

Peter Kosinski: Okay, let's open up the meeting then. We are going to open up first as the Board of Canvassers, and I would like to open up the meeting. I am Peter Kosinski, Commissioner. Joining me today is Commissioners Kellner and Spano. There still is not a second Republican commissioner. As you know, a few weeks ago, I put out a statement that I would not be meeting again until a Republican commissioner was appointed. I am here today because I know today is one of the most important functions that this board undertakes, which is certifying the ballot for the November election. I felt it was critical that we finish that job, and today is our day to do that, so I felt that it was necessary that I attend this meeting in order to complete our mission. The second reason is that I feel I accomplished what I wanted to, which was to publicize the fact that there is still not a second Republican commissioner here at the State Board of Elections. I do appreciate Commissioner Kellner's support on that issue, as well as the League of Women Voters weighed in on that as well, so I felt that we made it well known that there is a problem here at the State Board, and it is my understanding the Governor is going to make an appointment in the imminent future, so with that in mind, I am ready to go forward with the meeting. And we will open today as a Board of Canvassers to consider the election, the special election of September 23rd (June 23rd) in the 27th Congressional District and to certify those election results. So, do the Commissioners have the results in front of them that was sent by the staff?

Commissioner Kellner: I do.

Commissioner Spano: I do.

Peter Kosinski: Is there any discussion regarding that or is there a motion?

Commissioner Kellner: I move that we certify the results as circulated.

Peter Kosinski: So, moved, and I will second. All in favor? Aye.

All: Aye. (3-0, Yes)

Peter Kosinski: Opposed? I hear none opposed. It was unanimous. So, I believe that completes the job of the Board of Canvassers today, so we can adjourn out of that meeting and open up as a meeting of the Board of Commissioners of the State Board of Elections. With that in mind, I would entertain a motion regarding minutes. We have two sets of minutes before us. We have minutes of the April 27th meeting and the minutes of the May 27th meeting, both of which have not been approved by the Commissioners. I believe we all have received a copy of that, or of those minutes. If there is any discussion or a motion, I would entertain that now.

Commissioner Kellner: I move that we approve the minutes as circulated.

Commissioner Spano: I second it.

Peter Kosinski: And that is seconded. All in favor?

All: Aye. (3-0, Yes)

Peter Kosinski: None opposed, and those have been approved. So, with that in mind, we will move on to the unit updates, and the first unit for consideration is the Executive Unit, Bob Brehm and Todd Valentine.

Todd Valentine: Good afternoon. It has been busy, but there's a few things we certainly want to highlight here. It is obviously, one of the things we are here to do later in the meeting is to complete the ballot access rulings with regards to the independent petition process, and this would give us the material necessary to certify the general election ballot for the county boards on time. So that is one phase that will allow obviously the military or the UOCAVA ballots to be able to get produced and be sent out on time. This is one of those features, we obviously we be surveying the counties to make sure pursuant to our requirements with the Department of Justice to make sure that those go out on time.

We have been busy with a number of the executive orders that required us to set up a web-based portal to allow absentee application be made to our web-based system or the counties have to set up their own or not linked to ours. That has been stood up and is running at this point. After, and obviously it has been translated to both, available in both Spanish and English. The City Board has its own portal, so if any city voters, and in Erie County, they have their own portals, and if voters from those locations come in there, they are redirected to those, so they provide in the city additional languages that are required under their orders.

We also, related to the executive orders, we were required to develop what was a uniform absentee ballot envelope, and we had to read "uniform", not just a single ballot envelope, because it is actually a series of three envelopes, and the counties do utilize different sized envelopes, so what we did was standardize the basic face of the envelopes and then the backside of the envelopes. Obviously, we had to make some accommodations for the most crowded envelope, which would be the five languages that the City Board uses, primarily in Queens, but then after that, it would allow sufficient white space, and we did that in conjunction with the Center for Civic Design that helps us highlight some of the usability features that we tried to add to that, particularly in one of the issues that was raised after the primary elections that voters didn't know where to sign, so we made it abundantly clear where that signature should be placed and having language to remind the voters for that. In addition, we also had to amend the envelopes to specifically address the statutory change for the return date for the absentee ballot, so that the postmark needs to be not the day before the election, but the day of the election. So that was a significant change we had to do.

