

THE MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, FEBRUARY 14, 2012  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR, COMMISSIONERS' HEARING ROOM  
NEW YORK, NY 10004

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PRESENT:       President Maria R. Guastella  
                  Secretary Frederic M. Umane

Commissioners Araujo, Dent, Polanco, Schacher, Soumas, Sipp, Stupp

Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Steven H. Richman, General Counsel  
John Ward, Finance Officer  
Raphael Savino, Director, Campaign Finance Reporting Enforcement  
Dorothy Delayo, Director, Personnel  
Valerie Vazquez, Director, Communications and Public Affairs  
Giacomo Kmet, Temporary Attorney, OGC  
Joel Bermejo, Temporary Attorney, OGC  
Charles C. Webb, III, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       A.B. Britton  
                  Kate Doran, LWV  
                  Stella Ma, AALDEF  
                  Liz Brown, for Council Member Gale Brewer  
                  M. Aronson  
                  Teresa Hommel  
                  Alan Flacks, Member of NY County Democratic Committee  
                  Stewart Armstrong, CFB  
                  Mariana Blume

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

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

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

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

- I. The Commissioners unanimously granted an advance of 176 hours of sick leave hours from the Sick Leave Bank for Ameriar Feliciano, a Clerk in the Brooklyn Office.

Commissioner Araujo moved to table the minutes of the February 7, 2012 meeting. The motion was unanimously adopted.

Mr. Richman reported on the proposed draft Recommended Revisions in the New York State Election Law for 2012. He recalled that they discussed this item at last week's meeting. Mr. Richman stated that

the Legislature announced a revised time table. The Legislature will try to complete the State Budget on or before March 22, 2012. Mr. Richman reported that he spoke with Assembly Member Michael Cusick, Chair of the Election Law Committee, about scheduling a date to conduct an Education and Information Day. Secretary Umane recommended deleting the June Primary bill from the legislative package because that matter has become political. He suggested moving the Primary to the second or third week in August due to the large amount of election work to be done by City Board Staff. That date would comply with the Federal MOVE Act. Secretary Umane suggested deleting the bill for minimum funding as well because he thinks that it would detract focus from the other bills. Secretary Umane moved to adopt the Recommended Revisions in the New York State Election Law for 2012 with the exceptions of the two (2) bills he opposed. Before a vote, there was discussion. Commissioner Polanco disagreed with Secretary Umane. He stated that the City Board has been pushing for a June 26, 2012 Primary date in the last two (2) legislative packages. Mr. Richman stated that for the last twelve (12) years the City Commissioners advocated for a Spring or June Primary Election. The Run-off Election would be conducted two (2) weeks later in a municipal election year. Commissioner Polanco stated that the City Board should not

withdraw the twelve (12) year proposal because it is currently political in Albany. He stated that the City Board has time restraints. Commissioner Polanco stated that the City Board should include the request for minimum funding as well because Ms. Sandow and Ms. Perkins continue to fight for at the City and State Hearings. Commissioner Umane stated that there is litigation regarding the boundary lines for redistricting and the City Board needs as much time as it can to conduct the Primary Election. Other issues include recertifying the scanners with pre-clearance. Commissioner Polanco asked Commissioner Umane if he would accept a friendly amendment to include a footnote describing why this year would be difficult considering the time constraints and redistricting, but that the City Board understands that in order to meet the Federal MOVE Act long term they need a June Primary. Secretary Umane stated that the City Board should only include what the Board wants this year and to include the request next year. Commissioner Araujo disagreed with Secretary Umane. He stated that the Commissioners have reviewed the proposals many times and they have decided that they would best suit the needs of the City Board. Commissioner Araujo recommended submitting the proposal as is with the dates as stated. Commissioner Polanco agreed with Commissioner

Araujo. Secretary Umane suggested for the Commissioners to vote on proposals #3 through #22 separately from proposals #1 and #2.

Secretary Umane moved to adopt the City Board proposals #3 through #22. Commissioner Araujo seconded the motion, which was unanimously adopted.

Commissioner Araujo moved to adopt the City Board's proposal #1 which relates to minimum funding. Commissioner Polanco seconded the motion. Before a vote, Commissioner Stupp asked Secretary Umane why he opposes the bill. Secretary Umane stated that there is no general support from the City Council and the Mayor for proposal #1 and it detracts from the other submitted proposals. Commissioner Polanco stated that many bills they submit do not get adopted from the City Council or the Legislature, but it is very important to the City Board's election budget. He stated that Board Staff has worked very hard preparing the figures for minimum funding for the election operations. Commissioner Polanco stated that it is the City Board's job to do the best thing for the voters of New York City. Mr. Richman stated that the minimum funding request would give the Board enough funds to cover the basic operations.

Secretary Umane and Commissioner Sipp opposed Commissioner Araujo's motion. The motion was adopted.

Commissioner Araujo moved to adopt proposal #2 which relates to a last Tuesday in June Primary date and a municipal run-off in September. Commissioner Dent seconded the motion, with four (4) in favor (Araujo, Dent, Guastella and Polanco) and four (4) opposed (Umane, Schacher, Sipp and Stupp). The motion was not adopted.

Mr. Richman asked the Commissioners for authorization to renumber the proposals. Commissioner Sipp moved to authorize Mr. Richman's request. Secretary Umane seconded the motion, which was unanimously adopted. Mr. Richman stated that the proposal will be submitted next week.

