

**Douglas Kellner:** Good afternoon everyone. My name is Douglas Kellner I'll be serving as co-chair today in the absence of our colleague Commissioner Walsh who is ill today and was not able to attend. Would the other Commissioners introduce themselves?

**Gregory Peterson:** Gregory Peterson.

**Andrew Spano:** Andy Spano

**Douglas Kellner:** And then would our staff introduce themselves?

**Bob Brehm:** Bob Brehm

**Kathleen O'Keefe:** Kathleen O'Keefe

**Brian Quail:** Brian Quail

**Anna Svizzero:** Anna Svizzero

**Joe Burns:** Joe Burns

**Tom Connolly:** Tom Connolly

**Risa Sugarman:** Risa Sugarman

**Todd Valentine:** Todd Valentine

**Cheryl Couser:** Cheryl Couser

**Bob Warren:** Bob Warren, Elections Operations

**Shaikh Aman:** Shaikh Aman

**Douglas Kellner:** And I guess we don't have any guests from the public today, that's unusual. First item of business is approval of the minutes for January 12<sup>th</sup> both the regular minutes and the executive minutes. Those in favor say aye

[Chorus of ayes]

Opposed? Minutes are approved?

We'll turn to the co-executive directors for the unit reports. Todd Valentine and Bob Brehm.

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**Bob Brehm:** Well it's been a busy time, cold month of January/February. A number of items of significance. I know we did complete the Lever report. I might take some of the thunder away from Anna, I know she did a lot of work to get that together, but a number of people towards the end all chipped in to make the report date, a complete document we could all approve and deliver. That was done on February 4<sup>th</sup> and is posted to the website and was delivered as required by that Chapter Law of last year to prepare the report. So, we thank everybody who helped to make that possible.

A number of items, I tried to do personnel, there had no been any new hires personnel wise in the general agency. I know Risa will probably cover a few, I think a few since our last Board meeting from the Enforcement Unit. But we do have one notable in that the second position in the IT Department, Dan Valvo tomorrow will be his last day, he's retiring after a long career. We will be sad to see him move on but ever since he told us he was planning to retire, I noticed he smiles a lot more and so we're in the process, that's a competitive class position, so we've been doing interviews, Todd and I and John and Tom have been sitting in on those just to come up with to fill that position because it's pretty important to the overall success of the agency.

Also, another item of interest is last week was the National Association State Election Director's Meeting in Washington. Todd and I both attended. Todd's an officer of that fine organization so it ran similar to the State Association where every year you move up until you're eventually President. I think Todd is now 2 years away from President.

**Todd Valentine:** No I'll be President next year.

**Bob Brehm:** Oh sorry, one year.

**Douglas Kellner:** Oh congratulations.

**Bob Brehm:** So it's amazing what happens in some of these faraway places. But I thought it was a very productive meeting. It certainly, with new Commissioners at the Federal Election Assistance Commission, we went 3 years with no one, they are certainly very knowledgeable all 3 of them. They certainly have very good credentials in the field that we are under and they're really working to jumpstart a number of initiatives. They were confirmed by the Senate on December 16<sup>th</sup> and it took a little while for them to get up and running, so they've been pretty much in their position for about a month, but they really are trying to do what's needed to run the agency and come up to speed. And a number of fronts, but one of them is the Standard's Board that requires each state to appoint two people, so today I'm doing that part of the component so there's a state official that is an appointee and an appointee of the other party. So Tony Scanopiko yesterday gave me the Republican appointee which is Rachel the Commissioner from Albany County, and Commissioner Kellner on our side from the state level. As of last Thursday, there were only 8 confirmed members of the panel out of 110, so as soon as we can all respond to the new request to identify who our state representatives will be, the

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EAC is looking to schedule that meeting and to update that VVSG that is used to use the standards for the testing.

And there really have been a lot of technological changes just in the last 3 years, but there are many states who bought equipment a little earlier than New York that are really pushing to get the standards set and something that they can rely on to make these purchases. And there were a number of very worthwhile panel discussions I think and similar issues that a number of states are looking at as to how to address them. I think one that is most appropriate is if you look at, just a short period of time ago, 10 years ago, how we keep getting out mindset or how we communicate with the public and how we expect to communicate back. It wasn't that long ago where it was not a surprise to people if they moved or did something that they had to tell everybody. When you moved your address you went to the post office and you get that packet with the little postcards to tell everybody you've moved and I don't think society is willing to accept in this day and age that I have to really tell everybody because everything is so automated now. There's some expectation that we should all be able to make it a little easier and figure it out and it's interesting to see how a lot of the other states are looking to incorporate that thinking. They haven't succeeded so it's nice to talk to them about their challenges, but we're in that same hunt. But it was a very worthwhile adventure.

But other than that, I think it's the routine work to get the packet ready for today. The budget did come out which was similar to what was submitted. The request was what we had last year. I think from that perspective, assuming we get no new responsibility then I think we should be okay within the next fiscal year. I think the only issue we've discussed, Todd and I and others who were helping on some of these technology projects is our estimate when we first did the CAPAS FIDAS plan was about 2.4 million which is what is available to us was before they gave us a few new things with the independent expenditure and the independent enforcement council to the extent that that may require anything to be a little bit different. So, we're still looking at the work we're doing and the list of business rules. Just to try and figure out, is it still on target? It's not an immediate fiscal year issue, but if we identify that we think either something might be postponed to like I say a second phase because it's not critical but we'd like it to happen and we need a little bit of money in the out year to design for it, or is it something we really need right away? So we're still looking at some of those issues with the design. So that may change our opinion but I think right now we think we're on track and that would be the only issue that we may need a little bit of money, and the question is for that program is it this fiscal year or is it next fiscal year.

But, other than that, I think from a budget point of view, certainly I'm looking for the 30-day amendments and we're not at that 30-day yes to make sure that there isn't anything different. There are new policy issues in the budget that impact us. If they are approved, certainly public financing would require us to design the CAPAS FIDAS system differently, and that would require money now so that we could incorporate that at least in this fiscal year to design it correctly because there wouldn't be enough time if we

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waited to phase 2 if that were a responsibility that were included in the budget. So we continue to look at those issues and we raise those.

We do have a new Deputy Secretary. Our Deputy Secretary has been Alfonzo David and he has been appointed by the Governor to be his council and at that appointment they said was going to be effective April 1<sup>st</sup> but in our last conference call that Todd and I had with Alfonzo, he let us know that he's already over in the Council's Office so that he's up to speed by April 1<sup>st</sup> and that they introduced our new contact which is Joe Rabido and Joe is no stranger to the State Board of Elections because he reminded us that he came here when NVRA first was implemented as a worker for like 6 months so at least he comes with a perspective of the State Board. He's also the Deputy Director of State Operations, and Todd and I are meeting with him for our face-to-face meeting tomorrow just to learn what particular ways he has for us to communicate with him differently than we have been communicating with Alfonzo. But other than that, I think we are continuing to make progress.

**Douglas Kellner:** Alright, thank you. Kathleen O'Keefe for the Counsel Unit.

**Kathleen O'Keefe:** The Compliance Unit in particular is functioning much as it has been. We had our January periodic report that was due on January 15<sup>th</sup> and we sent out approximately 2600 early letters to nonfilers who hadn't made that filing. The unit has determined that the top deficiency issue is related to the issue of reimbursement, either to credit card payments or individual reimbursements. So we're working diligently to try to help people understand that that does have to be itemized. And we are seeing increased filings where those itemizations are happening. So since the Unit is in operation, people are really starting to do that on a significant level.

