

MEETING OF THE BOARD OF CANVASSERS,
HEARINGS ON PRIMA FACIE MATTERS, AND THE MEETING
OF THE COMMISSIONERS OF ELECTIONS
IN THE CITY OF NEW YORK
HELD ON TUESDAY, AUGUST 27, 2013
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Frederic M. Umane
 Secretary Gregory C. Soumas

Commissioners Naomi Barrera, Julie Dent, Maria Guastella, Michael Rendino, Simon Shamoun

Michael J. Ryan, Executive Director
Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Raphael Savino, Deputy General Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez, Director, Communications & Public Affairs
Thomas Sattie, Associate Staff Analyst, Ballots/Candidate Records Unit
Debra Leible, Coordinator, Election Day Operations
Giacomo Kmet, Contract Attorney, Office of the General Counsel
Anibal Luque, Contract Attorney, Office of the General Counsel
Gregory Lehman, Chief Clerk, Manhattan Office
Abigail McGloster, Administrative Assistant, Manhattan Office
Kenneth Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Kate Doran, LWV
 Juana Reyes
 Dennis Reyes
 Joanne De La Cruz
 Marjorie Shea, LWV

Monica Bartley, CIDNY
James D. Spencer
Cathy Gray
Keen Berger, District Leader 66 AD

President Umane called the meeting to order at 1:37 P.M.

Pursuant to the provisions of Title 2 of Article 9 of the New York State Election Law, President Umane called the meeting of the Board of Canvassers in the City of New York to certify Amended Statements and Returns of Canvass for some Offices in New York County and the Amended Recapitulations of those affected contests which cross county boundaries in the November 6, 2012 General Election. President Umane designated Commissioner Shamoun of Kings County to serve as the other Republican Member of the Canvassing Board. Secretary Soumas designated Commissioner Barrera of Bronx County to serve as the other Democratic Member of the Canvassing Board. President Umane provided background information and asked the Chief Clerk and Deputy Chief Clerk for New York County to brief the Commissioners on their recent actions and the basis for the meeting of the Board of Canvassers.

Mr. Lehman, Chief Clerk, and Ms. McGloster, on behalf of the Deputy Chief Clerk, presented their report to the Commissioners. Mr. Lehman stated that Manhattan Office staff identified that there was a Voter History shortfall. Staff examined and researched approximately 52,000 affidavit ballot envelopes to verify that Voter History was correctly applied in the computer system. During the recanvass, staff found that 58 ballots were found inside affidavit ballot envelopes. Those affidavit ballots have been tallied. Mr. Lehman stated that he received the approval of the Manhattan Commissioners to recanvass and that all affected candidates were notified of this matter. The recanvass was conducted yesterday in the Manhattan Office.

Mr. Lehman and Ms. McGloster presented their prepared and signed Amended Statements and Returns of Canvass for the General Election conducted in New York County on November 6, 2012, for the affected public offices to the Canvassing Board for review and approval. Mr. Lehman and Ms. McGloster confirmed that the results presented are accurate and correct. All provisions of the New York State Elections Law and the Board's adopted Policies and Procedures were complied with. There were no discrepancies. Based on that report, Secretary Soumas

moved to certify the Amended Statement and Returns of Canvass for the General Election conducted in New York County on November 6, 2012 for the public offices set forth therein. President Umame seconded the motion, which was unanimously adopted.

Mr. Richman called the list of offices that were voted upon at the November General Election in New York County and all or part of more than one other County within the City of New York that are affected by the Amended Certification:

- Electors for President/Vice President of the United States;
- United States Senator;
- Representative in Congress for the:
 - 10th CD – Kings and New York Counties;
 - 12th CD – New York, Kings and Queens Counties;
 - 13th CD – New York and Bronx Counties;
- Member of the New York State Senate for the 29th Senatorial District – Bronx and New York Counties.

On behalf of the Candidate Records Unit, Mr. Sattie submitted and confirmed that the Amended Recapitulation Statements and Returns of

Canvass accurately and correctly reflect the Amended Statements and Returns of Canvass for each contest as certified and amended by the Canvassing Board. Based on that report, Secretary Soumas moved to approve and adopt the Amended Recapitulation Statements and Returns of Canvass for the General Election conducted on November 6, 2012, for those offices listed by Mr. Richman. President Umane seconded the motion, which was unanimously adopted.

President Umane moved to authorize the use of the designated Commissioners' signature stamps on each of the Recapitulations. Secretary Soumas seconded the motion, which was unanimously adopted.

