AGENDA
COMMISSIONER’S AGENDA
TUESDAY, JUNE 30, 2009
AT 1:30 P.M.

1. Minutes
   a) 06/16/09
   b) 06/23/09

2. Marcus Cederqvist
   a) HAVA Update
   b) Vacancy in the 38th Assembly District
   c) Request from Office of the City Clerk for assistance verifying petitions for voter initiative for November 2009 Election

3. Steven Richman
   a) State Legislative Update
   b) Report on 2009 Election Commissioners’ Association Summer Conference

4. Rosanna Rahmouni
   a) Draft Equipment and Staffing Allocation Plan for New Poll Site Voting System

5. John Ward
   a) Comparative Expenditures
   b) Fiscal Year 2009 Budget

For Your Information
• NYS Board of Elections Weekly Status Report for the Week of June 25, 2009
• Notice of next meeting of the Voter Assistance Commission
• Proposed amendments to SBOE Rule 6210

News Items of Interest
• The Daily News: Public Servants at Play
June 23, 2009

Mr. Marcus Cederqvist
Executive Director
Board of Elections
32 Broadway, 10th Floor
New York, New York 10007

Re: Petition

Dear Mr. Cederqvist:

We are expecting a petition to be delivered to our offices on Wednesday, June 24, 2009 at 11:00 a.m. We are formally requesting your assistance in the validation of this petition.

The Office of the City Clerk will reimburse the Board of Elections for any costs and expense incurred in the verification process including costs related to overtime for staff as well as photocopying. It would be helpful if you could give us an estimate assuming we receive 500,000 signatures.

Please direct any further questions to the undersigned at 212-669-8898 or to our general counsel, Patrick Synmoie, at 212-669-2610.

Sincerely,

Michael McSweeney
City Clerk
Clerk of the Council
Marcus Cederqvist

From: Synmoie, Patrick [PSynmoie@cityclerk.nyc.gov]
Sent: Wednesday, June 24, 2009 12:13 PM
To: Marcus Cederqvist
Cc: George Gonzalez

Mr. Cederqvist: The City Clerk’s letter to you yesterday requesting BOE’s assistance contained a typo. The number of signatures we are expecting is 50,000 not 500,000. I hope the typo was apparent to you.
CERTIFICATION OF VACANCY

To the Board of Elections: New York City (Queens County)

We certify, under Section 4-106(4) of the Election Law, that a vacancy in the office of Member of Assembly from the 38th Assembly District occurred on June 23, 2009, due to the resignation of Assemblyman Anthony S. Seminerio.

GIVEN under our hands and official seal of office of the State Board of Elections at the City of Albany, this 24th day of June, Two thousand nine.

Kimberly Galvin
Special Counsel

Anna E. Svizzerio
Director of Election Operations

KG/AES/Is
Honorable Sheldon Silver
Speaker of the Assembly
Capitol
Albany, New York 12248

Dear Speaker Silver:

Please accept this as my letter of resignation for my Assembly seat, 38th District, effective June 23, 2009. It has been my honor and a distinct privilege to have served in the Legislature for the last thirty years.

Sincerely,

Anthony Seminerio
Hi Bernadette,

I am very happy to report that we passed all of the following bills in the Assembly this session:
A8525 (Russell) appointment of BOE commissioners when there is no caucus (ECA)
A1002 (Paulin) streetfinders required at polls
A2481-a (Pretlow) check cards b/t August 1st and August 5th (ECA)
A4962 (Lopez) right church, wrong pew rule re affidavit ballots (SBOE)
A5707 (Weinstein) removes application only to cities over 100,000 - use of buildings for poll sites under EL 4-104 (SBOE)
A584-a (Cahill) accessible poll sites required (SBOE program codified) (SBOE)
AA4467 (Brodsky) 17 year old poll workers (SBOE)
A1308 (Wright) 1/2 shift poll workers allowed (ECA)
A1436 (Wright) petitions may not contain candidates for same office in different political subdivisions (NYC BOE)
A1559 (Colton) Russian language in NYC
A2266-a (Wright) felon notification re voting rights
A3910 (Gabryszak) special ballots for domestic violence victims
A4959 (Lopez) nominating petition cleanup re witness (SBOE, ECA)
A6825 (Wright) Gelb bill re write in votes (NYC BOE)
A7016 (Eddington) keep domestic violence victim election records confidential with court order (SBOE)
A8492 (Ramos) consider when machines can handle more than 1 ballot
A8526 (Gordon) optional email on registration form
A8527 (Skartados) paper ballot cleanup/update (SBOE)
A8540 (Hyer-Spencer) NYC BOE acts as purchasing agency (NYC BOE)
A8541 (Lifton) enrollment list published on April 1st every year (SBOE)
A8693 (Stirpe) changing committee address with SBOE/depository name and address from candidate (SBOE)
A1224-c (Jeffries) 2nd referendum required to extend term previously limited by referendum
A8902 (Silver ) public financing of statewide and state legislative campaigns