Related to that was the mailers that the counties are required to send out, supposed to be by today. We really, time didn't permit us to do a single mailer, so what we did was, we took the element of the executive order and put together suggested, put together language that could be utilized for the mailer that they were going to send out, obviously we wouldn't have time to translate into five languages or things like that, and they had to customize each one anyway for additional individual voter information with regards to their polling site. So we took care

of that, and then the next phase that we are doing, which is due by the 20th, is to, the counties are obligated to report if they have outstanding staffing needs, and the State Board, if feasible, is supposed to assist in filling those voids. One of the things that we had started already doing was participating in national poll worker recruitment day, which was September 1st, and that has produced quite a response on our website for people who want to be poll workers. We then redirect them to individual counties, who then can in turn contact the voter to figure out if they are available, and whether or not they can fulfil needs that the counties need at this point in time, and what we are going to do is put together basically a structured survey that the county can input information for the number of workers they have, where they think there are voids, in order to meet their statutory requirements. Bob, over to you.

Bob Brehm: Thank you. A couple of other items; I know the staff has worked to provide guidance with regards to accessible ballot applications for voters with disabilities, that guidance, and a web session went to the County Boards as well as a cyber security directive of specific items we wanted the counties to address in time for the general election, and that went out on August 31st to the counties also. So that is the only other in addition to what Todd already covered.

Peter Kosinski: Okay, are there any questions for the Executive Directors? Okay, then hearing none, we will move on to our next unit, the Counsels; Kim Galvin and Brian Quail.

Kim Galvin: Thank you. Can everyone hear me?

Peter Kosinski: I can hear you fine.

Kim Galvin: Okay, thank you. The Counsels' Office has been extremely busy since we last spoke. In the *SAM Working Families Party* case, which was a case challenging the new party thresholds, the preliminary injunction motion was argued, and the judge ruled in our favor that the new party thresholds were constitutional. The companion, if you will, case to that, the *Libertarian and Green Party*, the answer has been submitted. *League of Women Voters II*, the absentee ballot notice and cure provisions has taken quite an amount of time. If you recall, we got served with that complaint, the legislature passed a law fixing or attempting to fix most of it, and then the Governor signed that law and issued an executive order three days later amending that law, so we have had the complaint, the law, and the executive order trying to work out something with the plaintiffs to sign a consent decree. We have managed to get about 97 percent there, I would say. We exchanged drafts with the plaintiffs as late as last week. The League of Women Voters is meeting this afternoon. We are hopeful that they will approve what the plaintiffs have put together, the attorneys have put together for them. Hopefully, we can get a consent decree filed in that case. We are also working on the instructions for the County Boards of Elections, trying to break it down as simply as we can, understanding of course that this is going to be a less than ideal timing for the undertaking of such a large program in light of the number of absentee ballots that they are going to be looking at this year. But we are doing everything we can for anybody within the sound of my voice to get it out as quickly as possible for you.

Let's see, *Eisen* if you remember, we had a case, all these cases are in the Southern District. We had a case challenging the new signature requirements for independent nominating petitions. That was argued. The new signature requirements were upheld.

The accessibility lawsuit that Bob just recently mentioned, if you recall, the plaintiffs and the Board reached an agreement on the preliminary injunction for the June primary. We were unable to reach an agreement for the general election. The preliminary injunction motion was argued, and the judge found in favor of the Board's proposal to provide accessible absentee ballots to those with reading, visual infirmities that would require them to need an accessible ballot. So, we have, in conjunction with the judge's order, we have posted the accessible ballot. We have translated it, we have done the instructions, we have issued a press release, we have notified the counties of the vendors that they are to use. This will require the counties upon building the ballots within two days of that completion to provide those ballots to an accessible vendor for remediation and then upon demand issue them, email them to the person that affirms that they need such a ballot. There is also an accessible ballot option in the new portal that the State Board of Elections has recently stood up.

The *Gallagher* postmark case down with Judge Torres; the judge ruled in favor of the plaintiffs and required that all counties throughout the state reopen their counts and canvass those ballots that were received up to two days after the general election that did not have a postmark on them. The counties did that and recertified the numbers to us. The plaintiffs...

Peter Kosinski: Kim, do you know how many ballots that amounted to?

Kim Galvin: No, I don't. I know Brooklyn was the biggest one with a few thousand, but there wasn't that many throughout the rest of the state. I think, I don't know, less than a thousand. Brian, do you know that number?

Brian: Can you hear me?

Kim Galvin: Yes.

Brian: I don't know the specific number, but your characterization is exactly right. I think it was in the hundreds outside of New York City.

Kim Galvin: Outside of the Brooklyn issue.

Peter Kosinski: I am talking specifically about ballots that would not have had a postmark that would have arrived after election day within two days and then would have been counted pursuant to the court's order.

Kim Galvin: Yes, I believe it was less than a thousand statewide overall, except in Brooklyn, where they had that little glitch for a couple of thousand.

