

Approved
April 20, 2006

Minutes of The New York State Board of Elections
Tuesday, March 21, 2006

The regular meeting of the State Board of Elections was called to order at 12:25 p.m. at the office of the New York State Board of Elections, 40 Steuben Street, Albany, New York 12207. Commissioners present were Co-Chair Neil Kelleher, Co-Chair Douglas Kellner, and Commissioner Evelyn Aquila. Staff present were: Stanley Zalen, Peter Kosinski, Todd Valentine, Michael Johnson, Lee Daghlian, Anna Svizzero, George Stanton, Pat Murray, William McCann, Robert Brehm and Allison Carr. The meeting was chaired by Douglas Kellner. Guest list is attached.

Minutes of February 27, 2006 - tabled

Commissioner Aquila requested that staff arrange to make an audio recording of the meeting. There was no objection to the request.

Unit Update:

- **Legal Unit:** - Todd Valentine reported that the *Gelb v. NYSBOE* is still open and Mr. Gelb is trying to petition the U.S. Supreme Court to reopen this case since he lost in lower courts. The *Lopez v. NYSBOE* case has been appealed and we should be back in court for appeal in early June 2006. Commissioner Kellner questioned whether discussion of the HAVA case should be discussed during Executive Session. Mr. Feldman, Assistant AG, felt that the case should be discussed in Executive Session. Mr. Valentine deferred to the Attorney General's office. Commissioner Kellner agreed to postpone discussion of the HAVA litigation for Executive Session. Regarding the statewide database regulations, Commissioner Kellner asked Mr. Valentine if he was the lead in drafting the regulations and Todd answered yes and he anticipated that he would have a draft of the database regulations by April 15, 2006. Commissioner Kellner stressed the need to have a draft ready early enough to provide for meaningful regulations and input from the public.
- **Election Operations:** Anna Svizzero reported that her unit is receiving many calls from county boards about Plan B. She and her staff made amendments to the last draft of the voting machine regulations. They are also working on procedures and a road map for testing. They are also collecting enrollment data from county boards so that they can publish that data for the state on April 1, 2006. Also, year end annual reports from county boards are being processed. Anna and her staff had a prep meeting with CYBER to obtain their input on the voting machine regulations for the certification process.
- **NVRA/PIO:** Lee Daghlian reported that the NYSBOE Syracuse annual conference is on schedule and that finalized plans have been made. He also reported that the curriculum committee which consists of Bill McCann, Tim Mattice, Bob Brehm and himself has met

and decided on the basic curriculum that will be sent to the vendor. That selection has been made and they will be meeting soon. Lee also reported that the contracts for the State Fair in August 2006 have been signed and returned. We will have space for the display of new voting machines. Lee also announced at this time that Tim Mattice, an eleven year employee, will be leaving us in March 2006 for a new job. Lee stated that he wishes him well and Tim will be truly missed. Commissioner Aquila echoed that sentiment and all Commissioners wished Tim well.

- **Campaign Finance:** Michael Johnson reported that his unit is preparing the campaign finance seminar schedule to begin in May 2006. Because of changes in the laws, they are continuing to update all the forms that are to be used as well as the handbook that is disseminated to the public and utilized in the seminars. He also reported that he has enforcement cases to discuss at today's meeting.
- **ITU:** George Stanton stated that his staff is helping the Campaign Finance unit to update their forms as it applies to the web application. He also stated that they are finishing up the RFP for the statewide database. George stated that for the interim solution for Phase one of the database, we need to purchase 100 days of Oracle technical support and felt confident that this was an appropriate HAVA expense. There was limited discussion and the proposal was approved 3-0. George also reported that IBM is interested in the RFP process, but they were concerned that it would be written in such a way that IBM would not be able to bid. There was further discussion between the Commissioners and staff regarding the RFP and decided that they would have another discussion with IBM to see if any changes need to be made in the RFP. The Commissioners feel they need to be cautious doing this in order to not prevent any competition. George wishes to amend the Gartner contract so they might assist in the creation of the rules and regulations written for the database. The Commissioners instructed George to explore this issue to see what the increased costs would be. George hoped that the RFP could be ready for the next meeting.
- **Old Business :** none
- **New Business :** none

At this time, Commissioner Kellner asked Anna Svizzero to explain the status of Plan B regarding the voting machines. Anna explained that Allison reached out to vendors to demonstrate to county boards their machinery. This would include ES&S for the Auto Mark machine and IVS which manufactures the vote-by-phone system. Since sending the memo to the counties, Allison has received a lot of negative feedback, especially from New York City. Their concerns are that they won't be able to comply with the timing and the costs for the training. Others feel they may be able to comply but have the same concerns as New York City as far as training and costs. This is an ongoing discussion with no recommendations at this time.

The Board adjourned at 1:10pm for Executive Session to discuss enforcement cases and the

lawsuit by the Department of Justice. After the discussion about the DOJ lawsuit, the Commissioners authorized the staff to develop a settlement plan for the April 10th , 2006 deadline for the Federal Court. The motion was approved 3-0.

The cases were then voted on and are attached.

Complaint Without Preliminary Determination

CMP04-32 - closed

CMP04-33 - closed

CMP04-36 - closed

CMP04-72 - closed

CMP06-09 - closed

CMP06-12 - closed

CMP06-14 - closed

CMP06-15 - closed

Final Determination

CMP02-72 - tabled

CMP03-62-SC05-04 - closed

Executive Session returned to General Session and both adjourned at 12:25pm.

The next meeting is scheduled for April 4th, 2006 in Albany.