

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, SEPTEMBER 21, 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, Schacher, 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
Shawn Boyd, Administrative Associate, Candidate Records Unit
Lucille Grimaldi, Manager, Electronic Voting Systems
James Barron, Temporary Attorney, OGC
Gregory Lehman, Chief Clerk, Manhattan Borough Office
Timothy Gay, Deputy Chief Clerk, Manhattan Borough Office
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Audrey White
 Rodanthy Tzau
 Marjorie Shea, WCC
 Jerome Koenig
 Nick Angel
 Katie Brent
 Alex Camorda
 Janeen Jailer
 Kate Doran, LWV
 Teresa Hommel, wheresthepaper.org

Rima McCoy, CIDNY
Lauren Onis
Stewart Armstrong, VAC
Alex Voetsch, NYDLC
M. Aron
Alan Flacks, Member of NY County Democratic Committee

President Dent called the meeting to order at 1:48 P.M.

Commissioner Schacher moved to approve the minutes of the July 6, 2010 meeting and the August 17, 2010 Finance Committee meeting. Commissioner Araujo seconded the motion, which was adopted unanimously.

Secretary Polanco requested to add a Bronx personnel matter for Executive Session.

Mr. Johnson requested to add an item to the agenda relating to a CRU Prima Facie matter.

Mr. Gonzalez presented the HAVA update. He distributed a report concerning the September 14, 2010 Primary Election to the Commissioners. Mr. Gonzalez reported that the Borough Offices are re-canvassing the ballots cast and working on the 3% audit which is

required by State Law. He stated that the information in the report is preliminary and requested assistance from the Borough Offices. Mr. Gonzalez reported that there were some last minute poll site changes in Brooklyn and Manhattan which affected multiple tasks for the implementation of the new voting system. Board staff had to rewrite the Portable Memory Devices (PMDs) for the scanners that were being deployed to the poll sites that were being changed, the side cards for each machine, trucking receipts, ballots, and poll site information for the voters had to be reprinted, the poll workers had to be notified that they have been reassigned, and the poll site lists had to be updated. Mr. Gonzalez reported that the Board ran into an issue while performing the mandated Comprehensive Test Deck of the equipment. The amount of ballots for the Democratic Party ballots was enormous and had to be prepared manually then entered into the system. When staff became aware that the Board would not meet the Comprehensive Test Deck requirements, they informed the Commissioners. The Commissioners advised Executive Management to contact the State Board. The State Board approved the Board's proposal to continue the Comprehensive Test Deck, but in a shortened fashion. The Comprehensive Test Deck was performed in accordance with the requirements of the State Board. The equipment was properly certified before it was deployed. Mr. Gonzalez stated that he contacted his

representatives at the Department of Education (DOE) and New York City House Authority (NYCHA) requesting to keep their facilities open on September 9th, 10th, 11th, 12th and 13th because Rosh Hashanah was September 9th and 10th and public schools were closed. The majority of facilities were kept open, but there were some issues citywide because the custodians did not open the public schools as directed by their respective superior. The Borough Offices' Poll Site Departments contacted all private sites requesting for the Board to deliver the equipment early. Some sites did not comply. On Election Day, there were some poll sites where the Police Officers did not arrive until 5:30 A.M. or 6:00 A.M. which delayed the opening of the polls. Mr. Gonzalez stated that he will confirm the actual number of poll sites that opened late after the Borough Offices certify the Primary Election results. Mr. Gonzalez reported that throughout Election Day the ballots were jamming in the machines. The Inspectors forgot to open the ballot bin liner pins so when the ballots were scanned in they were laying on top of the bin. In a bi-partisan team, the Inspectors and BOE staff members opened the bin liners to ensure that the ballots fall in properly. Mr. Gonzalez reported that another issue was the packaging of the ballot packs. The ballots were in packs of one hundred (100) and were not ripped off the perforation properly by the Inspectors. The Board took corrective action and has requested for the print vendor to reduce the ballot

packs to fifty (50), to leave extra room on top and to staple only the left and middle top so the ballots will rip off the pack easier. The change will help prevent the ballot from jamming or scanning the scanner. Mr. Gonzalez reported that a lot of poll workers did not show up to work on Election Day. A total of 51,163 poll workers were assigned by the Board. Some Inspectors and Coordinators who had a shortage of poll workers at their poll site deputized voters to serve as an Election Inspector which is in accordance with the Election Law. Mr. Gonzalez reported that Board staff was deployed as A.D. Monitors to visit the poll sites citywide to ensure that all rules and regulations are followed and to serve as trouble shooters. The Police Officers were fully trained on the Board's poll worker procedures and were a big assistance with the closing of the polls and the problems that arose during Election Day. Mr. Gonzalez stated that the Board staff did an excellent job to ensure that the implementation of new voting system went well. He stated that the media over exaggerated issues and it is not fair for the Board staff to be abused in that matter. Mr. Gonzalez reported that he distributed copies of the Department of Justice (DOJ) pre-clearance submission which contains six (6) parts to the Commissioners.

