

Jim Walsh: Commissioner Walsh shall be chairing today's meeting. I'd like to introduce our Commissioners and staff and guests. We'll go around the table.

Douglas Kellner: So I'm Douglas Kelner.

Evelyn Aquila: Evelyn Aquila

Gregory Peterson: Gregory Peterson

Todd Valentine: Todd Valentine

Kim Galvin: Kim Galvin

Paul Collins: Paul Collins

John Conklin: John Conklin

Dave Loomis: Dave Loomis

Tom Connolly: Tom Connolly

Joe Burns: Joe Burns

Anna Svizzero: Anna Svizzero

Bill McCann: Bill McCann

Liz Hogan: Liz Hogan

Bob Brehm: Bob Brehm

Norman Green: Norman Green Chautauqua County

Susan Behren: Susan Behren Orange County

Dennis Ward: Dennis Ward Erie County

Amiee Allaud: Amiee Allaud League of Women Voters

Bob Warren: Bob Warren Election Operations

Tarry Breads: Tarry Breads Election Operations

John Lento: John Lento ES&S

Jimmy Vielkind: Jimmy Vielkind Albany Times Union

Jim Walsh: Thank you all and welcome. We have a two-part meeting today as I'm sure you've seen on our agenda.

The first one is the Board of Canvassers Commissioners Meeting and we have the opportunity now to approve the amended certification of the election results for the November 06, 2012 general election.

There were some changes from Ulster County and New York City but no changes to the winners. Can I ask for a motion?

Douglas Kelner: So moved

Jim Walsh: Second?

Gregory Peterson: Seconded.

Jim Walsh: Any discussion? All in favor aye?

All: Aye

Jim Walsh: Opposed? Carried.

We now move to the regular meeting of the Board of Commissioners.

First item of business the minutes of the February 6th meeting.

Douglas Kelner: I move that we approve the minutes as drafted.

Gregory Peterson: Seconded

Jim Walsh: All in favor?

All: Aye

Jim Walsh: Opposed? Carried.

Unit updates. Executive Bob Brehm and Todd Valentine

Todd Valentine: Well you know we're running along. You know we've had some as far as the budget's concerned that's there were no significant changes in the adoption of that. I mean other than what reflected with the change in rent from the last time. So, that

ended up being as expected. We continue to work with OGS for fine tuning parts of the build for getting electrical done and making sure the work stations are set up properly. And we're also continuing to work with the new process for what's called the Business Service Center and how we do any of our purchasing, the day to day payment of bills. You know it continues to be a work that you know with both the people that have moved to the Business Service Center and the new statewide financial system, which you know is having some tweaks to it you know presents a lot of challenges as far as the timing for getting contracts done and bills paid. But you know we continue to work on that so.

Evelyn Aquila: How many buildings have we been in in the last 10 years?

Todd Valentine: The last 10 years just 2 fortunately.

Evelyn Aquila: And 2 the 10 years before that.

Todd Valentine: Yes. I know it takes quite some time to settle in and you know

Evelyn Aquila: I'm getting to know all of Albany. I hope I never saw that it was a big saving to the government

Todd Valentine: Oh it was a, our savings along our rent was approximately \$30,000 a month so

Evelyn Aquila: You know bring everybody and...

Todd Valentine: Yeah but I mean the cost savings still is way more over the 10 year period of a new lease

Evelyn Aquila: I hope so. We're never any place for 10 years.

Todd Valentine: Well we did stay at the last place for 11. So

Evelyn Aquila: I liked the last place that we had

Todd Valentine: Yeah well that was rented space and we needed to move to optimize space. There was obviously this available.

Gregory Peterson: Thirty thousand a month?

Todd Valentine: The rent was yeah.

Evelyn Aquila: I just wanted to say that for the last six months

Todd Valentine: Yes well over the last year it's a lot of growing pains, a lot of challenges so. Bob

Bob Brehm: A few items to add to that. the first quarter of the year I think was a lot of time spent at various mandatory sessions put on for by the Executive Chamber and one other was the New York Office of Inspector General has a new program that they're putting forward for statewide uniform guidelines. Todd Valentine and I both attended and a couple of other staff members who worked with us on internal control so we could use that information to update our internal controls. We're on target to file our internal controls by the end of this month with the final staff meetings that are a part of this years' process so that's moving ahead fine.

