

New York State Board of Elections
Board of Commissioners Meeting
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Jim Walsh: Good afternoon everyone. My name is Jim Walsh and I'll be chairing this meeting. And I'd like to introduce my fellow Commissioners. On my right.

Douglas Kellner: Douglas Kellner

Evelyn Aquila: Evelyn Aquila

Gregory Peterson: Gregory Peterson

Todd Valentine: Todd Valentine

Kimberly Galvin: Kimberly Galvin

John Conklin: John Conklin

Tom Connolly: Tom Connolly

Dave Loomis: Dave Loomis

Joe Burns: Joe Burns

Anna Svizzero: Anna Svizzero

Bill McCann: Bill McCann

Bob Brehm: Bob Brehm.

James Walsh: Our guests and our Staff.

Bob Warren: Bob Warren, Election Operations.

Aimee Allaud: Aimee Allaud, League of Women Voters.

Casey Seiler: Casey Seiler, from the Times Union

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James Walsh: Welcome all. We have two meetings. One is a very brief one that is called the Board of Canvassers for New York State Board of Elections and we are meeting right now. And we have one item of business to Amend the Certification of Election Results for November 6th, 2012 General Election. And I would ask Anna or Joe if they would have something to say about this.

Anna Svizzero: Only that we're very confused about why they're amending results in July? Um, we've heard several different stories and nothing that is emperical. So, I really don't have anything other than their certification and results to you.

Douglas Kellner: Well, specifically there were additional ballots located that had not been included in the November canvas. The city, New York City Board of Elections claims that the, it arose out of the confusion of the transfer ballots between the boroughs of Manhattan and Brooklyn arising out of the Executive Order. And the unusual procedures that they were required to adopt in order to handle that. So, in any event the hope...

Evelyn Aquila: And it will not happen again.

Doug Kellner: So, in any event, the idea is to get the number correct and that every vote does, in fact, count.

Anna Svizzero: And that it proves I guess.

Douglas Kellner: So, I move the adoption of the amended canvas.

James Walsh: Second.

Gregory Peterson: Second.

James Walsh: All in favor.

All: Aye.

James Walsh: Opposed? Carried. That concludes the meeting of the Board of Canvassers. We will now move to the regular Agenda for our Board of Elections. Business item number one, our minutes of the June 4th, 2013, do I have a motion to approve the minutes?

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Gregory Peterson: So moved.

Douglas Kellner: Second.

James Walsh: All in favor?

All: Aye.

James Walsh: Opposed? Carried. Unit updates, Executive Bob Brehm and Todd Valentine. And the winner is?

Todd Valentine: That would be me. We submitted our Unit Report. I mean it's the summer season so obviously it's been a light petition filing year mostly Judicial Delegates and State Committee Offices. And you'll see a little bit later on there's a review of some of those. Certainly we had the summer meeting for the Election Commissioners Association at the end of the Legislative Session. And we are continuing our support of the counties with our monthly phone calls. We had to reschedule last week because of scheduling conflicts but we're back on again this week. We have a regular call with them issues from month to month as they come up, so, we're continuing that. And Bob can add more on this but, you know, we have it's clearly been reported in the papers that the Governor has assembled the Moreland Commission to investigate, you know, the election practices. We have had contacts with them. Obviously they sent us a letter to preserve documents. And we are fully cooperating with them. You know, we've had a couple of conference calls to ascertain specifically what they want, you know, because we have a lot of documents, while most of them are public, you know, just the format issues and just making and transfer those requests. I mean, I don't know if Bob wants to add anything on that?

Bob Brehm: Not on that particular and we also have a notice from the State Comptroller that it began an audit of procurement of paper voting ballots. July 15th we had an engagement, an initial engagement meeting with them. And they asked us to share that message of the engagement with the County Boards of Elections. We have our monthly call with the County Board on Thursday and that's one of the Agenda items to go over with them so that everybody knows that that audit is coming. Generally speaking, the people doing the audit indicated they would pick a certain number of counties based on geography and size. And reach out and look at their ballot procurement issues. And so far that's the

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other thing, the initial engagement, we haven't heard anything more on that particular topic. And the rest is routine work.

James Walsh: Thank you. Legal, Kim Galvin.

Kim Galvin: Looking at my written Unit Report, it doesn't seem like there's a lot there but we have been quite busy actually. Just to add to what Todd and Bob said we've also participated in all of the Moreland calls and document preservation orders and with the audit that's been engaged by the State Comptroller's Office. And we have been actively answering a lot of the calls from the County Boards regarding petition access, questions on any number of issues that you can think of. But nothing really sticks out other than what's written.

James Walsh: Any questions? Election Operations, Anna please?

Anna Svizzero: Thank you Commissioner. We have been busy. Our filing period was light as the Executive Directors indicated. We only received one hundred and eleven petitions. However, those contained the names of six hundred and forty-one candidates. Three objections were received, two declinations. All of that paperwork was processed. The documentation on the prima facie review was prepared by the Counsel's Office. The appropriate notices were sent out in the instances of the objections and declinations. We do not acknowledge petitions filed for party positions so, that was a good thing because the phone calls from County Boards requiring support were numerous and that gave us the time to respond to those Boards that needed assistance through the filing period.

