

Peter Kosinski: Okay good afternoon, I'd like to welcome everyone to the Meeting of the State Board of Canvassers and State Board of Elections here on December 15<sup>th</sup>, 2017. I'm Peter Kosinski. To my right is Douglas Kellner, to his right is Andy Spano and on the screen who is with us by video is Greg Peterson. Commissioner Peterson is recovering from some surgery and was not able to make the trip to Albany today, but he will be participating through a video conference. So, we'll open up the meeting with the Board of Canvassers for purposes of certifying the November election.

Douglas Kellner: I move that we adopt the Canvass reports that have been prepared by the staff and we sign the certifications.

Peter Kosinski: Do I have a second?

Andy Spano: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) opposed? It's unanimous.

So, we will now, and Commissioner Peterson I understand these were sent to you and you have signed and are sending them back as well is that correct?

Gregory Peterson: That's correct. You'll have them today.

Peter Kosinski: Okay so we'll sign ours here and you can have yours attached to what we sign.

Bob Brehm: So you're working now on the 3 statewide propositions.

Peter Kosinski: Okay. So, we have a separate certification for each of them?

Todd Valentine: Correct.

Bob Brehm: Next is the Supreme Court justices. There's two spots to sign the front and the last page of the results.

The next is the unexpired term of the State Senate seat, and this is the 27<sup>th</sup> ... the 71<sup>st</sup> Assembly seat.

Peter Kosinski: Did I sign everything? Okay is that it?

Alright then I will make a motion, or I will entertain a motion to close the meeting of the Board of Canvassers.

Douglas Kellner: So, moved.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) opposed? Thank you, Commissioner. And we will now open as a Board of Commissioners as the Commissioners of the State Board of Elections and our first order of business is minutes from the meeting of October 23<sup>rd</sup>. We have two sets of minutes; one is the public minutes, I would entertain a motion to adopt those.

Douglas Kellner: So, moved.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) Opposed? Alright those are adopted.

I believe on the Executive Committee minutes there are still some differences regarding the minutes themselves, so we don't have those to adopt. However, I do think that the Executive Committee or the Executive Session last meeting was important in the sense that a discussion was held regarding I believe a policy issue that this Board was entertaining and the context of a matter that was brought to us by the Enforcement Counsel. It's my belief that that discussion is something that deserves to be released publicly because I think it impacts a policy that this Board is now engaged in based upon the vote that was taken at the meeting that I think deserves to be known by the public. I think, from my perspective, it was a change in policy regarding the issue that was brought to us by the Enforcement Counsel. In that context, I think it would be beneficial to the public to have the transcript of that Executive Session released publicly. In addition, I think that the document that was under discussion in the context of that meeting should also be disclosed so the people who can look at the discussion that was held and the vote that was held would have context they could put it in, so they would understand the import I believe that that discussion and vote has to the general public. I think that that goes well beyond the instant matter that was before us at that time because I think the nature of it would impact potentially a number of people in the state who are engaged in different discussions around the state regarding public officials. So, I would like the Board and, I think this would go along with the policy that we adopted way back in March, the policy where we determined that with the vote of 3 Commissioners if a rule, regulation or policy consideration is undertaken at an Executive Session that deserves public disclosure that that would warrant the disclosing of that information. And I think the best way to do it in this context would be through the transcript because I think it would lay out very clearly the discussion and it would lay out very clearly what the considerations were that this Board undertook in entertaining that particular request from the Independent Counsel. So, I would like to put that out there. I would ask for, if there's discussion, also a motion, if anyone would like to make one, that we do that, it would take 3 votes of this Board to do it. So, then I would entertain any discussion by any of the Commissioners regarding that issue. There's no discussion?

Douglas Kellner: Well, let me just say that I'm in favor of transparency and as you know, I voted against that confidentiality policy because I thought it was too restrictive. And the idea that some things get released and others don't without a clear understanding of what the

standards are when we're going to make it public is troubling to me. So that's my biggest concern. I want assurance that it's going to apply generally and not just to this one case.

Peter Kosinski: Well my belief is that if you look at our policy...

Douglas Kellner: There's two cases, I guess its two, there are two cases there....

Peter Kosinski: I believe if you look at the policy that we did adopt back in March of this year does have a standard that speaks to if there is a, as I mentioned earlier, a rule, regulation or policy consideration would warrant this being done in public that would constitute something that should be done in the public realm. So, I think we set a standard in that policy. I know, at the time, that was somewhat...that was discussed and Commissioner, I understand your position as far as making it more transparent. But I think there was a standard that was adopted. I think this particular issue fits directly into that standard in the sense that there's a policy consideration that at play here that came up in the context of that particular discussion. I think it's very important that the public be aware. I think, as a Board, its important for us to make sure that the public is aware whenever we take a position on an issue that is in the public domain that changes, I think, what has been a longstanding policy so that they're aware of what it is. I don't think its fair to the public to have them in a position where they're not aware that a different policy is being implemented and they're not aware of it and that would then potentially put them in harms way. That they might violate a particular interpretation that we've made because they didn't know what the interpretation was, and I don't think that's fair to them. I think that's why we do opinions and, as you know, there's another consideration today about an opinion on an issue.

Douglas Kellner: Mm-mmm.

Peter Kosinski: I think that's one way we do it, but I think another way we've been doing it is in the context of enforcement matters. And I'm not going to disagree with you Commissioner, there may be other instances where that type of issue is warranted. I think this is one. If there are others, I think those should also be considered for public disclosure because I think it is very important that we make the public aware. As I said, I don't think it's fair to change a policy and then not let people know about it.

Douglas Kellner: I don't agree with your characterization that it's a change of policy, but I tend to agree with your principles that the transparency is important.

Andy Spano: I agree with you also, but I don't think this is a change in policy at all.

Peter Kosinski: Well, maybe people can consider that for their own purposes when they see the transcript and I'm willing to put that out there with that thought in mind.

Douglas Kellner: So maybe the thing, the transcript that I saw yesterday has a lot of typos in it, particularly with my remarks. So, I'm not going to agree to release that transcript. And then there's the question of whether we should take out the names and places so that we're not

actually disclosing what it is that we're investigating. Does Ms. Sugarman have a view on that?

