

HEARINGS RELATING TO INDEPENDENT NOMINATING PETITIONS
FOR THE NOVEMBER 8, 2011 GENERAL ELECTION AND
THE MEETING OF THE COMMISSIONERS OF ELECTIONS
HELD ON THURSDAY, SEPTEMBER 8, 2011
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: Secretary Gregory C. Soumas

Commissioners Araujo, Dent, Guastella, Schacher, Umane

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Raphael Savino, Director, Campaign Finance Reporting
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Valerie Vazquez, Director, Communications and Public Affairs
John O'Grady, Chief VMT, Voting Equipment Operations Unit
Stephen Thompson, HAVA Training Specialist, EDO
John Naudus, Manager, Electronic Voting Systems
Daniel Lavelle, Supervisor, Phone Bank and Front Counters
Robert Pataky, Administrative Associate, Queens Office
Giacomo Kmet, Temporary Attorney, OGC
James Barron, Temporary Attorney, OGC
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Natalie Dubovici
Michael Reich
Frank Bolz
Rima McCoy, CIDNY
Will Colegrove, NYC Council
A.B. Britton
Alan Flacks, Member of NY County Democratic Committee
Mariana Blume
John D. Smith
Marjorie Shea, Women's City Club
Alex Voetsch, NYDLC

Cathy Gray
Kate Doran, LWV
Joseph Garber, Civil Servant

Secretary Soumas called the meeting to order at 1:33 P.M.

Secretary Soumas announced that the Commissioners would conduct the Hearings relating to Independent Nomination Petition Matters for the November 8, 2011 General Election.

Secretary Soumas announced the procedures to be followed during the hearings.

Mr. Richman called the calendar for the Hearings.

Mr. Richman called the Queens Clerk's Report on Specification of Objections. There were appearances by candidates or their representative which are noted on the Clerk's Report on file at the Board. Secretary Soumas moved to adopt the Clerks' Report for Queens County. Commissioner Araujo seconded the motion, which was adopted unanimously. The Commissioners' determinations are reflected on the Clerk's Report acted upon.

Secretary Soumas moved to adjourn the Hearings relating to Independent Nomination Petitions for the November 8, 2011 General Election. The motion was adopted unanimously.

Secretary Soumas announced that Ms. Vazquez requested to add an item to the agenda concerning an analysis of Poll Worker recruitment.

Mr. Richman requested to add an item to the agenda concerning the ratification of the August 24, 2011 determination by the Executive Committee concerning 2010 Manhattan Poll Worker issues. He also requested to add an Executive Session to discuss a litigation matter.

Commissioner Dent requested to add a Brooklyn personnel matter to the agenda for Executive Session.

Commissioner Araujo requested for any items that require a vote by the full Board to be addressed as soon as possible. He stated that he has to leave the meeting early.

Mr. Savino requested to discuss a personnel matter in Executive Session.

Commissioner Schacher moved to table the minutes of the August 30, 2011 meeting. The motion was adopted unanimously.

Ms. Sandow presented a report on the New York City Police Department (NYPD) Meeting concerning the 2011 Primary Election which was held on August 30, 2011 at One Police Plaza. The Board staff in attendance was Ms. Sandow, Ms. Perkins, Mr. Richman, Mr. Savino, Mr. Barron, Mr. Kmet, Mr. Ferguson, Mr. Naudus, Ms. Sattie, Ms. Rudiano, Mr. O'Grady, Mr. Lehman, Ms. James and Mr. Pardon. Ms. Sandow stated that the NYPD top staff and Executive Management will track the opening and closing of the machines to ensure an accurate report. The police precinct staff that is assigned to data entry for the Return of Canvas will enter in their system all canvas sheets that are properly filled out and legible. The sheets that cannot be read or have not been added correctly will be entered into the system as zero's (0) for the respective Election District (ED) then be put aside. Each police precinct will keep a list of these sheets which they will forward to NYPD Headquarters. The Headquarters will forward the amounts to Executive Management on Election Night. After transferring the election results received from the NYPD system into the Board's S-Select system, MIS will produce a report of all zero (0) EDs which can be crossed checked with what the NYPD Headquarters