We will be having our ballot drawing. We have a number of primaries across the state for JD Delegate and Alternate Delegate positions. The drawing will be tomorrow here at the State Board and once that drawing is completed then we'll prepare our documents to certify those primaries to the County Boards involved. The petitions that are filed at the Local Board for the same positions - Republican State Committee and for JD Delegate and Alternate have been requested. County Boards have been sending those in so those are being processed by staff so that we can prepare the official roll calls for the JD Conventions and the Republican State Committee Re-organizational Meeting.

We completed the functional testing for the Sequoia Legacy Central Account System. We have that report in your Board packet today, if it is your pleasure to vote on it. We have our

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RFP for Voting Systems expires in September, so there's a new RFP out. That procurement process is on its way. Our conversation on that topic is limited because of the Procurement Laws but it is available to anyone who's interested. Three letters of intent have been received from vendors. So, we're waiting responses to the RFP and those will go right to OGS.

Douglas Kellner: So that means we do have vendors besides, at least one vendor besides uh...

Anna Svizzero: We have one but we're not sure that he's, it's a responsible vendor. We're not sure what it is they're intending to propose in response to the RFP, if it's a voting system or if it's an attempt to propose just for supplies and services. And that would create an issue with OGS. So, we'll have to review that.

Douglas Kellner: That's interesting.

Evelyn Aquila: Yes, that's very different, you know, I even had thought to ask that.

Anna Svizzero: Yep.

Douglas Kellner: I think we should mention that it's worth mentioning that at the Election Commissioners Conference we explained to the County Commissioners at some length the impacts of the expiration of the existing contracts because the vendors who sold the machines Dominion and ES&S will uh, not be responsible for maintenance beyond the expiration of those contracts. And that one of the goals that we've been discussing is how to give the counties maximum flexibility as they make arrangements for following the expiration in a way that will try to encourage some competition so that they won't necessarily be locked into using the incumbent vendors especially if the pricing is not competitive.

Evelyn Aquila: Is that the problem Doug with the vendors staying on if you wanted to hire, their, their prices are so high?

Douglas Kellner: Well, it's all relative. The issue is that obviously there are advantages in having the incumbent vendor continue the maintenance...

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Evelyn Aquila: Sure.

Douglas Kellner: because they have great...

Evelyn Aquila: It's like when you have a washing machine at home

Douglas Kellner: familiarity with the machines. But the other side of it is to make sure that the pricing...

Evelyn Aquila: Yeah, is fair.

Douglas Kellner: is fair and competitive.

James Walsh: Anna this says the contract expires in September. Is there a specific day in September?

Anna Svizzero: I believe it's the 13th but I can check for you and let you know.

James Walsh: Just curious.

Evelyn Aquila: Probably after the primary.

Anna Svizzero: We had negotiated originally a universal date for the initial lot of voting systems that were purchased to comply with the court order and the vendors had agreed that it would be the um, five years from the first primary at which they had been used. So, that is the date that comes to mind but I could be off by a day or two.

James Walsh: Is that a real date or is there some built in thirty day extension or something like that.

Anna Svizzero: No they uh, OGS doesn't do business that way.

James Walsh: Okay.

Anna Svizzero: Unfortunately.

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Evelyn Aquila: So the County Boards if they have a certain type of machine, they may not have been even reminded that the...

Anna Svizzero: Well, they still have time and materials prices and the vendors will certainly honor that and you don't need to buy off the State Contract in the first place, so you know, they do have some options. Now it won't be as seamless a process because certainly it was easier when there was a contract and the vouchers were processed through OGS. County Boards didn't have to do very much other than get a purchase order from the vendor and send it on to Albany. So now they'd have to do a little bit of work. They were all encouraged if they had warranty work, get it done during the summer before all of, some of their options expired, not necessarily all of them.

Evelyn Aquila: Before the voting season again.

Anna Svizzero: Right. And certainly the vendors, you know, they're not going to leave anybody stranded but they are on a time and materials basis for a lot of that. Again, they can negotiate any kind of a deal less than what that contract says. That seems to be the spirit of the commitment that they've made to the County Boards and expressed to us. Wouldn't that be fair?

James Walsh: You care to continue your report?

Anna Svizzero: I've only got two other items. One is that the Supreme Court Vacancy List again was amended, so we shared that with New York City. That was the only JD that was affected. And our staff is in the process of completing and if they're listening, they should complete them today and I'm one of them that hasn't done it yet. But we have mandatory online sexual harassment training that has to be completed by everyone in the agency. So, we're...

James Walsh: And we had to do those also.

Anna Svizzero: Parsing some time out to do that. Joe, do you have anything to add? I think that's it.

James Walsh: Thank you.

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Anna Svizzero: Thank you.

James Walsh: NVRA and Public Information John Conklin please.

