

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, NOVEMBER 27, 2012
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Maria R. Guastella
 Secretary Frederic M. Umame

Commissioners Araujo, Barrera, Dent, Polanco, Schacher, Stupp

Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Raphael Savino, Director, Campaign Finance Enforcement Reporting
Rosanna Rahmouni, Coordinator, Election Day Operations
John Naudus, Manager, Electronic Voting Systems
Steven Ferguson, Manager, Management Information Systems
Giacomo Kmet, Temporary Contract Attorney, OGC
Joel Bermejo, Temporary Contract Attorney, OGC
Kenneth M. Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Garth Marchant
 George Fraser
 Kate Doran, LWV
 John D. Smith
 Catherine Gray
 Patrick McClellan, for Assembly Member Kavanagh
 Will Colegrove, for Council Member Gale Brewer
 Alex Camarda, CU
 Michelle Bright, CU
 Shauna Denkensohn, CFB
 Artyan Matuso, NYC Council
 Michael Benjamin

President Guastella called the meeting to order at 1:39 P.M

Commissioner Araujo moved to adopt the minutes of the November 13, 2012 and November 20, 2012 meetings. Commissioner Dent seconded the motion, with Commissioner Barrera abstaining on the November 20, 2012 minutes, and Commissioner Stupp abstaining on the November 13, 2012 minutes. The motion was adopted.

Mr. Naudus presented the status of post Election Day tasks. He distributed copies of his report to the Commissioners. (See attached report.)

Mr. Naudus reported on the Provisional Certification of the Electors for President and Vice President of the United States. He reminded that the Provisional Certification would only be the Election Day numbers. Mr. Naudus requested for the Commissioners to authorize Executive Management to use the Commissioners' signature stamps on Friday for the Provisional Certification for the State Board's deadline of

December 1, 2012, or for a Commissioners' Subcommittee to meet on Friday afternoon to review and approve it. Ms. Perkins recalled that the State Board requested for NYC certification of the General Election by Saturday, December 1, 2012, but the Borough Offices expressed concerns that they may not be able to make that deadline. The Commissioners considered the State Board's request and given the high number of ballots cast in the General Election that the City Board has to cast and canvass, including an unprecedented number of affidavit ballots cast as a consequence of the Governor's Executive Order No. 62, the City Board cannot provide the requested certification in accordance with the Section 9-214 of the NYS Election Law. As of today, the recanvass of votes cast at poll sites on Election Day, the required 3% audit of the scanners used in the election, as well as the canvass of absentee, affidavit, special, presidential, military and federal ballots continues in all five (5) boroughs. Accordingly, the City Board cannot provide any reliable information on the votes cast in the 2012 General Election. The Commissioners noted that the current statutory framework for the submission of certified results set forth in Section 9-214 of the NYS Election Law, has not been modified to conform with the requirements of the new voting system as set forth in the State Election Law, the Rules and Election Activities procedures. It was

noted that this is the first Presidential Election that utilized the poll site optical scanning paper ballot system. The pre-existing statutory framework may have worked with lever voting machines, but it is not realistic for the new system and the multiple regulatory requirements imposed. The City Board anticipates that within the next week, Board Staff will complete the re-canvass of votes cast on November 6, 2012 as recorded by ballot scanners and unscannable emergency ballots as mandated by NYS Election Law §9-208 along with the successful conclusion of the 3% audit of voter verifiable audit records mandated by §9-211. In addition, the City Board may be able to complete in some boroughs, either in whole or in part, the canvass of affidavit, absentee, military, federal, special presidential and special ballots mandated by §9-209. It is the best intention of the City Board to consider and act on a Provisional Certification at the next Commissioners' Meeting. That Provisional Certification should be based on the completion of the recanvass of Election Day ballots and the successful conclusion of the audit or voter verifiable audit records. The Provisional Certification will not include the complete results of the canvass of affidavit, absentee, military, special, federal and special presidential ballots cast within and for the City of New York. This is a consequence of the extraordinary number of ballots that are required to be reviewed

pursuant to the provisions of Governor's Executive Order No. 62. Commissioner Polanco recommended for Board Staff to send a letter to the State Board notifying them that the City Board needs more time to certify. Secretary Umame moved to calendar the Provisional Certification until next week's meeting and to send a letter to the State Board notifying them. Commissioner Schacher seconded the motion, which was unanimously adopted.

