MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, JUNE 7, 2011
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR COMMISSIONERS' ROOM
NEW YORK, NY 10004

PRESENT: President Juan Carlos "J.C." Polanco
                  Secretary Gregory C. Soumas

Commissioners Araujo, Barrera, Dent, Ryan, Schacher, Sipp, Stupp,
Umane

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Director, Campaign Finance Enforcement
Dorothy Delayo, Director, Personnel
Tom Sattie, Associate Staff Analyst, Ballot Coordinator
John Naudus, Senior Computer Programmer, EVS
Steve Ferguson, Director, MIS
Greg Lehman, Chief Clerk, Manhattan Borough Office
Beth Fossella, Coordinator, Voter Registration
Daniel Lavelle, Associate Staff Analyst, Phone Bank & Front Counters
Steven B. Denkberg, Counsel to the Commissioners
Charles Webb III, Counsel to the Commissioners

GUEST: Todd Urosevich, ES&S
           Jerry Amick, ES&S
           Teresa Hommel
           John D. Smith
           Zach Nathanson, for Assemblyman Brian Kavanagh
           Marianna Blume
           Marjorie Shea, Women's City Club
           Geneva Butts
           Kate Doran, League of Women Voters
           Cathy Gray
           Alex Camarda, Citizens Union
           A. Britton

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

Commissioner Schacher requested to discuss a Brooklyn personnel matter in Executive Session.

Secretary Soumas requested to discuss a Manhattan personnel matter in Executive Session.

Commissioner Araujo moved to adopt the minutes of the May 24, 2011 meeting. Commissioner Stupp seconded the motion, which was adopted unanimously.

Ms. Perkins reported on the New York City Council Testimony for the Executive Budget 2012. A copy of the Board's Testimony is in the agenda. She informed that Board staff arrived early, but the Hearing was behind schedule due to the NYC Department of Education (DOE) and NYC Department of Citywide Administrative Services (DCAS) testimonies. Ms. Perkins reported that the Council allotted Ms. Sandow only two (2) minutes to testify. They felt that the Chair was not respectful to the Board.

The Board was prepared to present a comprehensive testimony, but was not allowed.

President Polanco noted that Commissioner Sipp joined the meeting.

Ms. Perkins reported that Ms. Sandow questioned why she could not read the Board's Testimony like the other agencies did, but the Council said to sum it up. The Council had a few questions about the poll worker needs and Chair Brewer requested for a listing of certain contracts. Ms. Perkins noted that Chair Brewer requested this list at the City Council Hearing in March and she emailed it to Chair Brewer in April. Ms. Perkins noted that she gave the Chair a hard copy of the list at the Hearing.

President Polanco noted that Ms. Sandow joined the meeting.

President Polanco stated that all of the questions from the previous City Council Hearing were thoroughly answered in the Testimony. He stated that Board staff presented a successful summary. He thanked Mr. Richman and Mr. Ward for answering the Council's legal and finance questions very diligently. President Polanco thanked the Commissioners, Executive Staff and the Managers who attended the Hearing.

He recommended creating a summarized Testimony for the next Hearing. Ms. Perkins thanked the Managers for developing the Testimony. Commissioner Dent thanked President Polanco and Executive Staff for doing a wonderful job addressing the City Council. She agreed that it was a good idea to summarize the Testimony for future Hearings. Commissioner Dent reported that Chair Brewer indicated that she will read the Board's Testimony. Commissioner Schacher thanked the Commissioners, Executive Staff and the Managers for attending Hearing. She commended Ms. Sandow for doing a sufficient job answering the Council's questions.

In Mr. Ward's absence, Mr. Richman presented the Vacancy Report dated June 7, 2011. A copy of the report is in the agenda.

Mr. Sattie presented the ballot layout and design for 2011 and beyond. He distributed copies of sample ballots for the Primary and General Elections to the Commissioners. He noted that there is one (1) set of current statutorily compliant ballots and one (1) set of recommended ballots developed by the Ballot Design Workstream. The workstream consists of Mr. Sattie, Mr. Naudus, Mr. Richman, Mr. Owens and Ms. Guerrieri. Mr. Richman noted that there is a copy of the outline of

proposed statutory changes to improve the ballot in the agenda. Mr. Sattie reported that upon recommendation from the Commissioners, he held a meeting with the good government groups and members of the public last week to discuss their ideas for the ballot. He stated that they had great suggestions which were incorporated into the ballot's design. The incorporated suggestions follow:

- The instructions advising of the ballot instructions on the back of the ballot were moved to the top of the ballot;

- Lines were added to separate the instructions in the four (4) different languages;

- The ovals were moved to the top of the proposal questions instead of the bottom.