John Conklin: Thank you Commissioner, just a couple of highlights of the written report. We've been very busy. The July Periodic Campaign Finance Filing was due. There's always a lot of press interest in that. We get a lot of calls and inquiries. Obviously, we've been answering a lot of questions with regard to the Moreland Commission as well. Other standard routine items, the PIO Unit also made several presentations at the Election Commissioners Conference, the summer meeting. We posted a link including the few petitions that we have received so the interested parties can see them online, not the whole petition but the fact that they've been filed. And lastly with regard to the Constitutional Amendments that are in your packet, we've started corralling what we need to do in order to comply with the publishing requirement that we have at the end of the year before Election Day to publish all six Constitutional Amendments in the newspapers around the State, so that's probably going to be very expensive. So, that's it.

James Walsh: Any questions? Thank you.

Evelyn Aquila: That's a lot of work absolutely, for the amendments that you have to put out.

John Conklin: Yeah, we are required to publish at least one general circulation newspaper in every county in the state. And plus the minority language requirements.

Evelyn Aquila: Yes, which can lead you into a maze sometimes.

James Walsh: Campaign Finance?

Bill McCann: Thank you Commissioner. Just to update the Board on some of our activity in intake and processing, as of our June number we've crossed the thirteen thousand threshold for active filers which is a first. And, as of today, we are now over thirteen thousand three hundred active filers. I would remind the Board and the Public that prior to the Modification Law in 2005, we would average approximately twelve hundred and fifty filers in a given year. And, so now we have a factor of ten on that.

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During the month of June we registered four hundred and eighty-three new Committees with sixteen hundred plus to date. Did some terminations, we've also received close to a thousand calls from filers in June and over six thousand year to date. And also we just, as John mentioned, had our July Periodic Filing. We sent out our dunning notices to over seventeen hundred individuals with first class and certified and candidate notices under the statute was over six thousand pieces of mail.

The next step in the enforcement for the July Periodic will be the filing of the Order to Show Cause which will be on or about August the 22nd. And towards that end we are in the process of finalizing our procurement through OGS of our new process server. We had a five year contract with a previous vendor and had to put it out to bid. We anticipate I believe it's this week that OGS will be receiving the final bids. There have been a question process where they had asked some clarifying questions. OGS provided that response and so now the final bids will be coming in and then we will review those. Hopefully, we will have at least one responsive, responsible bidder. Then with a new bidder we would have to then, you know, sit down with them, develop, you know, formalize the process as to how we do it which is spelled out in the RFP. But again there are nuances to it. So, we'd have to meet with the new vendor and go over that. But hopefully, if all goes according to Hoyle, we should have that in place for the August 22nd Order to Show Cause. As that is a date that we determine, there is flexibility in that, but we would like to stick to our normal scheduling process and so that's our goal is to have that in place on time for that.

We did make our annual referral to the Albany County District Attorney of candidates and committees who failed to file their Disclosure Reports in 2012. There were two hundred and eighty-two candidates and/or committees which were referred. A hundred and twenty-three state filers and a hundred and fifty-nine what we call county filers. And so that has been submitted to the District Attorney.

And we had also issued earlier warning letters for the new penalty for what we call the three strikes for failure to file three or more times in an election cycle. Upon having our new vendor in place for the process serving, we will then effectuate that lawsuit.

Douglas Kellner: How many of those got three strikes letters?

Bill McCann: I think it was approximately a dozen and then some came into compliance. But again, those folks will be then processed upon as soon as we have the processor.

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Also, in relation to the primary election when the Legislature moved the date of the runoff for the New York City Elections also had the effect of moving the two runoff filings under the statute. There are two filings that have to be made relative to the runoff. There's a four day pre-runoff and a ten day post runoff. Prior to moving the election date, those two filings corresponded with previously existing filings but we were able to accommodate those technologically and administratively. However, the moving of that date has caused some issues. We've had some conversations internally and also with the New York City Campaign Finance Board and we anticipate this week moving forward to resolve those to determine what our options are technologically and administratively, and then once we come up with the resolution, we will then notify the impacted filers and also make the appropriate notices on our web page. So, but that it something we are working on.

Education and Training they have been crisscrossing the state over this period of May and will go through August conducting thirty-two seminars of Campaign Financial Disclosure, Education and Training. And also we just received a three year renewal of our Seminar Accreditation for CLE's our Continuing Legal Educations which Commissioner Kellner had been a strong proponent of and so those are going strong. We still have, I think we have one in New York City that's coming up I think August 13th. But, that was good that we didn't have to reapply on an annual basis.

So, the Audit Staff has been working on the 2012 Corporate Over-Contribution Audit, as well as, the last election cycle for Legislative Audit in the process of doing the correspondence to and from the impacted corporations and committees and we anticipate that will continue until completion.

And then also intake for the audit unit is also facilitating working with our intake and processing folks because that's a limited staff to assist them in terminations and resignations and the assorted other work. I will point out that the folks in our intake and processing unit which are the call center, they've been doing a yeoman's work especially with the filing, the limited staff and so, all told, I think under the circumstances they do an exceptional job. And with that I'll take any questions.

