

Douglas Kellner: Good afternoon everyone. My name is Douglas Kellner, co-chair of the Commissioners.

Peter Kosinski: Peter Kosinski.

Gregory Peterson: Gregory Peterson

Andy Spano: Andy Spano.

Douglas Kellner: So the first item on our agenda is approval of the minutes of September 15th. I'll take a motion first on the regular minutes.

Andy Spano: So moved.

Gregory Peterson: Second.

Douglas Kellner: Those in favor say aye.

[Chorus of ayes]. Opposed. So those are adopted.

We have the minutes of the Executive Session and my understanding is we're going to lay them over for revisions?

Peter Kosinski: We have some issues; you want to lay them over? Okay.

Douglas Kellner: Well unless you want to just, I have my revisions.

Peter Kosinski: Well I know we made some revisions, maybe we should lay them over.

Douglas Kellner: Yeah.

Peter Kosinski: Yeah, why don't we do that?

Douglas Kellner: Alright. So we'll proceed directly with unit updates. We'll start with the co-Executive Directors, Robert Brehm and Todd Valentine.

Bob Brehm: It's been a short period since our last meeting of September 15th but a very busy time of year with the post primary activities, the judicial filings, luckily there were only 3 items for your prima facie reviews so its kind of wound down from a very busy year that started in January for petition filing and ballot access for the many, many primaries we have this year. It's been extremely busy with the work we've been doing in the area of cyber security and meetings and conversations and communications with state information technology services and the county boards of elections. I think we'll talk about a little bit more of that when we get to the IT Department report. And then in general, it's good to remind everybody that we are very short,

10 days away from the last day to register, if you're not registered, for the general election. The phone calls are clearly picking up the pace for people asking questions about absentee ballots, etc. So I think we're where we expected to be this time of year, going into a Presidential Election for an increased amount of activity. We've seen an increased amount of activity through the Department of Motor Vehicle Voter Registration. The 30th of September was a Facebook push for voter look up and voter registration. Google was the following Monday and it was up by a few days, I think the 23rd whatever that Friday was and then the 27th was the National Voter Registration Day. So DMV at least gave us some statistical information that showed that their system was almost at 600% increase than the week before. So 1) it was good to see that activity, 2) It was good to see that the DMV fixes they put in place since the system was not able to handle the load on March 24th, the last day to register in time for the Presidential Primary, when their system crashed because of the volume of people trying to use it. And that crashed about 9,000 users and now they're at about 30,000 users a day. So at least whatever fix they did seems to be working and that's a good sign. Other than that, I don't think we have anything particular.

Todd Valentine: No, we're just getting ready for the election at this point and one thing that's coming up in the future is the budget call letter it's usually in September but it hasn't been here yet but we are expecting again as our normal budget. As we put it to the all the parties that matter that's problematic for us as we take them on, different roles particularly with the Independent Expenditures. We continue with the upgrades to the NYSVoter Project which will carry forward and then the upgrades as well to the Candidate Management System which we can touch on a little bit later in the IT report. So but we wait to see that. It will be the formal call letter that we're waiting for from the Division of Budget.

Bob Brehm: We envision, when we do get the budget as opposed to last time where we submitted the budget in a separate communication since they don't get budget side letters anymore, we just send an e-mail articulating everything we used to include in the side letter. But, our plan is to have them go at the same time as this cycle. And we have communicated to the Division of Budget and the Chamber the general issue next year of the Constitutional Convention question appearing on the ballot and depending on the final wording of that, as we usually don't have \$250,000 sitting around in our budget to publish the Constitutional Amendment question so that a zero growth budget would really be hard next year just for that fact alone. So that we anticipate submitting, communicating to them what we need in a side letter along with whatever the budget call tells us to do.

Douglas Kellner: Okay. Anything else?

Gregory Peterson: I think we should welcome our Counsel here. You didn't bring your hardhat but other than that... welcome.

Douglas Kellner: Alright so with that we'll start with the Counsel Reports; Kim Galvin and Brian Quail.

Brian Quail: Thank you Commissioner. Obviously, with the November election fast approaching the Counsel's Office has been very busy transitioning from the Ballot Access Litigation which is nearly complete and dealing with the various phone calls that we obtain from the Boards of Elections and the local boards and from others with questions about the process and how things work and that sort of thing. So, that call volume is dramatically ramped up right now. Since the last meeting a few weeks ago, the Compliance Unit has taken a great deal of time transitioning to accommodate chapter 286 of the Laws of 2016 Independent Expenditures and the E filing of campaign materials. Chapter 139 of the Laws of 2016 that has taken up a great deal of time and energy and has involved outreach to all of the IE committees which received a letter, e-mails to all but 5 and phone calls to those 5 that we didn't have e-mails for. In addition, we sent out 965 letters to all of the existing packs that are currently in the system informing them of their need to file new registration form.

One of the things we haven't really talked about and I won't spend too much time on it but, again Chapter 139 of the Laws of 2016 permit electronic filing of campaign materials which is also something that's very relevant to IEs because they file their campaign materials on a weekly basis and that process is now fully implemented. We thank the folks in the IT Unit for working very closely with us to make that come to pass.

Compliance Unit obviously is working on and reviewing the reports that were filed for the primary election. Referrals of the 32 day and 11 day nonfilers had been made to Enforcement and also, this is very important, the Case Management System in compliance that will allow us to better track the statistics on how complaints, excuse me, how a particular filing is reviewed as it goes through the process and to track that and to make it easier to have meaningful information in front of the compliance reviewer including the relevant documents that were previously provided to that particular committee, that Case Management System has begun to be reviewed as of October 3rd in a beta testing environment. So, we're happy about that, about a month later than we had hoped to do that but, it is happening.

The FIDAS redesign effort obviously remains an important priority of the Unit. We continue to be working with ITU and again, another thanks to ITU in implementing the changes necessary to the web based filing system for the weekly and 24 hour reports for IE's which we're indebted to their quick turnaround on that. That's my thumbnail.

Kim Galvin: We did have a meeting with Enforcement.

Brian Quail: Because actually its one of the most important things. I have it written on the top in pencil. We met with the Enforcement Division, three attorneys came over, and Risa came over. We had a very productive discussion which flowed out of the Commissioner's mandate from the last meeting to have a list of deficiencies that was weeded out of things that don't belong on it. We talked about the Dominimus criteria. We talked about a process going forward whereby we will have another meeting and we will actually, at Counsel level, review all of the deficiency reports, the paper reports that have actually been sent over to determine where there are potential misclassification, not misclassifications but where there are things that do not need to be on the list. And in that process, perhaps the Dominimus criteria might end up changing

but, more importantly, we will have a list that is more meaningful in terms of deficiencies and obviously we'll continue to treat issues that don't rise to that level as training issues. And that was a very productive meeting.

