

Peter Kosinski: Meeting of the State Board of Elections. I'm going to open today's meeting with the meeting between myself and Commissioner Peterson under state law Commissioner Peterson and I have the authority and responsibility to decide which candidates should appear on New York's ballot for the upcoming April 19th Republican Primary for President. So, we will now go through the candidates who have sought access to our ballot and make a determination regarding that access. We have received six requests for access to the ballot. And I'll take them one at a time.

First we have one from Donald Trump who has requested to appear on the ballot as a nationally known candidate. I vote yes, Commissioner Peterson?

Gregory Peterson: I'll vote yes.

Peter Kosinski: Secondly, we have a request from Marco Rubio to appear on the ballot as a nationally known candidate. I vote yes.

Gregory Peterson: I'll vote yes.

Peter Kosinski: Third, we have a request from Ben Carson to appear on the ballot as a nationally known candidate. I vote yes.

Gregory Peterson: Yes.

Peter Kosinski: Next, Ted Cruz has requested to get on the ballot as a nationally known candidate, I vote yes.

Gregory Peterson: I'll vote yes.

Peter Kosinski: Next, we have John Kasich who has requested to appear on the ballot as a nationally known candidate. I vote yes.

Gregory Peterson: I'll vote yes.

Peter Kosinski: And, lastly we have Jeb Bush who has requested to appear on the April 19th ballot as a nationally known candidate. I vote yes.

Gregory Peterson: I'll vote yes.

Peter Kosinski: I would make note, in conjunction with that particular request that we have read accounts that former Governor Bush has suspended his campaign and while we are voting today to put him on because that's what the state law provides and he has requested to appear on that ballot, he can withdraw that request by submitting a subsequent writing to the Board asking for that and I would just note the ballots will be going out by March 5th and we would urge that if the former governor does not wish to appear on the ballot that he do make that request before

that date so that ballots don't go out in New York with his name on it if he chooses not to participate.

Those are the six requests and I would...

Gregory Peterson: You might want to mention that the military ballots...

Peter Kosinski: Yes it will be the military ballots that will be going out March 5th. Under the law, the candidates have until March 22nd to put in a request to get their name off the ballot for April 19th. So that's actually their last date but again I would just note that March 5th is the first date for military ballots.

So with that, I would close that portion of the meeting. And we will open as a full Board of Elections. And again, I am Peter Kosinski, to my right is Douglas Kellner, to my left is Greg Peterson and being skyped in is Commissioner Spano and he is at the meeting through skype. Welcome Commissioner.

We will start today's meeting with the minutes from our previous meeting of January 11, 2016. Is there a motion to approve?

Douglas Kellner: So moved.

Gregory Peterson: Seconded.

Peter Kosinski: All in favor? [Chorus of ayes] opposed?

Secondly we have proposed minutes for the Executive Session of November 17, 2015. Is there a motion to approve those?

Douglas Kellner: So moved.

Gregory Peterson: Seconded.

Peter Kosinski: All in favor? [Chorus of ayes] opposed? Those are approved.

Thirdly, we have the confidential minutes of the Executive Session of January 11, 2016. Is there a motion to approve?

Douglas Kellner: So moved.

Commissioner Spano: Seconded.

Peter Kosinski: All in favor? [Chorus of ayes] opposed? Okay so those are all approved. And we'll go on to the unit updates. Unless there's anything else the Commissioner's wish to bring

up at this time before we start into the meeting? Okay. So our first unit update is from the Executive that's Todd Valentine and Bob Brehm.

Todd Valentine: After our last meeting, we did participate in the Election Commissioners Association Conference that week of January. We did certify the special election for the April 19th for the senate district and then the three assembly senate district 9, senate district 59, 62 and 65 and we have been getting the filings in regards to the Presidential primary which we alluded to in our earlier meeting. and there were no, just an update on the budget, there were no amendments to the governor's 30 day, no changes to that budget and not that I want to read this off but we did get the carpeting replaced in both the areas that were flooded. There is still a little bit left to be done with some of the carpeting and they were scheduled to clean the balance of the carpeting at the end of this week. Bob.

Bob Brehm: We in addition, during the Election Commissions conference Todd and I met our new Deputy Secretary, her name is Norma Ramos. She is the new Deputy for Civil Rights for the Executive Chamber and her portfolio includes our agency. She came over I think it was our first day of being appointed to have our responsibility. She came over just before the State of the State so she stayed a little while and at least we got to meet her and talk about the issues that we think are important. We also have a new Deputy Director of State Operations, Rosemary Powers. Todd and I met with her on February 3rd and Deputy Secretary Ramos was by phone. And that was mostly to oversee kind of the issues more globally that the agency has. We used it as our opportunity to remind both that after we had submitted the budget we had communicated to the chamber the pressures of the budget in general and the estimates that we had, that we had requested supplemental appropriation in the budget to deal with the level of responsibility we currently have. On February 3rd we also took that opportunity to speak about the several pending Executive Chamber proposals that are in the budget that if included in the final budget, because its in that separate Article 7 language, would add additional responsibility for the agency and there is no funding yet identified. So our concern that should any of them remain in the final package, that there be money to support those because we really have no additional resources from people to take on any additional responsibility with out some additional funding. And we've already identified that we think we need some additional staff just to keep up with what we're currently doing already. So certainly, we took that opportunity to at least share that at that time.

We did spend a great deal of time on our ballot access issues over the last period of time. I think a lot of work goes into creating, the issues that are before you and the determination that you need to make to clean up some pending issues for the Presidential ballot access.

And one other item that we did as the Enforcement Counsel did request that we spin the wheel for an assignment for hearing officer. We did that during that period of time and notified the Counsel that that assignment had been completed. So that was in the end of January. So I think that kind of covers the highlight of the issues.

Peter Kosinski: Any questions? If no questions, then next is the Counsel Compliance Unit, Kim Galvin and Brian Quail.

Kim Galvin: Thank you Commissioner. The Compliance staff has been very busy reviewing since the January periodic has been filed we recently sent a list of nonfilers over to the Independent Enforcement Counsel for the January filing. We are currently reviewing and have agreed upon criteria to send over the list of the compliance efforts or lack thereof to be forwarded to Enforcement as well. Brian and I have met a few times on that. We're making the final adjustments to that list to be sent to Enforcement as well.

Peter Kosinski: I'm sorry Kim can I just interrupt there for a minute? So the list you're talking about there are those committees that had compliance issues that you sought to resolve during that 30 day period that's in the statute and those committees have not resolved their compliance issues? Is that what you're talking about?