Risa Sugarman: Commissioner, you know that I was opposed to the policy as it was passed back on March 13<sup>th</sup>. I don't believe that any discussion that was had during an Executive Session should be released. I don't believe that this was a change in policy. I believe that there's an investigation that's being conducted. That investigation is still going on. To release a transcript while an investigation is taking place, I think that causes the integrity, not only of the specific investigation that's being conducted, but the integrity of the ability of my division to assure that people who come forward to make complaints about incidents that are going on across the state and allow my division to conduct an investigation is severely hampered. To say that what a request for subpoena changes a policy, I know that was the feeling of Commissioner Kosinski. I don't believe that was the feeling of the other 3 Commissioners. I would vehemently oppose any kind of release of the discussion that was had during what I view as Executive Session confidentiality. And if that's what is the consideration here, I found out about this at 5:00, 5:30 last night, doesn't give me the opportunity to consider whether there's an ability for me to take any kind of action to prohibit this. I don't know whether there would be an ability for me to go to court and try to stop this Commissioner's actions, to do it within 18 hours, after that when there is an ongoing investigation being conducted, I would just ask that no action be taken. And you know my position about revealing what goes on during the course of one of my investigations. I think that it, as I said, hampers any conduct that I could do in ensuring that people could come forward in making complaints and allowing me to come to the Board and asking for authority under the statute to further my investigation by getting information through subpoenas.

Douglas Kellner: Have the subpoenas been served?

Risa Sugarman: Yes.

Douglas Kellner: And have they provided responses?

Risa Sugarman: Not yet and I would indicate that any kind of a subpoena that's served in this matter without indicating the place that are subpoenas, the subpoenas, the persons subject to the subpoenas would have to be notified. So, if they felt that they wanted to move to quash their subpoenas they could have done that, and they haven't done that so far.

Peter Kosinski: Well, let me just say, I don't know what relevance whether they move to quash or not has to our discussion. Our discussion, in my view is really centered on our responsibility as a Board to make sure that the public is informed and has fair opportunity to know what the rules are. I think that that's my goal. My goal is to make sure that people who are at least potentially under the jurisdiction of this agency have the knowledge they need to act appropriately when they're engaged in different activities out there. I think this particular case is very important on that principle to make sure people are aware that these are the rules, and these are the rules you have to follow. And I think that the discussion that was held during that particular meeting would go a long way towards giving that information.

Douglas Kellner: Well, I agree with that, but I don't know that we have to disclose who's involved in order to do that. That we could redact, make substantial redactions and accomplish that goal. It would be similar to having an opinion. And I've long felt, so I'm inclined to do it if we can redact it in a way that doesn't disclose the individuals that are involved.

Andy Spano: We had a lengthy discussion and you were the only one that thought it was a change. And you could be right. There are plenty of times when one person's right, everybody else is wrong. But I think based on the long discussion that we had and the sincere effort everyone made to come to a conclusion that I'm not against releasing this, but I agree with Doug. Just redact the names. Redact the names of the case people and then I would consider it.

Douglas Kellner: The Commission on Judicial Ethics gives out opinions frequently and they have what I regard is an excellent publication that just has 2-line squibs on every opinion that they give out. And indeed, we don't agree with everything that they have concluded with respect to judicial campaigns but it's a very helpful publication and I wish we could do something similar to that so that people have guidance over what's going on. You know...and I'm very disappointed that Enforcement Counsel does not disclose any information about complaints so that nobody has any idea what the rules are and why some people get investigated and others don't get investigated. That's very troubling. So, I'm inclined to agree with you Commissioner, but I think what we have to do is scrub it so that the public will know what the issue is, what conduct generated an investigation without disclosing the details of the investigation.

Brian Quail: If I could be heard very carefully or briefly. I want to be very careful in how I say this. I think there's a secondary issue besides just names in the transcript which is that specific words were at issue that could be identifying, and the thought comes over me that if those were also removed that there may not be enough left in the transcript...

Douglas Kellner: I think you have to leave the words in, but you have to scrub it.

Brian Quail: If you left the words in they may well be identifying.

Kim Galvin: If I could just say a thing too, I was going to say that anyway, but I believe the subject of this was already a newspaper article and the target was unknown. The target wasn't identified, that was the whole point and the basis for the newspaper article which is already public, so it seems as though it's almost a perfect scenario...

Douglas Kellner: So, let's exchange drafts of what we're willing to do.

Peter Kosinski: I tend to agree.

Risa Sugarman: There are two parts to this subpoena; there are two parts to this. One was public, one was not.

Kim Galvin: I think everyone agreed on one part so that should be the redaction.

Peter Kosinski: I think it's the public part we're discussing here. I agree with Kim. I think that the issue that was really at dispute here was the public document that was out there. I think it was done maybe on Facebook...

Risa Sugarman: I'm not going to comment on that Commissioner because...

Peter Kosinski: You don't have to comment at all. It's okay. You know it was done in a very public way. So, I don't think we would be asking to disclose something that was done confidentially, and we'd be disclosing, it was something that was out there already. So, I don't think it would compromise.

Douglas Kellner: So, let's review what we're doing.

Peter Kosinski: Fair enough.

Douglas Kellner: There are two parts; one is the transcript and then the other is the memorandum.

Gregory Peterson: I'm sorry, could you repeat that Doug?

Douglas Kellner: There were two parts to your motion; one is the transcript of our discussion and the other is the memorandum prepared by Enforcement Counsel.

Peter Kosinski: Well, I'm not even necessarily talking about that. I'm talking about the document that was given to the Commissioners as part of the submission, not necessarily the memo, but the document that was discussed...

Kim Galvin: Public ad...

Peter Kosinski: ...I think needs to be disclosed so that the context...the discussion that we'd have at the meeting is given context by...this is the document we were discussing. So, I'm not necessarily talking about the memorandum that was given to us.

Risa Sugarman: The attachment you mean.

Peter Kosinski: It's the attachment you gave us which was the subject matter, I'll call of the discussion. That I think should be released. Because, I think without that, the discussion that was held at the meeting wouldn't have context. You really wouldn't understand what we were talking about. You'd need to be able to see that document in order to understand what I think is the import of the discussion.

Douglas Kellner: Well then that does fully disclose the investigation.

Peter Kosinski: Well it does but again, this was a public document.

Douglas Kellner: Which isn't the end of the world to me. I don't know that these investigations should be secret, but I'm troubled about doing it in some and not all.

Peter Kosinski: Well, I'm willing to entertain others, don't get me wrong. But I think, this one to me just was of such import that I felt it needs to be disclosed because, without it, I feel its unfair.

Douglas Kellner: That people can get snagged. They don't know...

Peter Kosinski: They can get snagged in ways they never anticipated, and they should be aware of it. That's all, they should know the rules. They should know the rules.

Andy Spano: But I think finding a way to do this is....

Peter Kosinski: Yeah, I mean I think if we can look at it, if there's some confidential information that needs to be redacted we can look at that, but to me I'm not sure what that is to be honest. Maybe there is.