We had a CLE CP seminar in Albany during the Election Commissioner's Conference and we've provided 2 webinars on winding down the campaign. We plan to do more of those. Every 4 years the Board calculates contribution limits. We're going to talk about that in new business because we are at that place again with the adjustment that happens. The Board has received requests for the 2015 political calendar. We are awaiting the official filing of the calendar from the legislature. There is some question about the primary that may be moved this year because there is a Jewish holiday that's impacted. We are waiting to hear about that.

The legal update that we talked about at the conference has been distributed so that was signed off by everybody and we've had some good feedback about that.

The independent expenditure regulations, we are in a position where we could start our permanent process. We're looking to go forward with that in the next couple of weeks that will entail accepting formal comments from the public, so that will give us an idea if we need to do any amendments before they actually become permanent.

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We have our legislative packet that we've been working on that will also be discussed in new business.

We have been interviewing for the remaining compliant staffers. We do have still some open positions and that is occurring as we speak.

Finally, we have a motion to dismiss an appeal before the second circuit as moot because it was related to the primary election and that is to be heard by the second circuit next week. And that's pretty much it.

**Douglas Kellner:** Alright, thank you. Any questions. Ann Svizzero for Election Operations.

**Anna Svizzero:** Thank you Commissioner. We have been keeping busy between snow days and snow days for county boards so we've had some interesting conversations. There were some deadlines that were impacted by the weather that we managed to dodge some bullets there so that issue may come back for conversation at a later date.

We have been working on our clear ballot test plans and test cases with NYSTEC. We're going to do a little demo here in-house in that this is a Central Count System and it really does think outside the box when it comes to something new in the arena of voting equipments. So rather than try to explain it to the staff here, we're going to, Bob Warren is going to set up a demonstration later in the week. If any of you want to see this system, we could certainly stop in our unit after the meeting and we'd be happy to run it through for you.

We have continued to revise our procedures and they're updated to the county information portal. We have posted there also the conference presentations, and we have archived a lot of the outdated information and just made it more current and hopefully a little more user friendly than it was.

We have contacted OCA for a list of Supreme Court vacancies. We should have those next week. As Bob Brehm mentioned, we published our level machine replacement report that was distributed to the governor and both houses in the legislature. We also sent copies to the stakeholders that were mentioned in the legislation. We haven't had any requests for it, not that I would have expected any but it did go out to those persons to whom we had sent invitations to contribute comments. So it did go out to all of those players, and we'll see what the next steps are in that arena. They have not been shared with us.

We are working on the report to the Comptroller on county board ballot procurement processes that is due on Monday, so we're hoping to wrap that up by either today or tomorrow.

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We have been working with the IT department to do the upgrades to the petition aspect of the campaign finance, CAPAS FIDAS upgrade that is going on. That's a pretty extensive project but we meet with them almost weekly, and that continues to make progress.

Other than that, we don't have much beyond what's in your Board packet on our report. Joe do you have anything to add?

**Douglas Kellner:** The response to the Comptroller on the audit with respect to ballot printing, can you tell us what the status is on that?

**Anna Svizzero:** We drafted, I took a stab at it, Brian put the finishing touches to it and we sent that around to all of the senior staff, so we're waiting for feedback. Bob and Todd obviously were out of town last week so their time to review that was limited. It's a letter, it's not a report so it really isn't that extensive. It might have an attachment or two of some documents that we have provided to the Comptroller in the past but for some reason can't quite put a fine point on that particular issue. But it's up to I think a three-page letter.

**Douglas Kellner:** Todd can you tell us when we'll get a response on that?

**Todd Valentine:** I don't think the changes are significant that we are looking at but as you said.

**Anna Svizzero:** It's a letter, its not a monster report and we should be able to get that done. Todd indicated he'd have feedback for the senior staff today at some point so we can finish that up and get that out on time. I don't see that we can't meet Monday's deadline.

**Bob Brehm:** Friday would be better in case it snows. It keeps snowing. The last 3 Mondays it snowed.

**Anna Svizzero:** We'd had almost every Monday off for the last month.

**Bob Brehm:** It hasn't snowed on Friday but Mondays are bad around here.

**Douglas Kellner:** Alright. Anything else? John Conklin, Public Information.

**John Conklin:** Thank you Commissioner. Well the public information office has been busy with media and other public inquiries. The January periodic filing always brings lot of questions from the media. Also a lot of people are interested in the two new political parties that we have and there have been a lot of questions about that. We also, Tom made a presentation on the MOVE Act for the winter conference and we participated in the Q&A sessions at the conference. We were also part of the ECA monthly call at the

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end of January. Tom and I continue to participate as everybody else has mentioned in the CAPAS FIDAS projects and the NYSVoter Refresh project.

We've been working on the Voter Registration Form draft with the Executive Unit which is in the old business section later in the meeting. As Bob mentioned, Tom and I have been participating in the interview process for Dan Valvo's replacement.

There were 51 Foils in the month of January. For the website we posted the Lever report that we had to do pursuant to chapter 273 of 2014. Patrick and Greg for NVRA visited Clinton County for training in the NYSVoter review since the last board meeting.

And that's really it. Do you have anything you want to add Tom?

**Tom Connolly:** Just 2 things aside from the IT projects that we are participating in and John and I are also kind of stepping up and working with the IT unit right now while we have the vacancies and we'll have another one starting next week. So one of the other big projects that we're looking at is moving our hardware over from the current location of building 8 over to a new location which we have a couple of options I believe. So we're actually going to be having conversations with ITS to try to figure that out so that it doesn't interrupt any of the projects, as well as doesn't interfere with any potential upcoming elections.

Aside from that, just a follow up from the last meeting: we did provide a signed MOU to the Interstate Voter Cross Check. We did upload our data file. I'm expecting that we would get the results filed by the end of this month. We did talk about it at the conference. We did have a couple of counties that did express some interest in participating with that project for evaluating that data and we'll probably be looking at Rich and I do a couple of more just to evaluate whether or not that data really does provide for another opportunity for list maintenance.

But, other than that, I think that's it.

**Douglas Kellner:** A step forward. Alright Information Technology do either Todd or

**Todd Valentine:** I think we covered it already with the 3 main projects. The NYSVoter Update continues with the regular meetings and referred to regular meetings on both the Candidate Information System CAPAS and the Finance Disclosure Information FIDAS as well as the data base move which we're obligated to do which kind of relate to that because the data we still have to keep the data we're running and then move it over.

**Douglas Kellner:** What are the actual next steps in CAPAS FIDAS that the agency is going to take, and is this system going to be developed as a Request for Proposal or is it going to be led out to bid or is it going to be done in-house?

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**Todd Valentine:** We're looking at doing it in-house, well semi in-house, its within the state because we have utilized the services of hourly technology information people, Hourly Based Information Technology Services, HBITS, which are state contracts. So they are consultant employees, they are private employees but it's through a state contract to help us with the project management. We are looking to do the development in-house at this point just because, because of the unique nature of our needs because we have surveyed in the past as part of this was surveying other avenues for that including, as well as reviewing the city, CSMART, as well as looking at the CSMART application. We have an interrelation at this point so our schedule, we are, as of today on schedule. The first step was to analyze the business needs we have which is why, and that continues to go on with regular meetings because it CAPAS, Candidate and the Financial exposure looking at the needs that we have now to see what the software we have now does. What changes we want to look to the future on both the filer end which is another aspect, another phase we're moving into now is to get information from the end users before we do the design. But, to see what our needs are for the filer side as well as for the auditing.

