

>> DOUGLAS KELLNER: Good afternoon. I'm calling this meeting to order.

My name is Douglas Kellner, cochair of the State board.

We welcome today, actually welcoming back Jim Walsh who has just has been appointed as cochair and, Jim, it's a pleasure to have you.

If you would like to say anything to begin.

>> JIM WALSH: It's a pleasure to be back. I had no idea I was coming back, to tell you the truth.

I'm following in the steps of a gentleman I have a lot of respect for and I hope to carry on in the great tradition that he did and I look forward to working with everybody in this room. Thank you.

>>: Welcome back.

>> DOUGLAS KELLNER: Commisioner Helen Donohue is here. We ask the staff to identify themselves.

>> STANLEY ZALEN: Stanley Zalen co-executive director.

>> BILL: Bill Mccan.

>> GEORGE: George Stanton, IT director.

>>:BOB RIGHTON: Public information.

>> LEE DAGHLIAN: Lee Daghlian, public information.

>>: Anna Svizzero--:Director of election operations.

>>: --

>>: Paul Collins, special deputy counsel.

>>: Allison Karr, special counsel.

>> DOUGLAS KELLNER: We ask our guests to introduce themselves. We'll start with you Paul --

Paul Parry -Citizen elections advisory committee.

>>: Amy ...League of Women voter of the State.

Commissioners, I would like to ask for the pleasure of the floor at your convenience during or after the meeting, whenever, to make a statement.

>> DOUGLAS KELLNER: All right. Unless --

(Overlapping speakers).

>> DOUGLAS KELLNER: Is it relating to anything we are actually dealing with?

>>: Yes, it's about CEMAC.

>> DOUGLAS KELLNER: We'll call on you at that time.

>>: Greg Jones --

>>: Barbara Bartlettty, Legislative director New York state League of Women Voters.

>>: --

>>: Jessica Overhold, board of county elections.

>>: Dennis Ryan, Erie county commissions.

>>: Larry Tinely, secure voting systems.

>>: Bill Techar,Nystey.

>>: Jeff Biewlg, attorney.

Robert Millman, resident.

>>: Tim Escolli, Division of budget.

>>: Joe Bolushi, division of budget.

>>: --

New York state Assembly.

>> TODD VALENTINE: Tod Valentine, co-executive director.

>>: Terry Leads, Director of operations.

>> DOUGLAS KELLNER: Good afternoon. We're glad you could join us today.

We'll start with approval of the minutes of January 23, January 24, and February 8. Is there a motion to approve them?

>>: So moved.

>>: Second.

>> DOUGLAS KELLNER: Those in favor say aye.

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed.

(There was no response.)

>> DOUGLAS KELLNER: The minutes are adopted Allison?

>> ALLISON: Thank you. I will start with state court actions and begin with the Department of justice lawsuit.

I'll start with Avonte. They brought the suit against the State Board of Elections seeking to have both of their voting systems added to the list of approved ballot marking devices.

The judge granted temporary relieve on Febuary 6, allowing the touch screen DRE to the list of approved systems for the counties to select from on February 8.

However, the lawsuit continues. Hearing was held on Monday, February 11, in the matter.

The judge, however, allowed Avonte additional time to serve an affidavit on Wednesday,

February 13, in the morning and granted the State Board of Elections additional time until 5:00 p.m. to prepare a response to that affidavit.

And we did so.

At the same time Avonte made an application to the federal court on February 8 seeking to have the federal court grant

them amicus cure rye status and extending the deadline for county orders from February 8 until February 28.

On February 12, the federal court granted the request for amicus cur ray status.

However, they denied the request to extend the deadline for county ordering.

In the State court action we expect the decision and order today, actually. Hopefully no later than Monday.

ES and S and premiere decisions and orders have both been submitted by the Court and entered by those two companies.

They are entered on February 8. In the Liberty action, Paul Collins is handling the Liberty action.

I can speak to it or you can speak to it, Paul, whichever you like.

>>: Go right ahead.

>> ALLISON: On Monday, the 11th, the Court heard the hearing on Liberty's contempt motion against the State Board of Elections.