Kim Galvin: We also worked on some things that will be coming later in the agenda, like we spoke about confidentiality policies and we also had a lot of back and forth in discussions on the proposed request for opinion regarding the IE Committee. So, other than that, I don't think there's much to add.

Douglas Kellner: Any questions? Alright then we'll do Election Operations, Anna Svizzero.

Anna Svizzero: Thank you Commissioners. We have highlights for you from our written report that's in your Board Packet. We completed as recently as Thursday, Friday nominations for Supreme Court. 31 nominations, 59 candidates and all of the attendant acknowledgement notices, etc. that are required to be sent. We certified yesterday the State and local ballot for the 2016 general election and we amended the federal cert for that same election. We have a number of amendments that are going to be made today. We're waiting for the mail to arrive. We have a couple of substitutions that are pending, bless you, and some information that county boards did not provide during the petition finding period that they've just realized now that the cert was delivered to them. So we'll be making those amendments today as well.

We are working with NYSTAC for a test plan on functional testing for the automated audit tool to try and keep that process moving forward. We continue to discuss regulations and options available on that topic and we know that you'll be taking that conversation up later in today's meeting. We reviewed Brendon and I, the requests from persons who want to be official write-in candidates for President on this year's ballot. We have 2 that have made that cut. That deadline is next week I believe.

Brendon Lovullo: October 18th.

Anna Svizzero: October 18th, thank you. So those will continue to come in. We have an engineering change order from Dominion, it's Dominimus in nature, and it doesn't require any testing. They need to find a new provider for the monitor on their ballot-marking device. So our procedure is to advise you of that at our very next Board meeting which is today. I don't think we have anything else of note. Oh, JD roll calls obviously were completed which is now the conventions were convened which nominated the candidates. Do you have anything else Brendon? Thank you.

Douglas Kellner: So, Public Information, John Conklin.

John Conklin: Thank you Commissioner. Public Information Office as you would expect has been extremely busy. We've had lots of questions about the primary, the judicial nominating convention, cyber security issues around the election, the voter registration deadline and, of course, campaign filings. I'm actually stunned to hear that only 2 candidates are going to make

it on the write-in because based on the number of calls we've had asking what the criteria is, I would have expected a minimum of 30 candidates.

Anna Svizzero: I think we had 30 ask but 30 did not do what you had to do.

John Conklin: It's very interesting.

Bob Brehm: Knowing and doing are two different things.

John Conklin: That's correct. So Tom and I have participated in meetings on election night reporting following the September primary. We were both on the ECA call on September 22nd, the monthly call. We continue to participate in all the discussions concerning cyber security and the general election. We had 61 FOIL requests in September. We have posted to the website the IE emergency regulation adopted at the last Board meeting. The information, as Brian mentioned on electronic filing, campaign materials. There were some updates to the handbook and form section of the Campaign Finance part of the website. We'll be doing the state certification today of the state part of the ballot. We posted the federal certification and a couple amendments to that. We have also posted the webcast and the transcript for the September 15th meeting. For NVRA, Greg and Patrick are in Ontario County today doing a NYSVoter review and the annual report was in your packets for this meeting. So, subject to your approval it's done and we will post it today. Tom do you have anything to add?

Tom Connolly: The only thing that I would add is that obviously part of the federal ballots went out 45 days before the election and we did confirm to the Justice Department that they did indeed go out by all the counties. The next deadline is this coming Friday which is the 32 day deadline to get ballots out for state and local races to the military voters. So we'll obviously be following up with all the counties to make sure they get those out after the certification. Other than that, we've been fielding a lot of phone calls from overseas about people who are just interested in how they apply for their ballot and how they get theirs, a lot of that information going out. That's all I have.

Douglas Kellner: Alright. So next is Information Technology, Bill Cross.

Bill Cross: Good afternoon Commissioners. I want to thank Counsel for covering most of my report. We made some great strides this period in terms of getting the Case Management piece rolled out to testing and handling the electronic filing of campaign materials, both significant achievements. However since our last meeting, most of our focus has been obviously still on cyber security and the visibility in that area, assessing our environment, making improvements, also working with State resources, ITS, the Enterprise Information Security Office and the counties as well on some of those issues. There's still some work to be done both short-term and we've identified some opportunities for long-term improvements as well in that process. I expect that will continue right through the election and beyond particularly for the longer term efforts. In the 3 weeks since the last meeting, I have begun, and this was raised as an interest in the last meeting, have begun to looking to more of the project schedules that we've shown interest in particularly CAPAS FIDAS and assessing where we are with those. There are many

unknowns; the most critical of which is resources and staffing which the original schedules were based on a certain assumption of staffing that either didn't materialize or have been lost since that time. We are however making very good strides in reestablishing that staffing and getting it in-house particularly with the hourly consultants and PBITS process for developers. We've received several dozen responses to our orders for those consultants. We've also received and gone through, reviewed, rated the bid for the infrastructure that's required to build that project on. So, my key areas in looking at this are three fold; so 1) is the amount of work that has been done and needs to still be done, 2) is the resources and staffing I have to do that work, and 3) in terms of an IT project, what are you building it on? So, each of those areas still has several unknowns. We're making progress particularly in staff and particularly and the infrastructure needs to be built on and hopefully we'll have some more dates that we can use to base a schedule on going forward once those processes are completed and they're very much in progress right now. There is still work to be done in terms of the amount of work to be defined. We in the schedule, there's certain parts that are defined at a very high level. When we get down to details that will dictate exactly how much work that we require. That part still requires some significant work. one of the key resources for the project in going through the schedules of the material I have and meetings with staff is one of the key loses was the project manager for the project that really is the nucleus of keeping the project on schedule point, to gather all the pieces and establishing that timeline, one of the items that we are currently looking to fill is replacement Project Manager for that. So particularly that person, excuse me, will be key to pulling this back together and reestablishing a realistic schedule and timeline for that.

Douglas Kellner: So, just where do we stand now on this is the FIDAS system, the Campaign Finance Disclosure updates. So is what you're saying is that the project is basically on hold right now until we get a new Project Director?

Bill Cross: No, there's significant progress going on. Case Management is particularly one of them. There's 8, there's 9 modules in fact in the application. We have maintained momentum through the process and several pieces are in play. The schedule however was based on a certain assumption of resources. I believe at the time it was more like 6 full-time developers and...

Douglas Kellner: I'm not so interested in the excuses as I am in what the schedule is now and what is needed to get back on track.

