

MEETING OF THE COMMISSIONERS OF ELECTIONS
IN THE CITY OF NEW YORK
HELD ON TUESDAY, MARCH 26, 2019 AT 1:30 P.M.
42 BROADWAY, 6th FLOOR, COMMISSIONERS' HEARING ROOM
NEW YORK, NY 10004

PRESENT: President John Wm. Zaccone
 Secretary Patricia Anne Taylor

Commissioners Jose Araujo, John Flateau, Miguelina Camilo,
Michael Michel, Simon Shamoun, Robert Siano, Tiffany Townsend,
Frederic M. Umane

Michael J. Ryan, Executive Director
Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Georgea Kontzamanis, Operations Manager
Raphael Savino, Deputy General Counsel
Valerie Vazquez, Director, Communications & Public Affairs
Steven Guglielmi, Director, Personnel
Kenneth Moltner, Counsel to the Commissioners
Steven B. Denkberg, Counsel to the Commissioners

GUEST: Gary Popkin
 Katharine Loving, NYC CFB
 J. Y., BVA
 Kate Doran, LWV
 Wendy Byrne, LWV
 K. Garrity, NYC CFB

President Zaccone called the meeting to order at 1:45 P.M.

Commissioner Araujo moved to adopt the minutes for the March 15, 2019 Commissioners' Meeting. Commissioner Fleteau seconded the motion, which was unanimously adopted.

Commissioner Araujo moved to adopt the minutes for the March 19, 2019 Commissioners' Meeting. Commissioner Michel seconded the motion, with Commissioner Siano abstaining. The motion was adopted. It was noted that Commissioner Siano was not present at this meeting and the minutes will be revised to reflect that.

Mr. Savino reported that the Office of the General Counsel's Office created a preliminary filing calendar for Independent Nominating Petitions for the May 14, 2019 Special Election for the 45th Council District in Brooklyn. Copies of Mr. Savino's memorandum and preliminary filing calendar were distributed to the Commissioners for review. He requested to establish a date for Hearings on Specifications of Objections and Related Matters and recommended that the Commissioners set Tuesday, April 16, 2019 at 1:30 P.M. Commissioner Umame moved to adopt Tuesday, April 16, 2019 at 1:30 P.M. as recommended. Commissioner Fleteau seconded the motion, which was unanimously adopted. The

calendar will be updated and posted on the Board's website for the public. Mr. Savino noted that the last day to distribute military ballots under the New York State Election Law is now forty-five (45) days before the date of the Election, which is Saturday, March 30, 2019. The Board cannot send out military ballots on this date as the last day to file petitions for the Special Election is April 1, 2019 and the Board will be open until midnight that evening. The names of all candidates who are on the ballot as of April 2, 2019 will be printed on the military ballots when they are distributed on that date. Mr. Ryan reported that the military ballots are built in the SCTYL system based on the petition filings and are updated after the Commissioners' Hearings. He recalled that he strongly suggested at the City Charter Commission Expert Forum last week for the City Charter to be amended so that the City Board's election calendars meet the same standards as the State Board's election calendars, specifically Section 42 of the New York State Public Officers Law. Commissioner Michel recommended for the Executive Director to send a letter to the City Council after every Special Election reminding them of this petition filing issue until they change the forty-five (45) day provision.

Mr. Savino requested for an appointment of a Commissioners' Cover Sheet Review Committee immediately following today's meeting. Commissioners Flateau and Shamoun volunteered to serve on the Commissioners' Cover Sheet Review Committee. Mr. Savino reported that a Commissioners' Cover Sheet Review Committee may be required on Friday, March 29, 2019 and requested for an appointment of a meeting. Commissioners Flateau and Shamoun volunteered to serve on the Cover Sheet Review Committee on Friday, March 29, 2019 at 3:00 P.M. Commissioner Shamoun will be present via teleconference. Notice will be posted on the Board's website and Front Counters for the public.

For informational purposes, Mr. Ryan provided a brief overview of cyber security concerns. He reiterated that the election process is safe from manipulation. The DS-200 Scanners are stand alone devices and cannot be networked, either hardwired or air card capability, according to State Law. Each scanner contains a ballot image that is scanned-in and saved as well as paper ballots in the event there is an audit. Mr. Ryan reported that the Board works closely with New York City Cyber Command which lead's the City's cyber defense efforts with many agencies and offices. Cyber Command protects New York City infrastructure and critical

systems from malicious attacks. CrowdStrike is utilized which is a monitoring cyber security service for public sectors. IT-ISAC cyber security service is utilized for information sharing and analysis which collaborates with other common large jurisdictions. All data goes through the NYS Department of Homeland Security (DHS) as critical infrastructure. Mr. Ryan reported that the Board has requested \$1.7 million to establish a Cyber Security Unit to deal with more issues in-house.

