

Peter Kosinski: Meeting of the State Board of Elections. I'd like to call the meeting to order. My name is Peter Kosinski to my right is Doug Kellner, to my far right Andy Spano and to my left Greg Peterson are the other Commissioners. And so we'll start the meeting with the minutes of June 10, 2015. I believe we have two sets of minutes. Could we take them separately? I would entertain a motion to approve the public minutes from June 10th.

Douglas Kellner: So moved.

Andy Spano: Second.

Peter Kosinski: Moved and seconded all in favor?

[Chorus of ayes] opposed? They're approved. We then have separate minutes of the Executive Session. I personally had asked that these minutes be, I don't know what the word is but I think they're a little too disjointed the way they've been presented to us. It's sort of more of a transcript of what happened rather than just minutes. I would ask that they be redone and be just, I don't think there's anything wrong in them but I just think they're a little hard to follow. I would ask if we could get those, you know a better format and maybe we could approve them next time?

Douglas Kellner: Okay.

Peter Kosinski: Any objections to that?

Douglas Kellner: Nope.

Peter Kosinski: Okay thank you. So we'll take those up next time.

Douglas Kellner: Who's actually going to do it?

Peter Kosinski: I'm sorry who does those minutes? I don't even know.

Brian Quail: For the last meeting I did them.

Peter Kosinski: Okay can you just, I just felt it was just sort of a stream of sentences without really consolidated into topics and maybe discussion and a little easier to follow. I thought it was hard to follow:

Kathleen O'Keefe: I know that Doug wanted a little more detail as well...

Doug Kellner: That's right I did want the detail and I know we have the tape so I'm a little more comfortable with that.

Peter Kosinski: I'm okay with the detail I just think it's a little hard to follow the way it is. Do any of the Commissioners have any opening statements before we go to unit updates? Anything at all? No? Okay. Then we'll go to unit updates Executive, Robert Brehm and Todd Valentine.

Todd Valentine: At the end of last week the Governor signed a Presidential Primary Bill into law so we have a draft calendar that we'll put together and notify everybody of that. That's actually for April, April 19th of 2016. And we have two vacancies that we signed to certify this morning that occurred from last week that we'll notify the counties of those the 52nd Senate District and what's the other one Anna?

Anna Svizzero: 19th.

Todd Valentine: The 19th Senate District and 52nd Senate District. And we continue working on our search for the head of the IT Unit. We've gone through a round of interviews and we're looking to make our final selection hopefully this week. So that's where we're at with that. Bob?

Bob Brehm: Well one I think we should point out I know we got the news late on Friday, the passing of Commissioner Rodney Gaebel in Sullivan County. He had a stroke about ten days ago I think Anna, two weeks ago? The reports were that he was making progress but late Friday he passed. So I wanted to bring that to your attention. We all send our best wishes and condolences to his family.

A number of items that are in the units have certainly occupied our time. The Political Calendar for the Presidential we've shared and the proof is ready now that the bill has been signed. I think our attention is next to the June Federal Calendar that we have to deal with cause it was not part of the Legislative Session. So Todd and I had talked, Anna and her people have put together a draft outline to share so we can start working for the unified application to Judge Sharpe to set that calendar next. So we hope at the next meeting or shortly thereafter to have that ready for you. We wanted to wait and make sure you know the Legislature didn't address some of the issues while they were dealing with the Presidential Primary which they didn't. So I think that's the main issue that is before us.

Todd Valentine: And one other thing to mention new since the last Board Meeting was The Deputy Director of Election Operations Brendan Lovullo is joining us this morning.

Everyone: Welcome, Welcome Brendan.

Peter Kosinski: Anything else from the Executive? No? Then Counsel Compliance Kim Galvin and Kathleen O'Keefe.

Kim Galvin: Thank you Commissioner. The routine work of the unit keeps us busy with the compliance reviews and the increase in calls that we've been receiving. There have also been many calls from County Boards of Elections regarding the upcoming elections and just people and candidates in general. A couple of cases have been filed as a result of the JD filing period that just passed. Those are ongoing. The Board has traditionally taken a no position in those.

There's been a couple of other lawsuits that have been filed against the Board. I imagine we'll be talking about those things at least in Executive Session that was filed by the Brennan Center and there was another one that challenged the rules of the new party. So, those have required a little bit of attention. We have been having internal meetings amongst the units and together with Enforcement had one to try to work through some of the workflow communication issues that we've had. They seem to be productive. We have proceeded with and Brian and Bill have done a series of Hearing Officer Interviews with the candidates that applied for those positions. There's one interview left to be had. We've had some new staff start in the Compliance Unit. They're being trained and brought up to speed on the various duties and we've been working on drafts on some of the opinions that have been requested of the Board. It's been busy and I'm sure Anna will talk about the petitions and the hearings on the same. But it's been busy but we seem to be moving everything forward. That's it. Do you have anything to add?

Kathleen O'Keefe: Yeah Kim hit a lot of the high points. We had our July Periodic Report was due on the 15th. It's obviously a result of an increase in phone calls and inquiries to our call center as well as issues regarding determination and resignations, so forth. I want to bring this to the Board's attention, the New York City Campaign Finance Board filers have a catch-22 that we've recently discovered. It's a software issue. Maybe we can develop some kind of proposal down the road that may address some of that concern. We could possibly do that in regs. We are doing our Legislative Audit that is underway. That is the two year and four year audit to look for overcontributions. We...

Peter Kosinski: I'm sorry, I'm sorry can I just interrupt?

Kathleen O'Keefe: Sure.

Peter Kosinski: Can you elaborate a little bit on that catch-22?

Kathleen O'Keefe: Sure the software for the Campaign Finance Board has certain requirements. Now presumably they're dealing with the same facts, the same documentation whether they file here or they file there. However, the software itself asks for certain fields that are not completely identical between the two programs. And as we know our program is very old. Apparently it's just; this was just discovered last week. Apparently when people do their filings, these are the New York City folks, they do their filings and then there's a check off box "Do you want us to forward your filing to the State Board of Elections?" And they've been routinely checking off that box. The problem is when the Campaign Finance Board then does that, they launch it to us; it disrupts what was otherwise filed here and makes it non-compliant. So, we need to perhaps think about telling them to remove that box rather than have the Campaign Finance Board do it, have...

Peter Kosinski: Sorry, let me understand this a little bit more clearly. So I'm a filer in New York City. I have to file with the Campaign Finance Board because I'm taking public money down there. I also have to file here.

Kathleen O'Keefe: That's right.

Peter Kosinski: So are you saying that these people file here and there at the same time.

Kathleen O'Keefe: That's right yes.

Peter Kosinski: But they file a bit of a different filing because there's some different...

Kathleen O'Keefe: Fields.

Peter Kosinski: Fields?

Kathleen O'Keefe: Right.

Peter Kosinski: So they've already filed here?

Kathleen O'Keefe: Right.

Peter Kosinski: But then the Campaign Finance Board when they forward the filing that was done down there...

Kathleen O'Keefe: It disrupts...

Peter Kosinski: disrupts what's here, what's already here? Oh, I'm sorry.

Bill McCann: The Campaign Finance Board is acting as an intermediary if you will to forward, let's say they didn't file with the CFB, CFB but says he wants to send it to the state.

Kathleen O'Keefe: Right but my understanding is that what it, what happens in translation, it's not correct here. In other words, now I was under the impression they were doing some filing here and I may be wrong about that but the bottom line is they are allowing people that to they, they are allowing the Campaign Finance Board, the Campaign Finance Board is allowing people to check this box to get the filing done automatically.

Peter Kosinski: Gotcha, gotcha.

Kathleen O'Keefe: There's a possibility here of fixing this very easily and I think it could be done by reg which would be to have the Board consider eliminating people have to file at the Campaign Finance Board from actually filing here. It's sort of the reverse of what was done with local filers where local filers can opt to file here instead of locally. Is that ideal? It's probably not ideal but until we have our new program, our new computer system and I'm not even sure at that point if it will resolve it. But at least at that point we'll have an operating computer system that could potentially speak to the Campaign Finance Board's computer systems.

Peter Kosinski: So what happens right now, so they file with the Campaign Finance Board? I assume they put it up on their website. Then the filing is sent to us. What happens to it here? It just goes nowhere? It's rejected? It's...

Kathleen O'Keefe: It gets uploaded but it looks deficient.

Peter Kosinski: Oh.

Kathleen O'Keefe: That's the problem and then they're getting deficiency notices from us.

Peter Kosinski: Because why, why does it look deficient to us?

Kathleen O'Keefe: There's some kind of inability to translate and we have filers that file here. They run into the same thing. They use Aristotle or NGP, there's a couple other programs out there that when they file with us we've seen things like you report one contribution from a partnership and instead of it just being one number, they get, they attribute it to the whole partnership so it looks like this massive overcontribution.

So there are glitches in the computer systems that are being used by some committees to make the filing that don't really speak coherently with our computer system.

Kim Galvin: The difference is Aristotle and those companies will work with us...

Kathleen O'Keefe: Right.

Kim Galvin: to work through the glitches where Campaign Finance Board doesn't necessarily, isn't necessarily amenable to changing their system to accommodate us.

Peter Kosinski: So we have to change our system to accommodate them.

Kathleen O'Keefe: We're sort of exploring what's really going on at this point.

Peter Kosinski: And I'm not against that if that's what we have to do because we are in the midst I know of creating a new system anyway. So if part of that accommodates this problem that makes sense to me but I realize that's not happening tomorrow either. That's not happening for a while so I guess in the meantime what is the solution?

Kathleen O'Keefe: Right. Well this just really was discovered in the last couple of weeks and now that we're doing deficiencies obviously we don't want people to get deficiencies when it's really just a computer issue. So we're in the middle of trying to figure this out.

Bill McCann: Right there, there are several issues for instance one of the big issues in New York City is they have what is called advance repayments. So when the campaign gets money fronted if you will through the public matching, how that then gets translated to our reporting isn't necessarily the same. So while it might be sufficiently detailed for the Campaign Finance

Board's filings when our auditors do the review, we don't have the necessary level of detail. So, so the people who file at the Campaign Finance Board are filing it, it's compliant so it's CFB but it's not necessarily compliant here. Also for instance, New York City has been exploring through regulations allowing for text messaging contributions and certain things like that where depending on how people will receive those things, we may not have that type of contribution listed as a choice in our software. So when people file them and so when you get the parody or accommodation and those types of things. So we're in the process of having some of those discussions to determine how we can have the compatibility work so that both sides of the filings can work. And also to Kathleen's point, I just want to clarify though that the local filers don't have an option. They can't opt into filing here it's either they do or they don't. But certainly to her point about the filing and duplication that certainly might be something we could address.