Kim Galvin: That's one of them. That's one of the issues. Some of them have been out past the 30 days. As we said all along that timeframe has been too short. But this is not; this list will not include anyone making a good faith effort to respond to us and to come into compliance. These are the people that may be called when they originally got the deficiency notice and then haven't called for 8 months despite repeated efforts to do that or said they will make an amendment and never did despite the auditors reaching out to them and trying to bring them into compliance.

Peter Kosinski: What's your general response to compliance efforts?

Kim Galvin: Oh, they're getting much better. The people are making better filings. They're making, many of these, I don't know what the number is Brian do you know? It's quite a hefty list because it goes back to the beginning of the Compliance Unit this referral of the lack of compliance people. We're going to get it on a more regular schedule so that the list is shorter but at the last meeting we were having trouble figuring out if, lets say for example we have a party committee, in this case we do, that's having a software Aristotle issue with us and they're actively working through it. They won't be on the list to be referred to the Enforcement Unit because they're in good faith and both of our opinion trying and the auditor's opinion trying to come into compliance and trying to work through things. This will just be the people that didn't respond at all or the people that responded half heartedly and haven't done anything despite repeated efforts to get them to answer us to try to amend their filings.

Peter Kosinski: I guess what I'm trying to get a sense of is the success or lack thereof that you feel the Compliance Unit is having with committees who are not in compliance when they initially file but then there is this effort to bring them into compliance. How successful do you think that is?

Kim Galvin: Well I think it's very successful with particularly the A filers, the C filers have a bit of a learning curve and they're taking longer and there's so many of them.

Peter Kosinski: Now when you talk A and C. A are state filers, C are local filers?

Kim Galvin: Correct. And but from what I can tell the state filers, and maybe you disagree but I think they're learning and they're doing what they need to do to come into compliance for the most part.

Douglas Kellner: I think this is pretty subjective. It really comes down to the numbers in these categories and from what I heard, one of the most positive things is that you're very close to resolving a procedure of how to escalate the determination of whether a committee is in good faith in terms of striving for compliance.

Kim Galvin: There is like a two-tiered analysis that we're doing; one is they just blew us off altogether. They didn't respond. And the second is, they've made some effort but where are they in the gray? I don't think Brian and I are going to have much difficulty at all reaching a resolution on that and in the event that we can't we're going to take it up the Executive Directors to make that determination. But we're at that second stage now and I think very shortly we will have gone through them I don't think we're going to have much of a disagreement at all.

Douglas Kellner: It still comes down to hard numbers of how many people are not in compliance after getting the 30 day letter and should be subject to enforcement action. And those are hard numbers, not very good...

Kim Galvin: Yeah, I don't have the hard numbers. We can have them next time.

Peter Kosinski: I think that would be helpful because I think we're trying to get a handle on how successful we're being because this is a new unit in the agency and I think it would be helpful to us because if that Compliance Unit needs to be tweaked, changed, something needs to be done to make it better, I think we need to look at that but I think until we understand the success rate of what you're currently doing, its hard for us to determine whether really changes need to be made or whether its being...

Kim Galvin: Yeah, we'll have those.

Douglas Kellner: The numbers are really what's useful and I would ask the same thing of the Enforcement Unit when a matter is referred to Enforcement, Enforcement then tries to obtain voluntary compliance, how many of those committees have actually come into voluntary compliance? And then what happens to those who have not come into voluntary compliance?

Kim Galvin: Sure we can have that for the next meeting.

Peter Kosinski: That would be good.

Bob Brehm: I think in general if you look at the numbers, we have this week we will have completed 40,000 compliance reviews, we're at 39 something and since the program began on June 1, of 2014. So that's an enormous amount of work that the people have done. Largely, the records are in compliance. I think it's over 75% it may be even higher than that. It might be a minor little thing that we treat it as a training letter. But largely the numbers start out as being

compliant and then certainly there's a great deal of energy. When people get these letters they really quickly respond. There are people who aren't just as quick about it. But the amount of work we have completed and accomplished is a lot and I think our team is doing a great job. I think when you see those numbers you'll agree with it with the energy they're doing and I think we're only working on the edge now that we have a process how to escalate these few, there may be some that we treat more as training because of the outcome. Because we were pretty strict.

Peter Kosinski: Bob I want you to know there's nothing here that I doubt that our staff is doing everything that they can. I don't mean that. But I also know we are reliant in part at least on the cooperation of outside of the office.

Kim Galvin: absolutely.

Peter Kosinski: So we don't totally control the success that we might enjoy here. Some of it is determined by outsiders. So as much hard work as going on I'm sure it is, I don't want to use that as the determiner whether we're being successful. I think we need to see how...

Kim Galvin: We'll get the numbers for you. Brian and Bill have should I continue?

Peter Kosinski: Yes, please.

Kim Galvin: Brian and Bill have undertaken a series of handbook update meetings to fix the handbook where it's been incorrect. We finalized the training ...

Peter Kosinski: I'm sorry I don't mean to interrupt again but do you have a date for when that book is going to be done? The new book?

Brian Quail: I always hazard to offer up dates so maybe I should not but I truly believe we are on the cusp of completing the process. It has been multi hour series of meetings to bring the book up to date, reflect the IE issues and...

Peter Kosinski: I mean you're going out for training at some point from the office for this year. And my presumption is that the book will be done prior to you going out for training. Now when you anticipate going out for training?

Brian Quail: Trainings will begin run through March through August.

Peter Kosinski: So do you expect the book to be done by March when your training begins?

Brian Quail: I expect it to be done before the next meeting. We have the unfortunate circumstance of having done trainings this last year where the manual was in a state that was less than ideal. So certainly with that reality in mind, the issues that are relevant are called to the attention of the attendees at the training. But we are moving as quickly as possible to get to where we are done and it is a big job because it has been needing to be done for quite some time. But I do believe that before your next meeting the process will be complete.

Kim Galvin: And to that end, the trainers are involved in these meetings. So even if the book is not wholly complete they will have gone over their training materials to know where the updates will ultimately be in the book with all of us.

And we have agreed to seventeen regional trainings and we have also agreed to do the club trainings in New York City and Long Island. We are in the process of finalizing the curriculum for those club trainings. In my opinion and I think in everyone else's they needed to be tweaked just a little bit and some questions put on the radar that may be asked that wouldn't be asked in an ordinary treasurer training so we are going to be scheduling those.

