

**Minutes of the New York State Board of Elections  
February 23, 2016**

The meeting of the Commissioners of the New York State Board of Elections held at the offices of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5<sup>th</sup> Floor Conference Room was called to order at 12:25 p.m. The meeting was chaired by Commissioner Peter Kosinski. Commissioners present were Douglas Kellner, Andrew Spano (via Skype) and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Brian Quail, Bill McCann, Anna Svizzero, Brendan Lovullo, John Conklin, Tom Connolly, Mark Goldhaber and Risa Sugarman. The guest list is attached.

Commissioners Kosinski and Peterson made determinations on the six Republican candidates that have requested to appear on the April Primary Republican ballot. The candidates are: Donald Trump, Marco Rubio, Ben Carson, Ted Cruz, John Kasich and Jeb Bush. **(Commissioners Kosinski and Peterson voted in the affirmative for all; 2 Yes and 0 No).**

**Minutes of January 11, 2016 and Executive Minutes from November 17, 2015 and January 11, 2016 –** Minutes and Executive Session minutes were accepted **(Commissioners Kellner, Kosinski, Spano (via Skype) and Peterson voting in the affirmative; 4 Yes and 0 No).**

**Unit Updates:**

**Executive** – Robert Brehm and Todd Valentine reported on several issues including:

- Certified the April 19<sup>th</sup> Special Election for the 9SD and the 59, 62 and 65AD's.
- Carpeting has been replaced in the flooded areas.
- We have a new Deputy Secretary and Deputy Director of State Operations.
- Assigned a hearing office for the Enforcement Counsel.

**Legal** – Kim Galvin reported on activities related to the Counsel/Compliance Unit including:

- Compliance is working on reviewing the January periodic filings.
- Will have for next board meeting the number of filers that are not in compliance after the 30 day period.
- Meetings on the update of the campaign finance handbook are underway. It should be completed by next board meeting.

**Election Operations** – Brendan Lovullo reported that the Election Operations unit is working on several ongoing issues including:

- Working on certifying the statewide candidate list.
- Putting together the ballot templates for all the congressional districts.
- Contracts have been extended to counties that have shoebox money.

**PIO/NVRA** – John Conklin and Tom Connolly reported that the PIO/NVRA unit is working on several issues:

- Attending meetings for CAPAS/FIDAS projects.
- March 5<sup>th</sup> is the deadline for transmitting military and federal ballots.
- Working with IT to finalize the election night reporting system.

ITU – Mark Goldheaber reported on projects IT is working on:

- The consultant project manager for the CAPAS/FIDAS Redesign Project has taken another job.
- Testing DVPN's will begin next week.
- Finishing the infrastructure upgrade for NYSVoter and CAPAS/FIDAS.

**Enforcement** – Risa Sugarman reported on the Enforcement Unit:

- New carpeting is down and replacement equipment has been received.
- Meetings with Compliance and counsel re: deminimus violations.
- Purchased a data analytics program.

### **Old Business:**

- Comments have been received on FOIL voter registration information and a draft to amend the guidelines has been worked on.
- The proposed amendments in reference to the Independent Expenditures regulations have been submitted for publication.

### **New Business:**

- VOTE to adopt the staff report petition rulings. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano (via Skype) and Peterson voting in the affirmative; 4 Yes and 0 No.**
- VOTE to certify ES&S upgrade to EVS version 5.6.0.1, pertaining to Election Management System (EMA) DS 200 Precinct-based scanner and DS 850 central count scanner. **The motion was approved unanimously Commissioners Kellner, Kosinski, Spano (via Skype) and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- Discussion to amend Part 6218.3 in relation to Civil Enforcement Hearings- notice to hearing officers. This will be revisited if Enforcement has a problem with sending out notices.
- VOTE to adopt proposed regulation to amend § 6210.2 Routine maintenance and testing of voting systems. **The motion was approved unanimously Commissioners Kellner, Kosinski, Spano (via Skype) and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- The next board meetings are scheduled for March 24<sup>th</sup> and May 3<sup>rd</sup>, 2016.
- There was a motion to go into Executive Session. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano (via Skype) and Peterson voting in the affirmative; 4 Yes and 0 No.)**