Todd Valentine: Yeah, I don't think it's a question of an excuse. It's a question of trying to explain to you that the original date which was targeted for 2017 was really targeted to be in place before the July periodic filing for use in the beginning of that cycle. Why he's reluctant to give you a date at this point is we're probably not going to make that. Absent, you know, I'm not going to say a miracle, but the pieces coming together. Things have not stopped as he said. But there have been critical delays in getting access to the resources through the system that we need to use to get the resources through the Office of Information Technology Services. And there were some absences. People left, some of the resources left to go to another job so those things happen. So I don't know that at this point we could give you a new date. We could tell you the current date that we're targeting which would have been the spring of 2017 is not

looking good. It's probably going to be later into 2017 but what we can't tell you is when later in 2017 at this point. And it could push into 2018, we don't want to...

Douglas Kellner: If we don't get a project manager.

Todd Valentine: Yeah, other things could happen you know. The Project Manager would help us extrapolate what the dates are.

Douglas Kellner: So what do we need to do to get a Project Manager?

Bob Brehm: Well in the last, first of all if we did nothing but come to work on the calendar in the three weeks we would probably still not have a better date for you because cyber security has been a higher priority than the calendar but he's also tried to work on that. More importantly, also during that 3 weeks is to work and we've all worked with getting approvals and pushing to get the temporary workers that we've been asking for since February approved. And in the last 4 or 5 weeks that has finally come together to get that process going. And

Douglas Kellner: Now wait, there's a lot of gobbledygook in there. You said that's come together to get that process going. Now does that mean that the process is starting or that you got the approvals? And who do we need to get the approvals from?

Bob Brehm: The approvals...

Douglas Kellner: What I'm trying to pin down is whether, see there are a lot of advocacy groups that want us to, or constituent groups that want us to update this system and that pressed very hard to get Governor Cuomo to fund it and indeed they have been pressing Governor, I mean this has been going on for a decade before that and to his credit, the Cuomo administration finally said, "We're going to fund this" and that was a great positive step. So what I want to know is whether or not we're getting all the support we need or whether the groups that were lobbying for this new system need to step up concerns about the delays.

Bob Brehm: Well the money is in the Department of Information Services, the large part of the money to pay for this implementation. We have been asking since February for 6 temporary positions for...

Douglas Kellner: Asking who?

Bob Brehm: Well it's the process since the money is at Information Technology is they issue...

Douglas Kellner: That's a pronoun.

Bob Brehm: The Department of Information Technology the HBITs effort to fill those positions and during the summer, we had engaged the Department, the Chamber, Division of Budget, people here in this building to push to get those approved. They were approved. But then the detailed plans to actually fill the jobs a week later kind of halted in August. We convened a

meeting between the chamber representatives, the information technology, state office, our cluster team to try and push this through and for the first, I think it was one of the most productive meetings we had because they agreed to push the 6 requests through as quickly as possible while we continue to answer whatever questions. But, more importantly, they had indicated that they are going to sub allocate the money from Information Technology to us. That's the first time we've heard that. Up till then, the money has been there and we had to work with them at Information Technology to get the process moving. They've decided to take themselves out of that cause they thought it was delaying the process. I can't disagree with that. So in the short period of time in the last 3, 4, 5 weeks we've had that level of effort. So I think we're very close to getting the bodies in the chair and to sub allocate the money so that whatever, once we get the people here and we free up a little bit of William's time from cyber security and some of the other crises of getting this paperwork organized, which he's been doing a great job helping us with, I think he can then give you a better deadline that we can rely on. It's just I don't know that we will necessarily have it for your next Board meeting but certainly, we will be much farther along to having a reliable...

Douglas Kellner: And the Project Manager issue we've been without a Project Manager for several months, what do we need to do to...

Bob Brehm: We've identified a staff member to be an interim Project Manager. And we've also told you, we were trying through NYSTAC to use that contract to get additional help with project management. They recruited someone, offered them the job, gave us a start date then the person took another job. So we are still in the process of, we thought that at least was a Project Manager. So we have not succeeded in getting someone to take the position. So we're trying both avenues to get as much help in here as possible because we have temporary money to do the projects, we don't have money for permanent staff. So we need to supplement our permanent staff with the resources they've given us and there are a lot of resources, we just have to get them in place in order to help get this project done.

Bill Cross: We have seen significant progress in the past 3 weeks on that regard. In each of those positions we're trying to obtain, we've received several responses, résumés and such and we are going through them and will be interviewing so significant progress from what has occurred just a couple of months previous.

Peter Kosinski: I just want to go back a minute Bill to the cyber security issue. So I mean, I probably like many others have read that there are efforts being made around the country to attack voter registration systems. Are we aware of any effort in New York State along those lines?

Bill Cross: We've had no confirmed efforts for New York State. We're working with ITS to take a more in depth look at what we do have. They have some greater tools that can identify such things than we have and we're utilizing them. In a public forum I won't go into a lot of details of what that is but we've at this point have no indications that they have but we are taking extra steps to make sure that's the case.

Douglas Kellner: And our system is fully backed up right?

Bill Cross: We perform regular backup schedules and things that we are supposed to do on a regular basis which is just good operations aside from security, but yes.

Douglas Kellner: Go to Enforcement, Risa Sugarman

Risa Sugarman: Good afternoon Commissioners. First I'd like to agree with both Kim and Brian about the meetings that we had on the deficiencies. We met and it was lengthy. We had very productive conversations about moving forward on the review of the deficiencies both going back and going forward. We also discussed about the failure to file and how we can all of us work on those issues as well. I'd like to thank William on providing us with the Do Not Reply e-mail so we do have that address e-mail address now and we're working on finalizing the letter that we are going to send out on failures to file and we're going to show that letter to both Bob and Todd before we send it out. We've been just fielding questions as well about the upcoming election and trying to answer those questions as best as we can and providing information to the public. And that's it.

Douglas Kellner: Is there anything happening with the over contribution list?

Risa Sugarman: I have those responses for you. I'd rather do it in Executive Session.

Douglas Kellner: Anything else?

Gregory Peterson: Do we want to bring it up at this point or during Executive Session, how are you progressing with the Fair Campaign practices situation?

Risa Sugarman: The Plattsburgh Franklin County Campaign, is that the one you're talking about?

Gregory Peterson: Yeah, the sore thumb. That one that was stuck in your eye or our eye.

Risa Sugarman: At this point, we are preparing a special proceeding. We have been in contact with the attorney that contacted the Division. She has indicated that at this point she does not represent any particular client for the purposes of service and we are in hopefully the final stages of writing the order to show cause.

Gregory Peterson: That's still a timely process isn't it?