Mr. Sattie asked for the Commissioners' approval of the ballot's current layout and the recommendations by the Ballot Design Workstream for the Legislature. Mr. Sattie reviewed the General and Primary Election Day ballots for the Commissioners.

President Polanco noted that Commissioner Barrera joined the meeting.

Commissioner Umane noticed a confusing bolded line on the recommended Primary ballot. He stated that it could confuse the office and candidates. He suggested it be bold around the total office and candidate's name. Commissioner Umane noticed brackets in the candidate's boxes on the legal Primary ballot. Mr. Richman stated that the brackets are required and was used on the lever machines ballots. Mr. Richman recited Section 7-114 (2) of the NYS Election Law. Commissioner Schacher inquired about the missing "Vote for One" on the current legal Primary ballot. Mr. Richman stated that the current law only provides for two (2) or more. The scanner will alert the voter if they have overvoted. Commissioner Stupp stated that it is very important that the Commissioners review the revised ballots before they vote on them. Mr. Richman reported that the proposed statutory changes to improve the design and appearance of the ballot will allow for maximum flexibility when designing future ballots. Commissioner Sipp requested to view a Primary ballot with County Committee contests. Mr. Sattie replied that a ballot will be created for next week's meeting. Mr. Richman reported that the current legal ballot will be used this year. Commissioner Sipp moved to table the issue discussed concerning the current legal ballot for one (1) week. President Polanco seconded the motion, which was adopted unanimously. Commissioner Stupp asked about wrapping around to a third line for the General Election

ballot. Mr. Richman reported that it is a technical issue with the current system and there was a request for ES&S to fix it. Commissioner Araujo clarified that the recommended changes are broad enough to allow various stylistic possibilities. Commissioner Umane agreed to try to reduce the possibility of have a minor party under a major party on the ballot. He added that the term "largest possible size" concerning the text could create problems when designing the ballot.

President Polanco recognized Cathy Gray, a member of the public, who raised concerns about the length of candidates' names on the ballot in the NYS Election Law. Mr. Richman reported that the law concerns party names, not candidates' names.

President Polanco recognized Alex Camarda, a representative of Citizens Union, who recalled that the main complaint during the Primary Election was the size of the font. Mr. Richman reminded that if the font is still too small for some voters then they can use the Ballot Marking Devices (BMDs) that have the ability to enlarge the font on the ballot.

President Polanco noted that Commissioner Ryan joined the meeting.

President Polanco recognized Marjorie Shea, a representative of Women's City Club, who requested for the ballot instructions to be in common language. Mr. Richman stated that the ballot instructions are mandated by Section 7-106 of the NYS Election Law. He reported that this issue has been addressed in the Board's Legislative package and Testimony.

President Polanco recognized Cathy Gray, a member of the public, who recited a section of the NYS Election Law concerning the length of the candidates' name and ballot instructions.

President Polanco recognized Kate Doran, a representative of League of Women Voters, who recommended for the Board to be creative regarding the laws of the paper ballots. President Polanco requested for Ms. Doran to email the Commissioners with more information concerning that suggestion.

Commissioner Umane suggested for Mr. Richman to explain the outline of proposed statutory changes for the Commissioners. Mr. Richman recited and explained the outline of proposed statutory changes to improve the design and appearance of the Election Day ballot.

A copy of the outline is in the agenda. Commissioner Umane recommended amending the language for #2 (a). After discussion, Commissioner Sipp moved to change #2 (a) to, "Provide that the candidates' names and offices are printed in a uniform size." President Polanco seconded the motion, which was adopted unanimously. Commissioner Umane did not agree with #2 (d) because he felt that some voters with vision impairment may have trouble reading the ballot with shaded areas. Mr. Richman noted that the Board would not have to use #2 (d), but it would allow for maximum flexibility when designing the ballot. Commissioner Dent stated that the voters are the main objective and asked the good government groups and members of the public to comment on the shading issue.

