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>> DOUGLAS KELLNER: All right?

Good afternoon, everyone. My name is Douglas Kellner, co-chair, and I'll ask the Commissioners to introduce themselves.

>> EVELYN AQUILA: Evelyn Aquila. It's not ladies first?

>> DOUGLAS KELLNER: Start with our co-chair.

>> JIM WALSH: After Evelyn Aquila, I'm Jim Walsh.

>>DOUGLAS KELLNER: So we'll go around the table and introduce ourselves.

>>: Todd Valentine.

>>: Paul Collins.

>>: Joe Burns.

>>: Anna Svizzero.

>>: John Conklin.

>> George Stanton.

>>: Pat Campion.

>>: Liz Hogan.

>>: Bob Brehm.

>>: Bob Warren.

>> DOUGLAS KELLNER: And our guests?

>>: (Off microphone.)

>> DOUGLAS KELLNER: Welcome to everyone.

Approval of Minutes

The first item on the agenda is the approval of the minutes of December 15, 2009.

Motion?

>> JIM WALSH: So moved.

>> DOUGLAS KELLNER: Those in favor say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Minutes are adopted.

Unit Updates

Unit updates?

Start with the Executive Directors, Bob Brehm and Todd Valentine.

Executive

>> TODD VALENTINE: You can go first.

>> BOB BREHM: We continue to work with the pilot review committee of the County Election Commissioners Association.

We have been piloting with the committee the use of our new Web conferencing.

We have received very positive comments.

We are able to cover the actual documents and talk and share notes back and forth.

And they felt it was very convenient not having to travel three, four hours to Albany one way to have a conversation.

So we have had some phone calls.

We had a session on January 7th where we focused on the post-election audit, the amendments you made at the last meeting.

You know, the instructions that we put together in our procedures and areas that we could be clearer in what we are looking for in case they didn't understand what we were looking for.

It was a very positive session.

We have another session scheduled for January 20th where we look to focus on privacy issues related to the use of the new equipment and the polling site follow up on some of our observations from both the primary and the general election last year and to offset some of those.

We have a number of sessions planned where we try to get their feedback on the procedures we gave them, whether they were clear, whether they were adequate; the training that they received both from the State board training sessions or from their vendors; are there any gaps that we can fill before the next, before we launch it statewide?

Those sessions are ongoing. It's a positive. And we look forward to our next session on the 20th.

We also had a number of meetings to review programs that are out, at least to review what other states are doing to comply with the MOVE act and what other programs might be available.

There were three specific sessions where we reviewed two proposals from vendors that already are working on a product.

And, also a discussion with Saber, what we can currently do to make compliance for 2010 a reality.

And, also Todd and I are attending a conference at the end of the month in Washington and prominent on the discussion is both information from the federal government and other states as to what they are doing to comply with the MOVE act.

So we continue to work on that project.

Yesterday we received, we hosted…I'm not sure that's the right word, a representative of the Social Security Administration showed up, requested to meet with us as part of internal control that they are doing.

We discussed the NYSVoter ID verification component that we worked through DMV to the Social Security Administration to make sure that it is optimally complying with the Help America Vote Act.

There were a number of questions in IT Unit and the Steering Committee and a number of us participated in answering the questions.

They selected the ten states that use the system the most to do a review to see what were our internal controls, what were their internal controls and was it working.

It was a positive session.

I think that covers, at a high level, some of the items that we worked on.

>> TODD VALENTINE: No, we summarized those and it's also contained in the unit report with more details, if you're looking for that.

>> DOUGLAS KELLNER: All right. Any questions? Thank you very much.

So we'll turn to the legal report from Kimberly Galvin.

Legal

>> KIM GALVIN: We worked with the Election Operations Unit…

We participated in a lot of the meetings that Bob just discussed and we continue to support the Election Operations Unit and what we hope is the final choices of the voting systems and Nassau and New York City.

We still continue to work with them to clear up any purchase order issues that they may have or any outstanding contractual issues with OGS, which is… there are a considerable amount of them and we are working through them.

We also participated in the county pilot review calls.

We put together what we anticipate to be the first phase of a legislative program which we will discuss later.

I anticipate there will be at least three phases of it.

Our weekly status calls with the Department of Justice and updating them.

>> EVELYN AQUILA: Sorry, I shouldn't interrupt you.

>> KIM GALVIN: That's fine.

>> EVELYN AQUILA: At the end you'll tell us about the Department of Justice, I'm sorry.

>> KIM GALVIN: No, the Department of Justice was very pleased that both New York City and Nassau County did choose voting systems.

I don't know how they are going to be with regard to the purchase order issue.

I think that we've resolved a lot of the things with Nassau's purchase order and New York City said they will have their purchase orders to OGS by February 1. All things being equal, think we are right on schedule with respect to that particular…

They seemed very pleased, satisfied with that.

I don't know about pleased.

>> DOUGLAS KELLNER: Kim, are there pending issues with the Nassau County purchase order?

>> KIM GALVIN: There are, as far as I know.

>> DOUGLAS KELLNER: Is there anything non-confidential that we can discuss?

>> KIM GALVIN: Other than I think we are resolving it.

It is working towards resolution and should be resolved in the very near future.

I think that there's more to say in executive session, but I think that they've worked with OGS and with us and they are going to resubmit in a format that would be acceptable.

>> TODD VALENTINE: The county board has been working directly with OGS.

It is an OGS purchase order.

>> DOUGLAS KELLNER: In general, the issue is that the new contract with ES&S provided for disposition of the existing Dominion ImageCast machines that Nassau had already acquired as ballot marking devices.

>> KIM GALVIN: Right.

>> DOUGLAS KELLNER: So there are legal issues over exactly how that…

>> KIM GALVIN: Right, what that disposition would entail or what would be an authorized disposition of those.

And I think that Nassau County has conceded that it was more confusing than it actually was in their minds.

There was never going to be actual transfers of titles and things.

So they were working towards resolving that in a way that it's palatable.

>> EVELYN AQUILA: I can well understand that.

>> KIM GALVIN: I think OGS said that they've figured out a way to put in their purchase order conforming to the timeline and getting machines to them that doesn't involve…

There are still those issues, but now they become ancillary to the whole project that we still need to work through.

And the routine, you know, questions from the county boards and the phone calls that we have.

Paul, is there anything else that you want to add to that?

>> PAUL COLLINS: Just the continuing saga of the pre-clearance submissions and responding to the Department of Justice's inquiry concerning the various submissions.

I think the procedures amendment has not yet been pre-cleared.

Everything else I believe has been and there's one small…Oh, the street finder legislation hasn't received final pre-clearance yet. So...

>> DOUGLAS KELLNER: I don't anticipate any problem there.

(Chuckles.)

>> PAUL COLLINS: No, no.

>> EVELYN AQUILA: Unless they took some streets away that we don't know about.