**Douglas Kellner:** It's the critical thing we're interested in is to make sure that we do have a process of end user consultation and that would be on both ends, both the treasurers who have to file and the public group who want to get access to the data, the news industry right that's good.

**Bob Brehm:** And I think one of the items that we,

**Douglas Kellner:** But that is still on the agenda that that's going to happen and then...

**Bob Brehm:** The only issue that caused a concern, that is a concern that we've been working through is we're modernizing something that 22 years old, we're upgrading to a new program the NYSVoter which is a little bit easier and we have to move our data center from building 8 somewhere else all at the same time. And it's being designed to go into a building that all the answers don't exist because they're getting the new, I forget the acronym, I call it the Nanotech because they keep changing their name but CNSE which is Center for Nanoscale Sciences. So it's right there by exit 24.

All talking and laughing

**Bob Brehm:** There has been a lot of time sitting in a room trying to come up with what are our requirements? So we completed that effort to get it to the state information technology people. We just got the response to our list of requirements a couple of days ago and our staff has been meeting to review yes, no, here's a different way to go. And then Todd and I and the staff have a call with them tomorrow just to go over, it certainly does impact is to pick up and move and we fix later once we've worked out the details, but we did express to them, especially for the statewide database, we don't have a big window to move it. It has to function. It's needed for the federal election and its end of life is in the middle of next year's federal election, so December it just has to work. the

campaign finance needs to happen as soon as possible but also we're really trying to design to a new platform and keep the old stuff running that's 22 years old, so any time we pick up and move that data center it's a big concern. It was a big concern when we moved it when we had to restack a few years ago. Clearly in the project plan is meeting with end users and consumers to get that group involved including the counties. We're probably a little bit behind where we wanted to be but not by a lot, couple of weeks, maybe a month just because it's hard for us to sit in another room and figure out the going forward when we have still this basic, what is our requirement? How are we building? And what do we need to get off the table right away? But from a funding point of view, our estimate was 2.4 million and the state put 1.1 in State Information Technology so that's where the workers have mostly been coming from out of that portion of the money and what's left is the 1.3 that's in our portion of the budget that from our original estimate was looking at the issues of licensing and equipment but we won't know that for sure until we know what design standard are we building to? So, that has really been a very critical important path just to solve so we had hoped to have already had the other part scheduled. It's on the plan but to have it done. It's probably better that we're a little bit late because its been hard to travel with all the snow we've had anyway or come do a webinar. So, we're probably 3 to 4 weeks behind on that one but we hope we'll get that time back up.

**Douglas Kellner:** Alright well I appreciate that report. Risa Sugarman for Enforcement.

**Risa Sugarman:** Thank you Commissioners good afternoon. As Bob mentioned I do have, I don't know whether my auditor was on staff as of the last meeting but I do have a new auditor came also from Tax and Finance and she is working, has jumped right into the work. I had an attorney who left, went back to the AG's office but I have hired a new attorney and he's scheduled to start March 12<sup>th</sup> I think is the pay period where he's scheduled to start.

We have looked at case management programs and my strategic planner has gone through many of the programs, looked at them, came up with 3 and then she did webinars for those 3 and then we looked at one and we've settled on one program so we're going through the process of looking at that, hosting it in the cloud and doing all that, so that should be hopefully a purchase that we do before the fiscal year so we can get it done during this fiscal year.

We're just continuing to do our investigations and moving along.

**Douglas Kellner:** Has there been any progress in terms of commencing proceedings against the nonfilers?

**Risa Sugarman:** Well when you mentioned that last time, we did mail out those letters but the statute that was put into effect that created my unit does require and says in 3-104.5 that once it comes from the Compliance Unit which is 3104a it must go to the

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hearing officer's first. So I think that the statute included that step of the hearing officers before it goes to the filing of the...

**Douglas Kellner:** Isn't there a provision that if there are no hearing officers that it can go direct?

**Risa Sugarman:** Well I can proceed by either settlement or filing but I think we all talked about trying to get the hearing officers up and running. The numbers that we looked at when we sent out those, we sent out with the July periodic letters, we sent out 533 letters. Of those 533 letters we got back as of close of business yesterday, we received 224 of those letters back as undeliverable which is about 42%. And then we looked at those approximately 422 letters, about 2/3 of those letter those either candidates or treasurers already had judgments against them so those letters had been returned beforehand because they had already moved and the statute requires that they be sent to the last known address, so that they either had already moved and the letters that were sent before were already sent back. Of those 309 that received the letters 101 came into compliance so that was about 33% and of those 101 who came into compliance, we received 48 telephone calls, we spoke with 48 people. Of those 48 people 32 came into compliance. So about 67% of the people that we spoke with came into compliance.

So, we're going to try to look at a different process to see if we can bring more people into compliance while working with the Compliance Unit and I think that doing the hearing officer's process will do that. And I think that that's perhaps why the legislature added that part of it into it.

We also talked last time about the method of collecting on the judgments and I sent all of you an e-mail about the process that I'm going to apply to put into place. There is a statute that was passed in 1992, its called the Statewide Off-Set Program and that's a process by which individuals who owe money through state programs during the course of, if a judgment is obtained with due process that they're notified that their state tax refunds can be taken through notice for those judgments that are brought against them. So we are in the process of working with budget to become what's called a Creditor Agency to become part of that process. So that's one of the methods that we're going to attempt to use to collect the judgments, and its available to us not only for a court judgment but for administrative settlements and processes as well.

**Gregory Peterson:** Do you have to apply for that?

**Risa Sugarman:** Well you apply to the Department of Budget to become a creditor agency. And I think I received an e-mail from budget yesterday about what they want to know and I think that they want to know the statutory requirements that say we can apply penalties and there are certainly several within the election law that allow the applicant of penalties. They want to know how many judgments we have pending now and they want to know an idea of what our judgments and penalties will be in the future. So I think that

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that's information that we'll be able to provide. I don't know why, but I think they just want to know its not a one off, a one time judgment use for this and they want to know that it's a use of due process and we certainly do that because we go either to court or when we set up our hearing process, we'll certainly have a due process aspect to it. And then we go to the tax department, they also want to know a due process and they require a notification to the people who have judgments and perhaps as part of the welcome letter that Compliance sends out, we might want to notify people who are becoming involved in this that this is available to us and that we notify them that they can have their tax refund charged for disobeying any kind of requirements that they filed, and then they send out letters and they do the rest of the work with IT and...

**Gregory Peterson:** It's a great tool.

**Risa Sugarman:** I'm hoping.

**Andrew Spano:** Is there interest on these payments?

**Risa Sugarman:** Well it would be whatever our judgment plus interest at the time that it's collected. So we won't lose any interest on the judgment. I'm hoping, it should be, once it gets into place it should be just a...

**Douglas Kellner:** And Risa have you followed up on doing any of the collections on the large judgments that were outstanding. I realize you haven't gotten any judgments at all since you've become council.

**Risa Sugarman:** Right but this would be on pending judgments as well refunds.

**Douglas Kellner:** Right but I had been pushing to get council's office your predecessors to serve information subpoenas and restraining notices on banks and other entities to try to actually collect the judgments on some of the larger ones. Most of them came up with them being frustrated that they were uncollectible but there were still a couple on the list to follow up and I'm just...

**Risa Sugarman:** This was my first step towards collecting the judgments. I have no problem in making that inquiry but this is my first step.

**Douglas Kellner:** Okay. Well I think that that's something that could be done and would be useful and especially with staff that is an investigatory staff.