Peter Kosinski: But that was, that included ballots that came in after the two-day window in Brooklyn, right? I mean those that weren't stamped by the post office, there were some that came in, but still were not going to be counted pursuant to the court order.

Kim Galvin: Correct, correct. The plaintiffs are, seemed to be moving for another preliminary injunction, even though both the Executive Office and our office feels as though most of the relief that they pled in their original complaint was dealt with, so we will see where that goes.

League of Women Voters I, moving the registration date up to ten days before the election. We filed an answer in that case last week.

We filed a brief in the Appellate Division responding to the Division of Election Law Enforcement's appeal of the lower court's decision that she comply with the law. Maybe that is too basic of a summary, but I don't think so.

We did a January failure-to-file and list of deficiencies that went over to the Enforcement Unit.

We have begun conversations with the Department of Justice on standard things. They started to reach out to us about how to make sure we don't see any unforeseen problems with getting the military ballots uploaded and out by the 18th, the UOCAVA ballots.

And the *Upstate Jobs Party* motions for summary judgement have been fully briefed. I think that's it.

We have been very busy. We, like I said, we are trying to take that notice and cure provision and get it out as soon as we can to the counties because we feel as though it is going to be a problem, specifically with those, with New York City.

Peter Kosinski: Kim, maybe we could talk about that just for a second, that cure provision, so that's if the application comes in or the ballot comes in without a signature, is it both?

Kim Galvin: No, it's, well, hopefully, the ballots aren't signed, but if the ballot envelope comes back in and isn't signed or is not marked, and there is a witness, or marked without a witness or signed by a power of attorney or an attorney in fact or those sorts of things, the counties are required to provide notice to the voter with an affirmation that allows them to cure that infirmity with the ballot/oath envelope. We have also gone as the plaintiff's complaint directed outside of the statute a little bit; such things like ballot envelopes filled out in pencil. Some Boards of Elections were invalidating those. We made it clear that you can use pencil, pen or any other writing instrument to fill out that particular ballot. If the inside oath envelope was taped, New York City sometimes had a problem with tape on the inside envelope. As long as the outside envelope is completely secured, we are saying that those are fine. Extrinsic marks or small tears as a result of mailing or things like that that may have occurred on the envelope; we are telling the counties they have to count those. What the

executive order did is cut the timeframe for ballots received post-election, on or after election, to a five-day cure when the statute required a seven-day cure, which puts us right back in the same problem with the calendar, if you ask me, that you get the absentee ballot back, and you have five days to notify the voter and allow them to cure their ballot within five days. It doesn't seem, unless there is an email or a phone number provided, I don't think the mail is going to suffice in that particular instance, but the plaintiffs understood that in this election there was time considerations for finalizing the votes, so they have agreed to that for this election, so that's where we are there.

Peter Kosinski: Okay, thank you. Is there anything else or any questions for the Counsels' Office? Hearing none, we will move on to the Election Operations, Tom Connolly and Brendan Lovullo.

Thomas Connolly: Thank you, Commissioner. With regards to some general operations, we received and processed filings for the independent nominating petition period for the general election. We have provided prima facie report for your consideration later in the meeting. We also received filings for president, vice president electors for the general election.

We did collect an amended statement of canvass from the County Boards for the elections that occurred on June 23rd, as a result of the Gallagher litigation that Kim was just talking about. We signed the canvassing documents for that earlier. We have been preparing the certification documents for the general election for setting up for the counties.

We also did circulate some guidance on changes for the ballot design as a result of the Voter-friendly Ballot Act, which was put into effect on July 1, 2020. Though obviously once the County Boards have the general election certification and are programming the ballots, it is important for them to know that they should be designing those according to the new statute.

With regards to electronic poll book systems, we did receive two updated configurations from KNOWiNK and from Tenex. We did complete our testing, and reports of that testing have been provided to the commissioners. There is a resolution for action later in the meeting on those configurations.

With regards to the voting machines, we did receive change request from New York City for the ES&S system. We did provide that information to ES&S for their response on how to actually approach making those changes and what costs might be involved. However, we do need to go back to ES&S because their response basically stated that the way that they would implement those changes would be to use a version of the system that has not yet been certified, so they really should have responded as to how they can make those changes to be existing certified software.

With regards to the ExpressVote XL and the newer EMS that was submitted for testing by ES&S, SLI did complete its security and functional testing. NYSTEC did complete its secondary source code review. That report was provided to SLI for their review. We do continue to have weekly discussions with ES&S, SLI and NYSTEC to discuss the status of

the process and any discrepancies that remain open from testing. At this point, it is expected that SLI will be working to finalize their testing report for review, as will NYSTEC and the election operations staff. Subsequent to the finalization of that process, the information would then be provided to the commissioners for their review at some upcoming meeting.