Commissioner Polanco reported that he attended the NYC Campaign Finance Board's Voter's Assistance Advisory Committee Hearing yesterday and they discussed voters' experiences on Election Day. He stated that copies of good government group and voters' testimonies are in the agenda. He stated that there was constructive criticism that the Board needs to look into further. Some topics discussed were the elimination of Voter Cards, including a blank space for an email address on Voter Registration forms, electronic poll books, and splitting poll worker shifts. Commissioner Polanco stated that filling out Voter Cards at sign-in tables created long lines at the polls and inquired if the Board needs them in the future. Mr. Naudus stated that Voter Cards provide a check in the poll site to ensure that a voter only votes once on the scanner. Commissioner

Araujo stated that the Voter Cards helps prevent fraud on Election Day. Secretary Umane stated that Voter Cards could be preprinted with the voters' name and addresses and then be alphabetized in piles on the sign-in table. He also stated that there could be a Tablet to generate and print a Voter Card to speed up the process. Commissioner Polanco stated that other Voter Card technologies exist and would like Board Staff look into it and to have a demonstration.

President Guastella recognized Kate Doran, a representative of the League of Women Voters, who raised concerns about affidavit ballots being scanned on scanners and the protection against photocopied ballots being used on the scanners. She stated that most of the confusion on Election Day is the Inspectors filling out Voter Cards with the stub # and voter # which causes delays in the poll site. Mr. Naudus stated that the State Board certified scanners can accept photocopied ballots. Commissioner Polanco inquired why NYC does not have a Direct-Recording Electronic (DRE) style voting system. Mr. Richman stated that the City Board only had a choice of the Dominion or ES&S system. During the process of certification, the DRE manufacturers did not want to pay for the costs because policy makers made it clear that they did

not want to have a DRE style voting system in New York State. The DRE voting systems were never submitted for State Board certification because they were ruled out in Albany.

Commissioner Polanco inquired why there is no blank space on the Voter Registration form for an email address. Mr. Richman stated that the City Board does not have the legal authority to modify the Voter Registration form; it needs an act of State Legislation. Secretary Umane stated that the City Board revised the Poll Worker application to include a blank space for email addresses because the Commissioners have the authority to revise that form. Commissioner Dent recommended for the City Board to make a request to the State Board to add the blank box for an email address on the Voter Registration form. Secretary Umane recommended adding this request to the City Board's Legislative Package. Commissioner Polanco stated that he would like the City Board to make proactive steps to modify the Voter Registration form.

President Guastella recognized Alex Camarda, a representative of Citizens Union, who stated that CU advocates for a blank email address box to be included on the Voter Registration form. He stated that the Board

could send emails to those voters who volunteered their information which would save on costs spreading Board news and updates.

Commissioner Polanco stated that they discussed electronic poll books at the CFB Hearing. Mr. Ferguson stated that he is currently looking into the vendors who provide electronic poll book technology and will provide an update once he receives all information.

Commissioner Polanco inquired about the concerns of split-shifts for poll workers. Ms. Perkins stated that there are concerns because the City Board currently recruits approximately 36,000 poll workers and many poll workers do not show up to work on Election Day. If the shifts were to be split, then the Board would have to recruit approximately 72,000 poll workers. There are concerns that a poll worker would work the morning shift and then the poll worker for the evening does not show up to work. Secretary Umane stated that the Board has been looking into this issue, but there are concerns such as no shows and fiscal expenses.

Commissioner Dent inquired about using City employees as poll workers on Election Day. Mr. Richman stated that Los Angeles County

mandates that 25% of non-essential City workers staff the polls on Election Day. Those workers get their full government salary plus poll worker pay. He reported that there is NYC Council bill for City workers to work as a poll worker, but it only applies for the General Election. The Board would like a full program such as Los Angeles County.

