

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
IN THE CITY OF NEW YORK  
HELD ON TUESDAY, APRIL 30, 2013  
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 Frederic M. Umame  
                  Secretary Gregory C. Soumas

Commissioners Jose Araujo, Maria R. Guastella, Michael Michel, Simon Shamoun, J.P. Sipp

Dawn Sandow, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Steven H. Richman, General Counsel  
Raphael Savino, Deputy General Counsel  
Valerie Vazquez, Director, Communications and Public Affairs  
Dorothy Delayo, Director, Personnel  
Steven Ferguson, Director, Management Information Systems  
John P. O'Grady, Chief Voting Machine Technician, VEOU  
Nicholas Squicciarini, Manager, Facilities  
John Luisi, Agency Chief Contract Officer, Procurement  
Giacomo Kmet, Temporary Contract Attorney, OGC  
Anibal Luque, Temporary Contract Attorney, OGC  
Kenneth M. Moltner, Counsel to the Commissioners  
Steven B. Denkberg, Counsel to the Commissioners

GUEST:       Monica Bartley, CIDNY  
                  Kate Doran, LWV  
                  Donna Ng, CFB  
                  Richard Wagner  
                  Susan Lerner, CCNY  
                  John D. Smith  
                  Alex Camarda, Citizens Union  
                  Alan Flacks, Member of NY County Democratic Committee

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

Mr. Richman stated that a representative of the NYC Law Department is present and requested for an Executive Session to be added to the agenda to discuss litigation matters.

Commissioner Guastella moved to adopt the minutes of the April 16, 2013 and April 23, 2013 meetings. Commissioner Sipp seconded the motion, with Commissioner Araujo abstaining on the April 23, 2013 minutes. The motion was adopted. Commissioner Araujo noted that he abstained because he was not present at that meeting.

Mr. Richman presented the draft Poll Site Designation Reports pursuant to Section 4-104 of the New York State Election Law for the period of May 1, 2013 through April 30, 2014 for the boroughs of Staten Island, Brooklyn, Bronx, Queens and Manhattan. Mr. Richman distributed the draft reports to the Commissioners. Section 4-104 (1) of the NYS Election Law authorizes and empowers the Commissioners of Elections in the City of New York to annually designate as poll sites, buildings which are

either publicly owned or leased, exempt from taxation or receive government funding or support, as well as a building that is the control of an organization that is exempt from taxation or receives government funding or support, as a place for the conduct of voting and voter registration. If a building so designated is not a public school, the controlling entity may file a written request for cancellation of this designation with the Board. Such request must be made no later than thirty (30) days from the date of the notice of designation sent to each such facility. Within twenty days (20) of receipt, the Board will re-examine whether such use would unreasonably interfere with the facilities usual activities. In the event of an affirmative determination, the Board may cancel the designation. Mr. Richman stated that Section 16-115 of the NYS Election Law establishes the Board's right and ability to seek judicial intervention to compel compliance with the designations the Commissioners lawfully make. In recent years, the Board has successfully obtained such an order and has had to indicate that potential in many other instances to obtain use of a properly designated poll site. Mr. Richman stated that the Office of the General Counsel staff has reviewed each borough's spreadsheets, and the Chief Clerk and Deputy Chief Clerks submitted Certifications that they have reviewed and approved these

designations. Mr. Richman stated that based on the information submitted, he requested that the Commissioners designate the poll sites set forth in the Poll Site Designation Report for each of the boroughs within NYC for the period of May 1, 2013 through April 30, 2014, and that the Commissioners direct Board staff to prepare and send the required notices to the specified owners and/or operators of the designated poll sites. Commissioner Araujo stated that he is relying on the Queens Chief Clerk's and Deputy Chief Clerk's Certification that the Queens poll site designations are correct. President Umame recommended adding that language for all boroughs. Commissioner Araujo moved to approve Mr. Richman's request pursuant to Section 4-104 of the New York State Election Law for the boroughs of Staten Island, Brooklyn, Bronx, Queens and Manhattan based on the Chief Clerks' and Deputy Chief Clerks' Certifications that the poll site designations are correct. Commissioner Sipp seconded the motion, which was unanimously adopted.

