

**Minutes of The New York State Board of Elections
Thursday, July 19, 2007**

The regular meeting of the State Board of Elections was called to order at 12:05 p.m. at the New York State Board of Elections, 40 Steuben Street, Albany, New York. Commissioners present were Co-Chairmen Douglas Kellner and Neil Kelleher and Commissioner Evelyn Aquila. The meeting was chaired by Commissioner Kelleher. Staff present were: Peter Kosinski, Stanley Zalen, Todd Valentine, Lee Daghlian, Bob Brehm, Anna Svizzero, Allison Carr, Deirdre Hammer, Liz Hogan and William McCann. Guest list is attached.

Minutes of June 27, 2007 - approved as written

Unit Updates:

- **Legal Unit:** - Todd Valentine reported on several issues:
 - There have been oral arguments on the Suffolk County HAVA case, Article 78 lawsuit. Additional briefs are due next week.
 - There was a case regarding challenging the changes in the effective dates of enrollments. We have worked with the Attorney General's office on this case and the case was dismissed.
 - Continuing with the HAVA situation and getting updates to the Courts and the Justice Department.
 - There is an objection case that will be in court on the 20th of July having to do with the 105th Assembly District's Special Election.
 - They are discussing time allotments for the Supreme Court case this fall, having to do with the nominations of State Supreme Court Justices. There are many that wish to give testimony so the time allotments is being worked out by all parties.

- **Election Operations:** Anna Svizzero reported on several issues:
 - Prepared and distributed documents for Certification of Special Election call for in the 105th Assembly district, to be conducted on 7/31.
 - Acceptance Test Dry Run for: Diebold was conducted last week, report currently being prepared, and Liberty was concluded this week with a report being prepared.
 - A memo to county boards was finalized and distributed concerning Plan B use in 2007, which included instructions for ordering, and a chart outlining apportionment of funds, by county.
 - Ongoing in-house discussions on topic of voting system escrow requirements.
 - Conducted bi-monthly voting system vendor conference call.
 - Worked extensively with OGS Counsel, to ensure new draft of Appendix B reflected positions of consensus reached by the contract Advisory Committee. New draft is available, along with an OGS memo on the topic of assigning penalties for failure to provide various services to meet various deadlines.
 - All voting system vendors contacted, relative to quarterly political contribution affidavits. Also, all affidavits have been posted to our website.
 - Petitions are being filed and phone support for county board petition filing activity is ongoing.
 - Patricia Tracey, Administrative Officer has contacted the Department of Tax and Finance and the Comptroller's Office, for information regarding the use of credit cards for the purchase of copies of documents filed here.

- **NVRA/PIO:** Lee Daghlian:
 - Presented a document outlining the HHS grant from the federal government for additional funds for the counties. A chart was prepared and a vote was requested to approve of the chart. **It was so moved and voted unanimously.**

- **Campaign Finance:** Elizabeth Hogan reported on several issues:
 - They continue to work hard, including Bill McCann on the concerns about the local filing project that was talked about at the conference this summer with the local boards. A document has been drafted and incorporates all of their comments almost in final form. It should be completed by the next board meeting.
 - The 2005 report on excess corporate contributions should be ready in a couple of weeks .
 - Preparing for the 2006 report on the same issue and that will be started shortly.
 - The new phone system has been installed and is working very well and is having a positive effect on the staff. Elizabeth feels that the ITU unit will maybe extend their involvement in that system so that both are compatible.
 - The Vista compatibility issues have been resolved by having filers call IT and they would be told how to work around it and make their programs compatible with our system. Commissioner Kellner felt that the workaround should be posted on the web so that people don't need to call and can do it on their own. Commissioner Kellner asked that also that it was high time that we have an answer about preparation for a web based filing system. He has been asking form many months and we need to report on the progress.
 - Elizabeth also reported that the progress server contract has been discussed with OGS and should be refined soon.
 - The HAVA Administrative Complaint Procedure is in the works with another meeting with NYSTEC to make sure that the procedure flow in-house for this process is working properly.
 - The document for the proposed new hires for Campaign Finance was distributed which outlines the job descriptions and qualifications. Three components are needed before hiring begins. Job responsibilities and qualifications for the initial hires and the pay scale for those hires. A motion was made to accept the qualifications and duties for the Campaign Finance division. **A motion was made and passed unanimously.**

- **ITU:** Bob Brehm standing in for George Stanton, reported on several issues:
 - The extension of the Saber contract through September, so that it covers the completion of the database so that the remaining counties can get online,. The proposal is for an additional \$420,000.00. A Board approval to extend the contract . **It was so moved, voted unanimously.**
 - Bob also reported that they did receive data from all counties for the database and there are a number of them that are doing live productions. The remaining jurisdictions that are not doing live productions are Westchester, Delaware, Nassau and New York City.
 - New features are being added so that the public can look up their own record and find the poll site indicator. Commissioner Kellner was pleased that this step was taken.

- **Old Business** : There was no old business to discuss.

- **New Business** : Todd Valentine recommended that the objection filed against the Independence Party certificate of nomination submitted for the 105th Assembly District's

Special Election be substained. It was moved by Commissioner Kellner to dismiss the objection. Commissioners Kellner and Aquila voted to dismiss and Commissioner Kelleher voted not to dismiss. The motion failed. Commissioner Kellner moved to override the objection. Commissioners Kellner and Aquila voted to override and Commissioner Kelleher voted not to override. The motion failed. Therefore, the objection is not valid.

- There was discussion on how to simplify this process on the way Commissioners vote on these issues and suggestion to adopt New York City regulations which were published in 1995.
- The discussion of the New York City memo regarding the situation of lever machine usage at this fall's election. Counsel was directed to prepare a formal opinion since the legislature has not reacted and that approval should be presented at the next board meeting so that county boards, including New York City will have some direction from the State Board. It was so moved that Counsel produce a draft opinion, **voted yes unanimously**.
- Commissioner Kellner introduced Paul Collins as the new Special Deputy Counsel. Everyone welcomed him aboard.
- Without going into Executive Session, since there was no meaningful discussion, cases were presented for votes by the Commissioners. The following determinations were closed **by unanimous vote** - CMP05-89, CMP07-32 and CMP07-33.
- A letter was received from the Diebold attorney concerning contributions. In that letter he proposes that Diebold follow the procedures that have been used in the past which are generally acceptable. The procedures we've been using in the past should continue but Commissioner Kellner feels that anyone who violates that section should be enjoined by the court to prevent them from repeating the offence. Our statute doesn't provide for penalties for violating the statute. The issue will be held over until the next meeting.

A motion was made to adjourn the meeting. Commissioner Kellner adjourned the meeting at 1:15 p.m. to go into Executive Session. The vote was unanimous.

The Executive Session was adjourned at 1:45p.m. with a proposal that the next meeting will be in early August.