Douglas Kellner: Where do we stand with respect to the backlog in processing complaints for investigation?

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Bill McCann: I think as of now, we have approximately twelve outstanding complaints which is the lowest that we've had in all the years that I've been at the Board which is over twelve. I know that as we mentioned in our hearing testimony, you know, our work on enforcement and investigations is just one aspect of what we do. We try to do the daily administration of the unit and all the other projects that we oversee. But again, we proactively put those in our daily work to process them as we can. But right now I believe there's a dozen, which again, I can't recall that we have ever had that few.

Evelyn Aquila: The only thing that you worry about, this is a really packed election year. You know, that may be another dozen that come in the door.

Bill McCann: Right. No, we, well again, we are aware of them and again, you know, that's part and parcel of our daily work.

Douglas Kellner: And where do we stand with judgment enforcement?

Bill McCann: Well again, I know that's an issue that Commissioner Kellner is keen on. We are not ignoring it. It is not something that we've been able to pull the trigger on. We had frankly anticipated that we would do that. We have not as of yet. We are aware of the circumstance and we hope to do it when we can and sooner than later. But, again with the, with the current status on personnel in the unit, I just don't specifically when that will take place, but we are aware of it.

Evelyn Aquila: Well Commissioner Kellner is right about that issue. That's one of the issues that hurts us a lot, you know. He's right about it. He speaks about it all the time. Not that it's going to make anybody rich, this Agency rich but it's something people have to know. They have to, you know.

Douglas Kellner: But if they don't pay the judgments we're going to go after them.

Evelyn Aquila: Right.

Bill McCann: Well we do, I would point out collect on outstanding judgments on a regular systematic way when, as you know, when we get judgments against people, they're first filed here in Albany County which is the site of the lawsuit and then ultimately after we send out the notices, we do then effectually the filing of that in their home counties which

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then become attachments to their real property and also on their credit scores. And through that, it's passive in a sense but we do on a regular and systematic basis get people to come into compliance through paying them. So...

Douglas Kellner: Well the thing that concerns me is where you have active campaign committees with funds in the bank and outstanding judgments. It seems to me we should be levying on those judgments. And I would still...

Evelyn Aquila: There would be an easy way for us to get access.

Douglas Kellner: I mean the commissioners have directed the staff to do that and, you know, we're waiting for the staff to carry out that directive.

Bill McCann: I understand Commissioner.

James Walsh: Thank you any further questions? IT Dave Loomis please?

Dave Loomis: Thank you Commissioner. Just want to point out I did submit my report late so that's coming if you haven't received it. There's one area I want to highlight is that we've been working with the new IT Organization ITS to prioritize the projects that we have currently going on for IT and the ones that we anticipate working on next year. So, we're working with the Executives to come up with what are those projects that need to be funded and need to be pushed forward from each agency is working our agency is obviously specifically working on our projects. Two of the projects that I just want to point out is our NYSVoter Refresh Project. That project we have to obviously, the system was implemented in 2007 and we're working with HP to come up with a plan that will carry us forward in the next five or six years or more. So, that we should have more details over the coming months and we anticipate starting that for the next fiscal year. And our Campaign Finance Redesign Project, that project we are currently working on from requirements gathering and coming up with our, making sure our technical staff has the capabilities to build out the new system. So, those are two projects that are probably top two on our list right now that we're working on. So, other than that I can address any other questions that you might have.

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James Walsh: Any further questions? Thank you, Dave. We have no old business on our schedule. New business, vote on petition determinations, and any prima facie matters, determinations without hearings, Joe and Anna please?

Anna Svizzero: You have a report in your packet that you can adopt. If you have any questions about it, I...

Kimberly Galvin: If you...

Anna Svizzero: I'm not sure why we have it, but I'm happy to collectively address it.

Kimberly Galvin: Just so I can acknowledge that normally the Counsel's Office does do that but I was busy with other things, so Anna as she usually does did most of the work. We do have, this is the prima facie records and if you have any specific questions, I think we have the information there. It was all pretty straight forward actually.

James Walsh: Anyone have any questions?

Douglas Kellner: Alright, the bottom of the list is not just prima facie right. The bottom of the list says objections and specs filed.

Kimberly Galvin: That is correct. That petition invalid for insufficient signatures was based upon objections and specific objections that were filed. Basically they said that there wasn't enough signatures filed in upon account. All three of them were insufficient.

Douglas Kellner: And the candidates were notified?

Anna Svizzero: Not until you vote today.

Bob Brehm: We don't hold a hearing on insufficiency. It's only when there's a line by line objection.

Douglas Kellner: Oh I see because this is...

Kimberly Galvin: Yeah, there's no hearing required.

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Bob Brehm: So, that would be the difference the facts that require a hearing. We didn't have a hearing.

Douglas Kellner: This is just accounting, in other words, it doesn't even have the signatures so it's not ruling on validity. Okay. I move the adoption of the Staff Report.

James Walsh: Second?

Gregory Peterson: Second.

James Walsh: All in favor?