At the same time the judge signed a subpoena allowing Liberty to get access to all the State Board of Elections e-mails with the county boards

of elections and the counsel city Board of Elections e-mails back to the State Board of Elections, between the date ranges of January 23 to the current date.

Well, which was yesterday when the subpoena was due returnable.

Paul gathered together all of the e-mails between the State Board of

Elections and the county boards of elections and delivered them upon the petitioners and the Court yesterday.

On February 12, on Tuesday, Liberty agreed to withdraw the contempt proceeding as against Commissioners Kelleher, Donohue, and Aquila.

An appeal was brought in the Liberty action by the State --

By Commissioner Kellner. That appeal was placed on the February calendar.

However, it was removed this week pursuant to an application.

So I think that's everything for the State court actions unless Paul, you had anything to add on any of those.

>> PAUL: Just that the subpoena was only with respect to ballot marking devices.

>> ALLISON: Thank you. The subpoena for e-mails was only e-mails related to the ballot marking devices.

The Department of Justice action, we are still holding weekly status meetings, conference calls, with the Department of Justice.

We just had our conference call this morning at 10:00 a.m. We are also still required to submit a status report every Friday to the Department of Justice, which we'll be doing later this afternoon.

So far we are completely on schedule for plan B, with the Department of Justice.

Which is I'm happy to report.

Lastly, the only other legal issue that we have right now that needs to be reported on today is, are the actions in the 48th Senate district special election.

And Bill has been handling that. I'm not going to speak for him. I'll let him tell you where that stands.

>> DOUGLAS KELLNER: Before we start doing the rulings on the objections, Allison, you mentioned that there were papers exchanged on February 13 in the Avonte case.

I haven't received copies of those papers yet.

>> ALLISON: Paul has copies of the papers. I talked with Paul and standly earlier this week.

They said they would be responsible for forwarding everything. They are right in the case file.

>> PAUL: I was not aware that I was going to take them and forward them to Commissioner Kellner. If that --

>> ALLISON: That's the discussion we had on Monday.

>> DOUGLAS KELLNER: I feel pretty strongly that the lawyer for the board, whether it's you or Paul, if you're filing papers or receiving papers,

as soon as you get them, you should e-mail them to the Commissioners and I mean, it's a standing request that I want every legal paper that is received,

I want every legal paper that is filed, I want all correspondence that goes outside.

And I want people to do that automatically. It's not a big deal. It's just pushing the copy button on the --

And at least on the voting machine litigation I do read every paper.

I'm not saying that on every ballot access case I'm going to read I'm going to read everything,

but I want the decision to be on me whether I read it or not and not by counsel.

I really insist that I get copies of all the papers that come in or go out of the office.

>> ALLISON: I understand your request. I think that that's a discussion that perhaps the Commissioners should have as to how they want this handled.

My understanding, that's not how it's ever been handled here at the Board of Elections.

My discussion with Stanley and with Paul Collins on Monday was that they would be forwarding you all papers.

I'm sorry that that has not happened.

>> DOUGLAS KELLNER: You know, I see it as an obligation of counsel.

That the ethical rules, the disciplinary rules require that the counsel communicate with the client. The four Commissioners are the client.

So the attorney has an obligation, an ethical obligation to communicate to the client. I'm -
-

I have not delegated that to anybody. I have personally said that I want that, that I want to perform that function myself.

And I don't want anybody else screening the papers for me. I want copies of all legal papers that come in and go out. I want copies of all correspondence.

And I'll make the decision on whether or not I need to spend time reading it and absorbing it.

But that's a decision that I want to make myself.

And I believe that that's an ethical obligation that both counsels have to adhere to in dealing with the clients.

That if I'm making that request, they have to give me copies of the papers.

It's not an option. It's not a subject of negotiation or discussion.

>>: I'll just jump in on that --

>> TODD VALENTINE: I'll jump in on that. The way it's been viewed really for communication purposes, you're absolutely right.

That's something that has always been handled just the way the board operated is almost using the executive directors as the conduit to the Commissioners, which has always been our role.

