

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON WEDNESDAY, APRIL 11, 2007
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR HEARING ROOM
NEW YORK, NY 10004

P R E S E N T: James Sampel, Secretary

Commissioners Graham, O'Connor, Schacher, Soumas, Umane,
Yennella

John Ravitz, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Joseph LaRocca, Coordinator, Candidate Records Unit
Diane Rudiano, Chief Clerk, Brooklyn Borough
Maryrose Sattie, Deputy Chief Clerk, Brooklyn Borough
Sheila Delgiorno, Chief Clerk, Staten Island Borough
Anthony Andriulli, Deputy Chief Clerk, Staten Island Borough
John Ward, Finance Officer
Phil Donahue, Director, Personnel
John O'Grady, Chief Voting Machine Technician
Gladys Fernandez, EVS
Mona Huang, Sr. Computer Programmer, EVS
John Naudus, Sr. Computer Programmer, EVS
Yi Yu, Sr. Computer Programmer, EVS
Beth Fossella, Coordinator, Voter Registration
Charles Webb, Counsel to the Commissioners
Steve Denkberg, Counsel to the Commissioners

Guests: Marjorie Shea, Women's City Club
 Adrienne Kivelson, League of Women Voters
 Alyssa Usui, NYC Voter Assistance Commission
 Steve Kitzinger, NYC Law Department
 Carlos Cruz-Abrams, NYC Law Department
 Mark Herman

Secretary Sampel called the meeting to order at 1:40 P.M. in the absence of the President.

Secretary Sampel convened the Independent Nominating Hearings for the April 24, 2007 Special Election for Member of City Council, 40th Council District, Brooklyn.

The General Counsel reported that the staff made a preliminary determination that the Independent Nominating Petition submitted by Darly Brutus, Candidate for Member of the City Council, 40th Council District, Brooklyn was Prima Facie defective in that the petition failed to comply with the provisions of Section 6-140 of the New York State Election Law. The General Counsel reported that Mr. Brutus indicated by telephone that he would not contest the staff's preliminary finding. Commissioner Umane moved to confirm the staff's preliminary determination of the Prima Facie defect. Commissioner Schacher seconded the motion, which was adopted unanimously. The candidate will not appear on the ballot.

The Commissioners then considered the Clerk's Report on the Specifications of Objections filed for the April 24th Special Election. The determinations thereon are reflected on the adopted Clerk's Report.

The General Counsel asked the Commissioners to consider Justice Levine's request for a cost estimate to run the April 24, 2007 Special Election in the 40th Council District. Commissioner Umame authorized the General Counsel to submit this information to the Supreme Court of the State of New York, Kings County and suggested that a letter explaining that it is an estimate of the cost for the Board of Elections only be sent as well. Commissioner O'Connor seconded the motion, which was agreed to unanimously.

Secretary Sampel announced that the Board of Canvassers in the City of New York would certify the results of the canvass of votes cast at the Special Elections held on March 27, 2007 for Member of the New York State Assembly in the 61st ^ 62nd Assembly Districts in Richmond County. He designated himself and Commissioner Soumas to serve as the Democratic Members of the Canvassing Board and asked Commissioner Umame, as the senior Republican Commissioner to

designate the two Republican Commissioners in the absence of the President and the Staten Island Republican Commissioner. The following Commissioners were designated as the Board of Canvassers for the March 27, 2007 Special Elections:

For the 61st and 62nd Assembly Districts in Richmond County:
Secretary Sampel, Commissioners Soumas, Umane, Schacher

The General Counsel explained the governing authority for the conduct of the canvass of votes for both paper and machine ballots. He reported that when the clerks enter the names of write-in candidates they are required to “normalize” the names based on the voter’s intent pursuant to Section 4-5 of the Board’s Policies and Procedures. The Staten Island Borough staff including the Chief Clerk and Deputy Chief Clerk disagreed on how to complete that process. John Haggerty appeared on behalf of the Candidate Louis Tobacco. He claimed that it was impossible to ascertain the voters’ choice and asked the Board to ignore its own rules with respect to normalizing the write-in votes cast in the March 27th Special Election for NYS Member of Assembly in the 62nd Assembly District.

Commissioner Umame stated that if the write-in vote was written with either candidate's last name even though they wrote in the other candidate's first name then it is not reasonably ascertainable for whom the voter intended to vote and therefore it would be inappropriate to credit either with the vote.