Peter Kosinski: Can I just say it is a little surprising that it just came to our attention. Hasn't this been going on a while? Did they make a change down there that caused this or why is this now happening?

Bill McCann: I don't know if they made a change but you have to remember that with the advent of the compliance unit we are now looking at all these reports very specifically. A lot of these issues, the filings would have been loaded and filed and you wouldn't necessarily have noticed them because they weren't being reviewed to that level of detail whereas now they are. So.

Kathleen O'Keefe: Also people that are doing filings often have consultants and the consultants are now saying what does the State Board mean you have to, you know, amend this deficiency. This is ridiculous. It's a software issue. So as people are giving us feedback we've become more aware of how these two systems are working or not working together.

Doug Kellner: I have a few questions.

Peter Kosinski: Oh sure.

Doug Kellner: I saw the draft annual report and for the Compliance Unit I did not see the same level of statistical detail that we used to have in the prior reports with the number of committee filings and the number of committees that were brought to court and the amount of judgments and judgments collected. And I believe that this is all information that we provided to the Moreland Commissions so that the statistics are there. I just don't know who is responsible for that section of the report and I would ask that the draft annual report be advised to include that statistical detail.

Kathleen O'Keefe: Just to clarify for you Commissioner, I don't know why that draft report was sent out because it has not been completely reviewed by Kim and I. It went out to the Commissioners unbeknownst to me. I have it on my desk and I've already...

Doug Kellner: Yeah, well but that might have been a good thing because the report's like six months overdue so.

Kathleen O'Keefe: No I agree but the fact of the matter was the report was launched without any staff signoff for that to happen. I mean we are in the middle of actually doing this. Now I have not participated in an annual report in the past. I do know that the piece that has to do with the Counsel's Unit and the Compliance Unit needs significant work because it's a brand new unit. So obviously with the new unit you're going to have a significant amount of additional work versus units that have been in existence. So that, it is not a, it is not even in draft form.

Doug Kellner: Alright but the goal is to get the 2014 Annual Report done before 2016.

Kathleen O'Keefe: That's very true.

Doug Kellner: Alright maybe that's for the Executive Directors to take up who's going to do that. But I did want the statistical information. And I don't care that the pictures of the Commissioners are also out of date.

Kathleen O'Keefe: Yes.

Doug Kellner: But maybe Commissioners Kosinski and Spano would be more interested in that.

Kim Galvin: Right I mean it is going to be a partial snapshot because the staffing and the level of the...

Doug Kellner: Obviously it changed in September but the point is to at least keep up the level of statistical detail that we had in prior reports and so there's a baseline for the public to evaluate what's happening. Alright so that was one. Next is there were the two lawsuits regarding the Women's Equality Party. What's the status of that litigation now?

Kathleen O'Keefe: Both lawsuits were commenced in different counties, Nassau and Niagara. The one in Nassau County has now been discontinued voluntarily discontinued. The one in Niagara is returnable August 6th I believe. We have agreed to take no position here. Both sides are represented by counsel. I understand that they are in the process of submitting briefs to the courts on the merits as well as a motion to change venue.

Doug Kellner: And the Board is not taking a position?

Kathleen O'Keefe: That's right.

Doug Kellner: Okay and then the limited liability company lawsuit that is returnable August 7th and I understand was it Kim wanted to ask for...

Kim Galvin: I did.

Doug Kellner: additional time?

Kim Galvin: I asked for an extension...

Doug Kellner: And I said I had no problem with that.

Kim Galvin: with a consent yeah obviously.

Kathleen O'Keefe: Have you heard back from them I...

Kim Galvin: I have not. I heard back from the, Mr. Chelley who said that he wasn't handling the day to day but that I would hear from one of his partners and they were agreeable. It seemed like they were agreeing to work with us to give us some time based upon a variety of factors. But I suspect that will be today or tomorrow that I'll hear from them or I'll call them back.

Kathleen O'Keefe: And the return date is the 7th but papers are due the 3rd.

Doug Kellner: I think Commission Spano and I still have the same views that the Boards position is incorrect and we would still like the Board to revisit that policy. So I would ask, you know, the Commissioners to consider revisiting the LLC Policy again. I think many of the arguments that are laid out in the lawsuit are correct and that we should not stand on a policy that's outmoded and probably has an incorrect reading of the statute.

Peter Kosinski: Well you know to be fair I understand we discussed this a couple of months ago, had a lengthy discussion and I think we came to a final vote which, you know, I think we stand by, so I, I realize the lawsuit has now been commenced and I think we'll be in court, you know, defending those positions that the Board took. And you know the court will do what it will do I guess. But I don't know that there's any basis. I don't have any basis myself to revisit the issue since I don't think anything's changed since August 16th. So I don't know why we would visit.

Andy Spano: We have additional work, we have additional expenditures possibly and we're going to lose this lawsuit.

Kim Galvin: Well ordinarily we talk about these in Executive Session so I had a lot of arguments to make but if you're choosing to do it publicly I can make my arguments now.

Andy Spano: No I don't mind waiting for Executive Session.

Peter Kosinski: I think if we're talking about litigation strategy...

Kim Galvin: Yeah sure.

Peter Kosinski: we'd be better off in Executive Session...

Andy Spano: Great.

Peter Kosinski: so we can talk freely.

Doug Kellner: Well alright I just wanted to be on the record with my position and I guess I've said it and I believe Commissioner Spano agrees with me.

Peter Kosinski: Okay.

Doug Kellner: Alright then my last set of inquiries here is are we, is the Compliance Unit making formal referrals to Enforcement of the non-filers?

Kathleen O'Keefe: We have provided Risa with everything up to I think the July this past this month's filing. All the non-filers for candidates and party committees I believe. We have not done the patch. We can add that. And then we have not run the July 2015 one but everything previous to that was provided.

Doug Kellner: Okay and has a regimen been developed yet on how to deal with over contribution referrals and who's going to do what with respect to determining over contributions?

Kathleen O'Keefe: We have agreed to do the candidate over contri...

Doug Kellner: Who's the we?

Kathleen O'Keefe: The Compliance Unit the Counseling Compliance Unit has agreed to do the over contribution audits for candidates which we are in the middle of doing now. So it's the four year statewide and the two year State Leg.

Kim Galvin: We feel that those are actually real compliance type issues. I look at those filings to make sure they're given a compliance look.

Kathleen O'Keefe: Right.

Doug Kellner: And then is the plan to make referrals to Enforcement?

Kathleen O'Keefe: Right well these folks similar to what happens with a regular compliance review where you let folks know you've got some kind of deficiency. We're letting people know. A letter will go out. We haven't done it to, it's a massive audit obviously. A letter will go out and basically say here is where you've taken an overcontribution and this is what you should do to correct that. There is a mechanism the Board has used historically in that regard and then we get copies of their checks making the refund and so forth. So we are actually in the middle of doing that.

The other thing that we're in the middle of doing and the staff has had some pretty interesting discussion about, are the deficiency referrals. Deficiencies run the gamut from you're missing one address to you have a negative balance. I mean deficiencies are along a very broad

spectrum. And we've spoken to the Enforcement Unit. We gave a deficiency list to Risa and with the suggestion that Kim and I both agree to say do we want to try to classify deficiencies in a way that is sort of de minimis which the statute does sort of recognize. You can have de minimis deficiencies versus what are significant or substantial deficiencies. So we actually have Cheryl and Bob who are the heads of the Compliance Unit going through all of the deficiencies in one filing and using that as basically a pilot sort of, of our own to say where do these various deficiencies fall in on the spectrum. What we hope to do is share that information with Risa and if we can come to some kind of meeting of the minds, it will give us a much better idea down the road of what the Enforcement Counsel is interested in seeing.

Kim Galvin: And just to supplement that when we had met with Risa and the Enforcement Unit we all agreed I think theoretically that, you know, missing one address in a multi-page filing might not be something they would be interested in. So when we forwarded those we offered if they wanted for us to go through them and classify them in what we thought were, you know, missing an address, missing a zip code those sorts of things. And then hopefully we could come to a threshold agreement so that that would cut out a great deal of work and letters that we've heard from various elected officials too. I mean you're sending me a letter for one missing address and you're doing this for that and it'll ease the burden on the Compliance Unit yet we have agreement with Enforcement that it will be something that, you know, we'll still send a training letter or whatever to notify them of that deficiency but we won't waste a lot of time for something as de minimis as a zip code or a missing address or something like that.

Kathleen O'Keefe: Also our concern is we should not be telling people this is a de minimis issue just address it the next filing like a training issue. If the Enforcement Unit doesn't agree with that we're setting people up for problems...

Kim Galvin: Right.

Kathleen O'Keefe: and we don't want to do that.

Doug Kellner: Regulations what's...

Kathleen O'Keefe: You're taking my whole report from me Commissioner.

Doug Kellner: Oh did I interrupt you? Then finish, go ahead, I'm sorry.

Kathleen O'Keefe: Okay we sent out a postcard before the July 15th filing to all treasurers and candidates advising them and reminding them of their July periodic filing. It's brought certain issues to the forefront regarding candidates that do not have to make a filing but then our system captures them because their names are appearing on say constituted committee lists, things like that. So, again this is a new step we're taking trying to give people a heads up before the filings due and we are discovering issues that now we need to address with respect to how our Compliance Reviewers and the Call Center are answering certain questions.

Kim Galvin: And also this is going to increase the amount of people not just...

Kathleen O'Keefe: I want to say a thousand.

Kim Galvin: Right, yeah.

Kathleen O'Keefe: Yeah so then our Compliance Webinar was provided on July 9th and the 22nd. It's going to be provided again on the 26th of August. The Webinar is an introduction of the Compliance Unit and outlines our top deficiencies and our training issues and how to correct them. Again, with the eye towards really identifying the things that are giving people the most trouble. Staff has been providing Regional Seminars and CLE's across the state in the last several months. The Seminar Schedule is on the Website and we have another one scheduled in Albany for August 19th. Kim had mentioned we have three requests for advisory opinions from the Board what they have to do with rentals and a marketing firm and corporate subsidiaries. We're in the process of finalizing those three opinions to give to the Commissioners. We spoke about the lawsuit. We've had the LLC lawsuit. We've had a very serious uptake in subpoenas that are being served on the Board which is creating a significant amount of additional work for the staff.

Kim Galvin: Yeah and FOIL requests as well.

