

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, AUGUST 17, 2010
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: President Julie Dent
Secretary Juan Carlos "J.C." Polanco

Commissioners Barrera, Ryan, Schacher, Soumas, Stupp, Umane

George Gonzalez, Executive Director
Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
Dorothy Delayo, Director, Personnel
John Ward, Finance Officer
Valerie Vazquez-Rivera, Director, Communications & Public Affairs
Daniel Lavelle, Associate Staff Analyst, Phone Bank & Communications
Stewart Liberman, ACCO, Procurement
John O'Grady, Chief, Voting Machine Technician
Ted Anastasiou, Law Student Summer Intern, OGC
Kate Nowadly, Law Student Summer Intern, OGC
Jeremy Fredericksen, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Grant Lally
Jonathan Genalle, NYDLC
Alan Flacks, Member of NY County Democratic Committee
Michele Hirtzner
Rob Miller
Mitchell Kent

President Dent called the meeting to order at 1:43 P.M.

President Dent welcomed Mr. Gonzalez as the new Executive Director and Ms. Sandow as the new Deputy Executive Director of the Board.

Mr. Richman noted that the minutes of the June 21, 2010 Commissioners' Meeting was not ready to be distributed at the meeting.

Commissioner Barrera requested to add an item to the agenda.

Mr. Richman requested for the President and Secretary to appoint a Cover Sheet Review Committee for the end of the stated meeting.

Mr. Gonzalez presented the HAVA update. He summarized the status for scanners report as of August 16, 2010. A copy of the report is in the agenda.

Mr. Gonzalez reported on the borough breakdown and expected delivery dates of assets. A copy of the report is in the agenda. Executive Staff held a conference call today with members of NAZTEC to find out the delay in receiving the privacy booths. There is a tentative meeting in

person scheduled for tomorrow to receive a timeline for Brooklyn and Queens. In addition, Executive Staff placed a call to the President of Dominion to advise them of this issue. They are fully aware and will speak with the members of NAZTEC. Mr. Gonzalez and Ms. Sandow expect to receive all equipment by the end of this month. Commissioner Schacher stated that there should be a penalty if equipment is delivered late. President Dent stated that she was very concerned as well. She requested for an update on the outcome of the meeting tomorrow for the Commissioners. Secretary Polanco asked Mr. Richman if there is a penalty indicated in the contract for late deliveries. Mr. Richman stated that there is a commitment from the vendors that the Board will receive all equipment by the date of the Primary Election. Commissioner Soumas requested for a copy of the contract to see if there are any liquidated damages. Commissioner Stupp indicated that some of the wheels on the privacy booths were damaged when delivered to the Queens Voting Machine Facility.

Mr. Gonzalez reported on the draft response letter to Senator Kruger and Assembly Member Colton regarding Russian language. A copy of the draft letter is in the agenda and was emailed last week. Mr. Gonzalez requested for approval of the letter. Commissioner Umame moved to adopt

the response letter. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported on a letter that he received from Public Advocate Bill De Blasio regarding the implementation of the new voting system. A copy of the letter is in the agenda. Mr. Gonzalez asked for guidance from the Commissioners on how to respond to the letter. President Dent suggested including the Public Education Campaign's Frequently Asked Questions packet with the letter. Commissioner Umane moved for Executive Staff to respond to Public Advocate Bill De Blasio's letter. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported on the HAVA Transition Certification. A copy of the email and certification form from New York State Election Operations is in the agenda. The State Board reminded the City Board that they have not submitted the certification of the new voting system. Commissioner Umane did not agree for the Commissioners to sign the certification because the Board is still in the processing of training poll workers. He suggested advising the State Board informally that it is a work in progress and recommended for the Commissioners to pass on signing the

certification. Mr. Gonzalez stated that he and Ms. Sandow will schedule a follow-up phone call with the State Board on this matter.