Mr. Ryan reported that the Board received communication on Election Systems & Software's (ES&S) briefing concerning their analysis of the November 6, 2018 General Election. This information was previously shared with the Commissioners. Mr. Ryan provided a summary of ES&S's letter. The main question and concern was ballot jams on Election Day. There were a total of 2,323,456 ballots counted through scanners on Election Day for the Presidential Election; this does not include absentee and affidavit ballots. There were a total of 3,791,773 individual ballot pages tabulated in the scanners. By State Law requirement, four (4) out of five (5) boroughs had a 2-page, center perforated, ballot which was 38" long, 14" per ballot page. Ballot jams for the 2016 Presidential Election were a total of 9,676 vs. 30,423 for the November 6, 2018 General Election

which was a significant increase to .42% from .8%, but below 1% of ballot jams. ES&S reported that there was an increase of ballot jams due to the number of voter interrupted sessions on the scanner which was over 427,000. There were many possibilities of jams such as voters inserting the first page of the ballot in the scanner and the machine did not reset before the second page of the ballot was inserted, or voters inserted both ballot pages simultaneously, or voters did not separate the perforated ballot pages and tried to insert the 38" ballot as a single page. Every voter interrupted session required poll worker remediation on the scanner. ES&S reported that if the Board has a lengthy, center perforated, 2-page ballot, the scanner is not designed to handle those kinds of ballots at the high volume of New York City on a busy election day. This kind of ballot exceeds the time to process voters in a timely and convenient way. Mr. Ryan reported that the Board's ballots are designed in accordance with the New York State Election Law. According to ES&S's analysis, this type of center perforated, 2-page, lengthy ballot was not done anywhere in the United States with any vendor's tabulation equipment. This was the first event. ES&S offered an apology to the Board for not communicating the potential negative impacts on Election Day during pre-election discussions. Mr. Ryan reported that the Board has taken remedial steps with respect to

training poll workers in the event there are either ballot jams or interrupted voter sessions in the future. President Zaccone noted that it is imperative to contact the State Legislature and State Board to inform them of these problems and to ask for the statute to be changed to a non-perforated ballot. Mr. Ryan reported that the Board has been planning for Early Voting and one of the discussions is the use of the Ballot on Demand (BOD) system. The BOD system is currently used to print absentee ballots. The State Board informed the City Board that Early Voting is considered an Election Day because it is tabulated and the BOD system cannot be used. The State Board is currently working with the State Legislature on removing the stub requirement so there would be no perforations on the ballot. Mr. Ryan reported that there is discussion that there may be a separate ballot sheet for City Charter or Referendum Questions so then likelihood of going to a third page ballot would be significantly reduced in the future. Mr. Ryan noted that the communication from ES&S demonstrated to both the Board and the public that the Board was in a very difficult position due to the combination of the scanners and New York State Election Law ballot requirements. Mr. Ryan reiterated that the Board operates under the NYS Board of Elections and the

NYS Election Law, and the Commissioners do not have total freedom to make particular decisions.

President Zaccone recognized Gary Popkin, a member of the public, who spoke about the Board's new voter registration forms and the order of addresses listed in Poll Site Street Finders.

Commissioner Umane moved to convene an Executive Session for litigation and personnel matters. Commissioner Camilo seconded the motion, which was unanimously adopted.

After Executive Session, the open public meeting resumed, and President Zaccone reported that action was taken on several personnel matters in Executive Session and will be reported at a later date.

The following action was taken by unanimous decision of the Board of Commissioners at the March 19, 2019 Commissioners' Meeting's Executive Session:

- I. Anthony Ayala, a Senior Voting Machine Technician, was granted 70 hours of an Advance of Time. This grant is retroactive from March 6, 2019.

The following action was taken by unanimous decision of the Board of Commissioners at the March 26, 2019 Commissioners' Meeting's Executive Session:

- I. The Commissioners ratified the disposition of the pending disciplinary matters of employees Glenn James, Michael Mattis, Alexander Shalbinksi, and Charles Stimson, that were previously approved by their respective borough Commissioners' Committee.

Commissioner Flateau moved to adjourn the meeting. Commissioner Shamoun seconded the motion, which was unanimously adopted.

The next stated meeting of the Commissioners will be held on Tuesday, April 2, 2019 at 1:30 P.M.