

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MARCH 9, 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, Schacher, Sipp, Soumas, Stupp, Umane

George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
John Ward, Finance Officer
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
Daniel Lavelle, Supervisor, Phone Bank
Michael Kinara, Associate Director & Project Manager, Gartner
Steve Monahan, Senior Director, Gartner
Tom Sattie, Associate Staff Analyst, Candidate Records Unit
John O'Grady, Chief, Voting Machine Technician
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Keith McGinnis, NAZTEC
Sal Pazhoor, NAZTEC
Todd Mullen, NAZTEC
Jerry Koenig
Alan Flacks, Member of NY County Democratic Committee
Carol Green, DCAS
Rima McCoy, CIDNY
Mary Lou Urban, LWVNYC
Alexander M. Dillon, DOI

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

Commissioner Umane moved to approve the minutes of February 9, 2010 and February 16, 2010. President Dent seconded the motion, which was adopted unanimously.

Commissioner Araujo asked to discuss a Queens personnel matter for Executive Session.

The Deputy Executive Director presented the HAVA update. He reported that the Board staff is continuing to upgrade the current Ballot Marking Devices (BMDs). As of this morning, ES&S has installed the new operating and firmware on 835 BMDs. The Board staff has downloaded codes on 689 BMDs, and has recorded and verified the codes on 457 BMDs.

Mr. Gonzalez presented the project status update via PowerPoint presentation for the Commissioners. He distributed hard copies of the New Pollsite Voting System (PVS) Implementation Project - Project Status Update for March 2010 to the Commissioners. Steve Monahan and Michael Kinara, Gartner Consultants, assisted with the presentation. After the presentation, the Commissioners raised various questions. President Dent inquired if there will be a mass mailing to the public to educate them

on the new voting system in September. Ms. Vazquez-Rivera reported that as part of the public education plan, there will be one (1) dedicated mailing to registered voters on how to mark the ballot and use the Ballot Marking Device (BMD). She added that there will be only one mailing due to the budget, but the Board also relies on good government groups, elected officials, and community groups to spread the word. Commissioner Sipp inquired if the Board is behind in any areas of the implementation. Mr. Gonzalez replied that the Board is on schedule, but will notify the Commissioners if they fall behind schedule. Commissioner Araujo inquired if the workstreams can provide the Commissioners with updated summary reports and what they intend to implement in the coming weeks. Mr. Gonzalez replied yes and he will give another PowerPoint presentation in two (2) weeks. Ms. Grimaldi, Manager of Electronic Voting Systems, reported that the workstreams and the Steering Committee meet on a weekly basis, and the Chief Clerks and Deputy Chief Clerks' workstream meet once on a month. If a workstream needs direction, they contact the Steering Committee. The ultimate decisions of the workstreams are made by the Commissioners. Commissioner Stupp suggested for the Board to consult with another state that implemented the new voting system for guidance. President Dent inquired if the workstream leads meet together to ensure that their work coincides with each other and are on schedule.

Ms. Grimaldi replied that the leads meet once a month to discuss their work.

Ms. Vazquez-Rivera presented the Public Education overview to the Commissioners. She distributed copies of the Status of the Public Education Program Reports to the Commissioners. Ms. Vazquez-Rivera summarized the creative development for the public education advertisements and webpage, meetings with advocacy and disability community groups, and public outreach planning. President Dent suggested that the Board's new voting system to be more visible in the public education advertisements and suggested more space between the voters on line to ensure privacy. Ms. Vazquez-Rivera stated that she will incorporate her recommendations for the final ad.

On behalf of the Commissioners, President Dent thanked the staff for presenting their reports. She encouraged the workstreams to keep up the good work.

Mr. Gonzalez added an additional item to the agenda. He reported on the New York State Bill No. A01308. The bill authorizes the board of elections to employ election inspectors to work half-day shifts with adjusted

compensation; county boards of election shall prescribe the necessary rule and procedures to ensure proper poll site operation. He distributed copies of the legislation to the Commissioners.