President Polanco recognized Alex Camarda, a representative of Citizens Union, who supported the option of shading of unused portions on the ballot.

President Polanco recognized Geneva Butts, a member of the public, who inquired if it was a state requirement for the columns to be lined up by party. Mr. Richman reported that it is a requirement.

President Polanco recognized Teresa Hommel, a member of the public, who stated that there are different types of vision disabilities and asked the Commissioners to consider shading unused portions on the ballot.

Commissioner Stupp inquired if the ovals could be bolded. She reported that many voters requested for the oval to be darkened. Mr. Richman reported that it is a technical issue. The oval is as dark as possible now and if any darker it could be read as a vote by the scanner. Mr. Naudus reported that ES&S is working on that issue now for the future.

Secretary Soumas spoke with several good government groups and Mr. Sattie during the meeting and he reported a recommended revision for the ballot. They suggested adding a bold line on top of each individual office. Mr. Richman stated that the current statute does not allow that. President Polanco asked the good government groups and members of the public if they prefer the bold line on top of each specific office.

President Polanco recognized Alex Camarda, a member of Citizens Union, who supported the bold line on top of each specific office and a vertical bold line around the candidate's box.

President Polanco recognized Teresa Hommel, a member of the public, who supported a bold line around the candidate's box.

Commissioner Umane moved to recommend the proposed outline of statutory changes to improve the design and appearance of the Election Day ballot dated May 27, 2011, with amendments, to the Legislature. The amendments follow:

- The language for #2 (a) will be changed to, "Provide that the candidates' names and offices are printed in a uniform size;"

- To provide extra ballot columns for candidates who have qualified which is not the same as the original ballot positions;

- Do not include Section 7-104 which applied to machines and limits the number of independent bodies;

- Do not include Section 7-116 (6) which required rotation of the ballots on voting machines in primary elections.

President Polanco seconded the motion, which was adopted unanimously.

Commissioner Umane noted that he personally would not have included #2 (e) of the proposed changes.

Mr. Richman recited the outline for additional proposed statutory changes to improve the design and appearance of the Election Day ballot for a Primary Election. A copy of the outline is in the agenda. Mr. Richman noted that the additional consideration regarding Section 7-116 (6) has been withdrawn from the previous motion.   The Commissioners discussed #2 (e) which authorizes the printing of the party color on the front and back of the ballot in a manner that will still allow the ballot to be canvassed by the optical scanner. Mr. Richman reported that the party color applies to the six (6) recognized parties. He noted that the scanner only reads white paper. Commissioner Sipp inquired if the colors have been tested on the scanners yet. Mr. Naudus reported that they will avoid printing color on the first row because if any color is too close to an oval it will cause the ballot to reject. President Polanco inquired if there are any additional costs to print the ballots with different colors. Mr. Sattie replied no.   Commissioner Araujo moved to adopt the outline of additional proposed statutory changes to improve the design and appearance of the Election Day ballot for a Primary Election as amended.   Commissioner Schacher seconded the motion, which was adopted unanimously.

Mr. Richman reported on temporary additional staff for the Office of the General Counsel (OGC) during Fiscal Year 2011 for the 2011 Primary

and General Elections as well as the 2012 Presidential Primary related matters. A copy of his memorandum is in the agenda. Mr. Richman stated that pursuant to the Commissioners direction, the OGC contacted eleven (11) temporary legal staffing agencies and asked them to submit proposals. A total of five (5) agencies responded. Mr. Richman and Mr. Owens recommended Staffing Ease based on the dollar amounts and experience during the prior years. Mr. Richman asked the Commissioners for authorization to move forward. President Polanco noted that there is a typographical error in the attached March 29, 2011 minutes. The Assistant General Counsel line is funded for an annual salary of $75,000, not $175,000. President Polanco moved to amend the approved minutes of March 29, 2011. Commissioner Umane seconded the motion, which was adopted unanimously. A revised copy of the minutes will be re-posted on the Board's website. President Polanco inquired how much the Board spent in total last year on the temporary attorneys. Mr. Richman replied $88,000 from July 2010 thru February 2011. President Polanco recommended for the Board to hire two (2) permanent attorneys (one (1) Democrat and one (1) Republican) that could build experience throughout the petition process. Secretary Soumas stated that the City budgets salaries, but not contracts, which is the depravity of City's finance system. Mr. Richman reported that the Board requested to hire another attorney in

