

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, MARCH 8, 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 Barrera, Dent, Ryan, Sipp, Stupp, Umane

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
John Owens Jr., Enforcement Counsel
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez-Rivera, Director, Communications and Public Affairs
Rachel Knipel, Coordinator, Language Assistance Program
Stephen Thompson, HAVA Training Specialist, EDO
Lucille Grimaldi, Manager, Electronic Voting Systems
Beth Fossella, Coordinator, Voter Registration
Nicholas Zimmitti, Associate Staff Analyst, EDO
Thomas Sattie, Associate Staff Analyst, Ballot Coordinator
Katherine James, Deputy Chief Clerk, Queens Borough Office
Gisela Mengler, Administrative Associate, Queens Borough Office
Charles Webb III, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Jerome Koenig
Marjorie Shea, Women's City Club
Paul Marks, NYC Law Department
Juan Michelen, for Assembly Member Kavanagh
Todd Urosevich, ES&S
Paul Griego, UA
Rima McCoy, CIDNY
Dave Seifman, NY Post

Kate Doran, LWV
John D. Smith
Teresa Hommel, Wheresthepaper.org
Alan Flacks, Member of NY County Democratic Committee

President Polanco called the meeting to order at 1:34 P.M.

President Polanco moved to convene an Executive Session to discuss a litigation matter. Commissioner Ryan seconded the motion.

Commissioner Dent requested to discuss two (2) Brooklyn personnel matters in Executive Session. She noted that she is presenting one (1) matter on behalf of Commissioner Schacher.

President Polanco moved to convene an Executive Session to discuss personnel and litigation matters. Commissioner Umane seconded the motion as amended, which was adopted unanimously.

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

- I. The Commissioners appointed Jason Garcia as a Voting Machine Technician in the Brooklyn Borough Office at a salary of \$30,088, effective March 9, 2011.

Commissioner Dent moved to approve the minutes of the January 18, 2011 meeting. Commissioner Stupp seconded the motion, which was adopted unanimously.

Commissioner Stupp recognized the Queens Deputy Chief Clerk Katherine James and Gisela Mengler, an Administrative Associate who works in the Voter Registration Department. Commissioner Stupp reported that in 2009, the Queens Borough Office received approximately 1,400 new voter registrations on a daily basis from a particular individual. These voter registrations were entered into the Board's AVID system, but about 10% of them were missing HAVA I.D. information; either the last four (4) digits of their social security number or a New York Department of Motor Vehicles (DMV) number. Commissioner Stupp reported that letters were generated to the prospective voters, but many were returned undeliverable. The letters produced a lot of telephone inquiries and visits to the Queens Borough Office by irate individuals claiming that the people

were not living at the address. Many people expressed concerns about identify theft. This matter was then brought to Executive Management's attention by the Queens Borough Office Managers. In 2010, the same individual delivered approximately 4,000 new voter registrations to the Queens Borough Office with the same outcome. Commissioner Stupp stated that she discussed this matter with Commissioner Araujo and they agreed that this issue should be referred to the Queens District Attorney's Office for investigation. President Polanco asked the Mr. Richman if this matter would be an individual request made by a Commissioner, or by a full vote of the Commissioners. Mr. Richman reported that a referral would be made upon a vote of the full Board. He indicated that the Queens District Attorney's Office has been very responsive concerning past referrals that the Board has sent them. President Polanco stated that this is a very important issue because identity theft is the number one (1) crime in America. President Polanco moved to send this referral to the Queens District Attorney's Office. Before a vote, there was discussion. Commissioner Umane asked if there is a particular party that would be involved in this matter. He stated sometimes this is done to aid petition gathering to try and get people's names in the Enrollment Books to make it appear they have valid signatures. Ms. Mengler reported that 99% of

these voter registrations are Democrat, and in some cases an identical name and/or date of birth was used to change the party's registration from an existing enrollment to a future Democrat. Commissioner Stupp clarified that the Board does not want to disenfranchise anyone who wants to be a registered voter, but she and Commissioner Araujo feel this matter merits investigation. President Polanco moved to send this referral to the Queens District Attorney's Office. Commissioner Stupp seconded motion, which was adopted unanimously. Mr. Richman stated that he will work with the Queens Borough Office and the District Attorney's Office concerning this matter.