**Risa Sugarman:** I certainly will look into it.

**Douglas Kellner:** To actually collect some of those judgments. Now, your stats with respect to following up that was all with respect to the July filings? Have any of the letters gone out yet?

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**Risa Sugarman:** No Commissioner because it's my feeling that we should be doing the hearing officer step first. That's what the statute says and I think that that's...

**Douglas Kellner:** Well let's pull out what the statute says. The statute gives you the option of continuing the old practice and the problem I'm getting is that we had this long hiatus now where there has been no enforcement at all against the nonfilers. I mean it's your call, you're independent, if you decided you don't want to do it you don't have...

**Risa Sugarman:** Well it's not that I don't want to do enforcement on nonfilers. I think that the reason that we have a hearing officer process is that the legislature felt that it was one step that was necessary and I think that there is time to give that, we're all working towards getting that process in place and I think that there is a reason to wait for that process to go into effect. I don't think that there's any reason to, with the numbers of letters that come back and the numbers of people that never get notice that they have these judgments against them, that they have these letters that they're never receiving, I think that there's a reason to try to give them the opportunity to come to know that they have these processes against them. And I think that the time that it takes to go forward and get the hearing officer process into place is time well spent.

**Douglas Kellner:** And is that the reason for not sending out the notice letters for the people who haven't filed with respect to the primary or the general election?

**Risa Sugarman:** Well I think that when you have the numbers of 224 out of 500 and change letters that come back and that a good 60+% of those came back another time, I think there's a good reason not to do that. Because those people 60+% of those have letters that have come back before. I think that there's a reason to believe that people who are sent those letters don't know that the letters were sent because they've either moved or that the address was bad or whatever reason. And unfortunately or fortunately the law says, the last known address. It doesn't say if the letter comes back with a different address the letter goes to the new address. The statute says, the last known address. So you're stuck with sending a letter to someone who we know its going to come back and it's a bad situation.

**Douglas Kellner:** So, what are we doing about it?

**Risa Sugarman:** Well, we're working towards moving forward on the hearing.

**Douglas Kellner:** I don't see how the hearing officer process is going to change that...

**Risa Sugarman:** Well I don't think that the notification of the hearing process will be in the regulations will be the same. I think that we can make a better effort to notify the people who are going through the hearing office process.

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**Gregory Peterson:** It sounds like you've done a thorough job of checking this out. I just might suggest that you try to do something now only because very honestly you are going to be swamped. By the time this catches up, by the time the hearing officer situation is in place and the language for the hearing officers and so forth is set up, I'm going to feel sorry for you because you're going to go, holy cow I have this and the primary and all of a sudden it runs away from you and you're going to have hundreds and hundreds of these things.

**Risa Sugarman:** But I think that that's right but I think

**Gregory Peterson:** You're going to be playing catch up if what I'm saying. I understand the process that you're talking about and notice from my point of view, notice is very, very important. However as a Commissioner here as part of this organization, I know what happens and that these things can kind of overwhelm you and I think what Commissioner Kellner was saying is that if you get a jump on it, do what you have to do now while the other process is being put in place, if there is another avenue of approach i.e. the way it was done in the past, you might be somewhat ahead of the tsunami before it hits you.

**Risa Sugarman:** But if the statistics are correct the tsunami is people who are getting the letters sent don't know that they're there and we're getting them back.

**Douglas Kellner:** You know it's very different for the periodic report which is the only report you've sent notices out yet than the reports for people in the primary and in the general election. The periodic reports basically stay on the filing list forever until they file a termination report. And so you have committees that are 20 years old still on that periodic report. But, everybody filed for the primary, everybody who was a candidate was a candidate in the September primary or in the November general election, so those are current lists and you also have a new statute that was added just a year and a half ago to provide for a \$10,000 penalty for anybody who misses 3 filings. Now we've got 6 filings behind and I will say that since I've been Commissioner for all the complaining I've done about the problems with the old Enforcement Unit, they never got this far behind in dealing with the nonfilers from elections. And I regard this as a step back that people who ran in September and November still haven't even gotten the notice letters that are required before we can get the judgments against them.

**Risa Sugarman:** But there's also the ability of my unit to investigate whether they should be charged with a misdemeanor or not.

**Douglas Kellner:** Is that happening?

**Risa Sugarman:** Well I don't tell people in public what I do in my investigations.

**Douglas Kellner:** Okay but I can then publicly criticize that the unit...

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**Risa Sugarman:** I understand what you're saying.

**Douglas Kellner:** We have hundreds of people who ran in November and in September who have not filed and not even the notice letters have gone out after the compliance unit has done their effort and tried to get them to voluntarily comply, and we're not getting the judgments. The legislature specifically added this \$10,000 fine for those scofflaws who ignore 3 of them and we haven't even started the process yet.

**Risa Sugarman:** I understand.

**Douglas Kellner:** Alright. So that being said, separate subject. The old unit used to do an annual report on over contributions and I'm just curious on whether either the Compliance Unit or the Enforcement Unit is continuing that report? And whether the issue of over contributions is being addressed in a systematic way?

**Kathleen O'Keefe:** We have actually had a conversation with in the Compliance Unit just about is that something that's still appropriate for us to do? My understanding and obviously I wasn't here the last time this was done, but my understanding was that this is sort of the time of year, after you deal with the periodical that that would be done.

**Bob Brehm:** Or started.

**Kathleen O'Keefe:** Or started anyway. Obviously, with the new Compliance Unit we have lots and lots of filings we still haven't worked our way through.

**Douglas Kellner:** Over contributions aren't usually, I would have assumed it would go to the Enforcement Unit but have the two of you discussed this in terms of whose doing this or are we just going to wait for NYPIRG to just attack because it hasn't been done?

**Kathleen O'Keefe:** Frankly, from my perspective we have just been doing the huge amount of Compliance work that didn't exist at this time last year. I think it might be really fruitful for myself, Kim and Risa to have a conversation about this.

**Douglas Kellner:** Well I would strongly urge you to do that. I mean, Risa do you know what I'm talking about in terms of these old reports? Well these were the reports that basically led to the referrals that we would give to the District Attorneys, which the District Attorneys then proceeded to ignore. But

**Bob Brehm:** It's the second one, the first one was the failure to file then at the end of the year we would file.

**Douglas Kellner:** Right we gave them both.

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**Bob Brehm:** The second one was, if they, in the process of doing the corporate over contribution where we had reason to believe that they accepted an over contribution, that would be referred to the D.A.'s. Some D.A.'s took it and did something about it.

**Douglas Kellner:** Alright. Well I guess my overall concern is that there were certainly lots of problems with the old Enforcement Unit, but there were lots of things that were getting done by the old Enforcement Unit that I'm concerned have now gone by the wayside with the transition and that I hate to see us having a step backwards as opposed to forwards on this. So the over contribution report was one of those things.

**Kathleen O'Keefe:** Clearly, I mean the jurisdiction of the old Enforcement Unit was much narrower obviously and so the over contribution audits were one thing they could do and it was done successfully for the most part, and then obviously the nonfilers was the other thing that the old Enforcement Unit did, and the corporate over contributions right. And so obviously now we're in a place right now in the calendar where that would happen. So I just think we need to talk about, what's the best way to approach that and Kim isn't here obviously today but I will reach out to her about trying to set up a meeting about that.

**Douglas Kellner:** Okay and I'm sure I'll have more to say when we get to the Hearing Officer process then, especially the fact that we're not getting any judgments is being held up because we don't have hearing officers, that it's really, alright, we'll get to that.

