

**Minutes of the New York State Board of Elections
December 15, 2009**

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 12:05 p.m. The meeting was chaired by Commissioner James Walsh. Commissioners present were Douglas Kellner, Evelyn Aquila and Gregory Peterson.

- The Board of Canvassers considered a motion to approve the Certification of election results for the November 3, 2009 General Election for New York State Supreme Court Justices and the Special Election for the 23rd Congressional District. **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

Commissioner Kellner commented on what has been written concerning the canvass of the results of the 23rd Congressional District. The first was the misunderstanding that votes changed during the canvass process. Election night returns are unofficial and in general do not come from the election officials. The second was the confusion that arose over an issue that was discovered in the pre-election testing of the new voting machines which was inaccurately described as a virus. The problem was a source code problem. The vendor immediately took care of the issue.

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 12:20 p.m. The meeting was chaired by Commissioner James Walsh. Commissioners present were Douglas Kellner, Evelyn Aquila and Gregory Peterson. Staff members present were: Robert Brehm, Todd Valentine, Kim Galvin, Paul Collins, Elizabeth Hogan, William Mccann, George Stanton, Anna Svizzero, Joseph Bums, John Conklin, and Patrick Campion. The guest list is attached.

Commissioner Walsh requested a motion to take the agenda out of order. **The motion was adopted unanimously (Commissioners Kellner, Walsh, Aquila and Paterson all voted to accept; 4 Yes and 0 No.)**

New Business:

- **Vote on Voting System Certification:** Anna Svizzero and Joe Bums gave a report to the Board on the certification and testing process of the new voting machines. After a lengthy discussion the Commissioners voted to certify the three machines:
 - **Dominion ImageCast - The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The Dominion ImageCast was certified.**

- Election System & Software, Inc. (ES&S) AutoMark -**The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The ES&S AutoMark was certified.**
- Election System & Software (ES&S) DS 200 - **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No). The ES&S DS 200 was certified**
- There was a motion to vote on the final adoption of permanent regulation Part 6209.2(a)(8). **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- There was a motion to approve an amendment to the value of contract #C002852 for certification testing of voting systems by SysTest Labs. Inc. **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

Minutes of November 10, 2009-There was a motion to accept the Minutes of November 10, 2009. **The motion was approved unanimously. (Commissioners Kellner, Walsh, Aquila and Paterson all voted to accept; 4 Yes and 0 No.)**

Unit Updates: The units gave a written update report.

Old Business:

- There was a vote to amend Post Election Audit-Proposed Regulation 6210.18. **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**
- The discussion on proposed formal opinion regarding the Village of West Hampton was held over until next board meeting.
- There was a discussion of the proposed revised voter registration form. There was a motion to approve the form. **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

There was a motion to adopt the reports submitted by the enforcement unit. **The motion was approved unanimously (Commissioners Walsh, Kellner, Aquila and Peterson voting in the affirmative; 4 Yes and 0 No).**

The next meeting will be held on January 14, 2010.
The meeting adjourned at 2:15 p.m.

VOTING SYSTEM CERTIFICATION

Whereas, Dominion Voting Systems has submitted the ImageCast precinct-based scanner and ballot marking device for certification; and

Whereas, such voting system was delivered to SysTest Labs Inc. which has been designated the independent testing authority for the New York State Board of Elections; and

Whereas, SysTest Labs Inc. has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

Whereas, NYSTEC (New York State Technology Enterprise Corporation), having been selected as the New York State Board of Elections' independent security reviewers, and has conducted an independent security review of said system; and

Whereas, the Election Operations Unit has reviewed findings and compensating controls for the ImageCast Voting Systems; and

Whereas, having considered the totality of certification test artifacts, summary reports, findings logs with corresponding compensating controls, the on-site evaluations of pilot project county and poll site operations, and the results of functional testing conducted by the Election Operations Unit, the systems as herein defined were recommended for certification; and

Dominion Democracy Suite 3.0.3:	ImageCast ICP v1.30.6	BMDv2.22
Kemal v4.0.8	EEO v3.0.3	AS v3.0.3
	RTR v3.0.3	DCMv3.0.3

Whereas, the Commissioners of the New York State Board of Elections, at their meeting convened on December 15, 2009, certified the Dominion Voting Systems ImageCast precinct-based optical scanner and ballot marking device; and

Whereas, Dominion Voting Systems has placed the source code for the above-captioned versions in an escrow account designated by the New York State Board of Elections; and

Now, therefore, the New York State Board of Elections certifies that the Dominion Voting Systems ImageCast precinct-based scanner and ballot marking device may be sold and used for elections conducted in the State of New York.

