

JAMES WALSH: I would like to begin our meeting.

My name is Jim Walsh I'm the acting Chairman today.

And I'd like to first call upon my co-Chairman to introduce himself, and our fellow commissioners.

>>DOUGLAS KELLNER: Douglas Kellner.

>>EVELYN AQUILA: Evelyn Aquila.

>>GREGORY PETERSON: Gregory Peterson.

>>JAMES WALSH: Stanley, let's start on your side.

>>STANLEY ZALEN: Thank you, Commissioner. Stanley Zalen.

>> Liz Hogan.

>> George Stanton.

>> Bob Brehm.

>> John Conklin.

>> Pat Champion.

>> Anna Svizzero.

>> Joe Burns.

>> Paul Collins.

>> Greg Fiozzo.

>> Kimberly Galvin.

>> Todd Valentine.

>> Terry Green.

>> Bob Warren.

>> Nills Eckberg --, NYSTEC.

>> Rob Zeglen, NYSTEC.

>>Bob Gronczniak --, NYSTEC.

>> Rebecca Wood, --

>> Amy Allaud, League of Women Voters.

>>JAMES WALSH: Thank you, and a special welcome to John and Joe for their first meeting. We look forward to working with you.

First item on the agenda, minutes of the December 4th meeting.

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

>>JAMES WALSH: Second?

>>EVELYN AQUILA: Second.

>>JAMES WALSH: All in favor aye.

(Chorus of ayes.)

>>JAMES WALSH: Opposed? Carried.

Unit updates. Stanley Zalen and Todd Valentine.

>>STANLEY ZALEN: Thank you I'll briefly go through the internal controls plan and the employee handbook and what progress we're doing on that.

With respect to the internal controls support, we had asked all the unit heads to identify any weaknesses in the procedures pursuant to Step 3 of the process.

And we received one response thus far.

And we will be taking steps to pursue all of the other responses.

And at that point Todd and I will review the responses.

And determine whether the proposed corrective actions for any weaknesses that are identified are sufficient and we'll move ahead in Step 4.

Hopefully the Step 3 processes will be finished within the next couple of weeks.

We expect to get there at that point. With respect to the employee handbook, later this week we are going to be meeting, Todd and I and several others.

We have already a draft prepared of the various sources of -- from which we put together this proposed handbook.

And we'll go over that and work on creating one smooth, up to date and relevant employee handbook. And we have that meeting at the end of this week.

>>JAMES WALSH: Okay.

Any questions? Legal, Kim Galvin.

>>KIM GALVIN: Since I was out for a vast majority of the time I thought it would be best if Paul gave the legal update, since he was here handling all the matters.

>>PAUL COLLINS: Since we last met, fortunately, we haven't been involved in any litigation which is always a good thing.

Frankly the ongoing meetings with the Department of Justice have continued.

We have our next call on the 9th.

We have a report due on the 8th and we've had no calls over the holidays.

We continue to field questions from the various County boards and now is the wonderful time of the year where the questions go to Village elections which is always intriguing.

But the legal unit has been somewhat inactive since our last meeting.

And we won't take up any more of your time other than saying that, except to say that we greatly missed Kim.

>>JAMES WALSH: Election operations, Anna?

>>ANNA SVIZZERO: Thank you, commissioner; we have been concentrating on our year end tasks in the unit and one of

those is not only working on our own annual reports so we get it done a little bit before May but also to get our County Board surveys out before the end of the week.

We have a number of boards that have gone through personnel changes.

The current roster is at your place.

We have been fielding phone calls with some of the County Boards with regard to appointment issues and orientation issues for those new commissioners.

Commissioners, deputies and staff we had a significant number of retirements just in the last 30 days.

We have continued our voting system certification status meetings with NYSTEC we had suspended those meetings

with SysTest but we will be having one on Thursday this week so we can get a better handle on the work that they are permitted to do under the stop work order and to get a better handle on where they are with the restoration of the accreditation.

We had been told by SysTest they had an appointment for yesterday.

We learned through the EAC that that was not the case.

The EAC and NVLAP (National Voting Lab Accreditation Program) don't intend to send an audit team out until sometime in February.

SysTest did provide all of the documentation pursuant to their schedule to the EAC.

So that paperwork documentation, if you will, is all being reviewed prior to any plans for a trip so that the audit is not a waste of time and money in the eyes of the team that will be responsible for recommending the restoration of their accreditation.

We have in this time period the late we were promised it would be the first week of December and we have been delayed in delivering test cases which were promised to vendors.

We provided four test cases to each of the vendors so far.

We have approval today from NYSTEC on one more so that will be going out today to those vendors. We hope to have two more - NYSTEC hopes to have approval of two more by the end of the week and the last of the two hopefully by next week.

There are -- there were four outstanding test cases that have yet to be developed.

Two of those test cases are being consolidated into one.

So that means there would be three remaining.

We did not authorize work on those three test cases because we wanted these eight to be complete.

And we also need to have money from vendors in an escrow account so the work that would be happening in the vendors name is covered.

So that payment could be provided.

The vendors seem to have lost the concept of escrow.

And we have zero money in an escrow account for Sequoia.

Their bills are paid.

Yes, absolutely.

We have approximately \$39,000 on hand in ES & S's name and we have \$1,000 on hand for Sequoia.

So we are -- we are about -- that would buy you two vowels, probably.

We are hoping to get a letter out to the vendors to ask for more money but they don't seem to pay much attention to our deadlines.

Perhaps some direction from the Board on getting OGS to divert funds that are due to the vendors for the systems, the counties are satisfied with could be diverted to the escrow accounts here.

