

**Minutes of the New York State Board of Elections
July 15, 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 4th 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 certification of the June 2nd, 2009 Special Election in the 77th and 85th Assembly Districts. **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 4th 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, William McCann, Joseph Burns, John Conklin, Robert Brehm, and Patrick Campion. The guest list is attached.

Minutes of May 12th and June 15th, 2009 – A motion was approved unanimously to accept the minutes as written (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:

- Stanley Zalen spoke about the single audit that was conducted last week by the state to prepare for the federal audit. Before the federal audit, each county will have to complete a single audit and to provide a copy to the State Board.
- Stanley Zalen announced his retirement effective October 1st, 2009 after 35 years with the State Board. The four Commissioners each thanked Stanley and gave accolades to Stanley's many years at the Board along with best wishes for a wonderful retirement.
- Todd Valentine spoke about the budget issues the Board is still facing.

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

- The filing of Judicial Delegate petitions and ballot access documents to county board offices have led to a large amount of phone calls.

- Communication with the Department of Justice, the Attorney General's Office, are ongoing.
- The Legal Unit is reviewing the 2009 Chapter Laws for any required submissions for preclearance by the Justice Department.

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

- Ongoing weekly meetings with NYSTEC and SysTest are ongoing.
- We prepared the documents for the Board of Canvassers meeting today, to certify the June 2nd Special Election results in the 77th and 85th NYS Assembly Districts.
- The functional testing on the voting systems has been conducted and concluded. A copy of the report and corresponding resolution are on the agenda for the Board's consideration.
- The acceptance testing site at the campus is up and running. To date, we have acceptance tested 604 ES&S scanners. We expect to test the balance of 293 scanners over the next 10 days. The Dominion scanners are expected in about 2-3 weeks and we will conduct acceptance testing on those units as soon as they are delivered.
- Petitions and related ballot access documents are being received regarding delegates to judicial conventions
- An announcement has been made that Dominion, the owner and creator of the ImageCast is assuming operations for Sequoia in New York State.

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

- The television and radio public service announcements (PSA's) for the new voting machines are completed. The TV ads are in English, the radio ads are in Spanish and English. The launch date for the PSA's is scheduled for August 31st.
- The 2009 HHS poll site accessibility improvement funds have been approved in Washington.
- We have been working diligently on the video story boards for the ImageCast voting system and the ES&S DS200 optical scanning system to make revisions to the Poll Worker Training program and the Voter Education program. Draft copies were provided to all County commissioners as well as advocate groups. The week of July 28th, SOE will be at the Board to film the videos.
- The proposal from the usability expert for the voter registration form was approved by DOB and we will have our first meeting tomorrow with representatives of AIGA – Design for Democracy.

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

- The unit is busy with phone calls due to the July 15th Periodic filing date.
- The campaign finance seminars are completed and were very successful.
- The unit is working on updating the campaign finance related information on the State Board website.

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

- The IT Dept. is busy with phone calls for the July 15th Periodic filing.
- The unit is working to resolve issues with the campaign finance scanning project implementation.
- NYSVoter had to shut down one of the counties due to a virus at the county. It is now fixed and they are back online. George commented that some of the counties requested a change to the way we check duplicate matching using the middle initial. The steering committee will look into this at their next meeting.

Old Business: After a lengthy discussion concerning authorizing the use of certain voting machines for the pilot program, the resolution was presented to the Commissioners for consideration which would authorize the interim use of the Dominion ImageCast Vote System and the ES&S DS200, including the AutoMark Ballot Marking Device. A motion was made to accept the resolution. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The resolution was adopted.**

New Business: The Commissioners discussed several issues including:

- There was a discussion on developing a Pilot Program survey effort to obtain feedback from counties related to their participation in the pilot program.
- There was a lengthy discussion on the issue of the voting machines registering an under and over vote. It was discovered in the testing process that the regulation with respect to the ballot counting scanners would create serious problems at the polling places. The state constitution requires a private ballot. If the voting machine notifies the voter, the ballot is no longer private. Commissioner Kellner stressed the importance of adopting an emergency regulation to turn the under vote notification off on all machines which would last for 90 days. After a long discussion, the Commissioners decided that counsel would write up the emergency regulation for a vote.
- The proposed audit regulation 6210.18 which has to do with audit regulations. The Commissioners discussed the regulations for a 3 percent audit if there are any issues on Election Day.
- The Commissioners voted to certify the ballot proposals for constitutional amendments that will appear on the general ballot in November.
 - Proposal Number One, An Amendment: Amendment to section 1 of article 14 of the Constitution, in relation to the use of certain forest preserve lands by National Grid to construct a 46 kV power line along State Route 56 in St. Lawrence County.
 - Proposal Number Two, An Amendment: Amendment to article 3 of the Constitution, in relation to authorizing the Legislature to allow prisoners to voluntarily perform work for nonprofit organizations.

- **The Commissioners unanimously voted to certify (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- The Commissioners voted on a proposal to adopt an emergency regulation to amend Part 6209.2(a)(8) of the subtitle V of title IX of the official compilation of the codes, rules and regulations of the State of New York regarding polling place voting system requirements. The amended regulation removed the under vote notification by ballot scanning equipment used by county boards of elections (see attached). **The Commissioners unanimously voted to adopt the emergency resolution (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The resolution was adopted.**
- The Commissioners moved to direct the staff to take all steps necessary to implement the emergency regulation and the proposed amendment, permanent amendment. **The Commissioners unanimously voted (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- The Commissioners voted to accept the recommendations of counsel on the complaints not requiring preliminary determinations and preliminary determinations. **The Commissioners unanimously voted (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 2:15 p.m. to discuss litigation recommendations from the steering committee on the database and other DOJ compliance issues. **(Commissioners Kellner, Walsh, Aquila and Peterson voted in the affirmative; 4 Yes and 0 No).**

The Commissioners made a motion to hold the next board meeting on August 4th, 2009 if there are determinations or if they do not have to meet for determinations the meeting will be held on August 18th, 2009. **Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The meeting went back into regular session at 2:30 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).**