

**Minutes of the New York State Board of Elections  
May 12, 2009**

The meeting of the Board of Canvassers of the New York State Board of Elections was convened at the offices of the New York State Board of Elections, 40 Steuben Street, Albany, New York in the 4<sup>th</sup> Floor Conference Room. The meeting was called to order at 12:00 p.m. and was chaired by Commissioner Douglas Kellner. Commissioners present were James Walsh, Evelyn Aquila and Gregory Peterson.

- The Board of Canvassers considered a motion to approve the re-certification of the 2008 General Election to reflect all the amended certifications received from the counties. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- The Board of Canvassers next considered a motion to approve the certification of the results of the March 31, 2009 Special Election in the 20<sup>th</sup> Congressional District. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

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 Steuben Street, Albany, New York in the 4<sup>th</sup> Floor Conference Room and was called to order at 12:05 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were James Walsh, Evelyn Aquila and Gregory Peterson. Staff members present were: Stanley Zalen, Todd Valentine, Kim Galvin, Paul Collins, Elizabeth Hogan, George Stanton, Anna Svizzero, Joseph Burns, John Conklin, Robert Brehm, and Patrick Campion. The guest list is attached.

**Minutes of April 7<sup>th</sup>, 2009 – A motion was approved unanimously to accept the minutes as amended (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

**Unit Updates:**

**Executive** – Stanley Zalen and Todd Valentine reported on several issues including:

- The internal controls report was accepted by the Division of Budget.
- A required 60 day plan to extend the availability to use lever replacement funds was submitted to the Election Assistance Commission, and copy was provided to Congressman José Serrano.
- We are preparing a response to the issues identified in Executive Order 17 which requires that we review our existing regulations to determine if NYSBOE can

minimize adverse impacts on local government. The response is due December 1<sup>st</sup>.

- Executive Order 18 requires each state agency to eliminate its use of bottled water. The NYSBOE had already eliminated the purchase of bottled water as part of our cost containment efforts.
- The Single Federal Audit has begun which, for the first time, includes the NYSBOE. This audit is required annually of all the federal funds the state receives and NYSBOE is included due to the expenditures of funds to implement HAVA.
- The Senate Election Law Committee is holding hearings to receive public comment concerning voter registration, absentee voting, voter registration, and poll site accessibility. Todd Valentine and John Conklin attended the recent hearing in Albany.

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

- Finalizing and following through with the Office of General Services on some of the contractual situations surrounding the machines and the deployment of the machines.
- Communication with the Department of Justice, the Attorney General's Office, machine vendors and the testing lab along with the consultants concerning the proposed 2009 Voting Machine Pilot Program.

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

- With regard to the 20<sup>th</sup> Congressional District, staff has completed tasks related to the preparation of the certification of results, and will forward same to archivists and others in Washington D.C., along with the signed amendments to the 2008 General Election results.
- We certified proclamations for special elections in NYC, in the 77<sup>th</sup> Assembly District and the 85<sup>th</sup> Assembly District. Those special elections will be held on June 2<sup>nd</sup>.
- Status meetings with NYSTEC and SysTest are continuing.
- Voting system Election Management System (EMS) orientation training sessions with the counties are continuing. To date, 27 counties and 95 county board staff members have participated in the classes.
- Continue to work on draft procedures which are planned to be presented at the upcoming Election Commissioners' Association meeting in June.
- Working on getting information from the New York City Board concerning the Special Election that was held in Staten Island and conducted on paper ballots. According to NYC, interviews with the election inspectors and others have not happened yet. Anna Svizzero will have a report to the Board after the information is collected.
- The Election Operations Unit has started putting together a directory of all forms required in statute and regulation which are required to be provided by the State Board.

- We have begun to create a grant reimbursement program for certain costs which county boards of elections expended for HAVA purposes. Joe Burns is reviewing existing contracts and Lisa Shaw is reviewing decisions and frequently asked questions so that a list of items that the EAC has taken a position on as being acceptable for reimbursement.