We have we participated in the County Commissioner's Event and we've had many, many calls on ballot access from Presidents for the specials and we have current litigation that is returnable on Friday. I don't know if you wanted to talk about that now or in Executive Session? But it makes no difference to me. It's returnable Friday challenging the Cruz qualifications.

And that's all I have. Brian do you have anything else?

Brian Quail: Two small additions actually just to remind folks that we're still waiting for a decision in the LLC case that was argued in December on the 16th in Green County, and that a tremendous amount of staff time and effort continues to be put into the FIDAS redesign effort. And that has been moving forward with an awful lot of effort and really getting into the weeds at this point. And it's going to be a good product when it's done. And that's it.

Douglas Kellner: With respect to the lawsuit challenging Ted Cruz's qualifications to run for President, my understanding is that notwithstanding the press reports, so far Cruz has not been named as a party.

Kim Galvin: He has not as far as we know.

Douglas Kellner: So, therefore it is up to us to represent the Board's position in opposing the lawsuit. If Cruz is named as a party it's my understanding that we would follow our usual procedure which is to take no position and then let the parties duke it out. Is that still consistent with our plans?

Peter Kosinski: I believe that is consistent with our plans. But we'll be talking with our counsel I guess afterwards since I know it was our decision here today to put Cruz on the ballot, we'll be having some conversations I think with counsel about...

Douglas Kellner: Well I still think it's the agency that's being sued.

Peter Kosinski: Well, but it's our decision. I mean to be fair it was Commissioner Peterson's and I decision as we saw earlier today.

Douglas Kellner: But that's not what's being challenged. What's being challenged is his qualification, not whether he's a national known candidate. And that's a matter for the whole Board. But I think we're on the same page. I just wanted to clarify.

Andy Spano: All in the same.

Peter Kosinski: I'm comfortable where we are.

Douglas Kellner: If he is made a party to the proceeding, then the Board is not going to get involved in the litigation other than what we usually do.

Kim Galvin: Well we haven't talked about that specifically.

Peter Kosinski: No, we haven't talked about that specifically but I would think we would handle it the normal way.

Douglas Kellner: But I think for the Board to get involved requires all the Commissioners to be in agreement that counsel doesn't get the right to unilaterally decide when.

Kim Galvin: No, I was just letting you know we hadn't talked about that specific issue yet.

Douglas Kellner: Okay and I guess I want to make it clear that if Cruz's name is a party, it is my view that our policy is that we don't appear and get involved in the substantive litigation. If he is not named as a party, then we should basically rule on the jurisdictional issues raised like the fact that he isn't a party.

Peter Kosinski: I don't think we'll have an issue.

Douglas Kellner: Okay great. Thank you. I just wanted to clarify that. Commissioner Spano you agree on this?

Andy Spano: Yeah, I agree on this. I have a comment on something that was said before. We do a lot of these training sessions and I'm feeling today at the Board meeting it's certainly not state of the art but it's certainly adequate for what we're doing right now. But there's so much out there that would allow us to do this training without sending people all over the state and I think we should at least, at some point, where we have a little time, put a little group together to look into the feasibility of something like that and what the cost would be and how much it would save and how we could do that. But we could do a lot more. You know we're training, all these people that we train as we go out there.

Kim Galvin: We have done that as well. They do do multiple webinars and there is training posted on the website and this is in addition to because the trainers and the staff have found and I think it's been confirmed by anyone that's attended that the direct interaction with the people is a benefit particularly in the regional trainings where they can have an interactive question and

answer period and actually see the people. But I agree with you Commissioner Spano, we will look to expand it in that way.

Andy Spano: Kim it isn't so much what you're doing now because I know you're doing as much as you can with the equipment that you have. But there's stuff out there that would accomplish the same thing that your trainers are feeling when they're face to face if they were up in Albany or someplace like that and didn't have to travel all over the state. And the equipment is getting cheaper, it's getting better and I think there's whole college programs like this now. So I just think we ought to look into it. I'm not saying tomorrow but we should look into it.

Kim Galvin: Okay good. I agree. We agree. We can't see you its weird but we agree.

Andy Spano: Well that's the problem. Wait until I get my hologram.

Peter Kosinski: Okay is there more from...

Kim Galvin: Not that I have.

Peter Kosinski: Any other questions for the Counsel's Office?

Gregory Peterson: Yeah, what happened on the lawsuit that's coming up on Friday, Cruz has to be served prior to that time?

Peter Kosinski: Well my understanding I don't believe Cruz was named in the lawsuit.

Kim Galvin: He was not. It's just us.

Peter Kosinski: It's just the State Board of Elections that's the defendant in the lawsuit.

Douglas Kellner: And that alone is a defect in the lawsuit. You can't kick somebody off the ballot...

Peter Kosinski: I understand the issues but I think that was the issue about...

Gregory Peterson: My question is then what would have to be done in order to...

Kim Galvin: They could amend their pleadings and refile or amend their pleadings and add him as a party or...

Douglas Kellner: In the press report they said that they did that. But if counsel doesn't know about it.

Brian Quail: We have not seen that amended pleading. In reading the order to show cause the order to show cause did direct that the Cruz Presidential Campaign be served but he is not named as a party and it was...

Kim Galvin: And that directive even though he was not named on the papers, the judge told them to serve the Cruz Presidential Campaign which we have no ...

Douglas Kellner: And that's the Campaign not the candidate.

Kim Galvin: Right.

Gregory Peterson: So if that were done then that would take the, put the ball out of our jurisdiction into...

Kim Galvin: Senator Cruz's.

Gregory Peterson: To the candidate to defend whether or not he's a natural born citizen.

Douglas Kellner: If they name Ted Cruz properly okay. So I would say we're involved up until the point that they name Ted Cruz properly. Now I'm not conceding that sending a copy of the papers to the Ted Cruz National Campaign does it.

Peter Kosinski: No, I agree he's not named as a party.

Douglas Kellner: But I guess my goal is not for us to get involved in the substance because we keep saying that...

Gregory Peterson: My question Doug was what happens, put the substance before a court of proper jurisdiction where a decision could be made prior to having to be made somewhere down the line maybe even before the Board of Elections, I'm sorry the Electoral College which would be, they don't have the jurisdiction either. So that kind of decision should be made well ahead of any vote and I think that whatever has to be done by those people that are involved probably should be done. We have limited jurisdiction as you can see by the vote that we had earlier. We determined the candidates that had submitted their application to use with their letters of intent to us based on two things; one whether they were nationally known and the other whether they qualify for matching funds. And that's it. Those decisions were made. Any other decisions have to be made constitutionally then it seems to me, I won't say they spun their wheels but they sort of were spinning their wheels in suing us when this decision and this type of heavy decision should really be made in a federal court and it should really be made prior to this election going forward.

