

>> COMMISSIONER JIM WALSH: Afternoon ladies and gentlemen, my name is Jim Walsh, it's my honor to run this afternoon meeting and to do something different this week we're going to start and go counterclockwise rather than clockwise.

>> COMMISSIONER DOUGLAS KELLNER: Doug Kellner

>> COMMISSIONER EVELYN AQUILA: Evelyn Aquila

>> COMMISSIONER JIM WALSH: This is the direction

>> COMMISSIONER HELEN DONOHUE: Helen Donahue

>> Allison Carr.

>> Paul Collins

>> Deirdre ham minimum

>> Anna Svizzero

>> George stand ton

>> Liz Hogan

>> Stan Zalen at present

>> Terry

>> Bob (Away from mic.) (Away from mic.)

>> COMMISSIONER JIM WALSH: Thank you all.

I should have said I was in the Army when they say my right that means your left, first item, minutes of the March 26th 2008 meeting.

>> COMMISSIONER DOUGLAS KELLNER: I move the adoption of the minutes as drafted.

>> COMMISSIONER JIM WALSH: Accepted?

>> COMMISSIONER EVELYN AQUILA: Aye.

>> COMMISSIONER JIM WALSH: Updates, Stanley?

>> I have nothing to speak about.

Todd, did you want to

>> Just a couple notes that I put on the agenda, we are work with OGS about a new lease on the building.

We talked about a 10 year extension and part of that would be amortized and that has to be negotiated, actually the lease is with OGS it's not with us, so they would do the negotiating but we have been assembling issues that we found with the building, anytime you negotiate a lease you should raise issues that need to be addressed.

So we've been receiving those from everybody in the building who has asked us to Fild Ter it out and we're assembling that and will go back to OGS and related to that the renovations that we intend for the building is extending the 5th floor to accommodate the expansion of the campaign finance unit as well as the information technology unit.

We have Stanley said to me Stanley and I are set to meet Tuesday.

We're in the same building you think we could get together easily, but everybody seems to be every wash but we got revised plans back OGS, we have been whittling them down and we're close to what we're doing.

That's where we are with that.

>> STANLEY ZALEN: There is one thing.

It was suggested briefly we touch upon the required Help America Vote Act report that has to be updated every year and in this case there is some \$7 million available potentially to New York state,

but one of the requirements is that report get amended.

We originally did it some six years ago and it has to be amended five years ago.

There will be brief mention of it and where we are with that by Liz, who is in charge of the staff putting together a draft of that report.

>> COMMISSIONER EVELYN AQUILA: May I ask a question?

>> COMMISSIONER JIM WALSH: Sure.

>> COMMISSIONER EVELYN AQUILA: Todd when you take the group and put them upstairs does all that cabling now have to

>> TODD VALENTINE: No, the renovations, that's part of the expanding to the 5th floor isn't simply moving the units to the 5th floor,

it's a bit more complicated because, you know, the ITU who is not really expanded but they've maximized their space.

>> COMMISSIONER EVELYN AQUILA: Yes, of course.

>> TODD VALENTINE: They only need a portion of the 5th floor and our intention is to take SMas port boardroom because as we've seen in the past this is not sufficient for the meetings that are very well attended.

>> COMMISSIONER EVELYN AQUILA: Yes.

>> TODD VALENTINE: Second issue is as we've noted on our webcast this layout wasn't really designed for cameras and broadcasting,

so we've accommodated it with multiple camera angles, which works pretty good but the communication between the board members and the public is a bit difficult.

So this room really can't accommodate a better design for a meeting that's set for a broadcast so we would like to take advantage of some space on the third floor for that.

The other major issue is then on the third floor currently is the campaign finance unit who needs to expand greatly based on the plans

in the building and the governor's plans and that the Senate and the assembly have agreed to, -- that they have to almost take over this entire floor.

So that would necessity some renovations to this space and that would push the people who are currently on this floor up to the 5th floor.

>> COMMISSIONER EVELYN AQUILA: I was wondering about the tech things that we've put in, cables and

>> TODD VALENTINE: They're going to stay.

>> COMMISSIONER EVELYN AQUILA: All these different things and I know cost a lot of money and I said, don't tell me we're going to move to another floor and have to spend that money all over again.

>> TODD VALENTINE: No, that's why extending the lease to 10 years makes sense because you've put in substantial renovations to the building, we've locate our main servers here for the database and that necessity some additional hardware on the roof that we had to add, which I will --, the heat for the serves that they put off you have to have that and extending to 10 years makes sense and spreading those costs out for future renovations just seems logical.

But we've raised those in initial discussions with OGS and now once we come closer to the plans they can go back to the landlord and once we've put any other additional items we want they can start the negotiations. So we're almost, like it's OGS's lease, but we tell them what we want.

>> COMMISSIONER EVELYN AQUILA: That wasn't what I was concerned about, I was concerned about repurchasing all that technical what shall I say, materials that we needed for before, and now were we going to have to take all of that and put it on the 5th floor and

>> TODD VALENTINE: No, wires we can run, they're easy.

>> COMMISSIONER EVELYN AQUILA: Okay.

>> COMMISSIONER JIM WALSH: Legal, Allison?

>> Thank you commissioners, I'm not going to tell you it's been quiet, it's been busy but as far as case activity the only two cases which are actively proceeding right now are the HAVA case and our Siebel matter.

I won't call Cyber litigation yet but on the Hava case we're doing weekly status updates and conference calls with the Department of Justice.

Right now the Department of Justice is most interested in the vendor delivery schedules and compliance with the May 1st date for completion of the master plan with Sys test. Everything is on schedule.

I want to mention that the Department of Justice, a member from there is planning on attending our conference in Syracuse.

That would be nice.

On the Cyber matter we received a notice of claim last fall from Cyber, notice of intent to file a claim I should say, but we never received an actual claim from Cyber.

We got a call last week from --, the attorney for Cyber asking if Paul and I would be willing to participate in a conference call so that they could discuss with us nonlitigation strategies.

That call will take place tomorrow afternoon.

We reached out to OGS to see if they wanted to sit in on the call, they said yes, the attorney general's office has not yet assigned any attorney to this file since no actual claim has been filed so the AG's office will not be participating, but we're going to have a call so that Cyber can discuss their possible settlement ideas with and you say we will bring those ideas back to you the commissioners.

Moving on, I'm work on the 2008 election law update for the conference, which, of course, I'll share with Paul.

He knows that I've been working on it and collecting case law, if anybody has anything to add any cases that they want to throw in there, feel free to send them on.

The calendar has been signed off by the assembly and approved by the Senate. It's been distributed to the counties, it's 2008 through 2010 so that's finished.

There is a lot of issues on this list of the agenda today that legal has been involved with but they're on the a again Dap under old business so they can be discussed then.

If Paul doesn't have anything to add or if the commissioners don't have any questions or either for either of us

>> COMMISSIONER EVELYN AQUILA: Is this completely ridiculous but should nice tech be in the or C with Cyber?

>> It might be premature because this was an information gathering but they were he have -- involved

>> COMMISSIONER EVELYN AQUILA: Yes, they were, that's what made me think of them.