We've had two monthly phone calls with the County Election Commissioners. Since our last Board Meeting we continue to hold them on the fourth Thursday of the month and I think they're very helpful to all of us to keep a line of communication going.

One of the other mandatory meetings was the project Sunlight Program. Paul and I attended the agency liaison meeting for that initiative and we provided to all of the covered employees the guidelines and requirements of that program including the four commissioners. It was to bring our agency into compliance with uniform guidelines, training and the reporting requirement of that initiative.

Another item and I see Commissioner Green is here, I attended the Pilot Program that the Chautauqua County Board of Elections did at a village election in Westfield on March 19th for their E poll book pilot. They piloted two systems, that one election on March 11th with one vendor and one election on March 19th. Other than the foot of snow, it was an interesting day spent. Norm and his staff did a great job and Commissioner Abram. And it really was interesting to see the training, the inspectors how they utilize the system. The voters really had no real reaction that I could tell from the conversations but the inspectors who actually had to do the work really found it helpful. So I thought that was a really good activity. The Commissioner sent his reports to Anna who requested a follow up report on how the E poll book test went. So when it was good to go and see it myself and to hear what the people had to say about it.

One other initiative that I want to point out that I think is interesting, Todd Valentine and I serve on a National Association of Secretary of State's Taskforce in Emergency Preparedness in light of a series of hurricanes that came to our community before the primary election 2 years ago and of course before the general election, it's a national group to look at policies and procedures for preparedness training. What did we learn that we need to put in place differently for the future? So we had the initial kickoff meeting. Interestingly enough it was while I was in Westfield at the village election so Norm let me use his office to participate. But there's a lot of good ideas and information is being shared. They're doing a national survey to get input from the states. What do they have in place that we could benefit from? So I thought that was a really good

initiative from that organization. And I thought I'd raise that for you. But other than that, I think that's the main issues other than the day to day activity to prepare for this meeting.

Jim Walsh: Anyone have any questions? Thank you. Legal, Kim Galvin

Kim Galvin: I don't have anything to add to our written report other than financial disclosure forms. The time is arriving. The current form on the site is not the correct form so don't try to get a head start and start to fill it out. They're going to post a new one early next week. You should be receiving an e-mail, everyone within the sound of my voice that is required to file on April 15th from ethics@JCOPE, that's the address and then they're due May 15th. So I'll keep reminding you when all that starts processing.

Paul Collins: Since our last meeting the court of appeals has issued an order denying the copy of Nassau and Nassau County Board of Elections leave to appeal. That means that the challenge to the new electronic voting system is over, over, over.

Also, the Supreme Court of the United States has denied yet again a motion for reconsideration of a writ of certiorari over the challenge to our ban on out of state petition gatherers. So that's over.

Jim Walsh: Election Operations Anna please.

Anna Svizzero: Thank you commissioner. Good morning, good afternoon. We in election operations have been busy. We prepared the updates to the election results for your two certified canvassers meeting. We have completed the functional testing on what we've lovingly called the ES&S Bengali upgrade even though there are other features to it. So that also is on your agenda for certification today. That testing includes obviously the source code reports which have been provided to you and it included a public test on March 28th here at the State Board. No one came to that public testing but prior to that the New York City Board of Elections came up with their interpreters to run through the whole system and confirm the language and the spring displays, etc. And we found that very helpful. I think they did as well. They made some comments which ES&S was able to react to pretty quickly.

We are functional testing Cots Hardware changes and Dominion's Central Account System. It's an end of life issue. We'll have a NYSTEC report on the Dominimus status of that change at your next meeting. It doesn't require a board vote; we just need to advise you of that activity.

We are beginning work on an upgrade to the ES&S Central Account firmware. There are change notes that we will provide to you. Those are resulting from their further development of the product, not because of issues with the product as we certified it most recently.

We are in the last stages of our RFP for finding a new testing lab for source code reviews. We completed the technical reviews of the proposals that we had received and on-site visits are scheduled for here next week by the three vendors that are proposers to that RFP.

