

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, SEPTEMBER 28, 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 Araujo, Barrera, Ryan, Sipp, 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
Troy Johnson, Coordinator, Candidate Records Unit
Matthew Graves, Administrative Associate, Candidate Records Unit
Ryan Deahn, Administrative Assistant, Candidate Records Unit
Lucille Grimaldi, Manager, Electronic Voting Systems
James Barron, Temporary Attorney, OGC
Adam Dolce, Temporary Attorney, OGC
Katherine James, Deputy Chief Clerk, Queens Borough Office
Robert Pataky, Administrative Associate, Queens Borough Office
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: David Seifman, NY Post
Neil Grimaldi
Garth Marchant
Everly Brown
Terry Hinds
Catherine Gray, LWV
Domenick Rafter, Queens Tribune

Nick Asel
Jean R. Estinive
Mark Sattinger, NYC CFB
Jerome Koenig
Jay Wishner
Matt Gewolb, NYCC
Teresa Hommel, wheresthepaper.org
Kate Doran, LWV
Hettie Powell
Dawn Manton
Samuel Henderson
George Parpas, for Lynn Nunes
Martha Butler
Rayan Singh
M. Connor, for Wills
Charles Bilal
Clyde Vanal
D. Whitehead
Lynn Nunes
Mikah Schneiderman
Alan Flacks, Member of NY County Democratic Committee
Alex Voetsch, NYDLC
L. Patterson
T. Jackson
Joseph Marthone
Jose Sanfilippo

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

President Dent announced that the Commissioners would conduct the Hearings on challenges to Independent Nominating Petitions and advised the candidates and/or their representatives of the procedures to be followed during the hearings related to the November 2, 2010 Special Election in the 28th City Council District.

Mr. Richman introduced Adam Dolce, the Board's new temporary attorney.

Mr. Richman called the calendar for Hearings relating to Legal Preliminary Findings of Prima Facie Defects for the November 2, 2010 Special Election in the 28th City Council District.

The determinations regarding the various Preliminary Findings of Prima Facie Defects are recorded on the respective Legal Prima Facie reports.

In the absence of Mr. Johnson, Mr. Graves called the calendar for Hearings relating to CRU Prima Facie for the November 2, 2010 Special Election in the 28th City Council District.

The determinations regarding the various CRU Prima Facie are recorded on the respective CRU Prima Facie reports.

Mr. Denkberg called the calendar for Hearings relating to Specifications of Objections for the November 2, 2010 Special Election in the 28th City Council District.

Martin E. Connor, Esq., representing the Candidate, and Stanley Kalmon Schlein, Esq., representing the Objector, presented their arguments relating to Specification of Objections #10-1 and the Clerk's Report thereon.

The issue related to the application of Rule A3 of the Board's Independent Nominating Petition Rules for the 2010 Special Election. The objector claimed that it should apply only to the first petition volume filed. The candidate claimed that it should apply to the candidate's entire petition.

After discussion, Secretary Polanco agreed with the Objector's interpretation of the Board's Rules and moved for Nicole Paultre Bell to precede Ruben Wills on the ballot. Commissioner Barrera seconded the motion. In a roll call vote:

- Four (4) in favor (President Dent, Secretary Polanco, Commissioners Barrera and Soumas) and;
- Five (5) opposed (Araujo, Ryan, Sipp, Stupp and Umane)

The motion was not adopted.

Commissioner Umame moved to adopt the Clerk's Report. Commissioner Araujo seconded the motion, which was adopted unanimously. The candidate remains on the ballot.

The determinations regarding the other Specifications of Objections are recorded on the respective Clerks' Reports.

Commissioners Araujo and Stupp thanked the Queens Borough Office for their hard work relating to the November 2, 2010 Special Election in the 28th City Council District.

President Dent recessed the hearings and convened the regular stated meeting.