>> PAUL COLLINS: That's it, really.

>> DOUGLAS KELLNER: All right.

Then we'll turn to elections operations.

Anna Svizzero?

Election Operations

>> ANNA SVIZZERO: Thank you, Commissioners.

We notified the county boards of the Special Elections called by the governor to fill the vacancies, the four, Nassau, Suffolk, Queens, and Westchester.

That special election is on February 9.

There are local special elections in Suffolk and Westchester for short or shortly thereafter to fill county legislative seats as a result of those persons being elected to different offices in November.

So in the context of letting you know about the special elections, we also let you know that the ballot marking devices are going to be used in the same manner as they were in the November election because clearly even though we certified new systems, these counties have not had a chance to transition to a completely op scan world yet.

We will be working towards those guidelines for those elections.

Status meetings with NYSTEC have resumed.

We have a number of procedures to update based on our own experiences, those from the pilot review committee and as a result of certification.

We also have some procedures that have to be written.

So that relationship has resumed and that work has also resumed.

We are reviewing SysTest final invoices.

We expect to be speaking with them perhaps tomorrow, if not tomorrow, then on Tuesday.

And we will be contacting vendors for the additional funds that we need to close out that billing.

Both of the vendors have asked that their test artifacts be sent to labs for federal certification.

We will be doing that as well.

We've created the upgrade packages to the certified versions.

Those have been provided to the county boards for the most part.

Our staff has been working on that for about a week.

We do want to thank the Saratoga and Albany county boards.

We wrote procedures for how to perform the upgrade.

Bob Warren and his team did that and we tested them out here.

In that we are more familiar with the systems than the county people may be, we want to pilot those procedures and those counties helped us do that.

Once we got their feedback, we made changes that they recommended and have sent those packages out or are sending them out today.

We have EMS packages for the county boards once we confirm that the counties did indeed purchase the election management software.

That software comes to the county from us, even though the vendor has to install it.

We will be confirming that the purchase orders are in place either from last year; some counties did purchase their EMS last year, or have purchased it since certification.

We have sent packages out already.

Some of the vendors have done installs and are training now so that will be an ongoing process.

We are in the hopefully final steps of an RFP to purchase a permanent asset management system that will help the counties manage their inventory and do so in a manner consistent with the federal requirements for assets that were purchased with federal dollars.

And it will also help us in our oversight.

Because of budget considerations and staffing considerations, the oversight of this process is going to be hard to do in a physical way on each board.

To the extent that we can use this system to perform some of our oversight responsibilities, I think that will be an asset to the State Board and certainly to the work that we are trying to do in operations.

We have regular work that we do in election operations, surprisingly enough.

We have voter inquiries; we have county board questions related to the disposition of records, of lever machines, the question of use of the lever machines in other jurisdictions such as towns and villages.

We promised the boards we would be speaking on that topic at the January conference…general guidance.

A number of Commissioners have retired so, there will be a lot of new Commissioners at the January conference, provided those appointments happen before then.

If not, we'll see them at our own conference at the end of April.

We did participate in the first of the pilot review calls as Kim indicated.

The topic on that one was the audit process.

The next topic is privacy booths and voter privacy and those concerns.

We will listen to what the boards have to say on the phone and then try to incorporate those concerns into any new procedures that we have.

And I think that is it for Election Operations.

Joe, do you have anything else to add?

>> DOUGLAS KELLNER: Anna, I wanted to ask you about the incident that, to review again what happened in the town of Tonawanda council race in Erie County.

The reason I'm asking is I'm concerned that again there are people who are spreading false information about what actually happened there as excuses for keeping the lever machines.

And I think, you know, we've tried to be as transparent as possible in showing where all the problems have existed, but it's very frustrating that when you try to be transparent, then people distort what actually happened.

And with the Internet, then things start spreading around.

So I believe you have spoken with Erie County officials and done a little bit of investigation yourself on this, right?

>> EVELYN AQUILA: May I just ask you to say what the problem was?

>> DOUGLAS KELLNER: Well, let's have Anna explain the whole thing.

>> EVELYN AQUILA: I just want people who don't know

>> ANNA SVIZZERO: The scenario is unfortunate because that sort of misinformation does taint the waters in the world of public perception.

In any event, it was several human errors at the Erie County board that resulted the in the issue that you are discussing.

There were votes that many claim were transferred from one candidate to another.

And the facts are that the county did its own ballot configuration programming, as more counties are more comfortable calling it.

That ballot configuration, Erie had performed the prior year with ballot marking devices.

In '09 they did their own ballot configuration for the scanners because they did a substantial pilot in the county.

It was the entire county with the exception of the City of Buffalo.

In the configuration, there's a bit of a change in how the ballots get configured in the BMD world and in the scanner world at the Erie County board with the system they chose, which is ES&S and the DS-200.

And the multiple appearance of the candidates' name of a scanned ballot when they are cross-endorsed is handled one way in the BMD and another way in the DS-200.

The staff doing the ballot configuration assigned -- they are called sequence numbers -- assigned the same sequence number to two different candidates.

For example if the candidate were on the Democrat and Liberal lines, their name would appear the first time as sequence number one.

On the other lines that they and, they would still be sequence number one.

So that the system understood if you voted for that candidate twice, they would still get only one vote.

They wouldn't get a vote for every appearance.

In the problem that the programmer, if you will, made in building that ballot, they applied the same sequence number to two different candidates.

The test deck was created.

The test deck was run.

However, the test deck tapes were not validated by staff.

The whole point of a test deck is the outcome.

You mark ballots.

>> DOUGLAS KELLNER: They ran the test but never looked at the results.

>> ANNA SVIZZERO: Exactly.

If they had looked at the results of the test deck, they would have seen that problem in the week-to-ten days before the election.

They were busy with last minute court cases.

I think they had court cases with decisions rendered Monday night.

One can understand how these things happen.

In any event, I think it's a lesson they won't be forgetting any time soon and we are all advised to learn from that as well.

>> EVELYN AQUILA: It was only one town, not across the whole county.

>> ANNA SVIZZERO: No, it was in a council race in Tonawanda. It was results for three. When results came in that election night, it was clear what happened. The Commissioners chose to…the ballots were returned to the Board of Elections.

They made the change in the ballot lot configuration and they ran a test deck, looked at the results and re-ran those ballots using the corrected ballot configuration.

And the election results were no longer in dispute and no longer in question.

>> DOUGLAS KELLNER: They were never in dispute, right?

>> ANNA SVIZZERO: True, yes. I'll choose my words a little more carefully.

>> DOUGLAS KELLNER: So just to summarize this again, you had a vote for three races for the Tonawanda town council.

>> ANNA SVIZZERO: Right.

>> DOUGLAS KELLNER: And the first and third Republican candidates for that race were both assigned the same sequence number.