Next is so we move to old business. We'll start with, well we have 3 resolutions to modify the forms because of the change in the official political parties for 2015. Do either Bob or Todd want to do a short explanation of what the final text is that's being proposed?

**Bob Brehm:** A and B, there's actually 2 resolutions that we have before you, proposed resolution 15-01 is for the change to the Voter Registration application and 02 would be to the affidavit oath. But in general, we are amending on the Voter Registration form section 14 which deals with the political party and the order they appear and the names of the parties that have qualified at the last Governor's Election, so the new party is Women's Equality as well as, at the time up till Tuesday of this week it was Stop Common Core, but on Tuesday we received the interim rules of that organization which has changed their name to Reform Party. So that part of the change but also we've been discussing at the meetings here and we took away from the meetings based on the conversations the instruction that goes alongside the political party enrollment area to better describe what the statute requires, notice to the public as to the choice they're making. So, we've updated the instruction more in line with what the statute says and not necessarily identify one particular philosophy and to take that instruction and try to help people understand what we're talking about, we put a heading above the party section which would say, "*I wish to enroll in a political party*" and it lists them in order, it has other under there for people who identify with other. And then we put a heading "*I do*

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*not wish to enroll in a political party*” and then there’s a box for no party. So that’s generally the change to the Voter Registration form. The same issue has to happen on the NVRA the agency based registration form. So that’s a different number box, eleven, and because of the nature of the way the forms are in packets at agencies, the instruction is on the backside of that NVRA form. Similar instruction will have to go to DMV but they either use our form, form or that online registration system. But I know in preliminary discussions with them is whatever we finally decide, they’ll need time to update that system. They kind of gave us an indication of what it would take but we weren’t sure we’d have the Reform or the Stop Common Core at the time. So that is the registration form. The other resolution is simply to make a similar change for the affidavit envelop and get that out to counties.

So, those are the three forms that you normally approve, we just broke them up into registration vs. affidavit for your resolution to consider.

**Douglas Kellner:** Alright. Well we have the three formal resolutions. Ready to take a vote on this?

**Gregory Peterson:** I’d like to move those resolutions.

**Douglas Kellner:** Those in favor say aye.

[Chorus of ayes]

Opposed? The resolutions are adopted.

Is there any need for discussion on the issue of what we’re going to tell counties about how we set up the NYSVoter System?

**Bob Brehm:** Well I think the still open issue is the Other and I think this is about the best part of whatever is on our agenda to try to figure the Other others. I know it came up at the Winter Conference.

**Douglas Kellner:** So the issue that we need to discuss is what we’re going to tell the counties in terms of how to track people who check Other?

**Bob Brehm:** Correct.

**Todd Valentine:** I don’t think that’s the issue. That is, you know with a check that they write in one of the identified parties that had run a candidate for Governor then they would maintain that list. That is the instruction that we’ve set out the last 2 times it has gone around. I think the issue that was raised in January at the meeting, that you raised while we were making our presentation was that, what to do with those groups that are no longer, that did not run a candidate for Governor this time around that had in the previous election cycle? And there seemed to be some indication that we should track them

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although we haven't on a state level been doing that. Now whether the counties have done that or not that's entirely up to the counties. But we've placed no obligation on the counties to continue tracking once you've no longer put a candidate on the ballot.

**Bob Brehm:** And I think the information, I know Brian is probably better able because it's referring to the difficulties you have the statute and the Court case but the Court case specifically required us to put other on the ballot. So we have, I said on the ballot, I'm sorry, on the application. So if individuals, clearly we have to keep track of those that identify with an affiliated group because they put a candidate on the ballot for Governor and didn't get 50,000 votes otherwise they would be a constituted party and we'd have to track them anyway. But the issue we have is what do we do with all the other Others that aren't, because the federal law says the federal court case said we had to put Other on the form in the first place, we have Other. And we've done it a number of different ways and I think that's the issue that came up, Commissioner Kellner raised at our winter conference.

**Douglas Kellner:** Alright let me just frame the constitutional issue which is the reason we lost the court case is because of court cases that have said the state burdens on political party organizations have to be reasonable. And that the state should use a balancing test in determining whether or not the state regulation is reasonable as opposed to the burden that they're putting on the right to organize a political party and the equal protection rights that all political party organizations, whether they have the 50,000 votes or not should be theoretically treated equally, but the courts recognize that if there's a reasonable basis for not treating them equally, that that should be balanced in weighing whether or not the state action is appropriate. Now we lost the court case because the court found that it was not reasonable for New York to take organized political associations off our computer systems simply because they lost the 50,000. That was the only issue that was before the court so the court hasn't gone on this other issue that I'm raising which is that at least if somebody has identified themselves as Other and there is no significant burden to the state, we are obligated to tract that, otherwise we're going to get sued on it and we would lose the lawsuit. So, I don't see what the downside is to having a category on our computer system that says Other and that if somebody checks Other they go into that category instead of combining the Blank and the Other. Yes, I know legally if somebody's Other, they're Blank and that those have the same legal consequence. But they do have different consequences for people trying to do political organizing if they look at the list, at the computer list. So, I'm suggesting that we need to do that.

**Todd Valentine:** Well, I would distinguish that because the court also recognized that there is a, the statute provides that for those who want to become a party they need to demonstrate initially and continually a sufficient modicum of support and that is through A, getting access to the ballot and then if you want to maintain your status as a political party then that candidate has to gain 50,000 votes and you have to continue to do that. The different of that court case was for those candidates that had done one step of the

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process but not the other, that the state should at least, as long as they continued to provide a candidate on the ballot meet the first threshold for the modicum support that the state has an obligation to continue maintaining the list of their members for that private organization at least until that time that they no longer meet the modicum of support. So I think that application based on that court case meets the Who protection standard. I don't think we're treating them disparately and that's the way we have been applying it.

**Douglas Kellner:** But that wasn't the principle. The principle of the court case was that there should be a balancing test of the burden to the state weighed against the effect on the first and fourteenth amendment rights of the organizations. And not keeping that other category, there's no justification for the state. There's no burden on the state to create that category. Now there might be a slight burden on the state if we actually went the next step and said we should record the actual text entry in the other box that the voter made. And I haven't investigated just what would be involved to do that in our computer system but by not tracking the people who have indicated Other as opposed to Blank, without any burden to us we are interfering with the organizing rights of those political associations. And I think that it's a lawsuit that we would surely lose if somebody brings it.

**Bob Brehm:** The technology related issue we kind of solve as you know, four years ago when it took us a lot longer to make these changes because the NYSVoter System when we first designed it we didn't make an easy way to add parties and change parties, and that's why it took us, I think it took us until summer to get the Green Party added to the system. But the changes that that time now allow more flexibility to us to deal with this issue. So, clearly because we know the Sapien Party and the Libertarians we have to keep track of those, there's no question, they qualified a candidate for Governor on the ballot, and there's a field for Other and then whatever word goes with it, so Other plus Sapien, Other plus Libertarian would allow us to track those people. We could do either way on all the other Others. They could put words in there and we could just lump them all into Other non Sapien, but it still all could be other appearing on, the website column could say Other and it's when people come to us we could either sub identify if a county has given us or we can just tell them to do all the other Others.

**Todd Valentine:** Four years ago Rent Is Too High, achieved ballot access, they got on the ballot. We maintained their list of Others for that 4-year period, it was a small number but we still maintained that list. This past election they did not get a candidate on the ballot, as other parties have not in the past too, the liberal party for example, which initially we collected after the Green Party case, they did not get a candidate on the ballot 4 years later, we stopped collecting that information. and that was the policy we put in place when that occurred. We were looking to do, at least my understanding was we would be looking to apply that same policy we had applied 8 years ago to this point in time until you raised it while we were talking at the conference in January. So, I don't understand why we would change an existing policy?

