

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, OCTOBER 12, 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, Sipp, 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
Beth Fossella, Coordinator, Voter Registration
Troy Johnson, Coordinator, Candidate Records Unit
John Wolf, Project Coordinator, Candidate Records Unit
Ryan Deahn, Administrative Assistant, Candidate Records Unit
John Naudus, Senior Systems Analyst, EVS
James Barron, Temporary Attorney, OGC
Adam Dolce, Temporary Attorney, OGC
Charles S. Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Jerome Koenig
Jared Kensberg
Joe L.
Todd Urosevich
Alan Flacks, Member of NY County Democratic Committee
Marjorie Shea, WCC
Kate Doran, LWV

Jenna Adams
Matthew Gewolb, NYCC
Stewart Armstrong, VAC

President Dent called the meeting to order at 1:41 P.M.

Commissioner Umame requested to discuss (2) Manhattan personnel matters in public session.

Commissioner Araujo requested to discuss a ballot issue and Comprehensive Test Decking concerning Queens County. Mr. Sattie will report on the item.

Mr. Johnson requested to discuss a CRU Opportunity to Ballot (OTB) matter.

Commissioner Umame moved to approve the minutes of the July 27, 2010 Finance Committee Meeting. Secretary Polanco seconded the motion, which was adopted unanimously. President Dent moved to approve the minutes of the July 20, 2010 meeting. Commissioner Sipp seconded the motion, with Commissioner Soumas abstaining. The motion was adopted. Commissioner Schacher moved to table the minutes of the

July 27, 2010 meeting. Commissioner Umame seconded the motion, which was adopted unanimously.

Mr. Gonzalez presented the HAVA update. He reported that the recommendation to the State Board concerning the Comprehensive Test Deck process for the scanners and Ballot Marking Devices (BMDs) has been approved. There were several inquiries from the Commissioners over the weekend concerning the new process. Mr. Gonzalez explained that the Comprehensive Test Deck process is reduced from nine (9) subdecks to four (4) subdecks. It allows for the pre-printing of the pattern, "vote fors," and cross endorsements of the test decks. Previously, some of the scanners and BMDs took up to four (4) hours to test and now the time will be reduced. The process will commence at the end of the week, except for Queens County. The approved test deck ballots are expected to be delivered to three (3) of the five (5) boroughs. The test deck ballots for Queens County have not been ordered due to two (2) issues. Mr. Sattie will report on the issues. Mr. Gonzalez reported that all Board Voting Machine Facilities are working on the Hash Code checking and the Party representatives have been contacted to observe the process. The voting machines will be ready for deployment on October 27, 2010. It was noted that there are approximately 5,000 voting machines.

Mr. Gonzalez reported on the distribution of Federal and Military ballots. He stated that there were several issues that delayed the Board from distributing the ballots for the deadline which was imposed by the United States Department of Justice and the State Board. Commissioner Soumas stated that the federal law has a deadline of September 18th which is 45 days before the election. Mr. Gonzalez recalled that he informed the Commissioners that it would be impossible for the Board to meet the deadline. The September 14, 2010 Primary Election certification deadline was September 28, 2010. In addition, there was a mandatory 3% audit and there were various borough issues which were resolved, but delayed the certification process. On October 5, 2010 the Commissioners of Elections certified all contests for the 2010 Primary Election. Mr. Gonzalez then directed Board staff to produce absentee ballots for the 2010 General Election. He noted that the State Board issued several certifications of the official General Election ballot prior to and after the October 1st deadline. However, the certifications contained inaccuracies in the 17th Congressional District in Bronx County. Mr. Gonzalez provided the State Board with the unofficial list of winners and they reissued a new certification based on the City Board. He notified the State Board on September 30, 2010 that the Primary Election results would not be certified until October 5, 2010. The State Board understood, but insisted for the City

Board to produce the ballots for the General Election. Mr. Gonzalez differed because the results had to be certified first with accurate information. The State Board issued a certification without the City of New York's results. Mr. Gonzalez reported on the amount of federal and military ballots that were mailed to this date. The amount follows:

- New York County – 13,673 Federal and 513 Military
- Bronx County – 621 Federal and 1,467 Military
- Kings County – 6,615 Federal and 2,623 Military
- Queens County – 5,247 Federal and 1,196 Military
- Richmond County – 592 Federal and 318 Military

Secretary Polanco inquired if Senator Schumer's Office called Mr. Gonzalez before he held his press conference yesterday. Mr. Gonzalez and Ms. Vazquez-Rivera both replied no. Mr. Richman reported that he provided Mr. Gonzalez's information concerning the federal and military ballots to Senator's Schumer's Office today, but has not received feedback yet. Secretary Polanco and Commissioner Schacher recommended for the Board to provide the information to the media as well. Ms. Vazquez-Rivera stated that she will issue a press release.