Mr. O'Grady presented the privacy booth selection. He distributed copies of the 2010 Privacy Booth Selection Process Report and the 2010 Privacy Booth Updated Evaluation Report to the Commissioners. He noted that he emailed the reports to the Commissioners last Friday. Commissioner Araujo inquired if the cost of the privacy booth has changed since last week. Mr. O'Grady replied no. Commissioner Stupp inquired if all add-ons for the New York City requirements are included in the price. Mr. O'Grady replied that all thirteen (13) add-ons are included in the price. Commissioner Umane inquired about the possible use of folding tables and cardboard privacy displays. Mr. O'Grady stated that he looked into that possibility. The plastic tables would be light in weight and beige in color, with cardboard privacy displays on top. He found that they save space at some poll sites. Commissioner Schacher inquired if the tables are sturdy. Mr. O'Grady replied yes and added that the tables are ADA compliant. He stated that the cardboard privacy cut-outs fold flat and save space at the Voting Machine Facilities as well. Mr. Richman noted that the main concern of the HAVA Pilot Project, which was presented at the Winter 2010

ECA Conference, was the lack of privacy by voters marking their ballots. The privacy booths should have greater distance and protection, so the voters cannot look over their shoulders. Commissioner Sipp stated that at the Special Election in Staten Island, voters had complaints about privacy issues with the cardboard privacy cut-outs. Mr. O'Grady stated that a privacy table can hold up to eight (8) voters – four (4) on each side. Commissioner Barrera was concerned about the voters' privacy because it would be difficult to prevent another voter from looking over another's shoulder. Also, it would be hard to ensure that the poll workers will monitor everyone at the poll site. Mr. O'Grady stated that the privacy tables are lower than the privacy booths. President Dent stated that the privacy booth issue has been discussed for approximately seven (7) weeks and thinks the Commissioners should vote today on which privacy booth will be used. Secretary Polanco stated that he does not feel comfortable voting today and would abstain from the vote. Mr. O'Grady stated he was presented with poll site drawings and it was found that the folding tables with the cardboard privacy cut-outs on top would take up less space than the privacy booths. Secretary Polanco added that he was concerned about NAZTEC's price change. Mr. O'Grady confirmed that his and Gartner's notes from the NAZTEC presentation on November 20, 2009 stated that the privacy booths were clearly \$160 each. Now that NAZTEC are on the

OGS contract the booths are \$230 each. Mr. O'Grady stated that the NAZTEC privacy booth was presented with the added items, except the lights and serial numbers. Commissioner Stupp inquired that if the Commissioners vote for the folding tables with cardboard privacy cut-outs, would they require the add-ons as discussed with the privacy booths. Mr. O'Grady stated that privacy sleeves and pens would be required, but lights would be another issue.

Commissioner Umame moved to select the NAZTEC privacy booth on the OGS contract. President Dent seconded the motion. In a roll call vote of: three (3) in favor (President Dent, Commissioners Barrera and Umame), no opposed, and six (6) abstaining (Secretary Polanco, Commissioners Araujo, Soumas, Schacher, Sipp, Stupp), the motion was not adopted.

Secretary Polanco requested for the Board's workstream to conduct a study on the feasibility and cost on the folding tables with the cardboard privacy cut-outs.

President Dent opened the floor for the NAZTEC representatives – Todd Mullen, Keith McGinnis and Sal Pazhoor. Mr. Mullen stated that NAZTEC started the process with Board three (3) months ago and they are

deeply sorry that there was a misunderstanding with the price. He stated that NAZTEC is a trusted vendor, but there was a misunderstanding with the cost and then extra cost for being added on the OGS contract. Mr. Mullen added that the workstream chose the NAZTEC booth because it is the easiest for the poll worker. President Dent thanked the NAZTEC representatives for speaking before the Commissioners, but the vote has been taken and it stands.

Mr. Gonzalez reported on the ED Supply Cart selection. He emailed the Commissioners information regarding the supply carts last week. Mr. Gonzalez stated that the Board used the lever machines to hold the Election Day supplies, but there will have to be a new cart since new voting systems will be implemented. One (1) supply cart is required for each Election District – 7,331 supply carts are needed at a cost of \$490 each. He requested to proceed with the purchase of the supply cart. Mr. Gonzalez had staff present the supply cart to the Commissioners. Commissioner Soumas inquired if there were other choices. Mr. Gonzalez stated that the workstream reviewed approximately seventeen (17) supply carts. Commissioner Araujo raised concerns that the Commissioners have to vote today, but they only received the information via email on Friday. The Administrative Manager stated that the other supply carts that were

reviewed did not meet the requirements to transport all Election Day supplies to the poll sites. President Dent inquired how the Board will transport the cardboard privacy cut-outs to the poll sites. Ms. Perkins replied that the workstream will have to look into that matter. Secretary Polanco stated that the Commissioners should have different choices of supply carts to review. Commissioner Araujo stated that he would have liked for the supply cart to be presented to the Commissioners before the Commissioners' meeting so they would have time to make a decision. He added that there were numerous public demonstrations for the new voting system. Mr. Gonzalez stated that the supply cart presented today meets the specifications for the Board. President Dent stated that the Commissioners understand that the workstreams narrow down the choices and they know it is a tight timeline, but they want to do their best to make sure that they choose the best supply cart with excellent durability. Commissioner Umane stated that the workstream might have chosen the best cart, but some Commissioners might have some other ideas or suggestions. Commissioner Schacher stated that the workstream had a process to select the supply cart and feels that the Commissioners should not fight their choice. Commissioner Sipp stated that it bothers him that the Board is not making much progress since the selection of the new voting system. The process of being forced to change the voting machines has