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: So that the third Republican candidate, if somebody voted a Republican ticket and voted for all three candidates, the vote would only register twice for the first two because the third candidate had the same sequence number as the first candidate and the machine had basically been configured to tell the machine that that was a cross-endorsement.

>> ANNA SVIZZERO: Exactly.

>> DOUGLAS KELLNER: And not to count that vote twice.

>> ANNA SVIZZERO: We call them "push" votes. You get the vote on the first appearance of the candidate's name.

>> DOUGLAS KELLNER: It did appear in the test deck.

>> ANNA SVIZZERO: On election night they looked at the test deck tapes then and confirmed there was a problem, confirmed what the problem was and made the change in the program.

>> DOUGLAS KELLNER: Everyone agreed on a bipartisan basis immediately to confirm those ballots.

>> ANNA SVIZZERO: Yes, we discussed this with the Commissioners and to the staff member who did the work.

>> DOUGLAS KELLNER: If the Commissioners will bear with me, I have two comments on this.

Lesson number one, you have to actually look at the test results.

This isn't the only place in the State where they did not look at the test results.

We had all of the problems in the 23rd Congressional District.

>> EVELYN AQUILA: Right.

>> DOUGLAS KELLNER: Also happened because of though counties which had not looked at their test decks. So the only places where they had problems were the counties that didn't look at the test decks. And note that they had a problem.

That's lesson number one.

Lesson number two on this is that we had the same problem on lever voting machines in another county.

Actually, there were two different places, but I don't want to name them, although I did name them in my testimony before...when I testified at the state Senate last, and I'm not sure that I remember them now.

So I don't want to give an inaccurate account.

But there, the same problem occurred where there was an improper cross-endorsement strapping on the lever voting machine and they discovered that voters were not being allowed to vote for all of the candidates on a slate.

This was for county executive. Well. And the result was that when they discovered this, they had to shut down the machines. The problem, however, with the lever machines is that when you shut down the machines, you can't tell how many votes were lost.

But when we had this problem in Tonawanda, they had the paper ballots and they could simply go back and look at the paper ballots and get them.

Also in Tonawanda, even if this had not been transparent when they ran the tape and saw that the third Republican candidate was missing out on these votes, it would have been picked up in the audit because even if it had been a subtle error, it still would have been found in the audit at least in a town of the size of Tonawanda where you have 87 election districts.

So the odds are that there would be two or three, at least two or three machines in Tonawanda that would have been audited.

So that's what I think is unfair about some of the criticism, especially the fact that the same error occurred on a lever machine where they couldn't correct it because there's no record on the lever machine.

And so that's the troubling dishonesty of some of the reports I find circulating around.

Anna, I thank you for going into that detail.

>> EVELYN AQUILA: Could I ask Anna one quick thing?

Would it be worthwhile for the next two years to send out a list of reminders to the counties saying: Don't forget to check your test data?

Don't forget to do this?

>> ANNA SVIZZERO: We can do some gentle prodding, e mail type thing.

>> EVELYN AQUILA: They don't have the people, the number of people they need to do the job. We all know that.

>> ANNA SVIZZERO: I will say in Erie…

(Overlapping speakers.)

>> EVELYN AQUILA: County boards have very few people.

Number two, when you come to the couple of weeks just before the elections, it's tremendously busy with printing, getting the machines ready, court cases where they want people from the Board of Elections testifying and sometimes they are down to one, two people and I think a list of reminders, you know, I got a reminder in my office, I would stick it up on the wall to make sure I remembered it.

I'm just saying… I leave it in your hands, Anna. You know best.

>> DOUGLAS KELLNER: Commissioner, I would add that the pre-election testing is not optional. You have a regulation.

>> EVELYN AQUILA: I know it.

>> DOUGLAS KELLNER: You have a regulation. It's mandatory that they do it. The requirement is clear that they have to look at it.

>> EVELYN AQUILA: There are regulations in life about everything. If you don't remember it, you don't remember it.

>> DOUGLAS KELLNER: From a legal point of view I would remind candidates in the political parties out there that it's probably worth it for them to also look at the test results.

The Election Law provides that the parties have a right to have an observer paid by the county appear at the testing. And to confirm the test results. One of the things we found with the lever machines over the years is that the lever machines often have configuration errors on them.

>> EVELYN AQUILA: Yes. You walk in to vote and say this isn't the person running for Congress.

>> DOUGLAS KELLNER: The candidates learned it was in their interest to go before the election to make sure that the machine is properly set up. Now they have to look at the configuration files for the scanners and to look at the test deck results to make sure that they have been configured properly. But again, one of the things that I find troubling in some of these articles is, they say they should have…that the vendor should have programmed the machine in such a way that this human error could not have happened.

And I don't see how you can do that. We don't have the same candidates in every election. We don't have the same ballot configuration in every election. There has to be a human element in the ballot configuration.

>> EVELYN AQUILA: In any machine, there is a human element. I don't care if it's a tea kettle.

>> DOUGLAS KELLNER: And the fact that they ignore that these same kinds of configuration elements happen in the lever machines. Another problem that happened in Saratoga County, the ballot cards slipped so that it was one candidate off. People thought they were voting for candidate…

>> EVELYN AQUILA: Joe Blow.

>> DOUGLAS KELLNER: …A and they were really voting on the lever for candidate B. Because the card slipped during the day, they don't know when it slipped, so the results, we don't know.

>> EVELYN AQUILA: We all have war stories.

>> DOUGLAS KELLNER: It didn't affect the results of the election. So it didn't get much attention, but…

>> ANNA SVIZZERO: It is hard to get counties…

>> DOUGLAS KELLNER: The problems that occurred with the lever machines throughout the State didn't get attention.

>> ANNA SVIZZERO: It is tough to get counties money to… it is good to have eyes different from those who did the ballot configuration. At Erie they have staff at the warehouse look at the test deck information. Once they sign off on it, it goes up to the executive offices where another team of people reviews it. That's great and an excellent process, but in our smaller boards and boards without sufficient staff, the issue of party reps comes into play.

We always had them in my county. When I came to work here, I couldn't believe the number of counties that don't have county reps that come in and are paid to make sure that the counters were at zero and the machines are set up properly.

So any time we can say that and put it in writing to a county board, it helps them when they go to the budget people to get money to have these tasks performed.

>> EVELYN AQUILA: It's up to the parties to get that information. You may know it at the Board of Elections and I don't know how much you can, you know, broadcast that out, but I mean, somehow the major...all the parties need to know that they can do that. Maybe they don't. Maybe they don't.

Because you know, the people for the most part are volunteers and they may not be sure this is a place where they can be.

I don't know how we advertise that, except here.

If any parties are listening, please find out what you are allowed to do the day of election and the week before the election an two weeks before.

>> DOUGLAS KELLNER: Well, thank you.

>> EVELYN AQUILA: Thank you.

