at the district court level and the federal
5 court, trying to get back on the ballot for the
6 21st State Senate and male Democratic state
7 committee member in the 42nd Assembly District,
8 who blamed the Board and everybody else for not
9 telling him that the time period was changed by
10 the legislature is now seeking review by the
11 Second Circuit Court of Appeals. Our brief is due
12 on Friday. But again, I think in this case, he's
13 going to come up being just late. And that's
14 where we are on litigation, at least through the
15 last hour.

16 MR. RYAN: Okay. If there's no further
17 discussion at the moment, although we will have
18 to come back on the record after executive
19 session, is there a motion to go into executive
20 session, Commissioner Taylor?

21 PRESIDENT TAYLOR: So moved.

22 MR. RYAN: Commissioner Umane, is there
23 a second?

24 SECRETARY UMANE: Second.

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2 COMMISSIONER ZACCONE: Are these
3 personnel matters?

4 SECRETARY UMANE: In part, it's based on
5 personnel issues.

6 MR. RYAN: Yes.

7 SECRETARY UMANE: Because we don't have
8 litigation. Is that correct?

9 MR. RYAN: Right.

10 SECRETARY UMANE: Right.

11 PRESIDENT TAYLOR: And our meeting next
12 week will be on June 2nd?

13 MR. RYAN: Yes. Okay. So, we'll go
14 upstairs.

15 [OFF THE RECORD]

16 [ON THE RECORD]

17 MR. RYAN: Okay. We are back, live.
18 There are no issues to report from executive
19 session. However, there are two additional items,
20 early voting hours and equipment deployment that
21 I would like to address for the commissioners'
22 consideration.

23 For this election only, on the early
24 voting hours, we would like to switch the hours

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2 on Monday, June 15th and the hours on Tuesday,
3 June 16th, so instead of Monday being 12:00 to
4 8:00, that will be 7:00 to 3:00 and instead of
5 Tuesday being 7:00 to 3:00, that will be 12:00 to
6 8:00. So it's just a swap of the hours. And then
7 on Thursday, June 18th, we would go from 12:00
8 p.m. to 8:00 and adjust that to 10:00 a.m. to
9 6:00 p.m. Again, the same amount of hours, just a
10 bit of an adjustment. And if I may, Commissioner
11 Taylor, could I call on you for a motion?

12 PRESIDENT TAYLOR: Yes, motion to switch
13 the hours, still resulting in 64 hours, as Mr.
14 Ryan detailed a moment ago.

15 MR. RYAN: Commissioner Umame, is there
16 a second?

17 SECRETARY UMANE: Second.

18 MR. RYAN: And I'll take a roll call
19 vote on that, if that's okay. Commissioner
20 Taylor, President Taylor?

21 PRESIDENT TAYLOR: I vote, I vote yes.

22 MR. RYAN: Secretary Umame?

23 SECRETARY UMANE: Yes.

24 MR. RYAN: Commissioner Araujo?

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2 COMMISSIONER ARAUJO: Yes.

3 MR. RYAN: Commissioner Camilo?

4 COMMISSIONER CAMILO: Yes.

5 MR. RYAN: Commissioner Marmorato?

6 COMMISSIONER MARMORATO: Yes.

7 MR. RYAN: Commissioner Shamoun?

8 COMMISSIONER SHAMOUN: Yes.

9 MR. RYAN: Commissioner Zaccone?

10 COMMISSIONER ZACCONE: Yes.

11 MR. RYAN: Okay. So that motion carries.

12 And then, there was another item, we would like
13 to adjust the ratio of one voter, 1,400 -- one
14 scanner for every 1,400 voters to one scanner for
15 every 2,600 voters for this election only to
16 accommodate the social distancing requirements
17 that will be had at each polling location. That
18 will be a DS200 scanner. Commissioner Taylor, is
19 there a motion?

20 PRESIDENT TAYLOR: For this election
21 only --

22 MR. RYAN: Yes.

23 PRESIDENT TAYLOR: -- I move that we
24 adjust the number of scanners to accommodate

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2 2,600 persons as outlined just prior by Mr. Ryan.

3 SECRETARY UMANE: Second.

4 MR. RYAN: Okay. And again, we'll just
5 do a quick roll call vote. Commissioner,
6 President Taylor?

7 PRESIDENT TAYLOR: I vote yes.

8 MR. RYAN: Secretary Umane?

9 SECRETARY UMANE: Yes.

10 MR. RYAN: Commissioner Araujo?

11 COMMISSIONER ARAUJO: Yes.

12 MR. RYAN: Commissioner Camilo?

13 COMMISSIONER CAMILO: Yes.

14 MR. RYAN: Commissioner Marmorato?

15 COMMISSIONER MARMORATO: Yes.

16 MR. RYAN: Commissioner Shamoun?

17 COMMISSIONER SHAMOUN: Yes.

18 MR. RYAN: Commissioner Zaccone?

19 COMMISSIONER ZACCONE: Yes.

20 MR. RYAN: Okay. That concludes the
21 business for today. We had set the meeting, am I
22 correct? Right, for June 2, 2020?

23 COMMISSIONER ZACCONE: Yes.

24 SECRETARY UMANE: Yes.

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MR. RYAN: Okay. Okay. So then,
Commissioner Taylor, do we have a motion to
adjourn?

PRESIDENT TAYLOR: So moved.

SECRETARY UMANE: Second.

MR. RYAN: Any objections? Hearing none,
the motion carries, the meeting is adjourned, the
next meeting will be June 2, 2020 at 1:30.

COMMISSIONER CAMILO: Thank you.

MR. RYAN: Thank you.

(The meeting concluded at 2:40 p.m.)

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on May 26, 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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