Kathleen O'Keefe: And FOILS, right. We're still waiting to get a final clerk appointed who would be doing a lot of the subpoena work and the FOIL work so we're hoping to get that done soon. Our Public Financing Report has been completed. We will circulate that to the Commissioners. I understand in the past that has not something like that has not required a Board vote but we will be sharing that memo. I have prepared a memo on the PAC independent expenditure issue that the Board raised at the last meeting. The issue really does not lend itself easily to a yes or no answer with respect to can PACs do independent expenditures. And the memo that I have prepared which I've shared with Kim really is hopefully a prompt for a policy discussion by the Board. I think we can look at what the state statute says and what it doesn't say and perhaps give some guidance in either a Board opinion or in regulations to help people particularly with the coordination issue.

Regulations just briefly we have Independent Expenditure regs. They have been published and the comment period is over. These are ready to be adopted. We can add some additional regs into this area that will reflect a recent change in the statute and the possibly penalties which the current regs do not address and any other issues that may be raised at our PAC Independent Expenditure discussion. So that can come at a later date. Our contribution limit regulations have been published. The comment period expires on August 1st so we think we can present those to the Board to be adopted at the next meeting.

The Hearing Officer Regs and subpoena regs we understand are ready now to be filed. We will do that in the next couple of days moving that along. That's the Hearing Officers that would be used by Enforcement and we have, we've talked in the past but we have not moved forward on this so I just want to mention this. Maybe we can bring it up again at the next meeting if we have some movement here. We talked about amending our HAVA Regs to reflect the fact that

we're looking to keep those regs on this side of the Board rather than in Enforcement and we would need to have proposed amendments to do that. We talked about the de minimis lists already. Kim mentioned about working with Enforcement trying to communicate better. I think we've made significant inroads in that area of communication maybe not cooperation but communication. And the recognition that the Committee can be dealing with both enforcement issues and compliance issues at the same time. So we're trying to work out how we let each other know that, you know, something may be going on. For instance if an enforcement matter is pending in some manner and somebody does a filing, that's now in Compliance and we're doing that review. So we are trying to figure out how we can let Enforcement know that is actually happening.

Kim Galvin: Even if it's something as simple as putting COMP in the filing database that Enforcement can access so they know that we are doing something over there as well, over here.

Kathleen O'Keefe: Right and then Kim mentioned two new staffers that we have. Our Compliance Unit is complete except for the clerk. And I just want to mention one nice little piece of information that can make us all feel good about our staff. This year the Board had fourteen participants in the CDPHP Workforce Challenge enabling us to have a men's team, a women's team and a co-ed team. Each team then designated a "CEO" to reflect the most senior person in the organization that participated in the run. Our "CEO" designee Bob Eckels came in first place for the CEO representing a state agency at this run. So we were pretty impressed by that and I just want to give him a shout out. And that's it.

Andy Spano: Do you think that the new computer system we're putting in will diminish the number of FOILS we get?

Kathleen O'Keefe: Let's hope that's the case. I mean it depends on if, well a lot of this stuff though that we have on our website is the most recent. Are we going to, I don't know what the decisions are made about the older

Tom Connolly: I would imagine that there are certain, there is certain information that will still not be on the website so there will still be a FOIL request for that. We do sometimes get requests for information that has to do with the filings that might be somewhat odorous for someone if they want to download all of the data and then pour through it themselves. I mean it's for subset of data. When the new reporting goes into place they will be able to kind of search through that kind of subset and then also export it themselves. So they wouldn't need to come to us for it.

Bill McCann: But certainly the amendments well that will be a huge one. Right now you have to request amendments because some of the most recent reports filed for a particular filing period shows on the website. So the new system, every time you file an amendment you'll see each one as a stand alone. So from that standpoint, presumably they would be able to download those. But you wouldn't have communications and other types of documents.

Kim Galvin: Registration documents.

Andy Spano: Do you have to merge anything if people ask for it, in other words create the document to take digital aspects of a...

Tom Connolly: Well as far as, none of that, any of the information that comes to us in a document form we wouldn't be manipulating in that way. Any information that's being sent to us in electronic form which is kind of like going into a database, the reporting functionality that will have in the new system will allow a little bit more robust functionality.

Andy Spano: Can they FOIL that; they'll be able to export it themselves.

Tom Connolly: they don't even need to FOIL it, they'll be able to export it themselves.

Doug Kellner: With the independent expenditure regulations our emergency regulations expire, so we either have to continue the emergency regulations or adopt the regulations that have been published.

Kathleen O'Keefe: Right we could adopt the emergency ones again. We have three hundred and sixty-five days to actually adopt the current regs that are in the works already. But the emergency ones have expired as of last week.

Peter Kosinski: Did we get comments on the ones that we put up?

Kathleen O'Keefe: We had no comments.

Peter Kosinski: No comments at all?

Kathleen O'Keefe: No comments.

Bob Brehm: We had them out for informal comments on the website before we did this and we took the comments at that point. But they're in a former, the weird thing is it started last June, it started with the adoption of the budget last year so.

Doug Kellner: NYPIRG gave comments. I don't remember...

Bob Brehm: When we adopted the emergency the first time.

Peter Kosinski: Can I get copies; can I get copies of the comments?

Kathleen O'Keefe: Of the informal ones? Sure.

Peter Kosinski: I'd like to see those before I vote on finals. I'm okay with extending the current ones if we have to. I think I would just like a little time to look at the comments before we finalize them.

Andy Spano: We'll try to do that next meeting.

Peter Kosinski: To finalize yeah, I think we should but in the interim if we want to just extend the emergencies till then I think that might be a good idea.

Doug Kellner: Alright I move that we re-enact the emergency Independent Expenditure Regulations as published on our website.

Andy Spano: I second.

Peter Kosinski: Second? All in favor?

[Chorus of ayes]. Okay so I would anticipate then at the next meeting we would have the final ones here we could adopt.

Bob Brehm: And just so for the comments, the comments we got were like last summer when we were adopting the emergency the first time. So, certainly since we've been going up for the permanent...

Peter Kosinski: Now there's been a statutory change as well in the interim. So how are we going to accommodate the statutory change then? I assume those aren't reflected in these.

Doug Kellner: That's correct. Well I think the statute is consistent with the regulations but Kathleen's memorandum on Political Action Committees and Independent Expenditures raises the issue of whether we should add an additional section to the regulations spelling out the indicia of coordination. So...

Kim Galvin: And just for clarification and not anything else we got that yesterday the draft.

Doug Kellner: Right.

Kim Galvin: I'm just letting the Commissioner know why they don't have it.

Doug Kellner: No that's fine.

Kim Galvin: ...document they don't have it yet.

Doug Kellner: Okay well I thought Kathleen did an excellent job on the draft but it raised the issue to me of whether we ought to include in our regulations which would require re-noticing them and, you know, it's a whole big deal whether you enact the existing proposal and then amend them again or whether you amend them and...

Peter Kosinski: Well aren't we going to have to amend them again anyways because of the statutory change or no?

Kathleen O'Keefe: The statutory change is minor in two, basically two definitions. And then the original regs and I don't, I wasn't here then so I don't know what the decision was about this but it doesn't include anything on the possible penalties that people can face. So we might want to consider doing something with that.

Peter Kosinski: So we're probably going to do an amendment to these regs anyways?

Kathleen O'Keefe: That's what he said, right, right, that's what I think.

Peter Kosinski: I think we could discuss the issue of Independent Expenditures in that context if we come up with some guidelines for people. I think that's helpful.

Doug Kellner: I think it would be helpful to write in the regs some guidelines on indicia of coordination.

Peter Kosinski: I think there are some entities that have done that I believe. Hasn't the City Campaign Finance Board done something like that?

Doug Kellner: Yes.

Kathleen O'Keefe: Yes.

Peter Kosinski: I believe.

Doug Kellner: And Kathleen's memo does go into some of the court cases on it. But uh...

Peter Kosinski: Okay.

Doug Kellner: I think that it would be helpful to have actual guidelines. I don't know that you can do a, a bright line though that's the biggest problem with this whole area.

Peter Kosinski: No, no I understand. It is a somewhat a case by case analysis. I understand so...

Doug Kellner: Which is very tough on the Enforcement statute.

Peter Kosinski: It is it is. But I do agree with the concept of having people understand what the basic rules are...

Kathleen O'Keefe: Right.

Peter Kosinski: because I think it's not fair to have people out there acting without really knowing what the rules are. So if we can do that I think that would be good. So I look forward to seeing Kathleen's memo and then we can discuss that going forward. But I think at the next meeting our goal should be to at least enact the current Independent Expenditure Regs in that

form and then we can look to amend them. Was there anything else from the Counsel Compliance Unit? Do we have any other questions?

Doug Kellner: Thank you.

Peter Kosinski: Okay we're going next to the Election Operations Anna Svizzero.

Anna Svizzero: Thank you Commissioner. We've been briefing Brendan. I'm sure we've inundated him with more than he ever wanted to know about election ops but he's been holding up his end quite nicely. We submitted a written report but I didn't see it in the Board Packet so I'm happy to go through it with you now. We completed designating petitions, ninety petitions were filed. The only ...

Peter Kosinski: I'm sorry to interrupt Anna you have a written report?

Anna Svizzero: I do I...

Peter Kosinski: You don't have any copies of that I could look at with you by any chance or?

Anna Svizzero: I...

Kim Galvin: Well we submitted that to be included in the packet.

Peter Kosinski: I didn't see it either though Anna, I didn't see one either so.

Anna Svizzero: If you want to give us a second I'd be happy to...

Peter Kosinski: Would you mind? It would be nice if I could just follow along with you. Maybe it would be easier than...

Anna Svizzero: Sure.

Peter Kosinski: Go ahead though I don't want to...

Anna Svizzero: In the meantime the only petitions that were filed with us this year were for Judicial Delegate and Alternate Delegates and some state committee filing with us. Most of that filing is done locally. So, you know, I don't want to swamp you with statistics.

Peter Kosinski: So when did those come in?

Anna Svizzero: July 12th was the last date to file?

Brian Quail: Yes.

Peter Kosinski: And did we receive objections to some and...

Anna Svizzero: We had five sets of objections. Those are reviewed on your Prima Facie Report which is in your packet. Brendan and I prepared that for you for your consideration.

Peter Kosinski: That's a separate issue and I, I guess we'll take that up later so I don't want you to get into the details. But go ahead.

Anna Svizzero: There are court cases stemming from these objections already in motion but we don't have much information on the status of that particular effort. We are working with NYSTEC. We continue to work with them to revise procedures. We expect to have a draft on the hash checking of the...

Peter Kosinski: I'm sorry Anna, NYSTEC.