Risa Sugarman: Well we should be done by tomorrow and be ready to serve it by Thursday hopefully.

Gregory Peterson: Would it help if this Board gave you subpoena power in order to get those records? You've asked for information and basically haven't gotten it.

Risa Sugarman: Correct. The Board has requested or sent out a process. I've asked the campaign to provide a copy of the full poll, they have refused to do so. I don't know if the Board's issuance of the subpoena what the process would be to give me that poll if there is a response to the subpoena, I suppose the Board could turn over that. I don't know who would...

Gregory Peterson: No what I'm saying not that the Board is going to get that information but the Board would authorize subpoena power to you to seek that information which you would then review in camera to whatever your decision is, it is. And I think that's probably certainly fair. I don't see how anybody could object to that. And I think it bothers me when any organization, you know thumbs its nose at us, it's not right.

Risa Sugarman: I agree with that and

Gregory Peterson: And the stonewalling, excuse me, the stonewalling sometimes happens at a time here we are with several weeks to go before the election, and maybe its preferable or not preferable, I don't know what the time situation is to delay things until after election. That may be but its not fair and its not right and if there's a question to be resolved and you are the designated party, as we had discussed that you should be the designated party to do so, then I think that perhaps the strength of this Board in a subpoena giving you this power to do so and whatever you find you find. Whatever comes out comes out. But again, it's your review in camera to see whether if their campaign practices have been violated or not.

Risa Sugarman: Actually I think the authorization for subpoena authority is under 3-104. I don't happen to agree with the attorney that for the Jones campaign that my only, there was an argument whether the regulations under the Fair Campaign Code were subsudent by the regulations for the Hearing Officers under 3-104. I don't agree with that and I don't know that my process under 3-104 and a criminal investigation and a hearing officer process is the mechanism that I wish to proceed. That's why we chose to go forward under Article 16 for special proceeding. If the Board wishes to issue a subpoena the Board certainly can do that. The Board obviously has subpoena authority to do that. But in terms of my process, I don't know that issuing a subpoena or having the Board give me the authority to issue a subpoena and therefore agreeing that the regulations under the Fair Campaign Code are no longer valid is the process that I wish to pursue. I understand that...because I don't, if I'm going to do a 3-104 investigation, its not necessarily, it may be that it would be a hearing officer process. It may be, I'm not limited to a hearing officer process. If I issue subpoenas under 3-104 there are other mechanisms of both the criminal and civil investigation. I don't know that that would speed up the process in getting...

Gregory Peterson: It certainly sends a message.

Risa Sugarman: It does send a message.

Gregory Peterson: In my way of thinking the message should be, you as the Enforcement Officer have made a request on behalf of the Board. It has been totally ignored and then to add insult to injury, we get a dissertation given to us about how our processes operate and how they

should operate. Well, you know what, that's not the case. It's this Board that dictates policy, the rights policy and it's just very bothersome to me that it remains out there with nothing being done. And all I'm saying is that if you need something more that would bolster your strength as Enforcement Officer, then I'm perfectly willing to do that. I'm willing to do that today and certainly that cuts time short and the message should be then very clear to those receiving it that don't fool around. After watching on the TV whatever this website is, that's where I stand.

Risa Sugarman: Generally, my applications to you on those issues are done in Executive Session but I thank you for your assistance and that's why I'm going a special proceeding and filing a special proceeding because I agree with you. I don't believe that the campaign should just be issuing to the Board and to me the process that they think should be designed for their response.

Peter Kosinski: So I guess I wasn't clear. Do you think it would be useful to have a subpoena issued in this case in order to help you do this or you don't think that would be helpful?

Risa Sugarman: Well I don't, as I said, when I ask for a subpoena authority I do that in Executive Session. If the Board and I don't want to...

Peter Kosinski: Well this is a little different than that, I mean my view is this is a Fair Campaign Code process which is a civil process, its not really under that rubric of a criminal matter but and I do understand your reluctance. I think from my perspective, giving you the ability to pursue this is in the public's best interest so if that would be helpful, I think we just wanted to be...

Risa Sugarman: Well I don't know. I just, it's always helpful for the Board to assist in any process that the Enforcement Counsel should pursue but I don't want to impose my...

Peter Kosinski: Fair enough. I mean maybe it should come, I mean I would move that if it relieves you of the duty.

Risa Sugarman: Because the Board as the statutory authority, I just don't know the mechanism of transferring that response and if Counsel for the campaign for the Jones Campaign would move to quash, that would not be my defense of that subpoena. Because it would be the Board's subpoena.

Peter Kosinski: Fair enough.

Risa Sugarman: So, if the Board wants to issue a subpoena I would thank you for your assistance but it would be the Board's action.

Gregory Peterson: At least if we serve a subpoena by this Board again, normally I would say, we're in a political realm at a very political time within the election cycle. So I don't want to mess around with any of that. The issue being of a subpoena for us to receive that poll I would not want because frankly I don't what's in the poll and I don't care what's in the poll, but that

should be something within your purview. So if we issue a subpoena or ask to issue a subpoena that should be subpoena given so that you get the information, not that it comes necessarily to this Board. And whoever wants to move to quash, maybe that says something loud and clear too.

Risa Sugarman: I don't know the mechanism that that...

Gregory Peterson: I'm going to start a new mechanism.

Douglas Kellner: You're making a motion?

Gregory Peterson: Why not? Yeah, I make a motion that we issue a subpoena in order to get the information that has been requested by Enforcement Counsel and not received and that said information regarding the poll be given directly to the Enforcement Counsel for her review in camera.

Douglas Kellner: And you're seconding?

Peter Kosinski: I will second that motion.

Douglas Kellner: Alright. Now we had Commissioner Peterson I thank you for raising this in the public session because indeed one of my thoughts if we had better minutes from the last minute was to make those minutes public because they relate to the Fair Campaign Code procedure and there's really not an issue of confidentiality but at the last meeting we had a pretty lengthy discussion which I listened to again today from the tape about the problem of the statutes not being reconciled. That the regulations under 3-106 which relates to the Fair Campaign Code have not been updated since the enactment of the statute that created the position of Chief Enforcement Counsel and all the procedures under 3-104. So, what I have read from the correspondence and I think that Ms. Sugarman has been referring to that as well is that there are substantial procedural issues that are not resolved at this point. Is Ms. Sugarman acting in her capacity as investigator or, is she acting in her capacity as hearing officer? And so until those questions are defined and laid out, I'm not prepared to ignore the requests that Counsel has been making under the State Administrative Procedure Act to clarify what the procedures are that govern the process at this time.