Commissioner Polanco stated that he would like the poll workers to receive a pay raise and inquired about their last raise. Mr. Richman stated that the last pay raise was in 2001. The Board requests poll worker pay raises each year in the Budget Testimony. He stated that the Board could send another letter to the Mayor asking him to sign the Executive Order to change the poll worker pay. President Guastella noted that there needs to be other poll worker reforms in conjunction with a pay raise.

President Guastella recognized Alex Camarda, a representative of Citizens Union (CU), who stated that CU supports Council Member Lappin's Bill No. 728 for City Employees to work as poll workers on General Election Day. Secretary Umame stated that it would be helpful if the bill included the Primary Election as well.

President Guastella recognized Garth Marchant, a member of the public, who stated that Voter Cards should not be eliminated because they are a safeguard for the ballots.

President Guastella recognized Cathy Gray, a member of the public, who stated that Voter Cards should not be eliminated because they are a safeguard for the ballots, but suggested to revise them in the future. She recommended writing the ballot's stub # instead of the voter's name and address which would reduce time. Ms. Gray stated that she has provided her email address to the Board, but has not received any emails to this date. Ms. Gray stated that she supports split-shifts for the poll workers.

President Guastella recognized Alan Flacks, a member of the public, who asked what happens to the vacant position concerning the recent death of a NYS Supreme Court candidate in Queens. Mr. Richman stated that Governor can choose to appoint. Mr. Flacks recalled that California's Voter Registration forms have a tear-off receipt with a serial number and telephone number. The applicant can call and check the status of their voter registration with that receipt.

President Guastella recognized Garth Marchant, a member of the public, who claimed that the Board, in preparing the ballot for the 12th City Council District Special Election, did not comply with the requirements set forth in Rule A3 (2) of the Board's Independent Nominating Petition Rules for 2012. He indicated that he will be commencing a proceeding challenging this election.

Mr. Ward presented the Comparative Expenditures Report dated November 27, 2012. A copy of the report is in the agenda.

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

Following Executive Session, the open public meeting resumed and President Guastella reported the following action taken in Executive Session:

- I. The Commissioners considered modifications to poll worker training and qualifications and directed Board Staff to prepare draft testimony to reflect those modifications. The draft will be

circulated to the Commissioners for final approval at next week's meeting.

President Guastella moved to adjourn the meeting which was unanimously adopted.

The next stated meeting of the Commissioners is scheduled for Tuesday, December 4, 2012 at 1:30 P.M.

Post Election Activities Progress Report – November 6, 2012 November 27, 2012

The following post election activities are covered in this report:

- Read Portable Memory Devices (PMDs)
- Record Write-In Names from Poll Site Ballots
- Re-Canvass of Poll Site Ballots
- Statutorily Required Audit of Scanners
- Re-Canvass of Emergency Ballots
- Canvass of Absentee, Affidavit and Military Ballots
- Manually Entry of Re-canvass Activity into S-Elect

These post election activities started in each borough on November 7, 2012 and will continue until completion. The only exception is the Canvass of Absentee, Federal, Affidavit and Military Ballots, which started on November 20, 2012. The following is a breakdown by borough of where they are with each activity as of noon today:

	Manhattan	Bronx	Brooklyn	Queens	Staten Island
Read Portable Memory Devices (PMDs)	Complete	Complete	Complete	Complete	Complete
Record Write-In Names from Poll Site Ballots	27% Done	Complete	93% Done	58% Done	Complete
Re-Canvass of Poll Site Ballots	80% Done	Complete	56% Done	50% Done	Complete
Statutorily Required Audit of Scanners	74% Done	Complete	Complete	Complete	Complete
Re-Canvass of Emergency Ballots	10% Done	Complete	Complete	Complete	Complete
Canvass of Absentee, Affidavit and Military Ballots	Not Started	Not Started	40% Done	8% Done	50% Done
Manually Entry of Re-canvass Activity into S-Elect	Not Started	90% Done	Not Started	Complete	Complete