

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MARCH 17, 2009
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR HEARING ROOM
NEW YORK, NY 10004

P R E S E N T: President Frederic Umane
 Secretary Julie Dent

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Sipp, Stupp

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Joseph LaRocca, Coordinator, Candidate Records Unit
Katherine James, Deputy Chief Clerk, Queens Office
Robert Pataky, Administrative Associate, Queens Office
Sheila DelGiorno, Chief Clerk, Staten Island Office
Anthony Andriulli, Deputy Chief Clerk, Staten Island Office
Dorothy Delayo, Director, Personnel
Steve Ferguson, Director, MIS
Charles Webb, Counsel to the Commissioners
Steve Denkberg, Counsel to the Commissioners

GUEST: Mary Lou Urban, League of Women Voters
 Teresa Hommel, Community Church of New York
 Rima McCoy, CIDNY
 Marjorie Shea, Women's City Club
 Andrea Senteno, Citizen's Union
 Jerry Koenig

President Umane called the meeting to order at 1:38 P.M.

President Umane welcomed Commissioner J.P. Sipp, the new Richmond County Republican Commissioner. Secretary Dent and Commissioner Araujo welcomed Commissioner Sipp as well.

Commissioners Sampel and Stupp wished everyone a Happy St. Patrick's Day.

Commissioners Schacher, Silie and Sipp requested an Executive Session to discuss personnel matters.

President Umane convened the meeting of the Board of Canvassers in the City of New York.

President Umane called upon the Chief and Deputy Chief Clerk for Queens to present the Statement and Return of Canvass for the February 24, 2009 Special Elections for certification. Robert Pataky, Administrative Associate, represented Barbara Conacchio, Chief Clerk, who could not attend the meeting. Katherine James, Deputy Chief Clerk, and Mr. Pataky presented the Statement and Return of Canvass for the February 24, 2009 Special Elections in the 21st and 32nd City Council Districts, as certified by the Chief Clerk and Deputy Chief Clerk of Queens.

Commissioner Araujo moved to accept and certify the Statement and Return of Canvass for the 21st and 32nd Council District February 24, 2009 Special Elections in the Borough of Queens. Commissioner Stupp seconded the motion, which was adopted unanimously.

President Umane called upon the Chief and Deputy Chief Clerk for Staten Island to present the Statement and Return of Canvass for the February 24, 2009 Special Election in the 49th City Council District, as certified by the Chief and Deputy Chief Clerks. Ms. DelGiorno and Mr. Andriulli presented the Statement and Return of Canvass for the February 24, 2009 Special Election in the 49th City Council District.

Commissioner Sampel made a motion to accept and certify the Statement and Return of Canvass for the 49th Council District February 24, 2009 Special Election in the Borough of Staten Island. Commissioner Sipp seconded the motion, which was adopted unanimously.

President Umane stated the Staten Island Special Election presented unique challenges to the Board, in that as a result of a last minute court decision, it was the first all paper ballot election conducted by the Board; it was very highly contested; and had a larger turnout than expected.

President Umane thanked all the staff on behalf of all the Commissioners for doing a job well done under extreme conditions. He noted that the staff of the Staten Island office had to hand count all paper ballots.

Commissioner Sampel reminded all that on February 23, 2009 at 2:30PM the Appellate Division reinstated John Tabacco to the ballot. Executive Management arranged to have BMD ballots with all candidates names on them express shipped to the Staten Island Office. They were delivered around 10:00PM. The Staten Island Chief and Deputy Chief Clerks arranged with the New York City Police Department that the Board would deliver the paper ballots to the NYPD after they were put in the envelopes for each poll site. The ballots were delivered to the NYPD around 1:00AM. New York City Police Officers delivered the ballots prior to the opening of the polls. Commissioner Sampel reported that over 11,000 paper ballots were used in election. On Wednesday, March 4, 2009 the canvass and/or recanvass began which continued through Saturday, March 7, 2009. Commissioner Sampel continued that March 4, March 5, and March 6 were twelve hour work days. Commissioner Sampel commended the staff of the Staten Island Office for an excellent job throughout the Special Election.

The Chief Clerk thanked Executive Management, the General Counsel and the Director of Campaign Finance Enforcement for their outstanding assistance throughout this extraordinary process. Ms. DelGiorno stated the General Counsel Office made a huge difference by being present at the Staten Island Office to coordinate the canvass/recanvass. The Deputy Chief Clerk thanked the Brooklyn and Bronx Voting Machine Technicians who helped the Staten Island Office staff seal the lever voting machines at the poll sites.

