

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, JANUARY 8, 2013  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, COMMISSIONERS' HEARING ROOM  
NEW YORK, NY 10004

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

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

Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Raphael Savino, Deputy General Counsel/Campaign Finance Enforcement  
John Ward, Finance Officer  
Valerie Vazquez, Director, Communications and Public Affairs  
Dorothy Delayo, Director, Personnel  
John O'Grady, Chief Voting Machine Technician, VEOU  
John Luisi, Agency Chief Contracting Officer  
Thomas Sattie, Associate Staff Analyst, Ballot Management  
Stephen Thompson, HAVA Training Specialist, EDO  
Steven Ferguson, Manager, Management Information Systems  
Giacomo Kmet, Temporary Contract Attorney, OGC  
Kenneth M. Moltner, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Kate Doran, LWV  
               Robert Josman, 69<sup>th</sup> AD Republican District Leader  
               Cathy Gray  
               Shauna Denkensohn, CFB  
               John D. Smith  
               Tym Matusov, Council  
               Alex Camarda, Citizens Union  
               Michael Benjamin  
               Alan Flacks, Member of NY County Democratic Committee

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President Guastella called the meeting to order at 1:42 P.M.

President Guastella stated that according to Section 3-212(1) of the New York State Election Law, the Commissioners will elect the Board Officers for the Year 2013. Commissioner Polanco nominated Secretary Umane to serve as President for 2013. Commissioner Schacher seconded the motion, which was unanimously adopted. Commissioner Araujo nominated Commissioner Soumas to serve as Secretary for 2013. Commissioner Dent seconded the motion, which was unanimously adopted.

President Umane thanked the Commissioners for his nomination and stated that 2013 will be a challenging year for the Board which includes the Mayoral race, City Council Redistricting, and the Primary and Runoff Primary Election issue. He pledged to improve the issues that arose in the last election and poll worker training will be improved. Commissioners Polanco and Dent thanked Commissioner Guastella for her dedicated leadership serving as President in 2012. Commissioners Dent and Schacher thanked President Umane for his hard work serving as Secretary in 2012.

Commissioner Barrera moved to table the minutes of the December 11, 2012, December 18, 2012, and December 28, 2012 meetings. President Umame seconded the motion, which was unanimously adopted.

Commissioners Guastella, Schacher and Araujo reported on the Commissioners' Committee Meeting on Contingency Planning for the 2013 Primary and Runoff Primary Elections which was held on January 3, 2013. Mr. Savino reported that the Committee reviewed the following potential options:

- **Option A** – Conducting Primary and Runoff Primary Utilizing the Poll Site Voting System
- **Option B** – All Paper Ballot Runoff Primary (No New Scanners Having Been Procured)
- **Option C** – Use Lever Voting Machines
- **Option D** – Labels on the Ballot
- **Option E** – Instant Runoff
- **Option F** – Citywide Office Primary on the Last Tuesday of June; Other Offices and Runoff in September
- **Option G** – Eliminate the Runoff

- **Option H** – Candidate “A” and Candidate “B” Appearing on the Ballot

Mr. Savino reported that the Committee unanimously directed Board Staff to move forward researching Option E - Instant Runoff and Option H - Candidate “A” and Candidate “B” Appearing on the Ballot. Commissioner Araujo stated that both of these options would require additional voter education outreach. Mr. Savino explained that the Instant Runoff option would require statutory authorization and pre-clearance under Section 5 of the Voting Rights Act. The Board would program the poll site scanners to recognize the first choice allowing the Board on Election Night to know how many first choice votes each candidate received. If a candidate received at least 40%, no additional voter choices in that contest would be canvassed manually. If no candidate received 40%, the Board would manually separate all ballots by candidate. The Board would then manually canvass or use a newly certified central count scanner to count the second choice, third choice, etc., until a winner is determined. Each contest would be counted separately. This option allows the Board to use the poll site scanner on Election Day and potentially the central count scanner to aid in sorting and counting for the Runoff. Mr. Savino explained the Candidate “A” and Candidate “B” option. He stated that prior to the

Primary Election and in preparation for the Runoff Primary, Board Staff would print and test ballots with Candidate "A" and Candidate "B" printed in place of actual candidate names. This would provide for any combination of possible Runoff Primary candidate names. For the Runoff Primary, poll workers would give voters specially marked cards to take into the privacy booth. The cards would indicate the name of the actual candidate represented by the pre-printed Candidate "A" and the name of the candidate represented by the pre-printed Candidate "B" based on the results of the Primary Election. Mr. Savino reported that the Committee also requested that the New York City Law Department explore the option of commencing a declaratory judgment proceeding in NYS Supreme Court to seek a judicial determination as to how the Board should proceed given the conflicting statutory requirements relating to the runoff. Commissioner Araujo stated the Board's 2012 Legislative Package suggests either a late June or early July Primary Election date. Secretary Soumas stated that the date of the Primary Election needs to be moved up. He stated that the current law potentially violates the federal MOVE Act. Commissioner Polanco stated that if Board Staff worked 24 hours a day, 7 days a week, after the Primary to set up and test the voting machines for the Runoff Primary, it would take 19 days to complete the work. The work cannot be