Mr. Richman reported on the request by the Governor's Counsel for Board comments on pending legislation. A copy of the memorandum is in the agenda. He reported that Bill A-5698 has passed both houses of the New York State Legislature and is before the Governor for action by March 15, 2011. Bill A-5698 modifies the provision of the Election Law and the Public Officers Law in relation to Special Elections called by the Governor to ensure compliance with the Federal Military and Overseas Voter Empowerment Act known as the MOVE Act. Mr. Richman reported that the provisions of the Public Officers Law and the Election Law for

elections called by the Governor to fill vacancies in Members of Congress, the State Senate, and the State Assembly would change so that the Governor would now issue a proclamation for a Tuesday, no sooner than seventy (70) days, or later than eighty (80) days, after the issuance of the Proclamation rather than the current thirty (30) days. This would create a new election calendar for the Board to certify the ballot at least fifty-three (53) days before the election, thereby enabling the Board to mail Military Ballots to those voters in active military service forty-five (45) days before an election. Mr. Richman reported that this is the first step in addressing the problems that the Board called to the attention of the two (2) Chairs of the Legislative Committee. He recommended that the Commissioners authorize Board staff to urge the Governor to sign the Bill, but also use this opportunity to remind the Governor of the need to address this for the Primary and General Elections as well. Mr. Richman reported that party Certificates of Nominations would still be due ten (10) days after issuance of the Proclamation, and Independent Nomination Petitions would be due twelve (12) days after issuance of the Proclamation. The certification of the ballot would go from thirteen (13) days before the election to fifty-three (53) days so the Board can meet the requirements. The provisions for a Special Election have been paused to allow enough time to comply with

the Federal MOVE Act requirements, however, there would still be a ten (10) day registration cut off for new registrants. Mr. Richman reported that fifty-three (53) days from the seventy (70) days will give the Board enough time to conduct petition review and the hearing process, but with a twelve (12) day window, it would put a heavy burden on the Board's Borough Offices. In regards to litigation, once the ballot is certified, Military and Absentee ballots would be mailed as is and subsequent changes would not affect the validity of that ballot. When the Board has made a determination on who will appear on the ballot, the Military and Absentee ballots would be mailed. Subsequent court action would have that candidate appear on the Election Day ballots and would not be added to the Military ballots. The Board would post the ballot online in case it is requested. The subsequent court action would have to at least amend what the Board would mail after the date of the court action.

President Polanco moved to accept Mr. Richman's recommendation to provide positive comments on the pending legislation, ask the Governor to sign the legislation, and to include comments about the need to address this issue for the Primary and Special Elections. Commissioner Dent seconded the motion, which was adopted unanimously.

Mr. Richman reported that the Election Commissioners' Association (ECA) working group and the State Board started to modify the calendar concerning the Federal Move Act and related issues. The ECA group and State Board have identified over two-hundred (200) provisions of the statute that will have to be addressed. Mr. Richman reported that the ECA working group will hold its next meeting tomorrow. The State Board is anxious to complete the first draft for Judge Sharpe and the Department of Justice on April 1, 2011.

Mr. Richman reported that the first draft of legislative proposals for the NYS Election Law for 2011 was distributed via email to the Commissioners. He asked the Commissioners to review the proposals for discussion at next week's meeting. Mr. Richman stated that the proposals reflect the bills that were not passed last year and the initial discussions and directions that were given following the November election. Mr. Richman stated that there is a request to move the Primary Election to the last Tuesday in June.

Commissioner Dent asked Ms. Delayo if she received any new resumes as it relates to the position of the Executive Director. Ms. Delayo replied no.

