

**Minutes of the New York State Board of Elections
October 6, 2009**

The meeting of the Board of Canvassers 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 James Walsh. Commissioners present were Douglas Kellner, Evelyn Aquila and Gregory Peterson.

- The Board of Canvassers considered a motion to approve the Certification of election results for the Special Election for the 28th Assembly District held on September 15, 2009. **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 12:15 p.m. The meeting was chaired by Commissioner James Walsh. Commissioners present were Douglas Kellner, Evelyn Aquila and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Paul Collins, Liz Hogan, William McCann, George Stanton, Anna Svizzero, Joseph Burns and John Conklin. The guest list is attached.

Unit Updates:

Co- Executive Directors: Robert Brehm and Todd Valentine spoke on several issues.

- Robert Brehm wished Stanley Zalen best wishes and also wishes to Patricia Tracey, Administrative Officer who will be retiring at the end of the month.
- Robert Brehm spoke about the pilot program and was able to visit some of the counties on Primary Day. Also, the Election Assistance Commission would like us to coordinate with them our monitoring of the pilot program on Election Day. There is also a Special Election that day for the 23rd CD which has 8 of the counties participating in the pilot program. The Board is having several conference calls with these counties to make sure all questions are answered.
- We are also in receipt of close to 14 million dollars of federal money for HAVA for 2008 and 2009.
- Todd Valentine reported that he and Robert Brehm are working on the 2010-2011 budget.
- Todd Valentine also reported that there is one item to add to new business and that is two ballot petition rulings that the Board will need to decide on

Legal: Kim Galvin reported on several issues:

- The unit is monitoring an out-of-state contractual issue involving Dominion Voting. The issue has come to nearly a complete resolution and should be finalized sometime today.
- Legal and Election Ops met with SysTest to discuss discrepancies SysTest had with their report. The meeting was successful.
- The Legal Unit has developed a positive and workable ballot delivery instruction for the upcoming Special Election. Also, this Special Election has the same issues as the Special Election for the 20th CD with regard to the time frame for military and overseas voting. The Legislature had enacted what was given to them for turnaround time for the 20th CD and it has been put into statute.

Election Operations: Anna Svizzero spoke on a few topics:

- Last week a run for record certification testing was done at Building 3. Members of the Citizen's Election Modernization Advisory Committee participated. The systems are functioning exactly the way they should. The three issues that came up were related to how the ballots had been programmed and not how they were marked.
- Election Ops unit put together a report on the pilot program from Primary Day which will be shared with all the county boards.
- Acceptance testing is ongoing at Building 3.
- The certification testing is on track for one of the vendors. SysTest had developed some increased training schedules that should make up time. We believe certification will still be in December.

PIO/NVRA: John Conklin gave an update:

- A quote has been received for the publication requirements for the two constitutional amendments for the November ballot. This also includes the amendments in Spanish. Commissioner Kellner asked about the publishing of the amendments in Korean and Chinese. John Conklin responded that it was his understanding that New York City takes care of the Korean and Chinese and the State Board takes care of the Spanish since there are some Spanish requirements outside of the city of New York.

Campaign Finance: Liz Hogan reported on several issues:

- The unit is very busy with filings and phone calls
- The education and training staff are working with the Information Technology unit on the operating system neutral software
- The auditors are working on the 2008 legislative and corporate audits.
- William McCann reported that they are working with New York City campaign finance board relative to a runoff that was held in the City.
- William McCann also introduced two interns from Albany Law School – Matt Lowfler and Bob Barrows.

ITU: George Stanton reported on several issues:

- The IT dept. has been busy working with Campaign Finance with the 27 day post primary and the 32 day pre general and also with the usability of the system neutral filing software.
- Updating poll site information on the web site.
- Daily monitoring of NYSVoter including Help Desk calls from the counties, etc.
- George Stanton and Dan Valvo have been working on the annual technology plan that is reported to the Governor's accountability office.

Old Business:

- There was a VOTE for an extension on emergency regulation 6209 relating to under-vote notification. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Commissioner Kellner spoke on the post election audit proposed regulation 6210.18.
- There was a discussion on the proposed formal opinion regarding the Village of West Hampton Beach. The opinion will be tabled until the next meeting.

New Business:

- Robert Brehm gave a report on the resolution to report legal notices for statewide propositions. Robert Brehm reported that a resolution will not be necessary and there is a proposal for the translation and proposal to publish the English and Spanish. They are also looking at the ability to cover the Chinese and Korean languages.
- There was a VOTE on a resolution to replenish state certification testing fund for test expenses to be paid for by New York State Board of Elections in the amount of \$100,000. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- There was a VOTE on a resolution allocating certain unallocated 2006 HHS, Health and Human Services poll site access funds for use by the County Board's of Election in the amount of \$89,750. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- Anna Svizzero gave an update on the primary elections pilot program 2009 implementation. Procedures are being reviewed with NYSTEC and what comments the county boards had on them. The counties that participated in the pilot program on Primary Day had success with it. There will be a more elaborate report after the General Election.

Robert Brehm reported that the Election Commissioners Association received recommendations for names to serve on a pilot program steering committee. That committee is being set up and a conference call is pending. Commissioner Kellner mentioned the importance for best practices given to the counties to use. It was the consensus of staff that the pilot program for the primary was successful.

Commissioner Walsh congratulated all the county boards that participated and also congratulations to all the volunteers for a job well done.

- There was a VOTE on a report on two prima facie issues from candidates for Justices of the Supreme Court. **The motion to accept the report was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).** There was a discussion on an outstanding general objection that if there was going to be a change in the certification that another meeting would be held.

There was a VOTE to go into Executive Session to discuss enforcement cases. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The Commissioners voted on determinations except for CMP09-122 which will be tabled for next meeting. **The motion to accept counsel's recommendation was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

There was a VOTE on the adoption of the formal opinion draft relating to the use of legal defense funds. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

Deputy Enforcement Counsel asked for authorization from the Board to execute a stipulation of discontinuance of CMP08-108. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The next board meetings will be November 10th and December 15th, 2009

The Commissioners voted to adjourn the meeting. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**