provides, so a determination can be made as to which were actual zeros, zero entries, and those that were questionable. Ms. Sandow reported that they discussed the method NYPD will send their result file that is produced from their system on Election Night. Each election event will be entered separately then two (2) separate result files which will be sent to the Board into the S-Select system. Ms. Sandow stated that they discussed the Special Elections as well. The Board labeled all supplies and equipment in the color blue for the Special Elections. The NYPD requested for the Return of Canvass to be in the color blue. In addition, there will be large blue circles to identify on Election Night. NYPD Captain Wallace instructed his commanding Officers to introduce themselves to all Coordinators at the opening of the polls as well as the second shift Officers who will arrive in the afternoon. Ms. Sandow stated that they discussed future implementation such as Election Night Results Reporting as well as conducting another mock election in a different borough. Some issues arose which were rectified by MIS and NYPD. All Exit Letters will be scanned and faxed to NYPD as they are sent out by the Board. Ms. James raised concerns regarding automated time locks at some NYCHA poll sites. The sites are set to open at 7:00AM which is two (2) hours after the scheduled opening time. A representative from the NYPD will be addressing this issue with NYCHA to ensure that the sites will be opening

at 5:00AM. The Board produced materials for the NYPD such as contest lists and poll site lists by precinct which details all of the equipment at each site, contact lists for all Board staff, and closing locations list for materials being returned to the Board.

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

Mr. Naudus presented the Election Night Results Reporting Pilot for the 2011 General Election. He distributed copies of his draft procedures to the Commissioners. Mr. Naudus requested authorization from the Commissioners to move forward on the new Election Night reporting process. He explained that in the past the NYPD takes the Return of Canvass sheets, data enter it into their system, and then transmit the results to the Associated Press (AP) and the Board. Mr. Naudus then explained the new proposed process to the Commissioners. The NYPD would pick up the Portable Memory Device (PMD) sticks from the poll sites, return the sticks to the Board's Voting Machine Facilities (VMFs), Board staff would read the sticks on the machines and transmit the results to the NYPD, and then the NYPD would forward it to the AP. Mr. Naudus stated that he would like to conduct a parallel test of the new process during the

2011 General Election in Queens. Board staff chose Queens because it is not a DOJ covered county and Queens is large enough to be practical judge of the other boroughs. The test would be in three (3) parts: training for staff (approx. 102 employees), mock election, and conduct a parallel test on the night of the General Election. Mr. Naudus stated that they would use Board staff and the remaining open positions would be filled by a temp service contract. It would cost approximately \$50,000 to fill the temp positions. He requested for the Commissioners to review the draft procedures for their determination at the September 20, 2011 meeting. Mr. Naudus stated that they would submit the final plan to the DOJ for pre-clearance which would be in time for the 2012 Presidential Primary Election. Secretary Soumas asked Mr. Richman if he has reviewed this proposal. Mr. Richman replied that he has not reviewed the final version. Secretary Soumas inquired if this violates State law. Mr. Richman stated that it does not violate the requirements of the State Law because it is a parallel test. He believes that this is a good test to see how the election results come in faster and accurately. Mr. Naudus reported that NYPD representatives are aware of this plan. NYPD stated they would deliver the bags to the Board's VMFs as requested and would be there at the night of the test to take the results and transmit the results to the AP. Secretary Soumas asked if anyone else has reviewed this plan. Commissioner

Umane clarified that this presentation will allow the Commissioners two (2) weeks to review the plan.

Secretary Soumas recognized Catherine Gray, a member of the public, who inquired if the new plan would eliminate the Poll Workers' hand written Return of Canvas. Mr. Naudus stated that the plan would only replace how the results are being reported on Election Night.

Mr. Richman presented an update on judicial proceedings relating to the September 13, 2011 Elections. A copy of his memorandum to the Commissioners and a thirty (30) page decision regarding Everly Brown is in the agenda. He reported that the Judge denied the motion for a preliminary injunction to direct the Board to place the name of Everly Brown on the Democratic Primary Ballot in Queens County on September 13, 2011 of the Office of District Attorney. Mr. Richman reported that a copy of the decision of the Appellate Division: Second Judicial Department regarding Brown V. BOE is in the agenda. The Appellate Division unanimously denied the petition and dismissed the proceeding.

Mr. Richman reported on a ratification matter which was presented at the previous meeting. He distributed a handout to the Commissioners.