>> DOUGLAS KELLNER: All right. I think you had finished your report, Anna?

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: So we'll move on to public information.

John Conklin?

Public Information

>> JOHN CONKLIN: Good afternoon, Commissioners.

I'm not going to go through all the details of the report that I put in your packets.

Just the first thing which dealt with the media that we used for the new voting machine PSAs was significant.

We were able to significantly leverage the amount of money we spent to a 10 to 1 magnitude. I thought that was something noteworthy.

In addition to that we are still working on finalizing the details for the annual conference in April.

We've posted all the certification materials that were approved at the December board meeting.

We posted information on the February 9 special elections in the four Assembly Districts.

As Bob and Todd mentioned and Kim mentioned, we participated in a number of the meetings concerning the MOVE act.

Lastly, I will add a couple of things that were not in the written packet.

We sent out some extension contracts for voter education and poll worker training money to the counties.

That's due back by January 29th.

Also quarterly reports were due at the end of December. There are a few stragglers.

If they could get them in by the end of the month, that would be helpful.

That's all I have. Any questions?

>> DOUGLAS KELLNER: Thank you very much, John.

Campaign Finance, Elizabeth Hogan?

Campaign Finance

>> ELIZABETH HOGAN: Thank you, Commissioner.

As I have been reporting to the Commissioners in the past few board meetings, in order to bring to your attention the volume of calls and mail processing, may I tell you that for last year it appears that the increased volume was running approximately 10 to 11 percent over the previous year.

At the end of 2009 we had roughly 11,000 registered committees, candidates.

We had received in 2009, 29,096 individual filings.

The January periodic is due tomorrow.

Our enforcement is proceeding relevant to the January periodic will begin on the 19th.

The education and training unit, as I reported, continues to work on updating for-ease –of-use for filers the forms that we have.

Handbook information.

We have made certain small changes at this point to the Web site and we will probably launch into, maybe over the summer a review of the campaign finance Web site overall and hopefully make some updates to that and create a more usable tool for filers.

And for people who want information relative to filings.

The training unit is scheduling training sessions for the spring.

You know, considering the fact that we are under some budget constraints for sure, we are trying to do the best we can to minimize what those seminars will cost the agency, but we have a statutory mandate to provide an educational component to the filing perspective and we have to do it.

So we are doing the best we can to consider all of those things in the plan to present the seminars.

Audit staff will soon begin after the filing of the January periodic the timeline for audits to begin this year. We will be talking about the corporate after the reporting is made. They will be preparing a timeline. And probably in, I think in March I think we will be starting that. I think that's what we did last year as well.

The audit staff is working on responding to requests for information from a number of District Attorneys throughout the state to whom we have referred over-contribution issues.

We've gotten an interesting response from District Attorneys relative to looking at those cases and there's quite a bit of follow-up work to do relative to that.

Bill and I had conversations when we were talking about doing the electronic file that we have in our office now whereby we use electronically, the tool to look at paperwork that has been filed relative to committees and things like that. We eliminated a lot of paper. We did that over the past year. We are extending that at this point to including our audit information in the electronic file. We have created a lot of individual reports and paper and just a lot of facts relative to corporations. We are looking at and committees when we do these audits and we had talked initially about having that in this electronic file as well. So we're proceeding with doing that.

We have several things, Bill and I, to present to the Commissioners at the Election Commissioner's conference. We will be working on a presentation for that. I think potentially more extensive presentation at our own conference in April, but we will do a presentation in January.

That's roughly it in terms of the highlights of what we are working on. Bill, would you like to add anything to that?

>> BILL McCANN: Just on the data that we are talking about for the audit is really the scanning component that allows ease of access. It will be a useful tool and cut down, in fact, we got rid of file cabinets with those things.

>> DOUGLAS KELLNER: Any other questions?

(There is no response.)

>> DOUGLAS KELLNER: All right.

So then we will turn to Information Technology.

George Stanton?

Information Technology

>> GEORGE STANTON: Good afternoon, Commissioners.

I will be pretty brief since I included this information in your packet and a lot of people have talked about things that IT is involved in also.

We did take, even though the, there's a down time during the online holiday period when not a lot gets done.

We took advantage of that fact because NYSVoter has been running pretty much nonstop through all of 2007, we took the opportunity to shut the system down for two days, actually, that we actually told the counties we were going to be down for the entire long weekend, but it only took two days.

We were up early. We took the opportunity to defrag all of the raid hard drives. We're talking terabytes of data. So it took I think roughly 18 hours just to do a defrag, to defragment the hard drives. We shrunk the database and these two things together allowed us to gain a lot of extra wasted space on the hard drives that we can use now rather than having to extend our system.

We also took advantage of that down time to install all of the latest security patches and upgrades to the Windows operating system. And then we waited a week because we wanted to make sure that everything was going smoothly. After all of that we did, we didn't want to complicate anything.

We shut down for a short time on January 9 to re-install some SQL server upgrades to service patch 3, which is the latest SQL server. That's the database, of course, that stops all of the NYSVoter data. On the NYSVoter hardware, software, everything is right up to snuff now, up to date.

So that's a good thing.

We still will need to shut down, probably quarterly to install some service packs, but they will be shorter shut downs rather than an extended shut down.

We are still working with Campaign Finance on the new filing system software.

We met last month with the audit people and got some of their ideas where I think almost…I think we're almost completed as far as implementing those. We implemented some pretty nice things. The developer, Phil Perry, is ready to show it to us again here probably within the next month…Within the next week, and hopefully within the next few weeks we can show it to Campaign Finance again and get their input on that.

The help desk staff is currently busy loading the January periodic filings.

We've implemented at the request of enforcement that, to reject filings that have the wrong PIN in them. We used to go ahead and load filings that had the wrong PIN number and audit staff would contact the filers and tell them that they had to correct it and file again. But starting with the January 15th, we are rejecting those files and they are being notified by Campaign Finance staff that they have to re-file with the correct PIN.

Other than that, we have been involved in the discussions on the MOVE Act and met with Social Security yesterday.

And that's about it.

Do you have any questions?

>> DOUGLAS KELLNER: Great.

>> EVELYN AQUILA: Yeah, I do.

George, how many counties now are in the statewide database?

>> GEORGE STANTON: Well, all the counties are in the statewide database and have been for the last two years.

>> EVELYN AQUILA: Maybe I'm not asking that correctly.

>> GEORGE STANTON: If you're asking if New York City is taking advantage of the database to do their voter maintenance, the answer is no.

>> EVELYN AQUILA: That's the question. Is there any other county taking the same advantage?

>> GEORGE STANTON: Everybody else has been doing it since they came online.

>> EVELYN AQUILA: All right. Do you see any chance of any kind of reconciliation there with New York City?

>> GEORGE STANTON: I have seen no movement towards any.

