

Approved July 19, 2007

**Minutes of The New York State Board of Elections
Wednesday, June 27, 2007**

The meeting of the New York State Board of Canvassers was called to order at 1:15 p.m. at the New York State Board of Elections, 40 Steuben Street, Albany, New York. Canvassers present were Co-Chairman Douglas Kellner and Commissioners Evelyn Aquila and Helena Donohue. The meeting was chaired by Commissioner Kellner. Staff present were: Peter Kosinski, Todd Valentine, Lee Daghlian, Bob Brehm, Anna Svizzero, Allison Carr, Deirdre Hammer, Liz Hogan and William McCann. Guest list is attached.

The Board of Canvassers met to certify the special election held on June 5, 2007 in the 65th Assembly District. The Commissioners signed the certification and adjourned at 1:20 P.M. The regular meeting of the Commissioners convened at that time.

Minutes of May 2, 2007 - approved as revised

Minutes of May 30, 2007 - approved as written

Unit Updates:

- **Legal Unit:** - Todd Valentine reported on several issues:
 - The staff continues weekly updates with the Justice Department with Liz Hogan assisting with the information to Justice about the status on a week to week basis.
 - Legislation was passed by both houses for the Presidential Primary. Both plans were approved and sent to the Governor for signature which we expect soon.
 - Deirdre is assisting in some of his projects and she is also doing a statement for Regulation 6210.19 and 6210 so that they can go to publication.
 - They are making preparations for petition filing season which will start in July.
 - The petition cases for *Lopez v. Torres* case will be heard by the Supreme Court in October and that a prior petition case in New York probably won't be heard until that decision is made, so it will not affect this petition period.
- **Election Operations:** Anna Svizzero reported on several issues:
 - Site visits for evaluation of the proposed ITA's were completed by Allison and Bob. Also, John O'Grady from the New York City Board and Bob Pezdek, from OFT. The trip went very well and a written report will be provided to the Commissioners in a few days.
 - The conference calls for machine contracts; Anna wishes to thank Steve Richman from the City Board and all the other parties in their assistance and that she will update the Board later under old business. Final contracts should be submitted to vendors for comment.
 - Commissioner Kellner asked about the updating of the applications and affidavits for the vendors, Allison Carr responded that they have nothing new to report but they have some documents that will be posted this week.
- **NVRA/PIO:** Lee Daghlian reported on one project:
 - The contract for Poll Worker Training Program has been signed by both parties and delivered to the Attorney General's Office and the Comptrollers Office for review and should be returned in two to three weeks.

- **Campaign Finance:** Liz Hogan reported on several issues:
 - Training Seminars have been held around the state are finished. The last one being held Wednesday, the 27th, the same day as this meeting. They were very successful. They received very good feedback.
 - A draft memo at the Conference to the County Boards asking information from them about local candidates was submitted.
 - A review of 2005 over contributions by corporations is winding down. A report should be finished by mid-July.
 - A new phone system in campaign finance is being installed and will be in place by July 9th. This will give staff a more efficient way to respond to callers.
 - They are producing a RFP for their process serving function which has grown dramatically since local filers have come on board.
 - They are forming an internal process for handling HAVA complaints and to develop forms that are needed to effectuate those claims. Commissioner Kellner asked if there was any movement on writing up a regulation to eliminate local filing requirements to the extent that we have the authority under the statute to do that. There hasn't been any agreement from the legislature on how to accomplish this and Commissioner Kellner stated that we should start the process at least to eliminate this duplicate filing if there is no agreement in the legislature next month.

- **ITU:** George Stanton reported on several issues:
 - The statewide database is winding up. The process is going extremely well and all the remaining counties should be on line and working by the end of July with the exception of New York City who is also installing a new data system at the same time and hopefully that will be on line by the end of August so the system will be complete.
 - All the vendors are in compliance after testing with the entire rules and regs with the database. They also tested Hamer which has been contracted by Monroe County and those counties that use ES&S software.
 - A motion was made to give Board approval to give ES&S and Hamer completion statements . **The vote in favor was unanimous.**
 - The Steering Committee thought it would be a good idea to extend Saber's contract until the end of August so that they can be helpful during New York City's completion. The question of the extra cost to the state was raised by Commissioner Kellner. After discussion, George was asked to work out with the City what this extra cost might be and report back.
 - Commissioner Kellner brought up the issue of security of the registration databases since there has been some problems in other jurisdictions. We should remind local administrators of their responsibilities to stay current on security issues. George recommended that we hire a firm to do a vulnerability study on the whole network just to make sure nothing has been missed. Commissioner Kellner recommended that we do an advisory on this issue to the County Boards regardless of any study.
 - Commissioner Kellner asked about the progress if any of creating a new campaign finance filing system or changes to the system so people can file without using Microsoft Windows. George responded that we haven't done anything yet, they are starting to talk about it with the Steering Committee and maybe having Gartner help us with the analysis under our current contract.

- **Old Business :** Commissioner Kellner stated he had several things on the agenda that we should discuss:
 - How the extension of state legislation to allow the counties to use lever machines this year and also to use Plan B machines as they had last year.
 - Discuss the excess contributions by Diebold and the issue relating to affidavits from

vendors.

- To review contract issues that OGS have raised about machine procurement.
 - Discuss the undervote options that have been discussed previously.
 - The issue of enforcement and the budget approval to hire 21 people to fill slots for that office was brought up by Peter Kosinski. Elizabeth Hogan stated that they are working on it. Commissioner Donohue responded that they need to get it done now. It was decided that Peter and Stanley could approve of these positions once the Board votes to create them. A ten day deadline was given for the work to be finished by the Campaign Finance Unit, the Enforcement Unit and Senior Staff to have it ready for the next meeting of the Commissioners.
 - Commissioner Kellner proposed the following motion: that we endorse a program bill adopted by the Election Commissioners Association with the following change: in Section 3 that our text say "*in the event that the State Board of Elections has not certified a voting system as complying with the requirements of Election Law Section 7 202, the effective date shall be December 31 of the year in which the State Board of Elections makes such certification.*" **The vote was two in favor (Commissioners Kellner and Aquila) and one against (Commissioner Donohue). The motion failed.**
 - The parent company of Diebold and its subsidiaries are making donations. A long discussion about enforcing a new regulation without through review by staff and the attorney's about this particular issue and a further review of the affidavits that are required from all vendors seeking certification that staff do a complete investigation and report their findings at the next board meeting. Commissioner Kellner moved that an investigation file on the Diebold situation be opened today by the enforcement unit and report to the board as soon as they are finished. **The motion passed unanimously.**
- **New Business** : The RFP for the new ITA was discussed. Allison Carr stated that the final report is not quite ready but should be ready in one week. Because of the need for speed, Commissioner Kellner moved that the Board accept the OGS recommendations with respect to revisions of the RFP for the new ITA and that the Board authorize the Executive Director's to proceed with a contract as soon as the responses come in next week so that no one has to wait for a formal Board approval. **A motion passed unanimously.**

A motion was made to adjourn the meeting. Commissioner Kellner adjourned the meeting without Executive Session at 3:15 p.m.