Mr. Gonzalez reported that a representative from the United States Election Assistance Commission will be visiting the Board offices on August 18, 2010 at 10:00 A.M. The name of the representative is Joshua Franklin. The purpose of the visit is for Mr. Franklin to observe the Hash Code Checking on the BMDs. After the meeting, Mr. Gonzalez will have a member of the VEOU unit escort Mr. Franklin to the Voting Machine Facility (VMF) of his choice.

Mr. Gonzalez reported on County Representatives observing at the Voting Machine Facilities. There is one (1) representative from the parties of each county observing Hash Code checking and testing of the programming. If there are any questions, the representatives can speak with the VMF Supervisor.

President Dent noted that Commissioner Ryan has joined the meeting.

Mr. Gonzalez reported that Executive Staff met with representatives from the Office of the Mayor and Office of Management and Budget (OMB) last week. The representatives had follow-up questions as a result from the initial meeting concerning budget issues, telephone operations, poll site operations and ballot security. The Board provided them with a 600 page document which contained the information they sought regarding ballot security. The Office of the Mayor was concerned with power at the poll sites. They are willing to assist the Board in securing power generators so voting can continue at the site if there should be problems. The Board provided the Office of the Mayor with the 3-1-1 FAQ script. In addition, they have been working with Mr. Ferguson. Ms. Sandow added that the Board held a training demonstration with the 3-1-1 Operators and recommended an on-hold call message. Mr. Gonzalez stated that the Board submitted budget modifications to OMB which was directed by the Commissioners. There were eleven (11) budget modifications and ten (10) were approved by OMB. The eleventh modification has been approved, but OMB has to assign a code that is related to the HAVA Grant Code. Mr. Gonzalez reported that Executive Management will meet with representatives of the New York Police Department during the week of August 30, 2010 to review pre-election activities.

Mr. Gonzalez reported on the request from New York State Unified Court System, Office of Court Administration. A copy of the email is in the agenda. Ms. Zahler-Gringer requested for the Board to place links to two (2) significant court initiatives on the Board's website. The first link is for the Independent Election Qualification Commissioners and the other to The Voter Guide. Mr. Gonzalez requested for direction from the Commissioners. Commissioner Soumas stated that it is inappropriate for the Board to publish any list of candidate qualifications. Commissioner Soumas moved to advocate against cooperating with the Office of Court Administration to add these two (2) links to the Board's website. Commissioner Umane seconded the motion, which was adopted unanimously.

Ms. Vazquez-Rivera presented the public education update. She reported that the Board has conducted 135 public demonstrations with 8,207 participants to this date. There are 264 scheduled demonstrations. Ms. Vazquez-Rivera thanked Ellen Giwa, HAVA Training Specialist, for working on the logistics as it related to the Board's public demonstrations.

Ms. Vazquez-Rivera reported that the Board's Public Education web site has 1,544 unique hits. The most popular web page is, "Find a Demo

Near You.” The main referring web site to the Board’s Public Education homepage is CIDNY.

Ms. Vazquez-Rivera reminded the Commissioners to fill their vacancies for the Public Outreach staff.

Ms. Vazquez-Rivera reported that there was a candidate distributing campaign literature at a public demonstration site in Brooklyn. She asked for guidance on how to address this situation if it arises again. Secretary Polanco stated that is unacceptable. Commissioner Soumas stated that they are non-partisan demonstrations and moved to adopt the rules of the law regarding electioneering at poll sites for the public demonstration sites. Ms. Sandow recommended hanging the “No Electioneering” signs at the entrances of the public demonstration sites. Mr. Richman suggested for the Board to stop the public demonstration if electioneering occurs. Secretary Polanco moved to amend the previous motion to advise each host that there will be no campaign activity and if such takes place then Board staff will cease the demonstration and ask the host to either abide by the request or Board staff will leave the site. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner Soumas commended Ms. Vazquez-Rivera and her team for preparing Secretary Polanco for his TV interview which aired on Sunday. He noted that Secretary Polanco did an excellent job.

