

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MAY 26, 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 Umame
 Secretary Julie Dent

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

Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Steve Ferguson, Director, MIS
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
Beth Fossella, Coordinator, Voter Registration
Steven B. Denkberg, Counsel to the Commissioners
Charles S. Webb, III, Counsel to the Commissioners

GUEST: Andrea Senteno, Citizen's Union
 Mary Lou Urban, LWVNYC
 Teresa Hommel, Community Church of New York
 Stewart Armstrong, Voter Assistance Commission
 Jim Robbins, New Yorkers for Verified Voting
 Alan Flacks, New York County Democratic Committee
 Eliseo Lopez

President Umame called the meeting to order at 1:36 P.M.

President Umame observed a moment of silence for the well respected, long standing Board employee and treasured friend, Matthew F.X. Smith, who passed away this weekend.

Secretary Dent made a motion to adopt the minutes of May 5, 2009. Commissioner Araujo seconded the motion, which was adopted unanimously. President Umame made a motion to table the draft minutes of May 12, 2009. Secretary Dent seconded the motion, which was adopted unanimously.

The Executive Director presented the HAVA update. Mr. Cederqvist reported that the Board is waiting for news concerning the Department of Justice's decision on whether or not to approve the State Board's proposed Pilot Program. Mr. Cederqvist summarized that the City Board, as well as some other New York counties, are not participating in the proposed Pilot Program this year. The Board's workstreams will continue to meet and plan for the new system implementation, including a draft proposal for the Poll Site Accessibility grants that they will present to the Commissioners for consideration shortly.

The Executive Director reported that the Election Commissioners'

Association will hold its annual Summer Conference from June 23 to June 26 in Geneva, NY. He stated that the Deputy Executive Director and the General Counsel have been requested to do a presentation at the conference regarding the February 24, 2009 Special Election in Staten Island. The Special Election was unique because a court action placed an additional candidate on the ballot the afternoon before the election and it had to be conducted entirely on paper. The Executive Director requested approval for senior staff and borough managers to attend the Election Commissioners' Association Summer Conference. The Administrative Manager reported on the names of Board staff who would like to attend the conference. Commissioner Schacher made a motion to approve the Commissioners and Board staff's attendance at the Election Commissioners' Association Summer Conference. Commissioner Sampel seconded the motion, which was adopted unanimously.

The Executive Director reported that one of the Commissioners asked that there be a discussion on standardizing the Board's letterhead. He explained that there are several versions of the Board's letterhead for each department which includes the department manager's name, title and contact information. Mr. Cederqvist requested direction from the Commissioners if the Board should eliminate these letterheads and create

a single letterhead for all departments. Commissioner Polanco suggested that it would be best to keep the different departments with the managers' contact information because it is common practice in government. Commissioners Polanco and Silie stated that they would like to keep their Deputy Chief Clerks' names and contact information on their letterhead. After discussion, the Commissioners agreed that the existing letterheads will remain unchanged.

The Executive Director reported that the Commissioners' Meetings will be moved to the EVS Conference Room beginning July 7, 2009 because the hearing room will be needed during the petition filing period. The Deputy Executive Director reported that the Board will be closing the Phone Bank in the Executive Office, and moving the Phone Bank and staff to the Staten Island Office. The Phone Bank space in the Executive Office will be used to store the petitions, which has double locks on the door and security cameras.

Commissioners Silie and Sampel requested to discuss personnel matters for Executive Session.

The General Counsel requested authorization to schedule a meeting

with the New York State Chief Administrative Judge regarding the September 2009 Primary and Runoff Primary Elections. Mr. Richman reported that in each municipal election year since 2001, the Board requested sufficient judicial coordination and resources to enable the Board to make a determination if a runoff primary is required 14 days after the September Primary. President Umame moved to authorize the General Counsel to schedule a meeting with the New York State Chief Administrative Judge. Secretary Dent seconded the motion, which was adopted unanimously.

The Director of MIS distributed the Disaster Recovery Plan packets to the Commissioners. The packets contained supporting documents from the 2006 New York City Comptroller's audit. Mr. Ferguson reported that at a previous Commissioners' Meeting a question was raised about the relocation of the disaster recovery site from the Staten Island Office to the Queens Office. Mr. Ferguson stated that in 2006 when four (4) out of the ten (10) current Commissioners were in office was when the Disaster Recovery Plan was developed. He stated that Commissioner Terrence O'Connor was the Board President in 2006 who signed the audit's reply. The audit's reply did not specify the location for the Disaster Recovery Sites. The Staten Island Office was initially chosen to be the location. The

Director of MIS explained that the MIS department discovered that the Staten Island Office building did not meet the criteria when they started to work on upgrading the disaster recovery site. In 2007, there was a follow up to the original audit. Commissioner Anthony Como as the President signed the reply which specified that the site was to be relocated to the Queens Office. Commissioner Soumas inquired who made the decision to move the Disaster Recover Site to the Queens Office. Mr. Ferguson stated that it appears that the decision was not made by the full Board. Mr. Ferguson stated that he found numerous e-mails and a press release at the time of the publication of the audit. He reported that there were several incidents at the Staten Island Office which included seven (7) power outages and no EPL (Ethernet Private Line) circuits, which are still not available in the building. Commissioner Soumas inquired what additional work had to be done in the Queens Office to make it complete for the Disaster Recovery Site. Mr. Ferguson reported that that there was minimal work that cost just over \$50,000. Commissioner Soumas raised serious concerns about the cost. He inquired if the other borough offices were reviewed before choosing the Queens Office. Mr. Ferguson stated that the Bronx Office was in the middle of moving, and both the Brooklyn Office and Manhattan Office would be too close in distance to the Executive Office, so if something happened on the grid there would be no power for the disaster