Mr. Richman reported that he received an email from NYS Senator Jeffrey D. Klein inviting the Board to participate at the upcoming hearings on reforming campaign financing and election laws starting on May 1, 2013 at 3:00 P.M. A copy of the invitation is in the agenda. President Umame

recalled that the Board has not taken position on campaign financing in the past. President Umame moved for Mr. Richman to prepare and submit a letter stating that the Board as an administrative agency does not take any position on new legislation concerning campaign finance. Commissioner Sipp seconded the motion, which was unanimously adopted.

Mr. Richman reported on the City Council's proposed local law to amend the New York City Charter by adding a new Chapter 46-A - City Elections - Voting By Non-Citizens Residents. A copy of Intro. No. 410 is in the agenda. This is a local law to amend the New York City Charter in relation to allowing immigrants lawfully present in New York City to vote in municipal elections. The Committee on Immigration, jointly with the Committee on Governmental Operations, will be holding a Hearing on May 9, 2013 and invited the Board to testify. President Umame stated that some staff members have scheduling conflicts the day of the Hearing, but the Board should not ignore this matter. He stated that this proposed law would cause tremendous administrative and financial burdens on the Board, and questioned if this proposal would be constitutional. The Board would have to create new voter registration forms and new poll worker training procedures, print additional separate ballots and poll list books, and

maintain separate voter registration lists. President Umame recommended that the Board take no position on the proposed law, but to present the potential problems and additional costs it would cause at the Board. Mr. Richman provided an overview of the proposed law. A “municipal voter” shall mean a person who is not a United State citizen, but is lawfully present in the U.S. on the date of the election in which he/she is voting. A “municipal election” shall mean the designation, nomination and election process for a municipal officer, including the mayor, comptroller, public advocate, member of the city council and borough presidents. “Municipal voter registration” shall mean the method by which the Board registers new municipal voters pursuant to the provision of the chapter. Commissioner Shamoun asked if this proposed law was implemented in other boards of elections in the United States. Mr. Richman replied yes, but they are not in municipalities as large as New York City. Ms. Sandow stated that this proposed law was distributed to all Managers yesterday so it can be researched. President Umame moved for Board staff to prepare a draft response addressing the Board’s concerns regarding the implementation of the proposed law, and to circulate the draft to the Commissioners before next Tuesday’s meeting. The motion was unanimously adopted.

Mr. Ferguson provided an update on the implementation of the new telephone system for the Board's Executive Office. He recalled that Hurricane Sandy destroyed the old telephone system. New data jacks and cables were installed on the 6<sup>th</sup>, 7<sup>th</sup>, and 11<sup>th</sup> Floors, and it has been tested and certified. All non-working telephones were removed from the desks. All new telephones were programmed and will start to be installed in cubicles today. A "cut-over" will be performed within the next two (2) weeks. President Umare confirmed that this is a Voice-over Internet Protocol system (VoIP).

Mr. O'Grady provided a status update of the mechanical lever voting machines. In the past 6 weeks, Voting Machine Technicians (VMTs) from all boroughs were dispatched to the Board's storage warehouse to ascertain the usability conditions of the mechanical lever voting machines. A total of 5,424 lever machines have been tested. A few issues remain to be resolved, and there is enough lead time to clean and oil the machines if the Board should conduct an election using them. One of the biggest issues presented are the condition of the paper rolls that are loaded on the spindle and used to record write-in votes. Staff has contacted several vendors and Phoenix Graphics is the only vendor that is interested in

fabricating these paper rolls. Their current bid is costly at \$200 per paper roll with a three (3) month lead time. The Board would also need to purchase light boxes and light bulbs which are used to indicate the party of the voter, as well as whether the booth is in use. President Umame asked Mr. O'Grady to research all costs and report back to full Board. President Umame inquired which mode the machines would be set in for a Run-off Primary. Mr. Richman stated Primary mode. Commissioner Araujo inquired about the status of Senate Bill S4088 relating to the use of lever voting machines for non-federal elections in NYC. Mr. Richman stated that there is no action on the bill. Mr. Richman stated that the Board may receive more information on the bill at the Information and Education Day in Albany, NY.

Mr. O'Grady provided an update on the Radio Frequency Identification System (RIFD) project. The RIFD labeling system allows staff to track their inventory in a more efficient format. Equipment gets RIFD labeled, then scanned into inventory when the label passes through a special radio frequency antenna. Mr. O'Grady reported that the Election Night Results Reporting (ENR) Carts were RIFD labeled for the previous election and the implementation was successful. Mr. O'Grady stated that

the vendor Zebra provides an in-house barcode RIFD label technology system which will provide the Board with more flexibility. The Board is expected to receive these labels by the week of May 6, 2013.