We have processed 21 reimbursement vouchers for shoebox activity for the county boards. Some boards still have to complete the contract process, other boards don't have any money, so we're I think we're addressing everybody's concerns in that regard and when county boards have questions, we're certainly walking them through the process and providing language that will help them not have to reinvent the wheel.

We provided our county boards of elections their general election certification on March 4th. That included this year a list of Supreme Court vacancies and that is compiled from information that we get from the Office of Court Administration. State party information, where to file petitions, charts, etc, those are all part of the certification.

We have a certificate of vacancy that was sent to Suffolk County for a vacancy in the second assembly district due to the resignation of Assemblyman Daniel Losquadro. We have sent our staff to Fire Marshall training as recently as this morning. All staff attended "How to leave your building if it's on fire" training which was about 3 hours, I'm not quite sure why but one would have been a simply solution in my book.

We have begun production of reports, I won't say production really, we're putting outlines together and putting drafts together for the reports related to our EAC grants. One was on the pre-election testing and the other one is on the value of automated post election audits. So we'll we'll have drafts that we can share if anyone is interested when the time is right and then we'll be presenting those to the EAC and will be providing the CD's etc that were a part of the pre-election testing to other states as well as the EAC so they can post to their website.

We are working with upgrade issues with all of our boards of elections, both vendors. We're going out to Schoharie County they are finally back in their building after the havoc of whatever the storms were that preceded Sandy. They finally have office space back and new equipment etc, so we're going to go out to Schoharie and install all of that for them and help them get back on their feet. They've been out of their buildings for quite some time now.

We also shared with you previously and we had again today the suggestions that we had made to New York City in response to feedback concerning how to conduct the run-off in the tight timeframe that they have if indeed they need a run-off this year. So those, that e-mail is again before you so that you have it for your records. If you have any questions, we're happy to answer them. We didn't invent anything for New York City, we merely

provided the sections of our existing procedure that they could take advantage of and laid out some other options for them so that is the content of that document.

Evelyn Aquila: Anna I think I could tell you that at least with New York City during the election. I mean I think considering everything, even in the areas that had Sandy and there were many areas in New York City that did, it was one or two at least but I think that they you know showed up. Somehow it seems like they're the model. New York State how did they do it you know if they do badly but I think they did considering everything, that they did excellently and maybe I shouldn't say that because you want to give them the incentive to do better but I thought all in all that they really you know pulled a rabbit out of the hat with everything that was on their shoulders that day.

Anna Svizzero: Oh I hope they learned from their experience both during the election and post election, there's certainly a lot of material there for them to absorb and analyze and I hope that they're taking advantage of those opportunities now.

Evelyn Aquila: I think so, I hope so.

Anna Svizzero: Well they had a bit of breathing space, not a lot but

Evelyn Aquila: With you watching over their shoulders Anna I'm sure.

Anna Svizzero: Your lips to God's ears Commissioner.

Joe do you have anything to add? I don't think I have anything else.

Jim Walsh: Thanks Anna.

Anna Svizzero: Thank you

Jim Walsh: Public Information John Conklin

John Conklin: Good afternoon commissioners. I don't really have anything to add to the written report. I just highlight that we're working on the 2012 annual report that's in a draft right now. We're still waiting for a couple of units to provide their information and we should have that done by the next meeting. Do you have anything Tom?

Tom Connolly: Gee the only thing I'd add is my work with Terry from Anna's unit give her information on the UCOVA voters for the EAC survey. We've been working with IT as well in regard to an access tool for poll site surveys as part of compliance with Chapter 505. And lastly, John and I are going to be doing a phone call later today to with the open.ny.gov website but it's a statewide initiative and they publish state data. So we're going to be talking with them about the platform that they have and what kind of information that we have now with regard to their campaign finance otherwise that we

currently publish and how we can kind of get it over to them so that its in there in a timely fashion. Other than that, that's pretty much it.

Jim Walsh: Thank you Tom. Campaign Finance Liz Hogan, Bill McCann.