Mr. Richman stated that the ratification was for the August 24, 2011 determination of the Executive Committee that effective August 24, 2011, the resolution of all outstanding 2010 Poll Worker payroll issues for the Borough of Manhattan relating to the 2010 Election Cycle are removed from the jurisdiction of the Borough Office Staff and transferred to the Board's Executive Office with the Administrative Manager to assign sufficient Executive Office staff to promptly review all outstanding 2010 Election Cycle Poll Worker Payroll issues for Manhattan and to resolve the same in accordance with the Board's standing policies and practices. He stated that there was no final determination on this issue according to the draft Commissioners' Meeting Minutes. Commissioner Umane understood that it would remain in the Manhattan Office and the Office of the General Counsel would send out the notices to the Poll Workers who were overpaid. In addition, the resolution was that the report that was prepared by the Executive Office which was verified by an audit by the Executive Office which was approved by both the Executive and Manhattan Offices. Commissioner Umane thought that report would be used to determine what Poll Workers were underpaid or overpaid. Commissioner Umane moved to adopt that resolution. Before a vote, Secretary Soumas asked if the report was prepared and is now considered moot. Ms. Perkins stated that an audit was done and a report was prepared and sent to the Manhattan

Office for review. The report was sent to the Manhattan Office a couple of months ago. Secretary Soumas asked if staff is still reviewing the report. Commissioner Umane stated that he thought there was a resolution last week. He stated that the Poll Workers who deserved to get paid should get paid, and the Poll Workers who were overpaid should reimburse the City. He stated that the Manhattan Office has to give their list of Poll Worker names to the OGC so the letters can be mailed. He believed his instructions were to have the Poll Worker payment process instituted to make sure everyone was paid. Secretary Soumas asked if this work has been completed. Mr. Richman reported that he spoke with Mr. Lehman this morning and payroll was not processed yet and they are currently compiling the list of names for the OGC. Ms. Perkins reported that after the August 30, 2011 Commissioners' Meeting, she sent an email to the Manhattan Chief and Deputy Chief Clerks instructing them to pay the Poll Workers who were underpaid and to start identifying the names of the Poll Workers who were overpaid for the OGC. To her understanding, the process has been started. Commissioner Umane requested for his fellow Commissioners to vote on his motion because the process needs to be done promptly. Commissioner Schacher asked Ms. Perkins to call the Manhattan Chief and Deputy Chief Clerks to see where they are with the payment process. Commissioner Umane stated that the process was not

clear last week which is why it was added to the agenda again. Secretary Soumas stated that according to Mr. Richman, the City of New York has a policy. Secretary Soumas moved to adopt the City of New York's policy for treating overpayments in previous years. Before a vote, Mr. Richman stated that there was a motion authorized at the previous meeting. He recited the motion, "Commissioner Umame moved to send letters to the overpaid Poll Workers requesting payment and then be brought back to the Commissioners for a determination for litigation. Commissioner Schacher seconded the motion, which was adopted unanimously." Secretary Soumas stated that is not the same City of New York policy. Mr. Richman stated that the City policy requires an agency to make the determination of an overpayment was made and to refer it to litigation. Commissioner Umame stated that when he made the motion last week he wanted the full Board to approve the list before it is sent for a referral for litigation. Secretary Soumas stated that in light of that policy, the only issue left is current payroll. He suggested tabling this item until they speak with the Manhattan Chief and Deputy Chief Clerks. Mr. Richman stated that the ratification of the August 24, 2011 determination of the Executive Committee has not be ratified or rejected by the full Board yet. Commissioner Umame suggested that the Poll Worker payroll remain in the Manhattan Office because they automatically process Poll Worker payroll;

staff is not designated at the Executive Office. Ms. Perkins reported that the Manhattan Deputy Chief Clerk is coming to the meeting.

Mr. O'Grady reported on the status of VMFs. He stated that staff started preparing the scanners and Ballot Marking Devices (BMDs) on August 15, 2011 for the upcoming 2011 Primary and Special Elections. Staff has prepared 2,086 scanners and 753 BMDs ahead of schedule. The Manhattan VMF completed the task two (2) days earlier, Queens VMF one (1) day earlier, and Brooklyn VMF as scheduled. As a result, it saved the Board funds for ES&S staff support of \$18,000 because they were released earlier than expected. The VMFs have delivered approximately 5,000 tables and 22,000 chairs to the poll sites. The Privacy Booths have been delivered last week, except for one truck in Queens, which will be delivered this week. A total of 6,009 Privacy Booths will be utilized. A total of 3,645 ED Supply Carts and 2,086 Scanners will be delivered to the poll sites this week. Commissioners Dent and Schacher thanked the Staten Island and Bronx Offices for all of their help at the Brooklyn VMF. Mr. O'Grady reported that all Borough VMF staff worked together. The Commissioners thanked Mr. O'Grady.