President Dent stated that as the President of the Board for year 2010 she takes full responsibility for everything that went well or did not go

as planned for the September 14, 2010 Primary Election. She asked to collectively address all of the concerns which will enable the Board to do a better job for the November 2, 2010 General Election. President Dent thanked all Board staff for all of the hard work that they did on Primary Day.

Commissioner Soumas stated that he read a newspaper article last week where the Board was criticized for not participating in the 2009 Pilot Program which was organized by the State Board. He was quoted in the New York Times last year that the Pilot Program was not authorized by State Law and it is not authorized if the Board spends that money. Commissioner Soumas stated that Primary Day was the Board's pilot program and it went well. He is excited and confident that the Board will be at 100% for the full roll out on the General Election Day. Commissioner Soumas asked Mr. Gonzalez to comment on the preparation for the General Election. Mr. Gonzalez stated that he asked the State Board how the City Board can shorten the Comprehensive Test Decks and submitted a proposal. The City Board is waiting for their approval. Mr. Gonzalez reported that Executive Management is working on a plan to address the issues of Primary Election Day to ensure they will not be repeated on General Election Day. The plan will be presented to the Commissioners in

the following weeks. In addition, Mr. Gonzalez emailed the Borough Offices requesting for their assistance with this plan.

Commissioner Araujo asked if Mr. Gonzalez has contacted the DOE or NYCHA concerning the opening of the poll sites on time. Mr. Gonzalez stated that he has a great working relationship with the DOE, but some custodians did not follow directives from their superior. He has been in touch with his contacts at the Office of the Mayor who offered their assistance for the General Election. He will ask for the DOE facilities to be opened when the Board needs them and for the Police Officers to be at their poll sites at 5:00 A.M. which will eliminate a lot of problems. Mr. Gonzalez noted that there was a lot of street closures downtown on September 11th which impeded the delivery of equipment. In addition, there was a movie being filmed in front of the Executive Office on Primary Day which impeded the car service transportation. The car service is used to pick up and drop off Board staff to poll sites. The drivers were not allowed to park in front of the building, so they had to park blocks away which delayed the travel time to poll sites citywide. Mr. Gonzalez recommended to the Office of the Mayor to stop authorizing the filming movies in New York City on Election Days. He recalled that a Ticker Tape Parade took place in Manhattan on the 2008 Primary Election Day which

made it very difficult for the Board to conduct the election. Commissioner Schacher suggested for Ms. Vazquez-Rivera to request a written schedule of events that will take place the week of Election Day from the Office of the Mayor in the future. Secretary Polanco asked for a commitment from Mr. Gonzalez ensuring that no poll site will be opened late on General Election Day. Mr. Gonzalez stated that he can give the commitment that he will reach out to his sources, but cannot guarantee how the other sources will react to his commitment. Commissioner Ryan stated that the Board is being entrapped as a group into other people's political activities. There were some individuals that made serious statements for their own political purpose which were obviously prepared before Election Day. The statements were too ready before anything had even occurred. Commissioner Ryan stated that the problems Staten Island encountered on Election Day were ordinary routine problems that have occurred in the past with the lever machines. People for their own purposes are seizing on a political moment. Commissioner Ryan submits that those people should be ashamed of themselves for undermining voter confidence instead of helping to educate the public which is unforgivable and despicable. Commissioner Schacher suggested for Mr. Gonzalez's comprehensive report to be submitted to the media. Commissioner Umane stated that the Board will have to prepare testimony and suggested for Mr. Gonzalez's

report be used for the background. Commissioner Umane thanked his fellow Commissioners for bearing some concerns and issues that have been raised lately in the press. He stated that the Board has been accused of being political hacks, but it is not the truth. The Board staff works hard all year long and trains 36,000 poll workers in a 6-8 week period. No other City agency is required to do that. The Board staff, Gartner consultants and ES&S staff put on a tremendous effort on Primary Election Day and it was not a failure.

Mr. Gonzalez reported that he received a letter from the Office of the State Comptroller. A copy of the letter is in the agenda. The Office of the State Comptroller has scheduled an audit of the Board's plans and procedures for addressing problems and risks identified during the recent Primary Election. They requested to schedule an opening conference with Executive Management to discuss the scope and objectives. Mr. Gonzalez explained that it is not a good time because the Board is certifying the Primary Election and is preparing for the General Election. He requested direction from the Commissioners. After discussion, the Commissioners agreed for Mr. Gonzalez to schedule an entrance conference with the Office of the Comptroller.

President Dent noted that Commissioner Barrera has arrived.

Mr. Gonzalez received a letter from New York Senator Joseph P. Addabbo, Jr., Chairman of Standing Committee on Elections. He advised that the New York State Standing Committee on Elections will hold a hearing on September 29, 2010. The Board is invited to testify on the introduction of optical scan voting machines in the 2010 Primary Election, new administrative procedures, voter response, problems that arose and their resolution. Mr. Gonzalez asked for authorization from the Commissioners for Executive Management to prepare testimony. Commissioner Umane stated that the Board needs to participate in this process. Commissioner Soumas noted that he came across NYC Council Member Gale A. Brewer, Chairwoman of NYC Committee on Governmental Operations, and NYC Public Advocate Bill de Blasio at their poll sites on Primary Election Day and they did not report any problems to him.