That would be helpful.

Because the work would not be happening at risk.

If we let SysTest continue to do this work without any vendor money and get any kind of pushback we'll be in the same predicament we were a month and a half ago with no ability to pay bills and the costs continue to accrue at which point the state would be liable for interest.

And in this environment I don't think either of those scenarios is healthy.

We are planning to attend the January conference with the commissioners.

Bob Warren is serving on a panel at the request of commissioner Sean Hennessey from Jefferson County which is related to the EMS and some training issues that the counties could be looking at now even though certification is not happening as quickly as we had anticipated.

And other than that, we will be amending election results.

We don't have your results from New York City and we didn't want to amend on an incremental basis so we're holding all of those up until all of that work is done and you'll get one amendment to the election results that were certified last month.

And other than that, I think that is it.

>>JAMES WALSH: Questions?

>>DOUGLAS KELLNER: So working backwards, Anna, starting with the certification on the 11th Senate District what is the current status of that?

>>ANNA SVIZZERO: I have no news from New York City other than that it is still in litigation.

And they have not shared any information with us other than that.

>>KIM GALVIN: I think they are in court today on that.

And hopefully -- I think they are expecting resolutions as a result of this court appearance.

>>DOUGLAS KELLNER: And are there any other amendments to the certification that you are aware of?

I think --

>>ANNA SVIZZERO: Yes Jefferson County had amendments didn't change any of the winners amended numbers.

Jefferson County, Ulster County and I believe one other County and we'll get those to you all in one document.

>>DOUGLAS KELLNER: Next turning to the certification testing schedule, what is your understanding of the current schedule?

What do you have in mind as to when the test plans will be submitted, when testing will resume and what the best case scenario would be for a report and certification by the commissioners?

>>ANNA SVIZZERO: If the site visit doesn't happen until some point in February, I expect that it would take at least 30 days for that site visit, the analysis to be done on what information is gathered at the site visit and for a report to be issued by the NVLAP team and a recommendation made to the EAC.

That puts us into March.

If the ballots of the test cases we have to proceed with the dry run which was I believe approximately six weeks.

>> Six to eight weeks.

>>ANNA SVIZZERO: Six to eight weeks for a dry run.

And any remediation that was necessary after the dry run would have to be allowed for.

And then we would have a similar period of time for the run for records.

So that puts us into the summer.

>>KIM GALVIN: Anna has turned into the optimist now because I don't know when we switched personas, because I would think even with the work they have to do even on the original eight test cases and then the additional four that it would be cautious - it would be optimistic at best to say that they will be ready by the time their accreditation is back.

Wouldn't you?

To even run the record then, run for the record then?

>>ANNA SVIZZERO: I don't see a run for record happening before June.

Which puts production off because vendors are going to be hard pressed to do any work in anticipation of a signed purchase order.

So the production time would have to be incorporated.

And then acceptance testing.

And '09 implementation is difficult to imagine.

>>DOUGLAS KELLNER: It's impossible under that schedule.

Absolutely impossible.

>>ANNA SVIZZERO: It would be easier in the Sequoia realm because the units are already in place and the software would have to be upgraded and they could turn the scanner components on.

It would be impossible in the ES & S counties I would agree.

>>KIM GALVIN: Impossible unless which they said they weren't going to do they prebuilt based upon a projection of orders which they wouldn't do.

>>ANNA SVIZZERO: That's not a business move.

But it would be cautiously optimistic in the Sequoia world but more easily accomplished.

>>EVELYN AQUILA: I was going to say the same thing, it sounds like it's an impossible schedule for us to meet.

But you know better than I do.

How much -- this is just an inquiry and maybe I missed it.

How much did the SysTest problem set us back?

>>ANNA SVIZZERO: I would say it set us back a year.

>>EVELYN AQUILA: A year.

I just wanted to get that on the public record.

Because I've been very concerned about that.

And have they cleared -- the EAC will not deal with them until March did you say.

>>ANNA SVIZZERO: The EAC is in possession of the documentation that they had to prepare in order to address the concerns that were raised by the NVLAP team and EAC team that took away their accreditation.

But the reviewing all of that documentation is what they have to do before they'll even go out there.

So their time and money isn't wasted.

>>EVELYN AQUILA: All right.

And my last question is just about this -- the lack of funds that we have.

Realistically what is our chance of getting them to let us have that money?

>>ANNA SVIZZERO: The vendor money?

>>EVELYN AQUILA: Yes.

>>ANNA SVIZZERO: The vendors are concerned that this project has cost more than they expected.

>>EVELYN AQUILA: Well and we expected, also.

>>ANNA SVIZZERO: Our original estimation was based on what the EAC had predicted in several of their conferences which was 2 to \$3 million per vendor.

>>EVELYN AQUILA: Right.

>>ANNA SVIZZERO: For whatever it's worth that's not the number we used when we issued the RFP and vendors had hoped to remain true to that original estimate which was only \$1 million and clearly there's no way that could have happened when New York pressed the testing lab to do the kind of testing that this Board wants to see before they will put those -- your four names to a certification.

>>EVELYN AQUILA: Of course.

>>ANNA SVIZZERO: And that's what changed the face of testing.

That's what brought on a lot of these issues.

And for what it's worth I think that's what's caused the EAC to take another look at how these labs are certified.

>>EVELYN AQUILA: Thank you.

>>KIM GALVIN: That being said I think the vendors haven't indicated to us that they are not going to stay in.

>>EVELYN AQUILA: No they are in with too much.