With regards to Dominion, we have been performing testing on a small modification to the ICE and the ICE firmware. That testing is still undergoing. Staff has conducted or will be conducting separate testing for Dominion equipment at Livingston, Rensselaer, Greene, Chautauqua, Westchester, and Genesee Counties for the precinct scanners and in Tompkins County for central count system.

Staff has also been busy with doing acceptance testing for Clear Ballot systems. We have conducted or are conducting acceptance both on site here at the State Board, but also at county boards for Cayuga, Ulster, Delaware, Oswego, Washington, and New York City. That is the totality of what I have for now, unless there are any questions.

Peter Kosinski: Are there any questions from the commissioners? Nothing else to add Tom, or Brendan?

Brendan Lovullo: No, I'm good. He got it.

Peter Kosinski: Okay. Alright, hearing no questions, we will move on to our next unit, which is NVRA/PIO, John Conklin, and Cheryl Couser.

John Conklin: Thank you, Commissioner. Can everybody hear me?

Peter Kosinski: Yes.

John Conklin: Okay, so the Public Information Office has been extremely busy since the last meeting, fielding so many questions about the counting of ballots, how absentee ballots work, and how they are applied for, and how they are canvassed, and how they are cast, and drop boxes and the consequences of the Gallagher decision; all that stuff that we have been, high volume of phone calls and emails as well.

The unit processed 127 FOILs in May, 116 FOILs in June and then the same number again in July, and 131 in August.

We helped prepare testimony for the executive directors and the commissioners for the state legislature hearing on August 11th.

The unit has published four press releases since the last board meeting promoting, the most recent one is the promotion of the creation of the absentee ballot web portal and the accessible absentee ballot web portal.

As Todd mentioned, we also did the promotion with regards to National Poll Worker Recruitment Day, which was September 1st. That was extremely successful. We coordinated with the US Elections Assistance Commission, the county boards. We also brought in the Association of Towns, Conference of Mayors, the Association of Counties and the Business Council. They all helped us to promote that. We put banners all over the website promoting poll worker recruitment, and as I said, I think that worked very, very well.

We also did a major revamp of the absentee ballot or the absentee voting page on the website, providing more explanation on a number of topics including qualifications, how to apply, deadlines, post office and mailing considerations, how to cast an absentee ballot, can you vote in person after you have cast an absentee ballot, so there has been some significant changes on that page specifically.

Two other press releases were for the deadlines surrounding the June 23rd primary, and the initial accessible absentee ballot application that we posted to the website for the June 23rd election.

With regards to NVRA, obviously, we are not doing visits, but we are monitoring the county reports for any anomalies as well. We are following up on voter history from the June 23rd election. There are still a few counties that have not completed that, so we are following up with them.

With regards to website accessibility coordinator, the next report is due September 15th. We are working on that. That will be given to the co-executive directors at that point and then seven business days later, it will be given to the plaintiff in the case.

Lastly, as Kim mentioned, the DOJ surveys for the general election; those will go out today in an email to all the counties for tracking of UOCAVA, MOVE Act, military and overseas voter ballots. Cheryl, do you want to do a little recap on grants?

Cheryl Couser: Thank you. Regarding Grant administration, the State Board of Elections and PIO's managing seven grant programs, three of which expire this year. The HAVA Covid funds expire on November 16th, and the New York State aid to localities and capital grant funds expire at the end of December. We reached out to the EAC, which is the Election Assistance Commission and confirmed that the informational mailer that was required under executive order 202.58 is an eligible expense under both the HAVA CARES Act and the Shoebox one. In addition, we went through the New York State Aid to Localities funding for early voting, and it is also an eligible expense for county fees for those funds as well, and that would be all for the grants.

John Conklin: Okay, thank you. So that's everything for PIO, Commissioner.

Peter Kosinski: Okay, thank you. Are there any questions for PIO? Hearing none, we will move on to ITU, which is Bill Cross.

Bill Cross: Good afternoon, commissioners. I will start with projects. CAPAS-FIDAS the team continues to make progress at this point multiple aspects of application testing, functional testing, performance, load testing, security, and of course, accessibility testing. We are still on track for the date we previously mentioned before in January '21, after the periodic campaign financial disclosure report.

Online voter registration; with the hold of capital funds has now been removed by the Division of Budget, we are again moving forward with the OVR project. We are currently working with OGS to update the mini bid release for the end of October, and we will be reaching out to schedule stakeholder meetings around the project, including state ITS, DMV, NVRA agencies, vendors, etc., and the county boards, of course.