### **Executive Session**

- **VOTE to authorize the CEC to serve subpoena pursuant to Election Law subdivision 5 of §3-102 and subdivision 3 of §3-104 in relation to Case # E-06-2016. The motion was approved 4-0. (Commissioners Kosinski, Kellner, Spano [via Skype] and Peterson voting in the affirmative).**
- **VOTE to deny the CEC to serve subpoena pursuant to Election Law subdivision 5 of §3-102 and subdivision 3 of §3-104 in relation to Case # E-07-2016 and refer to the Compliance Unit. The motion was approved 4-0. (Commissioners Kosinski, Kellner, Spano [via Skype] and Peterson voting in the affirmative).**
- **VOTE to make criminal referral pursuant to Election Law §3-104(5)(b) in relation to Case# E-08-2016. The motion was approved 4 - 0. (Commissioners Kosinski, Kellner, Spano [via Skype] and Peterson voting in the affirmative).**

- **VOTE** to authorize the CEC to serve subpoena pursuant to Election Law subdivision 5 of §3-102 and subdivision 3 of §3-104 in relation to Case # E-09-2016. **The motion was approved 4-0. (Commissioners Kosinski, Kellner, Spano [via Skype] and Peterson voting in the affirmative).**
- **VOTE** to authorize CEC's request for subpoena pursuant to Election Law subdivision 5 of §3-102 and subdivision 3 of §3-104 in relation to Case# E-10-2016. **The motion was approved 4 - 0. (Commissioners Kosinski, Kellner, Spano [via Skype] and Peterson voting in the affirmative).**
- **VOTE** to authorize CEC's request for subpoena pursuant to Election Law subdivision 5 of §3-102 and subdivision 3 of §3-104 in relation to Case #11-16. **The motion was approved unanimously (Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**

**The meeting was adjourned 2:45 p.m.**



16-03

## **New York State Board of Elections APPROVED RESOLUTION – February 23, 2016**

### **RESOLUTION TO CERTIFY UPGRADE OF ELECTION SYSTEMS & SOFTWARE Version EVS 5.6.0.1: for EMS, Model DS200 (precinct-based) and Model DS 850 (central count) VOTING SYSTEMS**

**WHEREAS**, the New York State Board of Elections is in receipt of a request from Election Systems & Software (ES & S) to upgrade their Election Management Software, DS 200 precinct-based and DS 850 central count scanner; and

**WHEREAS**, having been previously certified, the systems were resubmitted with upgrades which address system change notes, including the ability to create and implement header cards with the DS 850; and

**WHEREAS**, the Election Operations Unit has conducted functional testing of said systems, and has provided a summary report, attached hereto for the consideration of the Board; and

**WHEREAS**, having considered the totality of all certification summary reports and the results of functional testing conducted by the Election Operations Unit, we do hereby recommend the certification of said system as herein defined;

ElectionWare (EW) 4.10.0.0    Election Reporting Module (ERM) 8.15.0.0

DS200 Firmware 2.16.0.0    Removable Media Service 1.4.7.0

Event Log Service 1.5.7.0    DS200 Scanner Motherboard 1.2

DS200 Scanner Motherboard 1.3    DS200 Power Management Firmware 1.2.14.0

DS850 Central Count Scanner Firmware 2.12.0.0

**NOW THEREFORE BE IT RESOLVED** that the New York State Board of Elections, at their meeting convened on February 23, 2016, do hereby certify the ES and S upgrade to version EVS 5.6.0.1, submitted by Election Systems & Software, as described above.

**Vote 4-0  
Approved February 23, 2016**



16-04

**New York State Board of Elections  
APPROVED RESOLUTION – February 23, 2016**

**BE IT RESOLVED** by the New York State Board of Elections that notice of the following amendment be published for public comment in accordance with the State Administrative Procedure Act:

The State Board of Elections proposes to amend paragraph (c) of Section 6218.3 of Part 6218 of Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to read as follows:

(c) The notice of hearing and the report shall be served by personal service consistent with the Civil Practice Law and Rules delivery, or by mailing copies to each respondent by certified mail and regular first class mail at the address listed for respondent in the last filing made by respondent with the New York State Board of Elections pursuant to Article 14 of the Election Law, or at respondent's place of residence, or at respondent's place of business, or in the case of a corporation, limited liability company or limited liability partnership, by delivery of duplicate copies to the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service at the office of the department of state in the city of Albany. When by certified mail, s Service shall be complete upon delivery to respondent, five days after mailing to respondent, when the notice of hearing and report are received by respondent or ten days after delivery to the secretary of state or his or her deputy or with any person authorized by the secretary of state to receive such service.

**Vote 4-0  
Approved February 23, 2016**