

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, FEBRUARY 1, 2011
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: President Juan Carlos "J.C." Polanco
Secretary Gregory C. Soumas

Commissioners Araujo, Barrera, Dent, Ryan, Schacher, Sipp, Stupp,
Umane

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 and Communications
Rosanna Rahmouni, Coordinator, Election Day Operations
John O'Grady, Chief, Voting Machine Technician
Lucille Grimaldi, Manager, Electronic Voting Systems
John Naudus, Senior Systems Analyst, Electronic Voting Systems
Steven Ferguson, Director, MIS
Gregory Lehman, Chief Clerk, Manhattan Borough Office
Timothy Gay, Deputy Chief Clerk, Manhattan Borough Office
Robert Pataky, Administrative Associate, Queens Borough Office
Anthony Ribustello, Deputy Chief Clerk, Bronx Borough Office
Adam Dolce, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV
Jerome Koenig
Cathy Gray, 936 President
Rima McCoy, CIDNY
Marjorie Shea, Women's City Club

Rachel Fawn, Citizens Union
John D. Smith
Alex Voetsch, NYDLC
Alan Flacks, Member of NY County Democratic Committee
Geneva Butts

President Polanco called the meeting to order at 1:42 P.M.

Mr. Richman announced that the two (2) temporary attorneys end their employment with the Board on Friday. He expressed that Mr. Barron and Mr. Dolce have been a great asset to the Board and appreciates their hard work. On behalf of the Commissioners, President Polanco thanked the temporary attorneys for their service at the Board.

Commissioner Schacher requested to discuss a Brooklyn personnel matter in Executive Session.

Commissioner Dent moved to approve the minutes of the November 23, 2010 meeting. Commissioner Stupp seconded the motion, which was adopted unanimously.

President Polanco reported that the full Board has to ratify the decision of the Executive Committee with respect to closing the Board on

Thursday, January 27, 2011 due to a severe snow storm. Commissioner Soumas stated that all mayoral agencies were closed that day. Ms. Perkins reported that some staff members reported to work on January 27, 2011. Mr. Ward recalled that per past practice all Board employees would get paid a full day and those employees that reported to work would receive compensatory time for the time they worked. President Polanco suggested maintaining the same past practice. Commissioner Soumas differed and stated that Mr. Ferguson emailed the Board staff at 7:00 A.M. reporting that the agency was closed due to the severe snow storm. In addition, it was reported in the news that all City agencies were closed. Commissioner Araujo suggested that in the future there should be a permanent notice on the main entrance doors of every Borough Office to call a particular phone number, or to check email, relating to emergency closings. Mr. Ferguson stated that the Board could collect personal email addresses or use a calling system that could be programmed for the future. He stated that he will look into those options. Commissioner Stupp reported that the Queens Borough Office has a new phone system that can be programmed. Commissioner Ryan stated that during this snow storm it was clear that the agency was closed. After discussion, the Commissioners agreed that there was no support for those employees who reported to work on January 27, 2011. President Polanco moved for the

full Board to ratify the decision of the Executive Committee with respect to closing the Board on January 27, 2011 due to a severe snow storm. Commissioner Soumas seconded the motion, which was adopted unanimously.

Ms. Sandow and Ms. Perkins presented an overview of key takeaways from the New York State Election Commissioners' Association Winter Conference which was held from January 25 - 28, 2011. A copy of the key takeaways report is attached to the minutes. Ms. Perkins thanked all of the Board Managers and Commissioners who made a contribution to the report. Commissioner Stupp expressed that it was a great conference to learn what other counties did when preparing and conducting the election. She was particularly interested in those counties that uploaded results from their Portable Memory Devices (PMDs) which reported more accurate results. Commissioner Stupp reported that Commissioner Kellner suggested for a non-partisan procedure to be implemented which concerns the Federal MOVE Act. He suggested that each pair of county commissioners put in writing before an election the last date for compliance of a court order stating that there would be no court orders after the specified date due to the new voting system.

President Polanco noted that Commissioner Barrera joined the meeting.