Douglas Kellner: Until the last phrase I was with you 100%. And I agree with you that it's an important issue that it ought to be resolved in the courts. The only little tweak is that if they had done it right in state court so that the court actually had jurisdiction to resolve this, it might be more efficient because they could get it done now and of course, decision of the final state court could be appealed to the US Supreme Court. So some of the scholars have actually been saying that it would be better to follow this route of doing the state ballot access challenges. But if they don't do it properly they haven't gained anything.

Gregory Peterson: Well if they're watching the webinar perhaps they have an outline now of what their suppose to do.

Peter Kosinski: They have an outline now of what they're supposed to do. Anything else then for Counsel's Office? No. Then we'll move on to Elections Operations, Anna Svizzero.

Anna Svizzero: Thank you Commissioners. We do have a written report that you have before you. I would just highlight the activity related to the Presidential primary on the democratic side, 7 petitions were filed for President, 29 delegate petitions were filed which included the names of 174 delegates. We have in addition to this information collected candidate information for the delegates which file solely within a county. That would include Suffolk, Nassau, New York City and Monroe. They have some congressional districts that are wholly contained. So we've collected that candidate information and we're working on a statewide certification. The democratic drawing for ballot placement for the candidates was held Thursday I think and the republican drawing will be held later today based upon the decision that the two Commissioners made earlier at this meeting. All of the correspondence that was required to be generated was generated. We have Bob Warren and his team are working on ballot templates so that we can send each congressional district a template of what the ballot layout is, what the ballot should look like, and those will go to all of the congressional districts including the ones that file locally for consistency sake. And it will also go out with helpful hints on how to help build this ballot because it has to be done by congressional district. Each candidate meets their threshold by congressional district so the contests have to be set up a little bit uniquely in that way.

Peter Kosinski: So Anna let me just for a minute on that. So the ballots for President this year, just tell me if I'm right. The republican ballot will include the name of the Presidential candidate?

Anna Svizzero: Yes.

Peter Kosinski: And the democratic ballot will contain the name of the delegate?

Anna Svizzero: The democratic presidential candidate and then the delegates that are pledged to them.

Peter Kosinski: So both names will appear?

Anna Svizzero: Yes. In that case on the democratic side we don't certify winners of the delegate contests. We provide all of that information to the state committee because they have algorithms that require that certain other thresholds be met from the top vote getters in that field pledged to those particular candidate.

Bob Brehm: I don't think we do the republicans either. I think we just turn the data over to the two state parties and...

Anna Svizzero: Yes, but we're not involved in the delegate distribution...

Bob Brehm: Right we make no decisions we just turn over the numbers.

Anna Svizzero: We did mention in our written report that we were working on contract extensions. Those have been completed. Those extensions have been sent to all of the county boards who have remaining shoebox money so that they can continue to submit documentation for reimbursement. The existing contracts expire at the end of March and it does take a while to navigate the working waters of OGS so we're trying to get that done as quickly as possible. So if any county boards are listening, that would be helpful to get back their signed contract extensions. I don't think we have anything else other than what we've identified in our written report. We do have the ES&S upgrade for you today. There is a phase 2 upgrade that is being reviewed vendors having their software reviewed at their little lab right now so we're expecting delivery of their software or source code to our lab. We're not sure when but that process is moving forward so we hope to have that done. And we have that Dominion utility which is a very minor process and we're working with Dominion to try and speed that one along as well. Brendan do you have anything you want to add?

Peter Kosinski: Anna in addition I believe there was a proposal to change our regulations regarding testing the voter systems.

Anna Svizzero: Yes, we had been talking to county boards and to Bob Warren and his team and Brendan and I, I brought him up to speed because we've been working on this for a long time prior to Brendan's appointment here, but it was our hope that the quarterly maintenance that the regulations require is duplicative if you will because of all of the additional elections that the county boards are now going to be providing equipment for.

Peter Kosinski: I'm sorry, let me just stop you for a minute. Do we anticipate that we will be acting on those proposed regulations today that's my understanding.

Anna Svizzero: That was our hope.

Peter Kosinski: Okay so my intention was that we would bring that up under new business as an action item and we could then get the explanation. You just didn't mention and I wanted to know if you agreed, we were bring that up.

Anna Svizzero: Wasn't sure if I should.

Peter Kosinski: It's okay under new business and at that time you can explain more specifically what it does.

Anna Svizzero: Okay we'd be happy to. I have nothing else to add.

Peter Kosinski: Any questions for that unit? No. Alright the next unit is NVRA PIO John Conklin.

John Conklin: Thank you Commissioner. The Public Information Office has been very busy since the last Board meeting. Lots of inquiries from the public and the press about the Presidential primary. The candidates, voter registration deadlines, enrollment changes, the special elections in the Assembly and the Senate. We ever had a couple of questions about the ballot proposal on next year's ballot for the Constitutional Convention. So there's been a lot of inquiries at the PIO. We had 62 FOILS in January. Tom and I continue to participate in the CAPAS and FIDAS projects as many of the other units in the agency do. Tom and I were at the ECA conference. Tom participated in several presentations as part of the ECA conference. On the website we posted the candidate filings for the Presidential primary. We updated the subject matter list as required annually. We posted the political calendar for the special elections in the senate and assembly. We just posted the transcript for the last Board meeting this morning. Under NVRA Greg and Patrick visited the Wayne County Board for a NYSVoter Review 2 weeks ago and they were found to be completely compliant with state procedures. Do you have anything to add Tom?

Tom Connelly: I would just add that as Commissioner Kosinski mentioned earlier March 5th is the deadline for transmittal of military and federal ballots so we'll be working with the counties to make sure that they ready to go and getting those ballots out per federal law. We did also post the proposed regulations on the disclosure of independent expenditures on the website for comments. We have been working with the IT unit in identifying and collaborating or getting them in touch with the technical contacts at a couple of neighboring Boards of Elections for a test roll out of the new VPN hardware as part of the NYSVoter Refresh. And due to this being the first Presidential year that we're using our online election night reporting system we've been working with IT as well to kind of make some additional changes because we have to report that information by congressional district which is not a race we've done before like that. But everything should be really in place and ready to go. So, that's all I have.

Peter Kosinski: I would note I think that just in conjunction with those special elections, as I understand none of those paperwork come here. Those are all internally done by the counties. So we're not dealing with any of that.