Paper Ballot Reform Package:
A3367-a (Englebright) absentee ballots for caregivers of ill or disabled (SBOE)
A4015-a (Kavanagh) affidavit ballot envelop = voter registration/enrollment (SBOE)
A5276-a (Galef) streamline absentee ballot requirements and application (SBOE, ECA, NYC BOE)
A7347 (Galef) request absentee ballot by fax or email
A8376 (Silver) military/overseas ballots by fax or email, longer return time (SBOE)

**Already Chatered:**
A1001 (ch 40 of 2009) (Paulin) abbreviations and customary titles on petitions okay if signature corresponds with record

There remains a number of election law bills on the floor today, or in the rules committee, that may yet pass in our house before we adjourn. I will update the list if necessary when I see you in Geneva on Wednesday. Please pass this list on to you members.

Regards, Kathleen

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Kathleen O'Keefe, Esq.
Team Counsel
Program & Counsel Staff
New York State Assembly
AES Office Building, Suite 1147
Albany, NY  12248
Phone: 518/455-4313
Fax: 518/455-3669

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Albany, NY  12248
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Fax: 518/455-3669

6/29/2009
DATE:       June 30, 2009

TO:         Commissioners

FROM:       John J. Ward
            Finance Officer

RE:         Comparative Expenditures

FY09       P.S. Projection through 6/26/09 Payroll:  $19,455,500
FY09       P.S. Actual through 6/26/09 Payroll:    $25,265,405
            Difference                                   ($5,809,955)

          Overtime pays two weeks ending 6/12/09

          OVERTIME USAGE

          General Office     42,794
          Brooklyn            17,905
          Queens              14,660
          Bronx               9,758
          New York            2,778
          Staten Island      263
          Total               $88,158

Respectfully submitted,

[Signature]
Finance Officer
June 26, 2009

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,


Respectfully submitted,

s/
Kimberly A. Galvin (505011)
Special Counsel

s/
Paul M. Collins (101384)
Deputy Special Counsel
HAVA COMPLIANCE UPDATE
Activities & Progress for the Week of 6/19/09-6/25/09

Following is a detailed report concerning the previous week’s progress in implementing the terms of the Court’s Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are on schedule as outlined in the most recent time line.

Contracting with Voting System Vendors

Status of tasks in this category: on schedule

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: in jeopardy but on schedule with the most recent time line.

- Testing is proceeding on schedule
- Meetings continue between the vendors, SBOE and NYSTEC.
- Acceptance testing on the new voting machines has started at the warehouse in Albany.
- Functional testing of both voting systems has started.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: on schedule

- ES & S scanners delivered on Monday, June 22 which enabled Acceptance Testing to begin, as noted above.
- Additional Dominion and ES & S units have been ordered, and corresponding purchase orders will be processed at OGS, accordingly
- The bulk of new Policies and Procedures related to implementation of new voting systems have been shared with County Boards of Elections and have been posted to a CBOE portal for easy reference.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

SBOE staff has made a determination on how to proceed and is awaiting a Board meeting to obtain an approval for same.
CITY OF NEW YORK
VOTER ASSISTANCE COMMISSION

VAC Bi-Monthly Open Meeting
HOSTED BY: Mayor's Office of Veterans' Affairs
Wednesday, July 1, 2009, 1:00 p.m. – 3:00 p.m.
Mayor's Office of Veterans' Affairs, 346 Broadway, 8 West (across Federal Plaza)
Conference Room 801

