

THE MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JULY 13, 2010
AT 1:30 P.M.
42 BROADWAY, 7th FLOOR EXECUTIVE UNIT
NEW YORK, NY 10004

PRESENT: President Julie Dent
Secretary Juan Carlos "J.C." Polanco

Commissioners Ryan, Schacher, Sipp, Soumas, Stupp, Umame

George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
Dorothy Delayo, Director, Personnel
John Ward, Finance Officer
Valerie Vazquez-Rivera, Director, Communications
Daniel Lavelle, Associate Staff Analyst
Troy Johnson, Coordinator, Candidate Records Unit
Lucille Grimaldi, Manager, Electronic Voting Systems
Beth Fossella, Coordinator, Voter Registration
Kate Nowadly, Law Student Summer Intern
Ted Anastasiou, Law Student Summer Intern
Jeremy Fredericksen, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Charles Webb, III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Marjorie Shea, Women's City Club
Kate Doran, LWV
Rima McCoy, CIDNY
Tom McNeil
Stewart Armstrong, VAC
Barbara Taylor
Alex Voetsch, NYDLC
Matthew Day, New York State Senate
Alan Flacks, Member of NY County Democratic Committee

President Dent called the meeting to order at 1:43 P.M.

Commissioner Schacher moved to approve the minutes of the June 1, 2010 meeting. Commissioner Stupp seconded the motion, which was adopted unanimously.

Commissioner Umane requested to add an administrative matter to the agenda.

Mr. Gonzalez presented the HAVA update. He summarized the status for scanners as of July 12, 2010. A copy of the report was distributed to the Commissioners. Mr. Gonzalez noted that he will keep the Commissioners updated on the status of equipment.

Mr. Gonzalez reported on a letter that he received last week from Michael A. Cardozo, Corporation Counsel. A copy of the letter is in the agenda. Mr. Cardozo requested a meeting with Executive Management and Anthony Crowell, Counselor to the Mayor, to discuss the Board's plans with respect to planning for the election. Mr. Gonzalez informed the Corporation Counsel that has to receive guidance from the Commissioners.

President Dent suggested for the Commissioners to attend the meeting as well. Commissioner Soumas moved for the Executive Committee, Mr. Gonzalez and Ms. Vazquez-Rivera to attend the meeting and to brief Mr. Cardozo and Mr. Crowell on the Public Education Campaign. Commissioner Umane seconded the motion, which was adopted unanimously.

Commissioner Umane stated that the Board has met with the staff members of the Mayor's Office on numerous occasions. There is a list of tasks that they promised to assist the Board with such as website development. He recommended for staff discuss those important items as well. Mr. Gonzalez stated that he will notify the Corporation Counsel's Office today to schedule a meeting date and time.

Mr. Gonzalez reported on the CBOE Transition Certification Map and Opscan Certification status. Copies of the certification map and Opscan certification status are in the agenda. In May 2010, the State Board asked the City Board to provide the certification by July 23, 2010. Mr. Gonzalez asked the Commissioners to review this item so it can be discussed at the next meeting.

Commissioner Umane reported on an administrative matter. He stated that the Board is entering into the petition cycle and there are some concerns that the senior members are of one (1) party and there is no sufficient oversight. Commissioner Umane moved for Troy Johnson, Coordinator of the Candidate Records Unit, to be included in all senior management discussions concerning the petition process and to act as a surrogate in the Executive Committee for processing the new voting machines. Commissioner Schacher seconded the motion, with Commissioner Soumas abstaining. President Dent noted that Commissioner Sipp has joined the meeting and Commissioner Ryan will be arriving shortly. The Commissioners decided to table the issue until he arrived.