Commissioner Umame stated that it would be difficult for the Board to achieve Commissioner Kellner's goal. Commissioner Soumas stated that the Primary Election will be held on September 13, 2011 and the General Election will be held on November 8, 2011. The first day to start legally certifying the Primary results is September 21, 2011. He questioned if all results will be certified in one (1) day and inquired if the military ballots could be printed in three (3) days. Commissioner Soumas stated that there would not be enough time. He reiterated that it is not the City Board that is disenfranchising military voters. He stated that there is a Presidential Primary next February so the State has twelve (12) months to change the law. Commissioner Soumas recalled that a letter was sent last year to the New York State Senate and Assembly Chairs of the Election Law Committee concerning this matter and he indicated that there is a new Chair of the Senate. Commissioner Soumas moved to send the same letter concerning the Federal MOVE Act to the new State Senate and Assembly Chairs of the Election Law Committee. President Polanco seconded the motion. Commissioner Ryan moved to amend Commissioner Soumas' previous motion to send the letter every month

until the Committee replies. Commissioner Soumas accepted the amendment. Commissioner Umane recommended sending the letter only once and opposed Commissioner Ryan's amendment. The motion was adopted, with Commissioner Umane abstaining. Commissioner Ryan stated that the media created a big issue on this matter and they accused the City Board for being derelict on the issue, but the City Board was not.

Ms. Perkins was proud to report that Commissioner Dent was elected to the Executive Committee of the Election Commissioners' Association. The Commissioners congratulated Commissioner Dent.

Ms. Sandow reported that the State Board allows unofficial use of a second Election Management System (EMS) for election night reporting. She stated that a second EMS would be ideal for the City Board because the current procedure caused a delay on election night. Commissioner Umane asked how much a second system would cost and the details involved with the system. Mr. Richman stated that it would depend on the number of EMS's ordered for the five (5) boroughs. President Polanco requested for Mr. Naudus and Ms. Grimaldi to report on the probability of a second EMS for the Board. Ms. Grimaldi stated that the Board is currently researching the expansion of equipment (servers and desktop computers)

which are used in the Borough Offices to read the PMDs. She stated that if there is more equipment then more staff can read the PMDs which would speed up the results process. Ms. Sandow reported that there were different ways that some county board of elections reported their results on election night. Some counties brought the PMDs back to their office to be read then their police department sent those results to the Associated Press (A.P.). Commissioner Ryan stated that he would like to amend the procedures on election night to avoid having to wait for the print out of all the tapes to tabulate. Ms. Sandow reported another election night procedure in which the A.P. would pay to upgrade the NYPD's system for them to upload the PMDs which would exclude the Borough Offices on election night. Commissioner Ryan was concerned about closing the polls and disseminating the results to the public as quickly as possible because the process was slower with the new computer system. He inquired if ES&S can assist the Board in providing technical solutions. Commissioner Araujo inquired if the Board can have multiple sites with an EMS. Ms. Grimaldi replied yes and reported that each Borough Office currently has an EMS; there is a primary system and back-up system. Each system has one (1) server and five (5) computers attached, so ten (10) Board staff members can read the PMDs on election night. Ms. Grimaldi stated that an EMS can be set-up at other public locations as well. Commissioner Ryan

stated that there are reporting requirements, but local poll watchers at the poll sites are interested in the results as well. The poll watchers take the unofficial tabulations back to various candidates on election night. Commissioner Sipp asked if the scanners can print out a specific summary report for the poll watchers. Ms. Sandow confirmed that the scanner can perform both options. Ms. Grimaldi stated that there are different options to let the poll workers use to produce different reports on election night. The poll workers do not have access to print summary reports, but it can be changed.

President Polanco recognized Jerome Koenig, a member of the public.

President Polanco asked Mr. Richman's legal advice for these options discussed on election night. Mr. Richman stated that legally both reports can be printed and posted on election night for the poll watchers.

President Polanco recognized Jerry Amick, a representative of ES&S. Mr. Amick reported that a scanner can be programmed to produce both reports on election night, but the poll worker would have to go into the administrator menu to print a summary report. Mr. Richman asked if the

scanner can be pre-programmed to print both reports automatically. Mr. Amick reported that he will have to call his programmers today for that information and then report back to the Commissioners. President Polanco inquired if any counties currently print both reports. Mr. Amick replied no. He reported that Nassau County, Cleveland, Ohio and Miami, FL reads their PMDs on election night. Mr. Richman reported that no one other than Board staff can touch the PMDs and read them into any version of the EMS. The NYPD cannot take the PMDs under the current law. They are required to provide transportation and secure custody of the PMDs only. Mr. Richman stated that on election night each NYPD Precinct could have an EMS with two (2) Board staff members (Democrat and Republican) read the PMDs and transmit the results. Commissioner Umame stated that the Board needs to research how much that would cost. Ms. Sandow stated that A.P. might be helpful with another EMS. She reported that Executive Management met with the NYPD and A.P. and discussed different scenarios.