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

President Dent noted that Commissioner Ryan has joined the meeting.

Commissioner Ryan asked Mr. Richman if the Board has removed the request to move the Primary Election to April for practical consideration. He stated that it is a very compressed timeframe post-Primary, pre-General. Mr. Richman reported that from 1999 through 2007 the Board submitted repeatedly in the proposal to move to a June Primary. In this year's cover letter to the State Legislation, in light of the MOVE Act and implementation, the Board emphasized to move the election calendar back. Commissioner Araujo recommended sending a revised letter to the State Legislation with attachments of the negative press and results the Board had to express for the dire concern for the change. Commissioner Ryan shared Senator Schumer's concerns that everyone has the right to vote, particularly the military overseas, but with the compressed timeframe it is a virtual impossibility to comply with the deadline that is required in the statute.

After discussion, Commissioner Soumas moved for the Board to send a letter to the State Legislation today stating that their failure to move the Primary Election to an earlier date is disenfranchising the members of the military who desire to vote on a military ballot. Commissioner Araujo

seconded the motion. Commissioner Stupp inquired if the Board has ever had an earlier Primary Election. Mr. Richman stated that 1974 was the last year that a Primary Election was held in June, except for the Presidential Primary.

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

Commissioner Soumas moved to amend his previous motion and to address the letter to NYS Assembly Member Joan Millman and NYS Senator Joseph Addabbo and to CC: the Mayor and the media. Commissioner Araujo seconded the motion.

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

Commissioner Ryan moved to add the legislative proposals with respect to moving the Primary Election back to June and to leave the proposal in the Legislative Package until it is acted on. President Dent seconded the motion.

Commissioner Barrera stated that she is bothered that the Board is not defending their position for all of the hard work that is done in the

agency. She stated that there should be more work done to defend the Board in the public eye. President Dent agreed and stated that the Board has to be proactive and to post important information to the website. Secretary Polanco noted that the press releases have to be approved by the full Board which creates a delay. Secretary Polanco moved for Ms. Vazquez-Rivera to release press releases with rapid responses immediately and for Executive Management to assist in the press release. Commissioner Stupp seconded the motion. Commissioner Barrera stated that by the Board not taking action and defending the hard work effects public morale. Fewer voters are going to show up at the polls and become disenfranchised. Commissioner Barrera requested for Ms. Vazquez-Rivera to be more attentive with quicker responses with what is being discussed in the media. She indicated that the media should know about these matters in advance. President Dent stated that Executive Management should be involved with decisions. Ms. Vazquez-Rivera clarified that for all media requests and inquiries she forwards her response to Executive Management and the Office of the General Counsel for review.

Commissioner Umane recalled that in the past he voted to remove the legislative proposal with respect to moving the Primary Election back to June in the Legislative Package because it did not receive any reaction.

He thought it would make more sense for the Board to target other areas of legislation to get passed by the State Legislation. He agreed with Commissioner Ryan to include the legislative proposal again.

Commissioner Soumas recited his suggested draft letter addressed to NYS Assembly Member Joan Millman and NYS Senator Joseph Addabbo concerning the State Legislation's failure to move the Primary Election to an earlier date is disenfranchising the members of the military who desire to vote on a military ballot. The Commissioners recommended some revisions and additions to the letter.

Commissioner Sipp inquired about the new policy for rapid response to the media. Secretary Polanco stated that he would like for Executive Management (Mr. Gonzalez, Ms. Sandow, Ms. Perkins, Mr. Richman and Ms. Vazquez-Rivera) to work together to express the Board's views to the press immediately. It was noted that the staff would not be permitted to use any quotes without the Commissioners' permission. Commissioner Sipp stated that there should be some restrictions on the responses. Commissioner Soumas agreed and recommended for the Commissioners' Communications Committee to address issues with Ms. Vazquez-Rivera.

The Commissioners agreed that the President and Secretary will be included as well.