Liz Hogan: Thank you Commissioner. Let me just highlight briefly the topics that I've covered in the written report to you. As usual, I give you the statistics relative to what the campaign finance intake and processing center is working on and you can see the stats for yourself. You can see that our active files to date are numbering in excess of 12,500 so we are up there.

I also noted that we've sent out our annual filer update to in excess of 7000 filers. The handbook on the web and selected topic schedules are updated and updated version is on the web.

And the seminar schedule is finalized. It will start in May and that's our annual across the state seminar presentation that the staff gives. We are hoping this year to, as we did last year have CLE accreditation for certain of our seminars in certain locations. We have submitted our paperwork timely for the approval for that and have not, that I know of, I haven't checked this week frankly, but I do not believe that we've gotten the response and it's one of those things that there's no number for you to call. They just there's no way to contact the accreditation board. It's, they tell you do not call us, we'll call you. So hopefully the CLE accreditation will be available again this year. And anyone interested can certainly register for that on our website.

I've indicated to you the audits that are underway. I also touched in the written report on the fact that we have been working with IT relative and I'm assuming Dave is gonna talk about this so I really just touch on the fact that we're working with the folks over there relative to the development of new software and we are trying to in Campaign Finance and Enforcement to develop our own work group so that we can identify by topic you know the real specific nitty-gritty issues that they will have to address in the development stage. And I know Dave has set up some things for us to look at, so I'm sure he'll talk about that.

I did note for you that the contract for our service of process will expire in July. We sent our draft RFP to OGS right after New Years' it was due at the end of January so we were early and we still have not seen any progress on that so we're still awaiting that.

We have as well as I indicated to you, initiated a process and proceeding for the new law suit authorized by 14126 of the Election Law which is relative to the nonfiling of 3 period reports in an election cycle for an identifiable office. So we've started that.

And as well, as has been directed by the Board we're initializing the process to sue for collection of judgments, outstanding judgments.

Bill and I are very involved right now in a federal litigation that the Board is aware of and that's causing us a lot of time consumption relative to things that we have to deal with for production. If you wish to discuss that further, we can do that in an Executive Session.

But those are the highlights of what we're accomplished in the past month. Bill do you have anything you want to add to it.

Bill McCann: I definitely don't.

Jim Walsh: Thank you Liz. ITU Dave Loomis

Dave Loomis: Thank you commissioner. I don't have a lot to add to my written report. I can just touch on what Liz mentioned with the

Evelyn Aquila: Could you speak up?

Dave Loomis: Sorry. I don't have a lot to add to my written report. I just can touch a little bit on what Liz mentioned with the system process that we're going through with Campaign Finance to look at the system that's currently there from a technical standpoint, do an analysis, putting our project team together, put a scope together. So we're just in the beginning stages of that project. So that's basically all I have and I think that's most of what we covered in the written report that I submitted.

Douglas Kellner: What will change when that project is implemented? What will be different about the new system from the current system?

Dave Loomis: Well from a technical standpoint what we're trying to do is look at the software that's in place now knowing that its software that is no longer supported from a technical standpoint. So strictly from that side of things, we're looking at moving into moderate software that is able to be supported in today's age with today's technology. The scope of what will be features in the system is where we have to still work through as a team working with the Campaign Finance Unit. So that's why we're just in the initial stages of that project.

Anna Svizzero: Commissioner may Joe and I amend our unit report please? We initiated a national side survey we had discussed the cost of ongoing maintenance for the software for voting systems as the 5 year warranty is expiring. There are some results into that system. We did it through the auspices of the Tim Mattice who some of you may remember who now works for the Election Center. So as soon as we get some feedback and can do some analysis on it, we can share with you some of the results of that survey.

For those county board commissioners that are listening, we're still booking new commissioner workshops. We've done several of them. We have a couple more coming up and also we're offering another round of EMS training for those boards that want to come to Albany and go through some remedial EMS training with regard to how to use the newest upgrades in the most efficient way possible and we have a couple of those sessions to schedule in the next coming weeks as well. Sorry. Thank you

Jim Walsh: Old business. Discuss the Central Count Absentee System. Would anyone like to discuss that?

