

Approved
March 27, 2007

Minutes of The New York State Board of Elections
Tuesday, February 20, 2007

The meeting of the New York State Board of Canvassers was called to order at 12:00 p.m. at the New York State Board of Elections, 40 Steuben Street, Albany, New York. Canvassers present were Co-Chairman Neil Kelleher, Co-Chairman Douglas Kellner, and Commissioner Evelyn Aquila. Commissioner Helena Donohue was absent. The meeting was chaired by Commissioner Kellner. Staff present were: Peter Kosinski, Lee Daghlian, Bob Brehm, Anna Svizzero, Allison Carr, Deirdre Hammer, Pat Murray, and William McCann. Guest list is attached.

The Board of Canvassers met to certify the Election Results for the February 6, 2007 Special Election for the Seventh Senate District. **The certification was signed and certified with a 3-0 vote.** The Board of Canvassers adjourned at 12:05 p.m. The Commissioners reconvened immediately for the regular meeting of the Commissioners of the Board.

Minutes of January 23 and February 6, 2007 - approved as revised with a 3-0 vote.

Unit Updates:

- **Legal Unit:** - Pat Murray reported that the U.S. Supreme Court granted the New York State Board of Elections' application for a writ of certiorari in the *Lopez - Torres* case. We along with several other groups have appealed this case. The Supreme Court will probably hear oral argument in the fall. Ted Olsen and his law firm, Gibson Dunn have agreed to represent the Board on a pro bono basis. Judge Sharpe will have in-chamber conference with the attorneys for the Board and the Department of Justice (DOJ) here in Albany on Wednesday, February 21, 2007.
 - **Election Operations:** Anna Svizzero reported on several issues:
 1. A Proclamation executed by the Governor's office was received by the Board calling two Special Elections for March 27, 2007 to fill vacancies in the office of Member of Assembly in the sixteenth and sixty first Assembly Districts.
 2. Reports from Ciber, Inc. are currently being reviewed by Anna's unit and NYSTEC for thoroughness and usefulness.
 3. Vendor training on use of their respective election management systems, continues.
 4. New York City BOE comments are expected by e-mail later today, regarding voting machine purchase contracts.
 5. The acceptance testing procedures have been received from Diebold.
- NVRA/PIO:** Lee Daghlian reported that he has received a considerable amount of information concerning the web casting project. Hopefully he will have a recommendation by the next Board meeting.

Lee also reported that the county funds project is proceeding with good results.

Information from every unit has been received for the 2006 annual report. The final draft should be completed by the end of February and will be posted on the web at that time.

- **ITU:** In the absence of George Stanton, he provided a written report which is attached. There was discussion about problems with ES&S and their lack of cooperation regarding contracts and connectivity issues. Commissioner Kellner believes that ES&S is stretched too thinly and suggested that counties who have contracts with ES&S exert additional pressure. He suggested to the Board prepare an alternate plan in the event that ES&S cannot comply by our deadline.
- **Campaign Finance:** Bill McCann reported that his unit has received several requests for the list of committees that have not yet filed with the Board and that the lists were provided as requested. The Order to Show Cause to obtain fines for failure to file was postponed because of the snow storm on Monday which gave the filers a little extra time to file. He reported that a substantial number of committees, particularly those filing locally, used the extra time to come into compliance.

Bill reported that there is a vacancy in his unit and they are preparing to set up interviews for the position of Agency Program Aide.

Lastly, he reported on preparation of the schedule for the campaign finance seminars to begin in early spring is being prepared.

- **Old Business** : An e-mail from the Board to Liberty is attached regarding Liberty's compliance with the regulations concerning voter verifiable paper audit trail. Also attached is Liberty's reply and the initial report of the Election Operations Department. Anna Svizzero reviewed the Board's regulation and the text of the federal Voluntary Voting System Guidelines that are incorporated into our regulations. Liberty's machine provides a summary of ballot positions voted, but the names of the candidates voted for do not appear in the summary. The machine does not allow the vote to roll back the paper to see the previous choices. There was discussion whether the regulations require that the voter be able to roll back the paper. Mr. Kosinski suggested that this issue requires more discussion. The Commissioners agreed to put over the issue until the next meeting.
- **New Business** : *NY State Board of Elections v. Lopez Torres* case: Commissioner Kellner proposed that the Board make a motion in the District Court to continue the stay of the District Court's decision declaring the New York State judicial convention system unconstitutional until the ruling of the United States Supreme Court. The Commissioners voted 3-0 to approve this action.

The Commissioners voted 3-0 on Commissioner Kellner's motion to go into Executive Session to discuss the issues concerning the Ciber contract with NYSTEC and to meet with the AG's office on the federal HAVA case. Executive Session commenced at 12:40 p.m.

Executive Session was adjourned at 2:20 p.m.