accomplished within 14 days. He stated that the law is impractical. Mr. O'Grady stated that approximately 3,000 voting machines have to be set up and tested for the Runoff Primary. Commissioner Polanco stated that if the Primary Election is moved to late June or early July it would be very beneficial to the parents and children in public schools. He stated that strangers would not be voting around the students because school would be closed for the summer. Commissioner Polanco stated that it would be a positive decision among the politicians to move up the date of the Primary Election. Mr. Savino reported that the Committee also directed Board Staff to send a revised letter to the NYS Legislature concerning the issues discussed with the 2013 Primary and Runoff Primary Elections. Commissioner Araujo suggested for Board Staff to schedule appointments with the Governor's Office and the Chairs of the Assembly and Senate to discuss these issues and options. President Umane stated that ultimately these potential options need to be acted on by the Legislature.

Mr. Savino reported on the Hearings relating to Independent Nominating Petitions for the February 19, 2013 Special Election in the 31<sup>st</sup> Council District, Queens County. He stated that Mr. Richman recommended Tuesday, January 29, 2013 at 1:30 P.M. before the regular

stated meeting. Commissioner Araujo moved to adopt the date for the Hearings. Commissioner Stupp seconded the motion, which was unanimously adopted.

Mr. Sattie reported on the military absentee ballots for the February 19, 2013 Special Election in the 31<sup>st</sup> Council District, Queens County. He stated that there is an issue printing and mailing these ballots. According to the law, military absentee ballots have to be mailed out 45 days prior to the election, but the election was called 45 days prior to the election. The last day to file petitions is January 15, 2013. Mr. Sattie requested permission to start printing the military ballots on January 16, 2013 and to mail out the ballots at the military voter's request immediately. Mr. Sattie confirmed that all candidates will appear on the ballot. Ms. Sandow stated that the Board's Ballot Proofing Team will review the ballots before they are mailed. Commissioner Araujo moved to adopt Mr. Sattie's request. Commissioner Stupp seconded the motion, which was unanimously adopted.

Mr. O'Grady requested authorization for staff to combine districts for the February 19, 2013 Special Election in the 31<sup>st</sup> Council District, Queens

County. Commissioner Araujo moved to approve Mr. O'Grady's request to combine districts. Commissioner Stupp seconded the motion, which was unanimously adopted.

In Mr. Ward's absence, Mr. Luisi reported on the Comparative Expenditures Reports dated December 25, 2013 and January 8, 2013, and the Vacancy Report dated January 1, 2013. Copies of the reports are in the agenda.

President Umame recognized Robert Josman, a member of the public, who stated that he worked as an AD Monitor for the November 6, 2012 General Election. Mr. Josman was concerned that he would not get paid because he could not visit some of his normal poll sites due to re-routing directions given by the Manhattan Office. He asked for clarification of the Commissioners' ruling for AD Monitors. President Umame stated that the Commissioners did not rule on AD Monitor pay yet. He stated that the Board will review each of those circumstances to determine if there were issues or events that prevented AD Monitors from visiting their poll sites. President Umame stated there was a small percentage of AD Monitoring Reports that were completed for the 2012

Primary so the Commissioners created a new rule. Ms. Sandow stated that due to the Governor's Executive Order and Hurricane Sandy a lot of AD Monitor Teams were sent off their normal routes. She stated that there are many AD Monitor Reports to be reviewed by staff.

Secretary Soumas requested to grant an advance of 250 hours of sick leave hours for John Wolf, a Project Coordinator in the Executive Office. Ms. Delayo stated that Mr. Wolf is qualified for the advanced time because he has worked more than 10 years at the Board. President Umane seconded the motion, which was unanimously adopted.

President Umane recognized Shauna Denkensohn, a representative of the NYC Campaign Finance Board (CFB), who reported that the CFB is back in their normal office. She thanked the Board for loaning them tables and chairs for their temporary office which was due to Hurricane Sandy. Ms. Denkensohn reported that the CFB is currently contacting Community Boards for voter outreach for the Special Election in Queens. The CFB will be meeting with QPTV to set up a debate. They are also creating online Voter Guide in five (5) languages, will holding voter registration drives and will be sending email blasts. Ms. Denkensohn requested for an updated list

of poll sites for the CFB's Poll Site Locator App. Ms. Sandow reported that Board Staff has been surveying the private poll sites in Queens County that were affected by Hurricane Sandy and the Mayor's Office is currently surveying the City poll sites. Ms. Sandow stated that the poll site list will be emailed to the CFB once it is updated.

Commissioner Sipp moved to convene an Executive Session to discuss personnel and investigation matters. President Umame seconded the motion, which was unanimously adopted.

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

- I. The Commissioners voted to pay every AD Monitor who worked the November 6, 2012 General Election unless there are reasons found not to pay them;
- II. Steven H. Richman, the General Counsel in the Executive Office, received a salary increase of \$25,000 effective immediately.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, January 15, 2013 at 1:30 P.M.