Anna Svizzero: We put together some questions for you based on a very preliminary conversation at a board meeting back in January I believe. This is by no means a final, it just is an aggregation of some of the issues that Joe and I and Bob Warren had when we met to discuss the conversation that was held here at the Board meeting. So it's the first step of a number of baby steps I think that the board needs to take a look at.

Evelyn Aquila: Excuse me Anna do we have more absentee ballots because of the hurricane?

Anna Svizzero: Absentee ballots? I don't believe so. I haven't had a chance to really look at the annual report information.

Evelyn Aquila: I was just wondering because the number went up because so many people you know were out of their homes and whatever. Seeing it was a presidential election.

Anna Svizzero: Yeah I don't think so. Nothing struck me as being unique in that regard but it's something we can take a look at and let you know at the next board meeting.

Evelyn Aquila: Yeah I was just wondering. I should have asked that at the last, well it was too soon really.

Anna Svizzero: Right we yeah.

Douglas Kellner: Well the issue for us to consider is whether the Sequoia Teamwork Central Count Absentee System which was certified in 1999 prior to the issuance of any of the voting system guidelines by the Federal Government. Should be recertified or whether we should allow the counties to continue using the old system. It seems to me that that would turn on the information we've received in terms of the accuracy of the old system, and, has election operations made a review of that?

Anna Svizzero: No we have not.

Douglas Kellner: I mean, we know that there was a major investigation done by the New York City Board of Elections in 2003 concerning problems with the calibration of the scanners in the Central Count handling system and recommendations were made on how to address those issues. I would ask Election Operations to look into that. Contact the counties that are still using the system and determine whether we should require that the system be submitted for recertification.

Evelyn Aquila: May I ask you a question? If this work was done in, did you say 2003?

Douglas Kellner: That's right

Evelyn Aquila: That's 10 years ago right you think we wouldn't base anything too much on what happened 10 years ago do you think just in reflection.

Douglas Kellner: No I mean that was a report that demonstrated serious problems with the machine with the accuracy of the machines.

Evelyn Aquila: I remember that

Douglas Kellner: and it was generated because of a special election in Brooklyn where it was a close contest and they kept running the same ballots through the same scanner and getting different results every time they ran it.

Evelyn Aquila: I remember that well yes

Douglas Kellner: So, so the issue is whether these machines that have never really gone through a certification testing process that meets the current standards are operating sufficiently accurately that we should allow them to be grandfathered or...

Evelyn Aquila: I somehow remember that election and the problem and that somehow it was, that problem was engaged and looked into but I could be very wrong. I mean the Board did ask them to do that at that time

Douglas Kellner: Basically the report said that they have to test the calibration and added additional testing procedures.

Anna Svizzero: For the pre-election testing.

Evelyn Aquila: And I think it would all be done within 2 years or something

Douglas Kellner: So, so my question is "Are these machines being audited through the manual audits now? What had been the results of those audits?" And if election operations could report back to the commissioners on that then it would seem that we would then have data on which to make a decision.

Evelyn Aquila: Do they have the time. Should we assign it to someone else? I just wonder if they have the time.

Douglas Kellner: Well who else?

Evelyn Aquila: Anna do you have the time to do that?

Anna Svizzero: Oh yes commissioner.

Evelyn Aquila: No, no be truthful

Anna Svizzero: Its part of what we do. We will work it into our schedule and get those.

Evelyn Aquila: I don't know if you need any other help or anything to help you with this. You seem to have quite a load.

Anna Svizzero: We should be okay.

Gregory Walsh: It certainly makes sense.

Evelyn Aquila: But we did think at the time, I think a few years later that the problem had been at least addressed. Had it been solved, that I don't know. But it was addressed.

Jim Walsh: Thank you Doug. New business. Vote on resolution to pay expenses related to HAVA administration complaint alternative dispute resolution surfaces. Liz Hogan and Bill McCann

Liz Hogan: Commissioners this is an annual resolution at this time of the year and what this is is the Help American Vote Act requires that the board basically have on retainer these dispute resolution services. This particular group is the group that was vetted back in probably what 2006 I guess it was. This group was recommended by another state entity as I believe, the Attorney General and because of the because of the structure of how they would have to be used which is across the state at various locations in a very short time period, the services that this particular group supplies is what we pay them a retainer for. Now it is not 15, the full \$15,000 we ask you to approve that amount in case there's some expenses relative to this during the year that we have to address, we wouldn't have to come back to the Board. But that's

Bill McCann: It comes out of Federal Funds

Liz Hogan: Yes this comes out of federal funding.