Chair
Dr. Jeffrey F. Kraus

Vice-Chair
Jane Kalmus

Commissioners:
Robert J. McFeeley
Morshed Alam
Nayibe Nunez-Berger
Glenn D. Magpantay
Loretta E. Prisco

Ex-Officios:
Hon. Carol Robles-Roman
Hon. Marcus Cederqvist
Hon. Betsy Gotbaum
Hon. Michael A. Cardozo
Hon. Mark Page
Hon. Joel I. Klein
Hon. Joseph P. Parker, S.J.

Executive Director
Onida Coward Mayers

Office Manager
Bibi N. Yusuf

Agenda:

Roll Call

Approval of Minutes (March 25 Meeting)

Executive Director's Report

NYC Board of Elections Report

Campaign Finance Board

Department of Education

Old Business

New Business

Public Comment

Adjournment

Speakers:

Stacey Cumberbatch – 2010 Census
Carmen Matias – 2010 Census
Erika Wood, Deputy Director – Brennan Center

Testimony: Anyone who wishes to testify, please call Ms. Bibi Yusuf at (212) 788-8384. Please note that, due to the expected volume of testimony, we asked that one person per organization testify and testimonies must be kept less than four (4) minutes.

Entrance: 346 Broadway (persons with Mayor's Office ID), (108 Leonard Street, general public)

Subways: 4, 5, 6 to Brooklyn Bridge/City Hall; N, R, 6 to Canal Street; 1, 9 to Franklin Street; 2, 3, A, C, E to Chambers – All within walking distance to location.

Buses: M1 or M6, southbound to Broadway and Leonard Streets or north bound to Worth and Church Streets

By Car: Due to heavy traffic, street closings due to construction and parking difficulties, driving is not recommended.
Public Comments Pertaining to
Proposed Amendment to
Subtitle V of Title 9 of the Official Compilation of Codes,
Rules and Regulations of the State of New York
Repealing Part 6210.18 and
Adding thereto a new Part, to be
Part 6210.18 Three-Percent (3%) Audit

Written Comments:
(Mail to)
NYS Board of Elections
Attn: Proposed Audit Regulations
40 Steuben Street
Albany, NY 12207

or

E-mail Comments: pc6210@elections.state.ny.us
Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of
the State of New York is hereby amended by repealing Part 6210.18, and by
adding thereto a new Part, to be Part 6210.18, to read as follows:

Section 6210.18  Three-Percent (3%) Audit

(a)  As required by NYS Election Law Section 9-211, the board of elections or a
bipartisan team appointed by such board shall manually count all votes of the
voter verifiable paper audit trail (VVPAT) from no less than 3% of each type of
voting machine or system used within the county, provided, however, that there
shall be a manual count of at least one of each type of voting machine or system
used therein for each public office and any questions or proposals appearing on
the ballot. The conduct of such random audit shall be in a manner consistent
with procedures prescribed by the State Board of Elections.

(b)  The voting machines or systems to be audited to meet the county-wide minimum
requirement set forth in Subdivision (a) herein shall be selected by lot through a
transparent, random, manual process where all selections of machines or
systems used in the county are equally probable. The voting machines or
systems to be audited to meet the requirements for a specific contest set forth in
Subdivision (a) herein shall be selected by lot through a transparent, random,
manual process where all selections of machines or systems used in the contest
within each county are equally probable. The county boards shall adopt one of
the random, manual selection methods prescribed by the State Board of
Elections or such county board may submit for approval by the State Board a
proposed alternative random, manual selection method. County Board adoption
of the prescribed random, manual selection method shall take place not later
than 45 days after the purchase of a voting system and notice by the County
Board of the adoption of such random, manual selection method shall be filed
with the State Board.

(1) As required by NYS Election Law Section 9-211, not less than five days
prior to the time fixed for the random selection process, the board of
elections shall send notice by first class mail to each candidate, political
party and independent body entitled to have had watchers present at the
polls in any election district in such board’s jurisdiction and to the State
Board. Such notice shall state the time and place fixed for such random
selection process. Such random selection process shall not occur until
after election day. Each candidate, political party or independent body
entitled to appoint watchers to attend at a polling place shall be entitled to
appoint such number of watchers to observe the random selection
process and the subsequent audit.