Douglas Kellner: Well, let's exchange drafts and let's keep Ms. Sugarman in the loop so that she's copied on all these exchanges.

Peter Kosinski: Commissioner Peterson do you have any particular thoughts? Are you comfortable with the way we're going on this?

Gregory Peterson: Well frankly I agree with you. There are certain times when we are in Executive Session and something of a major discourse is transpiring where clarification is important to the public and without interfering in any way, shape or form with the Enforcement Officer's ability to pursue a case, there are interpretations which have come forward of what we had in the discussion and I believe under those circumstances it can be redacted of minutes or whatever and that that should be available to the public so they can understand not only the letter of the law but our interpretation of it. We may have a different interpretation than the Enforcement Officer and frankly we are the Board of Elections of the State of New York so I think its important that the elected officials that run for office knows us and supports us and their treasurers should understand what we're talking about, so they don't take a leap in the wrong direction. I think that kind of disclosure is important and is very valid that's been brought up.

Peter Kosinski: Then I think there's general agreement with the four Commissioners in the direction we're going so I would ask if staff could look at the documents, I guess maybe Brian

and Kim and come up with some proposal to us as to what would be appropriate for release. I think you get the general direction we're headed, and I think that's a good...

Kim Galvin: Hopefully we can agree at a staff level and get it to you sooner than later.

Peter Kosinski: That'd be great.

Douglas Kellner: As you do that, please keep...

Peter Kosinski: Yes, I agree, keeping the Enforcement Counsel in the loop I think is warranted.

Brian Quail: Yes.

Kim Galvin: Great.

Peter Kosinski: Okay great. Alright so we don't actually have minutes at that but if we release the transcript I'm thinking minutes because sort of...

Douglas Kellner: Those are the minutes.

Peter Kosinski: Right there are no real minutes necessary then which is another discussion I'll just raise for your consideration. You know, we're doing minutes for our open sessions too and as you know these are being video taped and put out there for public purposes. I'm not sure why we're doing minutes exactly because if somebody wants to know what we did at a Board meeting it seems to me the way to do it is you go to Youtube site, you see our meeting and you could see just what we did.

Douglas Kellner: But, to that point, the minutes can be very short as a summary because of the transcript. But very troubling to me is that often the minutes don't have the actual documents that we adopted or voted on attached to the minutes. And I think that that's very important that if we vote a resolution, the text of the resolution should either be in the minutes or attached to the minutes and I think they need to pay special attention to that.

Peter Kosinski: That's fair enough. I don't know if that happens when they actually...

Douglas Kellner: So, for example, the minutes we adopted today say the guess list is attached but, I never got the guest list. So, I did vote on approving those minutes that have a guest list attached to them, but I've never seen the guest list. You know I didn't want to make a big deal over it at the time but its not really the right way to do it.

Peter Kosinski: Okay, well then, I think probably for the future, if we're going to continue to do minutes, whatever documents are associated with the minutes should be attached to the minutes when you're submitting them for approval.

Douglas Kellner: And when you're publishing them.

Peter Kosinski: And when you're publishing them. Are they published?

Douglas Kellner: Yeah, they're PDF's, they're on the website.

Bob Brehm: Also, the audio transcript of the meeting is put up right after it's gone through transcribing.

Peter Kosinski: Okay.

Bob Brehm: The agenda is up and finally when you adopt the minutes, they're up.

Peter Kosinski: Okay, duly noted. Alright so that concludes the first item, the minutes and we'll go on to Unit Updates – Executive -- Bob Brehm and Todd Valentine.

Todd Valentine: Certification and completion of the election was the primary goal that we were working on for this meeting. Moving ahead, we're waiting for the release of the budget. We submitted the budget that we asked for to cover a lot of additional cyber security needs that we think are necessary. So, we'll be looking forward to that. I don't know....

Bob Brehm: Well, we've had a number of ...certainly the meetings with regard to the election and a number of us get calls as we...election day itself, you know we had prepared for similar to 2016 in case of any attacks and luckily none came through that day, but we did have the assistance of a number of other state agencies and operatives and our IT people so that went well. We continue to have conversations with the various associations and groups that are involved in standing up the national conversation on how we can interact with the classification of voting equipment as the key infrastructure. And certainly, we're looking for the budget. There are a number of conversations with counties, surprisingly; there are a lot of very close elections that came to ties; a lot of winners based on write-ins because its such a local election cycle. So, there's a lot of conversations out there that have taken place over that time.

We're working on a number of procurements that are in the process of aging that need to be renewed. Our voting system testing lab is one of them that will be aging out, so we need to go out with a procurement to have in place a testing laboratory.

We completed the procurement for the voter registration applications themselves. As you know, we had an issue with our previous vendor, we discontinued them, and we have put in place a new vendor.

We're looking at a number of others, the asset tracking vendor that we have through some careful reading of our staff, OGS thought the contract was over in April but based on actually reading the words of the contract we brought to their attention that it is really 2019 that the contract is through. So, they're adjusting some of those items. But there's a number of

procurements that are ongoing as well as our IT staff will give an update on the various projects for NYSVoter and CAPAS, the Candidate Management and the Financial Management System.

We did get, since the last meeting, the calendar set at the federal level so certainly Todd and I sent that communication out as we've done every even year to the representatives at the Congressional level, but that part has happened and sent it out to the counties. We do know that there's an issue with September's primary that we are continuing to have conversations. It falls on both 9/11 and the last day of Rosh Hashanah so we know it needs to move....

Peter Kosinski: What's the first day to do petitions now for Congressionals?

Bob Brehm: Oh, I didn't bring...

Todd Valentine: It's March.

Peter Kosinski: It's March?

Bob Brehm: This is the cycle that we have two statewide conventions, one for federal candidates and then one later for state candidates. So, I know that is in February, so it must be...

Todd Valentine: 3 months before the primary.

Bob Brehm: March 6<sup>th</sup> or something like that. But its posted on our website if to be accurate.

Douglas Kellner: But it's soon.

Bob Brehm: Very soon.

Peter Kosinski: People should be aware. People are sensitive to that that it's pretty soon.

Bob Brehm: So certainly, the September we got a lot of calls, is it set yet, but I don't know if they've settled on how they want to address it. So as soon as we know that we'll get that notice out to all the counties, so they can make the appropriate arrangements.

Peter Kosinski: Okay, anything else? Any questions for? Okay then we'll move onto the Counsel's office, Kim Galvin and Brian Quail.

