

MEETING OF THE
COMMISSIONERS OF ELECTIONS
HELD ON TUESDAY, NOVEMBER 20, 2012
AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President Maria R. Guastella
Secretary Frederic M. Umame

Commissioners Araujo, Dent, Polanco, Schacher, Stupp

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
John Ward, Finance Officer
Dorothy Delayo, Director, Personnel
Raphael Savino, Director, Campaign Finance Enforcement Reporting
Valerie Vazquez, Director, Communications and Public Affairs
John O'Grady, Chief Voting Machine Technician, VEOU
Rosanna Rahmouni, Coordinator, Election Day Operations
John Naudus, Manager, Electronic Voting Systems
Giacomo Kmet, Temporary Contract Attorney, OGC
Kenneth M. Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: George Fraser
Kate Doran, LWV
John D. Smith
Cathy Gray
Patrick McClellan, for Assembly Member Kavanagh
Will Colegrove, for Council Member Gale Brewer
David Seitzer, NYC Council
Teodora Popousa, CU
Augustine Reare, CU
Ari Tregan, CU
Alan Flacks, Member of NY County Democratic Committee

President Guastella called the meeting to order at 1:39 P.M

Commissioner Stupp moved to table the minutes of the November 13, 2012 meeting. President Guastella seconded the motion, which was unanimously adopted.

Mr. Savino reported on the response from the State Board regarding how to canvass certain types of ballots cast on November 6, 2012 under the Governor's Executive Order No. 62. Copies of the City Board's letter and State Board's response are in the agenda. Mr. Savino provided a summary of the State Board's response. He also reported that the U.S. Department of Justice (DOJ) pre-cleared the City Board's administrative guidelines that were voted on at the previous meeting. Secretary Umane reported that a new issue arose in the Manhattan Office regarding affidavit ballots mailed from a non-NYC board of elections with no return address label, no required chain of custody letter, and no transmittal receipt. Manhattan Staff believed the package came from either Nassau or Suffolk County. Commissioner Dent recommended for staff to call the other county boards to check where the ballots came from so those votes can be counted. If staff discovers which county sent the ballots, then

that county will have to provide the City Board with the required transmittal paperwork. Secretary Umame moved Commissioner Dent's suggestion for staff to contact the other county boards to ensure those votes are counted. Commissioner Dent seconded the motion, which was unanimously adopted. The Commissioners confirmed that affidavit ballots cast outside of NYS do not count, and envelopes, other than the pre-printed affidavit envelopes, without a name and address will not be opened and will be invalid. Secretary Umame stated that the City Board is constrained to the State Board's answers concerning the three (3) submitted questions. Secretary Umame moved to follow the State Board's guidance on the three (3) questions concerning affidavit ballots not enclosed in any envelope, purported affidavit ballots not on the approved form and write-in affidavit ballots cast in the wrong poll site, and to keep following the Commissioners' decisions concerning the other affidavit ballots voted on from the previous meeting. Commissioner Araujo seconded the motion, which was unanimously adopted. Ms. Perkins stated that the revised administrative guidelines will be distributed to the Borough Office Staff today.

Mr. O'Grady reported on voting equipment and poll site operations for the November 6, 2012 General Election. He stated that he will provide the exact total of poll sites that opened late citywide at the next meeting. Mr. O'Grady reported that sixty (60) poll sites were relocated due to Hurricane Sandy. The borough breakdown follows:

- Manhattan – 4 (affected 12,659 voters)
- Bronx – 3 (affected 8,738 voters)
- Brooklyn – 25 (affected 48,891 voters)
- Queens – 27 (affected 58,093 voters)
- Staten Island – 2 (affected 6,328 voters)

A total of 64,875 pieces of equipment were delivered citywide. A total of thirty-seven (37) scanners and nine (9) BMDs were replaced citywide. The Commissioners inquired why these scanners and BMDs had to be replaced. Ms. Sandow stated that Mr. O'Grady will analyze these scanners and BMDs after the audit is complete. The detailed analysis will be completed within two (2) weeks and Mr. O'Grady will report to the full Board. Ms. Sandow stated that ES&S has been contacted and they will provide their evaluation of these machines as well. Mr. Naudus noted that the ES&S warranty states that ES&S is responsible for the voting machines for five (5) years.