Commissioner Dent asked Executive Management if there is a confirmed date and time that the Board will testify before the Committee on Governmental Operations. Ms. Sandow reported that the Board has been requested to testify concerning the New York City Council's Fiscal Year 2012 Preliminary Budget on Wednesday, March 16, 2011 at 11:15 A.M.

Mr. Thompson and Ms. Knipel presented the 2011 Poll Worker Budget. They distributed copies of the 2011 Poll Worker Budget report to the Commissioners. Mr. Thompson explained that they provided this report so that the Commissioners can understand the changes made for when the Board testifies at the Committee on Governmental Operations Hearing. Mr. Thompson advised the Commissioners of the following key changes:

- Reduced the number of Assistant Trainers from five (5) per class to two (2) per class. The total number reduced is from

380 to 88. In reducing the number of Assistant Trainers, there will be more time for one-on-one hands-on training of the new voting system. Also, reducing Assistant Trainers will allow for more control of the class.

- Eliminated ES&S Equipment Training Costs. Training to be conducted in-house for 2011.
- Reduced the duration of Inspector Classes from six (6) hours to four (4) hours. The reduction allows for the Board to conduct forty-four (44) simultaneous classes.
- Reduced number of AD Monitors teams from three (3) per AD to two (2) per AD.
- Reduced Coordinator and Inspector Pay to Attend Training. The reduced pay from \$100 to \$50.
- Reduced Election Day Bonus Pay for Coordinators and Inspectors. Reduced from \$100 to \$75.

Mr. Thompson informed the Commissioners that they are streamlining to give the Trainers a step-by-step guide of how they should be conducting the class rather than the broad categories given in the past. In last year's training plan, the Trainers had one hour and a half of BMD training and one hour and a half of scanner training. However, now those

timeframes will be narrowed down to provide them with the specifics they should be covering so that the poll workers are getting the information they need to get through a successful election. President Polanco was concerned about reducing the Trainers when the Board is still trying to transition the Poll Workers and the voters to this new voting system. Ms. Sandow advised President Polanco that this information is based on their feedback of the debriefing session with the Coordinators, AD Monitors, and Assistant Trainers. Mr. Thompson reported that he met with Borough Office staff on Friday and received their feedback on this report as well.

Mr. Thompson reported that they would like to retain an outside training consultant again as well as develop a Train-the-Trainer video so that the trainers have a clear idea of their responsibilities. Commissioner Sipp strongly requested for these detailed reports to be presented to the Commissioners for their review sooner. Mr. Richman advised that the purpose of this report is to recognize how much the Board has to identify to the New York City Council at their hearing. Commissioner Soumas stated that the Commissioners do not have to vote on this item today. He explained that the issue is how the Board spends

the funds that the NYC Council provides so that there is a need to formulate a response to it in the event the Mayor directs the Board back to the 2009 budget levels. Commissioner Dent stated that this issue is very important and should be included in the budget testimony. Commissioner Ryan agreed with Commissioner Sipp that this is an important matter and should have been presented to the Commissioners sooner. He added that the Board has to state what the Board needs in the testimony. Commissioner Ryan recalled that many poll workers complained about the long closing procedures. He stated that the Board could have less poll workers this year. Ms. Perkins indicated that Ms. Sandow noted that the 2010 bonus increase was due to the HAVA funds that are not available anymore. She added that the Borough Office Managers felt that the six (6) hour training class was too long. President Polanco inquired when the Board's Testimony would be completed for the Commissioners' review. Ms. Sandow replied that the draft will be completed by Monday. She clarified that staff took 2009 into consideration when developing the report, not 2010 due to the availability of the HAVA funds. Commissioner Ryan stated that should point should be highlighted in the Testimony. The Commissioners agreed that they will review the draft testimony on Monday.

President Polanco recognized Alan Flacks, a member of the public, who spoke about the work quality of the Trainers.