Commissioner Soumas moved to approve his recited letter as drafted with the recommended revisions. Commissioner Umane seconded the motion, which was adopted unanimously.

Commissioner Ryan moved to add the legislative proposal with respect to moving the Primary Election back to June and to leave the proposal in the Legislative Package until it is favorably acted on. President Dent seconded the motion, which was adopted unanimously.

Secretary Polanco moved for Ms. Vazquez-Rivera to rapidly respond to media inquires and events upon the approval of Executive Management and the Commissioners' Executive Committee. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported on the October 5, 2010 communication from the Chair of the New York City Charter Revision Commission. A copy of the faxed letter is in the agenda. Mr. Gonzalez stated that Chair Goldstein's request is already covered in the Board's poll worker training

classes. Commissioner Umane recalled that there used to be an arrow printed at the bottom of the SHOUP lever machine ballots directing people to the NYC Charter propositions. Mr. Sattie reported that there is an instruction on the front of the paper ballot on the upper right side. Commissioner Umane recalled that the Commissioners discussed the arrow in a past meeting and thought that it would be researched before the ballots were printed and should be considered. President Dent inquired if the trainers are indicating that information to the poll workers. Mr. Richman stated that the Poll Worker Manual states that if a ballot question(s) appears it will be printed on the back of the paper ballots. Commissioner Araujo recommended sending the Chair a copy of the Poll Worker Manual. Ms. Vazquez-Rivera stated that the dedicated mailer to all registered voters specifically highlights that there will be NYC Charter propositions on the back of the ballot. She asked for approval to add an additional page to the public education website to read, "What you need to know before you go to your poll site." Commissioner Stupp requested to list further information on the NYC Charter propositions. Mr. Richman stated that the Board could add the language that has been certified by the City Clerk as the official questions and abstract.

President Dent moved to authorize Ms. Vazquez-Rivera to add a page to the Board's public education website informing the public of the information stated and to include the language that has been certified by the City Clerk as the official questions and abstract. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Gonzalez reported that there was a Chief and Deputy Chief Clerks meeting held on October 8, 2010. Executive Management, Executive Office Managers, and the Chiefs discussed the preparation for the 2010 General Election. The staff reviewed all of the issues that were discussed at the Commissioners' Meeting and the corrective actions concerning the election. Mr. Gonzalez summarized the check list items for the Commissioners. Commissioner Ryan clarified that it is regular routine tasks that are done for every election in the past. Mr. Gonzalez stated that it was a very productive meeting.

Mr. Gonzalez reported on the brief meeting held with the representatives of the New York City Police Department (NYPD) which was held on October 8, 2010. The Board and the NYPD will do their best to ensure that the November 2, 2010 General Election operates smoothly. Mr. Gonzalez explained to the NYPD that the Election Day Police Officers

have to report to their poll sites at 5:00A.M. The NYPD understood the Board's concerns. The NYPD requested to receive the keys to the equipment two (2) days before the election on October 31, 2010. They also requested for Board staff to meet on a regular basis with each NYPD Borough Command Center. Mr. Gonzalez gave the Borough Command Center contact information to the Borough Offices. Mr. Gonzalez provided the NYPD with copies of borough wide maps indicating the poll sites. Mr. Gonzalez stated that it was a great meeting and both agencies look forward to working together again for the November 2, 2010 General Election. Commissioner Araujo inquired if there was a follow-up letter to the NYPD. Mr. Gonzalez stated that he will follow-up with an email. Commissioner Sipp asked if the Police Officers are obligated to report at the poll sites at 5:00A.M. Mr. Gonzalez replied no; the law requires them to be there at 5:30A.M. Commissioner Umame suggested an amendment to Commissioner Ryan's previous motion concerning the legislative package to include Police Officers reporting at poll sites at 5:00A.M. Mr. Richman added that according to the law, the Police Officers shall report to the opening of the polls.

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

Mr. Gonzalez reported that Executive Management created an organizational committee for the Voting Machine Facilities (VMF) supervisors. The committee is for open dialogue to ensure that all Borough VMFs are working in a similar matter. The supervisors discussed the deployment of the voting systems, Election Day supply carts, and the tools that they used. The Staten Island VMF had a great work system, so Executive Management wanted to share that with the other Borough VMFs.

