

Approved August 16, 2007

Minutes of The New York State Board of Elections
Thursday, August 2, 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 4th Floor Conference Room. The meeting was called to order at 12:30p.m. The meeting was chaired by Commissioner Douglas Kellner. Also, present were Commissioners Neil Kelleher and Evelyn Aquila. Commissioner Donohue was absent. Staff present were Peter Kosinski, Stanley Zalen, Todd Valentine, Elizabeth Hogan, Anna Svizzero, William McCann, Lee Daghlian, Bob Brehm, Allison Carr, and George Stanton. The guest list is attached.

The Chair requested that the agenda be changed somewhat in order to take up the petition issues first. Todd Valentine presented four petitions for prima facie review. The first matter considered was the petition for Democratic delegates and alternates to the judicial nominating convention. The petition sheets did not include a designation of the district, but the cover sheet indicated the Sixth Judicial District, 111th Assembly District. The Commissioners heard from Stephen Jones, the attorney for the slate of delegate candidates and received a memorandum of law. Commissioners Kellner and Aquila voted to find the petition valid, Commissioner Kelleher opposed. Therefore, the petition was valid.

The Commissioners then considered the petitions for Democratic delegates and alternates to the judicial nomination convention from the Dutchess County portions of the 101st and 103rd Assembly Districts. Because the districts are wholly contained within Dutchess County, the Commissioners unanimously ruled that they did not have jurisdiction to consider the petitions. **They also agreed unanimously to send the petitions to the Dutchess County Board of Elections.**

Commissioner Aquila moved that the State Board establish a policy to return any petitions misfiled with the State Board to the appropriate board. **The motion was adopted unanimously.**

The last petition considered was for a judicial position in Saratoga County. **The Commissioners unanimously voted to send the petition to the Saratoga County Board of Elections.**

Unit Updates:

- **Legal Unit:** - Todd Valentine reported:
 - They are finished with processing petitions.
 - presented the question for the ballot concerning the exchange of lands in the Adirondack Park, which will appear on the ballot this November. The Commissioners need to approve the form of submission for this proposal number 1. **It was so moved and voted unanimously to adopt the form of submission drafted by the NYS Department of Law.**
 - There was discussion about the Justice Department and our dealings with the court and the HAVA plan. Mr. Valentine noted that he has been advising the Department of Justice of state legislation and other developments. He noted that Putnam County has made a motion to intervene, similar to the motions of Nassau and Suffolk Counties that were denied.

- **Election Operations:** Anna Svizzero reported:
 - Provided support for Special Election conducted in the 105th Assembly District. Acceptance Test Dry Run reports have been drafted with Tom Wood from NYSTEC. Ongoing in-house discussions on topic of voting system escrow requirements. Conducted bi-monthly voting system vendor conference calls, the focus of which was an initial conversation concerning the requirements for and security benefit of digital signatures.
 - provided new draft of voting equipment contract provisions to the working committee, and hope to have requested committee member availability for a final review of those documents - goal is for early next week.
 - All vendor quarterly affidavits received to date have been posted to the website. Election Ops is creating a standard form for voting system vendors to use when requesting an interpretation or clarification of a particular issue, interpretation or requirement and various other reporting forms.
 - Sequoia submitted an application for the certification of a new voting system, which is commonly known as Dominion Voting. The application is posted on our website, and is being reviewed by staff for completeness.
 - The evaluation report from the ITA selection committee is being reviewed by OGS and once we hear back from them, we can bring the recommendation to the board and begin the balance of the contracting process and approval of comptroller.
 - The contract extension for NYSTEC was brought to the floor. It was so moved that the contract be approved for that extension. **It was passed unanimously.**
 - There was an extensive discussion of the new ITA contract negotiations and the RFP. It is not finished yet.
 - A question of rebidding the contracts for machines came up concerning possibly renegotiating with the vendors vs rebidding and the impact on the time line.

- **NVRA/PIO:** Lee Daghlian reported.
 - Mr. Daghlian reported on the status of the county HAVA funds project. It is coming along well.
 - Planning for the State Fair exhibit is basically finished.
 - New voter registration forms have been delivered. We are getting those out to SUNY and CUNY schools. The translation of languages forms like Chinese and Spanish have not been received yet, but they are in the process.

Minutes of July 19, 2007- accepted as written.

- **Campaign Finance:** Liz Hogan reported:
 - The 5 day letter process project is ongoing concerning the July 2007 periodic campaign finance reports not yet received.
 - Meetings are being held for the RFP for process serving.
 - The assessment of the HAVA Complaint Procedure process with NYSTEC is continuing.

Final draft memo to county boards about local candidates that may need to electronically file with the state board was discussed

Liz reported on the six new positions in Campaign Finance to be filled and the writing of the documents needing to go to civil service for these positions.

Commissioner Kellner asked about the reports due for over contributions. They are not ready yet. Commissioner Kellner requested that the 2005 list of over contributors be available at the next meeting and hopefully that the 2006 list will also be ready by the September meeting. There was more discussion on this issue and others.

- **ITU:** George Stanton reported on the following:
Almost the entire database is up and running except for three boards: Nassau, Delaware and New York City. There was some discussion regarding the delay in NYC, hopefully, during the month of August, NYC will be on the system. By the end of the month, the entire list will be up and running. NYC revamped their entire system. They do not want to have anything go wrong before they print poll books for the primary election.
George also reported on continued training for county users, New York City being last week and several others in the near future. The last training is scheduled for August 13th.
- **Old Business:** no old business.
- **New Business:**
Procedures for the use of ballot marking devices were prepared by the staff. Commissioner Kellner proposed an amendment that language be deleted that required only the disabled could use these machines. Commissioners Kellner and Aquila voted in favor of the amendment and Commissioner Kelleher opposed. Commissioner Aquila proposed a second amendment to add text to Section 3C that any registered voter who choose to use the voting device may do so. Commissioner Kellner and Aquila voted in favor and Commissioner Kelleher opposed. There was a long discussion about this issue and it was agreed that both versions be posted for comment on our website and these should be decided after we receive comments.
A presentation was made by Andrea Novick regarding her 60 page memo regarding machine vendors. She had 5 minutes to speak.
Commissioner Kellner noted that Open Voting Solutions has requested we waive all or a portion of the certification fees. The Commissioners decided to take it up at the next meeting.

The board adjourned at 2:55 p.m.