>> Valid suggestion.

>> COMMISSIONER JIM WALSH: Operations, Anna?

>> Thank you.

We are collecting annual report surveys from the county boards, working on our own unit annual report.

We continue to meet with NYS tech and Systech, the plans are moving forward.

The master plan what was due April 10 were delivered by then and they have been posted to the website and they are doing their independent review so we're expecting their comments.

These were to be completed May first and we're hoping that that deadline is within that we will meet.

The acceptance testing underway but it's listed later on the agenda so I can report on that later.

And Bob Warren is here, he's our certification manager and he can answer questions that the commissioners may have as well.

We are working on the acquisition of an asset management product, we're looking at something that is web based that will help us with our responsibilities to audit maintenance reports and pre election test and go usage issues related to all of these ballot marking devices and ultimately voting systems and we're looking for it to be a tool that the county boards can use because so many of our boards had not had the responsibility for a voting system ownership before.

They don't understand what's involved in all of that.

This also helps track all of the things that were purchased with federal dollars so that auditing down the road is not an issue because that affects us probably more so than the county boards.

So we are working on that aspect of owning new voting systems.

We've completed a draft, Kim and I worked on it briefly yesterday, to send out to county boards to determine their readiness for dealing with HAVA this fall.

I think it's important for us to know where every board stands but this would give us the cry tier we need to recommend to this board, based on our discussions at the last meeting a handful of counties to do lot 1 this year if the board were so inclined to authorize that initiative.

So we have a survey that is still in draft, we are going to take a look at it this afternoon and get it out to the counties tomorrow morning so we get feedback before the conference and perhaps we can have another opportunity to talk about it then.

I do have copies of the draft here if anybody wants one.

We are meeting tomorrow with Stanley and with Pat Tracy and Todd to discuss staffing for the filling of three positions that we already had in the works for a while now.

Those positions would be a systems and acceptance test arena, but it would be persons that we could use to bol lot programming because

the board was interested in the last meeting in looking for ways where we could provide that service to boards, especially the smaller boards that don't have the wherewithal to step up this year or next year for that matter.

We're preparing for the conference, we've materials that we're assembling and working with Lee and his unit to make sure that the conference is something that everyone learns from as well as enjoys.

We have also completely left my mind, I have my whole list and I'm prepared for acceptance testing now or later if you like and I don't have anything else.

>> COMMISSIONER JIM WALSH: Thank you.

NBRA, someone reporting?

>> I will be filling in for Lee.

Good afternoon, commissioners.

Lee and Bob are at the election center conference in Minneapolis, will be there through Friday.

SOE is here today have been for the last few days filming video for the online trade and go voter outreach program we're having here.

We had individuals come in, they were filmed using the machines.

Planning for the conference apparently is finished, at least the main parts of it.

The agenda is set, accord to go Lee, and next week we'll be training in New York City on Thursday and Friday for NVRA.

I will be going down for that.

The unit has been working along, regular business, mail kept up, the funds programs for TAVA are moving along, the New York City contracts came in last week, both co executive directors signed them and we sent them to OGS for further signatures from the attorney general's office and the comptroller's office.

That's about it.

>> COMMISSIONER JIM WALSH: Okay, campaign finances.

Liz Hogan?

>> Thanks commissioner.

The first thing we talked about was the handbook, it went to the printer, we got back the proof,

Bill said it looks good, so we're having staff proof that today and it will get sent back and supposedly we will get our printing on the 25th.

I think that's our projected day.

>> BILL: Yeah.

>> So that will be finished.

It was a big project but it looks good.

The follow up packet is can you remember in the process of being stuffed and that should be in the mail by the end of the week.

The RFP for the process server is the bids are due on the 22nd of April.

There had been some dialogue with OGS since the IFBs were received, and that's looking very good and we anticipate that the bids we'll be getting quite a number of bids, actually, I think there are 10.

The E biz project, we've purchased the software, it was delivered to us and George has it.

We anticipated because of the relatively low cost of this that we would do this on a purchase order basis but OGS says because it's considered an ongoing service it needs to be done by contract but because we're using a preferred source it's a relatively smooth process so we're waiting for the industries of the disabled to give us their proposal, we'll send it over to OGS and that should be straightforward.

The seminars are scheduled, staff in campaign finance is rotate og a daily basis, doing preparation, reviewing and creating a presentation, so that's looking good.

The HAVA administrative complaint process that is an ongoing a work in progress, really, I think we have a meeting with NYSTech tomorrow.

There is one form that we need to go over with him but the rest of them are finished.

We're compiling our stats for the annual report, that's just about finished.

We have a number of ongoing projects that we're in the midst of doing but, as I said, the work is in progress.

Stanley ask me to touch briefly on the HAVA '08 funds project.

Apparently there is a \$7.

5 million that's available to us for 2008, the new money.

So we're updating the state plan, last done in 2003.

We've had a number of meetings.

What we did was breakdown the old plan and assign it to all the people who are participating in the work group.

I think that's Anna and Dierdra, Paul, Bob, myself, George, Greg, I think that's it.

>> STANLEY ZALEN: Laurel?

>> She is working with us in terms of keeping a master.

So we've made those assignments, I've asked everyone to send their language to Laurel and she is creating a redline version, that when we meet on Wednesday of next week that redline version will be able to be distributed

to all members of the work group and we can seat new language how it integrates and updates our old information.

After we have a chance to review that redline version we will have another meeting and that will probably be two weeks from them because the conference time intervenes.

We'll take the redline version and work with a laptop computer and projector and as a work group we will go through that version and create the new document.

That will be printed and distributed for review and that should be in final form.

The only thing that will have to be done after that would be to update the initial pages I think there is about 6 pages in the initial introductory section to reflect what we finalized internally and at the end there is a section that addresses the task force that reviewed it and those ongoing things and, of course,

afterwards there is a section that addresses questions but that's down the road.

So I'm hoping that we'll actually have a final document by,

I would say, the end of May.

For review by the task force.

I don't know, Stan, you're working on that the task force part.

>> STANLEY ZALEN: (Away from mic.)

>> That's a nutshell of what's happening and when we anticipate it being finished.

>> COMMISSIONER JIM WALSH: IT? George?

>> Commissioners, let me start out with what we're doing for campaign finance.

The staff that has created the operating system neutral filing software for ESS is reviewing the prototype with folks in campaign finance and that will continued to be worked on through the summer.

We've received, as Liz alluded to, the hardware and software both for the imaging project, they still need to be set up and configured.

And speaking of configurations of hardware, there has been a lot of hardware and software procured over the last month or two that is going to require extensive set up and configuration just as a few examples.

We've got the we will be replacing our Oracle new database servers with hardware, updating it with the newest version, putting in another Oracle database server in our recovery sight so we will have a back up of the voter system, but of campaign finance, campus, everything, down in the DR site.

That will take a few months to get going.

We have to configure the imaging hardware and software, we purchased Microsoft Twaeven which we're going to roll out to the entire agency when we find time to do it and we have employee computer and laptops for the new employees that are coming in that have to be set up and configured so we're crunched for having to fit everything in.