Ms. Perkins reported on the total amount of affidavit and emergency ballots sorted and counted to date. The borough breakdown follows:

- Manhattan – 68,827 Affidavit and 521 Emergency
- Brooklyn – 90,855 Affidavit and 769 Emergency
- Queens – 63,000 Affidavit and 184 Emergency
- Staten Island – 12,653 Affidavit and 6 Emergency

President Guastella recognized Alan Flacks, a member of the public, who stated that the scanners will never be perfect similar to MetroCard swipe turnstiles and Xerox Copiers. He requested for the total amount of scanners that may have remained out of service on Election Day. Ms. Sandow stated that Mr. O'Grady will be providing a detailed analysis report within two (2) weeks. Mr. Flacks asked about Board employee Michael Cortez. Ms. Perkins announced that Michael Cortez passed away last Thursday. Mr. Cortez worked at the Board for 22 years and will be missed. The wake was held yesterday and the Mass will be held today. Condolences can be sent to his mother Patricia Cortez who has been a longtime Board employee as well. The Commissioners held a moment of silence for Mr. Cortez.

President Guastella recognized George Fraser, a member of the public, who stated that he ran as a write-in Presidential candidate and asked why his name was not on the ballot in NYC. Mr. Savino explained that write-in Presidential candidates have to file a certificate with the State Board, and then the City Board receives the write-in list from the State Board. Mr. Savino confirmed that Mr. Fraser's name was not on that list. The Commissioners recommended Mr. Fraser to contact the State Board and the Federal Election Commission concerning his matter.

Mr. Naudus presented that status of post Election Day tasks. He distributed copies of his report to the Commissioners. (See attached report.)

Ms. Perkins reported that the State Board requested for NYC certification of the General Election by Saturday, December 1, 2012. The Borough Offices expressed concerns that they may not be able to make that deadline. Ms. Perkins stated that Mr. Richman informed her that the City Board can provide the State Board with a provisional certification. Mr. Naudus stated that the provisional certification is only the Election Day scanner numbers. The City Board can fully certify the General Election

once the Borough Offices are complete canvassing the affidavit, absentee and emergency ballots.

Mr. Ward presented the Vacancy Report dated November 20, 2012. A copy of the report is in the agenda.

Commissioner Araujo moved to convene an Executive Session to discuss personnel matters. Commissioner Dent seconded the motion, which was unanimously adopted.

Following Executive Session, the open public meeting resumed and President Guastella reported that there was no action taken by the Commissioners in Executive Session.

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

The next stated meeting of the Commissioners is scheduled for Tuesday, November 27, 2012 at 1:30 P.M.

Post Election Activities Progress Report – November 6, 2012 November 20, 2012

The following post election activities are covered in this report:

- Read Portable Memory Devices (PMDs)
- Record Write-In Names from Poll Site Ballots
- Re-Canvass of Poll Site Ballots
- Statutorily Required Audit of Scanners
- Re-Canvass of Emergency Ballots
- Canvass of Absentee, Affidavit and Military Ballots
- Manually Entry of Re-canvass Activity into S-Elect

These post election activities started in each borough on November 7, 2012 and will continue until completion. The only exception is the Canvass of Absentee, Federal, Affidavit and Military Ballots, which started on November 20, 2012. The following is a breakdown by borough of where they are with each activity as of noon today:

	Manhattan	Bronx	Brooklyn	Queens	Staten Island
Read Portable Memory Devices (PMDs)	Complete	Complete	Complete	Complete	Complete
Record Write-In Names from Poll Site Ballots	17% Done	Complete	44% Done	60% Done	Complete
Re-Canvass of Poll Site Ballots	Not Started	59% Done	Not Started	Complete	Complete
Statutorily Required Audit of Scanners	18% Done	Complete	54% Done	96% Done	Complete
Re-Canvass of Emergency Ballots	Not Started	Not Started	85% Done	Complete	Complete
Canvass of Absentee, Affidavit and Military Ballots	Just Started	Just Started	Just Started	Just Started	Just Started
Manually Entry of Re-canvass Activity into S-Elect	Not Started	Not Started	Not Started	Complete	Complete