Peter Kosinski: Well I think there's a reference in our rule on the Fair Campaign Code to the Enforcement Counsel's role and I believe Ms. Sugarman currently is under the title of Enforcement Counsel at this agency which did change under statute when she was hired. So, my view is that our rule, which references the Enforcement Counsel would be used by Ms. Sugarman during that period and then the hearing would be conducted under the rule as it is currently constructed. So I don't see where there's, I don't see why we can't reconcile the two.

Douglas Kellner: Well and that's consistent with what you said at the last meeting where we also, you used the words, need to revisit the regulation. So if Ms. Sugarman is acting as a hearing officer, then the next step ought to be to schedule the hearing and have the hearing. And that she would conduct the hearing. But that needs to be clarified and certainly that's not what

Ms. Sugarman wrote in her response to Counsel. So I'm simply saying we need to spell out what the procedure is and if you want to use 3-104 then we should follow that procedure.

Peter Kosinski: That's fine. I think the procedure is laid out in the Fair Campaign Code. I mean I don't think there's a...

Douglas Kellner: So, Ms. Sugarman is the hearing officer and she should schedule the hearing if that's what you're saying. I happen, by the way I said in the Executive Session last month that I don't necessarily agree with that. That under principles of statutory interpretation where an agency has been reorganized, under the reorganization, that function passed to the what we now call the Co-Counsels because we basically renamed the old Enforcement Unit the Compliance Unit and then merged it with the Counsel's Office. So, again the Administrative Procedure Act raises questions about whether a regulation is still in force after a significant change in statute. And they're entitled to a response to that from us before proceeding which was the thrust of the letter from Counsel was, "So tell me what the procedure is." And that's exactly what I was saying last time in terms of trying to lay out what the procedure would be and we kept ducking this issue of whether Ms. Sugarman was going to proceed as an investigator or whether she was going to proceed as a hearing officer.

Peter Kosinski: Well I don't think we're ducking it. I think we acknowledged that the Enforcement Counsel position was identified in the rule as having a role in the Fair Campaign Code and Ms. Sugarman currently fills that role. Now there was some discussion whether we wanted to revisit that due to the statutory change, but currently, having not revisited it, that's the status. So, her direction to pursue this was, I think, under that understanding which I think we all have and had and this is, as I see it, her effort to do that under basically our direction because still the Fair Campaign Code is within the Board of Elections. It was not totally turned over I agree to the Enforcement Counsel for all purposes, it still, we still retain an authority and some of the responsibility in the context of that but I didn't think it would thwart our ability to continue to enforce the Fair Campaign Code which I think is important and I think should be done.

Douglas Kellner: Alright well I think we've laid it out. I'm sorry.

Andy Spano: I'm not up on all the law and all the details but we had a long discussion at the last meeting regarding how to be fair to both campaigns in this process. One who has released some information on poll and one who wants to hold poll or at least wants to make sure what was released and what they get is the action questions that were asked. We tried in the process that we suggested to protect both parties. In a process that would protect one campaign from not having to release things they don't have to release and another campaign from getting what they have to get. And I thought it was an adequate process for us to follow. And I'm looking at this, no legality here. I've listened to all this discussion.

Gregory Peterson: Oh my god, common sense!

Andy Spano: No, and I believe that when she asked for this, this process was discussed, it's opened, we were told what the process is. They're saying to the Board, "We don't trust you."

That's basically what they're saying and I don't like that. Now what the subsequent vote should be, whether we vote for your subpoena or we ask for something else I don't know, but that's my perspective of this. We've done a legitimate conversation of this issue. We've come up with a legitimate process that protects both parties and they should give us the information.

Gregory Peterson: Commissioner I wholly agree with you and I think that puts it as succinctly as possible and the thing that bothers me is we did agree to that and I had figured, well once our Enforcement Counsel writes another strong letter and say, "Hey we're going after you if you don't do this" bingo, they fold their cards up, fine as long as nobody sees it but you, god bless you. That didn't happen. We got another volume of a litany of legality coming back saying, "Well you should do this and you should do that and by the way this is what it says and we interpret it this way." You know what? Nonsense. You were asked something, you were asked twice, is it three times now, three times, you know what three strikes you're out as far as I'm concerned, and I want to get tough. And bottom line is we asked you for something, you haven't given it, whatever it takes to do that and protect the integrity of this Board, let's do it.

Andy Spano: So, Risa what makes you stronger?

Risa Sugarman: I think both are a good process to ensure that the poll is provided.

Gregory Peterson: Thank you.

Brian Quail: If I could be heard on a procedural element, I don't think its unreasonable in a situation, I think everybody agrees that as between the regulation, the adoption of 3-106 and obviously 3-104 which has language in it where it takes the investigatory functions that are elsewhere in the statute and says, you know that belong to the Board and says they belong with the Chief Enforcement Counsel that having this new almost grand jury like procedure that 3-104 sets in place whereby you don't get to a special proceeding without vetting it through a hearing officer and that that was placed in the statute in part because the bipartisan element toward making that decision in the 3-104 investigatory context was taken away. So they put in the hearing officer process in lieu of that. That there is, in my view, statutory ambiguity as to that. but I don't think that there's statutory ambiguity about what the actual procedure under the Fair Campaign Code would be in terms of if there's an answer and its reviewed, then the next step is to follow a process of noticing a hearing and sending out certified mail to that effect. And that's the process that would unfold. Issuing a subpoena at this point in the process does not seem to hue to the actual process.

Douglas Kellner: That's my view, if you're going to go that route.

Risa Sugarman: But I just indicate that there was my response to Counsel was that their response in laying out what they thought the procedure was, was not an answer pursuant to 3-106 and the regs. So I don't think that they've submitted an answer and that's why I believe that they're in default. And I don't think that...

Douglas Kellner: But you didn't tell them in ambiguous language to submit an answer. You told them to submit the poll. Without answering their question in the procedure.

Risa Sugarman: Excuse me Commissioner, when I initially wrote to the campaign manager who was the person who indicated that I should communicate with him, I sent him an e-mail and I attached the procedure, the regulations of 3-106. Told him those were the procedures and that he was to respond to me in a number of days that he had under the statute and the regulations. So I did give him the procedure and I sent him another copy of the complaint that was filed by Mr. Walsh on behalf of Mr. Moverhill who was the candidate for Assembly. So I did.

Douglas Kellner: Do you have a copy of that response?

Risa Sugarman: I have it in my office.

Douglas Kellner: Because I went through the correspondence and I did not see anything that actually requested an answer to that.

Risa Sugarman: Ms. DeMarco who is preparing the Order to Show Cause has the file. I would also...