Kim Galvin: Well, Bob Brehm stole my first item which was that the federal calendar had been approved and is posted and that we have issues with the September primary. So, we have a lot of things, well not a lot, but certain things that are coming up on the agenda that we can take up as we get there including the regulations and the legislative packet. So, Compliance regulations, legislative program are coming up, the draft opinion is coming up on the calendar and we can discuss that in more detail when we get there. Obviously, the

Compliance Unit continue to work on their reviews. Training, since it is the end of the year, I thought it would be appropriate to let you know that in this year training did 28 countywide seminars that were attended by approximately 865 people. They did 9 webinars, they have one more left, none left actually for the rest of this year, but early next year and then they will begin very actively hitting 8 counties in January and February to the local counties on how to wind down their campaigns and do that sort of stuff. So, they've been busy.

With regard to the cases, we have numerous cases that are pending; the most significant updates, and Brian pays closer attention to these than I do, but I think the particular updates that you may be interested in are in the Eason, which is the website accessibility case. This week we received the plaintiff's response to our prior settlement offer. We are in the process of reviewing that. There seems to be some hurdles that make getting over it but we're going to continue on with...

Peter Kosinski: This is the Association of the Blind?

Kim Galvin: Yes. We're going to try to negotiate that. With regard to the Parrish v. Kosinski case which is the village petitions, I think its important to know that we updated the petition form and they're on the website now correctly in accordance with the law and the statute that was passed by the Legislature and chaptered by the Governor.

Let me see, there was an update on Merced which maybe Brian can speak to that because that case requires the witnesses of independent nominating petitions to be qualified voters in the state. There was argument yesterday and as of yesterday afternoon, I didn't have an update. Brian sent me what I believe is an update but maybe he can speak to specifically what they said.

Brian Quail: We have made a motion in Merced for summary judgment. The plaintiffs also made a motion for summary judgment and the issue is whether or not New York's requirement that a person as a witness to an independent nominating petition be a qualified voter is constitutional. At yesterday's, what would have been an oral argument, there was a motion made by the other side to amend their complaint at this late date, an oral application and the judge granted it. So, the argument on the motions did not proceed and the plaintiff has a week to amend and then we will have a period of time after that to respond. The issue with respect to the amendment is the pleading a particular plaintiff that is not in the case that we allege should be. So that's where that is which is the actual corporate entity of the Libertarian Party of New York.

Peter Kosinski: So, this is the issue as to whether you have to even be a resident of New York? Is that correct?

Brian Quail: Yes.

Peter Kosinski: You could be a non-New Yorker. You could be someone from California...

Kim Galvin: Pennsylvania, New Jersey, correct.

Peter Kosinski: ...come into New York and serve petitions for independent candidates.

Brian Quail: So, yesterday's development is procedure not substantive. The substantive posture of the case and how it's proceeding is as it has been. There is no substantive update.

Peter Kosinski: And not to belabor this, but would that affect all candidates? Is that the position that if I'm running for Town Board in the Town of Bethlehem I could circulate petitions even though I live in Illinois?

Brian Quail: For independent nominating positions, yes.

Peter Kosinski: It would go right down to the local level?

Brian Quail: Yes.

Kim Galvin: So, it could have significant impacts potentially when it's decided. I think those are the major updates on the cases and one other mention that we have is that a long-time Compliance employee, Patty Lloyd is retiring after 11 years here, 34 years total with the State so, yesterday was her going away luncheon. She will be done at the end of the month. We'd like to wish her well in her next stage.

Peter Kosinski: And on the part of the Board I'd like to wish her well as well.

Kim Galvin: And I think that's it except for the specific items that we have on the rest of the agenda unless anyone has any questions.

Peter Kosinski: Brian anything else?

Brian Quail: No, there's several items on the agenda if there are questions.

Peter Kosinski: We'll take those in due time. Are there any questions for Counsel? Then we'll move onto the Election Operations, Tom isn't here, and Brendan is here, Cheryl are you filling in for Tom?

Cheryl Couser: I'm not filling in for Tom.

Peter Kosinski: Okay Brendan you're going to have to carry that whole load.

Brendan Lovullo: Is there anyone that could fill in for Tom? Obviously, the number one has been our Certification of election results. There was a Unit Report in your packet, I'll touch on some of the highlights. We've also received I believe right now three resignations from Assembly seats from those that were recently elected in November to other seats. So, on top of the overall 11, I believe vacancies that will occur come January 1<sup>st</sup>.

We also have further down in the meeting revision to the language for the automated audit tool which will be put back out for comment. Tom and I also went to Saratoga to look at the audit tool that Clear Ballot has that the county has purchased. Tom has also been attending or is attending the Council of State Government's National Conference to discuss Overseas Voting Initiative. And the second of two meetings for the Center for Internet Security to aid in developing a cyber security handbook for states.

We have continued our discussion with OGS about the testing lab, also the Asset management contract and I know that there was, under new business we have the vote to permit Dominion's ICE machine to begin certification. As we discuss this further on, this is something that would require a mention at the meeting. They've submitted the paperwork. This is an upgrade to their current BMD that our staff will begin the certification process. Once everything is complete, then that will come back to the Board to vote on official certification and getting this machine ready if any county would be interested in purchasing this. And we've continued to work on the SHOEBOX funds and work with IT for CAPAS upgrades and everything also. So, if there's any questions about that?

Peter Kosinski: Any questions for Brendan?

Douglas Kellner: So, I'm interested in what Operations has done in the last month on ballot usability issues?

Brendan Lovullo: We have discussed, Tom and I have both spoke with ballot usability experts. We're looking at possibly having someone come to the Conference and also update our staff once we got through with the certification and everything else at the very beginning of the New Year to come in and do a presentation. We do have literature and information that we have disseminated to the Operations Staff about ballot usability, best practices, tips and then we've been going over the specific ballots that counties do submit to us for them as well. So that's an ongoing process and we're going to be moving into the New Year with that.

Douglas Kellner: I haven't seen the memo yet, but I hear that Columbia County discovered a usability issue in the course of doing their manual count audit. Are you familiar with that?

Brendan Lovullo: As of 53 minutes ago I received something in the mail, it's a paper. I just briefly looked at the front of it that it was from the Commissioners. I do not know what the substance was. It was a letter package that was just delivered today.

Douglas Kellner: My understanding is that they found in looking in the course of their manual count that there were eight ballots where the candidate for judge had the middle initial "O" and the voters filled in the middle initial instead of the target block. So obviously those eight ballots were counted by the machines and it wasn't a close contest, so it wasn't significant. But its an interesting usability issue of where that middle initial "O" actually attracted voters to mark the "O" instead of the voting block. It's just another example though of why I think it's very important that the Operations Unit track all these examples and sort of build up a database of do's and don'ts. What works and where there are potential problems. It never

would have occurred to me that that would be a problem. And I think under our rules, if there were a manual count, it wouldn't have been an issue that those ballots all would have counted for that person. But it's just an interesting issue.