We have a request for an Internet section now that the campus people so they can check their e mail and that stuff.

We have to go up and evaluate that site and see, you know, what we can do to try to get them some connectivity up there.

We've been supporting the on a limited basis the procurement of the SS management software.

Nice NCSVoter has turned out to be a lot more -- than we anticipated.

We have four people including myself spending 80% of their time on the NYSVoter system, in addition to the Saber support staff and prettier staff from Microsoft so there is a lot of people working on it because it is a complex system.

That consists of managing the aletters, trying to tweak things that that we can eliminate a lot of the aletters we're getting.

We've installed new hardware for disk drives on the storage area network and you continual VI to install software patches, security patches and updates and tweak the configurations and in addition to that we have to monitor the daily activities of the counties and run the reports that we have to do to keep an eye on that.

The enrollment reports and signature requirements were completed about a week ago.

We will be working with a couple of counties to clean up their political affiliation coding which caused some difficulties during that process that we were able to work around.

We will be doing NCO A processing over the next couple of weeks, hope to get that out to the countries by the first of May, and as you have seen in your packet, the steering committee has completed the auditing and monitoring of the statewide voter the procedures for coding and monitoring the statewide database.

Now the staff just needs to be assigned to doing the auditing that the computer system can't do.

We can identify things but some things are going to require manual intervention and staff has to be identified to do that.

Just want to alert everybody that there is an annual technology plan.

Has to be done by June and it's getting so that it's even more critical every year because this is what the comptroller, the division of budget and everybody looks at to determine whether you have the money to do any projects that you might want to do and this one has to be done by June, actually for the twine, 2010 fiscal year so everybody needs it think ahead of what technology projects might be on the horizon.

The other thing is we've finally switched over from storing our back up tapes we used to send them up to the archives at the state campus.

We decided with the onset of NYSVoter that we didn't have the security we wanted and we're securing now with Iron Mountain so we're securing our first batch of tapes with them now.

>> Commissioner, the issue I meant to bring up earlier stems from a conference call that we had on Monday with the election association and leadership and others.

Some were here and some were in contact by phone.

One of the issues that they asked us to consider would be addressed in the survey we're sending out was any intervention that this board thought they could burglary to bear on their own counties to deal with their inability to secure warehouses or funding for rehabilitating space they perhaps are currently in and that kind of thing.

We discussed bringing these issues to the attention of the court in the reports that Allison and Paul do weekly, and certainly having their deficiencies, full, documented in that survey would help but they department to know if you had any thoughts or would begin to think about what you thought this board might do to help them deal with the county legislatures or Boards Of Supervisors that have been recall us-- in this area so I would share that for you if not for discussion later possibly at the next meeting or at the conference because it's surely going to come up there.

Thank you.

>> COMMISSIONER JIM WALSH: Old business?

George, did you want to go back into that, dissemination of the audit plan?

>> We put it into the packet for informational purposes, we didn't have any intentions of going through it line by line but if anybody has any questions?

>> COMMISSIONER DOUGLAS KELLNER: I fully support the plan, George, and certainly I would vote to confirm it if the commissioners were going to do that.

What is the staffing plan?

>> Right now

>> COMMISSIONER DOUGLAS KELLNER: Have there been discussions about this? Is this something the commissioners need to do, the executive directors do or is this something your steering committee

>> I think the thought of the steering committee is that the executive directors need to assign the staff that is going to do the auditing.

>> COMMISSIONER DOUGLAS KELLNER: What is the timetable for doing that? I'm anxious to get this process started.

>> STANLEY ZALEN: We should do it in the next couple of days.

>> TODD VALENTINE: We're ready to do that now.

Parts of the auditing process are underway, so it's not as if, you know we're producing reports, intervention on the staff level to some extent has been done, the steering committee has been doing that.

But this plan now outlines that it splits some of those issues so the plan is in operation, if you want to call it that.

By necessity it had to be because you have to audit to make sure the system is functioning.

I agree with Stanley that I don't know when the next usually these items we have time set aside there is a weekly meeting on the database and these projects, we usually discuss this at those we've reserved the time, carved it out for that so it can be discussed at that meeting, which is Tuesday.

>> We have done a certain amount of ad hoc intervention as the steering committee, we've had to call a few counties that had connectivity issues going on and their IT department has been brushing them aside so it has been doing ad hoc stuff we just need to have for some of the things that are outlined for specific time intervals, we need for the executive directors to assign people to that.

>> COMMISSIONER JIM WALSH: Update on the voting machine maintenance?
Kim?

>> Thank you commissioner.

Coming in late to this project I was glad to see that Bob had taken approximately 100 comments or so that had been received on these regulations and categorized and grouped and summarized them, which made it easier for us as we sat to go through them.

Since our last meeting we have met several times to go through each of those comments with an eye toward the consideration of the same and any modifications that we might suggest be elevated for consideration by the executive directors and the commission.

It would be my estimate there were about 75% of the way through this process, we're about 75% of the way through this process and the last thing we have to do is schedule a meeting with New York City which we've been trying to do but due to scheduling problems it's been difficult since they estimate that the phone call should take more than two hours and they have several people they need on the call.

I anticipate this will be done the early part of next week.

Bob and I are scheduled to meet again on Monday and throughout the week to finish up the review of the comments.

I fully anticipate that the board will have a revised regulation to consider by the May meeting.

>> COMMISSIONER JIM WALSH: C, discussion of Systest compliance with posting of test materials?

>> I would defer to the counsel's office on this.

That was the directive from this board, that they intervene at this point in time since we've been unable to through our regular meetings and individual phone calls with Systest to make any progress in this regard.

So I will defer to counsel's office.

>> We started discuss this gone issue.

We have a conference call we had a conference call last week with OGS, Paul and I, Michelle Real and Franklin were on the telephone call.

We discussed what to do.

Our initial idea was since these are documents and data that we do want to have and are unable to at this moment obtain without signing nondisclosure agreements, I raised the issue, actually that perhaps rather than us signing a nondisclosure agreement that NYSTech could sign a nondisclosure agreement, go through the documents and report back to us on what's contained in the documents and whether or not they felt that Systest was reasonable or unreasonable in withholding them without nondisclosure agreements, whether or not these truly were sense I have proprietary data that could compromise Systest's ability to do business.

>> COMMISSIONER EVELYN AQUILA: Did they sign a contract with Systest?

>> Yes, they did.

>> COMMISSIONER EVELYN AQUILA: And what did the contract say they had to give us?

>> What it boiled down to was that Systest was required to give us all test data reports and documents except if those documents were labeled "proprietary" by Systest.

That's the language in the contract.

There are many areas in the contract where you see references to test data and reports and there is a section that says it is the state Board Of Elections

who determines what gets disseminated to the -- and doesn't make any reference to proprietary or nonproprietary, any, going back to the meeting we had with OGS that was an idea I floated out there.

OGS seemed receptive to it, we have used NYSTech to be the arbiter, the one who determined what's reasonable and unreasonable because we have the same issue with Cyber before regarding proprietary documentation, it took a long time to work out.