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

Mr. Johnson presented the draft Notice to All Candidates for the November 2, 2010 General and Special Elections. A copy of the draft letter is in the agenda. Mr. Johnson requested approval of the letter. Commissioner Umane moved to approve the Notice to All Candidates for the November 2, 2010 General and Special Elections. President Dent seconded the motion, which was adopted unanimously.

Mr. Johnson reported on the CRU Opportunity to Ballot (OTB) candidates. There were four (4) winners, but one (1) did not file a Certificate of Acceptance yet. He indicated that Mr. Arthur Cheleotes, 26th Assembly District, Queens County, has until midnight today to file, but if he

does not file he questioned if there will be another hearing which could effect the ballot. Mr. Richman stated that a letter will be mailed to the candidate. Commissioner Araujo moved to designate the Queens Commissioners as a subcommittee to hear any hearing, if needed, and to schedule it on Friday, October 15, 2010 in the Queens Borough Office. Commissioner Stupp seconded the motion, which was adopted unanimously.

Commissioner Araujo requested to discuss a ballot issue concerning the test decking in Queens County. He reported that the test decking will not be ready because there are two (2) outstanding cases. Commissioners Araujo and Stupp asked Mr. Sattie if there is anything they can do in order to start the test decking process as to the other ballots that are not affected by the two (2) races. Mr. Sattie replied no; all races need to be together for an entire borough for the system. If anything needs to be changed, the entire borough's ballots would need to be reprinted and retested. This is a software scanner issue. Mr. Naudus explained the process. He stated that the limitation is in the Election Management System which is the software that sets up the election for the scanners or Ballot Marking Devices (BMDs). The design from the ES&S software needs to be decided and the data is brought in at the same time. From there they build the ballots. The

software has two (2) parts – information and design. In order to change any data in the election, they have to change the data in the first part of the software, and then re-import the data into the second part which destroys all of the work to design the ballots. Mr. Naudus stated that an option would be to leave a white blank space if it is legally correct. Mr. Richman stated that in the past the lever machines used to use white paster stickers. Commissioner Ryan asked if there is a legal prohibition in leaving a blank spot. Commissioner Umane stated that there is a software and printing issue. He asked if a smaller batch could be generated and printed and used for testing rather than printing the whole borough and wasting them. Commissioner Umane strongly suggested for the software to be changed for the next election cycle to adapt to the needs of New York City. Secretary Polanco requested for two (2) separate ballots. Mr. Naudus stated that it would require two (2) separate machines and additional procedures which would be a burden. Mr. Naudus added that the Board has to test the official ballots, not test ballots. Commissioner Araujo requested for the Office of the General Counsel to stress to the Judge about the importance of the delay that this is creating, and then ask EVS Department to contact ES&S to work on a solution to this matter for the next election cycle.

President Dent recognized Jerome Keonig, a member of the public.

Mr. Ward presented the Vacancy Report dated October 12, 2010.

Ms. Vazquez-Rivera reported that there have been 464 public demonstrations with 29,474 participants to this date. There are 104 demonstrations scheduled. She reported that there have been 100 clicks on the Board's FaceBook page via the Board's Home Page. Ms. Vazquez-Rivera requested approval to prepare a press release on the dedicated mailing and to include the good government organization's quotes. Commissioner Umane seconded the motion, which was adopted unanimously.

Ms. Vazquez-Rivera recalled that a letter signed by the President and Secretary was mailed to various City agencies asking for help distributing the Board's public education literature at their centers. She received responses from twenty (20) agencies who accepted. Ms. Vazquez-Rivera requested approval from the Commissioners to send the agencies all materials and an email that they can send out agency wide to educate their employees on the new voting system. President Dent moved to approve

her request. Secretary Polanco seconded the motion, which was adopted unanimously.

Commissioner Umame moved to grant an advance of 210 sick hours for Glenda Allen, Administrative Assistant in the Manhattan Office. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner Umame moved to grant an advance of 210 sick hours for Kenneth Britton, Voting Machine Technician in the Manhattan Voting Machine Facility. Commissioner Soumas seconded the motion, which was adopted unanimously.

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

Commissioner Soumas 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 on the action taken in Executive Session:

I. There is a vacancy in the Brooklyn Voting Machine Facility (VMF). Stanley Scutt will be replacing Edwin Francisco, effective August 31, 2010, at an annual salary of \$29,232.

Commissioner Schacher 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, October 19, 2010 at 1:30 P.M.