

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MAY 24, 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, Dent, Ryan, Schacher, Sipp, Stupp, Umane

Pamela Perkins, Administrative Manager
Dawn Sandow, Deputy Executive Director
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez-Rivera, Director, Communications & Public Relations
Tom Sattie, Associate Staff Analyst, Ballot Coordinator
Daniel Lavelle, Associate Staff Analyst, Phone Bank & Front Counters
John Naudus, Senior Systems Analyst, Electronic Voting Systems
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Jerome Koenig
Marjorie Shea, Women's City Club
Kate Doran, LWV
Rima McCoy, CIDNY
Cathy Gray, 936 President
Alex Camarda, Citizens Union
Teresa Hommel
Paige Richbourg, ES&S

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

President Polanco reported that Ms. Vazquez-Rivera will present an item which will be added to the agenda.

Commissioner Stupp requested to discuss a Queens personnel matter in Executive Session.

Commissioner Schacher moved to approve the minutes of the May 3, 2011 meeting. President Polanco seconded the motion, with Commissioners Stupp, Soumas and Sipp abstaining. The motion was adopted.

Mr. Ward presented the Vacancy Report dated May 24, 2011. A copy of the report is in the agenda.

Mr. Sattie and Mr. Naudus reported on ballot design. Mr. Naudus distributed copies of a proposed ballot layout for the 2011 General Election. Mr. Owens distributed copies of Article 7 – Election Ballot from the New York State Election Law to the Commissioners. Mr. Sattie stated that the basis of the ballot layout was determined from Section 7-106 of the NYS Election Law. Mr. Sattie stated that the ballot is in full compliance, but noted that there are some issues. He reported on the first issue and

recited a part of Section 7-106 (8) which states, "The space for the title of an office shall be three-eighths of an inch, and the name of a candidate or for writing in a name, one-fourth of an inch, in depth." Mr. Sattie explained that the size of that description is the size of the actual oval that is located inside the candidate's box which would not be feasible. Mr. Sattie recited Section 7-121 which states, "All ballots printed for use on a voting system approved by the state board of elections may be printed and arranged in a manner which would permit them to be counted by such machine." Mr. Sattie stated that the workstream feels that the size of this box on the ballot is covered in the NYS Election Law based on this provision because it allows having the candidate's name, the oval, and all of the required information inside the box. Mr. Sattie reported on the second issue and recited a part of Section 7-106 (8) which states, "No voting space shall be provided in the space for writing in names. In such case, the space corresponding to a voting space shall be all black." The system requires an oval in any space where a vote is going to be cast. An oval is in each of the writing areas. Section 7-121 covers this issue because the system requires it in order for the vote to be counted. Mr. Sattie reported on the third issue which concerns the type. He reported that the type is in all caps for each of the candidates' names, but contains small caps for the first letter of the first and last name. The workstream agrees that this qualifies

for all caps and it makes the candidate's names easier to read. The fourth issue concerns the difference in the NYS Election Law opposed to the actual instructions that are on the ballot. Mr. Sattie recited Section 7-106 (5) of the NYS Election Law. He stated that it lends credence to put an oval in the write-in box. These issues make the workstream believe that the ballot is in full compliance. Mr. Richman stated that Section 7-106 leaves contradictory instructions and guidance for the Board. Commissioner Umane stated that the space for each candidate is larger which changes a policy that has been followed throughout the years. He noted that the Taxpayers column wraps around to Column B which may create an issue. Ms. Sattie stated that the workstream noticed that change. He stated that the workstream is presenting the ballot for the 2011 General Election. Mr. Sattie stated that there are no expectations that there will be an amount of independent parties that would require the wraparound presented. If that would happen, the workstream would present that issue to the Commissioners. Commissioner Umane inquired what would happen if there were two (2) independent parties on the ballot. Mr. Sattie replied that it would be wrapped around Columns 5 and 6. Mr. Naudus reported that if there were more than four (4) independent bodies then there would be an 8 Column ballot. Mr. Naudus reported that he is asking ES&S to revise their software so it can be wrapped to a third row. Mr. Naudus

hopes in 2012 that the system would be modified. Commissioner Stupp asked Mr. Naudus to explain why the Board cannot use a landscape ballot that would allow for more width and columns. Mr. Naudus stated that the ballot would run out of length, instead of width, which would still cause wrapping. Mr. Richman recalled that one of the concerns the Commissioners had was to make as easy for the voters which was following the format of the voting machine which was a vertical listing. He stated that other NY counties use a landscape ballot except for New York City and Albany. Mr. Richman stated that given the radical changes it was simpler for the voter. Commissioner Araujo asked if there are any steps taken now to modify the system to accommodate additional columns. Mr. Naudus reported that ES&S is currently modifying the software, but with the change of events the software there are submitting for this year has already been changed and finalized. He noted that ES&S are working on both general and specific changes. Secretary Soumas asked for a representative from ES&S to explain the changes.