Bob Brehm: Alls we receive is the proclamation from the Governor's Office. We created the calendar and we gave notice to the counties, all those specials one was created today and additionally can see with the passing of Assemblywoman Clark passed away so there's an additional in Assembly District 33 as of that occurrence. But whether or not it results in a special is yet to be seen.

Tom Connelly: But the results for the special elections that have been identified will be posted on our website.

Peter Kosinski: Okay, any questions for...

Bob Brehm: Is it clear that the Justice Department is going to require for the Presidential Primary the reports? If so, we should at least let the counties know.

Tom Connelly: Yes, for all the, we are still under requirements to get survey data from all counties for all federal elections.

Bob Brehm: So we will be serving them next week also?

Tom Connelly: Correct.

Peter Kosinski: Okay. Next then ITU, Mark Goldhaber.

Mark Goldhaber: Thank you Commissioner. We had a little bit of a distraction on the CAPAS FIDAS redesign project. Our consultant project manager has moved on to pursue work in New York City. We are attempting to get a replacement through the company he came in through. In the meantime our internal staff is managing the project in addition to doing the development work but we're continuing to move forward and we're making progress. Hopefully, we won't be impacted too much. Work on upgrading the devices...

Peter Kosinski: I'm sorry Mark could we just stop. So let me just understand. So who left?

Mark Goldhaber: We had a consultant that was serving as our project manager for the CAPAS FIDAS redesign. Not an employee but there is a process for replacing contractors through the hourly based IT services.

Peter Kosinski: So this was a person not a company?

Mark Goldhaber: Correct.

Peter Kosinski: So when this person left, we in essence lost access to that consulting contract.

Mark Goldhaber: The company that consultant came in through is supposed to supply candidates to replace him. However due to the fact that there's only five months remaining on the contract, they're having difficulty getting people to put in for that five months, so if we do not get any candidates from that, we will accelerate our push for a new project manager contract to get somebody else in.

Peter Kosinski: So, that could delay things while we're waiting for this.

Mark Goldhaber: Potentially, we're doing our best to try to fill the gap. Depending on how long it drags on will depend on how much of an impact it has. Short-term it won't be too bad. If it takes five months it might cause a little bit of a drag, but we'll see. We're trying to make some economies and adjustments in our development. We'll see how it offsets. At this point the due date is too far out to really project what the long-term effect is going to be.

So we're going to upgrade the account. DVPNs is finally making progress. We will be testing the first devices in-house next week to make sure that all of the different styles of connectivity

that the counties have, all those will work properly. The following week, the week of March 7th we are planning to go out to three local counties that have the 3 different methods of connectivity to us and if those go smoothly, then we will begin sending the devices out to the remaining 59 counties and we will work with them remotely to talk them through the process, make sure they're set up properly and we will have fallback process in place so if for some reason it doesn't work, they can go back to their old equipment until we fix the new equipment. We're hoping, if all goes well, to get done by the end of March, but that will depend on how smoothly those initial rollouts go and whether we need to rework our instructions or anything.

And, beyond that, we are moving to completion on getting the rest of the infrastructure upgrade done which will allow us to move forward with our new hardware for both the NYSVoter and the CAPAS FIDAS systems and that will be a nice leap forward hopefully within the next month. That's all I've got. Thank you.

Peter Kosinski: Okay, any questions? Sure Mark. No. Okay thank you. Last is Risa Sugarman for Enforcement.

Risa Sugarman: Good morning Commissioners. As I think Bob mentioned we have had our new carpet installed which is a wonderful thing. Now as we walk through we don't stick to the floor if we don't walk on the middle part of the hallway area. They just have a little more to do. We have our new equipment that was destroyed or damaged during the flood. So except for a couple of areas where the heating panel has to just be put back on we seem to be pretty well back to normal for wherever we were before the flood happened.

I wanted to mention that the discussions with the Compliance Unit and the 3-104A referrals, I met with both Kim and Bob and their staff. I thought we had a very productive meeting. My attorneys came as well as their staff. We discussed what we felt was what we call de minimus violations which would result in a training letter as opposed to a deficiency letter and what would result in a deficiency letter and we have moved on and I think that's the process that they were discussing that would result in the referrals from now on.

The first set of referrals came back in June. There were I think 402 referrals on those matters. We had a conversation about whether those would go forward with the de minimus because everything was referred. And when we're talking about de minimus we discussed if there was one address or one zip code or a check number that was missing from the filings, that is a violation so those in addition to the more serious ones were referred to Enforcement. I just finished reviewing those. What I did was I picked out what I felt was more serious cash contributions over \$100, negative balances I thought was a very serious violation, and the failure to provide loan documents to the Board when there was a loan that was submitted without loan documents. I've reviewed those. I'm going to take another look at that list. Now that we've gotten our decision about what the de minimus as opposed to the more serious violations are. We will look at those. We'll try to get those as Commissioner Kellner discussed, those committees into compliance. And then if not, bring those treasurers, committees and candidates to the hearing officer process. I don't know the numbers. I heard that there were over 900 referrals on the next round since it was since June of 2015 that I got the last referrals. So, it's several

months' worth of cases that they've been reviewing. And we did discuss about how it is a better practice to allow the committees and the treasurers and the candidates to come into compliance if they can so that the Compliance Unit should be working with them.

My one observation was that sometimes the letters that were sent at the end of the process before they were referred, the letters gave them 30 days or the next filing to come into compliance. And sometimes that filing was not until after I got the referrals. So that's something that we might have to just work out and look at while we're working on the process.

Peter Kosinski: So that might be misleading to a committee that they have a longer time than they're actually getting.

Risa Sugarman: Right and actually, sometimes they like for example a cash over \$100 the committee is told that they have to refund the excess contribution and send proof of the check. And then there's the time for the next filing. And sometimes on those when I received it, if I checked, because I did a random selection of looking at the filings, the contribution was refunded but perhaps the check wasn't, the proof of the check wasn't sent to the Board of Elections. So the Compliance Unit might have thought since they didn't receive anything, either a call or a letter from the Committee with a copy of the check that the Committee wasn't responding when in fact they had corrected the discrepancy, the deficiency that the Compliance Unit had noted in the letter. So those are two things that I saw that either my unit would see when we review it again or that perhaps the Compliance Unit could see before they refer it to me.

So, I did that and I'm waiting for the second set of many cases to be referred to me so that I can review them again.