Ms. Perkins reported on the meeting with the New York City Police Department (NYPD) which was held on July 7, 2010. In attendance were Ms. Perkins, Mr. Richman, Mr. Owens and Mr. Thompson. She recalled that there were a series of meetings to prepare for the upcoming election cycle. The main focus of this meeting was to discuss the training that the Board will be providing for the NYPD Election Officers in August 2010. Mr. Richman presented a very thorough update on New York State legislation concerning the unused ballots to the NYPD. Ms. Perkins

reported that when they discussed the content of the training, the NYPD requested for the specific focus to be on the opening of the polls, roving Board staff members in the field, and the role and responsibility of the NYPD at the poll site during the day. They requested training materials to review and would like the Board to work with the NYPD Training Officers. The NYPD provided several tentative dates in August for the training. Mr. Richman added that the NYPD Legal Bureau contacted him yesterday requesting a written summary concerning the new legislation for Commissioner Kelly.

President Dent noted that Commissioner Ryan has joined the meeting.

President Dent convened a Democratic Caucus.

After the caucus, President Dent thanked the staff and public for their time and patience. She stated that they will revisit Commissioner Umane's motion since all Commissioners are present now.

Secretary Polanco stated that the motion is an attempt to create a sense of bi-partisanship at the Board at this crucial time.

Commissioner Soumas stated that he would like to change his previous vote from abstaining to opposing.

In a roll call vote, with five (5) in favor (Polanco, Schacher, Sipp, Stupp, Umane); two (2) opposed (Ryan and Soumas); and one (1) abstention (Dent). The motion was not adopted.

Mr. Richman reported on the newly enacted State legislation amending the New York State Election Law. A copy of his memorandum and the bills are in the agenda. Mr. Richman summarized Chapters 155, 163, 164, and 165 of the Laws of 2010. He noted that the bills have been circulated to all of the Board's Executive Office unit heads, the respective Borough's Chief and Deputy Chief Clerks and the members of the Steering Committee for the implementation of a new poll site voting system in 2010.

Mr. Richman reported that the Governor's Office has requested Board comments on Bill No. A7850. The bill provides that polling places, whenever practicable, shall be designated directly on a public transportation route. Commissioner Umane stated that historically the Board has designated poll sites that are most convenient for the voters, but may not be located close to public transit because in some areas it is not

available. The Board has found poll sites close to voters' homes. Bill No. A7850 could be an added burden and theoretically could cause the Board to designate a poll site further from voters' homes and might increase costs as well. Commissioner Soumas agreed that it would be a burden and moved to oppose the bill. Commissioner Umame seconded the motion, with President Dent and Commissioner Ryan abstaining. The motion was adopted.

Mr. Richman reminded the President and Secretary to designate two (2) Commissioners for the Cover Sheet Review Committee meeting on Thursday. President Dent reported that Commissioner Soumas will serve on the committee.

Mr. Johnson reported on the 2010 Primary Election petition filing. He distributed a "Candidacy Totals by Processed Date" report to the Commissioners. Mr. Johnson stated that the Candidate Records Unit has processed 3,232 candidates to this date.

Ms. Delayo presented the amendments requested for the Board's Policies and Procedures Manual. She distributed packets of the amended documents to the Commissioners. Ms. Delayo summarized the Overtime

Authorization Request form. She stated that it was designed from the DCAS form. President Dent inquired if a staff member has to receive approval on the form before they can work overtime. Ms. Delayo replied yes. President Dent clarified that a staff member's supervisor/manager has to grant approval of overtime before it is sent to Executive Management or Borough Chief and Deputy Chief Clerks. Ms. Delayo asked the Commissioners if staff has to fill out the form if there is an issued memorandum from Executive Management for mandatory overtime. President Dent recalled that the reason for the form was to ensure that whoever is working overtime is actually performing their duties. She stated that the supervisors and Executive Staff need to know what the staff members will be working on even if they are working mandatory overtime. Commissioner Ryan stated that there should be a space on the form to indicate voluntary or involuntary overtime. He added that it would be helpful for the timekeepers and audit purposes as well. Commissioner Ryan stated that there should be managerial approval whether or not it is mandatory overtime. Commissioner Sipp was concerned that some employees might decide to start working on a project at 5pm in order to receive overtime and wanted to know how it could be prevented. Mr. Gonzalez stated that in the past Executive Management approved overtime via email from the staff member's supervisor with an explanation