Anna Svizzero: NYSTEC - New York State Technology Enterprise, it's the outfit that was created by the Legislature when they were closing the bases in the Utica area. They turned them into Technology Experts and they are very good. They are our consultant, have been since we got started with HAVA.

Peter Kosinski: Okay so they are our consultants on...

Kim Galvin: They did our security stuff on the machines

Peter Kosinski: So they are our consultants?

Anna Svizzero: So they are working with us on right now we submit test plans to them for any of the functional testing that we do. We submit, obviously the security aspects of source code for any of the certification that we do. At present they are helping us with procedures that reflect County Board use of the systems and comments that we've gotten back. A lot of those procedures have already been done and posted. What NYSTEC is working on now is the procedure for the inability to do hash checking on COT systems. We talked about that I think one or two meetings ago. So we'll have a draft, we were told I think on Friday and Brendan and Bob were both out of town then. But we'll see a draft this week and then we can deal with that internally and hopefully have that to you at the next meeting. Brendan and Bob and John Ferry just came back from Harrisburg, Pennsylvania. Bob and John were asked to make presentations to the elections team there, the Secretary of State and their election administrators. There were representatives from Carnegie Mellon there from the EAC from...

Bob Warren: California.

Anna Svizzero: California, thank you. And Brendan can comment further on what went on at that session. They are concerned that their certification testing isn't robust enough. And the Carnegie Mellon folks are concerned about security. Ironically I heard from both Brendan and Bob this morning because they got back late Friday night, there wasn't much conversation about the accuracy and integrity of the system counting votes. It was all about hacking and securing

the system from a seals and locks and that kind of aspect. So, we usually start with one and go to the next and they seem to have gone the other way. But it was I think an honor to be asked to participate and our presentation went well. Brendan can comment further if you have more questions for him.

The statistics on the petitions are on the report that you have in front of you, two hundred and seventy-six delegate candidates and two hundred and forty-seven alternate delegate candidates filed here. And what we're collecting now is all of that same information that was filed at the County Boards of Elections. We have to do all that data entry and then prepare the official roll calls for the state committees that are re-organizing this year. And also for all of the judicial conventions for all of the parties that are conducting those this year.

We are anticipating four primaries but the number of primaries will depend upon the results of the court cases that we mentioned earlier. But we are going to have a drawing. We anticipate those are the primaries and we draw anyways if they end up not appearing in a primary due to the decision of the court then we just move on from there. We'd rather do that than have last minute drawings.

We are working with the IT Department concerning the candidate management system to make sure that it reflects the kinds of issues that we've been dealing with in the past and that those can get resolved in the new version.

We continue to work with clear ballot. We haven't done functional testing yet. We've been doing preliminary dry run testing on that system but we're waiting for a new build and some changes that were prompted by our findings and conversation with NYSTEC. But that does seem to be moving forward.

We worked on separating for your consideration today the central count system upgrade for Dominion from the balance of their upgrade. The central count system stands alone. It is a new system so the counties that purchased it still have five year warranties. The system was only certified last year so they're well in their warranty period and any upgrade would go to them at no charge.

We are working on a recommendation for this Board concerning the balance of the Dominion upgrade and the issue of version control, version management that was discussed at some length at the last Board Meeting so we hope to have a recommendation for you at the next Board Meeting.

We made our conversion from our County Board Info Portal which was an FTP Site to a Share Point Site. That's been somewhat seamless not without it's issues but all of the information is there. The site is a lot more stable. It's a lot more accessible to the County Boards. Periodically that FTP Site was not available to them and we rely on it, all of their procedures are on that site. The guides to operating a board is on the site. Record retention guide, sample forms that they'd be needing for petitions such as acceptances and declinations and similar forms are on that site.

If you would like access to that site, we can send you an invitation. I think that's how it works for Share Point so we can do that. Just let us know if that's what you would like.

Peter Kosinski: So this is an internal site that only County Boards and the State Board have access to?

Anna Svizzero: Yes. I did not have anything else to...

Peter Kosinski: Can all, can all the counties look at all the other counties? Can they all look at each other?

Anna Svizzero: Well there isn't county data on there. It's only procedures. It's the guide on...

Peter Kosinski: So it's on our stuff?

Tom Connolly: Right it's a one way.

Peter Kosinski: So the counties don't put their procedures on the web?

Anna Svizzero: No.

Peter Kosinski: Oh, so it's only our procedures we recommend to them?

Anna Svizzero: Right.

Peter Kosinski: So we don't have access to county created documents?

Anna Svizzero: We do when we do Board visits. We collect those. We keep them here. We don't post them anywhere. We use them as a resource.

Peter Kosinski: I mean why doesn't this portal or whatever you call it have that information on it? So if Westchester County has a set of procedures, why aren't those up there too so we can look at those and know what they're doing and review them or whatever, you know would be appropriate?

Anna Svizzero: We never intended it for that purpose but because we're collecting the procedures in a separate project.

Peter Kosinski: I mean why wouldn't this just be an easy way for the counties to communicate with each other as well as with us? I mean I know we have these conferences once a year where we meet and talk about things but why couldn't this be an ongoing sort of for a better word conversation where counties can share with each other over this portal as well as with...

Anna Svizzero: We can do that.

Peter Kosinski: us something you know that would be accessible to them and they could then...

Andy Spano: Good idea.

Peter Kosinski: share and review?

Anna Svizzero: We can do that. We have them here. All we have to do is scan them and upload them. That would not be a problem. And then every county would be able to look at every other county's procedures.

Peter Kosinski: I mean is there any downside to that. Is there any...

Anna Svizzero: Other than shaming Boards that don't have procedures into actually developing them, no not at all.

Peter Kosinski: That's a good thing. Not a downside right?

Anna Svizzero: No not at all.

Peter Kosinski: They can work with each other. That has been my experience, you know?

Anna Svizzero: Right.

Peter Kosinski: If a county has a good set of procedures everybody should follow them that's obvious yeah.

Anna Svizzero: We have posted some of those and I'll use Essex County as an example would not think that a small county like that would have an extensive contingency plan but their contingency plan is sixty pages long. Every press outlet in the county, every county emergency person they need to reach out to, every IT source that are or resource that might be available to them if there was ever an issue with their own system being down or scanners being out. It is an incredible contingency plan and we've shared that with a lot of County Boards and that one is posted on our website. We reference it in our own recommended contingency plan procedures. But sure we're happy to do that. We can scan those and post them by county and hopefully the upside would be that counties would get with the program.

Kim Galvin: I think the only downside might be we might disagree with some of the procedures that the counties employ.

Anna Svizzero: Well we have to put a disclaimer up there.

Peter Kosinski: Well do we have a set of best management, do we have a set that we recommend to the counties would be a good...

Anna Svizzero: Most of ours, our procedures relate to the use of the voting system, the new systems, the scanners and that kind of thing. They really don't relate to day to day operational procedures, how to handle the mail, phone calls things like that. That didn't, probably a good reason why we didn't post all of the County Board procedures there. And some of our County Boards mistake how to process something. For example: through their vendor for their voter registration system as opposed to a procedure on how to register a voter it's not turn the system on, click this button, you'll see the screen and go ahead. There really has to be an evaluation of the voter registration form the bipartisan review of it and acceptance of it. Same thing with absentee applications that kind of thing so...

Kim Galvin: We get best practices.

Anna Svizzero: Yeah we do that at conferences and we post all of our conference presentations on the website so that it's...

Doug Kellner: I think it would be an excellent idea to have this central place where all the county procedures are posted. And Kim, you know the Board has authority that we can override any county procedure. We don't do it very often. I can only think of once in the last three years that we have done it but we have that authority to formally tell them to change their procedure.

Peter Kosinski: Well I think, I mean I think we have a responsibility to be interacting with these Boards and if we see them going in a direction we don't agree with we should be in contact with them. We should be notifying them and telling them why and convincing them why they should change. So, I think we have a responsibility here.

Doug Kellner: And that's a great segway into my next question. I'm going to continue harping on this every month but what's happening in terms of bringing New York City into compliance with the thirty-minute rule for the November 2016 Election?

Anna Svizzero: I'm probably not the person you want to have answer that question. I'll defer to Bob and Todd.

Bob Brehm: Well again as we said last time when we had reached out to, you know, Todd and I had gone to New York City to meet with one of the Counsel's to the Mayor and with Dawn and Mike Ryan from the City Board on plans they were putting in place. We did a follow up conference call Anna was also in on where we asked a series of questions, where are they in their planning? There are a number of, as they described to us on the phone call there, a number of plans that they're putting in place that they want to see at the primary how well they work and maybe make modifications in time for the general election. But also their description to us was there's a number of items they're working on to deal with, you know we suggested more tables just to move people through anything that improves the lines from the through put point of view. They certainly described to us their effort with the tablets as a look up tool to make sure the people are in the right building, to have you know, large poll sites where they had multiple tables to get the person cued up to the right table using that tool also. Trying to calculate the number of people using those tablets based on size of poll sites so the bigger you are, you have more

resources than say a flat everybody gets one approach. They certainly were looking to provide that level of service based on size.

Alright some of the general reaction to us was they thought they really wouldn't have a good handle on all of the various things they're looking at at least until they got through to the spring primaries next year because this is a low volume election for them. They weren't a hundred percent sure if they would be able...

Doug Kellner: Bob, Bob to be very short, this is nonsense. Alright you haven't described any approach that will solve the fundamental problem which is that there will be a huge turnout relatively I mean in November of 2016 just as there was in November of 2012 and November 2008 and November 2004 and that I haven't heard anything significant that would bring New York City into compliance with our regulation that requires the County Boards to staff their elections in a manner that their lines will not be longer than thirty minutes. So we need to insist that New York City provide us with an explicit plan that will address compliance with our regulation for the November 2016 Election. And that requires a number of steps. Frankly all of these steps are detailed in the report of the Presidential Commission on Election Administration so there's, this is not rocket science but it is good election administration and I don't see New York City on a path to coming into compliance with our regulation. In particular, they're going to need larger spaces in order to add additional tables and in order to add additional personnel to meet the time period, the parts of Election Day would vary from location to location where there is a crush of voters.

Peter Kosinski: Have they identified which poll sites have most frequently have this ongoing problem of long waiting lines? Have they done that? Have they given you a list? Is there a list that exists of poll sites in New York City because this seems to be a New York City centered problem?

Doug Kellner: It is a New York City problem but the...

Peter Kosinski: Did they identify which poll sites are the ones that have these rather long lines? Have they done that for us or anybody else that you've seen?

