

**Approved**  
**February 20, 2007**

**Minutes of The New York State Board of Elections**  
**Tuesday, February 6, 2007**

The meeting of the Commissioners of the New York State Board of Elections was held at the Board's offices at 40 Steuben Street, Albany, New York in the 4<sup>th</sup> Floor Conference Room. The meeting was called to order at 12:15 p.m. The meeting was chaired by Commissioner Neil Kelleher. Other Commissioners present were Evelyn Aquila, Helena Donohue and Douglas Kellner. Staff present were Peter Kosinski, Pat Murray, William McCann, Lee Daghlian, Bob Brehm, Anna Svizzero, Tarry Breads, Allison Carr, and George Stanton. The guest list is attached.

**Minutes of January 23, 2007**- Commissioner Kellner requested that the minutes be held over for revisions. All agreed.

**Unit Updates:**

- **Legal Unit:** - In the absence of Todd Valentine, Pat Murray reported that there are several lawsuits that the Board is involved in and there has been no new activity. She also stated that we had meetings with Department of Justice (DOJ) and several counties including New York City to gather information pertaining to the process of certification and the time line involved and how that would affect elections. We are presently waiting to hear from DOJ for their recommendations on the time line. We notified DOJ that there was insufficient time to get new machines for the 2007 elections. She also reported that the rules and regulations for the database had been submitted to Governor's Office of Regulatory Reform (GORR) for public comment.
- **Election Operations:** Anna Svizzero reported on several items:
  1. There is a special election in the 7<sup>th</sup> SD today and that her unit has completed the required actions.
  2. The Unit staff has participated in the review of documents provided by CIBER and the EAC.
  3. They continue to work on updates for procedures with NYSTEC as well as procedures for test decks, as required in our new proposed regulations.
  4. Most counties have reported their year end information that we request to prepare the annual report.
  5. EMS training with Avante will be conducted on Wednesday and Thursday, and we continue to schedule other vendors to provide this training.

- **NVRA/PIO:** Lee Daghlion reported that we have posted under the Public Information section on our web page two sets of FOIL request forms that can be filled out on line or downloaded from the web and either mailed or faxed to the Board. One set is for foiling for the database and the other form is for any other information. Commissioner Kellner thanked Lee for taking the initiative for posting the minutes of the Commissioner's meetings on the web.
  
- **ITU:** George Stanton reported that his unit has been processing the special election filings. He also reported that they have been concentrating on the HAVA database data center on the 3<sup>rd</sup> floor. He has learned that the air conditioning and power will be installed sometime in March. The database hardware was shipped to Ohio for assembly and the delivery back to Albany is expected to be around the same time as the completion of the air conditioning and the power. They are working with OGS on vendor contracts for the county side interfaces with the database. They are working with two counties that are having problems with the database. They will visit Delaware County to talk to their commissioners about the status of the interface. Fulton County didn't think they had to comply until 2008, but a letter has been written to their commissioners instructing them that database compliance is mandatory for this summer. Requirements for the disaster recovery site are being worked on and should be ready soon. They are also meeting with Campaign Finance and Election Operations about their upcoming technology requirements. Commissioner Aquila asked George if he was confident that the database would be up and running within the time line that we gave to DOJ. He feels that the State's side of the application will be complete and if there are no major issues or delays with completing contracts with county voter registration vendors, that we should be able to meet the time line requirements.
  
- **Campaign Finance:** Bill McCann reported on several issues:
  1. Bill reported that he is finally getting information from the counties that had not produced requested information about their filers. He thinks the threat of subpoenas did the trick.
  
  2. Bill also reported they sent out approximately 2000 dunning letters to non-filers. At the present, that number is down to about 567 who have failed to file and he expects that figure to go even lower once they begin the lawsuit process. He feels the results are good considering the number of filers, including local filers.
  
  3. Approximately 800 county filers that should have registered, did not. Consequently, more letters will be sent out in the near future. Bill expects to have approximately 10,000 filers in 2007 which is quintupled the number of filings and they only doubled the amount of staff. Bill reiterated that we need to address the staffing issues in his unit.
  
  4. He is also reviewing the FIDAS and CAPAS systems with the internal steering committee about any revisions that may be needed to make that process go smoother. He also met with the complaint resolution company working on the administrative complaint procedures for HAVA.

5. Bill set up over-contribution teams to review recent filings for any issues.

6. Preparation of the handbook upgrades and putting together a training schedule for this year.

Commissioner Aquila asked about the Governor's budget proposal for adding 21 people to our staff in the campaign finance unit. Bill responded that they would have to see how that would fit into other issues going on in his unit, such as possible civil penalties, and how that would impact the rest of the staff. He stated that if 21 people were to be added to investigations, then staff would need to be increased in the rest of the unit, exponentially. They will be reviewing all of these issues if the proposed budget is adopted.

- **Old Business:** Commissioner Kellner asked Mr. Daghlian about the status of the 2006 annual report. Lee reported that most data is in, with a couple of exceptions. Lee stated it should be completed by the next meeting of the Commissioners. Commissioner Donohue mentioned that at the last meeting there was discussion about subpoenaing Ciber and a vote was taken. Commissioner Donohue did not agree with the subpoena idea and felt that she was vindicated the next day because Ciber provided us with the data that we asked for, without the subpoena. Commissioner Kellner acknowledged that Commissioner Donohue's strategy to hold off service of the subpoena was successful.
- **New Business:** Bill McCann reported that reasonable attorney fees for the Kermani Albany County court case will be paid for by the Attorney General and the Board needs to sign off on this. A vote was taken and all agreed 4-0 to accept. Pat Murray reported that the Election Law provides that the contribution limits increase every four years immediately after the Governor's election and that she needs approval from the Board to publish these limits as an amendment to our regulations. **A motion was made to approve the amendment to the regulations by a vote of 4-0.**

At 12:45 p.m. Commissioner Kellner requested that the Board adjourn to Executive Session to discuss the Ciber contract.

At 2:15pm the Executive Session was adjourned and the Board immediately resumed the Regular Session to discuss New Business.

Commissioner Kellner reported that the commissioners had a lengthy discussion regarding the Ciber contract, which was the only subject discussed in Executive Session. He reported that the commissioners unanimously agreed that there would be no change in the status quo, that the State Board would continue to review documentation to determine whether to continue the Ciber contract.

Mr. Kosinski stated that we should request an inclusion in the 2007-2008 budget up to \$5 Million to pay for certification process so that the burden is taken off the vendors. Commissioner Kellner agreed because the cost of the certification is so high that it would be difficult to get smaller companies into the NY market. **It was moved to approve this budget request by a 4-0 vote.**

Commissioner Kellner mentioned that several people have questioned whether the Liberty DRE paper trail complies with the Voting System Regulations. He noted that if it does not meet our state standards, we should inform Liberty to resolve this issue before they proceed with any further testing. Ms. Svizzero said that she believes that Liberty seems to unofficially know this but Commissioner Kellner stated that we should notify them officially in order to resolve the issue as soon as possible.

**The meeting was adjourned at 2:25p.m. The next board meeting is scheduled for February 20th , 2007 at Noon in Albany, New York.**