It's just the way we've done that. That's been our procedure in the past.

Now, clearly you have a different opinion and that's very much respected, Commissioner.

Certainly we can address that. It's not a problem.

It's just, you know, we had --

There has been a very long-term practice in this agency for not so much controlling the information but,

you know, that's the method that we chose, lord knows how long ago, to disseminate the information.

>> DOUGLAS KELLNER: I take it that that might have started in the era before e-mail. And.

>> TODD VALENTINE: I'm not sure. It's very long standing, no question about it.

>> DOUGLAS KELLNER: I realize, and hopefully Commissioner Walsh does use e-mail that my colleagues as Commissioners did not use e-mail on a regular basis.

So we are not interested in being bombarded with the paper.

But now in the electronic age, it's just as easy to copy me when you copy the executive director.

And I want copies. I've asked for the heads of all the departments to do that.

It's not just the legal department, but it's particularly important with respect to the legal papers to me.

I'm very frustrated that I have to keep asking and raising this on something where I think it's an ethical obligation anyway.

That I shouldn't have to ask five times in order to get copied on court papers.

>> TODD VALENTINE: Not a problem.

I thought it was addressed with respect to discussions with Stanley.

We will do that.

>> DOUGLAS KELLNER: Has there been correspondence with opposing counsel on these litigations?

The one letter I've seen is the withdrawal from Liberty and I saw the commissions made to the appellate division.

Has there been any other correspondence?

>> TODD VALENTINE: I presume it's --

>> DOUGLAS KELLNER: Or communications?
E-mails or.

>> ALLISON: Naturally in the course of litigation there are correspondence.

We can discuss this.

>> DOUGLAS KELLNER: Well, again, you know, I'm saying I have asked in writing several times and I will repeat it again that I expect --

I'm not asking, I'm expecting to be copied on all that correspondence.

And I don't regard that as an option, of you deciding whether or not you'll send it to me.

You have an ethical obligation to be send it to any of the four Commissioners who wants to get copies the correspondence.

All right.

So now we can move on --

>> ALLISON: I still had an open issue.

>> DOUGLAS KELLNER: On 48?

>> ALLISON: Yes.

>> DOUGLAS KELLNER: Okay.

So you had asked Mr. Mccan to present the --

>>: Sure, as it stands now, judge divine in --

County is reserving his decision.

There was a follow-up matter that was brought by Darrell Albertine as an agreed candidate.

Prior litigation had been brought challenging the nomination of Mr. Albertine by the other side.

There were dueling lawsuits merged by the judge.

Pending the outcome of that final decision, which could come today at any time or maybe even Monday,

the judge ordered that the State board certify the ballot for the special election in the 48th Senate district without any candidate for the independence party line.

The military ballots and absentee ballots could be mailed out forthwith.

The board did issue a directive to the appropriate county Board of Elections indicating the Court's order directing them to do that posthaste.

We have every reason to believe that that process is ongoing at the moment.

>> DOUGLAS KELLNER: Mr. Mccan, when did that directive go out?

And how come I wasn't copied on that directive?

>> ALLISON: --

>> BILL: I believe it was sent out to the counties.

I did not personally send you one.

It was not a matter of practice.

But I'm happy to do so.

>> DOUGLAS KELLNER: For everybody in the room again, I believe I said this over and over again.

It applies to all the department heads.

I want to be copied on all of the communications.

And I'm flabbergasted that there was a court ruling and communications to the counties on this, and you didn't even copy me on it.

I am flabbergasted and I just don't accept it.

All right.

I'm not going to --

Just keep repeating myself.

>> BILL: I appreciate, let me just say --

>>: Let me.

>> TODD VALENTINE: Let me ask a question, though, Stanley.

You were there at the decision, received copies of that and I believe that Anna put the certification and sent the revised e-mail out to the counties.

>> STANLEY ZALEN: Yes.

>> TODD VALENTINE: Is that any reason why that didn't occur, sent to Commissioner Kellner?

>> STANLEY ZALEN: I assumed you had gotten them and that's an assumption I shouldn't have made.

>> DOUGLAS KELLNER: And it's completely unacceptable.