(2) Such notice shall also announce the date, time, and location that the
audit shall commence, information on the number of audit teams which
will conduct such audit, and such other information that the County Board
deems necessary.
(3) The county board shall at a single session randomly select from all machines and systems used within the county in the election so that no further drawings are required if anomalies are encountered during the manual audit. The audit shall commence on the same day as the random, manual selection process.

(4) Prior to auditing the audit records, the county board shall distribute to those in attendance at the audit session, copies of the list showing the number of machines and systems needed to meet the audit requirement for each contest and any questions or proposals, and the unofficial vote results per voting machine or system selected for audit.

(c) For each voting machine or system subject to be audited, the manual audit shall consist of a manual tabulation of the voter verifiable paper audit trail records and a comparison of such count, with respect to all candidates and any questions or proposals appearing on the ballot, with the electronic vote tabulation reported for such election district.

(1) A reconciliation report, on a form prescribed by the State Board of Elections, that reports and compares the manual and electronic vote tabulations for each audited candidate for each contest and any question or proposal from each machine or system subject to the audit by election district, including tallies of overvotes, undervotes, blank ballots, spoiled ballots and rejections recorded on the VVPAT, along with any
discrepancies, shall be prepared by the board of elections or a bipartisan
team appointed by such board and signed by such members of the audit
team.

(2) Any discrepancies between the corresponding audit results and initial
electronic vote counts shall be duly noted, along with a description of the
actions taken by the county board of elections for resolution of
discrepancies. The number and type of any damaged or missing paper
records shall be duly noted.

(3) If any unresolved discrepancy is detected between the manual count
described in Subdivision (c) above and the machine or system electronic
count, even an unresolved discrepancy of a single vote, the manual count
shall be conducted a second time on such machine or system to confirm
the discrepancy.

(d) The reconciliation report required in Subdivision (c) above shall be transmitted to
the County Board commissioners or their designees upon completion of the
initial phase of the audit for determination on the expansion of the audit
conducted pursuant to Subdivisions (e) through (g) herein.

(e) The county board shall aggregate the audit results reported pursuant to
Subdivision (c) (2) herein that are applicable to any contests, questions or
proposals. The aggregated results for each contest, question or proposal shall be used to determine whether further auditing is required as follows:

1) For any contest, question or proposal, an expanded audit will be required if either or both of the following criteria apply to the aggregated audit results:

(i) Any one or more discrepancies between the confirming manual counts described in Subdivision (c) (3) herein and the original machine or system electronic counts, which taken together, would alter the vote share of any candidate, question or proposal by one tenth of one percent (0.1%) or more of the hand counted votes for respective contests, questions or proposals in the entire sample; or

(ii) If discrepancies of any amount are detected between the confirming manual count described in Subdivision (c) (3) herein and the original machine or system electronic count from at least 10% of the machines or systems initially audited then the board or bipartisan team appointed by such board shall manually count the votes recorded on all the voter verifiable paper audit trail records from no less than an additional 5% of each type of the same type of voting machine or system which contains any such discrepancy or discrepancies.

(iii) When determining whether discrepancies warrant expanding the audit, the percentage-based thresholds in this section shall be
rounded down by truncating the decimal portion (with a minimum of 1).

(f) A further expansion of the audit will be required if either or both of the following criteria apply to the audit results:

(1) For each contest, question or proposal, the county board shall aggregate the results from the initial audit as required in Subdivision (a) above and the expanded 5% audit. If, such aggregated results of unresolved discrepancies satisfy the criteria in Subdivision (e)(1)(i) above, a further expansion of the audit will be required.

(2) For each contest, question or proposal, the county board shall take the results of the 5% expanded audit under Subdivision (e) above, and, if such results of unresolved discrepancies satisfy the criteria in Subdivision (e)(1)(ii) above, a further expansion of the audit will be required.