Commissioner Ryan moved to approve the minutes of the July 13, 2010 meeting. Commissioner Umame seconded the motion, with Commissioner Barrera abstaining. The motion was adopted.

Mr. Gonzalez presented the HAVA update. He reported that Executive Staff is currently preparing the report relating to the 2010 Primary Election. The report will be complete once they receive certain information

from the Borough Offices. The Borough Offices are currently certifying the 2010 Primary Election and it should be completed this weekend. The Chief and Deputy Chief Clerks will present their formal certification next Tuesday.

Mr. Gonzalez reported that the Board is scheduled to appear before the New York State Senate's Election Committee tomorrow to give testimony regarding the implementation and the 2010 Primary Election. Executive Staff is finalizing the testimony and will email the Commissioners tonight for comments and suggestions.

Mr. Gonzalez reported that Executive Management submitted the Board's proposal which concerns the Comprehensive Test Decks to the State Board last week. The Board is requesting permission to shorten the procedure. The State Board has not received the chance to review the proposal in its entirety to this date. Mr. Gonzalez expressed concerns to the State Board, but they stated that it is not a top priority. He stated that this process is very important and the Board needs to know how to prepare for the 2010 General Election. Commissioner Soumas asked if the Board has enough time to get the voting machines ready under a worst case scenario. Mr. Gonzalez replied no and stated that the Board needs a final ballot. The State Board's certified ballot is not a full certification as what

should be appearing on the ballot because there are approximately a dozen New York State county boards that have not certified their Primary Election yet. In addition, the City Board has to certify the Primary Election in order to prepare the ballot and is waiting for Supreme Court nominations. Commissioner Soumas strongly suggested writing a letter to the State Board explaining these concerns. Commissioner Umane stated that the Borough Offices are diligently working on certifying the election and searching for write-in votes on every ballot, even if the voters marked or did not mark the write-in oval. The Board's regulation states that each ballot needs to be reviewed which is an incredible burden. Commissioner Umane recommended for the Board to request for that regulation to be changed as well for the 2010 General Election. Mr. Gonzalez stated that a letter will be sent to the State Board today.

Mr. Gonzalez reported on the Office of the Mayor's November 2010 Financial Plan. A copy of the plan is in the agenda. He stated that he is preparing a response to the Office of the Mayor stating that the Board cannot afford the budget cuts. The Board would not be able to conduct elections in the near future. Commissioner Soumas stated that the Board has to develop a plan that will comply with the Mayor's budget and then submit that plan to the Department of Justice to see how many different

laws it violates. Mr. Gonzalez will submit the draft proposal to the Commissioners for their suggestions and approval.

Mr. Gonzalez reported that the Board will be testifying before the City Council's Committee on Governmental Operations on October 4, 2010. He received an email from Speaker Christine C. Quinn and Council Member Gale Brewer over the weekend. A copy of their email is in the agenda. Ms. Quinn and Ms. Brewer addressed the letter to Mr. Gonzalez, NYPD Commissioner Raymond Kelly and NYC DOE Chancellor Joel Klein concerning problems reported on Primary Day. They inquired why the Police Officers and Custodians arrived late at the poll sites and the actions taken to eliminate these concerns for the General Election. In addition, they requested for the Board to produce poll site report cards and trouble tickets that were reported to the Board on Primary Day and for them to be posted online within two (2) weeks of an election. Mr. Gonzalez will email the draft testimony to the Commissioners for suggestions and approval.

Mr. Gonzalez recalled that the Office of the State Comptroller will conduct an audit relating to the problems that occurred on Primary Day. Executive Management and John Owens Jr. met with the representatives from the Comptroller's Office last Friday. The auditors will report to the five

(5) Borough Offices tomorrow and will be requesting certain information from the Chief and Deputy Chief Clerks. Mr. Gonzalez stated that he compiled and distributed informational packets to the auditors. The auditors indicated that their report will be completed within four (4) weeks after the start date. Mr. Gonzalez indicated to the auditors that it will be very hard for the Board to take action on their report only two (2) weeks before the General Election. President Dent requested for Mr. Gonzalez to follow up with the representatives of the Comptroller's Office with a letter concerning the time factor and implementing any changes they will recommend to the Board.