Douglas Kellner: Because in fact they have not actually had a single case since HAVA was enacted correct?

Liz Hogan: That's correct and they frankly they shouldn't but we still have to by federal law we still have to have their services available and we have to pay for them every year.

Evelyn Aquila: Even though we don't use them.

Liz Hogan: Yes

Douglas Kellner: Well I move the resolution.

Jim Walsh: Second. All in favor?

All: Aye

Jim Walsh: Opposed? Carried.

Vote on resolution to pay additional expenses for litigation resolution relative to new voter screen alerts and related certification testing.

Anna Svizzero: The costs we had set aside and the Board had previously approved were based on estimates. Now that we've actually received invoices for the work we do need some additional funding. Thus the reason for the resolution for an additional \$65,000.

Douglas Kellner: I move the resolution.

Jim Walsh: Second. All in favor?

All: Aye

Jim Walsh: Opposed? Carried.

We have a resolution for certification of upgrade to ES&S DC200 pre-sync based optical scan voting system and companion automark ballot marking device. Anna

Anna Svizzero: This is the resolution for the, what we've been calling the Bengali upgrade for lack of a more common term. And their reports are attached. We had no issues with the system or its functionality. As I mentioned New York City came up to review the language with their staff interpreters and the public test was successful that we did last week, and the unit recommends the Board certify this upgrade.

Douglas Kellner: Attached to the resolution are the reports and in the report you attach the report from SLI Global Solution and the ES&S voting system change notes. Do I

understand that by your attaching those reports that the vendors waive their improper confidentiality markings on the reports?

Anna Svizzero: We've made that clear to the vendors and will be posting this as we have in the past once the Board votes.

Douglas Kellner: So these, even though they're marked confidential, they're not any longer confidential? Okay that was my concern.

Evelyn Aquila: I wondered about that too. I'm glad you asked.

Douglas Kellner: With that noted, I move adoption of the resolution.

Jim Walsh: Second. All in favor?

All: Aye

Jim Walsh: Opposed? Carried.

Vote on resolutions plural to adopt optional e-mail address added.

A – Amendment to voter registration application, and

B- Affidavit ballot application

John Conklin, Tom Connelly.

Gregory Peterson: I'd like to ask, if we could table this one for now until we get some feedback on from the counties.

Jim Walsh: I'll second that.

Douglas: This did already go out to the counties right?

Gregory Peterson: Not a lot back though

Jim Walsh: we have a motion on the table, no discussion. I have a motion on the table, all in favor?

Some: Aye

Douglas Kellner: I'll abstain. I think we should vote on it now but I understand if you want to hold it over.

Evelyn Aquila: I'd like us to vote on it now but we've run it through a table.

Jim Walsh: Note this table

Evelyn Aquila: Yes

Jim Walsh: Our next meeting date will be May 23, 2013 right here.

Evelyn Aquila: Is that a Tuesday or Thursday?

Douglas Kellner: Thursday oh

Kim Galvin: That will be after your financial disclosure reports are suppose to be filed.

(laughing)

Douglas Kellner: Jim can we vote on the ...

(talking)

Jim Walsh: If there's a need for Executive Session please let me know. If not we can vote on our preliminary determinations. No need for Executive Session?

Douglas Kellner: No I'm prepared to, I move that we adopt all the preliminary determinations as drafted.

Gregory Peterson: Second.

Jim Walsh: All in favor?

All: Aye

Jim Walsh: Opposed? Carried.

We are adjourned to May...

Bob Brehm: Based on your resolution above that was preliminary there is a final, so we didn't cover that by that motion.

Douglas Kellner: Alright I move that we do the final. That's in referral to the Westchester DA?

Liz Hogan: Yes

Evelyn Aquila: Sorry about that.

Jim Walsh: All in favor?

All: Aye

Jim Walsh: Opposed? Motion passes.

We are adjourned to May 23rd. Alright great. Thank you.