As to the referral from the Failure to File list we had created that list ourselves before we got the list from the staff. We forwarded those lists to the local boards and some of those local boards in fact contacted their local candidates or committees, so we've gotten responses from that from the local board's outreach. What I've requested from the staff is that if the IT could give us the data files of the e-mail accounts. The e-mail address of the committees so that we can make an outreach not by letter but by e-mail that would help us reach out to the committees and perhaps bring them into compliance. So I'm waiting for that response from Bob and Todd.

And we also have been working with IT. We had purchased a data analytics program that will help us look at the information that we have downloaded from the Board of Elections database and help us put it into an excel sheet to help us look at the data more easily. It's called Able to Extract. So that will help us in our evaluation of the data that we're looking at.

Peter Kosinski: So, just to clarify in my mind, as I understand it from what you're describing is that committees are getting really 2 opportunities to comply; one through the Compliance Unit if they fail to comply there, once you get the referral you'll make another effort to get them to comply before you actually pursue them through an administrative hearing and impose a fine.

Risa Sugarman: We'll ask the hearing officer to affirm our report and then go to court to ask for penalties.

Peter Kosinski: Okay. Any questions for Enforcement Unit. No? Okay. Then that completes our unit updates and we'll move on to agenda item 3 which is old business. The first item under old business is the FOIL Voter Registration Records which I know we did talk about at the last meeting. I don't think we really had a resolution. Brian?

Brian Quail: We had the comment period open and part of it was to also get us through the Election Commissioner's Conference that additional comments could come in through that venue. I did redistribute copies of that proposal there and there was an open session where they had an opportunity to ask any questions that they wanted of the State Board. In as much as all the election commissioners had received this by e-mail previously, it did not come up at the Election Commissioner's Conference. In total the body of comments that we got were 6. And I just today forwarded a draft to amend the proposed guidance to our republican colleagues in light of the comments. So I assume that once that's been digested and there's a dialogue on that, that we should be able to, heaven willing and the river doesn't rise, get this item off of old business by the next meeting.

Peter Kosinski: Any questions? Next item under old business again, is an update on the proposed amendments to 9NYCRR which I believe what this is referencing is the Independent Committee regulations that were approved at the last meeting right?

Bill McCann: Right. They have been submitted for publication and that public comment period will expire at the end of April, April 23rd for the last submission was suppose to bring the April budget amendments to make the regulation consistent. We are working on coordination aspects and hope to have something to share soon. I don't have a specific date on that but we are working on that internally.

Peter Kosinski: Okay, any questions on that topic? Next is item 4 which is new business. So under new business we start with subdivision A which is.

Kim Galvin: I'm sorry, they missed your upgrade no?

Peter Kosinski: No, that's under new buss. This is determinations on objections and designations to the Presidential primary petitions which I believe was raised earlier in the meeting. I have a report that was prepared by the staff which as I understand it identifies both filings that were made here that were insufficient as well as the status of objections that were made to specific filings that were made here. There is a recommendation by the staff of each one of the items on this list. I am open to discussion or a motion by anyone of the Commissioners.

Douglas Kellner: I move the adoption of the staff report.

Greg Peterson: Second.

Peter Kosinski: All in favor? [Chorus of ayes] opposed? Alright, then that is approved.

Douglas Kellner: Commissioner if there were press present they may want a copy of the staff report and I don't know if there's any point in summarizing these. Well, I guess the best is to refer people to the report.

Peter Kosinski: Fair enough. I think it speaks for itself. Next on the agenda is B and that is the ES&S upgrade. Now, as I understand it, this is an upgrade that was approved at a previous meeting?

Anna Svizzero: Yes, sir.

Peter Kosinski: And went out for testing?

Douglas Kellner: The concept was approved. This is the actual...

Peter Kosinski: The testing. But now it's been tested and it's been successfully tested as I understand it. It's now coming back to us for final approval and if we did approve this the counties that use the ES&S system would be eligible to start using this new software. Is that a fair representation of what we are doing?

Douglas Kellner: Commissioner I would characterize it as saying that we are now voting to grant certification as required vendor Article 7-202 of the Election Law as the resolution states. I move the resolution as drafted by the Operation Staff.

Peter Kosinski: Is there a second?

Gregory Peterson: Second.

Peter Kosinski: All in favor? [Chorus of ayes] opposed? Alright, then that's adopted. Now my understanding of that just so I'm clear is that this is an upgrade to the ES&S system. This includes the systems that are used at the poll sites not just the central count system?

Anna Svizzero: Yes, the election management system and the precinct based scanners and the central count system.

Peter Kosinski: And that this would then authorize those counties that use the ES&S systems to adopt this immediately if they so choose. Or, if they don't choose, they could put it off. I know we have an April 19th election coming and this is not as I understand a mandate that they use this new software there but it gives them the option. So if some counties decide that they don't want to for various reasons, maybe its too close, they don't have to so it's local option?

Anna Svizzero: Yes.

Bob Brehm: we have received letters from the New York City Board urgently asking for whatever we can do to at least expedite testing and also the Nassau County Board asked us to keep them apprised because they're looking to implement as soon as it's ready, as soon as this passes.

Douglas Kellner: Commissioner to put your language in a more technical context is we have not decertified the prior software so they have the option of either using the system as certified here or the system as previously certified.

Peter Kosinski: Okay. Next is subdivision C which is a resolution and I believe our Commissioner Kellner may want to speak to this because I understand this was something you have...

Douglas Kellner: I drafted this. It was just in more carefully reviewing the regulations that we adopted for the Hearing Officer process, I believe that the text that we used on the procedure for service of the notice of the commencement of the Hearing Officer process was unduly rigid and requires engaging a formal process server when in 2013 we had basically agreed that with respect to orders to show cause, we would ask the court to allow service by mail. And so I've redrafted the provision accordingly.

Peter Kosinski: So, let me just...

Douglas Kellner: It should be a cost saving measure if the dependent enforcement Counsel starts using the Hearing Officer process on a greater basis.

Peter Kosinski: So, currently if and Risa I guess this goes to your unit right? So when you initiate a Hearing Officer process, so you've referred someone to a hearing officer and now part of that process is noticing the subject of that hearing that there is a hearing that's been scheduled and this is the subject matter of it. That notice is currently being served by a process server like you would in litigation?

Risa Sugarman: Well, we have chosen in the two cases we filed so far to use a process server. Regulations provide for either a process server or by certified mail. And we have chosen, well the first case the respondent was represented by counsel and counsel agreed to accept service. Had he not, we would have used the process server. In the second case we enlisted the process server.

