

**Minutes of the New York State Board of Elections
December 15, 2014**

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 North Pearl Street, Albany, New York in the 5th 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, Andrew Spano and Gregory Peterson.

The Board of Canvassers considered a motion to certify the General Election results for the November 4, 2014 Election. **The motion was approved unanimously (Commissioners Kellner, Walsh, Spano 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 North Pearl Street, Albany, New York in the 5th Floor Conference Room was called to order at 12:25 p.m. The meeting was chaired by Commissioner James Walsh. Commissioners present were Douglas Kellner, Andrew Spano and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kathleen O’Keefe, Brian Quail, Bill McCann, Anna Svizzero, Joe Burns, Tom Connolly and Risa Sugarman. The guest list is attached.

Minutes of November 17, 2014 – Minutes were accepted (Commissioners Kellner, Walsh, Spano and Peterson voting in the affirmative; 4 Yes and 0 No).

Unit Updates:

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

- The Assembly Election Law Committee held a budget hearing in NYC. Bob Brehm, Kathleen O’Keefe and Cheryl Couser attended. Bob Brehm testified on the new Compliance Unit.

Legal – Kathleen O’Keefe reported on activities related to the Counsel/Compliance Unit including:

- Webinar series on closing a campaign committee will be held in January and February.
- The case the Justice Department brought against us in regards to the Help America Vote Act is closed.

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

- Prepared all paperwork for the certification of the General Election.
- Participated in an electronic poll book demonstration.
- Working on a draft report on lever voting machines for the legislature.

PIO/NVRA – Tom Connolly reported that the PIO/NVRA unit is working on several issues.

- John Conklin attended a meeting on the branding initiative.
- Tom Connolly attended a conference sponsored by Voting Information Project focused on getting election information to voters.
- Tom Connolly attended a conference hosted by the Council of State Government focused on military voting.
- Worked on a draft of the updated voter registration application with the two new recognized parties.

ITU – Robert Brehm reported on projects IT is working on:

- Working with the OITS on a plan to move our computer system to the College of Nanoscale Science and Engineering.
- Weekly meetings with IT Senior Staff to discuss ongoing projects.

Enforcement – Risa Sugarman reported on the Enforcement Unit:

- Working with IT and the Compliance Unit to set up a process for sending out non-filer letters to treasurers, etc.
- Weekly meetings with the Co-Executive Directors.

Old Business:

- VOTE on Resolution Appointing Members of the Division of Election Law Enforcement as Special Investigators. **The motion was approved unanimously (Commissioners Kellner, Walsh, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**

New Business:

- VOTE on Resolution for ES&S end of life replacement part. **The motion was approved unanimously Commissioners Kellner, Walsh, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- VOTE on Resolution regarding ballot handling configuration. **The motion was approved unanimously Commissioners Kellner, Walsh, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**
- DISCUSSION regarding appointment hearing officers pursuant to Election Law §3-104 (5)(a).
- The next board meetings are scheduled for January 12th.
- There was a motion to go into Executive Session. **The motion was approved unanimously (Commissioners Kellner, Walsh, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.)**

The meeting was adjourned 1:45 p.m.



14-13

New York State Board of Elections
Approved Resolution – December 15, 2014

**RESOLUTION APPOINTING MEMBERS OF THE DIVISION OF ELECTION
LAW ENFORCEMENT SPECIAL INVESTIGATORS PURSUANT TO
ELECTION LAW § 3-107**

WHEREAS, the state board of elections chief enforcement counsel, established pursuant to Election Law section 3-100, shall conduct all investigations necessary to enforce the provisions of the Election Law, and

WHEREAS, Risa Sugarman has been chosen by the Governor and confirmed by the NYS Senate and Assembly pursuant to Election Law § 3-100 (3-a), and

WHEREAS, Risa Sugarman has appointed three (3) investigators to assist her in the investigations conducted in her Division, and