On behalf of Ms. Rahmouni, Mr. Thompson presented the

Amended Poll Worker Exception Report for the September 13, 2011 Primary and Special Elections in Manhattan and Brooklyn. He distributed copies of the report to the Commissioners. Mr. Thompson requested for the full Board to approve the report. Secretary Soumas asked if the Manhattan report has the amended plan to add the Board Rovers. Mr. Thompson replied yes. Secretary Soumas asked where the six (6) Rovers will be appointed from. Ms. Perkins stated that based on conversation with the all Borough Chief and Deputy Chief Clerks, the Rovers will come from the districts where there is no Primary Election. Mr. Richman stated that by statute it is the Commissioners' appointments. Commissioner Schacher stated that pursuant to the report that the Brooklyn Chief and Deputy Chief Clerks submitted to her today, she moved approve the report. Commissioner Dent indicated that there was an amendment to the report and asked if it was reviewed by Ms. Rahmouni. Mr. Thompson stated that he will look into that matter. Commissioner Soumas moved to approve the Amended Poll Worker Exception Report for the September 13, 2011 Primary and Special Elections for Manhattan. Commissioner Umane seconded the motion, which was adopted unanimously. Commissioner Schacher recalled her previous motion. Secretary Soumas tabled the Brooklyn matter.

Ms. Vazquez presented the analysis of Poll Worker recruitment. She recalled that in April 2011 the Board launched an aggressive Poll Worker recruitment campaign that was designed for the five (5) boroughs. The objective was to register new voters and to increase the number of Poll Worker applicants. Ms. Vazquez stated that the campaign was very successful. The Board set a goal to receive 4,000 Poll Worker applications and the Board surpassed with 4,274 applications. Ms. Vazquez reported the following statistics:

- 1,295 applicants were not registered to vote. Those applicants were sent a letter stating that the Board was in receipt of their application and enclosed a Voter Registration form;
- 103 applicants returned a Voter Registration form to the Board;
- 2,143 applicants were registered to vote;
- 156 applicants were Republicans;
- 1,603 applicants were Democrats;
- 11 applicants were Working Families;
- 306 applicants were No Party;
- 11 applicants were Conservative;
- 5 applicants were Other;

- 51 applicants were Independence;
- 595 applicants had prior City service; they already had Employee ID numbers and had to be processed differently requiring NYCAPS verification;
- 29 applicants lived outside of New York City;
- 6 applications were incomplete;
- 24 applicants sent notifications to the Board stating that they did not want to work as a Poll Worker;
- 3 applicants were not of age;
- 561 applicants were CUNY students;
- 95 applicants did not have social security numbers listed; they were sent a letter requesting for the information;
- 243 CUNY applicants attended a training class and passed; 4 CUNY applicants failed;
- 314 CUNY applicants did not show up to class;
- 519 applicants out of 2,143 HPWA applications attended a class and passed; 37 failed; 1,587 applicants did not show up to class;

Ms. Vazquez reported that she will provide this information in a spreadsheet and will email it to the Commissioners for review. She thanked the HAVA Outreach Team who recruited throughout the five (5)

boroughs. She stated that they had a great energy and sometimes worked seven (7) days a week in the field. Ms. Vazquez also thanked Judith Caserta for overseeing the data entry aspect of this project. She stated that this information would be inevitably asked for by the NYC City Council and the Board's Annual Report. Commissioner Schacher thanked Ms. Vazquez and her team for doing a tremendous job. She inquired how many applicants can work. Ms. Vazquez replied approximately 700 applicants. Commissioner Schacher inquired how these applicants would be dispatched throughout the five (5) boroughs. Commissioner Umane recognized that staff worked very hard on this project. He stated that he asked for these statistics because he was concerned that there was a slight skewing in favor of Democrat than Republican registrations based on some of the public outreach events. Commissioner Umane requested for the Board to attend outreach events that would be geared for both Democrats and Republicans. He recalled that he raised this issue in the past concerning Board advertisements. Ms. Sandow reported that Executive Management discussed the outreach events with Ms. Vazquez, and invitations were sent to all NYC elected officials and the Tea Party. Ms. Sandow stated that staff tried their best to recruit both parties. She stated that Ms. Caserta worked very close with Ms. Vazquez to ensure that

events were staffed on a bi-partisan basis. Ms. Sandow stated that the Public Outreach Team worked very hard trying to recruit Poll Workers.