Commissioner Umame reported that in certain elections the paper tapes were depleted when the results printed. He inquired if the summary reports would use a lot of paper and if more paper could be installed or provided in the scanner. Mr. Amick replied that the summary report would

be dictated by how many contests are on that ballot.

Ms. Rahmouni reported on poll worker pay issues. She distributed copies of a report to the Commissioners and requested for the Commissioners' ruling on these issues. Ms. Rahmouni reported on the following categories:

- **Not trained, Assigned to work, Assignment removed, but deputized by District Leader** – Commissioner Barrera stated that District Leaders do not have the authority to act on behalf of the Board. Mr. Richman stated that the only two (2) lawful ways to appoint poll workers are by the Commissioners and the Election District's Board of Inspectors. Commissioner Dent suggested sending a letter to the District Leaders informing them of this matter. Commissioner Araujo stated that the actual procedures of appointing a poll worker at a poll site are in the Board's Poll Worker's Manual. Commissioner Barrera moved to not pay these poll workers. President Polanco seconded the motion, with Commissioner Dent abstaining. The motion was adopted.
- **Not trained, Assigned to work, Assignment removed, but deputized by Coordinator** – Commissioner Barrera stated that Coordinators do not have the authority to act on behalf of the Board

and should not be paid. Commissioner Ryan stated that there was apparent and actual authority by an employee of the Board and some poll workers might have thought they can work if appointed by a Coordinator. Commissioner Dent recalled that a Coordinator can deputize a person to work on Election Day if there is no one else in the stand-by pool. Secretary Soumas recalled that he stated that no one should work the polls if they were not trained which was based upon the post-Primary reviews. Ms. Sandow stated that a Coordinator is allowed to call the Borough Office and speak with a Chief Clerk or Deputy Chief Clerk to get approval to appoint someone to work. Commissioner Umame agreed with Commissioner Ryan and believes that these poll workers should be paid. President Polanco differed because these people were not trained which is vital to working the polls. Commissioner Ryan recommended that those people should get paid who worked by the appointment of Board employees. Commissioner Dent stated that she agreed with Commissioner Ryan as well, and it should be made very clear to the District Leaders, Coordinators and Poll Workers that if they work without permission then they will not get paid in the future. Commissioner Ryan moved for those poll workers that worked the polls who were designated by a Coordinator to be paid, as having

worked under the apparent authority of a Board employee. Commissioner Dent seconded the motion. In a vote of six (6) in favor (Ryan, Dent, Sipp, Umane, Schacher, Stupp), three (3) opposed (Barrera, Araujo, Soumas), and one (1) abstention (Polanco), the motion was adopted. Commissioner Araujo asked if Executive Management can contact the A.D. Monitors on Election Day in the future to check if any poll workers were deputized. Ms. Perkins stated that she will add that item on the A.D. Monitor check-list. Commissioner Dent clarified that these poll worker pay decisions apply to the November 2, 2010 General Election only. These decisions are not precedent for the future and the Board will send letters concerning this matter to the respective parties. Commissioner Sipp stated that in the future those Coordinators that deputize people should not be paid and be terminated. Commissioner Dent reiterated that she does not support poll workers who were not trained to get paid. This particular time was an exception due to the confusion which was part of the Board. Commissioner Ryan clarified that he felt that the Board was not on firm legal grounds to deny the pay which would invite litigation that the Board would likely lose, and the cost to pay for litigation is not worth risking in these tough times with the City's budget cuts.