Peter Kosinski: So, so far you've only had the two?

Risa Sugarman: Yes, we're getting ready to

Gregory Peterson: I'm sorry, what you anticipate the number would be somewhere down the line?

Risa Sugarman: Well, looking at the numbers when I was looking at my stats, my staff is now looking at the final preparations for 8 hearing officer cases reaching out to those committees and candidates to determine, let them know that this is the final time for them to come into compliance. I don't have, I'm not really anticipating that they will. So, we have 8 cases that I anticipate. With the, let's see, I have...

Gregory Peterson: Bottom line is we're not talking about an overwhelming number?

Risa Sugarman: Well with 900, I have 80 cases from the 200 that as I spoke about that have the cash, the negative balance and the loan documents, if I can't bring those people into compliance those cases will go into, so that's 80 out of 204. If I get 900 in this set, if it the same amount, I think it could be the same amount. The numbers will increase. The issue that I have is as I said and answered to Commissioner Kosinski's question about the process, go first to the hearing officer who verifies or accepts my report and then the next step is going to the Supreme Court and filing in order to get the penalties. Now the issue that may arise in the Supreme Court is the judge may at that time say, "Have you served and proved to me your actual notice to the respondents here?" So that using the process server or the certified mail and no return receipt comes back and then a process server will give me that proof that that respondent or those respondents, the treasurer and the candidate were actually served. If I don't have that, then I will, if the judge requires me to prove that actual service, not have that level of proof. Now that doesn't mean if this amendment is passed that doesn't mean that I cannot use and would not use a process server but my concern about only using mailings is that I will not have that level of proof should the case proceed from the hearing officer, not be settled and then go into court and my requirement of proving that actual service.

Peter Kosinski: Fair enough.

Risa Sugarman: And I would just also indicate that under 3-104A there is a requirement of certified mail when the Compliance Unit notifies the committees about the deficiencies. It seems I don't want to couch it as, it seems that when you go to the next level of litigation even if it's administrative, you shouldn't reduce the level of service to mailings.

Peter Kosinski: So, let me understand for a minute. If I go through the hearing officer process, the hearing officer would then hear the case make a finding whether or not they felt a violation had occurred, make a recommendation for a fine?

Risa Sugarman: Well, they would accept or not accept my report and within the report it includes what the penalties...

Peter Kosinski: And what are the penalties that can be imposed?

Risa Sugarman: Well it depends on the violation of the failure to file.

Peter Kosinski: What's your range of penalties? What's the maximum penalty you could impose on a committee under this process?

Risa Sugarman: Well if it's an independent expenditure it could be the cost of either \$5000 or the cost of the mailings. The cost of the contribution. If it's a failure to file and it's a 3 cycle, it's a \$10,000 penalty. So there's a wide range. If it's a one failing its \$1040 I think. So there's a wide range of...

Peter Kosinski: So it's up to \$10,000 or if it's...

Risa Sugarman: Of if it's an independent expenditure it could be a significant amount of money. So you're talking about a significant amount of money in terms of what the respondents would be facing.

Peter Kosinski: Okay. Well, do you have anything else you want to say Commissioner? It is your proposal. I would say to you that based upon this conversation, I am reluctant to change our current practice because I don't want to compromise our ability to go to court to enforce these hearings. I don't want to go through the whole hearing officer process and then not have it work by going through court. I think it should be...

Douglas Kellner: This change doesn't change that. Of course this change just gives the option and streamlines the process if they want to do it, but it still gives the option of using the process server. It still gives the option of certified mail and it would be less costly for the high volume proceedings. So, I'm on record with having proposed a method for streamlining it if the independent Counsel and the other Commissioners aren't interested, I accept that.

Risa Sugarman: And I would just add we've only been at this for 3 months.

Gregory Peterson: I think at this time perhaps it would be best to hold this in abeyance so we can revisit it should it become overwhelming in your department and therefore give you greater options as the volume increases. But I think at this junction I think we should hold off a little bit.

Peter Kosinski: Okay. So then, the next item and this is not on the agenda but it's what I brought up earlier.

Risa Sugarman: Commissioner is there going to be a vote or are you going to table it or, I'm sorry, I apologize.

Peter Kosinski: I wasn't going to. I think we're done discussing it and I think we'll just, again, if you find a problem we'd like to hear it and then we'll revisit it.

Risa Sugarman: Okay, thank you very much.

Peter Kosinski: So, we're sort of adding an agenda item here and this goes back to what we discussed with Anna earlier about the voting system testing regulation which I have a copy of a proposal that was given to me and I think all the commissioners have it. Correct? And Anna I'm going to ask you to explain it because I know it came out of your unit.

Anna Svizzero: Okay. We have been trying to alleviate some of the work that county boards do. They do enough and this particular task required in the regulations doesn't hold the same water today that it did before with the previous types of voting systems that were certified for use. Those systems had to be cycled through their normal routines on a regular basis. They had batteries that had to be constant charged on a regular basis. We just don't use those systems anymore and with the final elimination of the use of level machines, our boards are more involved in making equipment available to school districts and fire districts and villages and others who want to use this system. So even with the quarterly maintenance provision in place, every system, every unit that has ever deployed in an election goes through a significant pre-election testing process. So this effort that the regs require seems to be replaced by the additional use of the systems, and it eliminates this duplicative sort of task, saves on staff time, saves counties on the consumables involved in running these tests. And it does still require however that if any unit depending upon the election cycle, not necessary every scanner would be rolled out for use in an election year. If any unit that the county owns has not been used in an election and did not go through pre-election testing those units only would have to have a quarterly maintenance test still conducted by the end of that calendar year. So there's still a requirement that every unit sees some sort of cycling through the election process to make sure that it is indeed working the way that it's supposed to. That there isn't a problem that the boards might encounter in their next event.

The proposal does have significant support at the county level, as you can imagine. It's nice to take something back from them that costs them money to do instead of putting more burden on them. But that is the change that we're proposing.

Peter Kosinski: So, currently as I understand it, they are testing quarterly whether they need to or not?

Anna Svizzero: Yes.

Peter Kosinski: Whether there's an election that's going to occur within that quarter or not?

Anna Svizzero: Yes.

Peter Kosinski: Sometimes they're doing multiple testings prior to an election and this would eliminate that and allow them to basically do testing when there's an election that's being conducted?

Anna Svizzero: Yes.