Secretary Soumas recalled Mr. Thompson's item concerning the Amended Poll Worker Exception Report for Brooklyn. Mr. Thompson addressed Commissioner Dent's concern. Commissioner Schacher moved to adopt the Amended Poll Worker Exception Report for the 2011 Primary and Special Elections in Brooklyn. Commissioner Dent seconded the motion, which was adopted unanimously.

Secretary Soumas reported that there was a disciplinary hearing for Alan Chin, a Voting Machine Technician (VMT) in the Manhattan Voting Machine Facility. The recommendation of the Hearing Officers is one (1) year of probation and to take and complete, at his own expense, the EAP Program on or before September 30, 2011. The failure of Mr. Chin to take and complete the EAP Program on or before September 30, 2011 shall be deemed to be a material default of his probation and shall be terminated immediately. Commissioner Umane stated that is the Executive Committee's Report. Secretary Soumas moved to adopt the Report of the Executive Committee. Commissioner Umane seconded the report, which was adopted unanimously.

Secretary Soumas recognized Marjorie Shea, a representative of Women's City Club, who commended Mr. Richman's report concerning a memory of 9/11 which is in the agenda. She recommended for the statement be posted on the Board's website.

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

Following the Executive Session, the open public meeting resumed and Secretary Soumas reported on the following actions taken in Executive Session:

- I. The Commissioners unanimously approved for the Board to adopt the New York City Advisory Notice and Certification for Seasonal Employees, effective immediately.

Secretary Soumas recalled Mr. Richman's item #5 (b) concerning the ratification for the August 24, 2011 determination of the Executive Committee that effective August 24, 2011, the resolution of all outstanding 2010 Poll Worker payroll issues for the Borough of Manhattan relating to the 2010 Election Cycle are removed from the jurisdiction of the Borough

Office Staff and transferred to the Board's Executive Office. Mr. Richman stated that it is for the determination of whether or not any payments have been processed for the Poll Workers who were entitled to have payment for 2010, and if the list of Poll Workers who received overpayments is completed for the OGC. Secretary Soumas acknowledged Gregory Lehman, Chief Clerk, and Timothy Gay, Deputy Chief Clerk, of the Manhattan Office. Mr. Richman clarified that the issue concerns any 2010 Poll Worker payroll issues which includes all categories of Poll Workers. He asked if the Poll Workers who were entitled to have payment for 2010 has been processed to this date. Mr. Lehman and Mr. Gay replied no. There was an extended discussion between the Commissioners and the Manhattan Chief and Deputy Chief Clerks regarding the 2010 Poll Worker payroll issues for the Borough of Manhattan relating to the 2010 Election Cycle. After discussion, Mr. Lehman suggested paying the Poll Workers the amounts signed off in the audit and allow the Deputy Chief Clerk to review for any possible additional payments which will be discussed at a separate time. The Commissioners agreed with that process. Mr. Lehman stated that it will be completed by close of business today. Mr. Richman requested for list and event details of Poll Workers that have been overpaid in 2010 so that the OGC can mail letters requesting for reimbursement. Mr. Lehman stated that they will provide the list of names to the OGC by

the end of next week. Secretary Soumas stated that he will ask if there are any outstanding issues at the next meeting on September 20, 2011. Mr. Gay stated that there are additional Poll Workers that may or may not deserve to be paid concerning Deputized Poll Workers for the 2010 General Election which requires a review. These Poll Workers were not included in the audit. Ms. Perkins stated that there was a clear policy set by the Commissioners based on how they should get paid in January 2011. Mr. Gay stated that they are getting paid as they are getting reviewed. He stated that the review will be completed by October 15, 2011. Commissioner Umane stated that the Commissioners' policy should be used in the future. He recommended that if the Borough Offices, by January 15th following the General Election, have any questions regarding Poll Workers who should or should not be paid, to send them a letter asking who told them to work and ask the Poll Worker to write back to the Board. If the letter returned has sufficient information then they should get paid, and if they do not respond, or have insufficient information, then they should not be paid. He suggested that should be a potential idea for the EDO Department. Commissioner Umane stated that if the Poll Workers do not get paid then they will not work a second time. Secretary Soumas stated that this is unacceptable performance by the Manhattan Office.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, September 20, 2011 at 1:30 P.M.