Mr. Gonzalez reported that he received a letter from NYC Council Member Gale A. Brewer. She advised that the NYC Council Committee on Governmental Operations will hold a hearing on October 4, 2010 to review Primary Day operations with specific focus on the deployment of new

optical scan voting systems. Mr. Gonzalez stated that he will prepare the same testimony used for the New York State Standing Committee Hearing. President Dent indicated that the Board has always been very cooperative with the elected officials and respectively does not understand why Council Member Brewer stated that if the Board does not provide such information, then the Committee will issue a subpoena. She stated that it was not necessary because the Board will provide the public records.

Mr. Gonzalez reported that he received a letter from NYC Public Advocate Bill de Blasio. He stated that he is concerned with the widespread reports of problems during the Primary Election. Commissioner Soumas suggested for Mr. de Blasio to attend the NYC Council Committee on Governmental Operations Hearing on October 4, 2010.

Mr. Richman requested a date for Hearings on Independent Nominating Petition Matter for the November 2, 2010 Special Election in the 28th City Council District. A copy of his memorandum to the Commissioners is in the agenda. Mr. Richman recommended that the Commissioners set Tuesday, September 28, 2010 at 1:30pm as the date for the hearings. Commissioner Umame moved to adopt September 28,

2010 as the date for the Hearings on Independent Nominating Petition Matter for the November 2, 2010 Special Election in the 28th City Council District. President Dent seconded the motion, which was adopted unanimously.

Mr. Richman reported that Jeremy Fredericksen, the Board's temporary attorney, has been offered a permanent position with the Legal Aide Society. Mr. Richman stated that he is trying to acquire a new temporary attorney to assist the Board until November 2010.

Mr. Ward presented the Vacancy Report dated September 14, 2010 and the Comparative Expenditures report dated September 21, 2010. Copies of the reports are in the agenda.

Mr. Johnson reported on a CRU Prima Facie matter which concerns the November 2, 2010 General Election. He distributed copies of candidate Edward McCarthy's declination letter to the Commissioners. Mr. Johnson explained that Mr. McCarthy filed a declination, but it was late. Mr. McCarthy has been contacting CRU everyday requesting to be taken off the ballot. Commissioner Umane moved to remove candidate Edward McCarthy from the ballot based on his declination letter dated

July 17, 2010. Commissioner Soumas seconded the motion, with Commissioner Barrera abstaining. The motion is adopted.

Mr. Johnson requested to add Mr. Gay and Mr. Lehman to agenda concerning a CRU matter.

Mr. Gay reported that he has provisional certification for races in New York County for Judicial and Alternate Delegates. Commissioner Umane clarified that the urgency is so that they can attend the Judicial Convention. Mr. Gay stated that the vote is based on the scanner votes only; it does not include absentee, military and federal votes. Commissioner Soumas moved to certify these results on a provisional basis. Commissioner Umane seconded the motion, which was adopted unanimously.

President Dent moved to authorize the Borough Commissioners for provisional certification as needed. Secretary Polanco seconded the motion, which was adopted unanimously.

President Dent recognized Jerome Koenig, a member of the public. Mr. Koenig raised concerns about the new law (Chapter 62)

which concerns mailing registration forms to those people who are registered, but not enrolled in the party for which they attempt to vote. Mr. Koenig suggested for the Board to change the policy to conform to the new law. Commissioner Umame understood, but was concerned that these voters may have filed “change of enrollment” forms which could cause confusion. Commissioner Umame moved to amend the Board’s policy to comply with the applicable law. Commissioner Soumas seconded the motion, which was adopted unanimously.

Secretary 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 Dent reported the actions that were taken in Executive Session:

- I. Unanimously authorized Frank Tosi, Administrative Associate in the Bronx Borough Office, to receive an annual salary of \$60,343 to fill Anthony Ribustello’s vacancy, and for Rocco Cirotti to receive an annual salary of \$58,972 to fill Frank Tosi’s vacancy;

- II. In a roll call vote with six (6) in favor (Polanco, Dent, Araujo, Barrera, Ryan, Soumas) and three (3) opposed (Schacher, Umane, Stupp), it was determined that Pamela Perkins, Administrative Manager, is to receive a \$17,000 increase to her annual salary;
- III. In a roll call vote with six (6) in favor (Polanco, Dent, Araujo, Barrera, Ryan, Soumas) and three (3) opposed (Schacher, Umane, Stupp), it was determined that Tom Sattie, Associate Staff Analyst in the Executive Office, is to receive a \$10,000 increase to his annual salary.

Commissioner Ryan 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, September 28, 2010 at 1:30 P.M.