The absentee ballot portals were mentioned a couple of times. We quickly implemented the portal, which went live late Monday last week. Since then, we received and processed over 195,000 requests through that portal. It is also noted that that does not include New York City or Erie that had their own portals, but for everyone else, those are the figures currently.

For NYSVoter, we are currently working on several enhancements, including implementing early voting poll site lookup for polls, for voter lookup, as well as display of local ballot information is due, I believe, in January, as well.

For security, we continue to make good progress with the counties and the 2020 cyber security remediation grant program. To date, we have 57 county boards that have submitted plans. Forty-six of those are now in the final form, and 19 have been fully approved. We have also completed the project to upgrade all secure connections to the county boards, updating and replacing all older equipment. Everything is new and tested and certified for disaster recovery to our secondary data center. I think it was also mentioned in the directive that was issued, but the secured election center is working to develop a comprehensive set of cyber security standards for all the county boards, but we have isolated a key set of nine initiatives that required implementation prior to the general election, and those are the initiatives in the executive directive. As always, we continue to work on several internal security improvements of our own infrastructure.

For the website; website traffic remains higher than normal, particularly around the absentee voting information page that John just mentioned for August. We have just over 640,000 views for August on the absentee voting page, and that is my report. Any questions?

Peter Kosinski: Any questions from the Commissioners? Being none, then we will move on to our final unit, which is Enforcement, and I believe Ms. Sugarman, is she on the meeting? I believe not, so we will pass that. Is there any interest? I know we had a July report that has been, financial report that has been filed with the Board since our last meeting. Brian, do you have statistics on how many came in or how many were referred to the Enforcement Unit?

Brian: Commissioner, the July Periodic report, the staff advises me that there are 3,681 filings that remain outstanding. For the January Periodic report; 2,955 remain outstanding. That data is as of today.

Peter Kosinski: And do you know what percentage that is, Brian, of the total files?

Brian: No, I do not.

Peter Kosinski: I wonder if that is going up or down since our previous report. You are not sure about that though.

Brian: Well, I can say that the total number outstanding from the 2019 July Periodic right now remains at 2,231, and it scanned in July of 2019 at 3,181, so it would appear to me that the numbers are actually not headed in the right direction. Certainly, we can provide you with any specific computations that you might like, but in my thumbnail view of the numbers, that does not appear to be tracking.

Peter Kosinski: Well, what I am interested in is if there is a trend considering the Enforcement Unit has not been pursuing failures-to-file really for the last five years, whether we have seen any impact that that failure has had on the number of filers that make the filings in the various reports that are required by law, to see if that's having an impact in the sense of it's causing fewer filers to make their filings, more filers could not make their, you know, how that is playing out, so yeah, I am interested if there is a trend. So, if you could do something along those lines, that would be helpful.

Brian: I can assure you there is a trend. The delinquency numbers are higher. At the next meeting, we would be happy to provide chapter and verse on that.

Peter Kosinski: Okay, that would be great. Okay, is there anything else for the Unit from any of the Commissioners? Any other questions? No, then we will move onto Old Business. Is there any Old Business to come before the Board today? I believe not. I have nothing on my agenda, so if there is no Old Business, we will go to New Business. So, New Business really amounts to the certification issue, which is the rulings that the Board is to make on the independent petitions, and I know we had a report filed or given to us by the staff regarding the petitions that were filed, objections that were made to various petitions, and findings that the staff made. Viz a vie those particular filings, and I would ask that if the Commissioners have any questions regarding that report or if there is a motion or however the Commissioners wish to proceed. I am hearing nothing, so I guess there needs to be, if not a question, a motion. We need to at least adopt what the Board had, or what the staff has given us, or not validate it, whichever, but one way or the other, we need to make a move on this...

Commissioner Spano: I'm sorry, I was muted. I make a motion to adopt.

Peter Kosinski: That's okay. A motion to adopt from Commissioner Spano. Is there a second?

Commissioner Kellner: I second.

Peter Kosinski: You second? Commissioner Kellner seconds. All in favor say aye.

All: Aye. (3-0, Yes)

Peter Kosinski: No opposed, and that is carried unanimously, so that is the first piece of [new] Business, and that is adopted. And the next business, I believe was alluded to earlier, and that is the upgrade to the e-poll books, and maybe someone, I don't know, Tom, do you want to explain that or Brendan, explain what that upgrade is about.