That was an idea I talked to Paul, I happened that he did float that idea back to you, commissioner Kellener and you were not particularly receptive to that idea.

And that's fine because what we have here is a disagreement about confidential information that we do need to resolve.

Since that time Paul put together a draft letter to Rex Reed, the senior manager at Systest which I got on Monday afternoon and I reviewed it and got a revised document this morning so we're in the process of reviewing this letter.

My personal feeling is since it does relate to contractual issues and parts of the RFP it should go to the counsel's office at OGS for their review to see what they think of it.

Eventually but very quickly we should get a letter out to Systest, because we have had discussions with Systest about this issue.

Nothing has ever been put to paper.

We do need to have a written communication, and after that, after they get our letter and respond to it, I guess we'll see where we go next.

>> COMMISSIONER DOUGLAS KELLNER: May I?

>> COMMISSIONER JIM WALSH: Sure.

>> COMMISSIONER DOUGLAS KELLNER: I find this report completely unacceptable and especially the dilatory response in dealing with Systest at this point.

We asked for this data the middle of February it's now two months and we haven't gotten the data.

It's not an issue of making it publicity point, even if it is proprietary, we're still entitled to the data and we haven't received it, even though we voted in mid February to approve the BMD certifications and the fact that two months having by without any follow up serious follow up letter to Systest since the last meeting in my view is outrageous.

I spent a custom hours going through the contract provisions and writing them out and the fact that three weeks later nothing has gone out to Systest is unacceptable.

The suggestion that NYSTech would as an outside agency decide whether or not something is proprietary when both the contract and state law provide that it's this agency that makes the decision, subject to a review in the courts is also outrageous.

We are entitled to this information and as a commissioner, I am particularly offended at the fact that 60 days after I've asked for it I still haven't been able to look at it myself! And we're moving forward, we have elections scheduled in September, the boards need to operate we're under court order to keep to a very tight time frame and yet we are not getting this information even for ourselves, let alone what gets posted to the public.

And I think that is totally unacceptable.

We need to move quickly on this.

Now I'm disappointed that no letter has gone out to Systest yet.

To follow up since our last commissioners' meeting but frankly I'm at the point where I don't have a lot of remedies myself September to ask again that we issue a subpoena and get this material that we're entitled to.

I would propose to the commissioners that the letter go out this afternoon or tomorrow morning at the latest, demanding and insisting that Systest comply with the contract and comply with their obligations under the public officers' law, the freedom of information provisions of the public officers' law, and if we don't get the test data with the proper notations as required by the contract and the preDom of information law within one week, then that this agency issue a subpoena to get the materials by subpoena.

And I make that as a formal proposal now.

>> COMMISSIONER EVELYN AQUILA: I agree with the subpoena because we had to do that with Cyber, if you remember.

We said we would subpoena Cyber and they came forth with the information before we subpoenaed them.

I think it is outrageous, we need to and these machines to tell us what's good, what's bad, we pay them a ton of money and they won't give us a copy of what they found? When you think of it it's out rage I couldn't say that not our people but them.

Why are they not giving us the information they were supposed to give us?
Suddenly we didn't sign a -- agreement with them.

They didn't ask us that.

Cyber, but they didn't and now all of the sudden I wonder if they have reports to give us,
I'm sorry.

I think we should subpoena and subpoena as soon as possible and then let's see what the
Court has to say.

I know it's Colorado, I don't know, Allison, you may know better than I whether
Colorado has different law, you know, about things like this.

>> Our law controls, it's part of the contract.

>> COMMISSIONER EVELYN AQUILA: They have a contract with us.

Let them live their contract agreements and if they aren't going to do that then let's give
them a subpoena and tell them we want this information.

As soon as possible!

>> COMMISSIONER JIM WALSH: Do you have any problem with sending out the
letter as commissioner Kellner has indicated?

>> Not at all.

>> COMMISSIONER JIM WALSH: Will you please do that?

>> Sure.

>> COMMISSIONER DOUGLAS KELLNER: I make a motion that if we don't receive
the documents by April 23rd a subpoena is issued for the documents.

>> COMMISSIONER JIM WALSH: Second?

>> COMMISSIONER EVELYN AQUILA: Second.

>> COMMISSIONER JIM WALSH: Do you have any problem with that?

>> No.

>> COMMISSIONER JIM WALSH: Discussion?

All in favor?

Opposed?

Carried.

Thank you.

>> COMMISSIONER EVELYN AQUILA: Thank you.

>> COMMISSIONER JIM WALSH: Item D.

Status report on compliance with performance nonpayment selection operations.

>> Performance bonds have been provided by three of the vendors, Sequoia Dominion I don't know, ES and S and we don't have one from liberty.

Michelle has been in contact with them at OGS and there was discussion about the bond and whether liberty would be required to post the same bond as each of the other vendors.

That conversation was on going, they asked if we concurred with Michelle's opinion and we did.

I spoke to Paul on that and Michelle and they have that information as well.

But as of 10:30 this morning no bond from liberty yet.

>> COMMISSIONER JIM WALSH: Comments?

>> COMMISSIONER DOUGLAS KELLNER: So at what point do we find liberty in default if they don't post the bond?

Should we set a deadline?

>> May I address that?

>> COMMISSIONER JIM WALSH: Please.

>> The contract indicated I think the bond was due 10 or 15 days after the order.

About two or three weeks ago we got OGS involved in chasing the bonds.

They've successfully chased them Anna who is the company that came in today

>> Premiere came in yesterday afternoon.

>> We need to have some sense of closure here.

If they're not going to post the bond that doesn't body well for their performance under the contract and I would respectfully ask the commission to consider, you know, authorizing that a letter go out saying -- under the terms of the contract, you haven't posted the bond, if you want to give them additional time, fine, if not, just tell them they're in default.

It's only a few machines, it is a county that is relying on us to make sure that they have machines.

>> COMMISSIONER DOUGLAS KELLNER: Right and I think we owe it to Hamilton county that if liberty is going to default on their contract

that Hamilton county be given at least a reasonable opportunity to make alternative arrangements.

I would suggest an April 28th deadline.

That the letter go out as soon as possible, today or tomorrow, to liberty advising them that they are in default, that if they have not cured the default by posting the bond by April 28th, that

>> COMMISSIONER EVELYN AQUILA: They're not

>> COMMISSIONER DOUGLAS KELLNER: While I don't recall the exact provisions in the contract in terms of what notice we have to give in terms of terminating the contract for failure to cure a default.

>> Whatever language there is we will track and perhaps, Commissioner, it would be perhaps if there is a notice of cure provision then we should say you are and have been in default since whatever date it was that was 10 or 15 days after the contract and, therefore, please receive this as your notice to cure and we'll specify the date in the contract

>> COMMISSIONER DOUGLAS KELLNER: And if there is no notice to cure

>> That will

>> COMMISSIONER DOUGLAS KELLNER: I would suggest April 28th as the date.

>> Sure.

>> COMMISSIONER DOUGLAS KELLNER: And if the contract provides for a different cure notice then we should conform to the contract.