>>ANNA SVIZZERO: I would agree with Kim they both said they are committed to completing this it's hard to take money in this financial environment and put it in the hands of the State so money can be deducted from it I understand those are issues but I also understand the State can't work at risk so somewhere between our dilemma and the vendor dilemma is a resolution and if we owe the vendors money for systems that were purchased to me it seems logical those moneys could be diverted to vendor accounts here why send them money for them to send us a check.

>>EVELYN AQUILA: Good luck.

>>ANNA SVIZZERO: We should send them a letter tell them how much money we think they should put in escrow and give them a deadline and if they miss the deadline then we should be able to trigger the OGS's withholding of whatever amount of funds we determine.

>>EVELYN AQUILA: I hope so.

>>DOUGLAS KELLNER: Yes, thank you.

Anna, as far as you know has Dominion changed the voting system testing laboratory for the Federal certification or are they -- have they suspended their Federal certification efforts awaiting SysTest?

>>ANNA SVIZZERO: I spoke to John Poulos yesterday and he had not told me they had withdrawn anything from SysTest but I'm not aware of any progress being made in that regard.

>>DOUGLAS KELLNER: So the situation is still the status quo with respect to the Federal certification of the Dominion Sequoia system as well then as far as you know.

>>ANNA SVIZZERO: As far as I know, yes.

>>DOUGLAS KELLNER: Okay.

And as far as training the counties for the use of the Sequoia machines then, is the documentation already prepared for the operation?

So you've mentioned Bob is going to the conference and is going to talk about the -- training the counties on the EMS system.

Are the counties actually starting the process to do training at least for those counties that are using the Sequoia machines?

>>ANNA SVIZZERO: We have encouraged them to do their training now rather than wait for certification and try to get trained at that late date.

Clearly training is key to success in any juncture in this project.

The commissioners had hoped to discuss EMS and the value of programming on your own or perhaps consolidating those services, sharing them with counties, et cetera.

So I think that's the theme of this workshop, this panel.

However, the commissioners do change topics from time to time.

But Bob could certainly be prepared to step in on any of those aspects of it.

We're preparing hopefully for distribution at the conference a list of pros and cons with regard to the County purchasing the EMS or having us do that ballot programming for them.

So we hope to have that worked on in time to present to them.

>>DOUGLAS KELLNER: Has there been a proposal yet, Anna?

>>ANNA SVIZZERO: Not to the Board, no.

>>DOUGLAS KELLNER: In other words, the commissioners have not yet been presented with the list of options in terms of how the -- what kinds of programming services the state might provide for counties who wanted to use them or how we would charge back for them.

>>ANNA SVIZZERO: We haven't even begun to talk about charging back for that.

But I think the conversation that we've had in our unit is clearly I think we're able to do it.

We would certainly like to do it for the counties that were hard pressed with HAVA funds in the first place those would be counties with immediate needs but it does present issues to us for example the 22 month retention of all election data would fall to us on behalf of those counties because they would not be able to run -- rerun election results or rerun that election without the EMS so if we're saving them the cost of the EMS and the cost of the work to program ballots, we're also picking up the 22 month retention burden, if you will, if they are running elections that were litigated, then that information --

>>DOUGLAS KELLNER: If the idea that we would pick up the cost of the EMS -- you're talking about the software cost, the licensing fee?

>>ANNA SVIZZERO: Right we would have to use something other than the one certified version of software that's here resident here in a certified machine to do that.

So the County could save the cost of the EMS.

>>DOUGLAS KELLNER: Is that consistent with the contract?

>>ANNA SVIZZERO: Excuse me.

>>DOUGLAS KELLNER: Is that consistent with the contract?

That we would be allowed to purchase the license for the software and then do the programming for the counties.

>>ANNA SVIZZERO: That's a state contract.

We would have to buy off of it.

I don't know why we couldn't.

It's something we have to ask OGS to confirm it.

>>DOUGLAS KELLNER: Now I think it's my recollection of the contract was that it is acceptable if one county buys the system and then that county uses it to prepare ballot layouts for other counties.

>> The counties could pool together.

>>DOUGLAS KELLNER: It would still have to be just the one system physically located in that county.

>>ANNA SVIZZERO: Right so any counties that were going to share that would have that same record retention obligation on behalf of the counties that were being hosted, if you will, for example using Monroe County if they hosted any of those ballot production services for their neighboring counties, they would have that record retention obligation, as well.

>>DOUGLAS KELLNER: Well, I look forward to hearing the results of Bob's panel at the conference.

But I think it is time and especially if we get some feedback from the counties at the conference that the Board really does need to prepare a list of options and have the commissioners discuss the policy issues involved in this.

>>ANNA SVIZZERO: We've heard support in the conference call that we've had with the commissioners but not all of the commissioners have the ability to speak up on these conference calls, it's mostly the officers.

So the conference would be a good barometer for us to determine need in any kind of issues that the counties perceived before we put a full document in front of you for approval.

And we'll certainly check out the issue with OGS to make sure that's part of your consideration.

>>DOUGLAS KELLNER: That's my list.

Thank you.

>>ANNA SVIZZERO: Thank you.

>>JAMES WALSH: Any questions?

Thank you, Anna.

>>ANNA SVIZZERO: Thank you.

>>JAMES WALSH: NVRA/PIO, Bob Brehm.

>>BOB BREHM: Hello commissioners, a couple of items we are working on at our last meeting we discussed the issue of the health and human service agency recalling the unspent portion of the 2003 funds.

There was some accounting issues that we were working out between OGS, comptroller's office and the Federal government.

It's not entirely clear always when you're working with the representatives of the health and human services what the story is.

Because it kept changing every day.

In September they told us that we would have these funds available until spent.