made all tasks difficult for the Board. He expressed that he does not feel this will benefit the voters of the City of New York. Commissioner Stupp requested that she would like to see the cart fully supplied and would like a private information session for the Commissioners. President Dent stated that the Commissioners have to make time to discuss certain items in private before presenting to the public. She understands that the Board staff works very hard, but the Commissioners cannot make a decision in the short time at a Commissioners' meeting; it takes too long to review at a meeting. Commissioner Soumas requested for a public demonstration of the supply carts. President Dent recalled Commissioner Stupp's previous inquiry. She inquired if all of the Election Day supplies fit in the cart. Mr. Gonzalez stated yes and he apologized that he did not give the Commissioners enough time to review the supply cart. President Dent inquired if the staff can set up the supply carts for a public demonstration. Mr. Gonzalez replied yes.

Mr. Gonzalez reported on the draft Commissioners' Agenda. He stated that some Commissioners requested for the entire agenda packet to be emailed to the Commissioners before the meeting, so all information is available. Mr. Gonzalez requested guidance on the documents that should be emailed to them. Commissioner Araujo suggested including all action

item documents, except for the newspaper articles and FYI's. The Commissioners agreed.

Mr. Gonzalez added an item to the agenda concerning legislation. Mr. Richman reported on Bill No. A01308. The bill authorizes the board of elections to employ election inspectors to work half-day shifts with adjusted compensation; county boards of election shall prescribe the necessary rule and procedures to ensure proper poll site operation. The Office of the Governor is seeking comment, if the Commissioners choose to, by the close of business on Friday. Commissioner Araujo felt that it is a good idea. Mr. Richman stated that the bill would be at discretion of the Board. Ms. Perkins stated that she would like input from the Chief Clerks and Deputy Chief Clerks on this bill as well. President Dent stated that was a great idea. Secretary Polanco inquired if the Board received any resumes for the position of the Executive Director this week. Mr. Gonzalez replied no. Secretary Polanco requested a meeting with the Human Resources Committee so that they can discuss the ideas he received from the good government groups. Secretary Polanco moved to take a position that would empower the Board to make a decision in favor of the Governor signing Bill No. A01308. Commissioner Araujo seconded the motion. The

motion was adopted, with Commissioners Sipp and Soumas abstaining, and Commissioner Umane opposing.

The Deputy Chief Clerks of the Bronx Borough Office reported on the write-in votes for the April 21, 2009 Special Election for Bronx Borough President. Ms. Sandow stated that she received a complaint from Phil Donahue regarding his vote for Bronx Borough President dated April 21, 2009. With thorough review of their records, they found that 33 voters signed the poll list book and 33 votes cast on the machine. Upon further review, they found an additional write-in vote on the machine. Based on the facts, the Deputy Chief Clerks requested guidance from the Commissioners on how to proceed. Secretary Polanco stated that this seems unexplainable and since this person was a former Board employee he would like to discuss this matter in Executive Session. Secretary Polanco moved to discuss this issue in Executive Session. Commissioner Barrera seconded the motion, which was adopted unanimously.

The Finance Officer presented the Comparative Expenditures dated March 9, 2010.

President Dent opened the floor for Sal Pazhoor, Chief Executive Officer of NAZTEC. Mr. Pazhoor requested for the Commissioners to reconsider their previous vote on the privacy booth.

President Dent moved to convene an Executive Session to discuss personnel and litigation matters. Secretary Polanco seconded the motion, which was adopted unanimously.

Following the Executive Session, the open public meeting resumed and President Dent reported that in Executive Session, the Commissioners took the following personnel and litigation actions:

- I. Albert Childs, a Queens Voting Machine Facility employee, is hereby terminated as of close of business today. A recommendation was made by the Queens Commissioners who held a disciplinary hearing to which he did not appear. It was adopted unanimously.
- II. Upon consideration and review conducted by the Bronx Deputy Chief Clerks, the Commissioners determined that there was no basis to change the certified Statement and Return of Canvass for the April 21, 2009 Special Election for Bronx Borough President as adopted by the Board of Canvassers. The motion

was adopted unanimously.

Commissioner Araujo moved to adjourn the meeting. Commissioner Barrera seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, March 16, 2010 at 1:30 P.M.