

MEETING OF THE BOARD OF CANVASSERS
AND MEETING OF THE COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, DECEMBER 18, 2012

AT 1:30 P.M.

42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Maria R. Guastella

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

Dawn Sandow, Deputy Executive Director

Pamela Perkins, Administrative Manager

Steven H. Richman, General Counsel

Raphael Savino, Deputy General Counsel/Campaign Finance Enforcement

John Ward, Finance Officer

Valerie Vazquez, Director, Communications and Public Affairs

Dorothy Delayo, Director, Personnel

Troy Johnson, Coordinator, Candidate Records Unit

Matthew Graves, Administrative Associate, Candidate Records Unit

John Luisi, Agency Chief Contracting Officer

Giacomo Kmet, Temporary Contract Attorney, OGC

Anthony Andriulli, Deputy Chief Clerk, Staten Island Office

Lisa Sattie, Administrative Associate, Staten Island Office

Marie Lynch, Deputy Chief Clerk, Queens Office

Robert Patak, Administrative Associate, Queens Office

Amanda Conacchio, Clerk, Queens Office

Anthony Ribustello, Deputy Chief Clerk, Bronx Office

Marricka Scott-McFadden, Deputy Chief Clerk, Bronx Office

Kenneth M. Moltner, Counsel to the Commissioners

Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV

Michael Benjamin

Monica Bartley, CIDNY

Artyom Matasov, for NYC Council

Rachael Fauss, Citizens Union

Augustine R., Citizens Union
Patrick McClellan, for Assembly Member Kavanagh
Will Colegrove, for Council Member Gale Brewer
John D. Smith
Cathy Gray
Shauna Denkensohn, CFB

President Guastella called the meeting to order at 1:33 P.M

President Guastella held a moment of silence for the students and teachers of the Newtown, Connecticut school tragedy.

Commissioner Polanco congratulated President Guastella for being re-appointed as the Democratic Commissioner of Richmond County by the New York City Council today.

President Guastella called the meeting of the Board of Canvassers in the City of New York to certify the results of the November 6, 2012 General Election pursuant to the provisions of Title 2 of Article 9 of the New York State Election Law, specifically Section 9-204.

President Guastella designated Commissioner Dent to serve as the second Democratic Commissioner for their respective counties and to serve with her for Richmond County and the multi-county recaps.

Commissioner Schacher, the Senior Republican Commissioner, designated herself and Commissioner Polanco as the second Republican Commissioner for their respective counties and to serve with her for the multi-county recaps. Commissioner Schacher designated Commissioner Stupp for Queens County and Commissioner Sipp for Richmond County.

Mr. Richman provided background information. The November 6, 2012 General Election included the Election for President of the United States, which always generates a high voter turnout. In addition, that Election was conducted in the aftermath of Super Storm Sandy. Executive Order 62 issued by the Governor on the eve of the Election resulted in thousands of additional affidavit ballots being cast by voters from the City of New York. The Commissioners adopted administrative guidelines for our staff to insure that as many of these affidavit ballots as possible were cast and canvassed. These guidelines were pre-cleared by the Attorney General of the United States under the Voting Rights Act. Since before the

Election, the Board's staff has and continues to work seven (7) days a week, twelve (12) hours or more a day to ensure that every vote is counted accurately and correctly.

President Guastella called upon the Deputy Chief Clerks of Bronx County. Mr. Ribustello and Ms. Scott-McFadden presented the signed Statement and Return of Canvass for the General Election and Special Election conducted in Bronx County on November 6, 2012 to the Canvassing Board for review and approval. The Deputy Chief Clerks confirmed that the results are accurate and correct. All provisions of the NYS Election Law and the Board's adopted Policies and Procedures were complied with. There were two (2) discrepancies which are indicated on the Discrepancy Report. The Deputy Chief Clerks confirmed that the audit of voter verifiable audit records required by Section 9-211 of the NYS Election Law has been completed successfully. Commissioner Barrera moved that the Board of Canvassers certify the Statement and Returns of Canvass for the General Election and the Special Election conducted in Bronx County on November 6, 2012. Commissioner Polanco seconded the motion, which was unanimously adopted.

President Guastella called upon the Chief Clerk and Deputy Chief Clerk for Queens County. Ms. Lynch and Mr. Pataky, on behalf of the Chief Clerk, presented the signed Statement and Return of Canvass for the General Election conducted in Queens County on November 6, 2012. Ms. Lynch and Mr. Pataky confirmed that the results presented are accurate and correct. All provisions of the NYS Election Law and the Board's adopted Policies and Procedures were complied with. There was one (1) reported discrepancy which is indicated on the Discrepancy Report. Ms. Lynch and Mr. Pataky confirmed that the audit of voter verifiable audit records required by Section 9-211 of the New York State Election Law has been successfully completed. Commissioner Araujo moved that the Board of Canvassers certify the Statement and Return of Canvass for the General Election conducted in Queens County on November 6, 2012. Commissioner Stupp seconded the motion, which was unanimously adopted.