President Umane moved to adjourn the meeting of the Board of Canvassers. Commissioner Dent seconded the motion, which was unanimously adopted.

President Umane noted that Commissioner Dent joined the meeting.

Mr. Richman called the Hearings on Prima Facie Matters for the September 10, 2013 Primary Election. He presented the CRU Prima Facie

Report for Bronx County. There were appearances by the candidate and and/or their representative which is noted on the CRU Prima Facie Report on file at the Board. Commissioner Barrera moved to adopt the CRU Prima Facie Report for Bronx County. Secretary Soumas seconded the motion, which was unanimously adopted. Mr. Richman reported that under the NYS Election Law, this disqualification by the Board triggers the ability for the Committee to fill vacancies to make another substitution. The statute allows ten (10) days after the disqualification or four (4) days prior to the Primary Election. This creates problems with respect to making changes to the Ballot Marking Devices (BMDs) and scanners. Last year, the Board argued that this type of change would make it impossible to reprogram BMDs and scanners before an election, but it is not as complex to make changes to the lever voting machines. Mr. Richman recommended for the Board to advise the Committee to fill their vacancies by Friday, August 30, 2013 by 12:00 Midnight which would fulfill the spirit of the NYS Election Law. Commissioner Barrera moved to adopt Mr. Richman's recommendation. Secretary Soumas seconded the motion, which was unanimously adopted. Mr. Richman stated that a notice will be sent to the Committee via USPS Express Mail.

Commissioner Barrera moved to adopt the minutes of the August 6, 2013, August 13, 2013 and August 20, 2013 meetings. Commissioner Dent seconded the motion, with Commissioner Guastella abstaining on the August 13, 2013 and August 20, 2013 meetings. The motion was adopted. Commissioner Guastella noted that she abstained because she was not present at those meetings.

Mr. Richman presented issues regarding names of Independent Bodies for the November 5, 2013 General Election under Sections 6-138(3) and 7-106(11) of the NYS Election Law. A copy of his memorandum is in the agenda. Mr. Richman summarized his report. President Umane moved to adopt Part 1 – Names Exceeds 15 Characters. Secretary Soumas seconded the motion, which was unanimously adopted. President Umane moved to table items #1 and #2 in Part 2 - Names Conflicting with Statutory Requirements or Other Parties & Independent Bodies for one (1) week. Commissioner Rendino seconded the motion, which was unanimously adopted. President Umane moved to adopt items #3 through #7 in Part 2. Commissioner Rendino seconded the motion, which was unanimously adopted. Notices will be issued to enable each of the candidates to select a name in conformance with the provisions of the NYS

Election Law.

President Umane reported that a Challenge to a Voter's Registration and a Request for Declination will be added to the end of the agenda.

Ms. Leible presented the Poll Worker Exception Reports for Manhattan, Bronx, Queens and Staten Island. Copies of the report were distributed to the Commissioners. Ms. Leible reported that Brooklyn did not have any poll worker exceptions. Secretary Soumas stated that he has not reviewed Manhattan's Poll Worker Exception Report. Mr. Lehman presented the report and recommended for the Manhattan Commissioners to approve Manhattan's Report. President Umane moved to adopt the Poll Worker Exception Reports for Manhattan, Bronx, Queens and Staten Island. Commissioner Dent seconded the motion, which was unanimously adopted.

Mr. Sattie presented the Objection Ledgers for Independent Nominating Petitions. Copies of his report were distributed to the Commissioners. Mr. Sattie reported that one (1) Specification of Objection was filed. President Umane moved to change the time of the Hearings to

1:30pm on Tuesday, September 3, 2013, instead of 10:00am. Commissioner Dent seconded the motion, which was unanimously adopted. Notice will be posted on the Board's website.

Mr. Ward presented the Vacancy Report dated August 27, 2013. A copy of the report is in the agenda.

President Umane recalled that two (2) additional items were added to the agenda:

1. Challenge to a Voter's Registration
2. Request for Declination

President Umane opened the floor for James D. Spencer, a member of the public, who challenges a voter's registration. Mr. Spencer reported that he has resided at his current address, 70 West 93rd Street, Apt. 22C, for over 42 years and he started to receive Board of Elections mail for a voter named Neo S. Core. This voter has never resided at his address. Secretary Soumas requested for Board staff to get copies of the voter registration forms for 70 West 93rd Street. President Umane placed this item on seconded call.

Commissioner Rendino requested to add two (2) Bronx personnel matters for Executive Session.

