

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JANUARY 29, 2008
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR HEARING ROOM
NEW YORK, NY 10004

P R E S E N T: James Sampel, President
 Frederic Umane, Secretary

Commissioners Como, Dent, Graham, O'Connor, Polanco, Schacher,
Soumas, Yennella

Marcus Cederqvist, Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Valerie Vasquez-Rivera, Director of Communications
Phil Donahue, Director, Personnel
John Ward, Finance Officer
Joseph LaRocca, Coordinator, Candidate Records Unit
Lucille Grimaldi, Director, EVS
Karen Viggiano, Consultant, Gartner
Gladys Fernandez, Technical Liaison, EVS
Marilyn Reyes, Technical Writer, EVS
Yi Yu, Senior Computer Programmer, EVS
Beth Fossella, Coordinator, Voter Registration
Troy Johnson, Chief Clerk, Manhattan Borough Office
Steve Ferguson, Director, MIS
Jack Courtney, Temporary Attorney

GUEST: Douglas Kellner, Co-Chair, NYS Board of Elections
 Mary Lou Urban, League of Women Voters
 Mark Herman
 Andrea Senteno, Citizen Union
 Aaron Belisle, CIDNY
 Israel Rodriguez, NYC Council
 Teresa Hummel, Community Church of NY

President Sampel called the meeting to order at 1:35 P.M.

President Sampel removed Item #6 from the agenda.

Commissioner O'Connor moved to adopt the minutes of the January 3rd and January 8th meetings. Commissioner Como seconded the motion, which was adopted unanimously.

Commissioner O'Connor moved to table the minutes of the January 15, 2008 meeting. Secretary Umame seconded the motion, which was adopted unanimously.

The Executive Director provided the Commissioners with copies of an email from OGS, including attachments, regarding the process to order Ballot Marking Devices. He reported that the materials included guidelines and templates for the purchase of BMDs. Mr. Cederqvist advised that OGS will aggregate orders for County Boards of Elections.

The Executive Director reported that the State Board of Elections confirmed, in a telephone conversation, that ES&S has acquired

AutoMark Technical Systems [“ATS”] the manufacturer of the AutoMark Ballot Marking Device which is also used by Premier.

The Administrative Manager reported, in response to a question, that it is unclear what this new development has on the selection process. The only information received is that Election Systems & Software, Inc (ES&S) owns all rights and equipment of the AutoMark Technical Systems (ATS). Commissioner Umare expressed skepticism. He asked that the Board staff inquire into this matter.

Lucille Grimaldi reported that the Commissioners recently received a copy of the proposed selection plan for a Ballot Marking Device for 2008 and explained that if the Board wanted the evaluation team to consider the permanent voting system, the evaluation team recommends the establishment of additional criteria based on the 2007 Voting System Selection Plan. This process would take approximately eleven weeks through and including revising the original Request for Information (RFI), sending the revised RFI to the vendors, and reviewing their responses before continuing with the evaluation process which would end with placing the order on April 15, 2008. She stated that the City Board has

been told to comply with the schedule provided by the State Board. She noted that in order to implement a new system the City Board needs to know what systems are available, have the EMS and 10% of the order delivered by March 1, 2008. The State Board of Elections has told the NYC Board to consider three systems (Sequoia, Premier and ES&S).

The General Counsel advised that according to the Court approved plan the State Board will certify voting systems for the permanent selection in October 2008.

Douglas Kellner, Co-Chair of the New York State Board of Elections informed the Commissioners that none of the systems have been certified to be the permanent replacement. The State Board has authorized County Board of Elections to choose a BMD provided by:

- 1) Premier
- 2) ES&S; and
- 3) Sequoia

The State Board is mandated by the Federal Court Order to complete the certification process for Ballot Marking Devices by February

28, 2008 and the contracts will be formally entered into by the State Office of General Service in the first week or two of March.

Secretary Umame moved that Board staff establish an additional category for the evaluation as set forth on pp. 9 and 10 of the Draft 2008 Voting Systems Selection Plan for Ballot Marking Devices and adjust the percentages as follows:

- 1) Reduce Category #2 [Board Operations] from 15% to 14%;
- 2) Reduce Category #3 [Election Day Operations] from 16% – 14%;
- 3) Reduce Category #4 [Security & Privacy] from 15% – 14%;
- 4) Reduce Category #5 [Implementation Services] from 16% to 15%; and
- 5) Add a new category “Future Implementation” at 5%.

Commissioner Schacher seconded the motion. Secretary Umame’s motion failed by a vote of 5 in favor (Secretary Umame, Commissioners Graham, Schacher, Polanco, and Yennella) and 3 opposed (President Sampel, Commissioners O’Connor and Soumas) and 2 abstentions (Commissioners Dent and Como).

Secretary Umane moved to adopt the Draft 2008 Voting Systems Selection Plan for Ballot Marking Devices as submitted. Commissioner Polanco seconded the motion, which was adopted by a vote of 9 in favor (President Sampel, Secretary Umane, Commissioners Dent, Graham, Schacher, Polanco, Yennella, O'Connor, and Soumas,) and 1 abstention (Commissioner Como).

Administrative Manager Pamela Perkins reported that the New York Police Department advised that if the New York Giants win Super Bowl XLII, there will be a ticker-tape parade held in their honor on February 5, 2008. This parade, scheduled for Broadway, will affect access to and from the Executive Office between 8:00 A.M. and 2:00 P.M. Management is working on a contingency plan for the Executive Office. In addition there are three poll sites in the area that may be affected by the parade. They are:

- a) 45 Wall Street
- b) 90 Trinity Street; and
- c) 31 Chambers Street.

Secretary Umane asked the Commissioners to reconsider his motion to follow the Amended Presidential Primary Certification based on an email response dated January 25, 2008 from Todd Valentine.

In response to a question, the General Counsel advised that when the late Congressman Ted Weiss passed away the Saturday before the Primary Election in 1992 his name still appeared on the ballot and he won that Primary. The Law did not allow his name to be removed within seven days of the election and in fact a vacancy was declared and the joint County Committees of Kings and New York Counties met to designate a candidate for both the Special Election to fill the vacancy and the next term. This Board has only removed candidates from the ballot after the petition hearing process or by Court Order.

Secretary Umane moved that the City Board comply with the State Board's staff amended certification for the February 5, 2008 Republican Presidential Primary Election. Commissioner Polanco seconded the motion.

In a roll call vote, the motion failed by a vote of 5 in favor (Secretary Umame, Commissioners Como, Polanco, Schacher, and Yennella) and 5 opposed (President Sampel, Commissioners Dent, Graham, O'Connor, and Soumas).

The Finance Officer provided the Commissioners with the Comparative Expenditure Report dated January 29, 2008 and the Vacancy Report dated January 22, 2008.

Commissioner O'Connor moved to convene an Executive Session to discuss personnel and litigation matters. Commissioner Como seconded the motion, which was adopted unanimously.

President Sampel reported that the following actions were taken in Executive Session pursuant to §3-300 of the New York State Election Law:

- 1) Mi Rang Cho is appointed as an Administrative Assistant in the Election Day Operations Unit, effective February 4, 2008.

President Sampel moved to adjourn. Commissioner Yennella seconded the motion, which was adopted unanimously.

The President announced that the Commissioners will hold a Special Meeting on Wednesday, February 6, 2008 at 1:30 P.M., to select a Ballot Marking Device.