

**Minutes of the New York State Board of Elections
December 4, 2008**

The meeting of the Board of Canvassers of the New York State Board of Elections was convened at the offices of the New York State Board of Elections, 40 Steuben Street, Albany, New York in the 4th Floor Conference Room and was called to order at 12:10 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were James Walsh, Evelyn Aquila and Gregory Peterson.

- The Board of Canvassers considered a motion to approve the Certification of election results for the November 4, 2008 General Election for Electors for President and Vice president of the United States; US House of Representatives; New York State Senate; New York State Assembly; Justices of the Supreme Court and Proposition One, proposing an amendment to Section 6 of Article V of the NYS Constitution, in relation to additional civil service credit for members of the armed forces of the United States. There was a discussion noting that New York State Senate District 11 was unable to be certified due to a court order preventing certification. As such, the Queens, New York returns were incomplete but would not impact the outcome of the statewide contests or other contests.

The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).

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 Steuben Street, Albany, New York in the 4th Floor Conference Room and was called to order at 12:23 p.m. The meeting was chaired by Commissioner Douglas Kellner. Commissioners present were James Walsh, Evelyn Aquila and Gregory Peterson. Staff members present were: Stanley Zalen, Todd Valentine, Kim Galvin, Paul Collins, William McCann, Elizabeth Hogan, Anna Svizzero, Robert Brehm, George Stanton, Patrick Campion, and Gregory Fiozzo. The guest list is attached.

The minutes of September 17, October 3 and November 6, 2008 were considered. **A motion was approved unanimously to accept the minutes as written (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

Unit Updates:

- Executive** – Stanley Zalen and Todd Valentine reported on several issues including:
- There are additional checks on state agency spending which require the additional approvals prior to the expenditures of funds.
 - Work continues on the Internal Controls project and on updating the employee handbook.

Legal – Kim Galvin reported on activities related to the Legal Unit including:

- The Legal Unit has worked to respond to lingering issues remaining from the election - lifting the temporary restraining order in the 26th Congressional District as well as fielding a number of questions from county board commissioners related to canvassing the election results.
- There was also a discussion concerning questions being received about the use of BMDs during the March 2009 elections and other elections.
- The weekly telephone conference calls with Department of Justice are ongoing and notice was provided to DOJ concerning the status of the EAC suspension of SysTest Lab's VSTL accreditation.

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

- Efforts continued by the Election Operations Unit to support county board of elections canvassing tasks and other post election activities, as well as our own.
- A preliminary draft report was prepared which reviews this general election. The draft content will be amplified upon when county year-end reports are received.
- Status meetings between the State Board, SysTest and NYSTEC on the voting system certification testing program are ongoing.
- Our staff are busy working with the county boards to collect the asset management documentation related to the voting systems in use during the November 4th General Election.
- We continue to struggle with the voting system vendors, in that they have failed to provide the funds requested which enable us to pay for work done to date. The Commissioners considered a resolution authorizing the use of a sum not to exceed \$1.2 million from the Federal Operating Grants Fund – *290 Help America Vote Implementation Account – State Operations* for payment of the costs associated with certification testing of voting systems (copy attached).
The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).

PIO/NVRA – Robert Brehm reported on several ongoing projects in the PIO/NVRA unit.

- An update was given concerning the staff efforts to relocate the annual training conference from Syracuse, NY to the Albany area. This effort is being undertaken as part of the State Board's spending reduction effort. Proposals have been received from area tourism/convention agencies and the staff has recommended the use of the Holiday Inn – Wolf Road. This recommendation is based on proximity to our office, space availability for April 27th through April 29th, and cost. Recommendation for approval has been submitted to DOB.
- Reported on the status of the federal Health and Human Services Department (HHS) poll site access improvement grant program. The portion of the 2003 grant award that was unspent as of October 1, 2008 was recalled by the Treasury Department. This action was contrary to the written assurance by HHS staff

members after months of efforts to determine that these grant funds would be available for until spent by the county boards of elections.

- Commissioner Kellner inquired about the status of NYSVoter and staff efforts to review the processing of forms by the State Department of Motor Vehicles. A discussion followed concerning staff efforts to review the business practices related to processing change of address applications through DMV offices.

Campaign Finance - Elizabeth Hogan reported on several ongoing projects in Campaign Finance and Enforcement, including:

- The campaign filings for 2008 are complete and staff is busy reviewing the materials for issues related to noncompliance. Approximately 1,100 people have been sued this year for not filing a mandatory campaign finance report.
- The draft 2006 state filer over-contribution report and the 2006 corporate over-contribution report has been received from staff and an effort to finalize the report continues.
- An update was provided on the proposed Part 6200 regulation changes related to local filers filing at the State Board and that suggested language changes have been provided to the Governor's Office of Regulatory Reform (GORR).
- A process was developed for staff to review, update and develop written procedures.
- We are working to develop the 2009 campaign finance training seminars and staff is researching the development of a web based tutorial for campaign finance filing. Also, efforts are underway to revise the campaign finance handbook.

ITU – George Stanton reported on several issues, including:

- Staff efforts over the past few months which focused on NYSVoter and the counties' interaction with the system to make sure that it functions under the first big test during the presidential election, which it did.
- Other IT support efforts during 2008 include:
 - Over 10,000 campaign finance reports have been loaded to the Campaign Finance system over the course of the election cycle;
 - We have taken approximately 1,000 help desk calls;
- Efforts continue between IT staff members and Saber staff members related to the 'knowledge transfer' required for the State Board staff to assume full responsibility for all of the management activities related to NYSVoter.

Old Business: **None**

New Business: The Commissioners discussed several issues including:

- A communication was received by Voting Machine Service Center, Inc. indicating that the business will be closing. A discussion followed about potential contingency efforts.
- A motion as considered, pending receipt of an exemption by DOB from the hiring freeze, to appoint John Conklin for Public Information Officer. **The motion was**

- approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- A motion as considered, pending receipt of an exemption by DOB from the hiring freeze, to appoint Joseph Burns for Deputy Director of Election Operations. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
 - The Commissioners next considered a motion to table Enforcement Cases: 06-40; 06-58; 06-85; 07-05; and 07-11; and to accept counsel's recommendation to close Enforcement Cases: 06-42; 06-47; 06-48; 06-86; 09-92; 06-95, 06-100 (with modification to language of the Determination); and 07-12. **The motion was approved unanimously (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
 - The Commissioner next considered a motion to go into executive session to discuss contract issues related to SysTest. **The vote on the motion to go into executive session was 4-0 in the affirmative. (Commissioners Kellner, Walsh, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
 - **The meeting went into Executive Session at 1:40 p.m. Back into regular session at 2 p.m. when the meeting was adjourned.**

The next board meetings were tentatively scheduled for Tuesday, December 16th and Tuesday, January 6th.