

**Minutes of the New York State Board of Elections  
September 15, 2016**

The meeting of the Commissioners of the New York State Board of Elections held at the offices of the New York State Board of Elections, 40 North Pearl Street, Albany, New York in the 5<sup>th</sup> Floor Conference Room was called to order at 12:00 p.m. The meeting was chaired by Commissioner Peter Kosinski. Commissioners present were Douglas Kellner, Andrew Spano and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Brian Quail, Bill McCann, Anna Svizzero, Brendan Lovullo, John Conklin, Tom Connolly, Bill Cross and Risa Sugarman. The guest list is attached.

**Minutes and Executive Minutes of August 5, 2016** – Minutes were accepted (**Commissioners Kellner, Kosinski, Spano and Peterson voting in the affirmative; 4 Yes and 0 No**).

**New Business:**

- VOTE to adopt the staff report petition rulings. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**

**Unit Updates:**

**Executive** – Robert Brehm and Todd Valentine reported on several issues including:

- Introduced Bill Cross, the new head of the ITU Dept.
- The federal ballot will be certified today.
- Bob Brehm was in Rockland County on Primary Day.
- Meetings on cyber security have been held with representatives from the FBI, NYS Cyber Security Advisory Board and senior members of OTIS.

**Legal** – Brian Quail reported on activities related to the Counsel/Compliance Unit including:

- There are 10 pending cases in various courts.
- Information pertaining to the new Independent Expenditure Law is on our website.
- Campaigns will now be able to submit their campaign materials electronically.
- The Compliance Unit has now completed 50,000 reviews.

**Election Operations** – Anna Svizzero reported that the Election Operations unit is working on several ongoing issues including:

- Brendon Lovullo is visiting counties to review their election process.
- Party roll calls for state committees and JD conventions have been completed.
- Completed work on the ES&S upgrade.

**PIO/NVRA** – John Conklin that the PIO/NVRA unit is working on several issues.

- Fielding numerous calls and inquiries from candidates, voters etc.
- Participated in phone calls concerning the 3<sup>rd</sup> CD court action.
- Hosted a delegation of public officials from Israel through the International Center of the Capital District.

ITU – Bill Cross reported on activities in the Information Technology Unit:

- Focused on the cyber security issues and specific recommendations from the FBI.
- CAPAS FIDAS case management portion is being prepared for quality assurance testing.
- Waiting on the completion of the NYSVoter Refresh Project.
- A new contract with Microsoft Premier Support has been renewed.

**Enforcement** – Risa Sugarman reported on the Enforcement Unit:

- There are two new staff members.
- Attended meetings on the Independent Expenditure Regulations.
- Received a data disk with e-mail addresses of the committees and comparing them to the failure to file list.
- Commissioner Kellner would like Compliance to compile a list of outstanding referrals for non-filers and outstanding referrals for deficiencies to Enforcement and a copy to all four commissioners to review at the next board meeting.

### Old Business:

- Discussion on Political Clubs and a draft will be circulated.
- Discussion on the policy for handling documents from the Division of Election Law Enforcement Unit.
- VOTE on Resolution to appoint Nicholas Cartagena as Deputy Counsel. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**

### New Business:

- DISCUSSION on Automated Audits.
- VOTE on Amended Resolution on upgrade to ES&S Voting Systems. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**
- VOTE on Resolution to Adopt Independent Expenditure Emergency Regulations. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**
- VOTE on Resolution for \$20,000 from HAVA for NYSVoter Storage. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**
- The next board meetings is scheduled for October 3, 2016.
- VOTE to go into Executive Session. **The motion was approved unanimously (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative; 4 Yes and 0 No.**

The meeting was adjourned 2:55 p.m.

### Executive Session

- VOTE in favor of granting the Chief Enforcement Counsel's request for subpoena pursuant to Election Law subdivision 5 of section 3-102 and 3-104 (3) in relation to Case# CA 16-16. **The motion was approved. (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative).**

- **VOTE** in favor of granting the Chief Enforcement Counsel's request for subpoena pursuant to Election Law subdivision 5 of section 3-102 and 3-104 (3) in relation to Case# CA 17-16.**The motion was approved. (Commissioners Kosinski, Kellner, Spano and Peterson voting in the affirmative).**



**New York State Board of Elections  
APPROVED RESOLUTION – September 15, 2016**

**RESOLUTION APPOINTING NICHOLAS R. CARTAGENA  
TO THE POSITION OF DEPUTY COUNSEL**

**WHEREAS**, there currently exists a vacancy within the New York State Board of Elections in a deputy counsel position effective April 5, 2016 due to the promotion of Brian L. Quail, and

**WHEREAS**, Nicholas R. Cartagena has indicated a willingness to serve as Deputy Counsel, and

**NOW, THEREFORE, BE IT RESOLVED**, that Nicholas R. Cartagena be and hereby is appointed Deputy Counsel effective September 22, 2016, pending BDA approval and a start date to be determined.