Todd Valentine: There's no they haven't done there's no sign, they've provided no numbers indicating time waits. There's been no study...

Peter Kosinski: So they've never done a study to say these are the poll sites that have this problem of long waits?

Kim Galvin: Well if they did we don't know about it.

Anna Svizzero: We've provided forms to all of our County Boards. We've been doing it since 2005 asking them to track voter turnout simply by tracking the public counter number on each scanner on the hour. Your scanner person can do that. I, again, if you would like to talk offline

about that phone call I'd be happy to but New York City does not use our form nor did they use anything in its place to track that.

Peter Kosinski: Well I'm just trying to understand how you fix the problem if you don't know where the problem exists. You can say it exists in New York City but where and which poll sites have this problem.

Andy Spano: But isn't Doug suggesting that we ask them to give us a report with all this...

Peter Kosinski: And maybe I'm assuming that would be part of all of this but I'm just sort of curious how we even start talking about this when we don't even know where the problem exists.

Doug Kellner: See I think we need to be communicating on a regular basis with them formally and I think that what we need to do is request that they provide us by a particular deadline a compliance plan that we can review.

Peter Kosinski: I mean I think it would just be helpful to know where this, you know how extensive is this problem? How many sites have this problem? You know I don't know how you get that data frankly if you haven't been collecting it already. I don't know how you just make it up now. You almost have to do it I would think at an election where you can, you know, have someone sitting there who is monitoring this.

Andy Spano: Well in order to wait for that you're going to go to the 2020 elections.

Peter Kosinski: I know and you don't want to do that I get that. But I think it's hard, to me it's difficult to really focus in on the issue when you don't know where it exists. So I'm just trying to understand how we even approach this without that data to work off.

Andy Spano: Doug how do you know this exists? How do you know?

Doug Kellner: Well because in every general election there have been very long lines in large numbers at poll sites in New York City. And, and it's the same problem, it's doing the same thing every year and thinking that it's going to go away. The Presidential Commission has identified fundamental basis for how to speed the lines. It requires an analysis of how long it takes to process each voter at each step. So for example in the New York City process, they themselves call it uh, 1, 2, 3 that you first go to the table to sign the registration book and get your ballot. Step 2 is that you go to the booth to fill in your ballot. And step 3 is that you scan your ballot. Now everyone knows that step 1 is the major bottleneck in most New York City poll sites. And there's a sort of Step A to get to Step 1 which is that you have to know what your election district is and get into the right line. So a typical poll site will have anywhere from five to ten election districts in it and most voters especially those voting in a Presidential Election are not going to know what their line is so you have to be told which line to get into.

Now the time it takes to process a voter in Step 1 of signing the book varies substantially based on the inspector who's sitting at the table. That there are good people who can process

somebody in thirty seconds or so and there are it's not unknown that, that there, that it can take three or four minutes to process somebody. Alright so you have to know what that time is but if it takes thirty seconds to process a voter by a good competent inspector that means that that inspector can only process perhaps a hundred voters an hour. Okay? So if you know that more than a hundred voters are going to show up in that hour well that inspector can't handle that number of people.

Andy Spano: Have we received any complaints from anybody but you?

Anna Svizzero: We do get phone calls on Election Day. The press office has gotten phone calls; we've followed New York City's Twitter account during the day.

Andy Spano: It's a remarkable thing to find a problem in specific areas and you send us their concept of a solution.

Douglas Kellner: Exactly.

Andy Spano: I mean that's all.

Douglas Kellner: Exactly and I want to stay on top of this month after month until the city, until there's an acknowledgement by the City that they have to address this issue.

Todd Valentine: Well Bob kind of left off the conversation he had with them that they are acknowledging it and they have clearly stated in that conversation that they have read and reviewed the Presidential report and are analyzing the changes in their procedures based upon that report. And your correct in the bottle neck and he alluded it to the tablets that set A so to speak, the traffic cop or the director and not just to stand in front of the line but also to work the line up and down so you're not just hey building a choke point. They recognize that problem. They do have other issues which is a little bit harder to solve which is having sufficient poll workers which is always a continual problem for all county boards and New York City is no exception to that in addition to the poll sites. I mean there are numbers for voters per poll site based upon their population density are slightly higher than everybody else but within the parameters of the statute. But that also means much larger poll sites which they're also trying to coordinate on a separate issue with regards to accessibility.

Douglas Kellner: Right but the issue is alright so now we've identified what the issue is because you need more poll workers and you need more books.

Todd Valentine: And divide the books up into smaller chunks.

Douglas Kellner: And you need more space.

Todd Valentine: Yep.

Douglas Kellner: So now what is the City's plan to do that? So we've identified what the problem is but I am unaware of any plan that will actually address this between now and November of 2016 and now is the time to be raising these issues. For one thing the statute requires poll sites being defined in January of next year and there are pressures on the city to contract poll sites because of ADA compliance issues.

Todd Valentine: That's not a problem yeah.

Douglas Kellner: But for example, they could be doing expanded plans within the public schools at least for November 2016. Part of the problem is the City uses a one size fits all template for their elections. That they use the same poll site plan for a special election or the regular primary election that they use for the Presidential election when the turn out is literally 15 times higher. And they should not be using the same template. They should have a separate template for the Presidential Election where the turn out is 50% higher than the turn out for an election for Governor. And I don't see them doing any of that stuff and I think it's our job to be pressuring them to do that and that they need to monitor that.

Peter Kosinski: You say you've identified the problem. Is the presumption that these bottlenecks occur most frequently at the poll sites that contain the most number of EDs?

Douglas Kellner: Often yes.

Peter Kosinski: So part of the problem being if I'm a 10 ED poll site I'm having more problem wise than if I'm a 4 ED poll site?

Douglas Kellner: In general I think that's true but it's not universal. I mean even in my own poll site which is only 2 election districts the line for the Presidential election was about 2 hours and at least we didn't have a space problem, it was just a line problem that there were not enough people who could process the 300 people who show up to vote at 8:00 a.m. on a general election day. And that's just a question of; we know that in November of 2016 in my poll site 300 people are going to show up between 7:00 a.m. and 8:00 a.m. to vote. And how are you going to process those 300 people in half an hour? That's the questions.

Bob Brehm: And I that gets into, I know when we first started in 2009 with the pilot in 10 we asked counties to start trying to keep track of that per hour turnout so that you could, you can't staff for the average part of the day because once you fall behind, you're behind for almost, it takes hours to catch up if you staff for the average. So you really have to staff a poll site for peak hours and depending on what part of the state you're in, a suburb of New York City, are you busy when everybody gets out of work? Are you busy before everybody goes to work? Are you in a poll site that is in a retirement general area and its busy mid afternoon? So that's what we had recommended they do and in the phone conversation they really told us they have not used that analytical data collecting because how could they figure out how many people in line, I don't know. But generally if you have that somehow at least from the majority of the poll sites, the worst of the worst or the biggest, anything. You could then at least figure out, "Well I'm a suburban district everybody goes to work first and my big crunch is 4 to 7". Or, this other area if

they don't vote before they go to work they're never voting. So that's when everybody shows up. So it's everybody at the beginning part of the day. But we've talked to them about split shifts. If that kind of information shows, maybe you don't need everybody the whole day, you need split shifts so that you can have extra people to work that big long line and by noon they're gone anyway so I can get by the rest of the day with an average. And we've talked about all those ideas with Mike and Dawn. Their response is they are understanding of them and they are working on them but they just don't think, I'm telling you the message so don't shoot the messenger either. Because I want to give them justice to communicate the conversation, that they believe they're going to try all of these items and some will work better than they've figured out and they'll make modifications as they go knowing that this is their slowest election cycle to test some of these things out on. And they really might not know that the test worked until next year but it's the staffing issue, it's the line issue, it's the other items.

Andy Spano: What would it take to loosen up the absentee ballot process?

Kim Galvin: A lot.

Anna Svizzero: Constitutional change.

Andy Spano: Is that right? Cause that would help.

Anna Svizzero: What would also help and something that we've been talking about probably since I met Commissioner Kellner is that we've moved past the idea that poll site needs to be staffed by Election District and it really needs to be seen as a single unit so there wouldn't be a line, there wouldn't be a table that you go up to. Maybe there would be a table that says A through D and E through whatever is next. But you don't have to go to your number table. So I don't have to tell you anything when you walk into the polling place you just go to the table where you're going to find your name. and ideally, in my world, you'd have an electronic poll book that's got a little printer and once you're checked in you get your little token, you go to the ballot distribution table to make sure the person giving out ballots gives out the right ballot. The choke point is not at the scanners and it's not at the privacy booths. You wouldn't have a choke point at a line going to an ED table because you're not going to one anymore. You could have enough people, qualified people staffing a ballot distribution table that would hand out all the ballots, the right ballots to the right voters within that poll site and we just haven't gotten there in a change in statute or a change in mindset. And ideally that would solve problems for a lot of county boards not just New York City. We don't have line problems in other counties but certainly we have staffing issues and poll sites without enough space and if you're trying to cram 3 EDs into a poll site that's not big enough, why should you have to do that? 3 EDs is 12 people plus...

Peter Kosinski: Let me just ask a question. Why do we have line problems in New York City but nowhere else? What is unique about I mean we know New York City is different but what is different about...you know one thing I brought up which I think is different is the number of EDs and poll sites. My experience in New York City is when you go down to an election it's not unusual to walk into a poll site that has 8, 10 EDs. Upstate that's very usual. Upstate you might

have 3, 4, some have 1. So you don't have large numbers of people congregating at a single poll site. So in my experience that's one unique characteristics of New York City. What's the solution to that? I guess find more poll sites I don't know. But I can see that. Are there other unique characteristics to New York City's elections that cause these bottlenecks in New York City that we just don't see upstate?

Anna Svizzero: It used to be with the voter cards that they would have to fill out before voters voted but they eliminated those to their credit. We had discussed it with them and they did eliminate them. There was some reticence on the part of not the management team in New York City but others, but they did get rid of them and those have eliminated a lot of, have eliminated that reason from the pool of reasons there are lines. I don't know how else to answer your question because I don't get it. I mean in Erie, Onondaga, our bigger counties, Albany we certainly have poll sites that have more than a couple of EDs being served in them but we do not have those lines or those choke points. Certainly not lines longer than 30 minutes. I mean granted if you go to Buffalo at 8 in the morning and you're trying to vote before you go to work you're going to see a lot of people in that poll site because their polls do open at 6:00. But I don't see it and I know they think I'm incapable of seeing it so I'll just leave it at that.

