

Approved December 15, 2009

**Minutes of the New York State Board of Elections
November 10, 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 Douglas Kellner. Commissioners present were James Walsh, Evelyn Aquila and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Paul Collins, Elizabeth Hogan, William McCann, George Stanton, Anna Svizzero, Joseph Burns, John Conklin, and Patrick Campion. The guest list is attached.

Minutes of September 10 and October 9, 2009 – Minutes were accepted as written.
Commissioners Kellner, Walsh, Aquila and Paterson all voted to accept; 4 Yes and 0 No.

Unit Updates:

Executive: Robert Brehm and Todd Valentine spoke on a few issues:

- The Pilot Program was completed and successful. The Board has received pleasing observations and comments. A Conference call with the Pilot Program Review Committee will be held at the beginning of December to get their feedback.
- The Special Election for the 23rd CD was held on November 3rd and unofficial results were given to the clerk of the House of Representatives.
- A single state audit was held due to the level of activity that we received in federal funds and spent in the last fiscal year. The exit conference call was held and Division of Budget had two minor findings. Our certification program is not complete and also the notifications we are required to give counties concerning their obligation to provide us with a copy of their county audit. Feedback to these two issues will be provided and it was felt that the participation in the program was successful.
- There were two public hearings in October. The Senate held one on October 9th in New York City to discuss issues related to the pilot program and new voting equipment. The Assembly also held one on October 22nd. Robert Brehm gave testimony and also presented Todd Valentine's comments on his behalf. The Senate Election Law Committee is holding two hearings in November on the 12th in New York City and the 30th in Albany. Robert Brehm plans on attending the hearing in Albany.
- Todd Valentine reported that the budget has been submitted and that he and Robert Brehm are working on a side letter to highlight the issues that will be coming up in the next year.
- Commissioner Kellner spoke about the new legislation that requires military voters to get an electronic transmission of election materials and also the fact that the absentee ballot will have to be mailed out 45 days before the election. There was a lengthy discussion as to what needs to be done to accomplish this.

Legal: Kim Galvin reported on a few issues:

- Participated in ongoing phone conferences with the Department of Justice and also numerous meetings concerning the voting machine certification effort and the related amendments to voting system regulations as well as overseas ballots.
- The Department of Justice had many questions about the Special Election race in the 23rd Congressional District.
- Commissioner Kellner requested that a draft of the legislative proposals for the 2010 Session of the State Legislature would be available.

Election Operations: Anna Svizzero reported on a few issues including:

- Election Day was relatively uneventful. There were some issues with voting machine failures, mostly lever machines not the (Ballot Marking Device) BMD or optical scan machines in the pilot.
- The pilot program was very successful. There were a few ballot issues that were resolved prior to election day. On election day, the few problems that occurred, which were a few machines in certain counties, the ballots were hand counted. We will receive a full report from the vendor and the counties involved.
- On election day, 14 teams visited poll sites that were participating in the pilot program. Most issues had to do with the polling place privacy booths and the placement of the booths which will be addressed to the counties involved.
- Commissioner Aquila commented on what she experienced in traveling to Albany, Schenectady and Saratoga counties on election day.
- Staff will be going out to two counties this week to watch the 3 percent audit to get feedback on how the procedures are useful.
- Machine testing is complete and meetings with NYSTEC, SysTest, CEMAC and the vendors will be held to review the reports which are due from SysTest on November 18th. After that, certification can be completed at the next board meeting on December 15th.

Public Information: John Conklin reported on a few issues including:

- The final cost of the legal notices of the two ballot propositions that were published was \$57,000.
- The transcripts from the board meetings are posted on the web through July. The remainder will be up by the end of the week. The webcasts are available virtually immediately.
- Modifications to the Freedom of Information Law section have been completed. A subject matter list has been posted also. The public information unit has an update on the web as of October and will update again in January.
- Commissioner Kellner spoke about military ballots. Anna Svizzero responded that there was a 32 day total turn around this election which was a slight improvement over the Special Election in the 20th Congressional District earlier this year.

Campaign Finance: Elizabeth Hogan reported on a few issues:

- The unit is busy with campaign filings and an increase in the volume of phone calls. The 27 day post general report is due on November 30th.
- Updates to the handbook are ongoing. The regulation relative to duplicate filing has been amended and will be included in the updated handbook.
- Filings from 2001 and forward that were held in the office are now in an electronic version. Every month more documents are sent to be scanned.
- The 2008 corporate contribution audit is completed and work is being done on the 2006 statewide and the 2008 legislator over contributions.
- Bill McCann mentioned that they are very cognizant with costs associated with projects.

ITU: George Stanton commented on a few issues:

- The unit has received about 5,748 individual campaign filings and also a number of phone calls to the help desk concerning these.
- The unit has assisted the counties with NYSVoter. They also ran enrollment numbers to go to the website. Commissioner Kellner asked for an update on New York City doing list maintenance. George Stanton and Bob Brehm responded that they have not heard anything.

Old Business:

- There was a discussion of post election audit – proposed regulation 6210.18 by Commissioner Kellner.
- There was a lengthy discussion on a proposed formal opinion regarding the Village of West Hampton Beach. It was recommended that the draft be circulated to the Commissioners.

New Business:

- There was a motion on the resolution allocating \$8,018,952 in HAVA requirement funds for use by the county boards. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The resolution was accepted.**
- There was a motion to approve the resolution to ask the New York State Attorney General to intervene in the antitrust litigation regarding the acquisition of Premier Election Solutions by ES&S. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The resolution was adopted.**
- There was a motion to adopt staff recommendations of the preliminary determinations and complaints not requiring preliminary determinations as listed on the agenda. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The recommendations were adopted.**

There was a motion to go into Executive Session to discuss the contract issue campaign finance to report on the pending investigations and a personnel matter. **The motion was**

approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The recommendations were adopted

The next meeting will be held on December 15, 2009.

The meeting adjourned at 1:15 p.m.