

MEETING OF THE  
COMMISSIONERS OF ELECTIONS  
HELD ON TUESDAY, FEBRUARY 10, 2009  
AT 1:30 P.M.  
42 BROADWAY, 6<sup>th</sup> FLOOR HEARING ROOM  
NEW YORK, NY 10004

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P R E S E N T:           President Frederic Umane  
                              Secretary Julie Dent

Commissioners Araujo, Polanco, Sampel, Schacher, Silie, Soumas, Stupp,  
Yennella

Marcus Cederqvist, Executive Director  
Steven H. Richman, General Counsel  
John Owens Jr., Director, Campaign Finance Enforcement  
John Ward, Finance Officer  
Dorothy Delayo, Director, Personnel  
Valerie Vazquez Rivera, Director, Communications and Public Affairs  
John O'Grady, Chief, Voting Machine Technician  
Lucille Grimaldi, Manager, Electronic Voting Systems  
Joseph LaRocca, Coordinator, Candidate Records Unit  
Michael Neglia, Administrative Associate, Candidate Records Unit  
Thomas Sattie, Associate Staff Analyst, Candidate Records Unit  
Barbara Conacchio, Chief Clerk, Queens  
Katherine James, Deputy Chief Clerk, Queens  
Charles Webb, Counsel to the Commissioners  
Steve Denkberg, Counsel to the Commissioners

GUEST:    NY1 News  
            Mary Lou Urban, League of Women Voters  
            Marjorie Shea, Women's City Club  
            Andrea Senteno, Citizen's Union  
            Rima McCoy, CIDNY  
            Mark B. Herman

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

President Umane convened the meeting of the Board of Canvassers in the City of New York.

President Umane called upon the Chief and Deputy Chief Clerk for Queens who presented the Statement and Return of Canvass for numerous contests in Queens County from the November 4, 2008 General Election for certification.

President Umane commended the Queens Borough Office staff, Thomas Sattie, Anthony Andriulli and George Gonzalez for their efforts during the entire 11<sup>th</sup> State Senate District recanvass.

Commissioner Polanco commended Queens Commissioners Araujo and Stupp for their efforts throughout the entire 11<sup>th</sup> State Senate District recanvass.

Commissioner Stupp made a motion to accept and certify the Statement and Return of Canvass for various contests in Queens County. Commissioner Araujo seconded the motion, which was adopted unanimously.

Commissioner Stupp made a motion to authorize the use of the Commissioners' stamps on the Statement and Return of Canvass for the various contests in Queens County certified at this meeting. Secretary Dent seconded the motion, which was adopted unanimously.

Commissioners Araujo and Stupp thanked the Chief and Deputy Chief Clerk of the Queens Board Office for their efforts during the entire recanvass process.

President Umane adjourned the meeting of the Board of Canvassers and convened the meeting of the Board of Elections.

The Commissioners conducted the hearings relating to the February 24, 2009 Special Election.

The President convened the regular meeting at 2:32 P.M.

Commissioner Umane made a motion to table the minutes of January 27, 2009. Commissioner Dent seconded the motion, which was adopted unanimously.

The Executive Director gave his HAVA update. Mr. Cederqvist noted the public demonstrations of potential new voting systems will be held in the five boroughs of New York City this month and gave a schedule of these events.

The Executive Director reported that last week he circulated for review a draft letter, addressed to elected officials, by the Commissioners regarding the Mayor's Preliminary Budget for Fiscal Year 2010. Mr. Cederqvist stated that he incorporated all comments received from the Commissioners into the letter. After discussion, the revised letter will be sent to the Speaker of the City Council with copies to the Mayor, Governor, County Leaders, all members of the City Council and New York State Legislature, and the Attorney General of the United States.

President Umane made a motion to authorize the President and Secretary to sign or use their signature stamps on the letter. Secretary Dent seconded the motion, which was adopted unanimously.

The General Counsel asked the Commissioners for their authorization to submit the draft proposal for the 2009 Recommended Revisions in the State Election Law. President Umane noted in the cover

letter in the third paragraph, "...the City Board *may not*..." should read 'may'. President Umane recommended renumbering the proposals. He suggested moving up Proposal #8 to #3 slot, then move Proposals #3, #4, #5, #6, and #7 below. The General Counsel suggested that Proposal #13 up to the #4 slot.