>> EVELYN AQUILA: No movement? Okay. Thank you, George.

>> DOUGLAS KELLNER: All right. We will turn to old business.

Old Business: Village of West Hampton Beach

The first item is discussion on the proposed formal opinion regarding the letter from the clerk of the Village of West Hampton Beach.

Paul or Todd?

>> EVELYN AQUILA: West Hampton.

>> PAUL COLLINS: I think we are getting closer. We have a few open items that we have to resolve mutually. Todd, I hadn't cleared this with you, but I think we are of one accord that the answer to the first question on what role the village clerk has in adjudicating this, that or the other thing is none.

That part of it.

>> TODD VALENTINE: No, we have been working

>> PAUL COLLINS: We have been working on it. Obviously there are new cases that have come down and we have to finish analyzing those cases.

>> DOUGLAS KELLNER: All right.

>> PAUL COLLINS: But we do agree that the clerk is not running the actual challenge process.

>> DOUGLAS KELLNER: You can't make challenges to county registration lists by giving them to the village clerk, okay.

>> PAUL COLLINS: That's right.

>> DOUGLAS KELLNER: Okay. So we'll put that over and hopefully those discussions will continue.

Kimberly, you have the next item, discussion of the proposal in the legislature for our legislative package.

2010 Legislative Package

>> KIM GALVIN: Basically, last year's proposals with the list cleaned up is before you, that removed anything that may have been vetoed or chaptered or if parts were chaptered, we modified the original version and resubmitted it and added four additional items that basically throughout the house were easy to do.

It was easy enough to get together with staff here and draft them up and there were things that were practical thing that we knew would be helpful to the counties, primarily.

That being said, I fully anticipate that at the February meeting there will be at least a draft of what we are going to need for the MOVE Act implementation.

And also any additional matters that come out of the continued contact with the counties for the review that relate to things quite honestly that I think Paul and I need the staff, the other staff to show us really what those things are because they are specific to how the ballots are configured or things that need to be cleaned up with regard to the operations function that I personally don't have the ability to do.

So we've already talked about it.

We are, by February you will have the remainder of the program, I think.

>> EVELYN AQUILA: Is that when they have to be...

>> TODD VALENTINE: We have no deadline for that.

>> EVELYN AQUILA: No deadline?

>> DOUGLAS KELLNER: Realistically, this is the time to send them because the legislature is not...

>> EVELYN AQUILA: I agree. They are starting to...

>> KIM GALVIN: With respect to the MOVE Act, we have to speak with a variety of people including the legislative people and the Attorney General's office and, you know, they should be over there sooner than later.

I agree with Commissioner Kellner.

>> DOUGLAS KELLNER: Do you want to vote on this part of the package today?

>> EVELYN AQUILA: Think we should?

>> KIM GALVIN: If you took a vote today, we can forward this over with the cover letter to the election chairs and whoever else will be, and indicate in the letter there's additional things coming.

>> DOUGLAS KELLNER: Number one through seven are the carry over from last year and eight through 13 are new items?

>> EVELYN AQUILA: Yeah.

>> DOUGLAS KELLNER: Okay. Well, I think we've discussed this internally and there's consensus on this. Is there is there a motion to approve the package as proposed?

>> JIM WALSH: Moved.

>> EVELYN AQUILA: Second.

>> DOUGLAS KELLNER: All those in favor say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

(There is no response.)

>> DOUGLAS KELLNER: With respect to the amendment, that's a long project. The two long projects are the issues relating to poll site personnel in the new age of scanners.

So that I realize that's a complex package to rewrite the way personnel are now assigned by election district and redo it into reassigning them by poll sites.

But in the long run, that's what the county Commissioners keep telling us.

We have to work towards consensus on this and I know it's a big drafting project.

>> EVELYN AQUILA: A big problem.

>> DOUGLAS KELLNER: The other project is to take a bigger look at the absentee ballot article to try to get some consensus because we know that there are half dozen or even a dozen issues where there is not uniform application of or interpretation of the statute by the county boards so that we had this long list of issues that they are not particularly significant on a big policy issue unless you get to an election that is decided by one or two votes as we saw in Chautauqua with a county, the decision of the Fourth Department yesterday where there is this, there are all these ambiguities in the absentee ballot statute.

Since they are not applied uniformly around the State, it becomes ripe for litigation.

It's not fair to in my view put that onus on the courts to interpret that, that we should try to get these resolved in advance.

I know it's a very big project to rewrite a whole statute and try to get consensus on every word of it.

>> EVELYN AQUILA: My biggest concern, especially this year election, at the polling site is that we don't have inspectors.

Number one, it's hard to get people to want to be inspectors, number one.

Number two, many, many, many of them have no idea about the electronic machines, no matter how much you train them.

And we were in a polling site a couple of years ago and I won't say where it is, and three of the inspectors were over 90 years old.

Very proud of it, this small

>> GREG PETERSON: The average age, I think, is 88.

(Laughter.)

>> EVELYN AQUILA: It's old.

I asked the directors here on several occasions to speak to the colleges and I think they wrote a letter, but I think we need a face down talk with some of these college folks to encourage the young people by maybe a program we can work out statewide with them that they get some kind of social studies credit by serving as an inspector. And you know, encouraging young people to do that...And even as a community, giving them credit for community service. But we have to do something.

This first election I think in November, and I'm generally not a doomsayer, but I think there's going to be a tremendous amount of problems, as anything is when you use new things.

With the age of the inspector, especially in New York City, the lines are going to be long. I know they are only supposed to be half an hour long, but I don't know how that is going to be controllable. I have deep concerns about the election. First time using something new is always difficult. As my grandson reminded me, the only constant is change. And I think that's good to remember. But at the same time we want that change to be as smooth as possible.

>> DOUGLAS KELLNER: Thank you, Commissioner; that segues into the next item on the agenda, the discussion of the transition from our lever voting machines to optical scanners.

New Business: Transition to Optical Scan Voting Systems

>> EVELYN AQUILA: I should have waited.

>> DOUGLAS KELLNER: No, that's fine. You got the opening salvo. Whose item is this, Todd?

>> TODD VALNETINE: Well

>> DOUGLAS KELLNER: Have we already done it?

>> TODD VALENTINE: I think we already covered a lot of it.

What is important and why it's on the agenda is to make sure, to say publicly that we are engaged in this transition and it will be a year long…Not quite a year long, but pretty much a year long transition.

We are in the process of, our first focus really has been obviously, you know, to have the counties purchase the equipment and as Anna reported to make sure that all the counties have the management software, that they are trained to operate that, that the staff, the poll workers are trained to run those devices and obviously for the voting public to be educated on the transition.

And for all of those pieces, there have been programs from different parts of this agency put into place that address those.

And now slowly we have been moving forward with them.

You know, last year we started with that.

We ran…we developed the voter education component that we developed our public service announcements that we put out.