Commissioner Umame moved that the Staten Island staff recanvass the write-in votes in the 62nd Assembly District and that any vote cast for "Todd Tobacco" [last name beginning "To"] and not "Todd Tabacco" [last name beginning "Ta"] regardless of the variations in the spelling of the first name and/or the inclusion of the middle initial, should not be counted. Additionally, if the last name is misspelled but begins with "Ta" then that vote should be credited to Todd Tabacco. Commissioner Soumas seconded the motion, which was adopted unanimously by the Board of Canvassers.

Secretary Sampel moved to table the minutes of February 27, 2007, March 8, 2007, March 15, 2007, and March 19, 2007. Commissioner Umame seconded the motion, which was adopted unanimously.

The Executive Director reported that:

- 1) Currently no testing is being done by the State Board with respect to voting systems certification. The State Board is in the process of issuing an RFP seeking new independent testing authorities (certified by EAC). The CIBER lab remains under contract to the State Board.
- 2) Concerns regarding Congressman Holt's Bill, H.R. 811 have been raised.
- 3) The Board continues to meet with Burstein-Marsteller, the Public Information Firm retain by the NYC Board of Elections.
- 4) In his letter dated March 28, 2007 to OMB Director Mark Page (copy included in agenda) he reported that due to the numerous areas of work that the Board will have to complete in addition to the four special elections and a possible additional Special Election the Board could not provide a list of budget reductions that it could make at this time.
- 5) The New York City Lawyers Association's Election Law Committee has scheduled a meeting on Thursday, April 12, 2007, 6:30 P.M. at Hughes Hubbard & Reed, One Battery Park Plaza, NY, NY to hear from Anthony Crowell of the Mayor's

Office on the Mayor's plan for non-partisan election administration.

The Coordinator of the Candidate Records Unit Joseph LaRocca provided the Commissioners with a draft of the Notice to Candidates in the April 24th Special Election for approval. Commissioner Umame moved to approve the draft Notice to Candidates. Commissioner Graham seconded the motion, which was adopted unanimously.

Finance Officer John Ward provided the Commissioners with the Vacancy Report dated April 3, 2007 and the Comparative Expenditure Report dated April 10, 2007.

Commissioner O'Connor moved to promote Heidi Wilcox, a Clerk in the Queens Office to Administrative Assistant in the Poll Site Accessibility Unit, effective immediately to replace Jennifer Buckner at the new hire rate. Commissioner Soumas seconded the motion, which was adopted unanimously.

Commissioner O'Connor moved to appoint Marie Lynch as Director of Equipment in the Procurement Unit at the prior incumbent's salary of \$55,395. Based on a question by Commissioner O'Connor, the Director of Personnel explained that in accordance with the new contract an employee must have two years of City service to be appointed at the incumbent rate. Commissioner O'Connor withdrew his motion to appoint Marie Lynch as Director of Equipment.

Commissioner Schacher moved to retroactively grant Gloria Cruz, a Sr. VMT in the Brooklyn VMF an additional 210 hours of sick leave to cover Ms. Cruz' time off to care for her son, a NYC Police Officer, who was injured in the line of duty. Commissioner Umame seconded the motion, which was adopted unanimously.

Commissioner Graham moved to grant Ashley Irizarry, an Administrative Assistant in the Bronx Office, a 30-day sick leave advance. Secretary Sampel seconded the motion, which was adopted unanimously.

Commissioner Graham moved to approve the request of River Bay Corporation to use 70 voting machines on May 16, 2007 for an election within their development. He stated that the corporation would incur all expenses. Commissioner O'Connor seconded the motion, which was adopted unanimously.

Secretary Sampel moved to convene an Executive Session to discuss litigation matters. Commissioner Umame seconded the motion, which was agreed to unanimously.

Commissioner O'Connor reported that the following action was taken in Executive Session pursuant to Section 3-300 of the NYS Election Law:

The Commissioners unanimously agreed to appoint Marie Lynch as Director of Equipment at the new hire rate of \$48,231.

Thomas Sattie, Ballot Coordinator, Candidate Records Unit asked the Commissioners to authorize printing of the Absentee Ballots for the April 24th Special Election based on the Board's actions of this date. After discussion, Secretary Sampel moved to authorize the Board staff to

print and mail Absentee Ballots for the April 24th Special Election based on the Board's actions of this date, which was agreed to unanimously.

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

Secretary Sampel announced that the next Commissioners' meeting is scheduled for Tuesday, April 17, 2007 at 1:30 p.m.