President Polanco recognized Paige Richbourg, a representative of ES&S who works in Software Support. Ms. Richbourg distributed copies of a document to the Commissioners. She stated that the document shows “the grid” that depicts all of the available oval positions that can be used by

ES&S ballot layout software. She stated that the ovals line up vertically with the columns and horizontally with the timing tracks so there is good registration on the voting equipment and BMDs. Secretary Soumas recalled that at the previous meeting there was an issue on the proposed ballots concerning the ballot instructions in the extreme right column. Mr. Naudus clarified that the instruction advising of the ballot instructions have been moved. Secretary Soumas initially inquired if the instructions can be taken off the right hand side of the ballot to make the existing columns wider. Mr. Naudus replied that the columns have to be the same width of the timing marks in order for the ovals to be in the same place in each column. Commissioner Sipp clarified that the ovals have to be lined up horizontally and vertically with the timing marks in order for the ballot to be read. Mr. Sattie asked for approval of a ballot layout for the 2011 General Election. Secretary Soumas recommended for the public to review and comment on the proposed ballot before the Commissioners vote. Commissioner Umane stated that he is not prepared to vote on a ballot layout yet. He requested to table this item and to make it available for the public. Secretary Soumas inquired if any ballot modification requires pre-clearance from the U.S. Department of Justice. Mr. Richman replied no; the Board is complying with the pre-existing statute. Secretary Soumas asked Ms. Richbourg if any changes have been made to the ES&S

software and if ES&S is contemplating any changes. Ms. Richbourg replied that a new version is being released in July and the State Board has to certify it. The issue with four (4) party rows has not been added yet. She was informed by Ken Carbolito, the ES&S Director of Development, that it would take two (2) weeks and then it has to be tested and certified. She stated that it will not be an issue for the 2012 Election. Secretary Soumas inquired how long the testing and certification process is. President Polanco asked for an answer via email. Secretary Soumas requested for the ES&S software to be completed for the 2012 Presidential Election. Ms. Richbourg stated that she will look into that matter and will email the Commissioners. Commissioner Umane asked if funds need to be appropriated for the changes to the ES&S software. Mr. Richman replied no; it is part of the contract for up to five (5) years. Commissioner Schacher asked if Mr. Naudus is in constant communication with ES&S concerning the new programs. Mr. Naudus replied yes.

Mr. Sattie distributed copies of a proposed ballot layout to the Commissioners. He noted that he, Mr. Richman, Mr. Owens, Ms. Guerrieri, and Mr. Naudus worked on this ballot to be more readable for the voter. Mr. Richman stated that these ballot changes would require legislation. He stated that if the Commissioners approve the changes then he will draft a

proposal for the Recommended Revisions in the New York State Election Law 2011 - Part II. Mr. Sattie reviewed the changes. The changes are as follows:

- Repeal Section 7-106 (8);
- To provide that the candidates' names and offices are printed in the largest possible font size;
- To provide for mixed case text for all candidates' names to be printed in proper upper and lower case;
- To include the column designation, part designation and party emblem in the column heading;
- To add the column letter and row number to each candidate's box;
- For single office contests include vote for direction, "Vote for [insert numeral]" (i.e. - Vote for 1);
- To provide that the write-in box can appear to the right of the candidates' name in the last column;
- Ovals should appear in the write-in box;
- To shade any unused portions of the voting area of a ballot;
- To allow for the bolding of the lines between each contest to differentiate them.