We set up a system for the counties to customize that on a local level.

That will continue.

We've engaged in extensive training outreach to the poll workers and to the counties.

We revamped that to allow for access at all times. You know, through a Web based program, but as well as providing hands-on support for training of the EMS software where people, counties from around the State come for hands-on training session which is essential for that and for the purchase, you know, the last two major counties have to get their systems purchased and delivered.

There are other smaller counties getting minor deliveries, but we have in place a process to acceptance test those and get those deliveries out as soon as possible.

That's just really on the county side.

The other side is what we now have to start reaching out is alerting other people who won election that is the counties aren't going to have this system.

They are not going to have the levers anymore.

They are going to have this.

And then you are going to have to decide what you have to do, but here is what we can do…Here is what actually happens.

That's the school districts; those are the villages that run their own elections; the fire districts that run their elections in December; the towns that run special elections throughout the year…All of these.

Obviously, we can't reach out to every town, village and school district.

What we intend to do is work through their statewide associations because much like the county boards have their own association that work through us, all of these groups have their own statewide associations.

Over time we interacted with them and they have been watching us, but now we need to explain to them what this transition means because when the Legislature changed the statute to take out the date certain for the levers, they put in this concept of you replace the lever when you are ready to replace the lever.

>> DOUGLAS KELLNER: Well, it says the lever machines can't…What is the exact wording of the statue?

>> TODD VALENTINE: Upon the replacement of...

>> DOUGLAS KELLNER: Well, is it…No, but what is the operative language?

The lever machine, you can't…The lever machines are no longer authorized when they are replaced.

>> TODD VALENTINE: That's where the transition idea came up. When are you ready to replace it?

>> KIM GALVIN: What is the definition of replaced?

(Overlapping speakers.)

>> DOUGLAS KELLNER: In view of the Court order, the absolute deadline for replacement is the September primary.

>> BOB BREHM: In time for the September Primaries. Not…Not at the September primary.

We need to know a certain number of…

There needs to be a period of time before that that we are all comfortable that they are ready.

They can't wait, we can't learn on primary day.

>> TODD VALENTINE: Right.

>> BOB BREHM: That's why it's important to say "in time for."

>> DOUGLAS KELLNER: So if you're having a special election on February 9th and you have not already used the scanners in the pilot project, you would still have the option of continuing to use the levers in the February 9th special election.

>> TODD VALENTINE: Yes.

>> EVELYN AQUILA: Yes.

>> DOUGLAS KELLNER: But if you already transitioned in your county or in that particular jurisdiction to the scanners, then you are not allowed to go back to the levers.

For those elections, right? Are we all agreed on that?

>> KIM GALVIN: What if it was a partial?

>> EVELYN AQUILA: I didn't think it meant that.

>> KIM GALVIN: Partial pilot.

>> TODD VALENTINE: Depends on....

>> KIM GALVIN: If the portion was optical scan, you cannot go back.

>> DOUGLAS KELLNER: Once you use the optical scan, you have to continue to. I think that should be our interpretation, that's what we should be telling people.

>> BOB BREHM: There are some counties that participated in the pilot that either had whole county participation or significant part that did not own the EMS. They were not trained in the use of EMS. They didn't do the ballot configuration. However, the regulations changed from the pilot to actual use and require that the county not contract out for those services.

They do that work themselves. That's another component of "are they ready?"

They have to actually have the certified version. They have to have training in the use of the certified version. So I don't think it's a date

There are a number of steps they have to be comfortable with and each county will get to that point perhaps at a different time than the next county.

There are several counties...

>> DOUGLAS KELLNER: As long as...

>> BOB BREHM: As long as it's in time for September.

>> KIM GALVIN: As always, when you have moving target dates, it's much more difficult to manage than a bright line for the date.

>> DOUGLAS KELLNER: Go ahead, Paul.

>> PAUL COLLINS: What we need, I'm not suggesting for today, but what we need are milestone dates on a going forward basis.

>> DOUGLAS KELLNER: Don't we have at least in our agency we have a detailed timeline, right?

>> TODD VALENTINE: For us we do.

>> ANNA SVIZZERO: It's difficult...

>> KIM GALVIN: County compliance varies.

>> ANNA SVIZZERO: They are all trained at different rates. Some of the training is already going out into March. Their date is going to be different from anyone else's for transitioning because even though they have the EMS, they are not going to get trained for two more months.

>> KIM GALVIN: I'm a fan of bright line.

>> EVELYN AQUILA: Can you be at the county meeting in two weeks? Are you speakers at the county meeting?

>> BOB BREHM: Yes, yes.

>> EVELYN AQUILA: County conference.

>> BOB BREHM: The State Board has a session on the first day for a two hour period to cover issues that are, that we need to raise with them.

>> EVELYN AQUILA: All of these things have to be brought up again and reminded again.

>> KIM GALVIN: Oh, yes.

>> PAUL COLLINS: As long as we know this is step by step by step process. We need to have benchmarks in terms of time. We can't find out on August 28th that county A doesn't have this, doesn't have that and doesn't have this. We need to know that as we go along. That's something we have to work at as an agency to, so that we have an obligation to the federal court to report how things are going and we've got to...

I'm not suggesting we are doing that today by any means, but...

>> DOUGLAS KELLNER: I can't say that I've talked to all 58 county boards, but I haven't encountered any board that doesn't... that I've communicated with...that doesn't have that timeline already worked out.

Are we aware of any boards that don't have that timeline?

>> ANNA SVIZZERO: I don't think they are as detailed, some are as detailed as others in this process.

I don't think that anybody is saying, "No, go away, we are not going to make this transition."

I have not heard those words nor seen evidence of that yet except in a couple of the smaller boards where purchasing the EMS at the price that it costs is creating a hardship for them because they didn't have a lot of HAVA money to start with.

They are already into county money and don't have enough of that either.

I don't know that anyone told us out right that they can't meet these deadlines.

I think in Ops and for the purpose of reporting to Counsel's office and Justice, that we survey these boards regularly, as we did with EMS.

"Did you buy it?"

"Give us a copy of the purchase order so we know it."

We will monitor, Bob Warren is already doing that, staying on top of it with the vendors.

If we come across a county that is lagging and has a substantial reason for it, we will certainly bring that back to the board, but I can't imagine there isn't something we can work out in-house with the directors and Joe and I.

>> EVELYN AQUILA: Are all counties going to have them delivered on time, those that just purchased? What about the delivery dates of the new machines? Is there such a thing?

>> KIM GALVIN: They are not off schedule.

>> ANNA SVIZZERO: We have about 700 units now that were acceptance tested, or 800.

>> BOB WARREN: And we already delivered.

>> ANNA SVIZZERO: We delivered out of that, 800 units since Christmastime.

>> EVELYN AQUILA: I'm thinking about New York City and Nassau County.