Alright, my last issue is what has Operations done in bringing New York City into compliance with the 30-minute rule for the November 2020 general election?

Brendan Lovullo: We've had discussions with them. I know that also Todd has spoken with them and I think Bob has as well.

Douglas Kellner: So, concretely what's happening? Or I'll be frank, that as far as I can tell, they're ignoring the issue. In terms of what they can do differently in 2020 than what they did in 2016.

Kim Galvin: Did you actually send them a letter?

Todd Valentine: ...letter? ...our original letter?

Douglas Kellner: Unless they do something differently, there's no reason to think we won't have the same problems in 2020 that we had in 2016.

Todd Valentine: Well they did something differently. They did it in this election. We know that they've...

Douglas Kellner: Yeah, but the point was in 2016, oh you're saying they've done something...

Todd Valentine: Yeah, they started implementing the plan that they had described to us, primarily looking at, I'll call it the traffic direction or traffic cop mentality, utilizing the pads that were there, serve not only for election night reporting, which is an aspect that we're also looking at, but also as a tool to help direct the voters to the proper spot within the poll site or proper poll site in general. And that that has been implemented. What we haven't seen was what we don't have is obviously because the election has just concluded was what is the follow-up? What is the debriefing on that report? What is the review of how did that function? So, they had implemented the items that they advised us that they would be doing. What I don't have is a report back from them, because they just finished the election, how successful those were? Anecdotally, given the size of the election, because we know it wasn't overwhelming with turnout, I don't know that you're going to see anecdotal incidences of....

Douglas Kellner: Well it's half the turn out of a Presidential...

Todd Valentine: But there were no reports of any, certainly no media reports and none that the City Board had indicated but what they still have to do is go through, they do have a process where they collect complaints during the day and that they log those complaints. They don't have the report from that has not been done because obviously we just certified.

Douglas Kellner: At the last meeting we talked about having Operations send a letter to New York City formally requesting that they give us a plan on how they will come into compliance for November 2020. Has that happened yet?

Todd Valentine: Right, well what we wanted to do.... the letter, no, but we did have a conversation with them and what we said would be useful is the letter asking you to tell us of the stuff you've implemented, how did that work? Do you continue to use that for your plan going forward as you've advised us in the past? So, it made more sense to get the report for what they've done already to see if it functioned.

Douglass Kellner: Alright, well I look forward to that for the next meeting and I will keep this on the list so that we keep talking about it. What I'm looking for is for Operations to work with the City for a concrete plan that we really believe will address the long line issues for November 2020.

Peter Kosinski: Okay. Are there any other questions of Elections Operations? No? Okay, then we will move onto NVRA PIO John Conklin.

John Conklin: Thank you Commissioner. The Public Information Office has been very busy since the October meeting. Lots of calls about the election, statewide ballot proposals. The ConCon was very important to a lot of people. The multiple campaign finance filings that have been done as well. In connection with the election, we published legal ads around the state for the general election for the 3 statewide ballot proposals. That was about \$67,000 and we received the tear strips proving that the publications happened, that is a state requirement by law. As we mentioned at the last meeting, a law was put on the books requiring the State Board to publish a list of campaign websites.

Peter Kosinski: I'm sorry to interrupt but something I just had a question about. I know that prior to the last election there was discussion here and elsewhere about the ballot props being on the back, the other side whatever we call the ballot. Are we getting information on what the impact or how that impacted the people's voting on that? Whether we saw a large drop off in voters voting between candidates and the ballot props?

John Conklin: The Public Information Unit is not collecting information on that. I don't know if Election Operations is or...

Bob Brehm: I think if you look at drop off compared to lever machines when they were on the face of the machine same face as the candidates. Our court papers already in the litigation had shown the history since we went to paper ballots the drop off had been almost half. I think the standard percentage was about 15% drop off and I think we were much lower than that. It was almost half what the lever to paper. I think if you look at the election results since there was a lot of public information about turn the ballot over, there was the guidance that we gave to the counties with the information to put on both sides to review both sides of the ballot, I think its come down even more as far as the number of people who just decided...

Peter Kosinski: I guess that's what I was curious. I mean did we see a change from last time, now necessarily between lever machines and paper ballots but from the last time we had a paper ballot proposition which, did we have one last year? I honestly don't remember, two years ago to this year because I know we did make some efforts to try to educate people and to try to make it more apparent to people that they needed to look at both sides. I was wondering if we found success there or not or what the results of that were.

Bob Brehm: I don't have the numbers for you today. I can go back and look at that.

Peter Kosinski: Could you? I understand I just brought this up. So maybe next time if you could just give us some information on that as to how that impacted this year's vote? I mean I know there was a substantial amount of attention being paid to this year's ballot props, particularly to the one, which also I'm guessing had some impact, but still, I'm curious how much drop off we had this year compared to other years.

John Conklin: I think there was a much lower number of blanks than in past years on ballot props.

Peter Kosinski: Okay. I'm sorry to interrupt.

John Conklin: That's quite alright. So, the Unit also participated in the monthly calls with the Election Commissioners Association in October and November. We've been part of the meetings on internal cyber security review and assessment. We responded to 75 FOILS in October and 53 in November. Just as a quick aside, a number of those FOIL's asking about voter history particularly for the September primary. So, if my colleagues in the county boards have not submitted their September primary voter history yet, please do that as soon as possible. We've also participated in a number of the calls on implementation of Executive Order 169. The Unit assisted in the preparation of testimony for the Assembly Election Law Committee on November 28<sup>th</sup>. We also participated in a webinar presentation by the Association of Counties on the basics of cyber security for county governments.

For the website a number of these things have been mentioned by other units already. We posted the unofficial election results on election night for the general election. The webcast and the transcript for the October 23<sup>rd</sup> meeting have been posted. The approved 2018 Political Calendar has been posted and an updated model version of the petitions for village elections has also been posted.

For NVRA the Unit visited the Oneida County Board, Fulton, Schoharie, Hamilton, and Delaware Counties since the last meeting and we've also conducted trainings for WICs, Social Services and the Department of Health.

Peter Kosinski: Okay is that it? Are there any questions for John from the Commissioners? Okay. So next we're on to ITU, Bill Cross.

Bill Cross: Good afternoon Commissioners. I'll start off with projects; CAPAS-FIDAS, in terms of resourcing we continue, the project is mostly fully resourced now. We do continue to fill one vacant programmer position. We are also writing a request back to the Office of IT Services for sub-allocation of the remainder of capital funds for the project. This is a follow up to the sub-allocation received from them earlier this year in May for a portion of the funds to support our hourly contractors. We are now coming towards the end of that fund, so we are issuing a request for the remainder.

