

MEETING OF THE COMMISSIONERS OF ELECTIONS
IN THE CITY OF NEW YORK
HELD ON TUESDAY, MAY 7, 2019 AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President John Wm. Zaccone
 Secretary Patricia Anne Taylor

Commissioners Jose Araujo, Miguelina Camilo, John Flateau,
Michael Michel, Simon Shamoun, Tiffany Townsend, Frederic M. Umane

Michael J. Ryan, Executive Director
Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Georgea Kontzamanis, Operations Manager
Steven H. Richman, General Counsel
Raphael Savino, Deputy General Counsel
Valerie Vazquez, Director, Communications & Public Affairs
Steven Guglielmi, Director, Personnel
Thomas Sattie, Associate Staff Analyst, Ballot Management
John Naudus, Manager, Electronic Voting Systems
Kenneth Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Charisse Tompkins
 Marcy Boucher
 Amanda Ritchie, Brooklyn Voters Alliance
 Julie Kerr, Brooklyn Voters Alliance
 Monica Bartley, CIDNY
 Patricia Nolan, BVA
 Kate Doran, LWV
 Katharine Loving, CFB
 Brigid Bergin, WNYC
 Doug Israel, BMCC
 Amanda Melillo, CFB
 Kati Garrity

Susan Lerner, Common Cause NY
Jarret Berg, Vote Early NY
Bonnie Nelson, BVA

President Zaccone called the meeting to order at 1:40 P.M.

Commissioner Araujo moved to adopt the April 25, 2019 minutes. Commissioner Umane seconded the motion, which was unanimously adopted.

Commissioner Araujo moved for the full Board to adopt the April 26, 2019 minutes for the Commissioners' Committee Meeting. Commissioner Michel seconded the motion, which was unanimously adopted.

Commissioner Araujo requested to add the Commissioners' Ballot Committee review and suggestions to the agenda.

President Zaccone added the Commissioners' Ballot Committee suggestions and ballot approval to the agenda.

Mr. Sattie presented sample ballot layouts for the June 25, 2019 Primary Election for New York County, Queens County, Kings County, and Richmond County. Copies of the sample ballot layouts were distributed to the Commissioners for review. Mr. Sattie reported that there are no contests in Bronx County and there are no crossover contests. President Zaccone requested to table the presentation of the sample ballot for New York County until Commissioner Townsend is present. Mr. Sattie provided an overview of the Ballot Committee's proposed sample ballots for Brooklyn, Queens, and Staten Island. The proposal follows:

- Brooklyn – 19”, 12 point font, portrait, single page ballot;
- Queens - 17”, 12 point font, portrait, single page ballot;
- Staten Island – 19”, 12 point font, portrait, single page ballot;

There are Democratic and Republican contests in Brooklyn, Queens, and Staten Island. The Brooklyn and Staten Island ballots are 19” long due to the lengthy Delegate to the Judicial Convention and Alternate Delegate to the Judicial Convention contests. Queens and Staten Island have a traditional ballot layout. Brooklyn has an untraditional ballot layout due to two (2) countywide contests and lengthy Delegate to the Judicial Convention and Alternate Delegate to the Judicial Convention contests. It was noted that contests are required to fit wholly on one page. The Delegate and Alternate Delegate contests would be whole on the alternate

side of the ballot. If all Brooklyn contests and write-in boxes are placed on one side of the ballot, the font size would greatly decrease. After discussion, Commissioner Araujo moved for the full Board to adopt the Commissioners' Ballot Committee Report on proposed ballot layouts for Kings County, Queens County, and Richmond County for the June 25, 2019 Primary Election as presented. Commissioner Taylor seconded the motion. Before a vote was taken by the full Board, Commissioner Flateau requested more time to review all options and requested for copies of all Brooklyn sample ballot layouts. Commissioner Shamoun requested for all permutations of Brooklyn's ballot to be emailed to both him and Commissioner Flateau. Commissioner Araujo moved for the full Board to adopt the Ballot Committee's Report on proposed ballot layouts for Queens County and Richmond County for the June 25, 2019 Primary Election as amended. Commissioner Umame seconded the motion, which was unanimously adopted. Commissioner Umame moved to designate the Brooklyn Commissioners Committee to determine the layout of the Kings County ballot at a later date. Commissioner Flateau seconded the motion, which was unanimously adopted.