The Executive Director added that Felix Cotto, the Executive Office Security Guard, was assigned to the Staten Island office during the canvass/recanvass and was helpful in maintaining order.

Commissioner Sipp stated that it was an interesting first week for him. He was very enthusiastic by the job done by the Chief and Deputy Chief Clerks. He stated they set a level of professionalism and decorum for the recanvass that traveled throughout the Staten Island Office and that it made for a positive experience.

President Umane made a motion to authorize the use of the Commissioners' stamps on the Statement and Return of Canvass for the

Queens and Staten Island contests certified at this meeting. Secretary Dent seconded the motion, which was adopted unanimously.

President Umane adjourned the meeting of the Board of Canvassers and convened the stated meeting of the Board of Elections.

President Umane made a motion to adopt the minutes of January 27, 2009, February 3, 2009, February 10, 2009 and February 17, 2009. Secretary Dent seconded the motion, which was adopted unanimously. Secretary Dent offered corrections to the minutes of March 3, 2009. President Umane made a motion to table the minutes of March 3, 2009 pending correction. Secretary Dent seconded the motion, which was adopted unanimously.

Commissioner Polanco suggested the Board staff that is examining the redesign of the Board's website use the NYC Campaign Finance Board's website as a guide. Commissioner Polanco stated their website has a very nice layout, contains a lot of information, and is very user friendly. Secretary Dent stated it is a top priority for the Commissioners' MIS Committee to examine the Board's website and welcomes any suggestions.

The Executive Director presented the HAVA update. Mr. Cederqvist reported that some of the Commissioners participated on a conference call that the State Board staff had with the Executive Committee of the Election Commissioners' Association on March 6, 2009. During the call, representatives from the State Board reported that SysTest had received their re-accreditation and that certification testing would soon resume.

The Executive Director stated he distributed packets to the Commissioners with the reports from the Evaluation Team and Gartner to review, in accordance with the approved Voting System Selection Plan.

The Executive Director forwarded to the Commissioners a letter from the State Board regarding price increases that the voting systems vendors are negotiating with OGS. There is a provision to lock in existing prices and the SBOE staff suggested the counties submit a requisition to OGS before March 31, 2009 to lock in the lower price. Mr. Cederqvist reminded the Commissioners that they indicated at the February 17, 2009 Commissioners' Meeting that in accordance with Section 7-200 of the Election Law, the City Board will not make a selection of a new voting system before such voting systems are certified by the State of New York. He asked the Commissioners to formalize that position. He reminded the

Commissioners that under the 2006 approved Voting Systems Selection Plan the Commissioners are scheduled to make the selection of a new voting system next week. That would be preceded by a period for public comments. Also, the evaluation documents are to be posted on the Board's website five days before the meeting.

The Executive Director also reported that he received a letter today from one of the voting system vendors who wants to submit a "best and final" offer before the Commissioners make their selection. Mr. Cederqvist stated that such consideration would have to be extended to both vendors should the Commissioners choose to entertain such an offer.

President Umane said the Commissioners will review the reports by next Tuesday. President Umane stated before they make a final selection wants to post all of the information on the Board's website. The current materials are in draft form and not finalize yet so it would be premature to post it now.

President Umane stated that he believed that the Commissioners could not order any voting system until they are certified. He stated the Board should not suspend the entire process but continue working on any

work that is not necessarily system-specific, such as the new set up for the poll sites, new policies and procedures for the conducting elections at the poll sites, allocating poll workers and revising poll worker manuals. These new revisions should reflect using optical scanning voting machines, which the Board must eventually select and use unless the Board is able to keep the lever machines.

Commissioner Schacher inquired if the Commissioners would be imprudent in not selecting a new voting system now if the Board received a good price because they do not know what a good price is. She inquired if the Commissioners made contracts with both vendors will there be point in time the Commissioners be considered imprudent for not acting?

The General Counsel stated the Board is not a party to the contracts for new voting systems. Under the Election Reform and Modernization Act, the State of New York through the Office of General Services has entered into contracts with both potential vendors. On a regular basis, a vendor may apply to OGS for a price increase based on changing circumstances. Under the contract, whatever the negotiated contract price between OGS, and the vendor then in effect is the maximum. The Board has the right to

negotiate a price change downward for many reasons, including a volume discount.

President Umane moved to place a hold on the selection process, but all staff work that can be done will continue for reviewing procedures, pending certification by the State Board of a new voting system. Secretary Dent seconded the motion, which was adopted unanimously.