Bob Brehm: Or sometime during the year. I mean if you own 1000 machines and you use 950, those other 50 you can cycle through at a time that works for you as opposed you'd have to test those every quarter. So in the Presidential primary if you don't assign every machine because while it's a primary and democrats and republicans, its still a primary, it's not as much as the general election. If you don't have a congressional primary in June, you'd still have to quarterly

test your whole supply of machines also and even if you did have a federal primary in June, and you were only using a certain number let's say its in the working family party, you'd still have to test.

Peter Kosinski: You're talking currently?

Bob Brehm: Currently. So this would simply allow them to test the machines that they will be using, the spares that they have set up to go out in case they need a replacement during the day of some sort and then throughout sometime during the year whichever ones aren't pre-election tested.

Peter Kosinski: Okay. Are there any questions from the Commissioners?

Andy Spano: Any time you can get rid of a mandate we should do it.

Peter Kosinski: Commissioner I agree and I think this is an opportunity we should take. So and just to make sure I understand this as well, this is going out, this is a regulation that's going out for comment now? Is that fair to say? So it's not final?

Anna Svizzero: No.

Peter Kosinski: Okay is there a motion?

Douglas Kellner: So moved, I move the resolution as drafted.

Peter Kosinski: Second? All in favor [Chorus of ayes] opposed? And it's adopted.

Anna Svizzero: Commissioner could I just add one thing since I mentioned the school and fire districts. Brendan and I have been probably not been making very many friends but we have been in contact with boards who have had interaction with school districts and fire districts and others making sure that the costs that they are establishing for the use of equipment don't exceed what A, we recommended in our report to the Governor and the legislature relating to the elimination of level machines, but also that speak to the requirements that anything that was purchased with federal money ought not to be per se used to generate income for the county board. If the county board does earn income from that process, that money reverts to their HAVA account. It does not belong to the county. So, when we reached out to these school boards we have talked, not to the school boards but the county boards, we have tried to make it clear that they can charge for direct costs. Cost for shipping equipment, etc. Do they really want to charge for building a ballot? That's a training opportunity for their own staff building these ballots since they are not cross endorsed and that kind of thing or extensive. It isn't that big a deal, they can absorb that cost perhaps. We've made those kinds of suggestions. So we've made some progress with some of the Boards we've spoken to. We have a few more Boards to talk to but we did that based upon correspondence from the School Board Association and some independent referrals that came through the PIO unit from a couple of school districts directly, questioning the costs that they were being told they would have to pay. So we've been working

on that. We hope we're making progress. As I said, we're probably not making many friends but we're definitely trying to keep the counties out of the federal audit problem they might have with the income that could be generated from this process.

Bob Brehm: I know we talk about it ever now and then and so the guidance we had given to the counties is they really need to calculate their actual expenses if they're going to engage in using them for third parties to help with the election. Because when the federal auditors come and they will come, we're not on this year's list to be audited of states that doesn't mean we won't be soon and we did successfully pass the first audit. But what they look for is under the common rule is if there's program income above and beyond the actual expenses. So, I don't know what the actual expenses will be from county to county but they need to work with their people and document. Usually their finance departments are good at this boards of election have not in the past done a lot of federally funded services but the counties certainly do through highway and social services and any number of other programs. So at the county level there are a lot of people who can help the Board of Elections to calculate correctly, document it, review it from time to time to make sure it's not out of date and to the extent they stick to those fees and not exceed them, then we'll pass the audit. If they exceed them then that income is supposed to go to the state HAVA account so it doesn't stay with them. It goes to the HAVA account and it would require the legislature to reauthorize their expenditure somehow. It's hard enough to manage the HAVA account now I can't imagine if we have to get monies from the counties.

Anna Svizzero: And there would be penalties and interest that the counties would have to pay and its tough enough to get this done right the first time.

Peter Kosinski: And you've made the counties aware of all this?

Anna Svizzero: Yes.

Bob Brehm: We keep saying it so and now we're on tape.

Peter Kosinski: You said it again. So there you go. Alright. Anything else then for the public meeting? I believe that is the last item on the public agenda. Is there anything else anybody wants to bring up?

Douglas Kellner: We should talk about the date for our next meeting.

Peter Kosinski: Right we should.

Bob Brehm: I think the one that most people thought would work we'll I'm not sure of the next meeting but the one we really have to have is prior to May 5th and I think the general people had said I think the 3rd worked for most people.

Peter Kosinski: You're talking May now?

Bob Brehm: Well that's when we really have to have and then what is in between. So I think May 3rd was a date that worked. And then the question is...

Peter Kosinski: So we have March and April in there.

Douglas Kellner: So either April 4th or March 24th?

Bob Brehm: I think you were talking March 29th or 30th?

Peter Kosinski: I'm sorry is your proposal we only have one meeting in March April or that we have a March and an April meeting?

Bob Brehm: Well the main one has to happen in time to certify the June primary. So that one is more rigid as to when we need it. The other is when do you want to.

Peter Kosinski: No I guess I'm tasking the Commissioners though since its February 23rd so we'll have before May 3rd there are two months in there, there's March and April. Do you want to have a meeting in both March and April which I'm fine with by the way or do you want to have just one meeting in there to cover both March and April? I guess that's the decision. And I'm open.

Douglas Kellner: I'm flexible.

Peter Kosinski: I'm flexible too.

Douglas Kellner: I would suggest the 29th or the 30th and just have one meeting.

Peter Kosinski: You want the end of March? Commissioner Spano, Commissioner your speaker is off. We lost your sound.

Andy Spano: Yeah, I didn't want you to hear the garbage truck.

Gregory Peterson: There were political opponents of yours when you were in office that wanted to do that for years.

Andy Spano: I could make the 24th and the 25th of March.

Bob Brehm: How about the 29th or 30th?

Andy Spano: I could make that online but I could make the 24th or 25th of March.

Peter Kosinski: Well what do you guys think of that? I could do that.

Gregory Peterson: 24th is fine.

Peter Kosinski: March 24th then, let's do March 24th.

Andy Spano: Okay that's great.

Peter Kosinski: March 24th and then at that meeting we'll discuss whether we'll have one in April or not. How's that? So March 24th is set and May 3rd is set okay? Let me just get that down here. Alright and that I believe will conclude the public portion of our meeting unless there's something else.

Douglas Kellner: Alright, so I move that we go into Executive Session to deal with Enforcement matters.

Peter Kosinski: Is there a second?

Gregory Peterson: Second.

Peter Kosinski: all in favor [Chorus of ayes]. We will take a couple of minute break Commissioner while we set things up fro that meeting.