

Approved October 3, 2008

**Minutes of the New York State Board of Elections
September 5, 2008**

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 12:00 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were Evelyn Aquila and Gregory Peterson. Staff members present were: Stanley Zalen, Todd Valentine, Kim Galvin, Paul Collins, Elizabeth Hogan, Anna Svizzero, Pat Tracey, William McCann, George Stanton, Patrick Campion and Robert Brehm. The guest list is attached.

Memorial to Former Co-Chair and Commissioner Neil W. Kelleher: Commissioners Douglas Kellner, Gregory Peterson and Evelyn Aquila began the meeting by first memorializing the death of former State Board Co-Chair and Commissioner Neil W. Kelleher. The State Board of Elections was deeply saddened upon learning that Neil W. Kelleher passed away early yesterday morning. Commissioner Kellner commented on the tremendous contribution Commissioner Kelleher has made to our agency and what a pleasure it has been working with Mr. Kelleher. Commissioner Aquila discussed her pleasure working alongside Commissioner Kelleher over the past 10 years and that in every way he was a true gentleman. Co-Executive Todd Valentine, speaking on behalf of himself and the staff at the State Board of Elections expressed sadness over the loss of Commissioner Kelleher and that our thoughts and prayers are with his family, his wife and children. In honor of his many years of distinguished service, the Board observed a moment of silence to start off the meeting.

Minutes of July 22, 2008 – Approved as written 3-0

Minutes of August 4, 2008: Commissioner Aquila stated that she was absent from this meeting due to the passing of her brother. **Approved with amendment – 3-0**

Unit Updates:

Executive – Stanley Zalen spoke about the visit by the NYS Office of Homeland Security which is going to help us update our own security committee.

- There was also discussion concerning travel vouchers submitted by Bo Lipari as part of his participation on the CEMAC Committee. It was the determination of the Co-Executive Directors that Mr. Lipari's previous vouchers would be paid. Any further claims would need prior authorization from the two directors.

Legal – Kim Galvin reported on several issues.

- There was discussion on the Court of Appeals decision in *Price v. New York State Board of Elections*. It is the Board's decision to accept the recommendation of the counsel's office that this case is limited only to Albany County and only in this instance.
- Continued meetings with the Attorney General's office concerning the CIBER lawsuit.
- Continued weekly phone calls with the Department of Justice.

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

- The acceptance testing has been completed on all 4,506 ImageCast ballot marking devices (BMDs) and 2,559 AutoMark ballot marking devices;
- Training was provided by Election Operations staff to county board of elections designated staff members. Staff from thirty-three county boards attended the sessions here in Albany. The training included instruction in the functional use of the BMDs purchased for use by the respective county board.
- The ballot marking device procedures have been finalized and are posted on our website;
- BMD security procedures and an election day report were delivered to county boards;
- Election Operations is working closely with the Federal Voters Assistance Program to respond to requests for assistance by voters.

NVRA/PIO – Bob Brehm reported on several ongoing projects in the NVRA/PIO unit.

- 2700 people were registered to vote at through the State Fair effort this year;
- The voter education website was launched at the fair www.vote-ny.com
- A statewide voter education radio campaign has started and will run until the November election.

- The state aid to localities portion of the Poll Site Access Improvement grant program had been reduced in August due to budget cuts by the State Legislature. New maximum county grant award totals were calculated and notices with this information was provided to each county board

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

- The unit is very busy with filings due to the fact that it is an elections year.
- Staff members within the unit are reviewing several proposals to improve the delivery of training services related to campaign finance reporting requirements.

ITU - George Stanton outlined several projects that the unit is still working on including:

- Continue to work on the NYSVoter duplicating resolutions and identification verification issues with the Board of Elections in New York City.

Old Business:

- Kim Galvin and Bob Brehm reported on the status of Part 6210 of the regulations. There was a motion for the State Board to approve Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York, by repealing Part 6210, and by adding thereto a new Part, to be Part 6210, Routine Maintenance and Testing of Voting Systems, Operational Procedures, and Standards for Determining Valid Votes, sections 1 through 17. **The Commissioners voted 3-0 to approve.** There was also a resolution to vote to approve section 19. **The vote was 3-0 to approve.**
- The Commissioners next considered the Procedures for Counting Ballot Marking Device Ballots. A motion was made to approve the final text of the Ballot Marking Device Counting procedures. **The vote was 3-0 to approve.** The vote was followed by a discussion and request to review the requirement for the State Board to obtain preclearance from the US Department of Justice.
- The Commissioners next considered a resolution to approve additional funding for temporary staff to assist with voting machine and BMD acceptance testing. A motion was made for the Board to approve a request of the Elections Operations Unit and authorize the use of the Special Revenue Funds – Federal/State Operations Federal Operating Grants Fund, a sum not to exceed \$25,500 for the

payment of additional costs associated with the procurement of temporary staff to assist with Acceptance Testing. **The vote was 3-0 to approve.**

New Business:

- The Commissioners next took action on several petition-related rulings which have been categorized into two segments: prima facie rulings; and missing acceptance or authorization rulings.
 - The Commissioners reviewed a report titled “No Acceptances Received” concerning independent petition findings dated September 2, 2008. There was a motion to accept the staff recommendation with an amendment to remove the last entry under the 26th Congressional District concerning the Save Jobs and Farms / Jack Davis nomination. **The Commissioners vote was 3-0 to accept.** The report is attached.
 - The Commissioners next reviewed the staff report on Prima Facie Review as amended to include a new entry under the 26th Congressional District concerning the Save Jobs and Farms / Jack Davis nomination. **The vote was 3-0 to accept.** The report is attached.
- The Commissioners considered a resolution to approve the extension of the Saber contract for support and maintenance of the statewide voter registration list - NYSVoter. The contract amount is for \$612,000. However, a request to expend any amount over \$462,000 will be under the guidance and approval of the Co-Executive Directors. A motion was made to approve the request of the Information Technology Unit and authorize the funding for a sum not to exceed \$612,000 for payment of maintenance and support of NYSVoter by Saber. **The Commissioners approved the resolution 3-0.**
- The Board then considered several recommendations by the Enforcement Unit related to enforcement cases not requiring preliminary determinations. A motion was made to accept and approve all of the staff reports that are listed on the agenda concerning complaints not requiring preliminary determination. **The Commissioners voted 3-0 to approve.**

The next meeting was tentatively scheduled for Wednesday September 17th.

A motion was made for the Board to go into Executive Session for contract and litigation matters. **The Commissioners voted 3-0 to approve.** The Board went into Executive Session at 1:05 PM.

A motion was made for the Board to reconvene from Executive Session. **The Commissioners voted 3-0 to approve.**

The meeting was adjourned at 2:00 PM.