The Executive Director reported the New York State Board of Elections' Annual Election Officials Conference is scheduled for Monday, April 27 through Wednesday, April 29, 2009. He noted that the draft conference program is in today's agenda. Mr. Cederqvist requested direction and approval for Board staff to attend the conference. President Umane suggested the Commissioners and Executive Staff attend, but to keep it to a minimum. He asked whether Mr. Cederqvist could make a recommendation for the Borough Chiefs and Deputy Chiefs to attend as well.

Commissioner Schacher made a motion for the Brooklyn Chief and Deputy Chiefs attend the New York State Board of Elections' Annual

Election Officials Conference. Secretary Dent seconded the motion, which was adopted unanimously.

Secretary Dent made a motion to permit all Chief and Deputy Chiefs to attend the New York State Board of Elections' Annual Election Officials Conference. She attended last year's conference and feels it is very educational and beneficial to the Board of Elections. Commissioner Araujo seconded the motion which was adopted unanimously.

Commissioner Polanco made a motion for the Administrative Manager to determine Board staff (both Executive Office and Board Management) that should attend the New York State Board of Elections' Annual Election Officials Conference. Commissioner Araujo seconded the motion, which was adopted unanimously.

The Executive Director reported on the public hearing held on the Mayor's Fiscal Year 2010 Preliminary Budget for the Board. Mr. Cederqvist stated the hearing was on Thursday, March 12, 2009 before the City Council's Committee on Governmental Operations. He noted that Council Member Helen Sears of Queens is the new Committee Chair. Mr. Cederqvist stated that he was joined by the Administrative Manager,

General Counsel, Finance Officer, Director of Campaign Finance Enforcement, and the Director of Communications at the hearing. He reported that the Council Members who were present at the hearing appeared to have a strong understanding of the problems that the Board was confronted with and expressed their support for adequate resources.

The General Counsel noted that Commissioner Dent's work with Council Member Martin Dilan appeared to be effective as he noted at the the problem concerning personal liability for Commissioners. He stated that the Council Member expressed interest in a City Charter amendment to address the problem in addition to finding funding for the Board.

The Executive Director reported on the State Board's Government Education and Information Day in Albany, NY which was held on Tuesday, March 10, 2009. The Commissioners and staff met with Senator Addabbo and Assembly Member Diaz, the new Chairs for Election Committees for the Senate and Assembly respectively. Mr. Cederqvist stated they asked excellent questions and understood the Board's situation in regards to legislative priorities and the budgetary situation.

President Umane stated they met with the Governor's staff as well. They pointed out to them the inability for the Board to do their job without adequate money. They seem interested in the technical procedures and the staff was energized to help the Board.

The General Counsel reported that the Board's Disaster Day bill was enacted into law. This law gives the Commissioners the power in the event of a natural disaster to extend a filing deadline.

Secretary Dent thanked and commended President Umane for articulating the Board's issues very well throughout the Education and Information Day. She also thanked the Executive Director, General Counsel, Commissioner Silie, Commissioner Araujo and the Administrative Manager. Secretary Dent stated the Education and Information Day was successful, but the way the Board will measure its ultimate success is if all the Board's needs are met.

Commissioner Araujo also commended President Umane, the Executive Director and General Counsel for doing an excellent job in Albany.

The Executive Director reported that there will be a Special Election on Tuesday, April 21, 2009 for Bronx Borough President. The last day to file petitions was yesterday, March 16, 2009.

Commissioner Polanco inquired if the Executive Director replied to Council Member Daniel Garodnick on his request regarding information on the Board. The Executive Director stated he worked with the Director of Communications on a reply which was sent yesterday.

The General Counsel requested a date for the hearings, if any, for Specifications of Objections and related matters for the April 21, 2009 Special Election. The General Counsel recommends any hearings be held prior to the Commissioners' Meeting on March 31, 2009 at 1:30PM. Commissioner Polanco made a motion to set the hearings, if required for March 31, 2009 at 1:30PM. Commissioner Silie seconded the motion, which was adopted unanimously.

The General Counsel had distributed the Designating Petition and Opportunity to Ballot Petition Rules for the September 15, 2009 Primary Elections at the last Commissioners' Meeting. Mr. Richman reported that through an e-mail, Commissioner Soumas asked to postpone consideration

for one more week. President Umane moved to table the Designating Petition and Opportunity to Ballot Petition Rules for the September 15, 2009 Primary Elections for one week. Commissioner Araujo seconded the motion, which was adopted unanimously.