All: Aye.

James Walsh: Opposed?

Evelyn Aquila: I vote but I have questions about this.

Douglas Kellner: Oh, I'm sorry, go ahead.

Evelyn Aquila: No, no, no, no, not important. I'll discuss it with Bob later.

James Walsh: Item B Constitutional Amendments.

Bob Brehm: Tom was just in here with a slightly reworded on the gaming version that we talked about just before coming in here. I only asked him to get us eight copies so you had one, so, he's not back yet. So, if we could perhaps go to one of the other items on the list, he'll be back shortly.

James Walsh: I would just change the language I think a little bit. So, correct tense.

Evelyn Aquila: Now you're an English Teacher right?

Bob Brehm: Right. He was here a second ago and I only asked him to make eight copies so either we take it out of order.

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James Walsh: Sure, we can move on. We'll move on to the next item, Item C, Certification of Upgrades to ES&S Central Account System and then Joe Burns.

Anna Svizzero: That report is in your packet. It was um, Bob Warren is here and he can comment further on it if you like? It required some functional testing on our part. There were no issues with any of the testing. The issues requiring this amendment to a fairly recent certification stem from some end of life issues and Bob is there anything you want to add too?

Bob Warren: No, just some minor tweaks that they wanted to apply to the system after they did the initial certification back in December. They worked out a few minor kinks and additions they wanted to add to the software.

Evelyn Aquila: And do you think they were a good idea?

Bob Warren: Pardon?

Evelyn Aquila: Did you think they were a good idea?

Bob Warren: Yeah, they're not, they're not issues that the user would see. They're more internal issues just to speed up a lot of the processing issues that would process faster and things like that. So...

Evelyn Aquila: Because I know you've always been on the money. You know exactly what should be done.

Bob Warren: Yeah, no I think they were appropriate all those changes.

Anna Svizzero: Erie County is awaiting delivery of this system so when they notify of that we'll take the newer version of software. We're required to do acceptance testing on these systems as well. So, if the Board agrees to certify this amendment then we'll be taking it with us when we go out to Erie County probably late this week, next week.

Douglas Kellner: I move the adoption of the Resolution.

James Walsh: Second.

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Gregory Peterson: Second.

James Walsh: All in favor?

All: Aye.

James Walsh: Opposed? Carried.

Evelyn Aquila: I'm not even going to compete with you gentlemen to be a second.

Douglas Kellner: By all means, you be the next one.

James Walsh: Right, right. Are we going, oh, next one D Continued Certification of Sequoia Dominion Legacy Central Town Absentee System, Anna and Joe again?

Anna Svizzero: That is the, this report concerns itself with the absentee system that the counties that do count centrally have been using for quite some time. There was a concern that some counties perhaps where cost and other issues reasons wanted to continue to use that system and we undertook functional testing. We conducted a survey of the County Boards using this system to determine the level of confidence they had in it to confirm the logic and accuracy of that system. We also wanted to confirm that they were following the regulations right now that govern the use of the Central Account System. We attached the questions we asked and the answers to that survey. No one had any issues with the accuracy of this system. The functional testing that we conducted was actually a bigger effort than the original certification test was. We'd had some one hundred and seventy-five thousand votes marked on ballots that we used in the functional testing. The test was successful. We did have, there's a different way to process ballots using a system, obviously, so, there were some user issues that we encountered in the functional testing. And once the gentlemen that were conducting the testing were, became more familiar with how to respond to prompts that were on the screen, then they resolved those issues.

So, we have no issues, no reservations about asking the Board to continue the certification. It looks like the only two Boards that are going to continue to use it are New York City and Albany. And Albany is willing to migrate to a new system is there's one that meets their budget needs. Otherwise, they'll continue to use this one or they'll find a way to use

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Precinct Based Scanners to count absentees so that they only have to build their ballot once. We're happy to answer any questions you have. Bob Warren is happy to speak to the report.

Douglas Kellner: I appreciate the thoroughness of the report. I want to make specific note of the observation in the report that most of the counties have not been complying with the Audit Statute with respect to their central scanning systems and I appreciate that you follow it up on my recommendation that they be told that the statute does apply to them and to review with them the procedures on how to do the audits of the, of the central scanning systems. And I would ask that you follow up on that.

The second thing that I noted in your report was promised that at the next meeting you will have the proposed changes where finally we will integrate 6511 into 6509 and I appreciate that, that the time has come to rework those old regulations. And I particularly appreciate the proposal that to eliminate the idea of remarking or preparing duplicate ballots where a ballot was un-scannable to conform to the current Statutory Rules. So, thank you.

Anna Svizzero: That was something that we had discussed. I'm sure some of the County Boards aren't going to be happy about it but it does result in ballots that are counted essentially being treated exactly the way ballots that are counted on Election Day are treated.

We had a couple of definitions that we needed to add to the Part 6210 that were not carried over when those were drafted. And a couple of other ideas that we're still bouncing around, but that is primarily the focus of it and probably the one that will have the biggest impact on the County Boards.