Tom Connolly: Sure thing, Commissioner. So obviously, the operating systems that were submitted from both KNOWiNK! and Tenex, they both run on the Apple IOS operating system, since the last certified configuration back in April, Apple has released a number of updated IOSs underlining the applications, so the vendors were improving their systems to not only work with the newer versions of the IOS, but also for the most part, just kind of addressing some various improvements on the backend. A lot of stuff that won't necessarily be seen by the poll workers or the voters. A few bug fixes that they found, but otherwise the revisions won't impact anything substantially on the frontend for those two systems. In the resolution that I provided, that is before you, the county does have the option of either implementing the new version immediately for use at the November general. Obviously, with the timeframe being slightly tight, they also have the option to continue on using the version that they have installed presently. If employing the latest version creates an issue, we do ask that they then update their systems accordingly and not later than September 31st of this year.

Peter Kosinski: Okay, are these updates that are really required because Apple has upgraded their operating system?

Tom Connolly: It is kind of a variety. Obviously, these two systems both run on the Apple operating system, the Robis system, which is not up for, but in addition, and runs on the Windows operating system. Both companies update their underlying operating systems for various security and other functionally improvement. And so, whenever they do update that, a lot of the time they want their devices, and in this case the iPad, to kind of update the use of the latest, so that they are obviously as secure as possible. A lot of times the vendors may have to make some tweaks to their software and do some testing to make sure that their applications are running appropriately on these newer operating system versions.

Peter Kosinski: Okay, thank you for that. Are there any other questions for Tom or Brendan on this topic before we entertain it?

Commissioner Kellner: I move the adoption of the resolution.

Commissioner Spano: I second it.

Peter Kosinski: It is seconded. All in favor say aye.

All: Aye. (3-0, yes)

Peter Kosinski: Opposed? Again, it is carried unanimously. That is the end of the New Business that I have on my agenda. Is there any other new business to come before the Board? I do, oh, I am sorry, Commissioner, you go ahead.

Commissioner Kellner: No, that's okay. I have a couple of, just information. One is that on Friday, on very short notice, we circulated this announcement of a very large potential grants, and I believe that it is a genuine source of funding for all of the counties, and I would hope that they could meet the very short deadline to make a submission today to do it. The City of Philadelphia announced that they received ten million dollars, and that strikes me as real money, and \$250 million was available nationwide, which is almost as much as the federal CARES money that we got for the primary. So, I hope that that will proceed.

Peter Kosinski: Okay. Did you have something else? You indicated you had two things.

Commissioner Kellner: Well, and then I am still concerned about New York City and especially planning for Election Day itself and compliance with the 30-minute rule, and I would hope that we would be able to deploy some resources in order to monitor that as things develop.

Peter Kosinski: And what are you suggesting that we would deploy?

Commissioner Kellner: Well that the Operations Unit, to the extent that it is feasible, would be able to do surveys on Election Day in order to actually quantify the lines, and let the City know that we will be measuring it for compliance.

Peter Kosinski: Is the Operations Unit prepared to do something along those lines?

Brendan Lovullo: We can certainly talk about it.

Peter Kosinski: I am sorry. I didn't understand.

Tom Connolly: We can definitely talk about what we can do and put in place.

Peter Kosinski: Well let me say this about that issue. We have certainly had this issue before us before. This isn't something new this year. We have had this issue from time to time, where the City Board is, you know, there are indications that there are people waiting more than 30 minutes, and it has been difficult, at least for me, to quantify it in any way about how widespread this is, where it occurs, is it a repetition, do certain poll sites seem to have this problem, for example, over and over again, and what can the Board do to address them? It certainly would be helpful if we could get an overview of exactly how widespread this problem is. I hear a lot of anecdotal evidence of it, but I don't see any study that indicates

that these are the exact poll sites where this occurring, that it has maybe occurred there before, how long people are waiting, when these wait lines occur, is it all day or is it something that occurs around maybe rush hour, say after work, after five or maybe before work. That information would be very useful if we could get it, as far as addressing this issue, because it is very hard for me to address something when I don't know the scope of the problem or where the problem exists. So, if there is something that can be done that way, I think that would be very helpful.

Ekow Yankah: Hi, this is Ekow Yankah. Can everybody hear me?

Peter Kosinski: Sure, if you can introduce yourself.

Ekow Yankah: Oh, hi, so I am Ekow Yankah, and I am one of the problematic appointees, which is the Democratic appointee for the campaign finance, the Public Campaign Finance Board. We are waiting for my Republican counterpart, so I was teasing a bit about that, but I joined both the Commissioners in saying I hope that's done so we can move forward shortly.

I just wanted to, on this issue of finding out where there are longer lines, and we need, obviously, we want all the information and as reliable internal information as possible. But as some of you know, I have worked with, I used to be co-chair of the New York Democratic Lawyers Council, and for years, we had quite good survey data, both from where we got phone calls, but also postmortems on the elections, and if those aren't perfect and internal, they may be a starting point in finding out where the problem spots are. Some of these things we know. We know communities that feel underserved that consistently report being underserved, so I am wondering if we thought about reaching out to good governance groups outside of our internal data, at least as a starting point to getting the information, as to where poll sites might be overtaxed.