recovery site. He stated that the only options were the Staten Island Office and the Queens Office. Secretary Dent requested the Deputy Executive Director and Administrative Manager to explain the details of the Disaster Recovery Plan in years 2006 and 2007. The Administrative Manager explained that by the process of elimination, as the Director of MIS discussed, the Queens Office was the only suitable site. Commissioner Soumas inquired how much it would have cost to make the other borough offices to be more suitable as potential disaster sites. Mr. Ferguson replied that he did not know because they did not look into the other sites. Commissioner Soumas was concerned because the staff did not investigate the other sites before spending \$50,000 on the Queens Office site. President Umame did not recall the Disaster Recovery Plan being presented to the full Board. The Deputy Executive Director stated that in 2006 both he and John Ravitz, Executive Director, failed to inform the full Board of the audit. He explained it was never discussed with the full Board in 2006 and 2007. The Administrative Manager agreed that it was an oversight; there is no record in the Commissioners' Meeting Minutes. Commissioner Sampel inquired if DOITT was involved. Mr. Ferguson replied that DOITT was not involved because the Board had to incur all costs. Commissioner Soumas raised serious concerns that the full Board was not notified and that the staff did not investigate other sites before

spending the Board's funds. President Umane suggested that the Board should move forward and designate the Queens Office as a disaster recovery site because the work has been done already. Secretary Dent inquired what stage the project is in, in order for the Board to move the project into the site. Mr. Ferguson stated that moving the equipment is the final stage. Commissioner Soumas requested to review the contract. Mr. Ferguson gave a copy of the contract to Commissioner Soumas. Commissioner Polanco asked the Deputy Executive Director if any other situations would arise that the full Board did not review in the past. Mr. Gonzalez replied no. Commissioner Soumas asked Mr. Gonzalez if this would be the last incident. Mr. Gonzalez replied yes. Commissioner Araujo inquired if the contract was bid out. Mr. Ferguson replied yes. Commissioner Araujo inquired if the \$50,000 contract was the cheapest bid. Mr. Ferguson responded that it was the lowest responsive and responsible bidder. Mr. Ferguson stated that he did not move on the project without Executive Management's approval. Mr. Cederqvist stated that when he began his tenure at the Board the Disaster Recovery Plan was already in progress. He assured the Commissioners that if he would have known that it was not signed off by all Commissioners, he would have reviewed it with the full Board and provided weekly status reports. Commissioner Stupp made a motion to move the Disaster Recovery Plan

to the Queens Office. Commissioner Sampel seconded the motion. The motion was adopted with Commissioner Soumas voting no.

The Finance Officer provided the Commissioners with the Vacancy Report dated May 12, 2009.

The Director of Communications and Public Affairs reported that Hazel Dukes, President of the New York State Branch of NAACP, requested 10 BMDs (Ballot Marking Devices) to conduct NAACP elections at their conference with an estimated attendance of 1,200 people. Ms. Vazquez-Rivera stated that the NAACP would incur all expenses. The Chief Voting Machine Technician reported that the NAACP would have to pay for the transportation of the BMDs, paper ballots, the use of the Board's staff for set-up and break down of the machines, and if any damage is inflicted on the BMDs. Commissioner Araujo and Secretary Dent suggested that it would be a great opportunity and experience for the public to use the Board's BMDs. Commissioner Schacher was concerned that the BMDs may get damaged. President Umame inquired when the NAACP conference will be held. Ms. Vazquez-Rivera reported that it would be held on July 14 – 15, 2009 from 12:30 P.M. until 5:30 P.M. for both days. President Umame inquired if the NAACP knows that they would have

to hand count all paper ballots at the end of their election if they use the BMD. The Executive Director suggested that the NAACP might prefer to use the lever machines instead. Secretary Dent advised Ms. Vazquez-Rivera to put the cost analysis and all other information in written form to the President of the New York State Branch of NAACP. Secretary Dent stated that the Board would like to help the organization, but the Board has to protect itself as well. President Umane was concerned that the NAACP does not understand the high cost. Mr. O'Grady stated that he and Ms. Vazquez-Rivera will prepare a cost analysis report for the NAACP. President Umane moved to authorize the use of the Board's voting machines for the NAACP on the condition that the NAACP would incur all costs, and they would have to sign a contract with full disclosure of its costs in advance of using the Board's voting machines. Secretary Dent seconded the motion. The motion was adopted with Commissioners Sipp and Soumas abstaining.

Commissioner Polanco made a motion to convene an Executive Session to discuss personnel and litigation matters. Commissioner Sampel seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public session resumed

and President Umame reported that in Executive Session, the Commissioners took the following personnel actions:

- I. Unanimously approved the promotion of William Cardona, Temporary Clerk in the Executive Office, to a permanent title of Computer Operator at an annual pay rate of \$43,680 effective Sunday, May 24, 2009.
- II. Unanimously approved a new policy regarding contracts that the Board has to enter into on its' own. The four (4) members Board Finance Committee will meet next Tuesday, June 2, 2009 and review a list that the Executive Director will prepare and distribute to the Commissioners on or before Friday. The list will specify the dates that all such contracts were entered into, the dates the agency should look to renew or extend or investigate other vendors to perform the same services, and the expiration dates of the contracts.

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

The next Commissioners' meeting is scheduled for Tuesday, June 2, 2009 at 1:30 PM.