- **Not trained, Not assigned to work, but deputized by Coordinator**
– Per Commissioner Ryan’s previous motion, these people will be paid.
- **Not a poll worker in the system, Not trained, Not assigned to work, but deputized by Coordinator** – Per Commissioner Ryan’s previous motion, these people will be paid.
- **Failed test, Assigned to work, Assignment removed, Worked anyway** – Commissioner Umane moved to not pay these people. Commissioner Schacher seconded the motion, which was adopted unanimously.
- **Not trained, Assigned to work, Assignment removed, Worked anyway** – Commissioner Umane moved to not pay these people. Commissioner Sipp seconded the motion, which was adopted unanimously.
- **Not trained, Not assigned to work, Worked anyway** – Commissioner Umane moved to not pay these people. Commissioner Barrera seconded the motion, which was adopted unanimously.
- **Failed test, Assigned to work, Worked** – Commissioner Barrera moved for these poll workers to get paid because they received a notice from the Board to work. Commissioner Stupp seconded the

motion, with Secretary Soumas and Commissioner Araujo opposing. The motion was adopted.

- **Failed test, Not assigned to work, Assignment removed, Worked anyway** – Commissioner Umane moved for these poll workers not be paid. Commissioner Schacher seconded the motion, which was adopted unanimously.
- **Not trained, Not assigned to work, Worked anyway** – Commissioner Umane moved for these people to not be paid. Commissioner Barrera seconded the motion, which was adopted unanimously.

President Polanco recognized Kate Doran, a member of the public.

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

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

President Polanco thanked those Borough Office Chief Clerks and Deputy Chief Clerks who attended this meeting. Ms. Sandow stated that a letter should be sent to the poll workers concerning this matter.

Commissioner Stupp recommended posted these poll worker instructions on the Board's website. Mr. Richman stated that a Poll Worker Advisory is currently posted on the Board's website.

Commissioner Barrera requested to discuss Bronx personnel matter in Executive Session.

President Polanco requested to discuss a Bronx personnel matter in Executive Session.

Commissioner Dent reported that she received a resume from Stuart Osnow as it relates to the position of the Executive Director. She submitted the resume to President Polanco.

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

President Polanco asked Ms. Delayo if she received any other resumes as it relates to the position of the Executive Director. Ms. Delayo replied no. She reported that Vincent Jenkins, Joshua Leinsdorf, Mark Sattinger, Danniell Maio, and Stuart Osnow have submitted their resumes.

Ms. Sandow directed Ms. Rahmouni to email the Borough Office Chief Clerks and Deputy Chief Clerks regarding the Commissioners' ruling today concerning the poll workers. In addition, a letter should be mailed to the poll workers with an explanation. Ms. Sandow added that procedures should be developed for future rules.

Mr. Ward reported on the 2011/2012 capital budget request line. He distributed copies of a draft report to the Commissioners. Mr. O'Grady presented an overview of the items, justifications and cost. The list of items follow:

1. 2011- 2013 Additional Election Equipment and Material
2. Privacy Curtains for Voting Machines
3. Placement of Ballot Images on the Web for Public Education
4. Mobile Devices to Record Election Day Incidents and A.D. Monitoring Reports
5. Asset Tracking System

Ms. Sandow reported that Board managers identified with the lessons learned during the 2010 Primary and General Elections to improve future elections for the voters of New York City. Commissioner Ryan stated that the Board has to identify all capital needs for the agency at this time to ensure that the agency will effectively operate. In addition, he

recommended revising item #2 from Privacy Curtains to Privacy Enclosures. After review and discussion, Commissioner Umane moved to approve the 2011/2012 capital budget request list including Commissioner Ryan's suggestion of changing "privacy curtains" to "privacy enclosures", and to submit the letter to the Office of Management and Budget. President Polanco seconded the motion, which was adopted unanimously. It was noted that a copy of the letter will be printed in next week's agenda.

Mr. Ward presented the Vacancy Report dated February 1, 2011. A copy of the report is in the agenda.

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

President Polanco moved to convene an Executive Session to discuss personnel matters. Commissioner Araujo seconded the motion, which was adopted unanimously.