Stakeholder outreach, we had our third in a series of outreach meetings this month. This one session in the past month was with the "EFS" Vendors on November 15<sup>th</sup>, to provide them with a demonstration of the system prototype and discuss data exchange between their systems and the CAPAS-FIDAS system.

Peter Kosinski: I'm sorry Bill, can you just elaborate on stakeholders? Who are you talking about?

Bill Cross: Stakeholders, so we have 3 defined outreach groups for stakeholders in CAPAS-FIDAS development, one is the County Board of Elections, one is treasurers, and one is EFS vendors. We've had meetings since...

Peter Kosinski: Do you have separate meetings for them or do you do them together?

Bill Cross: Separate meetings with them. We had 2 meetings in September one with the treasurers, one with the county boards working groups and this past month we had one with the EFS vendors.

Peter Kosinski: How many people, like treasurers, how many treasurers are you finding participate in this?

Bill Cross: I don't have the numbers for the past two, I can share them. For this most recent one for vendor participants, we invited 19, 10 of which attended included Aristotle, NTS.

Peter Kosinski: So, we have 19 different vendors operating in this state?

Bill Cross: Nineteen vendor participants representing only four, Aristotle attended, NTS, NGP and the Campaign Finance Board (NYC).

Peter Kosinski: So, is that the universe of vendors that participate in this arena that do campaign finance in the state? Are there only four?

Bill Cross: No, there's additional. The work groups are comprised of smaller scale...

Peter Kosinski: And treasurers, how are you identifying treasurers that should participate in this particular effort?

Bill Cross: I don't recall how the list came?

Brian Quail: I think our unit and others based on recommendations of the agency identified people that based on our interactions we thought would be helpful and useful participants. And there were quite a number I think to the point where they couldn't do it all in person. It had to be done so that people could participate remotely. So, there's no precise formula to it other than trying to find people who were thoughtful and would do a good job.

Peter Kosinski: I'm just thinking, there's a wide variety of people that engage in this, some professional, some nonprofessional. Many, probably most nonprofessional is that fair to say?

Brian Quail: Oh absolutely.

Peter Kosinski: And I'm thinking those are the people that probably need the most help because they're not professionals and I'm hoping they're being included, I'm assuming they are.

Brian Quail: I think it was a broad range of large and small party, candidate committees who were asked to participate.

Kim Galvin: Plus, our staff has participated and they're familiar with a lot of the issues that the vast majority of people have.

Douglas Kellner: And certainly, if there's anyone who wants to be in this group they're welcome to. It's not an exclusive group.

Bill Cross: Absolutely. The sessions have been very productive. We've seen very good feedback, comments that have gone into development of the application.

Peter Kosinski: I know you provided us with a prototype of what we were working on. Are you at a point where you can do that again with us, so we can see how this is progressing and kind of where we are in development?

Bill Cross: I'm not sure.

Peter Kosinski: Bill, I don't need an answer right here but what I want you to know is, I'm interested, and I think maybe the other Commissioners are too in seeing how this is being developed and what is being done and how this is going to look as we go forward. Because I have some thoughts, I'm guessing the other Commissioners may as well. So, I'm interested in if you can put together some sort of a demonstration for us, I would be interested.

Bill Cross: Yep. Absolutely. As a follow up to the county, BOE working group that we held in September and some previous data collection we worked with them on, we updated the survey an updated set of questions in survey form for them to determine the type and formatted data they're currently managing at the county level for data. This is mainly in the

context of data exchange between their systems and ours and the new system, and to engage then in partnership to facilitate that data transfer and make it easy for them but still remain some kind of standardized pieces. That questionnaire I think went out this morning to them. So, we'll look for some response on that for early January.

And for each of these outreach-working groups, we plan follow up meetings on a fairly regular basis as needed for input and discussion as development goes along.

Peter Kosinski: So how is the progress? I know we've raised this before and I'm going to raise it again I guess from a time standpoint, where are we from your eyes?

Bill Cross: So, the schedule hasn't changed. The data I shared before we are still on track for that. We are staffed, that was our major hurdle in getting resources in-house, so we've made very good progress of that. We're only vacant one position right now. We are on track for that. That said, there's a good amount of work ahead of us.

Peter Kosinski: Now that date is spring of 19?

Bill Cross: It's April '19.

Peter Kosinski: So, we're still on that okay.

Bill Cross: That was the last part of that is all development continues on track for the EFS use cases, political calendar, data conversion, and associated other pieces.

NYSVoter, we continue to make significant progress to the upgrade and replacement of our entire network and server infrastructure. Working with the contracted vendor, all new hardware for this effort has now been installed in our data centers and BOE offices here. The team has now begun migration of existing systems and databases to that new infrastructure and implementing enhanced disaster recovery between the sites for fail-over and for mitigation issues. The MOVE redevelopment is also progressing. The in-house MOVE application to replace the outsource application and that's also on track with the timeframe we have identified.

Data center relocation is a relatively new project. State Office of IT Services is requiring that we again, I think I mentioned this at one earlier meeting, again relocate our data center to a new location. We had previously had it postponed because they were looking to do it right smack dab in the middle of election season. They were accommodating and allowed us to postpone that, but the discussion was that we would address it after the beginning of the calendar year so the planning for that effort has now begun. Relocation, even though it's relatively a short distance, its from one building to another on the SUNY College of Nanoscale Science & Engineering campus so it requires significant planning and preparation. So, we've just started that effort right now with them.

A few security things have been mentioned. I think Bob mentioned the significant effort into the preparation of systems and monitoring contingency plans for the general election and I'm also happy to report there was no issues encountered. We closely watched traffic. This year, due to improvements, we had better visibility into a lot of that traffic, a lot of what's going on through things we implemented and through partners and saw no activity that was suspicious at all.

As CIO, I participated in the Assembly Testimony on cyber security and elections. I related during that session that we continue to work on several security enhancements like intrusion detection, system monitoring, access management, but only some of this work was possible within the scope of existing projects. A majority of that will require additional funding. We requested this as part of the BOE budget.

BOE is also now joined with the Multi-State Information Sharing and Analysis Center. It's a mouthful, also known as the MS-ISAC enabled us to have direct access to timely cyber security information from a variety of sources and direct access to a federal Homeland Security portal. We previously received most of this information we think through third parties or passed down through State Police or State IT, we are now a direct member and receive it immediately which has proven beneficial to have that very quickly. And we continue to work with NYSTEC to finalize the risk assessment for the state and county boards and I think we have a final draft of that report for reviewing right now. That's all.