I copied on the communication that went out to the counties.

I would hope you copy the other commission they are ins who wish to have Commissioners who wish to have e-mails on this.

>> BILL: Let me say this.

Let me reiterate that it has been on the procedure that the executive directors are the conduits for those materials and it's the practice that

the office sends it to the respective Commissioners on their sides.

To that extent, I didn't vary from the process.

>> DOUGLAS KELLNER: See, I guess I'm a little troubled by those words, sends it to the Commissioners on their side, because again,

it's as if there's Republican staff and democratic staff and we are not working together to run the agency as a group.

And I find that very troubling.

On all external communications, we should be copying each other, not just our Republican or democratic colleagues.

And the idea that, you know, as I say, Bill, you didn't go to court representing the Republicans.

You went to court representing the agency.

>> BILL: That's true.

>> DOUGLAS KELLNER: And the agency is the four Commissioners.

And I think, you know --

All right.

I don't want to beat a dead horse to death.

I think I made my position pretty clear.

>> HELENA MOSES DONOHUE: I think you made it very clear that we should spend some time in executive session afterwards.

You just made a statement that I ... we'll talk about later.

>> BILL: As it stands now, if I can continue on --
We anticipate the judge will issue a decision at any time.

And once that happens, we will notify all appropriate parties.

>> DOUGLAS KELLNER: All right, thank you.

So I take it there's no action to be done by the Commissioners on the objections because that's all moot now in view of the Court ruling?

>> BILL: Correct.

>> DOUGLAS KELLNER: All right.

Any questions? On legal?

>> JIM: Not I.

>> **DOUGLAS KELLNER: We move to elections operations, Anna?**

>> ANNA SVIZZERO: Thank you.

We have been fielding post election questions on the primary.
We are in receipt of some election results.

Those have just started to come in, as Tuesday was the deadline for the receipt of absentees at the county board level.

We will begin that data entry soon.

We have only three or four counties so far, but calls have been coming in that they will be providing those in a very timely way.

The special election was certified as stated through the office of the two co-executive directors.

So those three county boards and the 48th Senate district shared that with their printers.

Hopefully they should be ballots over the weekend.

Monday is a holiday, but I'm not sure which counties are observing that holiday at this point in time.

The staff here continues to work on ballot marking device issues related to the interim certification that will be happening at the end of the month.

Projects related to that are ongoing.

We are fine-tuning various procedures involved in the counting use in those ballot marking devices.

We have been finalize arrangements for a central site where acceptance testing can occur.

We have been updating the guide that was previously sent to county boards to include information on the Image Cast systems.

Those guides were updated and e-mailed to county boards.

We also hosted the attorney for the Department of Justice on Tuesday in order to view the ballot marking devices, their operations, et cetera.

We continue all of our other normal election operation duties just in the normal course of business.

No particular outstanding issues.

And I don't have anything else to add.

>> DOUGLAS KELLNER: All right.

Anna, could we confirm, are we on track with the timetable submitted to Judge Sharp right now?

>> ANNA SVIZZERO: We are indeed.

The counties did place orders.

We have orders from all of the counties save one.

The counties were directed to reaffirm those orders in one of the cases that Allison discussed.

Only 29 counties reaffirmed those orders.

We are assuming that the others were standing by them. In their silence, we assumed that was assent.

So those requisitions are in at OGS.

The reaffirmations are attached to each of the requisition packets.

And we are on time with the testing expectations we have from sys test, the delivery of their reports to us so that they can be reviewed here

in-house and will be providing an executive summary to the board for their meeting which is scheduled, anticipated to be scheduled at the end of February.

So we are on time with all of those related tasks.

>> DOUGLAS KELLNER: Now, related to the bigger picture, we have perhaps a dozen counties who have indicated that they

would like to use the Sequoia Image Cast as a ballot scanning device this year.

Has your unit given any thought to the process to help them accomplish that?

>> ANNA SVIZZERO: Well, the permission for that would stem from certification that this board would allow.

There was some discussion that if lot one testing had progressed to such a degree either by virtue of seamless products delivered to sys test or

previous test results that were of value in our testing efforts, that that certification could happen later this summer.