(3) When an expanded audit is required for a contest pursuant to this section, each county board or bipartisan team appointed by such board shall manually count all voter verifiable paper audit trail records from no less than an additional 12% of each type of the same type of voting machine or system which contains any such discrepancy or discrepancies.

(4) When determining whether discrepancies warrant expanding the audit, all percentage-based thresholds in this section shall be rounded down by truncating the decimal portion (with a minimum of 1).
A further expansion of the audit will be required if either or both of the following criteria apply to the audit results:

1. For each contest, question or proposal, the county board shall aggregate the results from the initial audit as required in Subdivision (a) above and the expanded audit as required in Subdivision (e) and (f) above. If, such aggregated results of unresolved discrepancies satisfy the criteria in Subdivision (e)(1)(i) above, a further expansion of the audit will be required.

2. For each contest, question or proposal, the county board shall take the results of the 12% expanded audit under Subdivision (f) above, and, if such results of unresolved discrepancies satisfy the criteria in Subdivision (e)(1)(ii) above, a further expansion of the audit will be required.

3. When an expanded audit is required for a contest pursuant to this section, each county board shall manually count all voter verifiable paper audit trail records from all the remaining unaudited machines and systems where the contest appeared on the ballot.

4. When determining whether discrepancies warrant expanding the audit, all percentage-based thresholds in this section shall be rounded down by truncating the decimal portion (with a minimum of 1).
(h) The standards set forth in Subdivisions (a)-(g) above are not intended to
describe the only circumstances for a partial or full manual count of the voter
verifiable paper audit record, but instead are designed to set a uniform statewide
standard under which such hand counts must be performed. The county boards
of elections, as well as the courts, retain the authority to order manual counts of
those records in whole or in part under such other and additional circumstances
as they deem warranted. In doing so, they should take into consideration: 1)
whether the discrepancies were exclusively or predominantly found on one type
of voting machine or system; 2) the size of the discrepancies; 3) the number of
discrepancies; 4) the percentage of machines or systems with discrepancies; 5)
the number and distribution of unusable voter-verified paper audit trail records as
described in Section J below; 6) the number of cancellations recorded on the
voter-verified paper audit trail records reported pursuant to Subdivision (c)(1)
herein; and 7) whether, when projected to a full audit, the discrepancies detected
(no matter how small) might alter the outcome of the contest, question or
proposal result.

(i) If the audit officials are unable to reconcile the manual count with the electronic
vote tabulation on a voting machine or system, then the board of elections shall
conduct such further investigation of the discrepancies as may be necessary for
the purpose of determining whether or not to certify the election results, expand
the audit, or prohibit that voting machine or system's use in such jurisdiction.
(j) If a complete audit is conducted, the results of such audit shall be used by the
canvassing board in making the statement of canvass and determinations of
persons elected and propositions approved or rejected. The results of a partial
audit shall not be used in lieu of voting machine or system tabulations, unless a
voting machine or system is found to have failed to record votes in a manner
indicating an operational failure. When such operational failure is found, the
board of county canvassers shall use the voter verifiable audit records to
determine the votes cast on such machine or system, provided such records
were not also impaired by the operational failure of the voting machine or
system. If the voter verified paper audit trail records in any machine or system
selected for an audit are found to be unusable for an audit for any reason
whatsoever, another machine or system used in the same contest shall be
selected at random by the county board to replace the original machine or
system in the audit sample. All such selections shall be made randomly in the
presence of those observing the audit. The County Board shall inquire in an
effort to determine the reason the voter verified paper audit trail records were
compromised and unusable and such inquiry shall begin as soon as practicable.
The results of the inquiry shall be made public upon completion.

(k) Any anomaly in the manual audit shall be reported to and be on a form
prescribed by the State Board and shall accompany the certified election results.
PUBLIC SERVANTS AT PLAY

As Albany burns, elx officials wine, dine and frolic at posh upstate resort

BY TINA MOORE
DAILY NEWS STAFF WRITER

A STATE BOARD of Elections conference may sound dull — but not in New York.
Up to 180 elections commissioners and staffers wined, dined and danced under the stars last week at a zany annual conference in the scenic Finger Lakes.

Commissioners and employees spent four workdays at a conference at the Ramada Geneva Lakefront, which included plenty of eating, boozing, golf and touring.