President Zaccone noted that Commissioner Townsend joined the meeting.

Mr. Sattie provided an overview of the sample ballot layouts New York County for the June 25, 2019 Primary Election. There are only Democratic contests and they are not countywide. Due to the lengthy Delegate to the Judicial Convention and Alternate Delegate to the Judicial Convention contests, there are various sample layouts for Manhattan. One option would be to place the Delegate and Alternate Delegate contests on the reverse side of the ballot, but in some districts, there would be no contests at all on the front side. On the front blank side, terminology that was approved in the past, would be printed stating, "This page is intentionally left blank" which includes arrows to flip over the ballot to the contests. Another option is to split the Delegate and Alternate Delegate contests on either side. Commissioner Townsend requested for copies of all New York County sample ballot layouts and requested for more time to review all options. Commissioner Townsend moved to designate the Manhattan Commissioners Committee to determine the layout of New York County's ballot at a later date. Commissioner Umane seconded the motion, which was unanimously adopted. Mr. Naudus requested a determination for Kings County and New York County ballots by tomorrow afternoon. The deadline to mail the military and absentee ballots for the June 25, 2019 Primary Election is Friday, May 10, 2019. After the

Election Day ballots are created, samples will be posted on the Board's website in approximately two (2) weeks.

Commissioner Flateau requested for a hard copy of the May 14, 2019 Special Election ballot.

Mr. Ryan reported that the New York City Council will be conducting their Fiscal Year 2020 Executive Budget Hearings on Friday, May 17, 2019. Mr. Ryan requested authorization to prepare Testimony and to attend the Hearing. Commissioner Umame moved to authorize Executive Management to prepare Testimony and to attend the City Council Fiscal Year 2020 Executive Budget Hearings on Friday, May 17, 2019. Commissioner Townsend seconded the motion, which was unanimously adopted.

President Zaccone noted that Mr. Richman joined the meeting.

Mr. Ryan provided an overview of the New York City Council Committee on Governmental Operations Oversight Hearings concerning Early Voting implementation and poll site interpretation which was held on Tuesday, April 30, 2019. Some highlights of the Hearing follow:

- Mr. Ryan and Ms. Sandow provided the Board's Testimony;
- Mr. Richman provided information on the Asian-Indian Language Assistance Program;
- Mr. Ryan provided the City Council with the Board's timeline of Early Voting history starting from January 24, 2019 when the bills were passed into law;
- Mr. Ryan clarified the Board's request to the State Board about the requirements of Section 7-106 (1) of the New York State Election Law;
- Mr. Ryan reported to the City Council that there was significant misinformation from the Press being disseminated to the public about the procurement of new election machines. He clarified that the Board is in the process of evaluating Ballot on Demand (BOD) systems within the City's Procurement Policy Board (PPB) Rules;
- Mr. Ryan reported that Electronic Poll Book vendors have been making presentations for Executive Management and staff. All vendors were given a survey by both the City Board and State Board, and staff is currently reviewing the replies to make recommendations to the Commissioners. He clarified that the State Board allowed the City Board to start the procurement

process of Electronic Poll Books prior to State Board's approval, with a clause It will be an authorization, not a certification, by the State Board;

- Mr. Ryan was clear to the City Council that there was no infrastructure in place to support Early Voting and there is a long step-by-step process to implement it;
- A total of \$14.7 million dollars was appropriated by New York State to be divided amongst the sixty-two (62) counties for Electronic Poll Books. The State Board is in the process of developing a methodology to distribute funds based on the number of voters. There is an additional to \$10 million dollars in an aid to localities funds which will be apportioned by the State Board. The City will provide funding to the locality and then the State will reimburse the City;
- Mr. Ryan reported that based on conference calls with numerous Early Voting jurisdictions, it is recommended for the Board to have a separate Early Voting Unit;
- Concerning poll site translation services, Mr. Ryan discussed Senate Bill 4036-A and Assembly 6075 which were both introduced on February 26, 2019. The Board questioned how it gets administered and under what authority. There may be

equal protection litigation in the event the Board volunteers a service for a particular group in a specific district which may cause the validity of an election. The issue of City Charter vs. State Law was discussed.