Secretary Umane reiterated his request from the previous meeting for the Office of the General Counsel Staff to develop some statutory revisions in the NYS Election Law which relate to the closing procedures and includes protecting the integrity of the ballot. He reminded staff to think "outside of the box." Secretary Umane asked the staff to review some of

his suggestions from the previous meeting. Commissioner Araujo agreed with Secretary Umane. He stated that there was a time when he and Commissioners Sipp, Polanco and Umane had a lengthy discussion in public session on this matter and it is very important to move forward with the request. Mr. Richman asked the Commissioners if other Board Staff can assist in developing these revisions. Secretary Umane stated that it is not limited to the Legal Staff.

Commissioner Polanco stated that he recently read a news article that the Nassau County Board uses the same scanners as the City Board. Ms. Sandow stated that the Nassau County Board uses one (1) scanner per Election District (ED). Mr. Richman stated that unless there is a discrepancy between the number of ballots shown on the public counter and their accounting, the Poll Workers just have to hit the close the polls button and sign the results tape which becomes their Return of Canvass. Mr. Richman stated that was one of his proposals for closing procedures that was submitted to the Commissioners in December. Commissioner Polanco inquired why New York City does not have one (1) scanner per ED. Mr. Richman stated that the Commissioners approved the legislative proposal to change the maximum amount of registered voters in each ED

so the City Board would not have to spend funds on additional scanners. Commissioner Polanco stated that the Nassau County Board has a more sufficient closing process. He requested to create a proposal to the City Council considering the total cost for NYC to move from the current system to one (1) scanner per ED. The total cost would include scanner transportation, storage space, et al. Ms. Sandow reported that the Nassau County Board has a total of 1,300 scanners, 1,060 EDs, and 400 poll sites. The City Board has a total of 3,642 scanners, 6,109 EDs, and 1,358 poll sites. Commissioner Araujo stated that storage space is a big issue in Queens and noted that they have to store the BMDs and Privacy Booths as well. Mr. Richman noted that there may be significant issues at some poll sites concerning electrical outlets and small locations. Secretary Umane stated that there will be some issues concerning this proposal and thinks this may be the “best” way under current law, but hopes there will be a way to use the new technology and PMDs. He asked staff to review his PMD and laptop suggestion from the previous meeting. Secretary Umane thinks rather than spending funds on additional scanners, it would be better spent trying to use the equipment to their utmost computer capacity which would be quicker. He stated that the City Board’s talented technical staff can assist with this proposal. Commissioner Araujo asked if Board



workstreams are currently investigating this matter. Ms. Sandow replied yes. Commissioner Sipp asked if the City Board can request to the City Council and suggest corrections to the State Board. Mr. Richman replied yes. He noted that the City Board could ask the vendor to add multiple public counter displays on the existing scanners so each ED would be reported that way which would improve the operation of the close of the polls. However, it would not allow for the PMD and laptop scenario. Ms. Sandow reported that the City Board will be conducting a second Pilot Program in Queens County which concerns the Election Night Results Reporting. There were some issues during the previous Pilot Program which will be addressed. Ms. Sandow stated that the Election Night Results Reporting workstream has been investigating different aspects such as using AD Monitoring Teams instead of NYPD Officers during Election Night Results Reporting. The workstream needs to discuss with the Legal Department on moving forward. Ms. Sandow noted that the NYPD will still be transmitting the unofficial results. Secretary Umame reiterated that the Board should use as much computer technology as possible on Election Night. Commissioner Sipp stated that the Poll Workers use scissors because the system does not cut the results tape itself. The system would have to be changed to physically cut the

tape in three (3) sections for the Poll Workers. Commissioner Sipp noted that the scissor is not an antiquated device; it is used for practical purposes. He stated that this system was forced upon the City Board. Commissioner Sipp stated that the law needs to be updated so the PMD can just be uploaded. If the law is not changed, then the City Board must request to City Council more funding to buy more scanners; one (1) for each ED. Commissioner Sipp stated that the City Board cannot make or change the law nor create or change its budget. Until the law is changed, the City Board will have to best address this issue. Commissioner Araujo agreed with Commissioner Sipp and stated that the City Board should include changes to the State law, changes in the system's software and hardware, and to seek additional funding if they cannot change State law. Commissioner Stupp stated that she preferred one (1) scanner per ED as discussed at last week's meeting. Secretary Umane suggested amending the law so that the City Board does not have to give the unofficial election results by ED on Election Night. Mr. Richman reminded that the Police Department has to be given custody of all Election materials at the close of polls which is under the current statute, but the City Board can modify that as well. Ms. Sandow raised concerns about Section 9-126 of the NYS Election Law concerning that issue. Commissioner Sipp

recommended for Board Staff to discuss the statute and procedures in a group workstream. Commissioner Sipp moved for the City Board to address the three concerns as discussed on a City, State and regulatory level. Commissioner Araujo seconded the motion, which was unanimously adopted.

President Guastella noted that Commissioners Dent, Stupp and Soumas joined the meeting prior to Executive Session.

Ms. Delayo reported on the extension of time to utilize excess annual leave. A copy of her memorandum is in the agenda. Ms. Delayo summarized her report and asked for the Commissioners' approval. Commissioner Araujo moved to adopt Ms. Delayo's recommendation concerning excess annual leave. Commissioner Stupp seconded the motion, which was adopted unanimously.

Mr. Ward presented the Vacancy Report dated February 14, 2012. A copy of the report is the agenda.

Commissioner Sipp moved to adjourn the meeting. President Guastella seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners is scheduled for Tuesday, February 21, 2012 at 1:30 P.M.