Early October they took the money away.

They told us that we can work on the outstanding invoices that the County has actually submitted.

That was the final resolution.

It came down to probably an outstanding 12 to \$15,000 in funds that we thought we could at least recoup on behalf of the counties because that's what the health and human service told our office, told the comptroller's office, told OGS.

So we did all the work to identify those invoices to make sure that those counties at least to that extent were held harmless only to find out when all of that was submitted that the Federal government said no we can't do that anymore.

So the final resolution is we've lost about \$215,000 in the unspent portion of the 2003 money.

That's approximately a third of that -- a little less than a third of that year's grant.

And we're moving forward with the outstanding moneys.

So it was only about \$12,000 to \$15,000 that the County had spent that was not able to be reimbursed from that year's grant and we are working with those counties to move those funds to different years grant award.

We are also working as much as we can with the counties to strongly encourage that they submit to us all of their outstanding activities related to poll site access improvement because the deadline for that grant is March 31st.

So all the work has to be completed.

The bills have to be paid by then.

Because we are only reimbursing them.

And then there's a short period of time after March 31st for those funds to be requested of us to be reimbursed.

It's not good news but at least we have moved past the resistance from the comptroller's office of paying any invoices until it's resolved and now we're back to paying the invoices.

So to date out of the various funds that we have, we have spent -- we have reimbursed counties about \$2.3 million out of the possible \$18 million in various fund programs.

The biggest portion of the unspent moneys is in the voter education arena.

It's a very small amount of only -- less than a half a million dollars out of the 10 million that was allocated for voter education the counties have submitted to us.

Because of that we are working to extend the voter education portion of the grant beyond March 31st.

Realizing that we won't have new machines to roll out.

And until after that.

And that the counties will really need to use their education funds for the new equipment.

So we have drafted the updated contract provided it to OGS.

They reviewed it.

Gave it to the State comptroller's office for approval.

Once we receive the approvals we can send it to the counties.

So any county that would like to extend their voter education grant money beyond March 31st would need to get -- 31st would need to get us an executed contract before March 31st.

So that would behoove them to move quickly once we get that to them.

But that's pending.

It's on the weekly issues with OGS and we're making progress on extending the contract.

So from a grant program we are working hard with all of the counties.

Erie County is the last county for the poll site access improvement it was down to Erie and New York City it's now down to Erie and today we continue to get updates that they are working to be the last county to get their completed plans in.

So that's working well and continue to move on the voter education.

One of the items that we are working on we hope to have a proposal to you shortly is the updating of the poll worker training curriculum program.

When we first proposed the online training program to you and to all, we envisioned it as a -- we would have approved equipment, we would update the training and make it available to everybody.

Well, we rolled out an interim plan in 2008.

With the ballot marking devices and now we have to update that information for 2009 for the new training equipment.

So we're working on receiving a proposal from the vendor.

We would have to extend our contract and we have to give you a specific proposal.

That's one of the items we're working on to be able to get a firm idea of what it will take when we'll have the documents and what we will need to do in order to get that updated.

It's certainly not as expensive as setting up the infrastructure in the first place.

But we will bring that to you shortly.

Another item that we have worked on, we will be continuing to bring to you as we receive the report from the New York State broadcasters association which was the final activity for our education campaign from 2008.

And it listed the number of ads and the specific ads that we were able to run and we did it both in upstate and Downstate because of the markets.

And we've received for the value of the money that we put forward which was \$150,000 in each of these media markets for radio we received approximately \$1.2 million in value from the upstate numbers that were able to be run and it was probably about a \$300,000 value for the \$150,000 that was put into the New York City / Long Island market.

That was our interim.

Voter education from our perspective for the ballot marking devices.

We will continue to look at the results and propose whatever we might be able to do out of the funds that are available for 2009.

And hopefully have a proposal to you shortly.

But it did show from the numbers that we had on the radio ad for the ballot marking devices that we did get value for the dollars that we were able to bring to that issue.

Another item that we are working on, we hope to have for you shortly, the one change that we noted in the election law last year requires we update the voter reg forms to provide an opportunity for a person to enroll as an organ or tissue donor.

We've taken an inventory of the forms we have and the numbers that would need to be changed for the various NVRA forms, mail registration forms, online forms that we put on our web site.

So we're trying to vet language that would meet our abilities and get those forms updated.

We would like to update -- you know to give you a proposal that you'll be able to promulgate the form, update the web site and then go to print the form whenever our existing inventory runs out, which is somewhere about 6 million registration forms.

We weren't intending on reprinting all the forms and certainly we don't -- this isn't a good financial time to have to reprint 6 million forms and throw away the ones we have.

So it's our suggestion as we're working on this plan that we would reprint when we run out.

And we would make available the forms to all the counties in hard copy.

And online for anybody who would like to.

So we hope -- we have some ideas internally that we're working on and that we would like to -- once we settle on the wording to share with the Health Department to get their feedback.

And then give you a proposal.

Other than that, I think we're just doing the routine work with the agency monitoring the NVRA sites and the NYSVoter work that we also do.

>>JAMES WALSH: Any questions?

Thank you, Bob.

Campaign Finance, Liz Hogan.

>>LIZ HOGAN: Thank you, commissioner.

Initially if I could address the status of the part 6200 rule amendment that we have discussed at the past several meetings.

Bill has worked to prepare the documents to send to the Governor's Office of Regulatory Reform (GORR) subsequent to a conference call we had with them on minor suggestive language changes so he's prepared the packet of documents that they are required to review before we can pass those onto the Department of State.

Bill, do you want to talk about the timeline for that?