Bob Brehm: Well what we hear is some of it is the available sites. They get an available site and they squeeze in as many people in that geographic area because they say they can't get another site that's accessible. The most recent court case against them for accessible polling sites kind of have, they have to go back to the court on some of those items when they move a site or move an ED to a different site to make sure what they're moving into is equally as accessible. So they kind of have this federal situation which is accessible sites and so far yeah it's accessible but is the path a travel work for that many people? And where else can they find a site? So some of it is site. Where do they pick? What's available in that geographic area for that many people?

Kim Galvin: I think absent Commissioner Kellner who might live there, I think it's very difficult for all of us to opine on the difficulties that afford an election the magnitude of New York City would have and that's probably why they should tell us what their problem is.

Douglas Kellner: Right. So my request now is that we send the city a request that they provide us a plan say by September 30th to indicate how they plan to come into compliance with our regulation. I think its 6210.19.

Andy Spano: Yes they should give us a description of the problem as they see it. In case it's just 5 districts or so.

Peter Kosinski: Yeah I admit I hear this anecdotally myself, I think we all do. We've all heard over the years when I was here I heard it over the year anecdotal evidence of long lines which I'm sure it's true. But again, I've never seen this. Here are the poll sites that have these chronic problems that we need to fix.

Andy Spano: You get an area where challenged people can make it and then have to wait 2 hours? I mean if that's a problem...

Peter Kosinski: That's a problem.

Andy Spano: It's not solving the other problem.

Gregory Peterson: Are we talking about a poll site, you pick one particular area, are you talking about a poll site where all of the, let's say 8 different EDs are all those 8 EDs voting for the same set of elected officials?

Anna Svizzero: Not necessarily but it's possible.

Gregory Peterson: But you were saying before in other words in instances where you can, you could combine various EDs which are voting, that's a big undertaking I would think, are voting for the same set of elected officials correct?

Douglas Kellner: You have to get them the correct ballot. Most states do outside of New York State most places vote at a poll site even though not everybody at the poll site may have the same list of candidates. And then the inspectors have to give the voter the correct ballot which in New York City they claim is not feasible.

Peter Kosinski: Risky.

Douglas Kellner: Right.

Peter Kosinski: Risky that the correct ballot, if you have different ballots being handed out by the same person that they would hand the correct ballot to the correct voter.

Anna Svizzero: well that's why I mentioned the token idea. It's harder to do that when you're looking at a little slip of paper that says this is ED1 AD whatever. It's kind of hard to screw that up not that it couldn't happen but it's a lot less likely because now there's a little more accountability for that task than just me telling you what district I'm in. I can forget while I'm on line where somebody's tell me what district I'm in by the time I get to where I have to sign in and then go to a table to get a ballot, I will have forgotten again.

Peter Kosinski: Absolutely, I agree.

Kim Galvin: Certainly the 2012 election with the Governors...

Peter Kosinski: Yeah that was an aberration with Hurricane Sandy and everything really impacted things. I get that. But this has been an ongoing problem. This isn't like it just popped up this year.

Douglas Kellner: It isn't just Sandy but it's interesting that New York City had the problem but not Nassau and Westchester.

Peter Kosinski: I agree.

Douglas Kellner: So, it wasn't the Sandy, it wasn't unique to Sandy.

Bob Brehm: I mean generally if you look at an election cycle, a busy one you'll hear a one or a two but there's some explanations as to what happened in that district and when we reach out to talk to that county, depending on when we hear of the problem on election day, what resources are you getting there, but it's usually some like, they had a bomb scare somewhere or you know, the machine, they had to bring in a new machine so there was a bit of a line for that period of time. But it's isolated to that set of facts and they make sense and they're all emergency trying to deal with it. New York City we get the most issues of the breadth of the Burroughs.

Douglas Kellner: In Manhattan which is not the case in the outer Burroughs, people vote on their way to work. And there are times when people are going to work changes by neighborhood and the upper income neighborhoods people tend to go to work later in the morning and lower income neighborhoods people go to work earlier in the morning so, but it's pretty clear that you can tell where the bottlenecks are going to be. The problem is the city board is still in the mentality of we have one size fits all. But it isn't. You have people, you have a crush of people voting at a particular time in the morning and you have to be able to service them. Alright, well look, I don't mean to prolong this my request would be at this point that the Commissioner's make a request to the New York City Board of Elections that it provide us with a written plan by September 30th on how the New York City Board or how the Board of Elections in the City of New York plans to be in compliance with regulation 6210.19, I think it's C.

Andy Spano: Also the scope of the problem. I think we should ask what they perceive is the scope of the problem.

Peter Kosinski: I believe Commissioner Kellner is making a motion. Is someone making a note as to exactly what this motion is so that we have that?

Douglas Kellner: And I accept Commissioner Spano's friendly amendment so that it's that the Board of Elections in the City define the scope of the problem and present a plan on how they intend to comply with regulation 6210.19C.

Peter Kosinski: And we're asking for that by the end of September? We have a motion. A second? All in favor?

[Chorus of ayes] opposed? Okay so someone should transmit that to the City Board. I assume the two Executive Directors will take care of that and let them know that we are looking for certainly more information from them and a plan.

Now Anna I think we're still on your report.

Anna Svizzero: No I think we're done.

Peter Kosinski: I wasn't sure if we were done or not.

Anna Svizzero: We're good. Brendan did you want to elaborate on anything?

Brendan: No, I'm good.

Peter Kosinski: I have a couple of things to bring up but I think they'll be in the context of the item on the agenda. We can talk about that a little more now. Okay. So that's the Election's Operations report. We now move onto NVRA/PIO. I noticed John Conklin is not here. Tom Connolly will be handling that I assume.

Tom Connolly: Thank you Commissioner. The public information office has obviously been busy with media and public inquiries about a number of the topics that have already been discussed including ballot access the recent campaign finance filing. The Presidential Primary legislation and also the recent vacancies in offices. In addition, John and I have also participated in the interviewing process for the candidates for the top CIO position at the agency and we continue to participate in things regarding the various technology projects; the NYESS Voter Refresh, the CAPAS/FIDAS redesign and any of the other legacy systems that we're bringing over to the new platform. We did on the website post a position...

Peter Kosinski: I'm sorry can I interrupt right there cause I just want to, would you be the appropriate one to talk a little bit about the upgrade to the systems that we're going through or would that be better off handled through the IT Unit?

Tom Connolly: I think you would probably prefer that I answer then.

Peter Kosinski: I just wanted you to elaborate on that a little bit.

Tom Connolly: I'd be happy to answer any questions.

Peter Kosinski: Well I don't know if I have any questions but I think a little more detail on that is helpful to me. So we're going through this process of updating the CAPAS/FIDAS system as we call it which is really the list of candidates and their campaign finance filings. And so in doing so we're going to change the software, change the whole process people use to make their, I'm really most interested in hearing the campaign finance filings. And I'm assuming we're also going to change what the public sees on our website for purposes of viewing these documents. And I'm trying to understand what that is. So I'm just trying to get a little better feel for what these change are going to be. I know they're a ways off cause I understand this isn't going to happen until next year, well into next year sometime from the timeframes I've seen. And I guess I have a question why it's taking so long to begin with. But that said, I understand this stuff is not simple. So one of the changes that, I think was alluded to earlier was it's no longer going to be impossible for people to see an amended form. Is that correct? So if I do a campaign finance

filing and I amend it, currently I can't see the previous form, I can only see the newly updated amended form and I cannot see what was originally filed. Is that going to be changed now? Am I now going to be able to see what the original filing was and the amendment too? Or how is that going to work?

Tom Connolly: You would have access to both. Right now if individuals in the public wanted to see the original filing, they could. They could request that of us and the IT department would provide that to us and we would often give it out as a FOIL request.

Peter Kosinski: It would be a FOIL right now so this would address that needing to get a FOIL to see the old filing and then looking online to see the new one, you could see both. Is that correct?

Tom Connolly: Yes.

Peter Kosinski: So I think that's good if we're going to make that change. Now, as far as how people file, let me just understand that for a second. Right now if I'm doing a filing there is software that helps me with it, but what it is basically is it's almost a PDF, it's a, there are what? How many schedules now 16, 18, 20 I don't know maybe somebody knows, schedules that I use to file. Whatever A through R is? Whatever that number is. So if I want to file a corporate I do it on this schedule. If I want to do a partnership I do it here. If I want to do, I have to do all these different schedules and if I, is that still going to be the case? Am I still going to be using schedules or am I just going to put down you know A, B, C, D corp \$4000. I don't have to put it on any particular schedule I just put it as income, money coming in identified as a corporation, identified the entity address all that still there but I don't have to necessarily go to schedule B in order to do it. I can just do it on income, out go is that how it's going to work now or not necessarily?

Tom Connolly: I would leave that to Compliance to answer that.

Peter Kosinski: I don't mean to put you on the spot.

Tom Connolly: No, that's fine I mean with regard to the information that we have the idea of building the web based system and building a system that's been in place, improving a system that's been in place for a number of years we obviously will avail ourselves where possible of the functionality of that to diminish the amount of redundant work that treasurers have to...

Peter Kosinski: It's not just redundant work Tom, I think what it leads to is mistakes. I think what happens is you have a lot of people who put the wrong entry on the wrong schedule because they don't realize, oh that should have been on schedule B not schedule A and it just leads to errors. But they're, oh gee that was the wrong schedule error. The information is there, everybody knows what it is, they just didn't look at schedule B to find it. I guess from an outside guy why do I have to look at schedule B at all? I should just be able to look at candidate X, I want to see where his money came from, I should just see it. It should just list it for me, I shouldn't have to go from schedule A to schedule B to schedule C to find it, I should be able to

just look and find it. There it is. I want to see where his money went. I look at this and there it went. But I don't know why I have to continue this schedule search which to me is complicated, leads to errors by people filing and leads in my mind to more work and maybe misunderstanding from the people who are viewing it because they don't realize how all these different schedules work.

Andy Spano: Unless you want to look up an aggregate corporation, so aggregate.

Peter Kosinski: And you should be able to do that.

Andy Spano: In a digital format you should be able to do that.

Peter Kosinski: I feel you should just go in say show me all the corporate contributions to candidate X, bang there it is.