**PIO/NVRA** – John Conklin reported on several ongoing projects in the PIO/NVRA unit including:

- The Annual Conference was held and was well attended. There were about 18 vendors, which was the most of any conference. The PIO unit sent out surveys to all the county commissioners, a report of the results of the survey will be at the next board meeting. John went on to thank everyone for all of their help in making the conference such a success.
  - Commissioners Walsh and Peterson both spoke about the conference and how impressed they were with it. They found it very informative and educational. Commissioner Aquila also added that she thought the conference went very well.
- Commissioner Walsh also commented on the 20<sup>th</sup> Congressional District race and how well the media was handled
- The change to the voter registration form for the organ donor information is moving forward.
- Commissioner Kellner asked John Conklin about the report that New York City sent to the State with a list of issues concerning the Department of Motor Vehicles and processing voter registration. John Conklin replied that the issues are being looked into.

**Campaign Finance** - Elizabeth Hogan reported on several ongoing projects in Campaign Finance and Enforcement, including:

- The 2009 campaign filer handbook was handed out at the conference.
- Elizabeth Hogan and Bill McCann held a training seminar April 21<sup>st</sup> for the group of arbitrators who may be called into service under the dispute resolution component of the HAVA complaint procedure.
- The campaign finance seminars are underway and registration is available on our website to anyone interested.
- Elizabeth Hogan called the Governor's Office of Regulatory Reform (GORR) looking for the regulation change for 6200.1. GORR sent it over to the Governor's office. We are waiting to hear if the Governor's office has any issues with language, etc.
- The 2008 audit has begun. As far as the 2006 and 2007 report is concerned, Elizabeth Hogan and Bill McCann need to review the audits and write a report.

**ITU** – George Stanton reported on several issues in the Information Technology Unit:

- The unit is working on completing the installation of the software that campaign finance will be using to store the scanned documents.
- NCOA processing has been completed.
- A round of firmware and security-ware updates for NYSVoter is underway.

- The IT unit is considering conducting a “fire drill” to test the cutover to the disaster recovery site while Saber is still on site in case there are any issues.
- The State of California called to have a phone conference with George to talk about ‘support and maintenance’ of their new statewide voter registration contract. The call is planned to take place this afternoon.

**Old Business:** None.

**New Business:** The Commissioners discussed several issues including:

- Elizabeth Hogan presented a resolution to expend HAVA funds of \$15,000 for the New York State Dispute Resolution Agency (NYSDRA). **A motion was approved unanimously to accept (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- A resolution was considered pertaining to the approval to use in the 2009 Voting Machine Pilot Program the Sequoia/Dominion Image Cast and the ES&S NSDS200+ AutoMARK voting system. A lengthy discussion followed which included proposed modifications to the draft pilot plan.
  - **A motion was approved unanimously to insert a provision in the post-election verification section for ‘full compliance with the audit provisions contained in Election Law §9-211 and the audit provisions contained in the proposed regulation 6210.18’. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
  - Commissioner Kellner proposed an amendment that any candidate be permitted to ask for 100% hand count. **(Commissioner Kellner voted yes; Commissioners Walsh, Aquila and Peterson voting no. The motion failed 1 Yes and 3 No).**
  - **A motion was approved unanimously to accept the resolution and pilot plan as amended. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). Copy attached.**
- Commissioner Kellner made a motion that a meeting of the Citizens Election Modernization Advisory Committee (CEMAC) be convened to obtain input from the members and request that they provide a report of any suggestions or proposals they may have concerning the details of the pilot program. **(Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Next, there was a lengthy discussion concerning several proposed campaign finance/enforcement preliminary determinations. It was decided to continue consideration of the cases at the next board meeting.

The Commissioners made a motion to hold the next board meeting on June 15, 2009. **Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The Commissioners then made a motion to go into Executive Session at 2:10 p.m. to discuss enforcement cases. **Commissioners Kellner, Walsh, Aquila and Peterson voted in the affirmative; 4 Yes and 0 No).**

The meeting went back into regular session at 2:45 p.m.; a motion was made to adjourn. **The Commissioners voted unanimously to approve the motion. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**