WHEREAS, Election Law § 3-107 states that special investigators shall have all the powers of a peace officer as set forth in Criminal Procedure Law section 2.20 for the purpose of enforcing the provisions of the Election Law, and

WHEREAS, Peace Officer designation makes numerous investigatory tools available to the Division of Election Law Enforcement which are not available without such designation, and

WHEREAS, Election Law § 3-107 confers upon the state board of elections authority to appoint special investigators to take charge of the investigation of cases arising under the election law,

NOW, BE IT RESOLVED, that the following are appointed special investigators pursuant to Election Law § 3-107 –

RISA S. SUGARMAN

GENEVRA CUSHMAN

MICHAEL FRATERRIGO

ANDREW PETERSON

Approved December 15, 2014
VOTE 4-0



New York State Board of Elections APPROVED RESOLUTION – December 15, 2014

RESOLUTION TO VOTING SYSTEM CHANGE DUE TO ENGINEERING CHANGE ORDERS, ON ELECTION SYSTEMS & SOFTWARE, MODEL DS 200 VOTING SYSTEM

WHEREAS, the New York State Board of Elections has previously certified the Election Systems & Software (ES&S) DS 200 firmware version 2.9.0.1; and

WHEREAS, ES&S submitted engineering change order 913 (ECOs) for consideration; and

WHEREAS, ECO 913 was reviewed by National Technical Systems (NTS, formerly Wyle Laboratories), who advised that the change was not de minimus, thus requiring testing; and

WHEREAS, SLI Global Solutions, the laboratory designated by the State Board of Elections reviewed the testing performed by NTS, which was a component of the United States Election Assistance Commission's certification testing of the ES&S DS 200; and

WHEREAS, ECO 913 – has added as an end-of-life replacement part, a second source internal battery for the DS 200; and

WHEREAS, the Election Operations Unit has conducted and successfully completed corresponding functional testing; and

WHEREAS, the Election Operations Unit recommends that, based upon the successful laboratory and functional testing, the change be approved by the Board;

NOW, THEREFORE BE IT RESOLVED that, the Commissioners of the New York State Board of Elections, at their meeting convened on December 15, 2014, do hereby certify the changes set forth in ES&S ECO 913 for DS 200 firmware version 2.9.0.1.

**Approved December 15, 2014
VOTE 4-0**



New York State Board of Elections APPROVED RESOLUTION – December 15, 2014

RESOLUTION TO DIRECT COUNTY BOARDS OF ELECTIONS REGARDING OPTICAL SCAN BALLOT HANDLING CONFIGURATIONS

WHEREAS, the New York State Board of Elections has previously prescribed ballot handling configurations for optical scan voting systems; and

WHEREAS, it has come to the attention of the State Board that some counties are setting preferences with regard to certain voting system configurations; and

WHEREAS, consistency throughout the state with regard to how ballots are handled by scanners is essential to election integrity and accuracy; and

WHEREAS, the State Board has identified four (4) configuration settings requiring attention at the county level; and

WHEREAS, said configurations concern themselves with the following four (4) notifications displayed to voters when ballots are cast at the scanner:

- 1. Notification/advisory to voter of an overvote**
- 2. Notification/advisory to voter of a double vote**
- 3. Notification/advisory to voter of a ballot containing ambiguous marks**
- 4. Notification/advisory to voter of a ballot cast which completely blank; and**

WHEREAS, the State Board requires and directs that the settings for the appearance of the four notifications/advisories listed above be set in the "ON" position; and

WHEREAS, to achieve the ballot handling consistencies cited in this resolution, the ballot settings for the **notice to voter of undervotes be set in the "OFF" position;**

NOW, THEREFORE BE IT RESOLVED that the Commissioners of the New York State Board of Elections, at their meeting convened on December 15, 2014, do hereby direct all county boards of elections, upon notice of this directive, to set ballot handling configurations as herein described.

Approved December 15, 2014

VOTE 4-0