>> COMMISSIONER JIM WALSH: You can reference the contract specifically.

>> Uh huh.

>> COMMISSIONER JIM WALSH: Okay.

>> COMMISSIONER DOUGLAS KELLNER: Can we make that a motion?

>> COMMISSIONER JIM WALSH: Second?

>> COMMISSIONER EVELYN AQUILA: Second.

>> COMMISSIONER JIM WALSH: All in favor?

Carried.

>> Acceptance testing, Bob is here so he can comment personally on this process.

It's been daunting.

There have been delivered to date 42 ballot marking devices from premiere this that is 10% of their order and those have arrived

and staff has been assigned to begin that acceptance test and go those machines should work -- the process fairly quickly.

It's meant as length think of a process on the ballot marking devices that are auto marks as it is on the dominion.

The dominion process they have been 51 systems delivered.

Several of them had printer problems which required the onsite technician to reposition the device, not a failure in any significant way but those techs onsite for the company did resolve those.

Four of them had issues with the power source, and those were resolved.

Four of them failed the hash code checking, two had problems with their serial numbers, that's, again, nothing significant as far as the acceptance testing functionality aspect of it and one had to have the tactile device replace odd it so that has moved through that process.

However, this does bring to light the fact that the Dominion is 199 units short as of yesterday.

We are my understanding have been asked to speak to Sequoia Dominion about how the delivery schedule will be made more current and how they will makeup the shortages and that conference call is going to happen next week so we can report to you by e mail or verbally what the results of that phone call is and report formally at the board.

ES and S did deliver 50 devices which were the pilot project for our acceptance testing.

Those were delivered to New York City, they have also now sent will be sending five units in the same manner so that those can be acceptance tested and sent to Erie county so they can begin their in house training and voter outreach, et cetera.

That isn't set to begin until June 17th.

Liberty's one device was acceptance tested and the balance of their systems will be delivered on the 31st of July and second Sequoia delivery schedule runs through June 19th.

Again, if Bob can enlighten you any further on the process itself would he tweaked it, we did revise how we were doing acceptance testing to make it more efficient and effective and also make it a little bit more cost efficient, we're hoping and we did share with the county boards the receipt process

that we had drafted for them a long with the various check off sheets so that they understand that process as well.

We don't expect to be deliver to go a lot of countries between now and the conference so we are contemplating discussing this again at the conference, having the same handouts so we can take their questions personally.

Then also if we need to, find time for Bob and others, Tom Wood from NYSTech will be at the conference as well if boards want to speak to them specifically about how to get this work done.

One of the issues we have is that some of the countries that were on the list to get machines don't have anywhere to receive them so we do have space at this facility, at the campus on western avenue here in Albany to hold those and I don't know if we can hold them indefinitely if all of these schedules ramp up, that may become an issue at some point.

>> We did ship out 13 units to Saratoga, and four to Washington county and the one for Hamilton county they've picked up and will deliver on the 23rd of April.

>> COMMISSIONER DOUGLAS KELLNER: I have a couple of questions for Bob and Anna and then I'm going to turn to Allison on a related issue.

Anna, you gave some pretty detailed description of the problems that were picked up in the acceptance testing so far.

My question is: Has that list been reduce to do a document and has it been distributed to people in the counties so that the counties would have an idea of the kinds of things that we were encountering in the acceptance testing so that they can gear their own maintenance and testing to be looking at those kinds of issues as well?

It strikes me that the actual people in the county office who will be maintaining these machines would happen find that information valuable.

>> Each county with their delivery gets a complete acceptance test packet, they get the results of the testing, test deck, sample test deck so they know what ballots were cast.

All of those are components of the acceptance test that go they will have.

The hash checking process is something we haven't really gotten into with the county board of elections.

We thought it was something that could be deferred if we sealed the areas

>> COMMISSIONER DOUGLAS KELLNER: I'm saying

>> No, other than that packet.

>> COMMISSIONER DOUGLAS KELLNER: You shipped out the machines to Sar together Ga county you told them what you may have found about their machines but does the maintenance supervisor at Saratoga county know in general problems that were found with other county's machines that he might want to at least be aware of as he's doing his routine maintenance and testing?
>> We haven't done that but we see the need to do that and the commissioners on the conference call on Monday asked if that was information we could share with them so we need to formalize this and get it out to them either before the conference or perhaps at the conference.

>> COMMISSIONER DOUGLAS KELLNER: And I hope we can encourage the counties who are pretty good about sending out e mails to each other but to use Bob's services as a clearing house for problems so that when one county encounters a problem with a machine that it at least somebody is keeping track of whether or not this is something that ought to be of interest to the other counties.

So that we're talking to each other and we learn about we share potential problems as quickly as possible.

>> STANLEY ZALEN: Bob, no machines go out with uncured problems do they?
>> No.

>> COMMISSIONER DOUGLAS KELLNER: But that doesn't mean
>> BOB: Doesn't mean it couldn't recur or
>> COMMISSIONER DOUGLAS KELLNER: Right or that Thoor a similar problem may have passed may occur in another machine after it's been moved or used.

All right.

The second thing which is probably more general than just acceptance testing issues is to Allison and Paul.

Are we alerting the justice department to these potential risk areas now so dominion is 199 machines short on their delivery schedule?
Did the Department of Justice know that in their weekly reports?
>> We discussed this in the last week's we didn't attach the delivery schedules to the status report to the Department of Justice last week.

Department of Justice asked for those delivery schedules, we gave them what we had at the time but we explained that they were changing.

We got a revised schedule from second Sequoia which is on its way I understand.

We'll be discussing that with the Department of Justice in our Friday morning status call and they are aware the end date for delivery according to the timeline is July 31.

That's their major concern is meeting that and it is important to let them know when you have a situation which is starting now.

To potentially affect that date.

>> COMMISSIONER DOUGLAS KELLNER: Have we told them about liberty, the bond issue?

>> Yes, uh huh.

>> COMMISSIONER DOUGLAS KELLNER: Good.

Thank you.

>> TODD VALENTINE: I wanted to ask Anna, we did receive a copy from the sufficient folk and nasa board of elections to do acceptance testing in those counties, I think to effectively do acceptance testing, and I think it's a financial need.

We only got these this week so I don't know if you had a chance to respond to those.

>> I would be happy to.

The machines are not built on Long Island.

I've had this fact confirmed three times.

There are parts that are built at that facility, Jayco Manufacturing on Long Island but the final quality control review is happening at a firm called Advantech ask that's in Rochester so there is nothing to acceptance test on Long Island.

I think the press release that appeared in the newspapers that field this issue again from those two countries I think was very positive for that company but a bit misleading as to the role they were playing here.

So I don't see how we could acceptance test anything that came out of Jayco since that perfectly, those components are being sent to Rochester.

>> COMMISSIONER DOUGLAS KELLNER: What components does Jayco make?

>> The printer and the op scan.

>> COMMISSIONER DOUGLAS KELLNER: What's left?

>> The ballot box, the monitor, the EPS

>> It's not configured until it's in Rochester.