Ms. Grimaldi and Mr. Naudus reported on the Election Night Results Option which was discussed at a previous meeting. They distributed copies of the Election Night Results Option report to the Commissioners. Ms. Grimaldi stated that they worked with various Board departments, the NYPD and ES&S to develop a group of options as it relates to changing Election Night procedures. She reported that the EVS Department staff reviewed how to retrieve the results directly from the PMDs which was the original intention of an electronic voting system. Ms. Grimaldi reported that they reviewed how to streamline all of the manual processes that are involved, how to speed up transportation on election night, and control the receipt of all election materials, and if any changes have to be made to the computer systems. Mr. Naudus reviewed the report for the Commissioners. He reported that each scanning system has two (2) PMDs; a back up and a primary. When the polls are closed, a poll worker will remove the primary PMD and two (2) tapes will be printed. One tape will be given to the NYPD with the primary PMD and the other will stay at the Poll Site to be read by Poll Watchers. This process will be done

immediately after the polls are closed as opposed to when all the procedures are completed and then the materials are given to the NYPD at the end. The NYPD would just give the PMD and tape to the Borough Office facilities where teams will receive the PMD and read it for the election results, and then enter into the EMS system. At certain points during this process, the results will be transferred from the EMS system to another removable device and given to a Police Officer that will be at the Board's Borough Office. The NYPD's task would be to use their computer connected to their headquarters, One Police Plaza, to transmit the election results. The NYPD would modify their system to accept this new file opposed to the manual data entry they currently perform. The NYPD would use their system to send the results to the press and the Board. The Board's aim is to eliminate as much manual key entry work as possible by the NYPD. The only time EVS staff envisions a manual key entry is if a PMD cannot be read at the reading station. Ms. Grimaldi reported that the ED Tape and Summary Tape will automatically dispense when the poll workers close the polls. Mr. Naudus advised the Commissioners that EVS staff plans to review this process to see if it can be refined. Commissioner Sipp inquired if the Board would need more staff to perform these new procedures and if additional training would be

needed. Ms. Grimaldi stated that more staff would be needed and it would be a one (1) day class reminiscent of last year. Commissioner Dent clarified that these procedures discussed will be completed in a bipartisan matter.

President Polanco recognized Teresa Hommel, a member of the public, recommended for the ED results to be posted online immediately and questioned why the result tape takes an extended time to print.

Commissioner Sipp moved to adopt this new Election Night Results Option procedure as explained by Ms. Grimaldi and Mr. Naudus. Commissioner Stupp seconded the motion, which was adopted unanimously.

President Polanco inquired if any Commissioners will be attending the Committee on Governmental Operations Hearing on Wednesday, March 16, 2011. Commissioner Dent will be attending the Hearing with President Polanco.

Mr. Zimmitti reported on the changes made to the affidavit ballot envelopes. He distributed both the current and revised affidavit ballot envelopes to the Commissioners. Mr. Zimmitti reported that the affidavit information portion is now printed on the front of the envelope. In addition, the side with the opening flap contains the affidavit itself. He stated that he removed the type from the flap so that when it is opened in the Borough Office no vital information is ripped and lost. As advised by the State Board, all information remains the same, but it has been rearranged on the envelope to make it more user-friendly for the voters and Board staff. Mr. Richman advised that the State passed a law last year requiring that every affidavit envelope have a voter registration form. The revised envelope is in full compliance with the State requirement and it does not require pre-clearance. President Polanco moved to adopt the revised affidavit envelope as reported by Mr. Zimmitti. Secretary Soumas seconded the motion, which was adopted unanimously.

Mr. Ward presented the Comparative Expenditures report dated March 8, 2011. A copy of the report is in the agenda.

President Polanco recognized Marjorie Shea, a member of the public, who spoke about postage paid voter registration forms.

President Polanco recognized Alan Flacks, a member of the public, who spoke about the Queens voter registrations that are missing HAVA I.D. information.

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, March 15, 2011 at 1:30 P.M.