>> ANNA SVIZZERO: They have to order them first. If they don't order them until February 1...

>> TODD VALENTINE: There is a method; there is a plan in place.

>> DOUGLAS KELLNER: ES&S has said that they are going to be able to deliver...

(Overlapping speakers.)

>> KIM GALVIN: There are severe penalties written into the deals, if they are late in the deliveries.

>> DOUGLAS KELLNER: ES&S is very much aware of the magnitude of the sales they have made.

>> EVELYN AQUILA: And they have them.

>> DOUGLAS KELLNER: They know that now there are commitments for probably more than 6,000 machines between the two counties and maybe as much as 7500.

So, but they know that. I think they are geared up to do it.

>> EVELYN AQUILA: Let's hope so.

>> DOUGLAS KELLNER: All right. Is there anything else on this topic?

(There was no response.)

>> DOUGLAS KELLNER: I think the transition to the optical scanning is a big project, but what people have not been focusing on is just how significant the effort will have to be under the Military and Overseas Empowerment Act that has created significant new mandate on state and county boards of elections. So...

>> EVELYN AQUILA: Who is in charge of that?

>> DOUGLAS KELLNER: Bob, are you going to do the presentation now?

I think this is going to be a much greater challenge for the State board this year than the transition to the optical scan.

>> BOB BREHM: I think as you heard so far today we are all working on this issue because we all touch it in some way.

>> DOUGLAS KELLNER: Can you summarize what the major issues are for the state and county boards?

Update on MOVE Act

>> BOB BREHM: The major issue is we need to comply with the requirements of the Military and Overseas Voter Empowerment Act by the November 2010 general election to allow a prospective military or overseas voter to request an application in some electronic format and in that application they can, once they receive it, they need to identify a way that they want to communicate with the Board of Elections, either traditionally by mail or in less than one electronic format.

We have to select one, at a minimum…Whether it's e mail or fax or some other way.

And we have to have the ability, if they request it electronically, to provide that ballot material…Blank ballot material and instruction material to that overseas military voter.

>> DOUGLAS KELLNER: Specifically when you say ballot material…

>> BOB BREHM: The blank ballot.

>> DOUGLAS KELLNER: Overseas or military voter will have the right to get an electronic transmission of the ballot.

>> BOB BREHM: Of the ballot.

>> DOUGLAS KELLNER: Then the voter would print out the ballot, and mail it back to the county Board of Elections in order to have that counted.

>> BOB BREHM: That is correct. The MOVE Act has a further requirement which is the more…the portion that concerns us the most. And that is there's a requirement that states mail ballots to military voters not later than 45…Send ballots; transmit ballots not later than 45 days before the day of the election unless they apply for a waiver.

New York State would have -- I think the date is September 17 or something…

>> KIM GALVIN: Four days from the primary date.

>> BOB BREHM: …Is the indicate date that we would have to comply with under that rule. So New York could apply under, there are three hardships we could apply for under either litigation or a primary and I think the third one…I can't think of what it is off the top of my head.

We can apply for the waiver and there are deadlines to apply for the waiver to get a timely answer.

In addition to the waiver, we have to provide a detailed plan how New York will guarantee sufficient time for the military and overseas voter to actually receive their ballot and have it cast, or have a chance to have it counted timely.

So that's the real part of the plan that we are all discussing: How can we put a plan together that will allow us to meet the deadline and the requirement of the MOVE Act and also have a reasonable expectation that the applicant will actually receive their ballot timely.

That's why we are looking at a number of ways to, perhaps Web based, or in a way that we can also meet the New York State procurement requirements to timely meet… Procuring

something that will solve the problem and also are there any statutory issues that we want to look at?

One big one we've discussed that confronts the MOVE Act requires compliance for federal office.

I think our general conversation has been it's easier for counties to deal with this requirement if we tie military voters to any election as opposed to just federal office.

You know, why send them in an even year a ballot electronically and in the odd year by mail that we already know they can't receive. That's a statutory issue.

There are a number of them. That's probably a very broad general one that makes sense that we would…You know, we've done that with most other implementations at NVRA or HAVA where we try to make it from an administrative point of view a recommendation that we streamline it to make it easier to manage the program.

>> DOUGLAS KELLNER: And technically, it's much more complicated than it sounds to provide a voter an electronic ballot because you have to make sure first of all that the counties have to get every ballot form online, up online.

>> KIM GALVIN: Every style.

>> TODD VALENTINE: Every style that has a military voter. It's not every ballot. It's only the ones that you need.

>> DOUGLAS KELLNER: I come from New York City. I guess I never thought in those terms that there are ballot styles that would have no military or federal vote.

>> TODD VALENTINE: Yeah.

>> DOUGLAS KELLNER: So you have to get the ballot styles uploaded in electronic format and then you have to have a mechanism by which you can have the voter properly identify the correct ballot style and that's where…

>> TODD VALENTINE: And get it to the voter.

>> KIM GALVIN: Get them the right ballot.

>> EVELYN AQUILA: Every voter should have a PIN number, by county. They should have a PIN number by county so that you know that the person voting is a legal voter.

>> DOUGLAS KELLNER: They are not allowed to vote electronically.

>> EVELYN AQUILA: They don't respond electronically? I didn't know that.

>> TODD VALENTINE: No, those are definite will you the issues. We have been meeting with several vendors that started some of this, you know, that recognize... There're a lot of people obviously interested in it.

>> EVELYN AQUILA: Of course.

>> TODD VALENTINE: Yeah, those are some of the hurdles that we have to overcome.

>> BOB BREHM: And there are other deadlines phased into 2011 dealing with making the fail safe Federal Write-in Ballot easier for them to access which would actually list candidate, the local candidates that they are eligible for.

That's a further phase into the program. So we have, you know, there are a number of deadlines. There is also a reporting requirement, a voter...Military and overseas voter needs to be able to track: Was my application received? Was my ballot sent to me? Did the board receive my ballot?

That needs to be a method that they can access so it's generally an Internet type that we are thinking of.

There's an application process up front, there's the ability of the board to make sure that that person gets the correct ballot and there's an ability to track their paperwork throughout that process.

>> DOUGLAS KELLNER: And my understanding is that this has been added as a topic for the Election Commissioners conference?

>> BOB BREHM: They are both doing...

>> TODD VALENTINE: Obviously, we have alerted them that the bill passed, to do our county commissions, they are ultimately the ones that produce the ballot and get it back. We have to come up with a system somehow that...

And you don't want to make it so hard that it's difficult to use. You have to work with all the counties that are at different levels. It has to be streamlined on the voter side, too. You don't want to make it difficult for the military or overseas voter.

So there's a lot of...A lot.

>> DOUGLAS KELLNER: As I say, I think this is a lot more complicated now than finishing off the levers.

(Overlapping speakers.)