Todd D. Valentine
Co-Executive Director
New York State Board of Elections

Robert A. Brehm
Co-Executive Director
New York State Board of Elections

DATED: January 5, 2010

VOTING SYSTEM CERTIFICATION

Whereas, Election Systems & Software Inc. (ES & S) has submitted the AutoMark ballot marking device for certification; and

Whereas, such voting system was delivered to SysTest Labs Inc. which has been designated the independent testing authority for the New York State Board of Elections; and

Whereas, SysTest Labs Inc. has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

Whereas, NYSTEC (New York State Technology Enterprise Corporation), having been selected as the as the New York State Board of Elections' independent security reviewers, and has conducted an independent security review of said system; and

Whereas, the Election Operations Unit has reviewed findings and compensating controls for the AutoMark Voter Assist Terminal ballot marking device; and

Whereas, having considered the totality of certification test artifacts, summary reports, findings logs with corresponding compensating controls, the on-site evaluations of pilot project county and poll site operations, and the results of functional testing conducted by the Election Operations Unit, the system herein defined was recommended for certification; and

Automark v1.6.0.0 VAT Previewer v1.6;0.0 Unity Suite 3.0.0.0: EDM v 8.2.0.0 and
Electionware v2.0.0.0 Event Log Service v1 .0.0.0 Removable Media service v1.0.0.0

Whereas, the Commissioners of the New York State Board of Elections, at their meeting convened on December 15, 2009, hereby certified the AutoMark Voter Assist Terminal ballot marking device; and

Whereas, Election Systemis & Software has placed the source code for the above-captioned AutoMark Voter Assist Terminal ballot marking device in an escrow account designated by the New York State Board of Elections; and

Now, therefore, the New York State Board of Elections certifies that the AutoMark Voter Assist Terminal ballot marking device maybe sold and used for elections conducted in the State of New York.

Todd D. Valentine
Co-Executive Director
New York State Board of Elections

Robert A. Brehm
Co-Executive Director
New York State Board of Elections

DATED: January 5, 2010

VOTING SYSTEM CERTIFICATION

Whereas, Election Systems & Software Inc. (ES & S) has submitted the DS 200 precinct-based scanner; and

Whereas, such voting system was delivered to SysTest Labs Inc. which has been designated the independent testing authority for the New York State Board of Elections; and

Whereas, SysTest Labs Inc. has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

Whereas, NYSTEC (New York State Technology Enterprise Corporation), having been selected as the as the New York State Board of Elections' independent security reviewers, and has conducted an independent security review of said system; and

Whereas, the Election Operations Unit has reviewed findings and compensating controls for the DS 200 optical scanner; and

Whereas, having considered the totality of certification test artifacts, summary reports, findings logs with corresponding compensating controls, the on-site evaluations of pilot project county and poll site operations, and the results of functional testing conducted by the Election Operations Unit, the system as herein defined was recommended for certification; and

DS200 v2.1.0.0 Unity Suite 3.0.0.0: EDM v 8.2.0.0 Electionware v2.0.0.0
ERM v8.1.0.0 Event Log Service v1 .0.0.0 Removable Media service v1 .0.0.0

Whereas, the Commissioners of the New York State Board of Elections, at their meeting convened on December 15, 2009, certified the ES & S DS 200 precinct-based optical scanner; and

Whereas, Election Systems & Software has placed the source code for the above-captioned versions in an escrow account designated by the New York State Board of Elections; and

Now, therefore, the New York State Board of Elections certifies that the ES & S DS-200 voting system may be sold and used for elections conducted in

Todd D. Valentine
Co-Executive Director
New York State Board of Elections

Robert A. Brehm
Co-Executive Director
New York State Board of Elections

DATED: January 5, 2010