Douglas Kellner: You see the Commissioners are supposed to make these decisions, then the paper's ought to be before the Commissioners and they shouldn't be doing the thing on hearsay.

Peter Kosinski: I believe that Ms. Sugarman's request was pursuant to the Commissioner's direction at the last meeting where we directed her to pursue getting a copy of the poll so that she could look at it herself and make some kind of informed decision as to whether they're submission of the poll questions they did submit were sufficient to comply with regulation. So I think this is something we initiated.

Douglas Kellner: But then, it's accurate that we agreed, the 4 Commissioners agreed at the meeting to, I'm just looking because I did just go through the tape an hour before our meeting to make sure I understood just what we did. And towards the end of that, I wanted an understanding that we had agreed on the procedure and we said the first step was to file a complaint with the Board of Elections. The Enforcement Counsel pursues it and brings the hearing officer report to the Commissioners and the Board would vote to adopt it. The poll would not be filed but provided to the hearing officer and it would be reviewed consistent with the 1984 opinion. The Chief Enforcement Counsel indicated that she would examine it under the 1984 opinion if that was the Board's direction and then following the hearing, if one is required, the findings of the hearing officer who would be the Chief Enforcement Counsel would be presented to the Board for final determination. And then we had a long discussion about revisiting the language of the regulation to ensure that it clearly articulates that providing the full poll is required for the hearing officer's review for purposes of determining what portion needs to be released pursuant to the Fair Campaign Code. And then I asked a question, "What happens if they don't give it to her" and you're answer Commissioner Kosinski, was that if they don't provide the poll for review we, meaning the four Commissioners, would have to deal with that.

Peter Kosinski: And apparently that's what we're doing today.

Douglas Kellner: Right. My problem is that that session that was conducted in Executive Session has not been communicated to the other side even though they asked what the procedures would be and they cited provisions of the State Administrative Procedure Act which entitles them to be told what those procedures would be and we have not responded to those requests spelling out those procedures. And what we do in Executive Session to set procedures is not appropriate as a response to the other side to tell them what the rules are.

Risa Sugarman: Commissioner, I told the Jones campaign exactly what you just said was discussed in Executive Session.

Douglas Kellner: You told them verbally?

Risa Sugarman: No, I told them in an e-mail.

Douglas Kellner: I've seen the e-mail and it does not accurately reflect what happened in the Executive Session.

Gregory Peterson: It seems to me again we're in an obviously very political atmosphere at this time. It also seems to me that the safest thing for anybody would be, nobody sees the poll except the hearing officer or our enforcement officer and I think that the crux of this really is, how could she make a decision if she doesn't get the whole poll? So I want her to have the whole poll. Whatever decision she makes, you know and puts it before us that's fine.

Douglas Kellner: That's what we agreed last time but we need to spell out the procedure.

Gregory Peterson: Doug by the time we spell out the procedure we'll be in December wishing everybody a happy holiday. By the way, if that should happen, I still want to see this thing pursued because it's not right. It's just not right. You shouldn't be able to thumb your nose at us, stall, stall, stall I mean what the hell are they hiding? That's what it all comes down to. I'm not going to see it, you're not going to see it, our enforcement officer is going to see it. Gees stop being an obstructionist, cooperate.

Douglas Kellner: Alright well there's a motion. Alright those in favor of the motion say aye.

[Three ayes] and I'm opposed. So it carries three to one.

Bob Brehm: I just was curious with the motion if I can, did you direct Risa to issue the subpoena or are we...

Douglas Kellner: The motion is what it is. Alright. Next, did we finish the discussion on the docket? We didn't even start the discussion. [Everyone talking].Ok, we were doing Risa's

report. Okay so now we turn to old business. The discussion on the document's policy. I saw that there was a new draft distributed yesterday.

Kim Galvin: In fairness that new draft Risa hasn't seen that because we were talking amongst ourselves with it. It was a couple of days ago. We were waiting for feedback before we shared it with her.

Douglas Kellner: Anything else you want to talk about on it now?

Peter Kosinski: No, I don't have anything new to talk about. I think you're making progress and I can see it. I don't know if you are, I understand, I think at least the staff is and I guess until we get a final rule we'll continue with the interim rule.

Kim Galvin: Right, just so Risa understands. In fairness in my opinion and it wouldn't do any good to share something that we hadn't discussed and agreed to prior to. But I didn't want dissent everywhere.

Bob Brehm: She preferred another written draft that she had a chance to read. We are working to do that as a process.

Douglas Kellner: Alright so next item on the agenda is discussion on automated audits and I want to introduce to the Commissioner's Larry Moore who is the President of Clear Ballot who agreed to visit us today. Does anybody want to add anything from our lengthy discussion of last meeting which went 58 minutes?

Peter Kosinski: I counted every minute. I don't have a lot to add. I think I at that time asked for some more information which was provided to me and I know Doug you've been providing information as well which is helpful I think in understanding what other states are doing which was my request. I know there are other states that have authorized a similar type process that New York adopted this year, was actually last year the statute was changed. And I was interested in what other states were doing as far as adopting an automated audit system. I have a better sense of it now. It looks to me, from what I'm reading, that there's somewhat of a mix out there of states doing both automated and manual and some states doing automated or manual. So there's a little bit of both going on out in the country which is helpful to me. I'm still working through some of the stuff you sent me to be honest, some of the...

Douglas Kellner: Yeah, it's a lot of stuff.

Peter Kosinski: Yeah it is complicated and very useful. But my feeling is before we adopt a final rule as far as how the Counties would implement an automated system, I would need to look at it more. I know you had a proposal last meeting which I think is again useful but I think we need to work through. I think today there was talk about authorizing a pilot program for counties to utilize a system if they so choose which as I read it would authorize them to use an automated system but would require them to continue to do the 3% manual process. Which to be honest is to me a little bit different from what I think as a pilot program. Pilot programs to me

are a program where you're not doing what everybody else is doing, you're doing something different. We're letting you do it to just try out a new system. This is really, you're doing what you always do but you're going to add on...

Douglas Kellner: which they probably don't need our approval for.

Peter Kosinski: That was my thought to be honest. I don't know why a county needs our approval to do that because it would have no legal effect. It wouldn't really mean anything other than allowing a system to be used but you'd still be doing everything legally required. So I mean, I'm okay if counties want to try an automated system while we're working through the process just to see how it works without it affecting their current 3% manual audit. I'm okay with that.

Douglas Kellner: I agree with that, so at least the four of us are all in agreement that...

Peter Kosinski: I mean which system they use I don't really care myself. I think they probably have a couple of choices of a system that they could use but I don't know if others, Anna did you have a question?

Anna Svizzero: So you don't need them to do parallel 3% manual audit and the audit. It's strictly...

