

**Minutes of the New York State Board of Elections
April 7, 2009**

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 James Walsh. Commissioners present were Douglas Kellner, Evelyn Aquila and Gregory Peterson. Staff members present were: Stanley Zalen, Todd Valentine, Kim Galvin, Paul Collins, William McCann, Elizabeth Hogan, Anna Svizzero, Joseph Burns, John Conklin, Robert Brehm, Patricia Tracey and Patrick Campion. The guest list is attached.

Commissioner Kellner spoke about the passing of Richard Johnson, President of Open Source Voting. The Commissioners all gave their condolences to his family.

Minutes of March 10th and 25th, 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 reported that the internal controls report is now on step four and should be ready to send to the Comptroller's office by the end of the month.
- Todd Valentine spoke about the FY09-10 budget that was adopted by the State Legislature how it impacts the agency.

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

- We continue to respond to calls related to Special Election that was held in the New York State 20th Congressional District. The court order indicates that the ten counties can begin counting the paper ballots on April 8th.
- A conference was held with Judge Sharpe and the transcript is posted on our web site. The meeting was to discuss the current status of Lot 1 voting machine deployment. There has been a discussion with the vendors and the testing labs to put together a proposal for this fall.
- Kim also discussed the ongoing litigation with Ciber. When they lost their certification to test voting systems, we stopped paying them which they are now suing us for that payment.
- Commissioner Kellner spoke about his concern about court orders that alter provisions of the Election Law. Commissioner Kellner would like to have a bi-partisan agreement at some point to put into a resolution.

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

- The Election Operations Unit is getting updates for the counties in the 20th Congressional District regarding the canvass and recanvass of the voting machine votes and counting of the paper ballots.
- Status meetings with NYSTEC and SysTest are continuing.
- A draft report to the Election Assistance Commission on how the restored \$49 million of lever replacement money will be used has been prepared.
- A resolution was prepared for consideration during New Business to replenishing HAVA dollars to the account that pays for the generic work related to the certification testing in the amount of \$150,000.
- Voting system Election Management System (EMS) orientation training sessions are being conducted by State Board staff with the county boards designated staff to familiarize boards with the tasks related to vendor-independent ballot programming. Twenty nine counties have so far made appointments.
- Commissioner Kellner asked about the final certification of the 2008 General Election from New York City and if we have received it yet. Commissioner Kellner wants to make sure that the records are correct in Congress, national archives and the history books. Anna Svizzero will check to see if the information has been received and will have it ready for the next board meeting.

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

- The public information office has been very busy with issues involving the 20th Congressional District race. A daily update on the results is now posted on our website.
- Final plans are underway of the annual conference in Albany. A meeting was held with SUNY satellite network to discuss guest speakers for the conference and also the PSA;s that the NY Network will be doing this summer concerning the new voting machines.
- Bob Brehm and Greg Fiozzo attended the HAVA Task Force meeting which was held last week.
- A conference call was held with the Judicial Campaign Ethics Center to discuss how the board can assist the center in reaching out to judicial candidates for their judicial qualification conference.
- The unit has also been working closely with Council's office on a request by the Governor's Office of Regulatory Reform (GORR) to make sure that all forms used by the public are in one central location on our website.
- The organ donor language for the voter registration forms has been received from the Department of Health and has been incorporated in a draft. It has been suggested that the revision of the form with the assistance of a usability expert is needed and is being discussed.

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

- The 2009 campaign filer handbook has gone to the printer.
- There are 26 campaign finance filer training seminars scheduled for this year. Registration for the seminars is on the website.
- Elizabeth Hogan participated in the HAVA Task Force meeting held last week.
- An all-day training seminar on the dispute resolution aspect of the HAVA complaint procedure will be held on April 21st.
- A meeting was held with NYSTEC to make updates to the HAVA administrative complaint procedure flow charts so that processing the complaints will be done consistently and timely.
- The 2006 and 2007 over-contribution report is complete except for a couple of issues that the staff is working on. The 2008 report will be accomplished this year.

ITU – Todd Valentine gave a short report in George Stanton’s absence:

- In reference to NYSVoter, the Board is still waiting to hear from the New York City Board.

New Business: The Commissioners discussed several issues including:

- Pat Tracey asked that we hold off a vote on the resolution to shift HAVA related staff funds to the next meeting.
- There was a vote on the resolution to approve the use of \$150,000 from the Federal Operations Grants Fund – 290 State Operations/Certification Fund for expenses related to generic voting systems certification test activities. **A motion was approved unanimously to accept (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- There was a vote to approve the required 60 day plan for the extension of Federal lever machine replacement funds and for the Commissioners to authorize the co- executive directors to submit the plan to the EAC. **A motion was approved unanimously to accept (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- There was a discussion of a proposed plan for voting machine use in pilot projects during 2009.
- Liz Hogan and Bill McCann presented the formal opinion for consideration. Commissioner Kellner requested that the second paragraph be deleted. **A motion was approved unanimously to accept as amended (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 to discuss the proposal for the Department of Justice and the HAVA law suit, enforcement cases and a personnel matter.

Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).

The meeting went into Executive Session at 1:15 p.m. The meeting went back into regular session at 2:00 p.m.

There was a motion to accept the staff recommendation to close CMP #'s 06-67, 06-72, 07-56, 07-69, 07-119, 07-123, 09-06, 09-07, 09-08 and 09-09. **The Commissioners voted unanimously to approve the motion. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The next meeting of the board is scheduled for May 12th at 12:00.

There was a motion to adjourn at 2:05 p.m. **The Commissioners voted unanimously to approve the motion. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**