>> TODD VALENTINE: The other reason I was raising that is you were given delivery scheduled and we talked about this at the last meeting, I don't know if we're going to be forced to address late delivery schedules when we meet with Sequoia to see how they're going to update this delay, this is problematic, we keep pushing back and back.

I think we need to discuss at some point we've had a first order first out by county but we may get to a point sometime soon where some counties will have all their machines but other counties will have non, an unequal distribution of machines and that's based -- the delays in the manufacturing, the delays in the delivery, obviously that delays our ability to acceptance test these appropriately.

I don't know if there is any options that we need to explore at this point, you know, other than telling them to build them faster.

I don't know how that's going to work!

>> COMMISSIONER DOUGLAS KELLNER: I agree with you, Todd, we should have a contingency plan ready

>> TODD VALENTINE: Yes.

>> COMMISSIONER DOUGLAS KELLNER: So that machines are allocated so that every country will have some machines and then in a worst case scenario, which I understand Sequoia tells us they will make timely delivery of the machines

>> TODD VALENTINE: That's what they said.

>> COMMISSIONER DOUGLAS KELLNER: But if they should fail to do that, then we would want to allocate the machines proportionately so that the counties could then alert

>> TODD VALENTINE: They could

>> COMMISSIONER DOUGLAS KELLNER: We could alert disabled voters you cannot go to every pole place but there would be one reasonably close.

>> COMMISSIONER EVELYN AQUILA: Are they giving us a

Date?

>> TODD VALENTINE: They have been but as Anna pointed out it's shifting.

I don't know if they inform us exactly why it's shifting, I assume it's only because they're not building them fast enough.

It's unclear.

They asked for a meeting with us to try to explain to us what they're doing.

Obviously we want to have that.

We've set that for next Tuesday.

Let's see if we can get more information out of them but I think as we see this as not happening the way we really would like this to happen we have to come up with a plan.

>> COMMISSIONER EVELYN AQUILA: I think that's always been a concern, though, would they get them done in time.

>> TODD VALENTINE: Have to see how it plays out.

>> COMMISSIONER JIM WALSH: Do you have the ability to ensure that that will happen?

>> TODD VALENTINE: Ensure that the contingency plan happens?

>> COMMISSIONER JIM WALSH: Yeah.

>> TODD VALENTINE: Well, I think, you know, the board clearly could vote to have it happen, but the contingencies are varied, depending upon the manufacturer, so there is a lot of moving parts to this system.

They are dealing with several manufacturers, they're all in slightly different positions as to where they actually assemble the machine and you heard second Kwoi Ya is a good example, they have parts come Ng, and they're assembled, and shipping and so

>> COMMISSIONER JIM WALSH: I would suggest keep a close eye on that.

I think the discussion was excellent, let's not get behind the 8 ball here because we know today your discussion is pointing in the direction of keep us up to date, please.

>> We're not delivering the acceptance tested machines first in first out, they're being delivered geographically.

The shipping order required that it be shipped first in first out and it was determined by us that we would take them in this geographical order but in house we've been talking about how this time could be made up and certainly delivering the bulk of the order may not make sense that way, as we get close egger to the political season part Thf survey could determine where primaries are being held and deliver to those counties that have primaries first and deal with them incrementally to get them through the November election, so that's our view of a contingency plan but we need to get closer to the week to see who is looking at primaries and who isn't.

>> COMMISSIONER EVELYN AQUILA: I think at that meeting you would have to impress upon them that we are under court order and the Court expects these things to be ready and they promised that they would be ready.

We also have I think there is legally something we can do, not force them but Sue them for lock of not fulfilling their requirements to us.

>> TODD VALENTINE: We'll have to and or options.

>> COMMISSIONER EVELYN AQUILA: We don't want to do all that but we want to make sure they know we're serious.

>> Even if they continue at the same rate I think each county will end up with 10% of their order by the prior to the end of July.

>> COMMISSIONER EVELYN AQUILA: 10%?

>> Yeah, we're shipping out to 10% top each country and even if they continue at this rate of 8 or 10 a day, whatever we're getting in, I think

>> COMMISSIONER DOUGLAS KELLNER: The real issue is can we get delivery and finish acceptance testing by the end of August, right?

>> Of the entire voting machines?

>> COMMISSIONER DOUGLAS KELLNER: Right.

>> I would say if it gets too far into May we could be at risk.

If they can resolve this within a couple of weeks, three weeks and get these orders bulked up we'll be fine.

>> COMMISSIONER JIM WALSH: Item F, status report on the liberty BMD verification issue.

>> Bob has been manage that go issue for us.

We do have a verification device now that reads the oriented ballot and it reads it regardless of the sides of the ballot but I will have Bob speak to you on how he came to that conclusion and what was involved in that process.

>> Just as a bit of history, Systest was originally supplied a paper that was of Frr quality, liberty then sent them the paper of the quality that was needed, and their system worked with that paper.

We also had paper that didn't work with our reader, people tried it and it wasn't working properly.

They supplied us with paper that we were told was the same quality as Systest had and that paper arrived and did work.

Wasn't a function of the bar code, the bar code is a function of how much information is there it was the intensity of the print that was on the paper.

We then took a sample of our paper and sent it out to Systest to compare that with their paper and they only did a visual and touch inspection and they said based on that they didn't think to them it was the same paper, however it did work.

We have the specs of the paper that we've sent to Phoenix Graphics they don't have that in house but they'll track down and see where they can get paper that meets this, and we'll get that in from them and test it to make sure the paper meets the specs.

I have the initial paper samples that were provided to Systest if anyone is interested in seeing it.

I have the new paper that was provided to Systest and I have a sample of our paper that we have.

Right now all the paper works our paper works, is it of the same quality?
We won't know until we get something that meets the spec from an independent source.

>> COMMISSIONER DOUGLAS KELLNER: Does Hamilton County know they have to use this paper now?

>> I haven't told them that, I would hope that the vendor has, but we could provide them this spec, also.

>> COMMISSIONER DOUGLAS KELLNER: Well

>> They are getting paper of this supposedly of this quality with the delivery of their machine.

>> COMMISSIONER EVELYN AQUILA: Doesn't hurt if they hear it from you, too.

Everyone agree?

>> COMMISSIONER HELEN DONOHUE: Yes.

>> COMMISSIONER DOUGLAS KELLNER: Yes.

>> COMMISSIONER JIM WALSH: Any other discussion?

>> COMMISSIONER DOUGLAS KELLNER: No, thank you.

>> COMMISSIONER JIM WALSH: G, resolution to increase voting machine vendor testing fee escrow amounts.

>> We are recommending that the board direct us we had this discussion initially at the last meeting and we have estimates now from both NYSTech and Systest on estimated.

All the nonbinding words anyone would want to think of that speak to the effort involved in completing certification and the costs are considerable.

The vendors do have amounts left in their escrow accounts.

I think the smallest balance was \$80,000 and the largest was close to \$300,000.

So we're asking that the board direct or approve this resolution and direct the vendors to replenish their accounts to bring balances all up to \$750,000 by May 15 so that the costs that are being incurred in hardware testing and technical data package reviews can be deducted from these accounts and we won't be working at risk and having to pay Systest out of our own funds or other HAVA funds.