The other one is, relates to, the existing regulations require that you do your pre-election testing using the Central County System. And that once you've canvassed all of your absentee ballots and affidavit ballots, if you use it for that purpose, you have to conduct the pre-election test again and you have to do three percent audit. So, in the survey that we did with the County Boards, a couple of them recommended that, you know, perhaps we could reconsider that second pre-election testing because the audit would be sufficient. And again, that would make the Central Count of scannable ballots exactly treated, have them treated the same way that the Election Day Ballots are treated.

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If a ballot is not scannable in the remake world, then it's counted by hand and the testing provided they do the audit and we will be following up with that. We've made it part of our acceptance testing to provide them with a copy of the regulation, again, the procedure and also the sample forms that they should be using. So, we've incorporated that into our acceptance testing. So, the regulation changes that we're going to propose to you are fairly small in number. But a couple of them would have that bigger impact that you would need to consider.

James Walsh: Thank you Anna. Would anyone care to make a motion?

Douglas Kellner: Make the motion.

Evelyn Aquila: I second it.

James Walsh: No, make the motion, we would have you make the motion.

James Walsh: Okay second your own motion.

James Walsh: Do we have a motion?

Evelyn Aquila: I'll second the motion, that's the James Walsh's job.

James Walsh: And do we have a second?

Evelyn Aquila: I second.

James Walsh: Alright the motion is seconded. All in favor?

All: Aye.

James Walsh: Opposed? And carried. We are, not ready yet on the Certification of, or are we?

Todd Valentine: I don't think we're ready yet.

James Walsh: Okay.

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Bob Brehm: Are we on this item?

James Walsh: No, we can go onto the next one.

Bob Brehm: Okay.

James Walsh: Item E, the request by the Citizens Union by Bill McCann please.

Bill McCann: Thank you Commissioner. We have before the Board a draft formal opinions. Citizens Union had posed a series of questions to the Board concerning its activities and what impact that would have, those activities would have on its status as a political committee. This opinion goes at length to discuss the issues. Opinions are very specific to the questions posed by the organization but often times they can have applicability elsewhere. And, so, we've, this has been embedded internally and we believe that it's ready for the Board to adopt.

James Walsh: Any questions or comments?

Douglas Kellner: When was the last time we issued a formal opinion? A couple of years ago, right?

Gregory Peterson: 1802.

Douglas Kellner: But I'm pleased to have it as a formal opinion because the practitioners in this field do look to us for guidance and it's good to record this, so that practitioners can see what the precedence are.

Bill McCann: I think it's very thorough and well thought out and I feel very comfortable in recommending it to the Board for them.

Douglas Kellner: I move the adoption of the opinion.

Gregory Peterson: Second.

Evelyn Aquila: Second. I keep missing. Sorry I even said that.

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James Walsh: All in favor aye?

All: Aye.

James Walsh: Opposed? And while we're waiting for the paperwork to arrive, we still haven't gotten that, correct?

Bob Brehm: There is just a typo in the first one if we can talk about the order. I know Ken's working to get us the copy that...

James Walsh: I can do a preliminary determination and we can uh, alright? It's in your Packet, CMP12 -28.

Douglas Kellner: The one comment I have on this preliminary determination is that it's about a subject that seems to come up fairly frequently that most of the candidates and election lawyers are not that familiar with, which is the obligation to file public opinion polls that are run by campaigns.

Bill McCann: Well, I think it's even more specific Commissioner.

Douglas Kellner: Go ahead, then why don't you, we don't have to get into the names of the people involved, but I think it's important to at least vet the issue a little bit so that people understand what we were addressing here.

Bob McCann: I think there's confusion because it's not so much that you conduct polls, a campaign can conduct all the polls they want. The question is, is what to then do at the poll. Do they release results of the poll in an effort to influence the electorate based upon the result of the polls. So, if you run a poll and you don't use it to influence the electorate, you know, in essence make it public, then you have no obligation to disclose it. But certainly, in this case, I believe that frankly most people aren't aware of those obligations. I know that there are many requirements to the Election Law that there's a general lack of awareness amongst people doing that. You know, we do a lot of education but again, you know, that has ultimately a limited impact.

Douglas Kellner: Well, I think it's true. In our Campaign Finance Disclosure Handbook I don't think even goes into the issue of filing Public Opinion Polls not that it's settle an issue.

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Bob McCann: Well certainly, we can, you know, I'll make a note that our staff should look at that to see if there's a way we can better adjust that in the Handbook. But certainly, in this case, I don't believe there was any intentional polling at the polls based upon the circumstances. So...

Douglas Kellner: I agree because we had the candidate, in effect, disclose the poll on his own website even though he hadn't filed it with us. I wonder if it would help if we had a place on our Internet Site for filed polls and then people would at least be aware when they went to the website that that was something that they're supposed to do.

Bob McCann: Well, we certainly can explore that internally. Well candidly, we don't get all that many. You know, it's very, um...

Douglas Kellner: Well, we get more press inquiries about people who haven't filed and then that usually generates compliance because somebody in the press has asked for that.