Mr. Gonzalez reported that the State Board circulated a survey that the Office of Court Administration has asked to provide to the City Board. A copy of the email is in the agenda. The survey requests for the Board to provide any vacant judicial positions and certified judicial candidates' names and addresses. They requested for the Board to fax the survey back to the Office of Court Administration for their 2010 Voter Guide.

President Dent recognized Alan Flacks, a member of the public.

Commissioner Ryan clarified that there was an editorial report that was circulated with misinformation. The editorial indicated that there was a report distributed to the Commissioners and was refused to be given out to the public. The editorial was incorrect. Commissioner Ryan stated that Mr. Gonzalez was verbally reporting to the Board, and he did not have a written report that was circulated to the Commissioners. To the extent that there is a written report it would be determined by the Board to distribute it. Mr. Gonzalez was not withholding any information to the public or the media.

President Dent directed Mr. Gonzalez to prepare the Office of Court Administration's 2010 Voter Guide survey after certifying the Primary Election.

Mr. Gonzalez asked the Commissioners who will be attending the New York State Senate's Election Committee Hearing tomorrow and the City Council's Committee on Governmental Operations Hearing on Monday. The President and Secretary stated that they will be attending both hearings. The remaining Commissioners stated that they will check their schedules and will get back to Mr. Gonzalez.

Mr. Gonzalez reported that there are several items from the Commissioners' Finance Committee meeting that need to be ratified by the full Board. The Board staff presented their documentation to the Commissioners.

Ms. Vazquez-Rivera reported on the Burson Marsteller (BM) contract. Mr. Lavelle distributed copies of a report concerning the BM contract to the Commissioners. The goal for BM was to support the Board through the voting machine selection followed by the completion of the first election cycle. Ms. Vazquez-Rivera recommended for BM to have resources in place to supplement the public education efforts post November 2010. She requested approval to renew the BM contract in the amount not to exceed \$1 million. Ms. Vazquez-Rivera summarized the report. Commissioner Umane stated that BM has done a great job and that the contract does not obligate the Board to use all funds. Commissioner Umane moved to authorize the allowance of the contract so the Board can use it when it is needed. Commissioner Barrera seconded the motion, which was adopted unanimously.

Ms. Grimaldi reported that Task Order G with Gartner, Inc. would allow the consultants to work with the Board until June 2011. She stated

that they have been very valuable to the Board. The consultants will help the Board staff access the Primary and General Elections and develop modifications on improving future elections. Commissioner Umame stated that the Finance Committee has reviewed Task Order G which is capital funds. He noted that Gartner has been a great assistance to the Board's staff. Mr. Gonzalez stated that Gartner has been working with the Board since 2005 and has been a valuable asset to the Board. President Dent inquired if the consultants would be the same individuals that have been working closely with the Board. Ms. Grimaldi replied yes. Commissioner Stupp inquired if the Gartner consultants are teaching and training Board staff. Ms. Grimaldi replied yes. She added that Gartner provides the Board with analytical assessments. Commissioner Umame moved to authorize Task Order G for Gartner, Inc. Commissioner Sipp seconded the motion, which was adopted unanimously.