>> EVELYN AQUILA: I think every military man would just go online, say Erie County, and his address and he would get the ballot.

>> DOUGLAS KELLNER: That's a very complicated process to make sure he gets the right ballot.

>> EVELYN AQUILA: Yes.

>> TODD VALENTINE: There is a lot behind the scenes.

>> EVELYN AQUILA: You know, I first I thought just the federal one. Then I thought he could vote on that and send it back electronically.

>> DOUGLAS KELLNER: No. There are major security problems.

>> EVELYN AQUILA: I understand, please, I understand now.

>> DOUGLAS KELLNER: There are states that allow it, but there's tremendous criticism.

>> EVELYN AQUILA: I think the State of Washington allows an awful lot of easy voting.

>> TODD VALENTINE: Postal mail.

>> BOB BREHM: How many ballot styles did we use in the general election? I think the number was 2500 or something. That's in a general election. How many different ballot styles were used this year? And that's a primary. Multiply that by the number of each party that could happen.

>> DOUGLAS KELLNER: In a New York City election in a…

>> BOB BREHM: County committee, that's one more thing a county has to keep track of. An absent tee ballot and…

>> DOUGLAS KELLNER: There's that Third Circuit decision…

(Laughter.)

>> BOB BREHM: That applied to.

(Overlapping speakers.)

>> BOB BREHM: Until we're sued again.

>> DOUGLAS KELLNER: All right. Let's, so there is, it's reassuring to hear that at least it's on the radar screen.

Is there a schedule yet for when we are going to have a plan and when we will be submitting a waiver application?

>> BOB BREHM: I don't think we have it finalized.

We talked just generally that we wanted to be as prepared as we could before we go to the conference at the end of the month.

And Todd and I are both going and we want to see what other states are looking at as far as solutions.

>> EVELYN AQUILA: Great.

>> BOB BREHM: The vendors we have been talking to will all be there.

>> DOUGLAS KELLNER: The good news that I guess we haven't talked about is that this will all be paid for with HAVA funds.

>> BOB BREHM: "All" is to have to say, but MOVE had a requirement that the 2010 HAVA requirements payment be used for implementation of the MOVE Act.

We can use that as an available pot of money.

Once we've exhausted that, should we, we can use any other available HAVA money for that implementation, unless Congress gives us more.

>> DOUGLAS KELLNER: The bottom line is that it is not going to require a new source of state funding.

>> BOB BREHM: In order to cover the local 5 percent.

If it is state money, you need to match a nickel for every dollar we spend to access the federal money.

We need to make sure from an appropriations point of view we have sufficient funds.

>> EVELYN AQUILA: I think the meeting; the meeting in DC with all the other states will pay for itself in a way. You will come away with information that will be very helpful and they'll get information from us and we'll get some from them. We are not trying to solve the problem by ourselves.

>> BOB BREHM: Depending on your February meeting date we could have perhaps a plan by then.

>> TODD VALENTINE: Hard to say.

(Overlapping speakers.)

>> TODD VALENTINE: We will be a long way towards the plan.

>> DOUGLAS KELLNER: Well, thank you for that report.

Extension of Storage Area Network (SAN) Contract

The next item on the agenda is the vote on the resolution to extend the storage area network service contracts.

I believe that they were distributed in the packets.

Is there a motion to approve the contract?

>> JIM WALSH: So moved.

>> EVELYN AQUILA: Does George want to say anything?

>> DOUGLAS KELLNER: Do you need to say anything?

>> GEORGE STANTON: I don't know that I need to. I don't know that you want me to say anything. It has been three years since we bought everything. This is just one piece of the puzzle, but it has been three years since we started building NYSVoter. Now support contracts are running out. We will start running into these recurring expenses.

We did decide, you know, amongst my staff downstairs that we also had a quote for server maintenance which was, I don't know, $150,000 a year or something. And we've decided that it's not cost effective to renew that because we've got so much high redundancy built in.

If one server crashes, another picks up and we can get the parts we need and if I can it on a cost-basis rather than spending $150,000 of which we might end up spending $50,000 over the course of...

>> DOUGLAS KELLNER: Well, I know this was the subject of extensive discussions to make sure we got the best costs. So I think can we vote?

>> EVELYN AQUILA: It says is expires December 31. Does that mean...I'm sorry, I'm sorry.

>> DOUGLAS KELLNER: Go ahead, no. Go ahead.

>> EVELYN AQUILA: Usually you want to talk. Don't worry about me. It says it expires...

>> GEORGE STANTON: The quote expired December 31. I'm pretty sure they'll still take our money.

>> EVELYN AQUILA: You don't expect them to raise it on January 1?

>> GEORGE STANTON: I don't expect them to. If they do, we are going to have discussions.

>> EVELYN AQUILA: Okay, thank you.

>> DOUGLAS KELLNER: All right?

>> EVELYN AQUILA: Okay, Mr. Chairman.

>> DOUGLAS KELLNER: Those in favor say aye.

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Okay, the resolution is approved. Does anybody want an executive session to discuss the preliminary determinations? Or can we vote on the six items here?

>> EVELYN AQUILA: Don't we have personnel issues?

Recommendations of Enforcement Counsel

>> DOUGLAS KELLNER: We are still going to do that. Vote on what we can. All right. So we have six preliminary determinations that are on the agenda.

CMP08-81, 08-63, 08-62, 07-155, 07-48 and 06-49.

Those in favor of the reports as proposed by the enforcement staff say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Those preliminary determinations are adopted.

I suggest before we make the motion for executive session we talk about the date of the next meeting. I saw Commissioner Walsh had his calendar out before.

>> JIM WALSH: The week of the 14th?

>> DOUGLAS KELLNER: That's good for me.

>> EVELYN AQUILA: Let me see the back of the book, please? Sorry, but…

>> DOUGLAS KELLNER: Be sure you're looking at 2010.

>> EVELYN AQUILA: You really think I'm an idiot?

>> DOUGLAS KELLNER: I'm sorry; I've done it the other way.

>> KIM GALVIN: The week of the 14th and the 15th is a holiday.

>> JIM WALSH: Fifteenth is a holiday.

>> TODD VALENTINE: Fifteenth is a holiday, President's Day.

>> EVELYN AQUILA: Seventeenth is no good for me. Wednesdays, I hate Wednesdays. I have an obligation on Wednesdays. 16th? 18th? 19th?

>> DOUGLAS KELLNER: Thursday, the 18th we will tentatively agree.

>> EVELYN AQUILA: Thursday the 18th? Everybody is in agreement? Thank you very much.

>> DOUGLAS KELLNER: I have a motion that we go into executive session to hear a very short report from the enforcement staff on the pending investigations and then to take up a personnel matter.

And I don't believe for the public that we will be coming back, although it's possible that we will just do a personnel action.

Those in favor say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Okay, thank you.

Executive Session