Bob Brehm: We get more calls with regard to Federal and the Federal Rules don't require them to be filed here. But because people understand our rule, we often get a lot of complaints in a Federal Election where they can release the poll or talk about the poll. And our role does not apply, so usually we get a lot of complaints, was it filed? So, that's where we get more of that activity, but certainly, if we can provide clarity on the website with the other Handbook information?

Todd Valentine: Yeah, it's just part of the Handbook so that information's there.

Evelyn Aquila: Some of the polls come out five days before the end of the election, you know, they come out very close, maybe a week.

James Walsh: This is also true.

Douglas Kellner: We're talking about candidate polls.

Evelyn Aquila: Oh, I'm sorry.

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James Walsh: Bill is it also true and I'm a candidate and I run a twenty question poll and I release the results of three of the questions because the three answers are favorable to my campaign, now don't I have to reveal the rest of the questions and the answers.

Bill McCann: Correct, the regulations are very specific as to what has to be disclosed on a poll and, and again in this case, the press release and the website for the candidate included the required details just had not been formalized and filed here. But the, in that case the poll was filed here prior to the complaint being received. And then all subsequent polls by the campaign were filed. So, it was our determination that there was no intent to withhold the poll, especially since it was again, issued in a press release and on the candidate's website and then there was subsequent compliance timely.

So, under the totality of that, that was what we based our recommendation on, so.

James Walsh: Can we have a motion on that?

Douglas Kellner: I move we adopt the report.

Evelyn Aquila: Second.

James Walsh: Seconded by Evelyn. Thank you. All in favor?

All: Aye.

James Walsh: Opposed? Carried. And the paperwork has arrived.

Douglas Kellner: Bill I thought that was an excellent report on the poll issue and got into the detail as well. If this has been distributed, I didn't get a copy.

Kimberly Galvin: We're just checking it for the last line.

Douglas Kellner: Oh, alright you haven't passed it out yet? Okay.

Bob Brehm: Well, I did that once and it wasn't right so I'm just making sure, why do it again?

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Evelyn Aquila: Are these for us?

Bob Brehm: Yes. Alright, yes. So, I gave you a packet a few moments ago and the top of page. So the top page, three pages of that are out of place.

Douglas Kellner: It's this.

Bob Brehm: Okay and one of these is for Doug. Kim did you give me all for the front, all of them or did you pass out your two.

Kimberly Galvin: They have theirs updated.

Evelyn Aquila: Okay.

Bob Brehm: Okay, that's right, alright, I didn't give you a whole set?

Douglas Kellner: Now give me a minute to read this.

Evelyn Aquila: Yeah, I never remember us getting...

Bob Brehm: No it wasn't, you had the paperclip going towards the end and the rest are right here for all of them and I'll go through quickly.

Douglas Kellner: Well, are we going to number them now?

Bob Brehm: Yes.

Douglas Kellner: So, the top page is number one?

Todd Valentine: These aren't in order.

Evelyn Aquila: I'm confused now.

Anna Svizzero: Can you just call them out?

Bob Brehm: Why don't I call them out? Which is faster?

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Anna Svizzero: Just call them out and we can number them as you call them out.

Kimberly Galvin: Amend it and we'll reprint it.

James Walsh: Can we make minor spelling corrections after?

Kimberly Galvin: Is there still a typo? We're allowed to correct that on Page 2, we could substitute it in.

Bob Brehm: Where Kim?

Kimberly Galvin: On Page 2 second one from the bottom, first word.

Todd Valentine: Jub.

Evelyn Aquila: We should take a break for this.

Bob Brehm: Okay the order that we have is there are six and it's Casino Gaming, is Assembly Bill 8068, Veteran's Civil Service Credit is Assembly Bill 4359.

Douglas Kellner: Actually resolution not bill.

Bob Brehm: That's is correct. Sewage Facility Debt Service is Resolution Senate 4065, Number four is Long Lake Land Issue is Senate 4689. Number five is the NYCO Mining that's NYCO, that's Senate 4688. And number six are the pages of Judges A4395.

James Walsh: These are not the ones we're signing, is that correct? Bob?

Bob Brehm: Kim do we have a sign, do we have a set for them just to sign? We need the two of you to sign them before you leave so?

James Walsh: I just wrote the number one on one of these. It's just a, it's just a first copy.

Kimberly Galvin: Do you want me to go print another set with the numbers in it?

Evelyn Aquila: Are we going to vote for them all together?

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Kimberly Galvin: I would, I would...

James Walsh: All set.

Douglas Kellner: Okay so you caught the typo, that's what Kim was talking about?

Evelyn Aquila: Are we going to vote for these one at a time or all at once? Are there seven?

Bob Brehm: Six.

Evelyn Aquila: Why am I counting seven?

Douglas Kellner: Now we only have five of them. I was missing the signature page for the Judges. Well, we could just take this...

Evelyn Aquila: While everybody's doing this, I would like to say... Alright I'll wait until Jim finishes.