>>BILL McCANN: Yes, basically the way GORR's working is we provide them with the information and then once they say everything looks great then we'll submit the formal packet and then they'll give us the approval letter that the Department of State requires they received the full draft of all of the forms that the Department of State submission requires. They are doing that now. Once we get any modifications they suggest, or otherwise, I anticipate it should be approved by GORR sometime over the next couple of weeks and then we'll submit it to the Department of State.

Our goal is to have it published some time by the end of this month.

And then with the 45 day public comment period we anticipate that we would have the approval going forward into the summertime.

The final adoption.

>>LIZ HOGAN: Now, prospectively Bill and I need to address this to the audience that this rule will affect.

And so we haven't sat down and done it yet.

But we will sit down and prepare a presentation to give at the election commissioners conference to try to put the word out that there will be a prospective application of this rule change so that they understand that this is very important because this doesn't mean -- it means you know that people who are required to file here at the Board and do so that can alleviate their responsibility of filing at the local level but it doesn't mean that everybody files here at the Board.

So we need to make that clear and, in an educational component of the conference which we're going to do this month, and we also need to prospectively address the application of this in our handbook.

And we need to talk about it in a -- in our annual correspondence packet with the committees.

And candidates that we send these to that there will be this rule change coming.

It may not be effective as of that particular time that we send out these mailings but it is coming.

So we're going to be working on that.

The staff just a list of things that we're working on right now, we're updating the forms and schedules for filing purposes.

We're working on updating our handbook and would anticipate that going to print in probably February.

We're trying to be realistic.

That was our plan.

We're preparing a presentation for the arbitrators.

The arbitration group that we have on the retainer basically to deal with the alternative dispute issues of our HAVA complaint process.

We need to provide them with some training as to what the HAVA mandate is and what the process is here before a complaint might get to them, if it ever does.

So we're working on -- we have a preliminary packet from staff.

On the presentation.

And we need to review it.

And we're hoping I think our timeline to meet with the Dispute Agency and Presentation was -- was it the end of February.

>>BILL McCANN: Yes, it's been moved back.

>>LIZ HOGAN: It's about the end of February.

>>BILL McCANN: Yeah, the New York State dispute resolution association is -- they are confirming the group of proposed arbitrators that they are going to submit to the Board.

They are going to confirm that shortly.

Then we'll present to the commissioners the grouping of proposed arbitrators which will be approximately 16,

17 arbitrators from the group of about 80 that they've vetted through.

And then we'll submit that to the Board for approval.

So we're just waiting for the confirmation from NYSDRA and once we get that group and it's confirmed by the Board then we'll do our training session with them.

>>LIZ HOGAN: We're also working on setting up a seminar schedule similar to what we've done in the past. Considering the issues of cost at this point we are trying to most effectively run that seminar training program in the most cost efficient way.

We are trying to get the most out of it that we can.

So we're working on that.

We've -- we are attempting to work in a new way in a liaison format with the counties to learn from them what they need in terms of an educational component or informational component of the filing requirements here.

And in that vein we've sent staff drafted and Bill and I sent out a letter.

A liaison letter basically informing the commissioners at the County level that we're looking to establish with each Board a liaison that we can deal with directly to get feedback from them on a continuing basis as to what needs they have.

Or what problems they are having in terms of educational components or people who are coming into them and don't understand certain things that they have to do.

Because of compliances -- compliance is always our goal and we thought we would try that as a new mechanism for a continuing dialogue with the counties to get information, you know, back and forth.

They are setting up a program of calling the counties to get this needed feedback from them so there will be a routine call feature set in place.

We're working on attempting to move onto the next phase of dealing with the operating neutral system software program that IT is working with us on.

We had had our last meeting with Phil.

And he had expressed a need for us to present to him some types of business rules in order for him to incorporate into this program.

And so we're in the process of figuring out exactly what his needs are.

And writing them to move into the next stage of that.

The 2006 corporate audit has been completed by the staff.

And they have finalized a report that has been given to me.

And is shared with Bill and we're looking at that in order to prepare a report for this Board.

They have started the 2006 statewide office audit.

They are right now setting a timeline.

And the parameters for a report generation.

We have begun the 2007 corporate over-contribution audit and there's a projected finish date of February 3rd.

We're on schedule.

We have on our agenda to begin at the end of March the 2008 election cycle that's the Senate and assembly audit and also the 2008 corporate we're waiting until the January periodic filing is finished before we move into that.

So that's projected to begin around March 19th.

Do you want to add something to that?

>>BILL McCANN: No, I think we are running right on schedule.

>>LIZ HOGAN: there are various other projects that staff is looking at in terms of the administrative processes of campaign finance.

They are looking at for example committees that are on administrative hold as to how long they've been on hold and how we can take care of whatever issue that was.

Maybe committees with negative balances.

You know, are there problems with those committees or whatever.

So there's a myriad of projects that they are working on.

And we'll prioritize those.

They presented Bill and me with a list of potential -- maybe not so much an audit but a review of certain circumstances that exist relative to committees.

And we'll prioritize those with them.

And they will work routinely to address those issues.

The scanning project that we have discussed many times at the staff meetings, the contract as I understand it is still at the division of the budget.

I have not heard anything regarding the status of that.

I continue to push for the approval for that contract because it is very, very important to the functioning of campaign finance.

And the productive and efficient use of time in being able to look at these electronic files and doing the day-to-day work relative to these candidates and committees.

>>GREGORY PETERSON: How much of that is done in-house.

>>LIZ HOGAN: The preparation part is done in-house.

We receive the paper documents.

Do what we have to with them.

Review them.