All this while Gov. Paterson is urging state agencies to limit "nonessential" travel to help close the budget gap.

City and state rules let workers attend "professional development" events. Taxpayers usually cover hotels, travel and food.

At this conference, vendors selling business with election boards across the state set up the tab for food and open bars.

State regulations advise employers may be improper to accept gifts and that "prior approval and written disclosure" may be required.

New York State Election Commissioners Association President William Sperber acknowledged vendors paid to hawk their wares at the conference — and the money was used to pay for open bars and other expenses.

Still, he defended the conference as necessary.

"We've probably going to go through one of the most difficult election years in the state," he said, explaining that most counties would be using new voting optical scan technology. Companies that make the technology were at the conference.

State rules also recommend only two employees attend such events at a time so as not toinkle the staff.

State Board of Elections spokesman John Conklin said six people with the big board attended the conference, which was "extremely helpful."

The New York City Board of Elections also blew off the rule, sending eight staffers, including three of the top four employees.

All together, between 150 and 180 people attended, each paying about $311 a night for room and board — about $351 a person for the entire event.

The city's bill to the taxpayers for three nights, two dinners and two lunches came to $2,800, not counting travel and other meals, a city spokeswoman said.

Last year, the Daily News found city commissioners and board employees were reimbursed in 2007 and 2008 nearly $35,000 for multiple expenses, including hotels, meals and travel to upstate conferences.

A News reporter and photographer observed this year's Geneva jaunt unnoticed.

At the end of Tuesday, attendees went to a 45-minute meeting, then a two-hour welcome reception including an open bar.

At nightfall, many gathered under a white, lakeside tent where they drank beer, wine and liquor and smoked cigars. Li- ghting flowed freely each night in the Seneca Room that opened up to the giant white tent.

"You girls want in party?" an update election board staffer named Scott asked a News reporter and photographer about 9 p.m. Tuesday.

Scott brought the two drinks and introduced the woman to an update commissioner named Anthony, who was smoking a cigar and drinking Mezcal Ultra.

The Republican commissioner said the annual getaway was one of the perks of the part-time political appointment that pays $30,000 annually.

Inside the private rib room, a makeover tube was adorned with bottles of vodka, rum, gin and tequila. Some of it was from Bakersfield, New York City board employees were seen drinking from plastic cups.

On Wednesday, commissioners and staffers attended seminars about party ballots, vendor contracts and other election issues. At one point, Sens. Paterson and Fasano of the Senate and Pa. S. & D. E. S. of the Assembly人性ized, 2 companies vying to supply electronic voting machines to election boards across New York — pleaded their wares.

Meetings were scheduled through 4 p.m. But by 7:30, about a dozen participants were testing off at the nearby Seneca Country Club. Others took a vineyard tour of the region known best for its white crossings.

Boating was available on Seneca Lake, and one commissioner said he planned to go fishing.

"Hyde hotel vendors lugging graphics and ballots and voting machines, filled a crowded corridor. There of them set a booth and even threw a party Wednesday night, complete with deck chairs, road beef, shrimp and open bar.

Several women donned poolside skirts and ponchos for the "80s theme party. A commissioner dressed like Elvis, and other men wore faded jeans and T-shirts.

As the party ended, some revelers re-created a scene from "Animal House" by jumping up and down, yelling "Shut up!" to the Isley Brothers.

Sperber said he didn't know which vendor paid for the private party room and liquor and had "no recollection" of who threw the costume party. A hotel security guard did not return calls.

On Thursday, the city Board of Elections staff gathered for lunch, chatting on cell phones around an outdoor table. Board lawyer Steven Richman drank a rum-chilled pina colada, an employee said, while someone else at the table drank a Bloody Mary.

They were joined by Deputy Executive Director George Gonzalez, who drove his black GMC Yukon Denali XL, truck 3,000 miles from New York on a mission to get an election agreement before finalizing.

Administrator Pamela Perkins, who appeared at previous conference expenses, laughed with the group on the sunny afternoon.

City Board spokesman Val erio Vopena said eight employees went to the conference to get ready for next year's elections.

mcnally@dailynews.com