Peter Kosinski: I would welcome data from whoever has the data. If other groups, if your lawyers' group has data along these lines, I would definitely be interested in seeing it. I have just never seen the data myself in a comprehensive way. I have just heard over the years, again anecdotal evidence that this site has a problem or that site has a problem, which I do agree needs to be addressed, but it would just be helpful to get an overview, and I have not seen it yet, so yeah, if there is something like that, that would be great.

Ekow Yankah: Sure, so without promising anything I don't have in hand, why don't I send out a few emails and see if I can get a landscape view from the information we have had over the years.

Peter Kosinski: That would be great, that would be great, that would be very helpful. Thank you. Along those lines, you are actually the only commissioner that has been appointed to that specific public financing board, there's actually two vacancies there because in addition to the Republican vacancy on this board, so we have, we have three vacancies that currently exist on the Public Financing component of the Board of Elections, which is as you know, the

four commissioners here plus the three additional commissioners, so there are still three openings on that board, as well as one opening on our board.

Ekow Yankah: I didn't mean to throw gas on the fire.

Peter Kosinski: No, no, no, you are not throwing gas. It is a sensitive issue to me, as you are aware, and I do think it needs to be resolved, I mean, we need that resolution to go forward, not only as a board, but as the Public Financing Commission, we have a lot of decisions to make, I think, relative to that as well, and without a full board, I think it is very difficult to do, and I don't think it is fair to say to the new commissioners, when they do come on, if we have already made a bunch of decisions that are going to affect them, so I really would urge those appointing authorities to get those appointments made as soon as possible, so that we can start functioning as a Public Financing Commission, as well.

Ekow Yankah: We are all in agreement.

Peter Kosinski: We are. You are preaching to the choir here, but I think this is our opportunity to sort of get it out there. Unfortunately, we don't get a lot of press opportunities or public opportunities. I think we need to take them when they exist to get our problems out there to the public, and one of them is just a lack of commissioners at both the State Board level and the Public Financing Commission level to be able to fully function and do the job that we have been assigned to do. I am glad you brought that up.

Ekow Yankah: With all teasing aside, I have been obviously honored to be appointed and have been doing a lot of, the best I can to do my homework and catch up, but there is a sense, and I know you feel it on your side, but there is a sense certainly from my side that we are all in a bit of limbo, right? You are actually right; it wouldn't be fair to take substantive decisions, and so what we want to do is, what I want to do is make sure I am as up to speed and ready to hit the ground running, but there is a sense of being frozen in place. We are all eagerly awaiting getting up to full strength.

Peter Kosinski: I appreciate that. If you have any ability to reach out to people on your side to talk about it, I think that would be useful, and of course, we will do the same, but it is nice to meet you. We haven't had a chance to meet. It is very nice to see you. I realize it is remote, but I look forward to working with you, and I am sure we will have a good working relationship.

Ekow Yankah: I look forward to it.

Peter Kosinski: Me too, me too. Now there was one other topic that I don't think we touched on today that I have been looking at, and I know this again is a New York City issue, and this goes to the proposal next year, I believe New York City is going to start ranked voting, so that the style of voting in New York City will change next year, where they will have a ranked system. Rather than just voting for one candidate, you will be able to rank your candidates, and there is an issue that comes to us on that, and that is the ability of our election systems to

deal with that particular type of voting, and I am just curious if the staff has an idea of where we are, as far as our voting system's ability to function with that type of a voting process; whether there needs to be an upgrade to a voting system to accommodate that voting process, but if that upgrade is in the process, whether we have to approve an upgrade, whether our current machines can accommodate this kind of voting; I think it is a topic we need to deal with because this is coming around fast. I believe it is next fall. I am not even sure if it is for the primary, as well, that this ranked voting would occur.

Commissioner Kellner: Actually, Commissioner, it could be as early as February with the first special elections, so you are certainly raising a very timely issue.

Peter Kosinski: So I am just curious if any of the staff or if anybody has a thought or any ideas or any information about the ability of the voting machines currently being used by the New York City Board of Elections to accommodate this kind of voting.