>> COMMISSIONER JIM WALSH: Comments?

>> COMMISSIONER DOUGLAS KELLNER: I have four wording issues on the resolution.

In the first paragraph after the 969,000 I suggest that it says "per vendor" just as you did in the second paragraph.

I don't know how you want to proceed.

>> COMMISSIONER JIM WALSH: Why don't you list

>> COMMISSIONER DOUGLAS KELLNER: The other three the next one is in the sixth "whereas" clause the word escalated is in there and I don't I don't think it's great Dikz to use that.

I would cross out "and it being escalated" just say certification testing has begun.

The next "whereas" clause shouldn't be a clause but it should be moved as the last paragraph of the resolution.

So that instead of saying "whereas, if the costs for testing exceed the balances in the special revenue accounts, they the testing for that vendor will be suspended" instead of that being a "whereas" that she had go to the last paragraph as part of the substantive resolution.

We would move it to the last paragraph and strike the word "whereas."

"

Then in the printed text, the last line it says "be shared with the vendors" and I suggest that should be changed to "be provided to the vendors."

"

Those were the four changes I propose.

>> COMMISSIONER JIM WALSH: Before I ask for a vote on this, is there

>> COMMISSIONER EVELYN AQUILA: I had one.

Anna, how do we know that this money that they're asking for is proper is right?

That they're not asking for more money than they deserve?
Do they just give you these prices and say we're going to raise escrow now?
Or do we raise the escrow?
Where does it come from?

>> I think the the EAC is on record at a couple of conferences speaking to the '07 guidelines that are in draft form right now and have advised states and obviously whoever else was at the conference that they expect the cost of certifying to those standards would cost between \$2 and \$3 million per vendor.

>> COMMISSIONER EVELYN AQUILA: Okay.

>> When we put our RFP together we used the figure of \$1 million for the cost of certification because we know the '05 standards are different from the '07 standards.

I think the depth and the breadth of test that go New York is requiring in order to be confident that the machines that New Yorkers vote on are secure is much more detailed than anyone ever imagined.

I think NYSTech has worked hard to put as fine of April point on that very issue as possible to Systest,
and I think other states are going to be looking at what we're doing in New York and how we're getting to that comfort level,
that the concept of vendors paying for their own test and go getting their own certification clearly did not provide voters with the kind of system that they could rely on and we don't want to be in that position here in New York to have to produce the kinds of reports that California has put forth.

So I think it's hard for a lab like Systest it was certainly hard for Cyber as we know, to wrap their heads around the fact that in order to confirm whether a system is operating correctly the tests that would result in a positive respond is not review the vendor documentation, the test is an actual test, there is something that has to be done, either a source code review, functional test, something somebody touches and looks at and reports o not simply reviewing documentation from the vendor which we know is not at a level that anybody is comfortable with yet.

So I have no doubt the work is going to be put into this certification and that NYSTech is going to, in providing that independent review, make sure that that happens.

>> COMMISSIONER EVELYN AQUILA: I believe all this.

Is the figure they came up with, the increase, is it valid?
Is it really what it costs them?

>> I think it is and I think that part of what's what makes me say that is I think it's finally dawning on Systest and I was going to raise that issue after this discussion

that whatever they've done in the past to certify systems is absolutely so sub par to this process.

That as I've said, they have struggled with getting their heads around what New York wants and needs and it has cost money and a lot of people to take this to this depth and breadth that we want to have this in a final report that let's us know that the machines we're using are the best possible for voters in New York.

I have every expectation that that will happen but I can assure you it's going to cost a lot more than we ever imagined here at the state board and more than any vendor imagined.

>> COMMISSIONER EVELYN AQUILA: As long as everybody is comfortable.

You know, I just was wondering is there any way we could have judged if this was a fair amount.

>> COMMISSIONER DOUGLAS KELLNER: She's going to raise that issue next.

>> COMMISSIONER EVELYN AQUILA: Yeah, she said that.

>> COMMISSIONER DOUGLAS KELLNER: There was a 5th change I see in the fourth line from the end the word "there" should be "it."
"

>> COMMISSIONER EVELYN AQUILA: Should be what?

>> COMMISSIONER DOUGLAS KELLNER: It's a grammatical error

>> COMMISSIONER EVELYN AQUILA: Oh, you want it "it's?"

>> COMMISSIONER DOUGLAS KELLNER: Has to match the Antecedent.

>> COMMISSIONER JIM WALSH: Okay, we have a restructured

>> COMMISSIONER DOUGLAS KELLNER: I move the resolution as amend wd those five corrections or revisions.

>> COMMISSIONER JIM WALSH: Second?

>> COMMISSIONER EVELYN AQUILA: Second.

>> COMMISSIONER JIM WALSH: All in favor?

Oppose?

Carries.

>> COMMISSIONER DOUGLAS KELLNER: Anna said she wanted to do a follow up
>> I department to make the board aware of a recent invoice that we got from Systest and it really does articulate what my concerns were, I think, if you're letting me rant.

We had asked in the middle of March how many more hours Systest thought it would take to wrap up the master test plan.

And we also asked NYSTech what they thought it would take Systest to wrap up the test plan.

The estimates we got were 100 hours from Systest and NYSTech estimated between 40 and 60 so we added those together and came up with the amount we requested at the last board meeting for appropriating funds that would pay the generic costs of getting to this point.

We have an invoice in our hands right now for over 1600 hours of generic time in producing a master test plan and a requirements matrix that addresses New York's concerns and map is out a path for testing to the level that we're interested in.

So clearly the \$150,000 that the board approved at the last meeting doesn't even get us to this March invoice and they have been doubling their efforts in April NYSTech was supposed to go out to Colorado and meet with them so that they could try to drill this message in their heads a little bit more and it's not a desirable thing it's a mandatory issue with us.

So I just want the board to be aware that there will be a resolution in the next packet to considerably augment the generic cost account to cover these figures.

>> COMMISSIONER EVELYN AQUILA: Systest needs to agree with us and send us this information if they want the money.

>> I can try to speak to them perhaps about the misdirection that they were on and the costs involved in going down that road instead of this road and I don't know how they feel about revisiting that issue but I'm certainly willing to talk to them about it but, I think, it speaks to what went on in previous certifications, the '02 certifications that were being awarded and the '05 certifications that vendors suit their own does bring those results into question and I think that's something that boards around the country need to know about, and they're finding out about it.

>> COMMISSIONER EVELYN AQUILA: They will find out they won't find out if they keep everything secret.

>> Excellent point.

>> COMMISSIONER DOUGLAS KELLNER: The 1600, how does it breakdown between NYSTech and Systest.

>> The 1600 is Systest, it's not NYSTech's for independently reviewing this other work, so the -- contract extension

and funds that were designated in that resolution also at the last meeting I don't know how that will be affected but I can envision it will be.

So there may be another extension or augmentation for paying that as well.

>> STANLEY ZALEN: Can I repeat what I thought I heard you say, that when they were asked for the estimate Systest said 100 hours but they billed us for 1600 hours so far? When they give us an estimate like that I don't want to throw this at counsels without you having checked is there a contractual obligation to be anywhere close to what they
>> It's a time and materials contract.