Douglas Kellner: No, no let's finish this Evelyn and then you can do that. Um, so could we take a minute to just what we've been doing is reviewing the form of the propositions and the supporting text that the State Board of Elections is required to certify for the County Boards with respect to the six Constitutional Amendments that will be on the ballot in November. The Law provides that the Attorney General is to advise us on the wording of the proposals and on the text of the summary. And we received that advice from the Attorney General last Friday, a week ago Friday. Since that time, there have been minor revisions with respect to some of that text. Would one of you just review what changes have been made from the official text that was recommended by the Attorney General? I think there were two of them that at least two of them that I'm aware of that have relatively minor changes.

Bob Brehm: There was a minor change on the second item the Veteran Credit in the area of the abstract. Removed two words that Disabled Veterans are, it now reads Disabled Veterans are entitled to additional credit. It had said even more additional credit. So, even more in additional we're saying without it. So, we just struck out the even more and left in additional credits.

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With regard to the gaming which is Number One, the language proposed the form of this admission and the abstract has been amended to from what was proposed to um...

Douglas Kellner: review the Legislative purposes that were included in the underlying statute.

Bob Brehm: Correct.

Douglas Kellner: And those are the only...

Bob Brehm: Those are the only two that...

Douglas Kellner: Only two revisions but they were subject to, I know, extensive discussions and careful vetting. And I think we've also agreed that we would, because of the relatively high profile and substantial interest in the press on the Casino Gaming Issue that we decided that it was in the best interest to list that first so that, to reduce potential voter confusion.

James Walsh: Can we do these in one vote or we do them individually? One? Alright.

Douglas Kellner: I move that we adopt the text of the proposals and abstracts as revised and distributed and that we further provide that the co-executive directors are authorized to make further revisions on consultation by telephone with the Commissioner's up until the actual certification date which is next Monday.

Evelyn Aquila: I second that.

James Walsh: All in favor?

All: Aye.

James Walsh: Opposed? Carried.

Evelyn Aquila: Mr. Chairman, may I say something briefly?

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James Walsh: Yes please.

Evelyn Aquila: Yes, I'd like to tell everyone we were very happy today to sign Bob Brehm for four more years as our Executive Director. And I think we both feel the same way but I'd like you to say a word.

Douglas Kellner: Well Bob's done an excellent job and so we're very pleased to reappointment him for a second four year term.

Evelyn Aquila: I'm very proud of him.

Bob Brehm: Thank you.

Evelyn Aquila: Thank you very much.

James Walsh: Congratulations.

Gregory Peterson: Congratulations.

Kimberly Galvin: I think?

Evelyn Aquila: I don't know happy he is about it but we're, we're happy. Would you like to say something Bob?

Bob Brehm: Well, I really appreciate it.

James Walsh: For four more years, four more years.

Evelyn Aquila: Four more years.

James Walsh: I understand there is a personnel issue to discuss in the Executive Session.

Douglas Kellner: Um, uh, yes, we should probably talk about our next meeting dates. But I move to go into Executive Session to discuss personnel and I also have a litigation matter I'd like to discuss in Executive Session.

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James Walsh: Are we going to name the meeting date before we go in?

Douglas Kellner: Right.

Evelyn Aquila: September, right?

Bob Brehm: The thirtieth of September?

Bob Brehm: The thirtieth is the last day to certify the State Ballot in case we receive any objections to certificates and the judicial. That would require a board vote before we can certify. If there are any.

Kimberly Galvin: So, it may or may not actually be held?

Bob Brehm: It's one of those things we never know so you almost have to pencil it in and plan on having it and if nothing comes in, we usually won't know until the day before.

Todd Valentine: Right, we have to schedule the 12th for after the independent petition theory in case something comes in there. And the week before that's, Labor Day Week, so, okay?

Bob Brehm: And there's a holiday.

James Walsh: You want to schedule the 12th and then put a hold on it in the event we may have to go to the 30th.

Bob Brehm: We probably could schedule the 30th so that nobody else makes plans.

Todd Valentine: Pencil it in.

Bob Brehm: And we'll plan on it but we really won't know to cancel it till really close to the last minute.

Evelyn Aquila: If we really have to cancel it.

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Bob Brehm: Right. Well, cancel it but whether it's... That's the time sensitive date. It's with regard to those certificates.

James Walsh: But there is nothing scheduled for the twelfth at this point.

Bob Brehm: We would do both. The twelfth is the period of time that allows if there are any challenges to independent nominating petitions plus the normal work of the Board. You know, we could possibly do it the week before but there's a religious holiday that week plus, you know, it would be very tight and we're not sure we'd get all of our review done in, you know, and timely for you.

James Walsh: So, we're holding two dates the twelfth and the thirtieth? Okay. Except if there's no further business will accept a motion to adjourn.

Todd Valentine: Into Executive Session.

Gregory Peterson: I make a motion into Executive Session.

Douglas Kellner: To Executive Session.

James Walsh: Alright into Executive Session, yes. Thank you all.

Douglas Kellner: John you should stay for the Litigation matter discussion.

John Conklin: Okay.