Send them back if they are inappropriate, whatever.

Our responsibility would be to box these.

And then the vendor would pick them up from us, take them to their facility.

And there's a very strict security issue surrounding documents leaving here.

They would scan them.

And there's a whole process in place about you know how they are reviewed.

How they are prepared for scanning.

After they are scanned and the program is reviewed for accuracy, the documents would then be boxed up.

They could be returned to us.

We could either destroy the documents.

We could store the documents at our warehouse.

But we would not have to go digging through piles and boxes every time we had to look up some issue which is so time consuming.

>>BILL McCANN: Can I add one thing to that?

The need -- the urgent need was developed when we took on local filers.

In the past --

>>GREGORY PETERSON: Just define local filers for me, please.

>>BILL McCANN: In the past we would handle only certain offices here for campaign and finance purposes so statewide offices the state Legislature and state Supreme Court and any committees that support or oppose those candidates and all other candidates and committees would file with the local Board of elections. In 2006, effective January 1st, when they changed the law based on expense threshold in \$1,000 in receipts and expenditures all of those local commissions would now have to file with us.

In the past if we had a committee to elect Bill McCann, we had a file cabinet by office and district - you go in and pull the file. We literally don't have the physical capacity to handle from 1500 filers to nearly 10,000 filers as we flux.

So we don't have literal physical file cabinets.

>>GREGORY PETERSON: That was my question is bottom line how do you -- that's the limit.

Our going to school boards, Village elections and everybody else.

>>BILL McCANN: The interesting thing is right now if I want to find a filer from Columbia County I have to ask the clerk to go through a huge pile and wade through the pile to find a needle in a haystack under the scanning project it will be based on filer identification number so you'll literally be able to hit a filer ID and every document for that file would be in front of you so you'll be able to mix between databases on documents like a hard file without necessarily having to go waste time to find it so it's the sheer volume.

>>LIZ HOGAN: It's a very cost efficient process.

I think the projected annual cost of that is less than \$20,000 a year.

And for what the benefit is in hours of work, it's a huge you know benefit to the agency.

>>GREGORY PETERSON: That savings has been submitted I assume on our savings budget going to the Governor, correct.

>>LIZ HOGAN: Yes they are well aware of the figures.

>>GREGORY PETERSON: How we have the wherewithal to put that into action as well as the personnel that we need that have been requested.

>>LIZ HOGAN: That's correct, commissioners.

>>EVELYN AQUILA: Can I ask a question, for information?

You know this is foolish for me to ask but I really don't know it.

For campaign finance is there a statute of limitation for violators?

>>LIZ HOGAN: For -- I'm sorry; for not filing.

>>EVELYN AQUILA: For not filing, yes.

>>LIZ HOGAN: Well statutorily a committee or a candidate if they are processing their own receipts and expenditures has to file by a certain date that is set in our filing calendar.

If they do not file by that date, there's a process in statute whereby we send letters to them telling them that they need to file.

That they have not filed.

>>EVELYN AQUILA: That's if we know.

>>LIZ HOGAN: That's correct and then they have a certain timeframe to make the filing.

If they don't make the filing within that timeframe by statute there's a presumption that they knowingly and willfully didn't file in violation of the statute.

We immediately sue for non-filing for any filing period for example the January periodic which is coming up on January

15th after we go through this process of the letters back and forth, people who do not file by that statutorily set time we will sue them immediately.

So there's no lag.

Everybody who does not file unless they are -- well I would say 99.99% of people who have to file we will sue.

Now there may be some crazy thing that happens where we put somebody on an administrative hold.

I think maybe last summer there was a treasurer who on the day, the 15th was being operated on at Albany Medical Center that was an unusual circumstance but sometimes an unusual circumstance like that could come up.

But as soon as that process of correspondence and non-filing is finished, that's when we set in play the lawsuit.

>>EVELYN AQUILA: There is a statute that would come into play after that?

Like for two years, you have two years, you know if they don't file within two years, you know, we can't --

>>BILL McCANN: Well, I guess the issue is, and it's never been completely established in law, but the statute of limitation applies and there's a theory, and Stanley and I discussed it over the years, does, for instance, your obligation to file if you fail to do it since that information compounds on further information that your filings are never up to date.

So it's a school of thought that says the statute never expires.

>>LIZ HOGAN: Everything is predicated on what went forward.

>>EVELYN AQUILA: I see.

Thank you.

>>STANLEY ZALEN: The most conservative view would be it's a misdemeanor.

Therefore it's a two year Statute of Limitations.

But Bill has pointed out --

>>EVELYN AQUILA: Once it begins.

Right.

>>LIZ HOGAN: The other things we have going in campaign finance are as I referenced the January 15th periodic will be due in a week or so.

We have discussed at this table at previous meetings our loss of staff and the ability to deal with treasurers and candidates and you know whoever calls here regarding filing.

We have six.

We have two program aides now.

And you know we've made our case to the division of the budget regarding our need.

And I can tell you that we will do the best we can.

I don't know that you know a result will be everything that we have hoped.

Bill and I have set a pretty high standard in terms of phone calls that come in.

And you know people having to wait.

And we don't like to have people hanging up.

And so we will do the best we can.

And in that with what we have to work with.

We continue to do the routine day-to-day servicing of committees.

You know committees register.

This is a local year.

So we anticipate a lot of new committees will register with us.

So our number of committees will continue to rise.

And of course you know the problem that we have that we again have discussed on numerous occasions is the fact that we do not have a local candidate identification process in place so in a local year it creates an especially difficult problem in terms of anticipating you know who should be filing with us.

We have sued in excess of 1200 people this year for non-filing.