>> STANLEY ZALEN: So it's
>> TODD VALENTINE: Right.

>> I think it's probably the biggest reality check Systest has had in their lives.

>> COMMISSIONER EVELYN AQUILA: They work a 40 hour week, this is 40 weeks?
>> They are working more than 9 5, five days a week, that's something we liked about them when we reviewed their RFP that they were willing to put resources on whatever needed to have resources assigned.

So they've clearly done that.

[CHUCKLES]

>> TODD VALENTINE: We have an anticipated meeting to deal with we've started with to deal with these budget issues because each of these units unlike the past now over sees almost a segregated funding area.

So what we've begun doing is meeting with each of these units to try to see what their special needs are.

We have to make anticipated costs immediately for, you know you get a budget but you're only allowed so much cash so we have interim quarter by quarter issues we have to deal with.

This is a good issue, the request is how does this impact the resolution that we've done in the past, what should we ask for, do we increase that?
Another option as with any invoice, and we've always can examined these with a fine tooth comb is are these -- after we get an invoice.

We have a clear contractual right to proceed test that and already built into the contract is a withhold of 10% anyway off the top for payment just based upon completion of the project.

So we have some rights that are built into the contract to address that.

But, yeah, I mean, it's taking I think it's a fair estimate to say this is taking a lot longer than we would like it to to get to this point.

>> COMMISSIONER DOUGLAS KELLNER: I applaud Anna for the spirit of her remarks and I share the philosophy completely.

>> Thank you.

>> COMMISSIONER DOUGLAS KELLNER: What we are we are doing something unusual here in New York and that is insisting that they actually test for all of the standards and not just say that the machine meets those standards without real evidence that they do.

And I thank NYSTech for holding their feet to the fire to make sure that they do, in fact, meet those goals.

>> COMMISSIONER JIM WALSH: Thank you, Anna.

>> COMMISSIONER JIM WALSH: New business, several items have come up today and have indicated some very close deadlines, deadlines that may not have been met, are difficult to meet and I have a feeling this is going to be a discussion that we're going to have for several months to come so I warn us all that some of these things will have to be followed up on immediately because they're going to come up again and we're going to be reminding each other that we spoke about that at the last meeting so watch out for the future, it's coming at us in different ways that we may not wanting to be see happening too quickly, the review of the state board commissioners 2008 planning calendar, comments?

>> TODD VALENTINE: Related to this what we've provided in order to plan out, it doesn't have dates other than dates we know to be certain events in which the commissioner needs to work around.

Not to work backwards but starting in actually December, we have a hard deadline for certifying the December elections, certainly the election occurs in November, and the primary in September, but prior to that time has to be reserved in August for petition challenges related to the independent position period and the board needs to find out when they intend to meet for that.

Not today and certainly in July, petition challenges related to designating petitions so you should anticipate a meeting at that point in time.

Those filing dates are listed on the calendar so you can start to it see in a bit more of a graphic format rather than a political calendar where these fall in the month and then we have other events we're working on, the county election commissioners have their own meeting in June so many of the staff go to that so planning meetings that relate to those issues,

there are certainly holidays that occur through the summer and in addition to our own conference, getting up to April in this month so in looking ahead I certainly didn't expect you to come out with a plan of meetings from here until December today but what we wanted to do is give to you a list of here are the anticipated events that are going to block out certain amounts of time related to staff here.

And events here that will have impact on petition filings, in particular.

So I think it would be helpful if you start thinking, have that information and you, of course, being part time commissioners, have your own calendars to interact with this so it might help us look ahead a little bit.

>> COMMISSIONER JIM WALSH: I would appreciate coaching as to what you might suggest not now either but

>> COMMISSIONER DOUGLAS KELLNER: I was going to suggest that we discuss our next two meeting dates and I would suggest Wednesday, May 14th and Wednesday, June 11th as the next two dates.

>> COMMISSIONER EVELYN AQUILA: This is my wedding anniversary, June 11th.

May 14th?

You say?

>> COMMISSIONER DOUGLAS KELLNER: And then, Todd, given the designated petition period does the 23rd of July make sense?

>> TODD VALENTINE: It would be around then.

>> COMMISSIONER DOUGLAS KELLNER: Maybe we shouldn't lock a date down now.

>> TODD VALENTINE: It's hard to lock that down but I wanted to make you aware this is happening, it's going to happen in July, we know people are going to object to petitions and we know at some point the four of you will have to meet.

>> COMMISSIONER EVELYN AQUILA: I don't want to agree to July

>> COMMISSIONER DOUGLAS KELLNER: May 14th and June 11th.

Just throwing them out.

>> TODD VALENTINE: It it helps the staff here plan for time off, enforcement getting its cases together, it helps us.

>> COMMISSIONER EVELYN AQUILA: I can see that.

>> COMMISSIONER HELEN DONOHUE: Are we scheduled for a meeting during the conference?

>> TODD VALENTINE: No.

>> COMMISSIONER JIM WALSH: Commissioner, you gave two suggestions, is there any problem with May 14th or June 11th?

>> COMMISSIONER HELEN DONOHUE: Not that I know of.

If I do, when I go back to work I will know immediately.

So if you don't hear from me, we're fine.

>> COMMISSIONER JIM WALSH: Put them in tentatively?

>> COMMISSIONER EVELYN AQUILA: Sure.

>> COMMISSIONER JIM WALSH: And Stanley can confirm those dates have been, in fact, made?

So they're tentatively set for May 14th, June 11th, noon, here.

Okay.

If there are no other public business at this moment

>> COMMISSIONER DOUGLAS KELLNER: Can we ask if we need the executive session?

Does anybody want to talk about any of these?

>> COMMISSIONER HELEN DONOHUE: They all seem to be pretty clear.

>> COMMISSIONER DOUGLAS KELLNER: I'm prosecuted to vote on them.

I move the adoption of the preliminary -- in CMP06 CMP06 46, 50 and 52.

>> COMMISSIONER HELEN DONOHUE: I second.

>> COMMISSIONER JIM WALSH: All in favor?

Opposed? Very smooth, carried.

>> COMMISSIONER HELEN DONOHUE: I would like to make a comment on Dierdra's letter that you did and resulting from the DMV thing?

I was very happy with that.

>> Thank you.

Unfortunately you

>> COMMISSIONER HELEN DONOHUE: Did you get a copy?

>> COMMISSIONER EVELYN AQUILA: Which letter?

>> COMMISSIONER HELEN DONOHUE: The woman that brought the problem that

>> COMMISSIONER EVELYN AQUILA: That was the one I asked about.

I didn't get the letter.

>> COMMISSIONER HELEN DONOHUE: I did, but

>> I sent everybody a copy, I'm sorry.

>> COMMISSIONER EVELYN AQUILA: That's okay, but you had told me beforehand any in the fall.

>> COMMISSIONER JIM WALSH: Any other business to come before our board?

If not we'll accept the motion to, all in favor?

Carried, we are adjourned.