Mr. Graves provided an update on the Campaign Finance Disclosure Report mailing to delinquent filers. He stated that a total of 632 non-compliance letters were issued and mailed by the Candidate Records Unit (CRU) staff on April 22, 2013 to all committees and candidates delinquent on filing their 2013 January periodic disclosure statement. Since the mailing, CRU staff received approximately 100 phone calls in response. Approximately 20 filers complied by filing their disclosure statement. Mr. Graves stated that CRU staff will continue to work with Mr. Savino on these Campaign Finance Disclosures.

President Umame recognized Alex Camarda, a representative of Citizens Union (CU), who stated that he submitted a list of possible non-compliance political club filers to Ms. Vazquez and asked the Board to look into CU's list.

Secretary Soumas questioned why the City Board should bear the costs to enforce this requirement. Mr. Richman stated that according to Article 14 of the NYS Election Law, a municipal office committee files with the City Board if they raise less than \$1,000. Raised funds over \$1,000 gets filed with the State Board. Mr. Savino stated that there are manpower and USPS mailing costs for the City Board. Secretary Soumas stated that all Campaign Finance Disclosure Reports should be filed with the State Board. He stated that it is a waste of City Board funds for staff to compile and mail non-compliance letters for less than \$1,000; especially since there is public internet access for the filers. Commissioner Shamoun noted that there were errors in the CRU's master list. Mr. Graves reported that there was a glitch in the system which MIS staff corrected. Commissioner Shamoun inquired if CRU staff called all 632 non-compliance filers. Mr. Graves stated that there has been a huge issue with the phone system since Hurricane Sandy and he will check with CRU staff. President Umane stated that the courtesy phone calls are to make filers aware before they are added to the non-compliance list. Mr. Savino reported that Ms. Dubovici, a former staff member in CRU, called filers and created an Excel spreadsheet, and recommended that CRU continue that process in the future. Secretary Soumas stated that courtesy telephone calls to

delinquent filers are a waste of staff's time and City Board funds. Secretary Soumas moved to modify the CRU Procedures deleting the following, "Courtesy calls will be made by each recording clerk to the treasurer or candidate within their respective counties notifying them of their failure to file and advising them to file their delinquent statements before delinquency notices are mailed. Once calls are made, the call date is recorded in the "Phone Call" field in the history section of each respective file." Commissioner Araujo seconded the motion, with President Umane abstaining. The motion was adopted.

Mr. Squicciarini requested for the Commissioners' approval to move forward with negotiations with Time Warner with respect to the remote viewing on the computer of the security camera systems in all Borough Offices. He recalled that the current OGS contract price is \$300 per drop which includes a Firewall system. A total of nine (9) drops are needed at a recurring cost of \$2,700 per month with the installation fee waived. There was a consensus among the Commissioners that \$300 per drop was costly. Commissioner Araujo asked Mr. Squicciarini to negotiate a lower price. Commissioners Michel and Shamoun inquired if the Board's MIS staff can provide hardware and/or a Firewall system. Mr. Ferguson stated

that he will look into that requested and stated that Time Warner Business Class is a bundle with dedicated I.P. Addresses, hardware and Firewall security service. Commissioner Michel requested more detailed information on Time Warner's package. President Umane asked Mr. Squicciarini to research what other City agencies are utilizing and to move forward with negotiations with Time Warner.

In Mr. Ward's absence, Mr. Luisi presented the Comparative Expenditures Report dated April 23, 2013. A copy of the report is in the agenda. Commissioner Araujo inquired about Queens' Office overtime. Ms. Sandow stated that staff was assisting the Manhattan Office with retention and AVID reports.

President Umane recalled that he brought up a matter concerning the lever voting machine rules and the electronic voting system rules concerning ballot lines and rotation at a previous meeting. He asked the Commissioners to look into this matter with their Law Chairs and suggested to make a decision at next week's meeting.

President Umane moved to convene an Executive Session to discuss litigation matter. Secretary Soumas seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed and President Umane reported that no action was taken in Executive Session.

President Umane recognized Alan Flacks, a member of the public, who stated that he will raise two (2) concerns at the next meeting.

President Umane moved to adjourn the meeting which was unanimously adopted.

The next stated meeting of the Commissioners is scheduled for Tuesday, May 7, 2013 at 1:30 P.M.