Commissioners Araujo and Stupp thanked the Queens Office Staff for all of their hard work.

President Guastella called upon the Chief Clerk and Deputy Chief Clerk of the Staten Island Office. Mr. Andriulli and Ms. Sattie, on behalf of the Chief Clerk, presented the signed Statement and Return of Canvass for the General Election conducted in Richmond County on November 6, 2012. Mr. Andriulli and Ms. Sattie confirmed that the results presented are accurate and correct. All provisions of the NYS Election Law and the Board's adopted Policies and Procedures were complied with. There were no discrepancies. Mr. Andriulli and Ms. Sattie confirmed that the audit of voter verifiable audit records required by Section 9-211 of the New York State Election Law has been successfully completed. Commissioner Sipp moved that the Board of Canvassers certify the Statement and Return of Canvass for the General Election conducted in Richmond County on November 6, 2012. Commissioner Barrera seconded the motion, which was unanimously adopted.

President Guastella stated that the Recanvass is currently continuing at the Manhattan and Brooklyn Offices. Based on that report, she entertained a motion for the Board of Canvassers to designate a Committee to (1) perform all the duties and functions of the Board of Canvassers with respect to November 6, 2012 General Election held in

New York and Kings Counties and all applicable districts that cross county boundaries, (2) that said Committee be composed of four (4) Commissioners (2 Democrats and 2 Republicans), and (3) that Committee will meet upon the call of the Committee Chair when the respective Statement and Return of Canvass is ready for review. Commissioner Polanco moved President Guastella's motion. Commissioner Araujo seconded the motion, which was unanimously adopted. President Guastella, Commissioners Schacher, Dent and Polanco volunteered to serve on the Committee which is subject to change. The Board of Canvassers Meeting is scheduled to be held on Friday, December 21, 2012 which is subject to change. Public notice of the meeting will be posted on the Board's website and at the Front Counters.

Commissioner Schacher moved to approve and adopt the Recap Statement and Return of Canvass for the General Election conducted on November 6, 2012 for those Districts which cross county lines within the City of New York and whose respective counties' Statement and Return of Canvass that have been approved today. President Guastella seconded the motion, which was unanimously adopted.

Commissioner Araujo moved to authorize the use of the Commissioners' signature stamps as appropriate on each Statement and Return of Canvass. Commissioner Schacher seconded the motion, which was unanimously adopted.

Commissioner Araujo moved to adjourn the meeting of the Board of Canvassers and to convene the weekly stated meeting of the Commissioners of Elections in the City of New York. Commissioner Stupp seconded the motion, which was unanimously adopted.

Commissioner Schacher announced the passing of Frank J. Macchiarola, the Chancellor, past-President and alumnus of St. Francis College. Mr. Macchiarola also served as the New York City Public Schools Chancellor. He will be waked at St. Francis College, 180 Remsen Street, Brooklyn, NY on December 19th and 20th from 2 p.m. to 5 p.m. and from 7 p.m. to 9 p.m. A funeral mass will be held December 21st at 10 a.m. in The Cathedral-Basilica of St. James, 248 Jay Street, Brooklyn, NY.

Commissioner Araujo moved to adopt the minutes of the December 4, 2012 and December 11, 2012 meetings. Commissioner Barrera seconded the motion. Before a full vote of the Board, Commissioner Polanco moved to table the minutes of the December 11, 2012 meeting and to adopt the minutes of the December 4, 2012 meeting. The motion was unanimously adopted.

Ms. Perkins reported that she received an invitation to the Election Assistance Commission's (EAC) Panel Discussion scheduled for January 9, 2013 in Washington, DC. A copy of the invitation is in the agenda. The email was from Alice Miller, Esq., the Chief Operating Officer & Acting Executive Director of the EAC. The roundtable discussion will focus on the 2012 Presidential election cycle and the challenges and issues that occurred during the election. The goal will be to identify which aspects of the process may need to be modified and begin developing best practices for addressing issues. Local election officials, advocates, leading academics and observers of the election process will be in attendance. EAC will cover the Board's travel expenses. Ms. Perkins requested authorization from the Commissioners to participate in the panel discussion with Ms. Sandow. Commissioner Stupp inquired if the meeting will be

public. Ms. Perkins replied yes and that it will be webcasted. Commissioner Araujo moved to authorize Ms. Perkins and Ms. Sandow to participate in the EAC roundtable discussion in Washington, DC. Commissioner Schacher seconded the motion, which was unanimously adopted. Commissioner Schacher requested for a copy of the EAC's agenda when it is available.