Tom Connolly: So, Commissioner, I can certainly speak to that somewhat. With regards to can the existing system that are in use by the New York City Board, can they accommodate ranked choice voting ballots; the answer is, our understanding right now is yes, they can. I know that part of the New York City change request to the existing ES&S system had to do with messaging presented to the voters for multi-page ballots. According to the New York City proposal for ranked voting, they did state that any sort of ranked choice contest is only for certain city offices, like mayor, public advocate, comptroller, borough president and Council member; that they would be either grouped together on one side of the ballot or separated on a completely separate ballot page. The system obviously can handle multi-page ballots. That is one of the reasons why, in my understanding, New York City was requesting some changes from ES&S for some of the messaging, to make it clearer to voters. I think the issue in our conversations with New York City was largely having to do with the calculation of the results. Obviously, with ranked choice voting, depending on the number of candidates for an office, voters have the ability to kind of rank those candidates, as far as preference, for a number of different choices; first choice, second choice, and so on. If there is no clear winner, outright, of the contest, there will be subsequent rounds where the lowest vote-getter kind of gets eliminated, and then the second choices for those voters who voted for them as their first choice would then get assigned to the other candidates that were named in the tabulation routes, and that would continue until such time that there would be a winner of the contest. Right now, there is no way for the current EMS system used by New York City to do those additional calculations, as certified. It is our understanding that ES&S does have a utility that is used in Maine and then one other local jurisdiction, I can't remember exactly where it is at, but Maine is the statewide

Commissioner Kellner: Minneapolis.

Tom Connolly: Okay, where they use this utility that is a separate piece of software that would take the cast vote record information out of the existing EMS and then perform the necessary calculations on those cast vote records and show a report that would kind of show for each round the tabulations and results until such time that a winner can be declared.

One of the issues that New York City, one of the questions that New York City has posed to Brendan and I when we spoke with them was what was the approach that the board wanted to take, the State Board wanted to take, with regards to either approving a vendor that they choose or us selecting a vendor or us doing some sort of testing or certification or approval of that software that is being used outside of the certified system right now.

Peter Kosinski: Okay, I am not sure where that leaves us, Tom, let me just, do you feel that we are going to have to certify something then, as a board, that will allow the City to go forward with this voting process?

Tom Connolly: My personal belief in looking at the information that was provided to us; I did see a plan that I received late last month, that didn't really speak too much as far as the charter language says to how the results should be tabulated, so without a very clear cut list of items that the system should be held against, I do think that there at least should be some sort of review by the board as to this software system because if it is kind of independent software that is being used to calculate and figure out who the winner of a contest is. I mean the math seems somewhat straightforward, so we would have to develop somewhat of a Rubric as far as what we will be testing for to come up with a number of different scenarios that we would have to run through the system and make sure that the utility is indeed coming up with the proper results.

Peter Kosinski: Well in light of the fact or the observations of Commissioner Kellner that this could come about as soon as February of next year, I mean it is now September, and so that would mean within the next four months or so, we would have to engage in this kind of certification, and I am just trying to understand the timeline here about how this is actually going to all come together to make sure the city board has what they need as a system to operate their election in February.

Tom Connolly: Well I think I can answer in two parts. With regards to the utility itself that would be used for calculating the results of ranked-choice elections, I do think that Brendan and I can get together in the Ops Unit and certainly put together our plan to try and get that utility looked at and have a report to you in relatively short order. I would say that obviously I mentioned during my unit update, that the change request that was submitted, which is not a "need to have", but I think for New York City was a "want to have". They are going to go, as far as the additional messaging to voters who are voting by possibly ranked choice and non-ranked-choice contests, even though ES&S has to provide us with a new response because I don't necessarily think the one they provided to us was helpful. I will say that at least in that initial response they provided, their timeline probably goes out beyond that kind of February timeframe for any kind of changes to the system for the additional messaging. So, do I think that we could probably do the necessary testing in house to the utilities and get New York City an answer on that in time for them to use for next year? I do think that is possible. Like I said, I think the second part of that equation with regards to the messaging that they wanted to be changed, that would probably be something a little further out.

Peter Kosinski: Okay, well, I guess we will look forward to getting that to us as soon as possible, for us to consider because I am sure the City is anxious to get up and running with this. I know they have a; I believe it is a City Council mandate that this be functional by 2021.

Tom Connolly: We will get right on it then.

Peter Kosinski: Okay, thank you. Is there anything else to come before the board today? I know we have other meetings to go to. I know the Association of Election Commissioners is meeting virtually, of course, but they are meeting, and I know people, including myself, want to go to other meetings if we can. So, if there is nothing else, I would entertain a motion to adjourn, and then we can reconvene at a future date.

Commissioner Spano: So, moved.

Peter Kosinski: And is there a second?

Commissioner Kellner: Second.

Peter Kosinski: And we will now stand adjourned and reconvene at a future date, but in the interim, thank you very much, and that closes our meeting.

Commissioner Kellner: Thank you, Commissioner.