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

- I. The Commissioners granted an advance of 210 sick leave

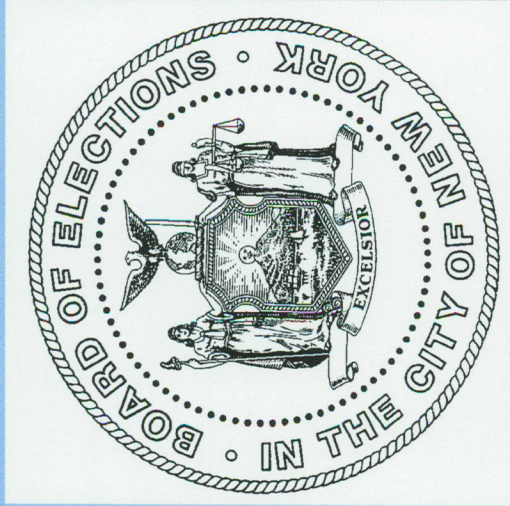
hours for Palmerino "John" Sagnelli, a Clerk in the Brooklyn Borough Office, effective at the appropriate time.

- II. Robert Marshall, a Clerk in the Brooklyn Borough Office, received one (1) year probation and referred to the appropriate Employee Assistance Program (EAP).
- III. The Commissioners granted an advance of 210 sick leave hours for Shawn Boyd, a Clerk in the Bronx Borough Office, effective today.
- IV. The Commissioners granted an advance of 210 sick leave hours for Diana Miranda, an Administrative Assistant in the Bronx Borough Office, effective today.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, February 8, 2011 at 1:30 P.M.

The Board of Elections in the City of New York



Election Commissioners' Association
Winter Conference Key Takeaways



Conference Overview

- 2011 ECA Conference was hosted by Rockland County From January 25th – 28th
- 150 people from various counties across the state attended the conference
- A team of 11 people attended the conference from NYCBOE
- NYCBOE presented on the following three topics
 - Test Deck Procedures
 - Transportation, Security and Chain of Custody of equipment
 - Compliance with Chapter 505



Conference Key Takeaways

- **Preparation for Redistricting of State Offices**
 - Rockland County discussed their online mapping tool for redistricting analysis
 - 200 legislative districts need to be completed and adopted by the NYS Legislature Between April and May, 2011
- **PVS Pre-Qualification and Test Decks**
 - John Naudus' presentation gave the SBOE and the other counties a sense of the massive coordinated effort that NYC must undertake
 - Not every county fully complied with the SBOE procedures
 - The SBOE is willing to discuss further refinements to PVS procedures
- **Asset Management System**
 - An SBOE asset management system is in development, NYC will need to either adopt the system or interface with it
 - John O'Grady offered to take part in a pilot program for the new system



Conference Key Takeaways - Continued

■ Inspector Training

- Ulster County 'cross-trains' poll workers to be able to work multiple positions in the poll site
- Nassau County:
 - Allowed poll workers to schedule training online
 - Provided online poll worker training in addition to training in classrooms
 - Recruited school teachers to train pollworkers

■ Canvass/Recanvass Procedures & Election Night Reporting

- SBOE allows 'unofficial' use of a second EMS for election night reporting
- Color coded envelopes could aid in the closing of polls and organization of materials during recanvass
- Commissioner Kellner stated that New York City was the only county that fully complied with the law for Election Night returns and reporting**



Conference Key Takeaways - Continued

■ Election Day Operations

- Orange and Rockland Counties printed ballots for 70% of the registered voters, Steuben County printed 75%
 - Orange County reported a shortage in only one district

■ Transportation, Delivery and Security of Scanners

- John O'Grady's presentation illustrated the planning and organization required to ship, track and receive New York City's voting machines and supplies

■ Compliance with Chapter 505

- Steven Richman presented on the challenges of compliance with Chapter 505
- SBOE needs to define what constitutes a 'qualified individual' for determining if poll sites are ADA complaint



Conference Key Takeaways - Continued

■ ES&S USERS GROUP

- EMS upgrade is being submitted for SBOE certification in 2011; upgrade examples include:
 - 19" ballot support for AutoMark
 - Enhancements to aide write-in review
 - Text to speech support

■ Federal MOVE Act

- The goal is to make the MOVE Act more integrated into BOE systems
- Regardless of the legislative changes considered to comply with the Federal MOVE Act, the State Board of Elections cannot waive the time needed for PVS Pre-Qualification. The Legislative Committee agreed that the following is needed:

1. Draft legislation to move the Primary date to a point sufficient in time to comply with the MOVE Act (between June and September)
2. Modify the petition process to allow us to complete the process and judicial review to allow for logic and accuracy testing
3. Require that all Judicial proceedings be completed by a specific date
4. **These agreements would be subject to the approval of the ECA Executive Committee**