of the project that they were working on. He stated that Executive Staff developed a new detailed mechanism for the agency when the amount of overtime was questioned by the full Board. The new form will protect the agency and limit the use of overtime as described by Commissioner Sipp. Mr. Gonzalez stated that the staff does not have to fill out the form when it is mandatory overtime. Staff can attach the memorandum to their timecard which was issued by Executive Management. That procedure was already agreed to by the full Board. Mr. Gonzalez added that the old overtime form expires today. Commissioner Umane moved to adopt the revised Overtime Authorization Form with an amendment to include a space for voluntary and involuntary overtime which can be checked off. The form will be used as a way of keeping track of employee overtime and in the event when it is agency wide, staff will attach a copy of the mandatory overtime memorandum to their timecards instead of filling out the forms. President Dent seconded the motion, which was adopted unanimously.

Ms. Perkins agreed that the new form is a good tool, but clarified that the Board has always documented overtime. The requests for overtime were always questioned, approved and/or denied. President Dent agreed with Ms. Perkins. She and Commissioner Schacher always ensured that

overtime was documented by the Chief and Deputy Chief Clerks in the Brooklyn Borough Office.

Ms. Delayo presented the revised advancement of sick leave paragraph for the Board's Policies and Procedures Manual. She stated that there were discussions with rewarding staff with 210 hours of sick leave. Ms. Delayo worked with Mr. Richman developing the revised paragraph. Ms. Delayo recited the paragraph to the Commissioners. Mr. Gonzalez stated that problems arise when the employee has to pay back the time. He stated that payroll would deduct two (2) days pay per paycheck plus the individual's monthly accrual and it depends on how long the person has been working at the Board. Commissioner Ryan inquired if it is all leave balances from the take back. Mr. Gonzalez replied yes. Mr. Gonzalez clarified that payroll deducts two (2) days pay plus all monthly accruals until such leave balances are deposited. In addition, any time the employee takes off during the pay back schedule the employee loses the third day at Leave Without Pay (LWOP.) Commissioner Stupp inquired how the agency recoups the money if an employee leaves the agency. Ms. Perkins stated that the Board sends them a letter with the amount of money owed. Secretary Polanco suggested using a collection agency because people are stealing from the agency. Mr. Richman stated that the

Board could take action and sue the employee by contacting the New York City Law Department. Commissioner Umane asked the Commissioners Investigation Committee to research how other agencies take action in this situation. Commissioner Umane moved to adopt the revised advancement of sick leave paragraph for the Board's Policies and Procedures Manual. Commissioner Sipp seconded the motion, which was adopted unanimously.

Ms. Delayo presented the new directive on the technology page in the Board's Policies and Procedures Manual. She cited the new paragraph for the Commissioners. It states, "All Board of Elections staff is prohibited from bringing personal computers into any Board of Elections Office/Facility. An employee violating this policy is subject to disciplinary action." Commissioner Ryan recommended, "All Board of Elections staff is prohibited from bringing personal computers into any Board of Elections Office/Facility without authorization from the Office Manager." Ms. Perkins suggested a separate technology rule for the members of the public, especially during the petition cycle. Commissioner Umane stated that it may be difficult to make a rule because most people performing Specifications of Objections work are really reliant on their laptops.

President Dent recognized Teresa Hommel, a member of the public.

Mr. Gonzalez stated that many years ago when the Commissioners adopted the technology rule, they made it very clear that they did not want any members of the public plugging in their laptop or personal equipment in the Board's equipment. They did not want the possibility of a virus or for it to slow down the Board's computer system. Commissioner Umane stated that the persons should be allowed to use Wi-Fi for internet access, not the Board's network. Mr. Gonzalez stated that he and Ms. Perkins have received many phone calls from the Borough Offices where the members of the public demand to plug their laptops into the Board's system. President Dent recommended posting the policy onto the Board's website. Mr. Gonzalez stated that staff can post a sign at the Front Counters at each Borough Office as well.

President Dent recognized Alan Flacks, a member of the public.

President Dent recognized Barbara Taylor, a member of the public.