Mr. Ferguson reported on the Xerox Fleet Copiers contract. He distributed copies of a Xerox/OCE Comparison Chart to the Commissioners. Mr. Ferguson recalled at the July 27, 2010 Finance Committee Meeting a decision was made to choose OCE Copiers. At the end of the adjourned meeting, Commissioner Umame and Ms. Sandow made compelling arguments to reconsider the decision. The OCE Copier

contract expires in November 2010 and the Board is deciding to renew the contract for new copiers for a period of 60 months. Commissioner Umane noted that the Xerox Corporation is based in New York State and has entered into the NYC DCAS contract. In addition, Borough Office Staff expressed positive experiences with the Xerox Copiers. There is a cost savings with Xerox as well. The Borough Offices and Voting Machine Facilities requested to increase the number of copiers. Commissioner Barrera questioned Xerox's durability because at the previous Finance Committee meeting it was noted that Mr. Ferguson was unhappy with the OCE copiers. Mr. Ferguson stated that he was leery about the performance, but Xerox is a 36 month commitment so the Board is not as bound if it was a 60 month contract. He researched the duty ratings online and they contradicted the previous findings. Commissioner Araujo inquired what Borough Offices will receive the additional copiers. Mr. Ferguson reported that there will be two (2) in the Queens Office, two (2) in the Bronx Office, one (1) in the Staten Island Office, one (1) in the Brooklyn Office, one (1) in the Brooklyn VMF, one (1) in the Manhattan VMF, and one (1) in the Executive Office on the 11th Floor. President Dent inquired if the Board will be receiving brand new copiers. Mr. Ferguson replied yes. Secretary Polanco inquired about the savings cost. Mr. Ferguson replied that the Board will be saving approximately \$70,000 if they choose Xerox.

Commissioner Umane moved to choose Xerox Copiers because they are less costly, durable and reliable. Commissioner Ryan seconded the motion, which was adopted unanimously.

Mr. Ferguson reported on the production of poll books. He distributed copies of the Contract Expenditures for Xerox Poll Book Printing Chart to the Commissioners. Mr. Ferguson requested to increase the contract by an additional \$100,000 (\$250,000 total) due to the extra events in the Fiscal Year. Commissioner Umane stated that the Board needs to keep a specific amount of funds in the account code, but the funds will be spent only when needed. Commissioner Umane moved to ratify the decision of the Commissioners' Finance Committee to increase the Xerox Poll Book Printing contract by \$100,000. Commissioner Barrera seconded the motion, which was adopted unanimously.

On behalf of all the Commissioners, Commissioner Umane thanked the Board staff for working 24/7 in order to provide the numbers to certify the 2010 Primary Election. It has been an outgoing process under tremendous hurdles, new equipment and tough guidelines. Commissioner Umane recommended for a memorandum to be circulated to the staff

recognizing their Herculean effort with complying with the applicable law.
President Dent seconded the motion, which was adopted unanimously.

President Dent recognized Catherine Gray, a member of the public.

President Dent recognized Jay Wishler, a member of the public.

President Dent reported that there have been 403 public demonstrations with 22,530 participants to this date. There are 172 demonstrations scheduled until the end of October.

Mr. Ward presented the Vacancy Report dated September 28, 2010.
A copy of the report is in the agenda.

Commissioner Ryan requested for a Democratic Caucus before the Executive Session.

President Dent convened a Democratic Caucus.

After the caucus was adjourned, President Dent moved to convene an Executive Session to discuss personnel matters. Commissioner Barrera 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. Unanimously authorized Frederick Chadwick, Temporary Clerk in the Bronx Office, to replace Victoria Caruso-Anderson, Administrative Assistant in the Bronx Borough Office, until she returns from Leave Without Pay (LWOP). It will be retroactive effective when the LWOP began on 9/24/10. Mr. Chadwick will assume Ms. Caruso-Anderson's position and salary until her return which will be \$42,659.
- II. The Commissioners authorized 32 additional temporary employees, per Borough Office, to be equally divided in a bipartisan manner and appointed by each Commissioner, effective immediately and until the certification of the November 2, 2010 General Election. In a vote of six (6) in favor (Dent, Ryan, Barrera, Sipp, Stupp, Araujo) and one (1) opposed (Soumas), the motion was adopted.

Commissioner Stupp moved to adjourn the meeting. President Dent seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, October 5, 2010 at 1:30 P.M.