Peter Kosinski: Okay that's good. Any questions for Bill.

Bill Cross: I neglected, I was going to mention some website analytics. As expected, the website traffic increased significantly around general election. Voter look-up site accommodated over 500 pageviews for the period immediately surrounding general election and about 90,000 for election night reporting. These are significantly lower than the period last year, obviously about 1/6 but nevertheless a significant amount of traffic from normal traffic. Now that's it.

Peter Kosinski: Thank you. Now any questions? No questions? Okay then we will move onto Enforcement, Risa Sugarman.

Risa Sugarman: Good afternoon Commissioners, I would just mention that I did have a meeting with one of my staff members with Bill and Bob and Todd as to the request that the Division would have in the new system as to how we could request data and information in reports in CAPAS-FIDAS but the new name, I'm not sure what it is so that we'll be working with Bill and his staff to make sure that we can access the information and reports that we would need to help our inquiries and investigations. And that's all the information I have unless you have questions for me.

Peter Kosinski: Any questions? No, I guess not. Okay then we will move on to old business. Under old business we have two items; we'll take the first item which is the automated audit tool. As I understand it, its current status is that we had adopted a policy or a regulation, it

was then put out for public comment. We then received I believe numerous public comments and the regulation has been redrafted to reflect those public comments. And this today is to put back out for another 30-day public comment period?

Brendan Lovullo: Correct, yes.

Peter Kosinski: After publishing? Is that correct? Is that where we are?

Brendan Lovullo: Yes, we will vote today, Counsel's Office will work with them to publish it in the State Registrar and then from that publication period...

Peter Kosinski: Do you want to explain some of the changes that were made to reflect the public comments that were made?

Brendan Lovullo: Sure, what we, we received the comments shortly before the question period, the specific new language has been added and is underlined in here and it basically talks about how we're going to use the "cast vote" record. We're going to give that information to anyone that's obviously going to be attending the audit, so they can use this, the manual comparison of ballots is still going to be there as well. The standard 3% audit. And then it goes on to further talk about the results between the audit and the voting system results and making sure that everything matches up and the audit does what it's supposed to do. So, this is currently, the information will be out there, will be published on our website so if there are any additional comments people can certainly make those as well.

Douglas Kellner: I move the adoption of the resolution.

Peter Kosinski: Is there a second?

Andy Spano: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0) opposed?

Then that is adopted and that will be put out for comment as soon as you can get it published.

Brendan Lovullo: Yes.

Bob Brehm: It's like watching an old movie, he's a little bit behind....

Peter Kosinski: He's a little late...I should hesitate commissioner and wait for your input. I'm sorry I'll do that.

Kim Galvin: Yeah, yeah, yeah...

Bob Brehm: For those of us who can read his lips, we get a fast...

Peter Kosinski: Well I can't so I'll wait...So, when do you anticipate this coming back, I guess that's my next question.

Brendan Lovullo: I believe the last time it took 2 or 3 weeks before it was put into publication.

Brian Quail: Right it depends partially on workflow but more typically the issue is just where in the filing cycle that we land, and I haven't looked at it as of today, but we do understand that it is important to move this along as quickly as possible given the fact that there are imminent elections coming and people really want to use this. So, I would anticipate that we'll make the required filings with the Department of State Monday and advance the process as quickly as we can.

Peter Kosinski: Okay, good, okay.

Douglas Kellner: And I would be willing to consider putting these in place on an emergency basis if there are specific elections where it would be necessary.

Brian Quail: And that can be entertained at your direction.

Douglas Kellner: Because I think this has now been pretty thoroughly vetted.

Peter Kosinski: It's been vetted pretty widely. I agree with you and I don't want to hold people up so if we need to do that potentially at the next Board meeting because it's being delayed by publication, I think we would entertain that if you guys see that happening. So, let us know.

Brian Quail: Okay.

Alright so that finishes that. The second item is the designation of treasurer removal committee. We had to propagate a regulation to implement that new statute and my understanding is this is now in its final stage. This has been put out for public comment. I don't believe we've got any public comment is that fair to say or not?

Brian Quail: That is correct.

Peter Kosinski: Okay so we are now seeking to adopt this as well.

Douglas Kellner: I move the adoption of the resolution.

Andy Spano: Second.

Peter Kosinski: Moved and seconded. All in favor aye?

(Chorus of ayes; 4-0) opposed?

And that is also adopted. So those two items are done.

And we will now move on to new business. Now our first item I believe Brendan you indicated is not for Board action that is happening at the staff level?

Brendan: Yes.

Douglas Kellner: And just to comment on that, on one or two occasions, the Commissioners have voted to authorize the initiation of testing but in each of those cases, there were specific reasons why the Board was involved in the development of the product. But ordinarily, if a vendor submits an application, it gets processed and the Commissioners don't act until they're ready to submit a certification with all the test results and a full report.

Peter Kosinski: I mean that makes sense to me. There's no need for us to adopt because they're paying for this. They're then going to give us their results and we'll decide whether they warrant approval and that's when we would get involved correct?

Brendan: Once they get to the certification that's when you would get involved.

Peter Kosinski: Fair enough. Okay so that is off, and we'll move onto the second item which is an Opinion. Now this I will speak to because I am interested in this topic. This is an Opinion that was drafted by staff, some staff here and I can't say there's full agreement at this point but it's an issue that was raised in the context of an article in a website, Politico specifically, which spoke to interpretation of a new law that the state has about independent expenditures and when a filing requirement is triggered. And I believe that there was some information in there that I felt was misleading I'll say or incorrect in the interpretation that I have certainly of how that statute is to be implemented and I felt that because of that, it deserved our attention. It deserves us to do an Opinion, to clarify what we think the rule is regarding the obligation of people engaged in independent committees to make filings here at the state board. So, this is an effort to do that. I don't know that we have full agreement on what's in this.

Douglas Kellner: Not quite yet but I think it's a pretty good draft. It's a good start but we have some comments that we'd like to add, and we've only had it a few days now.

Peter Kosinski: Okay, fair enough.

Douglas Kellner: So, we'd like to circulate it and I thank you for initiating it.