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**Douglas Kellner:** First of all, I'm not sure that I understood that that was the policy because at the time I raised it, in fact I was told that they were changing the policy the way I wanted to do it because they would have the issue is whether people who were listed as Other Green, when the Green party had been reinstated would get those automatically reinstated without having to reenroll. I wasn't even aware that we were tracking other Others as blanks instead of that separate Other category. But, now that I'm aware of it, I think we're legally required to do it because of the theories of the case law cited in that constitutional decision. Do I think this is a major issue? No, and it doesn't affect me but I just don't understand why we are not tracking that category when it's of no burden to us and we just invite a potential lawsuit because we're not tracking it. So that's my concern and why I'm suggesting we change it. But if somebody has to sue, they have to sue. I tried to do my part.

**Andy Spano:** If there's no downside in tracking these and there is a downside in not tracking these, what's the decision to make?

**Todd Valentine:** Well, it's not a downside or upside, it's a question of application of the statute as well as an application of what we are authorized to do under the statute and the court proceeding. I don't agree that we're authorized to continue

**Andy Spano:** Okay, you're not agreeing with him.

**Todd Valentine:** I'm not agreeing with him, yes. In short order.

**Andy Spano:** We need a lawyer.

**Douglas Kellner:** Todd's a lawyer.

**Andy Spano:** I suggest you let him make [unclear].

**Gregory Peterson:** I'm too practical for that are you kidding me?

**Douglas Kellner:** Alright, we'll move on.

**Bob Brehm:** We still have to figure out what we're telling the counties though because...

**Douglas Kellner:** I take it the republicans are saying no to the change in the policy that I have proposed. And they have the right to veto it.

**Gregory Peterson:** How long would you keep them?

**Douglas Kellner:** The other category, you keep them forever. If they've checked the Other box we're simply recording that they checked the Other box.

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**Gregory Peterson:** How do you track or how do you distinguish between tracking specific Others as opposed to the other Others?

**Bob Brehm:** From us and I agree with part of it, when I first started a long time ago in '91 but '92 was the first year we cancelled everybody for failure to file still under the old law, we were sued and that's part of the NVRA where we could not cancel people just because they failed to vote within a 4 year period. So we had just finished canceling everybody because they had gone through a 4-year cycle and we had to go back and find them because we lost the court case to put them back and that was a pain. So, keeping track of people when we set up NVRA was more of a mapping. When we look at how all the counties do their work, they keep track of all kinds of strange political party names that are not part of any list we've ever given them, but they do. And the way it's all...

**Gregory Peterson:** Local counties.

**Bob Brehm:** local counties, there's 62 counties, 58 if you lump New York City all into one, different organizations and there's probably 58 ways that they do it because it works for them. And the magic of NVRA is what do you map to us? So whatever code you use in your county as long as you map it to us and to what we tell you to map it to us, allows us to make the charts and answer questions. so this mapping of other Others could be handled in many different ways and the change we made 4 years ago allows us to handle it. We could say to the counties map it this way, but we have to think 4 years from now, we could accommodate whatever words are in that other line put in the system and we could deal with it. Because we require, the first code is the category, say like democrat and then it would be blank in the other one. But under Other there's 2 fields, so it's Other and then something and we look for clearly Other Sapien now because that's on the ballot and we would look for Other Libertarian because that's what was on the ballot but we still had the old Other Rent is Too Damn High and whatever else, whatever's been in there. Counties keep a lot of stuff. So some of this issue when we go back to counties isn't that you've got to look everybody up and map it differently to us is many of them already have it and they have like 32 different categories and they map 12 of them to us in a specific way. So they map many of those Others as blank because that's what we've told them to in the past. And the only issue is, do they map it to us as other Other? Now clearly if they don't, I don't think any of us are suggesting that they go back through the big pieces of paper if they haven't been tracking this data in the last 8 years right, but going forward they would track it correctly. But I don't know from us the legal entity of Other and Blank are the same because of this court case. You have no party status. You're not signing petitions. You're not part of the calculation for designating petition. So it's just a matter of if somebody comes and says, "I'd like to know anybody in this group." If we have other Other and we don't know the group we can say here's the 100,000 people that are other Others, you send them a letter and ask them if they agree with you or not. But at least they have a point of reference to reach out to people and say, instead of me having to go to 11 million people, the federal order said Other had to be on the ballot. So you could write in anything that makes you happy and people do, and the

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question is, how do we get it? And we can handle it any number of ways. But I think from us I think that a proposal instead of Others being mapped to Blank we just suggest that Others be mapped to Others so we would, we have to know the Sapiens, we have to know the Libertarians. What's the burden of knowing The Rent is Too Damn High in case they wanted to come back 4 years from now and say who are my people that they were, I'd like them again. They'll probably sue us because that's what they do and it takes us an awful lot of time to deal with this that maybe we don't have to deal with. And I think that's the only issue, how hard is for all the counties to map it other Other?

**Gregory Peterson:** So what you're telling me is it does not put an additional burden on the counties? Don't forget if its coming from here it's going out to the counties, then Bupkiss County vs. XYZ County have totally different setups.

**Bob Brehm:** All of their set ups allow them to map so we have to tell them to map to the Women's Equality and the Reform Party are new. We have to tell them Sapien, Libertarian, the only question is for all the other Others, do we tell them to map to Blank, to other Others, meaning I don't know what else is out there like Rent is Too Damn High, I won't know who they are, I'll just know they're other. Or, do we say, "Tell us whatever the Other category is, we can still deal with that." Because all of that from what we need it for is simply the chart on the data that we post on April 1<sup>st</sup> which is how many others are there. If somebody ever comes to us and says, "I'd like the database," we can tell them other Other. "You go figure it out. You decide you want to write to this group instead of that group."

**Gregory Peterson:** Okay, I check off other and I write next to that the Peterson Party. And you want that tracked?

**Kathleen O'Keefe:** Well, there's already a field. In other words, we already have to have a field that says, Other and Libertarian. That's the court case right? So we have the field already set up. What this would require is in the situation where it's an other Other, instead of that second field being Blank, it would say Other. So it's not like it's even creating the need for an additional field, that field is already required by the court case.

**Bob Brehm:** And that's why we could handle it either way. Right now what we're telling people to do is track it as Blank. So in your county, say the Peterson County, the county is right now whatever they're doing behind the scenes they're mapping to us as Blank. Another county may do them as Other something in case they ever have to go find it because it's easier for them to track it in the computer than to go half a million records and go look for it. So many counties, just because they've had to go back in the dumpster and do this work, I've done it twice and say I don't ever want to have to do the dumpster again, it's easier for the computer to keep track of it and then if you come along...

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**Douglas Kellner:** So Other is...So we're going to direct the counties to track Others separately from...

**Gregory Peterson:** I have one thing to check but let's put it onto the next meeting, and as far as I'm concerned that's where I'm going.

**Bob Brehm:** And again, we could other Other and deal with all the little pieces or...

**Gregory Peterson:** No, I understand, got it.

**Douglas Kellner:** In the meantime check to find out what's going to happen?

**Bob Brehm:** Well Tom did say that technologically either of those options could happen.

**Douglas Kellner:** Alright, good. Now let's move onto update on the Hearing Officer process and I will say that especially in view of Ms. Sugarman's comments I am very disappointed that we are only talking about update.