Mr. Naudus stated that the "Vote for [insert numeral]" is a

Commissioners' policy issue. The NYS Election Law states that the Board has to provide the number of positions to be voted. It does not state if it has to be the word or numeral. Traditionally, the Board has used the word. Commissioner Umane inquired about the difference of "Vote for Once" and "Vote for One." Mr. Sattie stated that when voting for a Governor it is two (2) candidates which include Lieutenant Governor. Mr. Naudus stated that the term "Vote for One" could be confusing for some voters. The voter has to vote for one (1) oval for the two (2) candidates. Commissioner Ryan noted that there is a significant amount of space at the bottom of the ballot for little information. He stated that the font size has been an issue and asked if the timing marks play in the role for the extra space and font size. Mr. Naudus replied yes. Commissioner Ryan stated that "the grid" helps explain to the voters more clearly why some of the decisions have been made to the ballot. President Polanco asked if the font size is the largest it can be without continuing onto a second page. Mr. Naudus replied yes.

President Polanco recognized Catherine Gary, a member of the public, who made suggestions to the ballot's design.

President Polanco recognized Marjorie Shea, a representative of Women's City Club, who suggested for the Board to use a focus group and

to add shorter instructions on the ballot. Secretary Soumas stated that a focus group is necessary, but recalled that the Mayor did not agree with the Board spending funds on a focus group four (4) years ago. Commissioner Sipp clarified that the instructions on the ballot are statutory. Mr. Richman stated that it is required under Section 7-106 (4). It was noted that The Brennan Center currently has a proposal to change the ballot instructions. Ms. Sandow clarified that the Ballot Design Workstream used The Brennan Center's "Better Ballot" book when redesigning the ballot.

President Polanco recognized Alex Camarda, a representative of Citizens Union, who spoke about the four (4) languages printed on the ballot. Secretary Soumas stated that it is required under Federal Law. Commissioner Umane stated that four (4) languages are required for certain districts in New York City. Mr. Camarda asked if there could be one (1) ballot for each language. Commissioner Umane stated that it is a possibility, but it would create a level of confusion at the poll sites. In addition, it would create significant additional costs to print four (4) sets of paper ballots.

President Polanco recognized Teresa Hommel, a member of the public, who made suggestions to the ballot's design.

President Polanco suggested for the Ballot Design Workstream to meet with and gather input from the good government groups and the members of the public.

President Polanco recognized Jerome Koenig, a member of the public, who made suggestions to the ballot's design.

Mr. Richman asked the Commissioners if he should draft a proposal for the Recommended Revisions - Part II concerning the ballots. President Polanco moved for Mr. Richman to draft a proposal to the Legislature concerning the new ballot design as presented. Ms. Sandow suggested for the good government groups and members of the public to work with the Ballot Design Workstream first. Commissioner Umame requested to table this item for one (1) week and requested for a draft proposal. The Commissioners agreed. Mr. Richman asked if Section 7-104, which relates to lever machine ballots and rotation, should be included in the proposal to incorporate the paper ballots. The Commissioners replied yes. Mr. Richman stated that the rotation would be determined by lots randomly drawn from a drum or hat. Commissioner Umame recalled that it took an enormous amount of time to perform the testing. Ms. Sandow recommended for Mr. Richman to compile a written summary of the

changes discussed today for the Commissioners' review before next Tuesday. Commissioner Umane suggested for bullet points concerning the specific changes to the ballot and citations as soon as possible. Commissioner Sipp requested the information for the Primary and General Election ballots.

Ms. Vazquez-Rivera presented an update concerning poll worker recruitment efforts. The Outreach Team has received a total of 608 poll worker applications. The team has visited 42 out of 59 Community Boards in New York City to this date. Ms. Vazquez-Rivera noted that the Outreach Team consists of Ellen Giwa, Khadijah Overstreet, Mirang Cho, Jose Polanco and Boris Pincus. She reported that the approved Election Connection newsletter is compiled and will be emailed in mass to a total of 16,000 email addresses on Friday. Ms. Vazquez-Rivera stated that the poll worker recruitment effort has been very well received and has been acknowledged by other organizations. Commissioner Stupp inquired about the poll worker recruitment on college campuses. Ms. Vazquez-Rivera reported that it is most successful and they are registering many students to vote as well. Commissioner Dent thanked Ms. Vazquez-Rivera and her Outreach Team for doing a wonderful job.

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

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

- I. The Commissioners granted Joseph Duffy, an Administrative Associate in the Executive Office, an advance of sixty-six (66) hours of sick time, to be used for on a needed basis, which will be paid back.
- II. Norman Lindros, an Administrative Associate in the Brooklyn Borough Office, is placed on one (1) year's probation and must comply with all the specific conditions set forth in the email from Mr. Richman to the Brooklyn Chief Clerk and Deputy Chief Clerk dated March 29, 2011.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, May 31, 2011 at 1:30 P.M.