Mr. Ward presented the Vacancy Report dated August 17, 2010. A copy of the report is in the agenda.

Mr. Ward presented a status report on budget modifications. He recalled that the Board submitted eleven (11) modifications to OMB and ten (10) were approved.

Commissioner Soumas requested to add an item to the agenda.

Commissioner Soumas moved for Mr. Gonzalez and Ms. Perkins to receive the salaries for working out of title for the interim period when there was no Executive Director. Secretary Polanco seconded the motion.

President Dent requested for a Democratic Party Caucus.

Secretary Polanco requested for a Republican Party Caucus.

After the party caucuses, the public session resumed.

Commissioner Soumas withdrew his previous motion. Secretary Polanco withdrew his second to the previous motion.

Mr. Liberman reported on the prevailing wages and trucking contract. There are two (2) trucking contracts – one contract for the lever machines and one for the new voting system. The contracts were approved by the Commissioners and Comptroller's Office and they are registered. The trucking company stated that the contract was not fair because the prevailing wages increased as of July 1, 2010. They requested for the Board to increase the unit price or provide them with a new contract. Mr. Liberman stated that it is against Procurement Policy Board (PPB) Rules to increase the price, so the trucking company asked to terminate the contract. The Board cannot attempt to terminate the contract because there is not enough time to create another contract in time for the election. Mr. Liberman also researched the New York City Labor Law. Commissioner Umane questioned their union contract. Mr. Liberman explained their union contract to the Commissioners. Mr. Richman stated that it was made clear to the trucking company that if they breach the contract then they will be barred in any City and State procurement for at

least five (5) years. Commissioner Ryan stated that they would receive a negative index to their company as well. Commissioner Umane stated that the liability would be enormous. Mr. Richman reported that the trucking company withdrew their requests and will perform under the contract for this election cycle. Commissioner Soumas inquired who the second bidder was. Mr. O'Grady stated that there were thirteen (13) bidders, but two (2) were non-responsive and one (1) was too costly. Commissioner Soumas suggested using the second bidder. After discussion, Secretary Polanco requested for Mr. Liberman to provide more information and suggestions for future Procurement Department reports.

Commissioner Barrera requested for Board authorization of her outside employment in accordance with the provisions of Section 2604(c) of the New York City Charter. She noted that the Commissioners will receive a copy of her letter. Commissioner Barrera is currently serving as a member of the Board of Directors of Addicts Rehabilitation Center Fund, Inc. (ARC), a 501(c)(3) not-for-profit corporation dedicated for providing services to homeless people and those recovering from alcohol and drug addiction problems. ARC receives a significant portion of funding from the City of New York. Commissioner Barrera has held the position since February 2010 and she believes that it does not present any conflicts of

interest with the purposes and interests with the City and the Board of Elections. Pursuant to Section 2604(c) of the New York City Charter, Commissioner Barrera requested written approval from the Board to hold such position subject to approval of the Conflicts of Interest Board under the above section of the City Charter. Commissioner Umane moved to grant approval and take appropriate action to clarify her position. Commissioner Schacher seconded the motion, with Commissioner Barrera abstaining. The motion was adopted.

Commissioner Barrera moved to convene an Executive Session. President Dent seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and President Dent reported the actions that were taken in Executive Session:

- I. The Commissioners determined for Charles Colville, Clerk in the Bronx Voting Machine Facility, to be placed on one (1) year probation.
- II. Commissioner Umane reported on the hearing that occurred with Alvin Samuels, Administrative Associate in the Manhattan Borough Office. Commissioners Umane and Soumas agreed

to dismiss the proceedings for lack of evidence.

- III. The Commissioners authorized Executive Management to request the OPA to renew the Board's request for compensatory time for Executive Management and Managers.

Secretary Polanco recognized Alan Flacks, a member of the public.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, August 24, 2010 at 1:30 P.M.