Commissioner Shamoun reported that he received a declination request from a County Committee candidate in Brooklyn. He stated that Anne Bergamini is an 88 year old candidate who did not give consent to be placed on the ballot and requested to be removed from the ballot. President Umane stated that it is beyond official time remove a candidate from the ballot, but the Board has been generous in the past to remove a candidate, if requested, and if it is not for a public or senior office. Commissioner Shamoun requested to remove Anne Bergamini's name from the ballot for County Committee per her request. President Umane seconded the motion, which was unanimously adopted.

President Umane opened the floor for comments and/or questions from Alan Flacks, a member of the public.

President Umane recalled the Challenge to a Voter's Registration matter. Secretary Soumas reviewed the voter registrations forms for 70 West 93rd Street. He found that voter Linda Walker lives in Apt. 22D who

changed her name to Neo S. Core. There is a typographical error by Neo S. Core who listed her apartment number as 22C, instead of 22D, on her voter registration form. Secretary Soumas moved to amend Neo S. Core's voter registration form changing Apt. 22C to Apt. 22D. President Umane seconded the motion, which was unanimously adopted. Mr. Spencer withdrew his Challenge to a Voter Registration.

President Umane opened the floor for comments and/or questions from Keen Berger, a member of the public.

In response to Ms. Berger's concerns about the poll worker exam failure rate, Mr. Ryan stated that staff received Ms. Berger's complaint last week and has looked into the matter. Mr. Ryan stated that he was informed by staff that there were two (2) confusing questions on the poll worker test which many poll workers answered incorrectly. Staff determined to give poll workers credit for those two (2) confusing questions retrospective which would be communicated through the proper channels. All tests will be re-canvassed. This change would make the passing grade at 18 questions. Mr. Ryan stated that an outside consulting company developed the poll worker exam for this odd election year which uses lever

voting machines for the Primary Election and electronic voting machines for the General Election. This credit would solve approximately 90% of the testing failures. Mr. Ryan stated that staff will recanvass the poll worker test moving forward. He stated that the Board cannot put on an election in two (2) weeks without poll workers. President Umane stated that he was concerned about changing the scoring of the test. Mr. Ryan stated that one (1) test was created to fit two (2) voting systems. The alternative was to give one (1) test for the Primary and one (1) test for the General. The two (2) confusing questions were either right if it concerned lever voting machines, or right if it concerned electronic voting machines. President Umane asked if staff changed the policy of testing. Mr. Ryan stated that the policy did not change and that staff is still operating under the guidelines. President Umane inquired if the full Board established a certain percentage score in the past. Mr. Savino stated that there were poll worker training reforms which were presented in the Board's Testimony to the NYC Council, but there was no vote by the Commissioners on a specific scoring number. Mr. Ryan stated that the Minutes were reviewed and it does not reflect a specific scoring number. He stated that Board staff would not have come to this recommendation if there was a specific scoring number. Staff recommended reducing the poll worker test from 20

questions to 18 questions seeking the full Board's approval. President Umane stated that the Commissioners could ratify the staff's recommendation for this election cycle only. Mr. Richman stated that it would be valid until July 14, 2014. President Umane stated that there is justification that the poll worker test was unfair, but is still very leery and wants to ensure that the Board has qualified poll workers. He does not want to reduce the qualification standard and noted that the Board has had trouble recruiting qualified poll workers in the past.

President Umane opened the floor for questions and/or comments from Catharine Gray, a member of the public.

Secretary Soumas stated that in light of the fact that there was some state of confusion between lever voting machines and scanners in this odd election year, he moved to ratify the actions of the employees in this regard for this election cycle only. Commissioner Shamoun seconded the motion with President Umane abstaining. The motion was adopted. President Umane clarified that this only concerns regular poll workers; not Coordinators, Door Clerks, Interpreters, or Information Clerks.

President Umane opened the floor for comments and/or questions from Cecelia Berkowitz, a member of the public.

Commissioner Barrera moved to convene an Executive Session for purposes of personnel. Secretary Soumas seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed and President Umane reported the following action taken in Executive Session:

- I. The Commissioners ratified an agreement between the CWA Local 1183 Union and two (2) Republican Voting Machine Technicians in the Bronx Office, Antonio Melendez and Kevin Richardson, who signed waivers in lieu of a Disciplinary Hearing. Antonio Melendez was placed on one (1) year probation, effective today, and he was suspended for one (1) month without pay which already occurred. Kevin Richardson was suspended for five (5) days without pay which already occurred.

Commissioner Dent moved to adjourn the meeting. President Umane

seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners will be held on Tuesday, September 3, 2013 at 1:30 P.M.