Kathleen O'Keefe: We're talking about doing that. I mean I don't want to mis-speak because I'm not the technical person here but in the various phases that we talked about moving this along, the first phase was really fundamental questions. And my understanding is that as we develop the two additional phases which almost seems like 2 of them are being combined now, more detail will be worked out. In other words it's been getting rolled out with the decision-making as the work actually has to happen. But I certainly understood and correct me if I'm wrong that the searching opportunities are going to be vastly expanded. I mean I think part of the issue with the schedules is that certain committees use certain schedules and other committees don't. So if you're looking up information on a pack or on a party committee there's only certain information that is actually required for that type of committee. So the schedules it is my understanding is a way just an organizational method. Because if you're pack you need these 4 schedules you're not also filing these other 3 schedules so to speak. So I think the schedules are organizational but you should still be able to search in a global kind of way.

Tom Connolly: Just to clarify what I was saying before is I think that the schedules for the most part my understanding aren't going away from the filing standpoint but from the public standpoint looking at the information itself, they will have far more robust. And even though we may present them with the scheduled information like we do now, they will always have the opportunity...

Peter Kosinski: Well I'm going to just ask that you look at those schedules and make a decision whether those schedules are actually needed. I mean my view notwithstanding what you're saying Kathleen I understand that. I don't know that you need that for that purpose for organizational purposes. I mean I think I could organize my for example contributions on one schedule but I would have to identify what type of contribution they are.

Kathleen O'Keefe: To make a field.

Peter Kosinski: Right like a P for partnership, C for corporation, I for individual, A for association, whatever you come up with but it doesn't have to be on 4 different schedules based

on that it can all be on one schedule just within that schedule you identify what type of entity it is because they have different limits and different rules and that's all legit. And we need to track them but you don't have to make the filer jump around from schedule to schedule doing their filings and then if they make a mistake, oh that should have been on the corporate not on the individual, we made a mistake. Just all have them on one.

Bob Brehm: I know we met on the business, I think we understand what you want us to look at. I think in general if you had 10 checks we were envisioning the new system they would be able to put one in after the other with a pull down to describe it and then it would go where it needs to go.

Peter Kosinski: But why does it need to go somewhere else that's my basic question?

Kathleen O'Keefe: There is a good reason for that what Bob is saying and we talked about this definitely in the meetings where according to your model you have P for partnership and then there would be, if you put the P in there a drop down menu that would then say over 2500 name the partners kind of thing, name he partners in a tribute. So some things it's like a computer tree you get to this and if you indicated a certain thing then another question appears. We have definitely talked about that kind of type of website because it's what people are used to. When you get on and use Amazon or whatever that's the kind...

Peter Kosinski: No, I think we should be more like those sites I agree with you, I think that should be our goals, be more like Google or whatever too. If I put in 5 or 6 characters there's a dropdown of who meets that so I don't have to have an exact spelling of the name in order to find that name. It should be easier to search, I agree with that. And I'm hoping we're going to actually, I assume I should say we're going to get there with that type of search.

Tom Connolly: And one of the other things also is throughout the way we identified initially 3 basic groups, the consumer group, the people who are kind of looking at the information online, the filers, and then also more the county candidate information for CAPAS/FIDAS and the whole thing. But we are also trying to involve them in the process as we go forward. Obviously, we're going to have a beta group. We've invited some previous beta testers for the opportunity to offer some of their comments on different benchmarks at different phases in the project and we'll be doing the same thing with the consumer groups of people who will be looking at that information. So, once we're at a point where we're looking at moving forward with a certain plan, we will probably present that to the individual group and request some additional feedback just in case we're not, so we're not developing it in a vacuum and we're getting a little bit more input from people who are actually using that system.

Peter Kosinski: So, where are we in the process now as far as developing the system itself and answering these types of questions of what it's actually going to look like and how it's going to be interfacing with either candidates or public, where are we in that? When does that start or has it started? And are we making a list then of what we want to see in this system to give to the software developer to say this is what we've decided we want or system to do, now you make it happen or whoever does this?

Tom Connolly: We do have ongoing meetings and that was largely a part of the steering committee which consists of a number of people from every unit that the key systems touch. We've had those conversations with the project managers for the project. We've had conference calls with some of those groups that I mentioned before kind of giving them a quick overview of what the outside project is going to be. As far as the actual structure of the project, that has changed somewhat from the initial phases largely due, there have been some holdups largely with the migration of the data from the old legacy system to the new system and so opposed to just kind of waiting for that to be completed, the project manager has recommended making some changes here and there as far as developing other aspects of the system so that we're not stopping. I don't know if Bill you have anything to add on?

Bill: We were at a good point we were actually looking to try to consolidate the project down into a single, single release instead of a phase release. That means the front end that they basically finished the coding on would not be released until the tools were released. We want to do that only because the tools that we would need to do a phase release, initial plan was phase release, put the first part out and keep the systems in sync with some software and some coding behind it. We investigated the tools recommended by ITS and the tools and the consulting to get that done was quoted at just about a million dollars to do that and that seems to be cost prohibitive to do that. Whereas if we do a single large release, we eliminate that cost without negatively impacting the final end date the entire project is done. We're not going to slow things down with a simple release. It just means we're keeping the old system alive a little bit longer.

Peter Kosinski: I mean, I'll leave that to you I guess. I'm just trying to understand what I'm going to see once it's done. I don't really understand the technical aspect of this to be honest about it. If you have a better way to release it that's fine with me. but I'm interested primarily in how are the users, how are the candidates going to interface with this, and then what are the people the public going to see? I'm interested in both ends of that and if you could help me understand that as you go through it I'd appreciate it.

Douglas Kellner: And Commissioner I want to endorse your comments on trying to keep the filing as simple as possible to minimize the amount of detail. I thought your comments on that were helpful.

Peter Kosinski: Okay. Sorry that's all I have. Do you have more Tom on your report?

Tom Connolly: Just a couple of things more. We had posted reports of the petitions that were filed here for the 2015 primary. We do continue working with the counties and other states with regard to the cross check and the military NCOA information. We will be working with the counties that will be having primaries in September with regard to their military ballots that have to be uploaded. The 32-day transmittal deadline for that is on August 9th. So we'll be making sure that they have their ballots into the system that we have in place for the military voters. And then I think other than that Greg and Patrick have visited 6 counties in the last month and they're actually at a 7th one today and I think that's all I have for us this month.

Peter Kosinski: Okay great. Any questions? Next is ITU, Bill do you have?

Bill Ryan: We basically covered everything I wanted to. CAPAS/FIDAS is the other major project we've got going on is NYSVoter Refresh. Since the last meeting work order 3 was signed and put into place. Work order 3 says let's use some unallocated hours, hours that were not allocated to original tasks to start working on the implementation of the virtual infrastructure. Let's get the project rolling again while we're working on the project amendment to add the hours that the funding was approved for during the last Board meeting. Once that's done, we'll be able to finalize our schedules and get the infrastructure and the new version of the application ready to go. We don't have an exact date. We're going to keep it as close as we can to the original date but we did lose some time while trying to write up for the voter 3 and the amendments.

Peter Kosinski: I'm sorry, I don't mean to go back to my previous issue, do we have a time, what is our end date for getting that new system?

Bob Brehm: We had an end date of December. We are probably going to slip a little bit...

Peter Kosinski: December of?

Bob Brehm: This year.

Peter Kosinski: I'm not taking NYSVoter now I'm back on, I apologize the CAPAS/FIDAS system, do we have a timeframe for that one for when that might be finished?

Bill Ryan: December of next year.

Peter Kosinski: December of next year okay. Sorry, go ahead.

Bill Ryan: The only other update we've got most of the hardware and software delivered, the only major still outstanding is the server rack for the Nano Center and that we expect within the next week or two.

Peter Kosinski: Any questions?

Bob Brehm: I'm sorry, I know I mentioned at the last meeting, unless I've lost track but we're concerned about the funding for these projects and the money that is in the, well we were nervous we didn't have enough and we're not clear that we won't have enough but we did have a conversation with Division of Budget Todd and I and the IT people. Their expectation is a couple of things. They rolled some of the unspent money from the last fiscal year, some of the things we bought right at April at the beginning they used last years' budget for so it was about \$600,000 of the \$1.3 million. So that will not be eaten out of this years' allocation or appropriation. So we have that full appropriation for this fiscal year and they said we should, at least for planning purposes, expect that same number in the next fiscal year. So with that in mind, certainly Bill and the staff are working up what they think the expectations are, the

analysis of how to keep all these systems limping along because a million dollars is a lot of money to spend just for a phased release. But I think we're a lot more comfortable that we should be able to at least pay for the things we're thinking of doing.

Peter Kosinski: Well, is the phased release in order to keep the old system running while you're putting the new system out?

Bob Brehm: We have to keep the old system running and there's a cost to do that anyway. So we've been trying to figure out is it cheaper, from their analysis it was originally cheaper they thought in order to turn it over to the new system sooner. I think based on the review no, it might not be cheaper. It's going to cost us something to keep them going until the new computer program is up and running but we keep going back and forth a number of factors. It's going to cost us money, what is the cheapest option? Also, what is the better option?

Peter Kosinski: I guess the only other concern I have is that we don't want to scrap the old one until we know the new one works. So I guess that's my only concern.

Bob Brehm: Our biggest cost is things like Oracle ware that are no longer supported so getting the type of help at a level of someone that knows how to keep Oracle limping along is expensive and some of the other solutions are equally expensive or more expensive. So we're looking at a number of things that hopefully will take, we don't want to spend money just band-aiding to keep it going if that money could be better spent on the development of the new program. But they're trying to come up with a happy medium and I think they're close to recommending one to us.

Peter Kosinski: Okay. Anything else, no? Okay. And then the last is enforcement, Risa Sugarman.