Peter Kosinski: Okay. So, I would ask that the staff continue to work on this. Just for public, I don't want to leave everybody wondering what it is. It's an article that was issued back in October about activities that were engaged in by some committees, specifically on the

Constitutional Convention question. But its clearly a broader issue than that and it involves the ability of groups to communicate with their own members. And there was a provision in the new statute that if you are merely communicating with your own members, you do not trigger a filing requirement here at the State Board. But, if you are communicating with the general public and you're communicating with more than 500 people, then you do trigger a filing requirement. There was some effort to explain that the internal group was disseminating products that I believe under any guise would be for the purpose of public disclosure that would not be something you would keep. For example, a lawn sign. My view is you don't give people a lawn sign as an internal communication. That is clearly, in my mind meant to be publicly displayed and so you're reaching far outside your internal group when you're disseminating information like that and that should be viewed in that context. So, while you may be communicating internally, it's being done with an eye towards communicating with the general public. So, I felt there was some clarification needed on that. That's the context that this is being discussed in. So, I just wanted to make that clear.

Okay so hopefully by the next meeting we can have an agreed upon Opinion that we could issue and clarify the rules for that particular activity.

Risa Sugarman: Commissioner would I just say I absolutely agree with you on this. When I read that article I went, yeah, no, that's not what the intent of 14-107 and I am glad that you brought this up.

Peter Kosinski: Okay good.

Douglas Kellner: Have you gotten the draft?

Risa Sugarman: Well I got it, yes, I got it a couple of days ago.

Douglas Kellner: So, you need to work on it as well.

Peter Kosinski: If you have input, let us know.

Risa Sugarman: It's a good idea. That was not the intent of the statute and I'm glad that you're looking at that.

Peter Kosinski: Good. So, then we will move onto our final item which is the Legislative Packet for 2018. And that has been given to us by Counsel's Office. Do you want to speak to it?

Douglas Kellner: Could I just ask some questions about 18-06 which we did recommend last year, and I don't believe either house took it up. We're recommending a requirement that treasurers complete a three-hour course and a biennial update. Are you committed to that?

Peter Kosinski: Well I mean I'd have to look, maybe I need to look at the language more specifically. I think that in this state...

Douglas Kellner: It makes it harder to recruit treasurers.

Peter Kosinski: Well it does in this state as we spoke earlier a lot of our treasurers are volunteers.

Douglas Kellner: If you mandate it... and how comfortable would you feel if you were mandated that you had to spend three hours after being Elections Commissioner and Enforcement Counsel that...

Peter Kosinski: That I'm not teaching the course you mean, and I should be?

Douglas Kellner: That's my point is that we're mandating that everybody have to put three hours into this every two years and I'm just, I am willing to take it out. I'm not going to vote no to it cause its in there because the Legislature, but I don't think there's much interest in the Legislature in doing this and I'm a little queasy about a blanket mandate that people have to spend time after we're already asking them for time to volunteer as treasurer. Alright.

Peter Kosinski: Fair enough. I think that's a fair concern and I would ask the Counsels to look at that one maybe we should revisit that as to whether that's a legitimate idea, maybe it causes more harm than good. I understand the theory that if you have some training you'll be better as being a treasurer which is good, but I also understand the potential that you'll discourage more and more people from being treasurers which is bad because I think candidates already have trouble finding treasurers. So, if you have this in position of a new requirement on them, it may make it just that much more difficult to find treasurers which isn't good.

Brian Quail: Would it be more acceptable if the biennial component were removed?

Douglas Kellner: To me the remedial training to be ordered is acceptable. In other words, that's addressing somebody. But I would prefer to leave it optional on whether you get training. That's my preference as I say...

Peter Kosinski: That's legitimate...

Bob Brehm: So, take the word "must" out and make it...

Peter Kosinski: Well we already provide training opportunities for treasurers. I mean we already make it available so if you want it you can have it by these training sessions.

Brian Quail: There is in the last section of last year's bill or portion there is the option that in the context of where a treasurer has done something wrong that a court can order remedial training and the Enforcement Counsel can request it. So that was, of the three concepts that are in there, there was an initial training, biennial training and then this potential that training

could be ordered as part of a remedy. Those are the three elements that are in it. I think Commissioner Kellner indicated the first two are problematic and the third not so much.

Douglas Kellner: For me, yeah.

Peter Kosinski: The third sounds reasonable.

Kim Galvin: In the whole context I think we can just revisit the whole issue.

Peter Kosinski: But again, in your ability to have a court order...

Kim Galvin: I think they can do that any way.

Peter Kosinski: Maybe they can I don't know frankly. But okay.

Douglas Kellner: And as to the numerous new items I thank staff for collecting all these little issues over which I think there's consensus that would be good for the Legislature to revise these provisions.

Peter Kosinski: Well some of them are just clean ups.

Douglas Kellner: That's right.

Peter Kosinski: Reflecting court decisions that have occurred that we're already following but the statutes not been changed and that's unfortunate because people reading the statute are misinformed and that's bad, so...

Bob Brehm: We get a lot of phone calls though based on what it says versus what we do, so it will help straighten them out.

Peter Kosinski: It would, and I think those are the ones I would prioritize simply because having wrong information in our statute is bad and I think there's very little argument for why that should be retained, and we should make every effort to clean that up.

Bob Brehm: We still haven't quite succeeded in getting the Legislature to agree to take the trustees and the (everyone talking) trustees of LIPA elected in a decade but we did fix the fact that we have judicial 13<sup>th</sup> Judicial District and considering that the chairman of the committee came from Staten Island I think that helped us. And now that we have chairman of the committee from Long Island maybe the LIPA thing will get cured I don't know.

Douglas Kellner: So, with that, one revision deleting 18-06 I move the adoption of the report.

Peter Kosinski: Is there any discussion? Second?

Andy Spano: Second.

Douglas Kellner: And let me just say for the record. These are the list of items in which there is a broad consensus among the staff and the Commissioners that reflects bipartisan agreement. Obviously, each of the Commissioners have other items that we would personally add to the agenda, certainly I endorse the Governor's proposals for early voting and for easing registration requirements. The Assembly has passed year after year bills providing for electronic poll books where just two words are necessary to authorize that important innovation and certainly I support legislation that would end the LLC loophole. And there are dozens of other items that could be added to that list. But this is the consensus list that we all agree on and I'm glad that we're getting it out in a timely fashion for this next session of the Legislature.

Peter Kosinski: Okay we have a motion and a second. All in favor?

(Chorus of ayes; 4-0) and opposed?

Alright so the proposal will be sent to the Legislature for their consideration in the upcoming session. And that is the end of the agenda unless anybody else has anything they want to bring up. I believe we have agreed upon a next meeting on January 22<sup>nd</sup>. We will be meeting again, our next scheduled meeting. And with that in mind, I would ask that we entertain a motion to adjourn from public session and go into Executive Session for purposes of considering an Enforcement matter.

Douglas Kellner: So, moved.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0) opposed?

We are adjourned. We will not be coming back into public session for anyone who is here for that following our Executive Session. And Happy Holidays.