President Umane made a motion to reorder the proposals and approve the renumbered for submission. Commissioner Araujo seconded the motion, which was adopted unanimously.

The General Counsel stated the revised 2009 Legislative package will be available at the next Commissioners' meeting.

The General Counsel reported on a litigation matter. At last week's hearings, Sum DiBenardo's petition was found invalid Prima Facie because (a) he did not list the district or office he was running for on any of his petitions, and (b) he used designation petition language on each page, not the language for independent nomination petitions. Mr. DiBernardo was removed from the ballot on Tuesday, and he had to commence his court challenge by Friday. He did not commence until Monday, and it was returnable this morning. Mr. Richman stated Mr. DiBernardo only served

the Order to Show Cause without any supporting papers. Queens Supreme Court Justice Flug directed that the Board appear and explain what happened. Mr. Richman and Assistant Corporation Counsel Stephen Kitzinger appeared in Queens Supreme Court to explain why Mr. DiBernado was not on the ballot. Justice Flug dismissed Mr. DiBernado's proceeding.

The Chief Voting Machine Technician reported on the testing of the BMDs for the Special Election. Mr. O'Grady stated he will be getting the BMD ballots on Friday, February 13, 2009.

The Finance Officer provided the Commissioners with the Comparative Expenditures dated February 10, 2009.

The Manager of Electronic Voting Systems reported that ES&S and Sequoia would demonstrate their respective new voting systems at the meeting. Ms. Grimaldi stated both vendors offer optical scanners that work with paper ballots and ballot marking equipment that the disabled can operate. Both vendors will demonstrate their systems, scanners, privacy screens and ballot marking features.

The public demonstration of the potential new voting systems was conducted.

Commissioner Sampel made a motion to authorize 210 sick leave for Daniel Lavelle, Phone Bank Supervisor in the Executive Office. Commissioner Polanco seconded the motion, which was adopted unanimously.

Commissioner Sampel stated that candidate John A. Tabacco was placed on the ballot for the City Council Special Election in the 49<sup>th</sup> District at the February 6, 2009 hearing with only 912 valid signatures. 1,367 are required to appear on the ballot. The Clerk's Report, which was not amended, also wasn't adopted. Commissioner Sampel said the petition was reworked twice by the Staten Island Office. The information can be found in the General Counsel's memo and attachment to the Commissioners. Some Commissioners raised various concerns. Commissioner Sampel stated the vote was 2-2 by the subcommittee which consisted of Commissioners Yennella, Araujo, Polanco and Sampel.

President Umane recommended conducting Executive Session after the new voting systems demonstrations.

The Commissioners convened an Executive Session to discuss personnel matters.

The President reported that in Executive Session the Commissioners took no actions.

President Umane announced that an issue was overlooked regarding the 49<sup>th</sup> Council District race. It was inadvertently omitted from the discussion the Commissioners had earlier. Commissioner Soumas moved to conduct a hearing on the Specifications of Objections to the petitions of John A. Tabacco in the 49<sup>th</sup> Council District and the amended on Clerks' Report pursuant to Rule J6 of the Independent Nominating Petition rules. Commissioner Sampel seconded the motion, which was adopted unanimously. The hearing will be held at 9:30 A.M. on Thursday, February 12, 2009 in the 6<sup>th</sup> Floor Commissioners' Hearing Room. President Umane made a motion that Commissioners Stupp, Araujo, Silie, and Umane serve as the committee to hear and determine the matter. Commissioner Dent seconded the motion, which was adopted unanimously.

President Umane suggested the General Counsel notify the candidate via telephone, fax, and express mail.

Commissioner Stupp made a motion to appoint Patricia Kelly as the Republican Phone Bank supervisor. Commissioner Sampel seconded the motion, which was adopted unanimously.

Commissioner Sampel made a motion to adjourn the meeting. Secretary Dent seconded the motion, which was adopted unanimously.

The next Commissioners' meeting is scheduled for Tuesday, February 17, 2009 at 1:30 P.M.