Risa Sugarman: Thank you Commissioner. As Kim and Kathleen said, we've met to discuss better relationships between Compliance and the Enforcement Unit and we are working towards working on referrals and discussing how we can better access information from the Compliance Unit to better access Enforcement information so that we can move forward on our investigations. We also are receiving calls daily on this election cycle from candidates all over the state and we are sometimes referring. We also get e-mails, sometimes referring those to Compliance and sometimes answering those questions as best we could for the candidates if there are Enforcement issues. We had one of my investigators left the office, and to my estimation it would be better for me to have an additional auditor, so I've been doing interviews of another auditor instead of an investigator and I think I have found a candidate, so we are moving forward on that. We're continuing to conduct our investigations and moving forward with a process to begin to file both more criminal requests for more criminal referrals and more litigation on failures to file. It's, as you know since we've discussed it at prior meetings, been a long process for me to make a decision on how I'm going to go forward with that. I think I've reached my process of how I'm going to do that. In the last several months we've been looking at the, asked for a report from CAPAS/FIDAS. There are certain reports that we can access on both the 2012 through 2014 failures to file which are the lawsuits that have been filed previously

by Enforcement in the previous administration. We've also accessed or created an Excel file for those who have failed to file in the January periodic. One of my investigators used an Excel to access those candidates committees who failed to file in the January periodic and made a comparison from the reports that we accessed to the previous lawsuits that were filed and the January failures to file. And in the Excel that we created, the majority of those on the January failure to file list had been sued several times in the past by the previous Enforcement Counsel. So, what we're going to do is to establish certain targeted groups; those who have been sued multiple times before and look at those groups for requests for criminal referrals if those are appropriate. We're going to look at those candidates that are office holders that are failing to file both their periodics and the election cycle and look at those. Ask them why they're failing to file if they're in office and see if they have been sued or if not, to do that and get those \$10,000 fines that we would be able to do. And we're also going to look at targeted groups of those committees where if they were in public office and are no longer in public office what are the statuses of their campaigns? If they're still spending money, why are they spending money if they're not in office? And if they're doing that are they doing it appropriately? And if they're not consider criminal referral request to the Commissioners. And once we get the July periodic list to again make that comparison but first to send out a letter using not only the lists that are provided by Compliance but also the returns of the postcards that Kathleen mentioned that were sent out. So that we can access that list and create a list that we can do a batch review to get updated addresses and send a letter to those who have failed to file or those who have bad addresses and saying, this is what we're looking to do, file now or you're going to be either go to civil litigation or criminal referral. And that's what the process is. It's my position and that's why that I wanted to look at this more closely is to look at a targeted list as opposed to just sue just one after another. So we're going to use both the targeted list that the prior Enforcement Counsel used to do those filings plus other investigative tools that we developed.

Peter Kosinski: Are there questions? Is that the end of your report?

Risa Sugarman: Yes.

Peter Kosinski: Thank you very much. And I think we are then done with unit updates and next on our agenda is old business. And I don't have anything listed under old business. So, I guess we'll move on to new business.

New business are the petition rulings and I have before me and I believe all the Commissioners do a staff report on this years' designating petitions that were I believe either challenged or found to be deficient by the staff, is that correct?

Bob Brehm: Right.

Peter Kosinski: So why don't we do this.

Douglas Kellner: I would just adopt the report.

Peter Kosinski: Do you want to do these individually or I mean how is, what is your pleasure?

Douglas Kellner: Typically we've been doing the whole report the only question is whether any of these are significant enough to read out loud, but I don't think there are.

Peter Kosinski: So, I have 1, 2, 3, 4, 4 that were invalid as prima facie meaning they didn't have enough signatures or were over designated or no AD so there was a prima facie problem with the petition itself. And then I have 1, 2, 3 that were specs out. Now we're only invalidating though I noticed there's some valids on here. So we do vote on the valids and the invalids or just...

Douglas Kellner: I move that we adopt this staff report

Peter Kosinski: As it stands. Okay, so we have a motion to adopt the staff report as it's presented with both valids and invalids on it. We have a second. Any discussion? All in favor?

[Chorus of ayes] opposed? Alright, I guess that's the end of that.

So that's the new business. I'm sorry there's another piece of new business and that is the resolution to permit testing of an upgrade of the Dominion Voting Central Count System. And that, I guess I want, I want to go into this just a little bit if we can. So this is a...

Anna Svizzero: Excuse me. Bob do you want to sit up here. We're going to point to Bob at some point.

Peter Kosinski: I think a little explanation would just be helpful here.

Douglas Kellner: Is there an actual resolution?

Peter Kosinski: Yeah I have one.

Andy Spano: Do you have that?

Douglas Kellner: No but I'll find it. Alright thank you.

Peter Kosinski: So, this is a resolution to allow as I understand it the Dominion Central Count System to go into testing correct? So this is the system that's used by how many boards?

Bob Warren: Thirteen.

Peter Kosinski: Thirteen Boards in the state and that is just to count their what affidavit absentee ballots at the central location. There's no poll site system in play here at all. These are the new systems Anna alluded to earlier? These are all new? These have been purchased in the last year?

Bob Warren: Yeah and a half.

Peter Kosinski: Okay so they're relatively new so they're all still under maintenance okay. And I guess I just have a couple, so why are they updating it already since it just was purchased a year ago? That would be number 1. But number 2 maybe you could go through what the updates are. So if you could, those are my really 2 questions.

Bob Warren: The reasons for the updates that are presented are all usability type things. These are items that the counties have reported back to Dominion that would be nice if the system could do this and do these additional things such as the ability to...

Peter Kosinski: I don't want such as Bob, I would like a complete list of all the changes they're proposing to make.

Bob Warren: Yes, the first is the ability to delete batch. Its currently you can't delete a single batch, a batch would be scanning a set of ballots in that pertained a particular ED. Every time you scan a batch in or scan the ballots in it creates a separate batch. You can't currently delete a batch if you make a mistake. You have to delete the project and start over from the beginning. So this will give the counties the ability if they make a mistake with a particular batch to go ahead and just delete that batch and redo that one batch. That's what that change is for.

The other change is for the graceful recovery from a paper jam. Currently if you have a paper jam in the system, you don't save that batch when the paper jam occurs you have to rescan all the ballots that have already been scanned to create a new batch. So this will allow them to recover at that point and just continue scanning after they resolve the paper jam.

The one for the stop on ballot for incorrect ED. Currently, if there's a ballot in the batch that doesn't belong to that particular ED, the system will put it in a separate bucket and then the county has to go through and manually allocate that ballot to the correct ED. This way, the system will stop if it encounters an incorrect ED and they can decide to pull that out or let it run through.

The automatically obtained ED codes. The ED codes are like electronic header cards and currently they have to key those in. Now the system will read them directly from the memory card. So they would just select them at that point.

And the others are just updates to reports that were in the system currently.

Peter Kosinski: What do you mean updates to the reports?

Bob warren: Well the reports didn't totally mirror the reports that we get out of the presync the EMS system so they would have to take the memory card, bring it to the EMS read them and print the results or print the reports from there instead of printing them directly from the Central Count System.

Peter Kosinski: Okay so it's to conform them to the...

Bob Warren: Yes.

Peter Kosinski: Okay. So those are all the changes that this would be. So I understand it if we approve this, this would then allow this change to go into testing?

Bob Warren: To start the process.

Peter Kosinski: And then we certify it assuming the testing shows it works?

Bob Warren: Yes.

Peter Kosinski: And once we certify it as usable then it comes back to us to then permit the counties to actually put it onto their system?

Bob Warren: Yes.

Peter Kosinski: Now, who pays for this testing?

Bob Warren: The vendor.

Peter Kosinski: The vendor pays for it so there's no state money being used for this? So it's only thirteen counties that use this then?

Anna Svizzero: At present.

Peter Kosinski: At present okay. I guess those are all my questions. Anybody else have questions.

Douglas Kellner: I move the resolution.

Peter Kosinski: The motion is second. All in favor say aye.

[Chorus of ayes] opposed? And the resolution is adopted.

Anna Svizzero: Thank you.

Peter Kosinski: You're welcome. Now I presume at some point not to belate this either but we are going to see a similar request for poll site machine updates?

Bob Warren: Yes. We already submitted it but we tabled it and ES&S is going to submit one next month.

Peter Kosinski: So, we will be seeing a similar request for those systems to be tested as well?

Anna Svizzero: The Dominion one we had we just separated this piece out to keep the project moving forward. But we're in the context of separating it out that issue of version management and that kind of thing comes up. So we will, hopefully, Brendan and I will have a recommendation for the Board at the next meeting and then you could vote on the balance of the Dominion upgrade and if we get ES&S's application on time for your consideration you'd have that as well.

Peter Kosinski: Now these upgrades are being generated by the counties is that fair to say? They're the ones asking for this stuff. Dominion is not coming in saying let's fix it, the counties say we want this, we want this and Dominion is accommodating them with these upgrades?

Bob Warren: In the case of Dominion yes, its really just a change in the way the tape prints out on the precinct base system.

Peter Kosinski: I mean the ones we haven't adopted today. These are all county instituted.

Bob Warren: Yes, in the case of ES&S when they submit theirs its mostly county requests but there's some additional items that ES&S wants to put in our system.

Peter Kosinski: Okay, so I think that's that. Now, I don't have any other business for the meeting. Does someone want to make a motion to go to Executive Sessions? I believe we have both Enforcement cases to discuss and litigation to discuss.

Douglas Kellner: Do you want to set a date for our next meeting?

Peter Kosinski: Yeah, hang on. Let's take a look here. What do we have as far as...

Douglas Kellner: We're talking about the last week of August or the first week of September and then September 28th.

Peter Kosinski: Oh, you want to set two meetings? Okay.

Douglas Kellner: The 28th seems to be an agreed date that that's the best day when we have to certify the primary results.

Todd Valentine: Well that is the certification deadline so...

Anna Svizzero: All the JAD certificates will be filed so if there's any issues with those you'd have to contend with them and then we could...

Peter Kosinski: Well let's set the next one at least. I have to look at my calendar but let's set the next one at least and then we can talk about, I'm certainly happy to talk about the September one as well. But do you have a date for the next one? Is there a need to meet by a certain date?

Bob Brehm: The only need would be after the 15th of September and before the 28th.

Peter Kosinski: I was thinking before then. So you want September or...

Andy Spano: We want the end of August, beginning of September.

Douglas Kellner: Pick a day in the last week of August or the first week of September.

Peter Kosinski: Okay let's do that.

Douglas Kellner: Whatever works for you, I think Commissioner Spano and I looked already and we're...

Peter Kosinski: And you're pretty good. I think I can do that too. I think I'm good. I do have a preference here or doesn't it matter. Anybody here? When's Labor Day?

Andy Spano: The 7th.

Peter Kosinski: Well why don't we meet the week, can we meet like September 1st? It's a Tuesday. How about if we shoot for September 1st, that's Tuesday.

Bob Brehm: And just for your planning for the next meeting the 28th is our certification deadline we need you to meet in case there are any filing issues for the new political parties or from the judicial conventions. Even though some of the filings may come after your meeting, we can't control the fact we can get a declination afterwards that may need...

Douglas Kellner: So it doesn't have to be the 28th but that's probably...

Bob Brehm: That's the most productive since...

Peter Kosinski: Well alright let's try for it. I've just got to look at a couple of things before I go that far out. But I can certainly commit to the 1st and so we'll do that and at the 1st we'll commit to the next one. How's that? Okay. Thank you I guess that's the end. I don't expect to come back out. Do you expect to come back out of session? So I think we're done for the public. We had a very low turnout today of the public. Thank you. We'll take a 2-minute break if you need one and we'll reconvene at 2:05.