And staff continues to be busy in addressing the ramifications and fallout of the various stages of lawsuits the order to show cause and then the judgment and that kind of thing.

Bill, would you like to add anything.

>>BILL McCANN: No, I think that was very competent.

>>JAMES WALSH: Question on hang-ups mentioned - is there a mechanical method of measuring the numbers of hang-ups that you have and the days?

Do you know what your volumes of hang-ups are?

>>LIZ HOGAN: We do we have a phone system that we implemented in it will be two years in July I believe.

And we get a monthly report where we can track how many calls come in.

How many calls each of our program aides handles, the length of those calls, how many hang-ups there are.

We can get them by month.

We get -- we can get a phone assessment of our phone system.

And I -- you know I guess we'll see you know how those numbers play out at this point.

We'll monitor it.

>>JAMES WALSH: That's what I'm curious.

Do you have any advanced information here as to how the ball game is going?

Are we falling farther behind?

>>BILL McCANN: We'll have to check the numbers.

>>LIZ HOGAN: Off the top of our head I -- our staff has worked --

>>EVELYN AQUILA: We have an information book that tells people how to file.

>>LIZ HOGAN: We have a filer handbook.

>>EVELYN AQUILA: We can offer that first when they call through a recorded voice.

If you would just like this handbook we will send this out to you.

And then stay on.

If not if you have more specific questions, stay on.

You know like you do --

>>LIZ HOGAN: There is a menu.

>>BILL McCANN: Yeah, it kind of does that now.

>>LIZ HOGAN: Yes.

Plus the handbook is available on our web site as we send it to the counties.

Last year we did a comprehensive update of the handbook.

And this year we ran out of time last year because we did so many changes to it to make it more user friendly that we really ran out of time and had to get it to the printer so this year the staff is working and they have been working for several months already in you know -- tweaking the handbook to make it even more user friendly and hopefully that will make that as widely as available as we can and it's on our web.

And we definitely tout it when our program aides take telephone calls if I'm walking out through the area I hear them.

They are looking at the handbook.

They are referencing the handbook to the caller and that's a good thing because it kind of imprints that handbook in their minds.

That's it.

>>JAMES WALSH: Any further questions anybody?

Thank you, Liz and Bill.

ITU, George Stanton.

>>GEORGE STANTON: Well, last month Commissioner Kellner told me no news from IT is good news so I probably should keep my mouth shut.

No everything really -- well this is a time of year where after the elections like all the other units we take a big sigh of relief.

You know, during the holidays.

Over the last few weeks.

We had a chance to give some people some well earned vacation and days off and that kind of thing.

So it has been you know over the holidays pretty slow downstairs other than we've had mostly just enough staff in to keep the place running most of the time.

But this is actually the time of the year when we can start to look forward to some things that we can do.

Because it's going to be an off election year.

We'll have some times to catch up on some programming type things that need to be done.

We have finished up all of the campaign finance filings from last year.

Of course as Liz just pointed out we have new ones coming in next week so we'll go after that again.

But we have been -- Phil has been working on the software for the new filing software as Liz pointed out he's making good progress on that.

I also met with my main people that run the campaign finance part of the computer system last week.

And I've had them working over the last six months in every bit of spare time they could find working on the back end of the system trying to come up with some solutions to some of the problems that we've had.

And that have come up over the years as far as you know filing multiple special elections, those kinds of things.

And they've come up with some pretty good scheme.

They showed me what they've got for their -- what they are working on replanning a little more so we can, hopefully by the end of this month, show it to the campaign finance folks to start getting their input on it, see where we go from there.

And this is important because I determined that we really before we pump out the new filing software because it is different.

It runs it a little differently on filing report periods and so forth, we really need to fix the back end before we can pump that out.

So I think this is going to take care of the things like treasurer history which we never had.

People being able to see filings that were amended and see the old data.

And that kind of thing.

So they've built a lot of stuff into what they are working on so I'm looking forward to getting going on that.

As far as NYSVoter goes, it's chugging along.

We did find one small issue the day after Christmas actually one of our queues got choked up and it's not because it was overloaded.

And it took us a while to determine the cause.

And it seemed to be something to do with a signature image from actually one of our small counties but it was choking up their queue and we have been looking after that Shaikh who is our level maintenance and level 2 and 3 support guy and I looked at it for a week or so and we finally sent it back to the developers to look at because it's not a consistent thing so you can't really track what the cause is so we're still looking into that.

It doesn't really affect the database any.

It just affects the queue and it seems to be revolving around when we get a global update that has a large signature in it.

So we are still looking into that.

I don't think it's any major issue and I'm sure the developers will get to the bottom of it.

I should point out; too, that Liz was talking about her -- the imaging program.

We bought the software and hardware for that six months ago.

So we've got that part of it in-house.

We've just been waiting for the contract to go through to see where we go with that.

My staff is also going on with the knowledge transfer from Saber on NYSVoter to learn the system.

We've taken over part of the weekly maintenance reboot type thing on that already.

And starting now after the holiday we're going to start focusing more on the actual application itself to see what we can discern about that to see where we need to go.

If we have anybody that needs any outside training from Microsoft or anything like that.

So that's where we are at right now.

>>JAMES WALSH: Questions?

>>DOUGLAS KELLNER: George, if you're not the right person, maybe we'll ask Patrick or Greg to answer it.

But where do we stand now with the counties use of NYSVoter?

>>GEORGE STANTON: Well, I guess you're probably referring to the New York City piece.

Everybody is using it except New York City obviously is still not using the interactive part of NYSVoter the part where you have to log into the web site and do your maintenance.