Mr. Richman reported on the NYS Assembly Standing Committee on Election Law Hearing which was held on December 14, 2012. The topic was to examine policies to improve in-person voting in New York. A copy of the Board's testimony is in the agenda. Mr. Richman, Mr. Savino, President Guastella and Commissioner Polanco attended the Hearing. Some issues raised were a split-shift pilot program for poll workers, and the dates for the 2013 Primary Election Day and 2013 Runoff Primary. Mr. Richman stated that there was no legislative agreement to modify the election calendar according to the Board's requests. As a result, he asked the Commissioners to create a Commissioners' Committee to assist staff in preparing a draft preliminary contingency plan for the 2013 elections. President Guastella, Commissioners Araujo, Polanco, Schacher and Stupp volunteered to serve on the Committee. Mr. Richman stated that he will

propose a date and time in January for a Committee meeting and Public Notice will be posted on the Board's website and Front Counters.

Mr. Richman presented the draft Independent Nominating Petition Rules for the 2013 Special Elections. He recalled that he distributed draft copies at the previous meeting. Mr. Richman reported that an Elected Official resigned in Queens and there is a vacancy. Mr. Richman requested for the Commissioners to approve the draft Rules. Commissioner Barrera raised an issue with Rule A.3 (2) which concerns the order of the ballot for Special Elections. She stated that this rule could create an unfair advantage and conflict. Commissioner Barrera stated that there needs to be a separate delineation from the Special Election and General Election on the ballot. Mr. Richman stated that there could be a random draw of names for the order of the ballot for the Special Election. He stated that a Special Election cannot be printed on the back of the ballot and a separate ballot would be costly. Commissioner Barrera stated that different suggestions need to be offered for this issue. Commissioner Araujo suggested deleting the Special Election Rule A.3 (2) for the General Election until further review. Commissioner Barrera moved to adopt the Independent Nominating Petition Rules for the 2013 Special Elections with

the deletion of Rule A.3 (2) and reserving Rule A.3 (2) for future review. Commissioner Polanco seconded the motion, which was unanimously adopted.

President Guastella recognized John D. Smith, a member of the public, who suggested for Special Elections to appear on the ballot below a listed caption with a border indicating that it is an official ballot for the Special Election.

Commissioner Araujo inquired about the availability of poll sites in Far Rockaway, Queens due to Hurricane Sandy. He asked if the Poll Site Surveyors have looked into this issue yet for the Special Election. Ms. Sandow stated that Queens Staff just certified the General Election so staff will look into these poll sites now.

Commissioner Polanco stated that it is important for Board Staff to keep researching the Voter Card issue which was discussed in the NYS Assembly Standing Committee and Campaign Finance Board Hearings. Ms. Sandow stated that a Poll Worker Procedures Committee and Ballot Design Committee were created to discuss these important issues. She

stated that good government group staff will be assisting the Board. Commissioner Polanco stated that some poll workers would like to work either a full day or split-shift, but it would require additional funding to hire additional poll workers. Commissioner Stupp stated that she supports changes for the Voter Cards and noted that they are a vital passport to cast a ballot in the Scanners. She stated that people who do not have Voter Cards cannot cast a ballot in the Scanner. Commissioner Polanco reported that there was a consensus among the NYS Assembly Standing Committee on Election Law to mail a one (1) language per page mailer to the voters. Ms. Sandow stated that the Board could print those types of mailers, but the cost would significantly increase. Ms. Vazquez stated that the booklet that was mailed to the voters in August 2012 had each required language per page and it cost approximately \$1.6 million. She stated that she will look into a post card mailer for the respective required languages for each borough provided that the Board received funding.

President Guastella reported that the Staten Island Office is still receiving affidavit ballots from other counties. She asked staff for guidance. Mr. Richman stated that the certification can be amended.

Mr. Luisi presented the Election Day Car Service Contract Award. He reported that First Class Car and Limousine Service (First Class) is the winning bidder. Mr. Luisi stated that they have been providing service to the Board for the past four (4) years. He stated that after Hurricane Sandy, First Class went above and beyond to assist the Board on Election Day. The contract is for a period of four (4) years effective January 2013. Commissioner Araujo inquired if the Board had any problems in the past with First Class. Mr. Luisi stated that the vendor was very cooperative and worked out any issues. Commissioner Schacher asked if all of the cars are equipped with a GPS system. Mr. Luisi stated that GPS is a requirement in the contract. He stated that First Class provides service for Election Day and for Board Staff visiting nursing homes for absentee voting purposes. Commissioner Sipp inquired if First Class has the best pricing. Mr. Luisi stated yes and that this contract saves a total cost of \$550 compared to the previous contract. Commissioner Barrera moved to approve the Election Day Car Service Contract Award. Commissioner Araujo seconded the motion, with Commissioner Polanco abstaining. The motion was adopted.

Mr. Ward presented the Vacancy Report dated December 18, 2012. A copy of the report is in the agenda.

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

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

- I. The probation of Sylvia Ancrum, an Administrative Assistant in the Executive Office, was extended to an additional six (6) months with conditions that she must attend the Employee Assistance Program (EAP);
- II. Katherine Riley, a Trainer Assistant in the Executive Office, has been issued a Written Advisory.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, January 8, 2013 at 1:30 P.M.