Mr. Ryan reported on the New York State Board of Elections (State Board) guidance for New York City Campaign Finance Board (CFB) electronic voter registrations. He forwarded an email to the Commissioners on April 25, 2019 regarding Local Law 238 and attached the conflicting opinions received from the State Board concerning the legality of Intro 508-A, now Local Law 238. Mr. Ryan provided a brief overview of the matter. Intro 508-A became Local Law 238 in December 2017 regarding the establishment of the CFB as an entity to establish an online voter registration portal allowing for electronic signatures. Prior to the passage of Intro 508-A, the City Board sent a letter to the State Board in December 2017 and received conflicting opinions of the legality of Intro 508-A (Local Law 238). In January 2019, the City Board received a letter from the CFB. The City Board sent a subsequent letter to the State Board in March 2019 for clarification and again received conflicting opinions from the State Board of the legality of Intro 508-A (Local Law 238). The projected implementation date of CFB's online portal is scheduled for June 16, 2019

and the City Board has to make a determination of how to proceed. It was noted that the City Board is bound by and administers elections pursuant to the New York State Election Law. After discussion, there was a general consensus for Executive Management to consult with the Office of the General Counsel and report back with a recommendation of alternatives available to the Board in two (2) weeks. President Zaccone requested for the memo to be emailed to the Commissioners the Friday before the Commissioners' Meeting. Commissioner Araujo requested for Executive Management to have discussions with the CFB about their website and to report back with an analysis.

Mr. Ryan provided an update on the May 14, 2019 Special Election in the 45th Council District in Kings County. The information follows:

- There are a total of 94,053 eligible voters;
- 28 poll sites will be opened;
- 121 Election Districts (EDs) with 78 combined EDs will be reporting results;
- Amount of equipment to be deployed:
 - 67 Scanners;
 - 30 Ballot Marking Devices (BMDs);
 - 78 Supply Carts;

- 308 Privacy Booths;
- 467 Chairs;
- 128 Tables;
- Total of 1,078 pieces of equipment;
- 103% of poll workers are assigned to work;
- All supplies necessary were delivered by May 3, 2019;
- According to the Court System's Administrative Transfer Order, two (2) judges will be assigned to the Brooklyn Office at 345 Adams Street, splitting shifts from 7:00 A.M. – 2:00 P.M. and 2:00 P.M. – 9:00 P.M.

Commissioner Araujo moved to convene an Executive Session for personnel and pending litigation matters. President Zaccone seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed. President Zaccone reported that one action was taken and will be reported at a later date.

The following personnel action was taken by the unanimous decision of the Board of Commissioners in Executive Session at the April 16, 2019 meeting:

- I. The promotion of Audy Ledan to Computer Specialist, Software Level IV, effective April 21, 2019, in the MIS Department with an annual salary of \$102,624.00.

President Zaccone recognized Bonnie Nelson, a member of the Brooklyn Voters Alliance, who spoke about Early Voting.

President Zaccone recognized Julie Kerr, a member of the Brooklyn Voters Alliance, who spoke about Electronic Poll Book funding and Early Voting.

President Zaccone recognized Kate Doran, a representative of the League of Women Voters, who inquired about posting Early Voting poll sites on the Board's website.

President Zaccone recognized Susan Lerner, a representative of Common Cause, who spoke about New York State's Open Meetings Law.

President Zaccone recognized Jarret Berg, a representative of Vote Early NY, who spoke about an Early Voting Unit, wet signatures and online voter registration.

President Zaccone moved to adjourn the meeting. Commissioner Michel seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners will be held on Tuesday, May 14, 2019 at 1:30 P.M.