**Approved September 15, 2016  
VOTE 4-0**



**New York State Board of Elections**  
**APPROVED RESOLUTION – September 15, 2016**

**CERTIFICATION OF ELECTION SYSTEMS & SOFTWARE UPGRADE TO EVS**  
**5.6.0.2 OPTICAL SCAN VOTING SYSTEM**

**WHEREAS**, Election Systems & Software (ES&S) has submitted an upgrade to the Election Management Software, DS 200 Precinct Based Scanner and DS 850 Central Count Scanner for certification; and

**WHEREAS**, SLI Inc. has conducted a source code review of the system, including test results conducted by NTS (Wyle Labs Inc.) to ascertain compliance with the provisions of the U.S. Election Assistance Commission’s 2005 Voluntary Voting System Guidelines, the State Board’s regulations, Part 6209 of NYCRR, and the applicable sections of New York State Election Law; and

**WHEREAS**, the summary reports of SLI Inc. are herewith provided to the Board, for their consideration; and

**WHEREAS**, the Election Operations Unit has conducted functional testing of said system, and has provided a summary report, for the consideration of the Board; and

**WHEREAS**, NYSTEC has reviewed all test plans, test cases and test results; and

**WHEREAS**, having considered the totality of certification summary reports and the results of functional testing conducted by the Election Operations Unit, we do hereby recommend the certification of said system upgrade as herein defined;

EVS 5.6.0.2

**NOW, THEREFORE BE IT RESOLVED**, that the Commissioners of the New York State Board of Elections, at their meeting convened on September 15, 2016, do hereby certify the Upgrade to the ES&S Election Management System, DS 200 Scanner and DS 850 Scanner.

**Approved September 15, 2016**  
**VOTE 4-0**

**New York State Board of Elections**  
**APPROVED RESOLUTION – September 15 2016**

**RESOLUTION AUTHORIZING THE EXPENDITURE OF A SUM NOT TO EXCEED OF \$20,000 FROM THE STATE OPERATIONS HAVA FUND FOR PAYMENT OF THE COSTS ASSOCIATED WITH THE MAINTENANCE OF NYSVOTER STORAGE AREA NETWORK EQUIPMENT**

**WHEREAS** the New York State Board of Elections (State Board) has been actively engaged in implementing the Help America Vote Act (HAVA); and

**WHEREAS** the State Board is in the process of purchasing a maintenance agreement for the NYSVoter system storage area network hardware; and

**WHEREAS** the NYSVoter system relies on the storage area network for all operations; and

**WHEREAS** this resolution is necessary due to the anticipated costs associated with such a procurement; and

**NOW THEREFORE BE IT RESOLVED** that the Board does hereby approve the above-referenced request of the Information Technology Unit's for the expenditure of such funds not to exceed of \$20,000 from the State Operations HAVA Fund for payment of costs acquire the maintenance agreement.

**Approved September 15, 2016**  
**VOTE 4-0**

**New York State Board of Elections  
APPROVED RESOLUTION September 15, 2016**

**Resolution For Emergency Adoption of Amendments to 9  
NYCRR Subtitle V Part 6200.10 Related to Updating Such  
Part to Reflect Statutory Changes Pursuant to State  
Administrative Procedures Act (SAPA) § 202**

**WHEREAS**, on August 24, 2016, the Governor signed into law Chapter 286 of the Laws of 2016, concerning, among other things, modifications and additions to the laws relating to the disclosure of Independent Expenditures, certain portions of which go into effect 30 days after being signed into law; which is September 23, 2016; and

**WHEREAS**, it has been long established that timely and accurate disclosure of campaign financial activity is of critical import to the electoral process, and that such disclosure also includes the disclosure of Independent Expenditure activity; and

**WHEREAS**, based upon the foregoing, it is necessary for the general welfare of the public that Part 6200.10 of the NYCRR be amended on an Emergency Basis, in accordance with SAPA § 202;

**NOW THEREFORE BE IT RESOLVED:** that the New York State Board of Elections does hereby adopt Part 6200.10 of the NYCRR, as amended, and the Office of Counsel is hereby authorized and directed to take steps necessary pursuant to SAPA § 202 to effectuate the emergency adoption of the amendment to 9 NYCRR Subtitle V Part 6200.10.

**Approved September 15, 2016  
VOTE 4-0**