>>DOUGLAS KELLNER: And are there ongoing discussions with them to get them to do that?

>>GEORGE STANTON: The last discussion -- the last official discussion we had I believe was a letter that we sent out in -- probably just before Christmas.

I've had some phone conversations with Steve Ferguson.

Of course Steve Ferguson is like me.

He's just an IT guy.

He can't really solve the problem.

>>DOUGLAS KELLNER: At this point are the -- are there technical barriers for the city to use the system.

>>GEORGE STANTON: No I don't think so.

There are technical changes that they wanted us to make.

Whether -- I don't consider them barriers to them using them, no.

>>DOUGLAS KELLNER: All right, thanks.

>>EVELYN AQUILA: Do you think those technical barriers are difficult for the other 57 counties that are using the system?

That the city feels they have.

>>GEORGE STANTON: No.

I've had no complaints from anybody else that the system is difficult to use.

>>EVELYN AQUILA: All right.

Thank you.

>>JAMES WALSH: Thank you, George.

Is there any old business to come before us?

New business?

Discussion of part 6217 regulations.

>>BILL McCANN: Well in the materials is a proposed modification of 6217.5 sub 3 which goes to the bipartisan processing of voter registrations.

It deals with the electronic signature aspect of it.

And we think this modification would address some of the technical issues at the end.

So we would like to submit it to GORR for processing and then ultimately to the Department of State for publication.

We would like approval to submit it to GORR to begin the process on that.

>>JAMES WALSH: Do we have a motion?

>>DOUGLAS KELLNER: So moved.

>>JAMES WALSH: Second?

>> Second.

>>EVELYN AQUILA: Yes.

>>JAMES WALSH: Other questions?

All in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed?

Carried.

Any other new business?

Perhaps we should set our date for our next meeting before we continue.

Bob, did you say we had some deadlines to meet?

>>TODD VALENTINE: Well, we have the scheduling of events.

The County Election Commissioner's Association winter meeting is scheduled for that week of the 19th.

It's the 21st.

And 22nd and 23rd.

During -- it's during that week.

And then we had established at our December meeting to try to at least give SysTest I'm not going to say ultimatum but where we would come back to revisit our next step at the end of January.

So that's a deadline we had imposed to review.

So I'm not sure that they are going to meet that given Anna's previous report.

So I don't know if we are scheduling a meeting we would probably want to schedule it for the beginning of February.

The first or second week would seem to be the target that I would suggest at this point.

>>DOUGLAS KELLNER: I would suggest the 3rd or the 4th.

>>JAMES WALSH: The 3rd is fine.

>>DOUGLAS KELLNER: 3rd is Tuesday.

Will that be all right.

>>EVELYN AQUILA: Yeah.

>>DOUGLAS KELLNER: 3rd okay.

>>JAMES WALSH: Yeah, so February 3rd.

>>DOUGLAS KELLNER: February 3rd.

Noon.

>>EVELYN AQUILA: It's my son and my grandson's birthday.

I always have something going on.

>>JAMES WALSH: We will pay special tribute to them.

>>EVELYN AQUILA: Okay.

One is 52 and one is 22.

They are 30 years apart.

>>JAMES WALSH: Item five. Is there any need for executive session?

>>DOUGLAS KELLNER: I'm prepared to move that we approve the preliminary determinations as presented.

>>BILL McCANN: We have two that we would ask to be tabled.

The first two on the agenda would be to --

>>EVELYN AQUILA: 40 and 58?

>>BILL McCANN: Correct.

>>DOUGLAS KELLNER: Were these also tabled last time?

>>BILL McCANN: Yes, sir.

>>DOUGLAS KELLNER: So let's go into executive session then and discuss why you want to do that.

Since it's already been tabled once.

>>BILL McCANN: I'll be happy to go over the process on the one matter we are getting information from the city Board of Elections in New York.

And then on the second matter we're continuing our research.

It goes to the issue of permissibility of a Federal transfer and we just have more research we need to do on that matter.

>>DOUGLAS KELLNER: I would like to discuss it.

>> Sure.

>>EVELYN AQUILA: Do you want to vote on the other three and then go into --

>>DOUGLAS KELLNER: All right.

So we're voting on --

>>EVELYN AQUILA: P06-85 and P07-05.

P07-11.

>>JAMES WALSH: Okay do we have a motion?

>>GREGORY PETERSON: So moved.

>>JAMES WALSH: Second?

>>EVELYN AQUILA: Yes.

>>JAMES WALSH: All in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed?

Carried.

Do we have a motion to go into executive session.

>>DOUGLAS KELLNER: So moved.

>>JAMES WALSH: Second?

>>EVELYN AQUILA: Aye.

>>JAMES WALSH: All in favor.

(Chorus of ayes.)

>>DOUGLAS KELLNER: The executive session is to discuss the other two.

>>EVELYN AQUILA: 40 and 58.

>>DOUGLAS KELLNER: Enforcement matters.

>>JAMES WALSH: All right.

Everyone, we'll go into executive session.

For a short period.

(Executive session)

>>DOUGLAS KELLNER: -- 06-58.

>>JAMES WALSH: And we have a second?

>> EVELYN AQUILA: Second.

>>JAMES WALSH: On the question, all in favor? Aye.

(Chorus of ayes.)

Opposed?

Carried.

Any other business to come before us? If not, we'll accept a motion to adjourn.

>>DOUGLAS KELLNER: I move that we adjourn to February 3rd.

>>JAMES WALSH: All in favor?

(Chorus of ayes.)

>>JAMES WALSH: Opposed? Carried. Away we go.