Commissioner Ryan moved to approve the new directive on the technology page in the Board's Policies and Procedures Manual as

amended. Secretary Polanco seconded the motion, which was adopted unanimously.

Ms. Delayo reported on the meeting with the Office of Management and Budget, New York City Law Department, Office of Labor Relations, Office of Payroll Administration, Department of Citywide Administrative Services and FISA concerning poll workers as City employees. She reported that the IRS directed this policy. Ms. Delayo stated that there was a lot of discussion, but no conclusion. The other agencies were very concerned with the manpower to enter over 30,000 poll workers information into the computer system. Mr. Richman stated that the poll workers will have to submit an I-9 form with a copy of their birth certificate or passport. Another area concern is the W-4 form. The withholding does not apply until the employee makes more than \$1,200 annual salary. The Board will have to review the poll workers' records. Mr. Richman stated that overtime and pensions were discussed as well. President Dent clarified that the Commissioners never asked or supported for this change, but they have to try to find a reasonable way to implement it. Mr. Richman added that a poll worker filed a complaint in 2008 and the IRS ruled on it this year.

President Dent recognized Teresa Hommel, a member of the public.

Commissioner Stupp questioned how this will work with the recruitment of poll workers. She inquired what documents the Board will have to give them. Mr. Richman stated it may be an I-9 form and a W-4 form. Ms. Perkins stated that given the timeframe the Board could only mail the poll workers the forms or distribute them at the training sites. Mr. Richman stated that the poll workers will have the option of either direct deposit or an EBT pay check card.

Mr. Gonzalez requested to table Mr. Thompson's item concerning the replacement of inoperable scanners on Election Day for one (1) week. Secretary Polanco moved to approve the request. Commissioner Ryan seconded the motion, which was adopted unanimously.

Ms. Vazquez-Rivera requested approval of the revised Information Notice. She distributed the notice to the Commissioners. Ms. Vazquez-Rivera noted that it includes all information consistent with the Public Education Campaign. She stated that she and her team had a meeting last week with the Brooklyn Center for the Independence, Common Cause, CIDNY, AALDEF and Citizens Union and they incorporated all of their recommendations. The additional cost for production is estimated at \$141,653 and the total cost for the revised mailing is \$717,180.53.

Ms. Fossella stated that the cost of postage is separate. Ms. Vazquez-Rivera requested approval on the production and printing of the revised Information Notice. Commissioner Umane suggested for the poll site information to be centered on the mailing. Secretary Polanco moved to approve the production of the revised Information Notice. President Dent seconded the motion, which was adopted unanimously.

President Dent recognized Marjorie Shea, a member of the public.

President Dent stated that the Executive body and Board staff works very hard to make sure that Primary and General Election Days will be easy for the voters.

Ms. Vazquez-Rivera presented the update on the Public Education Campaign and distributed a list of upcoming public demonstrations per borough, and the Estimated Costs for In-progress Tasks for mid-July through mid-August 2010 report to the Commissioners. She reported that there have been 53 public demonstrations to this date with 3,091 participants. Commissioner Soumas suggested for the Board to arrange a public demonstration on the floor of the City Council. President Dent agreed that it is a wonderful idea.

Ms. Vazquez-Rivera stated that last week Mr. Ward reported that there is a \$1 million rollover from OMB. There was originally a modification in the amount of \$3 million for public education; the Board used \$2 million. Ms. Vazquez-Rivera requested for approval to continue some ongoing tasks such as project management, creative production of the Public Service Announcements, implementation of the media buy, collateral materials, website development and trucks for mobile outreach. The estimate is \$201,000 to continue through mid-August. Ms. Vazquez-Rivera stated that Mr. Gonzalez will report on this item next week, but they could not wait for a decision until then. Commissioner Soumas moved to authorize these expenditures because they were earmarked funds from last year's Fiscal Year budget. Secretary Polanco seconded the motion, which was adopted unanimously.

Mr. Ward presented the Comparative Expenditures dated July 13, 2010.

Secretary Polanco moved to adjourn the meeting. Commissioner Umane seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, July 20, 2010 at 1:30 P.M.