**Kathleen O'Keefe:** Well, we have made significant progress here. Brian did a draft, we shared it with our counterparts, they gave some fruitful feedback. We have incorporated that feedback into the draft. There's been a lot of back and forth over the last few weeks. We are hoping, once we have a better idea where the final version is going to end up, because what's happened is some of the drafting of this has raised other issues that were not obvious on its face and then we need to obviously have a discussion with Risa. I know she has some concerns about a few of the issues that were in the original draft. So we are absolutely making progress on this and I'm hopeful that by the next meeting we could have a final product that we could bring to the board.

**Douglas Kellner:** Well, what about the process of actually engaging hearing officers? Because I'm inclined to say we should adopt emergency Regs today so that this issue of hearing officers is not the reason why people who have not filed their campaign finance reports in September or November are not subject to any legal action at all.

**Kathleen O'Keefe:** Well the Reg is one piece of it. The other piece is that we need to have a better idea of what our needs are, or what Risa's needs are. I know that Bob and Todd and Risa have had some discussions about that and maybe Bob...

**Douglas Kellner:** Risa's been here 5-months now, what's the story?

**Bob Brehm:** I mean we met with Risa 2 weeks ago was our last meeting because Todd and I were out at NASED last week and we worked in our many discussions as to the category of what the duties of a hearing officer are. We are ready to submit that for classification purposes. We were told at that time from Dep's secretary Alfonzo David

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that he needed a plan. That Risa we talked with her. I don't think there's any disagreement between the 3 of us as to the general concept of its new, not sure how much work they're going to be doing but there are up to 10 people initially. But we need that plan so that we can move to classify the positions so we can then post it to the website and that's what I understood Alfonzo David was holding up on. So Risa was working on getting us that plan based on our conversation 2 weeks ago. That's to classify the positions.

**Douglas Kellner:** I want to work backwards, what is the timeline now for pursuing the nonfilers from the November general election? In other words, people who were required to file reports that never filed any reports for the November general election, what's the timeline? Well obviously the first step is we have to have regulations and hearing officers cause Risa said she's not going to pursue these without a hearing officer. So what is the scheduled on when we're going to have hearing officers? And then I'm going to turn to Risa and say what's the schedule on when the notices are going to go out?

**Andy Spano:** Well she can't know that until ...

**Bob Brehm:** Well we need Risa's plan to get the positions classified because that's what the Dep Secretary said in order to move actually post online so that people can say, "I'd like to be a hearing officer" and then we have to interview them and recommend to you, "Here's 10 people." So that's to be a hearing officer and then in the meantime it's the Regs we've also been working on as to sharing and talking as to what those words should be.

**Andy Spano:** These conversations you're having and difficulty ironing these resolutions in is because it's a little complicated and you really have to go through this, it's something new that you're doing? There's a big disagreement. You disagree...

**Bob Brehm:** Well no I really don't think we're at a big disagreement. Because I think from the 3 of us when we've talked from Todd, myself and Risa when we've talked about what it is we're doing, but we have to classify the position, so we've identified a job description. But in our conversation...

**Risa Sugarman:** It's just new and it takes time.

**Andy Spano:** Second question is to Risa. You don't seem to be worried about this little hiatus. You're going to go after these guys at some point...

**Risa Sugarman:** Yes

**Andy Spano:** and give them hell. That's okay.

**Douglas Kellner:** What's the schedule for doing that?

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**Risa Sugarman:** I don't have a date that I can tell you Commissioner. There are a lot of working parts and we are, I believe we are working expeditiously towards them. When I have to contact now Council, Mr. David because I don't know that I have been switched and I'll talk to Joe tomorrow, Mr. Rabido tomorrow to see if I was also switched to under his discussion. I haven't been told that yet so I have to make that inquiry and whether I have to discuss. I don't think I have a difficulty in telling Alfonzo David that we need 10 because it's a rotating basis, that's what the statute says. We're going to put it into effect and we'll get back in touch with DOB and civil service to make that happen. Now we have to get 10 attorneys who are going to be willing to take those cases. I already have in my computer the template to make the reports. It's not a difficult thing to make a failure to file hearing officer's report. The template is there. I know the cases. They'll be done and then we'll go. I think we'll schedule a certain number of hearing officers 5 or 6 hearings a day. I don't think it's going to be a problem. I think its just getting all the working...

**Douglas Kellner:** You have about 500 nonfilers so...

**Risa Sugarman:** Well I think if out of 300 and some odd notices that went out we got 100 into compliance I think a treasurer or candidate who receives a notice of a hearing is going to come in and say, "How can I settle this?"

**Douglas Kellner:** Historically it roughly about half right?

**Bob Brehm:** It's difficult to say with certainty because we've done that pre notice so that I was trying to figure out since we sent out the compliance failure to file notice last July, I wasn't quite sure what we would see with Risa's numbers and frankly Risa's letterhead is a little stronger indication of what's to come than perhaps ours was. So I was just interested in those numbers to see how many people are in the hunt. But it's always been an effective tool even when we didn't have the ability to collect the judgment because the process itself brings people to the table to comply. That's really what we're all interested in. So I see these numbers today, I mean there's still 208 people that got the notice that didn't come into compliance and I don't know how much people owe.

**Douglas Kellner:** That's the July filing and that's the periodic and a lot of those are just old committees.

**Todd Valentine:** Based on that number that I hear, that's about several hundred would be the norm for those who'd we end up going forward with a lawsuit and judgment. And of those some would come into compliance.

**Douglas Kellner:** The primary and the general noncompliance is very different from the periodic noncompliance.

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**Todd Valentine:** They are different because you are starting certainly the primary is a smaller number of filers and they are more active committees because they are obviously in a primary so you're correct on that. The general is a little bit different because it's a slightly larger number but...

**Risa Sugarman:** And I also think if they start hearing that we're going to take their tax refund they might come into compliance as well. I mean I'm really not.

**Anna Svizzero:** Could I ask a question? Do they really have to come here for this hearing?

**Risa Sugarman:** Oh yeah. Oh, no, they're going to come to Albany for the hearing and that will bring them into compliance as well. I have no...

**Douglas Kellner:** Well most of them are going to default.

**Risa Sugarman:** Well they we'll...

**Anna Svizzero:** You can't do it on Facetime or Skype it or something?

**Risa Sugarman:** Why would I do it on that?

**Douglas Kellner:** I am requesting that we have a schedule that shows us the steps that have to be done and the target dates for getting these steps done and that that be presented to the Commissioners by the next meeting with a real schedule on how this is going to happen.

**Bob Brehm:** I hope to have it done by then.

**Douglas Kellner:** Well I'm hearing this a lot and I'm just very disappointed that this process isn't going forward. Alright, I'm sorry.

**Andy Spano:** I'll tell you how I feel, I think that we have made it clear, the Commissioners have made it clear that we have a concern about this and we have some due diligence on requesting XY and Z. The staff and Risa's organization has come through with I think legitimate answers to our concerns and they should have the time to formulate what we need. That's it. Because this could go like that if it gets in place and be your responsibility. And she's the one on the...

**Douglas Kellner:** I agree. The fact that we're still going back on drafts instead of actually getting these steps moved.

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**Gregory Peterson:** I think Commissioner Kellner's frustration is the fact that we were at a certain point, everything got turned upside down and said okay now we've got a whole new thing and we're at this point.

**Andy Spano:** We were at that point just as I came on. So this wasn't my fault.

**Douglas Kellner:** Alright new business. Campaign Finance Contribution limits, we have the resolution and the new numbers. I don't know that a further explanation is necessary. Those in favor say aye.