Bob Brehm: Either or?

Peter Kosinski: No, they have to do the manual audit. Everybody continues to have to do the manual audit.

Anna Svizzero: The way we've written it up here.

Peter Kosinski: If you want to then bring in a system, an automated system whether it's Clear Ballot or somebody else and do a side program where you're counting off to the side on an automated system that's your business but you still have to do the 3% manual audit.

Douglas Kellner: And because we're not changing the procedure for the 3% manual audit you don't really need, you don't need formal board approval for that because you're not doing, and you're not departing from any of the procedural requirements that are already in place.

Peter Kosinski: I agree with that.

Anna Svizzero: We don't disagree, we did not come to the Board with pilot projects for electronic poll books for that reason because voters still had to sign a regular poll book and then do the electronic. But because there was such a conversation about the regs and the concept of audit, we thought we would do the parallel systems as Commissioner Spano mentioned at the last Board meeting. But I understand we don't need the Board's approval. We'll provide this guideline to Boards who show an interest in doing it.

Douglas Kellner: And I for one would be willing but it may be too much of an ask at this point to say well if we were doing a 1% manual audit, they could do the other 2% by machine.

Andy Spano: I would wait to see what comes in.

Peter Kosinski: And I would definitely consider something like that in the future. I think it's a little too close to this election to do that right now but I think we definitely should consider letting a county do something different like what Commissioner Kellner is suggesting where they...

Douglas Kellner: There are lots of ways to skin the cat here.

Peter Kosinski: Right there are lots of ways to skin and we should maybe try out a couple of different ways and see which one seems to work best before we adopt a final policy and say, "This is the way the State of New York is going to handle this program."

Anna Svizzero: Okay, understood.

Douglas Kellner: So, Larry Moore you've come all the way from Boston. Is there anything you'd like to tell us at this point? We can give you 2 or 3 minutes.

Larry Moore: So the audits that you spoke of being applied in other states just to name those states, we started off in Florida and we will be auditing 8 of the counties in Florida, about 20% of the voters we estimate. The biggest one is Broward and all of them have, well they have a choice of doing a 20% audit in case of the automated audit. Every single one has chosen to do a 100% audit and their canvassing wards universally love that because it really takes away the doubt and their statutes are a little different than New York. They are a voter intense state and so they get to look in a very granular level of detail that actual voter intent in a very short amount of time. We are also contracted to do the nation's first 100% automated audit in Maryland and we're doing that off the images. And we'll do that within 2 days of so after the election and we will completely re-tabulate the vote and compare it to the Certified Voting System in hundreds of thousands of points of comparison. And that will guide the legislation that will happen next year in Maryland. The history of our audits in Florida have gotten us to the point where we are going to and supported by some of the counties down there, apply for legislation to make the audit to be used to resolve officially a recount under their statute. And the counties are happy with the result. The final state is in Vermont and there, its not a tabulator audit like it is in New York it is a town by town audit where they select 6 towns at random, we don't know who they are and we come in and rescan the ballots. I would just say that based on what I'm hearing on this discussion, then I'm finished, is that it's really a very simple procedure what we do. It is completely independent. We start only with the PDF files that are sent to the printer. That is the only input that we have to the system and from that we completely deduce the election definition and then we re-tabulate from the images on the scanned ballots of 3% of the tabulators the results. And in a public place they compare our results to the tapes that are coming off the tabulator and invariably we find a perfect match. So I think the procedure is very well

understood and I did listen to the recording of last September's Commissioner's meeting and I would just assert that the accuracy of the audit procedure is really guaranteed by the fine certification work that the staff did a couple of years ago and we would use that same piece of software. And that Commissioner Kellner's request that there be a manual component can be satisfied in a very simply way that doesn't require any mathematics or statistical understanding. We're just confirming that the scanner is producing a faithful imagine of the underlying ballot and that can be done in a matter of minutes in full public view and there is no statistical explanation of what's being done. And in a matter of minutes, and literally a matter of minutes, the tabulation for one tabulator would be done and the comparison can be made and we move onto the next tabulator.

Gregory Peterson: And that's done by whom?

Larry Moore: The actual county officials.

Gregory Peterson: So you would do it as an independent body separate apart from the county officials and the...

Larry Moore: Well in this particular formulation where it would be a pilot the answer would certainly be yes. But if this was an actual audit the county would have the equipment, they would supply the staff to do the audit and they would run our report, tape, compare one against the other and they're done. And all that would take, on a per tabular basis about 10 minutes. That's what it would take. And they just tick them right off. And that's what we saw in Schenectady and Monroe and in Saratoga.

Douglas Kellner: Thanks for coming.

Anna Svizzero: Could I just ask respectfully if you could do anything about Broward County? Commissioner Spano expressed an interest in visiting them since he would be down in that area and we have yet to receive any sort of response.

Larry Moore: So, I wrote so you told me this yesterday for the second time by the way, I did make a call the first time that went nowhere. I then contacted Dr. Brenda Snipes who is the Supervisor of Elections by e-mail, copy to Anna and I will follow up on that this afternoon.

Gregory Peterson: Do you need a subpoena? (Laughing)

Larry Moore: I would love that as long as I don't have to sit through the rest of the discussion. Do you know when you'll be down there?

Andy Spano: No.

Larry Moore: Okay. We'll get that set up though.

Douglas Kellner: Alright well thank you. So that concludes our discussion on audits. New business, first we have the petition rulings. Is there a list of the prima facie petitions?

Bob Brehm: Yes, there's 3 items on the list.

Douglas Kellner: This is it?

Bob Brehm: We had a fourth but it was resolved in court.

Douglas Kellner: Okay. So those who approve the list say aye.

[Chorus of ayes] Opposed? Unanimously adopted. Does that conclude 4A Bob?

Bob Brehm: That's 4A.

Douglas Kellner: Alright so next is the proposed opinion regarding publicly available websites. Kim you're the one carrying this one or is Bill?

Bill McCann: We received a request concerning under the new Independent Expenditure laws as to whether in a nutshell a candidate's website is a publicly available source as referenced in that statute. And in some substance the opinion is that it is.

Douglas Kellner: Alright. Any comments?

