

Approved December 12, 2007

**Minutes of The New York State Board of Elections**  
**Thursday, November 29, 2007**

The meeting of the Commissioners of the New York State Board of Elections held at 40 Steuben Street, Albany, New York in the 4<sup>th</sup> Floor Conference Room at the offices of the New York State Board of Elections in Albany, New York was called to order at 12:15 p.m. The meeting was chaired by Commissioner Neil Kelleher. Commissioners present were Douglas Kellner, Evelyn Aquila and Helena Donohue. Staff present were Peter Kosinski, Todd Valentine, Paul Collins, Elizabeth Hogan, William McCann, Lee Daghlian, Bob Brehm, Allison Carr and Pat Tracey. The guest list is attached.

**Minutes of September 20, October 16, 2007** - accepted as amended.

**Minutes of November 7, 2007** - accepted as written

**Unit Updates:**

- **Legal Unit:** - Todd Valentine reported on the Department of Justice lawsuit. There was a discussion on this lawsuit along with lawsuits filed by Mr. Schultz and several others about using paper ballots.
- **Election Operations:** Allison Carr reported on behalf of Anna Svizzero, who did not attend. She discussed the Systest contract and the voting systems RFP. Allison noted that three bids have been received from Avante, ES&S and Diebold. All included both Lot 1, which are full systems, and Lot 2, which are BMD's.
- **NVRA/PIO:** Lee Daghlian reported on the upcoming meeting with SOE Clarity, the vendor for the poll worker training program, which will be held Monday, December 10<sup>th</sup>. It is a start up meeting to set schedules and time lines. Mr. Daghlian also reported that the first information from NYSILC having to do with the arrangement that we set up for reports of polling places that are not handicapped accessible. We received that first report from NYSILC on Election Day. There are about 75 such places and under the direction of Greg Fiozzo, we will check our files and contact the local boards to find out what needs to be done.
- **Campaign Finance:** Liz Hogan reported on the projects that the Campaign Finance Unit is working on. She presented the staffing plan for the enforcement unit to the Commissioners. It was moved that the commissioners approve the staffing plan report.  
**The motion was adopted unanimously 4-0.**
- **ITU:** George Stanton was absent but provided a memorandum for the board packet.  
1. The budget for the database came in about million under the budget forecast which is approximately 15 million dollars.

2. The enhancements for NTS for public access to the database for polling place information and to check their own enrollment is in a document called the NTS Change Order and the cost related to that would be \$33,495 of which \$19,500 was approved previously by the Board. George asked that that budget and extension be approved by the board. **It was so moved and approved unanimously 4-0.**

- **Old Business:** Commissioner Kellner spoke in favor of the Resolution Concerning Fees for Testing of Open Source Software that would provide guidelines for fee waivers. After a discussion, the commissioners agreed to lay over the proposed resolution for the next meeting to give additional time to consider the recent NYSTEC report and a report prepared on the issue and for the State of California. The Commissioners asked the staff to post the two reports on the website.
- **New Business:** Commissioner Kellner moved that we authorize the Director of Elections Operations to submit reports on behalf of the New York State Board of Elections for filing on the Election Assistance Commission Clearinghouse site. **This was adopted unanimously.**

Pat Tracey submitted a written request authorizing transfer of \$1,753,545.75 which represent CIBER invoices from the federal state operations fund to the new federal funds established in 2007 for the expenses of voting machine certification. **It was so moved and the commissioners approved by unanimous vote 4-0.** Pat Tracey also provided a breakdown of federal HAVA funds and the state appropriations of those funds and the amounts remaining to be spent.

Paul Collins explained that Chapter 14 of the Laws of 2007 (Public Officers Law section 73.16) enacted state ethics reform included a provision prohibiting state agencies from inquiring into the political contributions of vendors. Part 6209.4 of the Voting System Regulations requires that voting system vendors disclose their political contributions. All agreed that the statute overrides the regulation. Consequently, Commissioner Kellner moved that (1) staff draft appropriate amendments to the regulations to conform to the new statutory requirement, and (2) that the agency recognizes that the Public Officers Law section 73, subsection 16 overrides the provisions of the regulations. Peter Kosinski confirmed that we will draft regulations, but in the meantime, we will change our certification application to remove that question. **The commissioners unanimously adopted Commissioner Kellner's motion. 4-0.**

The commissioners unanimously adopted a motion to go into executive session to consider enforcement cases at 1:40 pm.

The meeting reconvened at 3:05 to vote on the enforcement cases. **The votes were 4-0.**

CMP07-133 - Laid Aside

CMP05-34 - Open

CMP07134 -147: The following 14 cases were referred to the relevant

District Attorney for appropriate review because the Board found that such named corporations exceeded the annual \$5,000 statutory limitation on political contributions:

- CMP07-134 - Ira D. Conklin and Sons, Inc.
- CMP07-135 - American Stevedoring
- CMP07-136 - Bergmann Associates, Inc.
- CMP07-137 - Bio Reference Laboratories, Inc.
- CMP07-138 - BJK, Inc.
- CMP07-139 - Brownstein, Hyatt, Farber, P.C.
- CMP07-140 - Carco Builders Corporation
- CMP07-141 - Columbus Construction Corporation
- CMP07-142 - Consolidated Masonry Contractor, Inc.
- CMP07-143 - Empire Office, Inc.
- CMP07-144 - Lemle & Wolff, Inc.
- CMP07-145 - New York Ticket Brokers Association, Inc.
- CMP07-146 - Prism Network, Inc.
- CMP07-147 - Rienzi and Sons, Inc.

**The meeting was adjourned at 3:10p.m. The next board meeting is scheduled for December 12<sup>th</sup>, 2007 at Noon in Albany, New York where they will certified the results of the November 6<sup>th</sup> Election.**