2005 to assist with the HAVA transition, but it was not approved by the City Council. He noted that the request has been in the Board's Testimony, but it has been ignored. President Polanco stated that there should be a Republican Assistant General Counsel to create bi-partisanship. Mr. Richman noted that Mr. Owens is a Republican Campaign Finance Enforcement Counsel. Commissioner Umane requested for Mr. Richman to ask PEAK Counsel and Staffing Ease for applicants. He suggested that the OGC to conduct interviews and select the best qualified attorneys. The Commissioners agreed. Commissioner Umane moved for the OGC to seek candidates from both PEAK Counsel and Staffing Ease and then make recommendations to the Commissioners. Commissioner Dent seconded the motion, which was adopted unanimously.

Mr. Richman reported on the application of Saint Bartholomew's Church to cancel its designation as a poll site for the 2011 – 2012 Election Cycle. A copy of his memorandum to the Commissioners is in the agenda. Under the law, the Board has to respond within twenty (20) days after such request is filed. Mr. Richman recalled that Saint Bartholomew's Church requested to cancel its designation last year, but it was denied. Secretary Soumas confirmed that there were eight (8) votes for the Democratic Primary Election, one (1) vote for the Republican Primary Election and

twenty three (23) votes for the 2010 General Election at Saint Bartholomew's Church. Commissioner Umane reported that there has been an issue of very limited number of applicable handicap accessible poll sites in the area around Saint Bartholomew's Church. Commissioner Umane moved to authorize the two (2) Manhattan Commissioners to delegate this matter. Secretary Soumas seconded the motion, which was adopted unanimously.

Secretary Soumas requested to add an item to the agenda concerning NYSVoter which was discussed last week. He had some questions on what changes the Board needs or has been proposed. Mr. Ferguson reported that he had a meeting with the State Board a couple of weeks ago and they discussed the current back-log as a batch process and what to do as a permanent solution moving forward on Felons, Deaths and Duplicates. It was proposed at that time to do a batch job for each of those large groups and then work on a method of the same groups. The State Board volunteered that they can have technical meetings on how to insert a pause into the State's process that will allow the City Board to do the bipartisan process while it is pausing then effect any changes from the process. Mr. Ferguson received an email from his counterpart from the State Board on Monday who requested a technical meeting to further

explore that process. He anticipates a telephone conference this week. Commissioner Ryan inquired if it will be a data dump from the State Board to the City Board. Mr. Ferguson replied that he anticipates a data dump. He recalled that a data dump was done in 2008 for duplicates. Commissioner Ryan asked which would be the biggest file. Mr. Ferguson replied Duplicates. Commissioner Ryan suggested for the City Board to process the biggest file first. Secretary Soumas asked how long the pause would be. Mr. Ferguson replied that the State Board's proposal was to allow the City Board as long as it takes to get through the process and sign-off. Mr. Richman stated that processing Duplicates is an intensive process because the City Board has to mail a Notice of Intent to Cancel to the voter. He suggested resolving the Felons and Deaths first because the information comes from the State. Commissioner Ryan stated that the process should accommodate removing as many people from the voter rolls prior to the next election cycle for a cost savings to the Board in terms of wasting funds on mailings. Secretary Soumas asked Mr. Ferguson to report on this matter next Tuesday. Ms. Sandow stated that the Board will start processing the Deaths and Felons first and she will request the lists from the State Board as soon as possible.

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

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

I. The Commissioners unanimously granted Palmerino "John" Sagnelli, a Clerk in the Brooklyn Borough Office, an extended leave in the amount of 210 hours from the Sick Leave Bank.

II. The Commissioners agreed to an allocation of temporary staff for the 2011 Election Cycle as set forth in the submission by Executive Management, as modified by adding a total of forty (40) temps in the Executive Office, effective immediately, with each Commissioner recommending four (4) temporary staff members.

President Polanco recognized Alan Flacks, a member of the public, who asked questions about the Board's Security Guard.

President Polanco moved to adjourn the meeting. Commissioner Dent seconded the motion, which was adopted unanimously.

The next stated meeting of the Commissioners is scheduled for Tuesday, June 14, 2011 at 1:30 P.M.