The General Counsel, as directed from the last Commissioners' Meeting, re-circulated the memo on the procedure for the processing of voters reported to have been convicted of a felony. Commissioner Araujo made a motion to direct Board staff to comply with New York State Law and provide the Notice of Intent to Cancel to voters who have been reported to be a convicted felon. Commissioner Silie seconded the motion, which was adopted unanimously.

The Coordinator of the Candidate Records Unit reported that independent nominating petitions for two candidates in the April 21, 2009 Special Election for Bronx Borough President were filed: one for Ruben Diaz, Jr. and the other for Anthony J. Ribustello.

The Executive Director stated Anthony J. Ribustello, Administrative Associate in the Bronx Office, is taking a leave without pay to run for Bronx Borough President. The General Counsel stated it is a requirement under

the Board's Standards for Political Activity, unless the candidate agreed to spend less than \$2,500.

Mr. LaRocca presented a draft of the Notice to All Candidates for the Bronx Special Election. Commissioner Silie moved to adopt the Notice to all Candidates for the April 21, 2009 Special Election as submitted. Commissioner Polanco seconded the motion, which was adopted unanimously.

The Finance Officer provided the Commissioners with the Comparative Expenditures Report dated March 10, 2009 and the Vacancy Report dated March 17, 2009.

President Umane recessed the meeting to convene a Republican Party caucus. Following the party cause, the meeting resumed.

Commissioner Sampel, as a Commissioner who voted on the prevailing side, moved that the Board reconsider the motion adopted by the Commissioners on July 29, 2008 relating to locations to be used for poll worker training for the 2009 Election Cycle. Secretary Dent seconded the motion, which was adopted unanimously.

Commissioner Polanco inquired what the original motion entailed. President Umane explained that the original motion was for the Board not to use any political organizations for locations for poll worker training.

Secretary Dent thanked Commissioner Sampel for moving to reconsider the motion, as well as all Commissioners who voted in favor. Secretary Dent stated that she received numerous complaints from dedicated long time poll workers, as well as others, regarding the upcoming change to move their poll worker training location based on the motion which is now being reconsidered. She stated the Board is about to embark on the most significant change in voting in NYC, so the Board should make every effort to make it easier for the poll workers to receive the training they need. Secretary Dent stated the training should take place in each community and neighborhood to allow as many poll workers easy access to their annual training. The Board should utilize every available site in each area to accommodate the poll workers.

Secretary Dent moved that the Board continue its prior practice and utilize any available location in each neighborhood and community willing to host the Board's poll worker training class. Commissioner Sampel seconded the motion.

President Umane inquired how much a training session costs the Board. Secretary Dent replied that each poll worker training class costs \$75 for one session. She stated if they move the training out of the political club houses, it will cost more money elsewhere. President Umane stated he feels it is intimidating to some poll workers to receive training in a political club house and does not support the motion. President Umane requested Board staff to compile how much money was paid to political organizations in the last 3 years for poll worker training for the next Commissioners' Meeting.

In a roll call vote of:

Six (6) in favor (Secretary Dent, Commissioners Sampel, Araujo, Schacher, Silie, Stupp,); and

Two (2) opposed (President Umane and Commissioner Sipp);
and one (1) abstention (Commissioner Polanco)

Secretary Dent's motion was adopted.

Secretary Dent thanked all who voted in favor and opposed because the Commissioners have to work together to do what is best for the voters. She also thanked Commissioner Polanco for abstaining because he spoke as he relates to what is best for the voters.

Commissioner Sipp moved to authorize the granting of an advanced 210 hours of sick leave for Anthony Gallo, Administrative Associate in the Staten Island Office. Commissioner Sampel seconded the motion, which was adopted unanimously.

Secretary Dent commended the Administrative Manager for always representing the Board in a positive way.

President Umame moved to convene an Executive Session to discuss litigation and personnel matters.

The President reported that in Executive Session the Commissioners took the following personnel actions; following hearings before Commissioners' Committees:

- A) Shirelle Townes, a Clerk in the Bronx Office, placed on 1 year's probation;
- B) Martin Currie, Voting Machine Technician in the Brooklyn Voting Machine Facility, terminated as of the close of business today;
- C) Edward Anderson, a Clerk in the Brooklyn Office, placed on 1 year's probation.

President Umane moved to adjourn the meeting. Commissioner Polanco seconded the motion, which was adopted unanimously.

The next Commissioners' meeting is scheduled for Tuesday, March 24, 2009 at 1:30 PM.