Risa Sugarman: Yes, I'm concerned about the assuming as it is written and I think that it gives the opportunity to candidates to create on their websites or on their Facebook pages the opportunity for Independent Expenditure Committees to mine their information and to put the newly created Independent Expenditure Law to have no effectiveness. It just flies in the face of the definition under 14-1071A which the last sentence says, "Independent Expenditure shall not include communications where such candidate, candidates committee, its agents, political committee willing to promote the success did authorize, request, suggest, foster or cooperate in such communication." And I think that when we're talking about the presentation that this Independent Expenditure Committee the requestor presented to the Board it gave a pristine request. It gave a very clear concise and clean process by which it would look at a candidate's Facebook page or candidate's website and was very specific in how it would take the information but not parrot the information. It would not use it in specifics, it would create its own information. But I think the way that the opinion is worded will leave both candidates, their committees and political committees to create websites and their Facebook pages to allow Independent Expenditures or foster the Independent Expenditure, foster the information and creation of the information so that the Independent Expenditure Committees can mine that information. And I think that if the opinion would just either give this is a good explanation or a good method in which its not coordination but then give a cautionary instruction to committees about what they should not do in order to avoid coordination that might be better for the committees to understand that you cannot now go on your website and create information so that independent Expenditure Committees now can come because its your public website or its your

Facebook page. I'm going to as Candidate Risa Sugarman I'm going to put everything that I possibly can. I'm going to create a website that now an Independent Expenditure Committee can come and create information on their either palm cards or mailers. I just think that this creates the possibility that candidates will get themselves into trouble and formulate websites and Facebook pages that will induced the Independent Expenditures Committees and the candidates to coordinate within the meaning of the law. And I don't want to get into or have the committee the Board get into a free speech violation because that's when you say you can't do that and have a public website and put your information on a public website that an Independent Expenditure Committee cannot automatically use, you get into the issue of violating free speech. But I think that you need to just give a cautionary instruction to candidates and their committees or political committees of what they should not be doing to avoid the coordination.

Andy Spano: How would you do that?

Douglas Kellner: Yeah, I don't understand just what you're proposing.

Risa Sugarman: Well I think that you should instruct committees what 14-1071A says that you can't suggest or foster for the purposes of Independent Expenditures. I think that the last paragraph when you say that this is okay, in the last paragraph you just say, "Subject to the application of 1071A and 1071D.

Kim Galvin: Subject to other instances of coordination.

Risa Sugarman: Right so I think that you just have to, you have to be explicit, you have to be a little more explicit about what it is that a candidate should not be doing. They shouldn't be fostering...

Peter Kosinski: I think, I mean you raise a lot of issues there. I think the way the opinion was crafted, there seemed to be an effort to provide guidance in this instance. And it's pretty careful in saying several times that based upon the foregoing and it does take time to sort of, as you indicated, to lay out the process that they want to use and approve that process as being permissible and I think the opinion to go to there and say this process the way its outlined in the opinion is permissible, maybe not all processes are permissible using a candidate's website but this process you outlined is according to this opinion. And if a website almost by definition is public, because that's what websites are and the way you've crafted the opinion is to identify exactly how you should proceed. So my feeling was the opinion really went a long ways towards...

Risa Sugarman: And I think if you, but sometimes people just look at the last paragraph and say, what's the decision? And they shouldn't and I know that they shouldn't but sometimes people just...

Peter Kosinski: But again, I'm reading it myself and the last paragraph says, "Based upon the foregoing" so it specifically references you back to the opinion itself, "And subject to the application of other instances of coordination found in 14-1071B as well as 14-1071A the

circumstances as outlined in the request would be permissible. I mean I think it really goes a long way towards saying what you're suggesting.

Douglas Kellner: What explicitly would you add right now? Do you have text?

Risa Sugarman: No, yesterday it was, I think, I don't remember when I got this it was very late in the week but I think that I would add just the text of the authorized, even just suggest, foster or cooperate in such a way.

Bill McCann: I think the line that immediately precedes the "Based upon the foregoing" it's right in the line right above it.

Peter Kosinski: You mean the 14-1071A.

Kim Galvin: No, the language she wants.

Bill McCann: 14-1071A is literally the last sentence of the paragraph above it.

Peter Kosinski: No that's what I'm trying to say because it seems to me that the concerns you're raising are here that's all. Cause I read this too I understand what you're saying but I felt the opinion really captured those concerns. I mean we may argue over the exact language but I really think it went to great lengths to try to address those very concerns.

Douglas Kellner: I guess my view is we should adopt this now and if you have additional language, give it to us for the next meet and...

Peter Kosinski: We'll do another opinion.

Douglas Kellner: we can revise it and with this opinion and substitute...

Peter Kosinski: And I suspect we'll do more opinions on this topic because this is a new statute and I think people are going to be looking for guidance which I think they should.

Risa Sugarman: And my goal is though that committees don't get themselves into this kind of trouble.

Peter Kosinski: Fair enough.

Douglas Kellner: We agree with you. If you want to mark it up at least we'll adopt it today so it will be out there for this...

Risa Sugarman: And the cautionary is to be just be careful.

Peter Kosinski: Fair enough but we need to do what we have to do to give guidance here.

Risa Sugarman: And they need to do that within the next month I understand.

Peter Kosinski: I would rather people ask us first than just went out and did things without guidance.

Bill McCann: Well I think also in this course of this conversation you can see that there may not be 100% agreement amongst people as to what that, for lack of a better term, call back is, or to what extent it goes.

Douglas Kellner: Bill we need language. It all comes down to the language and until we actually have the language.

Risa Sugarman: And proof would be very difficult I think we're all in agreement we don't want committees to get into trouble.

All talking

Douglas Kellner: And I don't mind spelling it out as long as... and we can just replace this opinion then with a more detailed opinion.

Risa Sugarman: Okay thank you very much.

Douglas Kellner: Alright those in favor?

[Chorus of ayes] it's adopted.

Todd Valentine: We have an additional item C.

Douglas Kellner: Well next is the Voter Refresh Project is that what you have in front of you?

Todd Valentine: Yes, it's a resolution.

Douglas Kellner: Okay so we have the resolution in front of us. Those in favor say aye.

[Chorus of ayes] opposed? Alright it's adopted. So next is to go into Executive Session with respect to Enforcement cases. And should we talk about dates of the next meeting?

Peter Kosinski: Yes we should.

Douglas Kellner: So we're not talking about a November meeting?

Peter Kosinski: We don't have to meet. Well we have to meet on the 9th of December.

Douglas Kellner: And I would suggest right in the middle, like Wednesday the 16th or.

Peter Kosinski: I'm sorry are you talking November now?

Douglas Kellner: Yes.

Peter Kosinski: Okay.

Douglas Kellner: 17, 18?

Gregory Peterson: 15th I can do, 17th I can do.

Douglas Kellner: 17th is better for me.

Andy Spano: 17th is okay for me too.

Douglas Kellner: Alright, tentatively November 17th. Alright so those in favor of going into Executive Session say aye.

[Chorus of ayes] opposed. Alright.