[chorus of ayes]

Opposed? Alright the resolution is adopted.

Alright the 2015 legislative packet. Boy do I sound like a nudge today.

**Bob Brehm:** So I think briefly on the, whose down here on this one?

**Kathleen O'Keefe:** Well we have a number of items that were in our packet last year that didn't chapter and they are listed here in the packet that you received. There are a few items 1 through 12 exactly, no 1 through 13.

**Bob Brehm:** Twelve is repeating 13.

**Kathleen O'Keefe:** I'm sorry, what Bob is referring to is that 1 through 12 are from last year's packet and they're being repeated again this year. And we all agree on those.

Number 13 is a new piece for this year. It's the tool that would assist with the audit. We've discussed that and we all agree about that one. There are 3 items here that we have not reached complete agreement on. At least on 14 and 15 we are going to continue to discuss those two items.

**Gregory Peterson:** You can probably bring that up on the next meeting.

**Kathleen O'Keefe:** And then the last one 15-16 we have, the indication is that we are not going to have agreement on that.

**Gregory Peterson:** That's correct.

**Andy Spano:** Can I ask you why?

**Gregory Peterson:** Sure. Thank you for asking. At a Board meeting somebody come up to me and I go you know thank you for your input. We have a tremendous and I mean tremendous amount of work to do here and a lot of times people say, "Well why don't you do this, and this, and this?" and you're adding to that burden without giving the

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necessary personnel, etc. and I think that at this junction, adding more to that cup which is already runneth over, I think is a mistake. We can certainly review this somewhat down the line but I think it's adding something that is frankly at this juncture not necessary. It's not something I reject out of hand, somewhere down the line, but at this point I don't.

**Andy Spano:** So that's your objection the amount of work that would be imposed.

**Gregory Peterson:** It's huge. It depends on how it's done number one and number two we're taking on thousands of...

**Douglas Kellner:** It's not thousands.

**Gregory Peterson:** It is.

**Todd Valentine:** It's 2 to 3,000 additional files.

**Gregory Peterson:** It's huge and for what? For someone that's but bupkiss, I'm running for bupkiss township and I have \$500 and that's it and we're going to make them go there. It doesn't make any sense to me. I don't know. In a perfect world and under somewhat different circumstances I think it would be fine and I don't reject it out of hand. To discuss this again in the future, but right now my vote would be no.

**Andy Spano:** In other words if someone came to you and said, okay and sat you down Greg and said, "Look here's the way it's going to be done. It's going to take about this amount of time. We can show you this or that and the other thing" you would...

**Gregory Peterson:** I never turn a deaf ear to anything.

**Andy Spano:** I just wondered.

**Gregory Peterson:** Its, but at this point and from my understanding which may be limited, my understanding at this point

**Douglas Kellner:** Well that's what we should do discuss it further. I think it takes a burden off the counties that we can do much more efficiently.

**Gregory Peterson:** And by the way if I see that again, I don't have a problem with it.

**Andy Spano:** Unfunded mandate.

**Gregory Peterson:** Yeah, you and I know that very well.

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**Douglas Kellner:** And we can talk about the ballot usability and the canvassing procedures at the next meeting.

**Bob Brehm:** And when we share this list, I just like to always keep the door open, we had a state of emergency in 13 counties on the day of a village primary if the village ran a partisan primary. So once again it raised the issue for us that we should touch 3108. when I sent what our proposals were for this year to Todd and Kim and others, I suggested, we've talked about it over time because we've had a few hurricanes in the elections, in primaries and generals that it probably would behoove us to see if we can't touch 3108 to deal with this so that it's more organized than perhaps an executive order at 5:00 the night before the election. So I did throw that one out there. We're working on something. I said I'd like to share it once we edit it by a little bit so maybe if we're considering things we could maybe hopefully will finish, you'll consider it and we can come to an agreement on that one too.

**Todd Valentine:** Having lived through several of those, we can fix that.

**Bob Brehm:** Anna's been drafting a version and sharing it while we've been doing a few other things these last few days.

**Douglas Kellner:** Alright so I'll entertain a motion to approve the legislative list items 1 through 13. Those in favor say aye.

[chorus of ayes]  
Opposed?

And then 14 and 15 we'll lay over. Also can we write a very short resolution without putting a date on it that says we urge as a high priority that the legislature combine the primaries?

**Bob Brehm:** Federal?

**Douglas Kellner:** No the congressional and the September primary.

**Todd Valentine:** Third rail.

**Douglas Kellner:** I just think we ought to be on record.

**Bob Brehm:** We'll you're saying combine them can we say when?

**Douglas Kellner:** I'm definitely not saying when cause I know that there's no way we can agree on that. But to just be on record as an agency that we urge the legislature to combine the two primaries or to change the date of the September primary, how about we put it that way. Now maybe with the new leadership in the Assembly there is new

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chances for some co promise on this I would hope and I will renew my efforts in that regard.

**Bob Brehm:** Well just in relation to next, certainly I think it's a wonderful idea but with regard to, my concern is we finally have some of the components because the Republican Convention for President has been set, Democrat has been set, both rules are finalized. Neither of them allow a presidential primary as late as our federal primary set by Judge Sharp the 4<sup>th</sup> Tuesday. I think both party rules ends the second Tuesday in June, if New York for some reason wanted to be last, who knows. So we are going into next year with the assumption we will have a presidential primary, a federal primary in June, a September primary and then a November general election. So there will be 4 theoretically if they, and I don't know that, certainly I'm not sitting at the table...

**Douglas Kellner:** So moving the congressional primary either to the presidential primary...

**Bob Brehm:** Well 3 is better than 4, 2 are better than...but I'm just saying going into next year at least, there was a fear there might be 5 if the Republican convention was substantially different than the Democrat because it wouldn't lineup. So those are decisions they're going to have to make and as soon as this budget is over they'll ask us for our input and whatever's left off the table we'll have to fix in our recommendation to Judge Sharpe if they don't fix it. But certainly we're going to be back at this many times this year. So, recommending that they solve it and we're more than willing to talk to them might not be a bad idea how they solve it.

**Gregory Peterson:** I suggest that they give it their best effort to do the right thing.

**Douglas Kellner:** I just think 2 sentences for us to go on record might be helpful. Alright. We did draft a resolution on electronic poll books that Commissioner Spano and I support but again the republican response is no-go on electronic poll books. Okay. Alright. That's everything I wanted to say on that item. So I think that's the end of our agenda except for Executive Session.

**Bob Brehm:** And next meeting with various people being away, we were looking I think for the first full week of April so I think that 7<sup>th</sup> through the 10<sup>th</sup> what people's calendars look like that week for the next meeting.

**Gregory Peterson:** What were those dates? I'm sorry.

**Bob Brehm:** the 7<sup>th</sup> is a Tuesday, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> if we were going to do it. Do either of those days..

**Gregory Peterson:** The Tuesday after Easter.

**Bob Brehm:** Do you want to do Tuesday, Wednesday.

**Todd Valentine:** Probably later in the week would be better.

**Gregory Peterson:** Make it Thursday.

**Douglas Kellner:** Yes I agree.

**Bob Brehm:** Thursday April 9<sup>th</sup>. Okay.

**Douglas Kellner:** Alright so I move that we go into Executive Session to discuss investigation and enforcement matters. Those in favor? Wait is there a...

**Tom Connolly:** We will or will not come back into?

**Douglas Kellner:** We're not coming back. Alright it's unanimously adopted, we'll go into Executive Session.