If the board were to entertain than interim certification pending the wrap-up of that.

In the case of Image Cast, those devices could be then used as lot one.

The deployment of them for those several counties that indicated they wanted to, I think, is within their grasp.

I don't know that it's a recommends I would make.

If it happens in September, say, clearly it wouldn't happen for the primary, but it could happen for the general election.

The tabulation system would simply have to be turned on.
It's already on, it already exists in the device that they've purchased.

>> DOUGLAS KELLNER: What leads you to the conclusion that it wouldn't be feasible to do it for September?

>> ANNA SVIZZERO: The --

I just think the logistics of it would be, the boards have only just begun

in a lot of cases to really understand what ownership of these devices are, what deploying them are, what training they would have to do for

their inspectors in the lot one world because all of their efforts are focusing on training in the ballot marking world.

We would have to do some work with them.
We are certainly prepared to do that.

I don't know that it could be an across-the-board sort of issue.

>> DOUGLAS KELLNER: My understanding that --

>> ANNA SVIZZERO: The six.

>> DOUGLAS KELLNER: We have five.

Schenectady county backed out by choosing Automark rather than the Image Cast, but we have those other five.

I think one other county sent us a written letter saying they wanted to do it.

Then I have heard just through the grapevine that there are perhaps a half dozen or a dozen other counties that would like to go straight into using

the Image Cast as both a scanner and a ballot marking device this year.

And it strikes me that we ought to start giving a little bit of thought to how to assist them on that because especially in the smaller counties,

which my understanding is that almost all of these are small counties, that they may actually have some savings by just going straight into the project.

And so one question is: Would it be appropriate to provide some type of interim certification if it's necessary?

The second question is that --

I thought we were exploring this with sys test is whether because the Sequoia Image Cast is based on the model developed by dominion,

which is the only model that has been submitted already for EAC certification to the 2005 voting system guidelines,

would the testing used for the EAC certification be able to expedite the plan A testing for the Sequoia Image Cast for New York?

>> ANNA SVIZZERO: They are assessing those right now and we are hoping for a report from them, but we asked them to focus on the ballot marking device for the next week or so.

We are expecting perhaps in a week, week and a half we would get a better feel for the testing that has been done either in the EAC effort or

otherwise that could be credited towards the matrix that we developed here in New York to meet our requirements.

And they are working on that, but they haven't focused on that particular issue.

They have a team on it, though.

>> DOUGLAS KELLNER: I certainly appreciate that the priority has to be to complete the BMD testing right now,

but since we do have 51 counties that selected the Image Cast, it strikes me that it makes sense for us to give a little bit of emphasis to

seeing what is feasible for the counties that want to go straight into this. I realize that the large counties are not interested because of the

very substantial training commitment that they would have to make and that they --

It's just not feasible for the larger counties.

Paul?

>> PAUL: Just to remind you, Commissioner, that our federal court order tells us to do everything possible to implement lot one this year if we can.

>> DOUGLAS KELLNER: That's precisely why I'm asking these questions.

>> PAUL: Yeah.

>> DOUGLAS KELLNER: I think that there is --

It makes sense for the smaller counties to say: Let's just do it once and go straight into it.

It also makes sense for us as a state because the smaller counties can then become the test laboratory so that the larger counties can learn from

whatever issues might develop as they implement it. I think we're all better off that way.

Anything?

All right.

Well, thank you for your report.

Next we go to NVRA public information.

Lee Daghlian?

>> LEE DAGHLIAN: Thank you, Commissioner.

Several things. Number one, in line with the last discussion about the BMDs, our vendor is aware now of,

for the poll worker training program which machines will be in which counties, which definitely speeds up the process of creation of that training program.

We are going to have a full launch with our advisory committee, hopefully on the 29th by phone and electronic hookup with the advisory committee and

the vendor staff and our staff here to discuss that and further define the time for that --

Time line for that program.

Again the intention is to be ready by the first week in June with this program for 2008 with the BMDs in place and also the package for the lever machines for most counties.

Secondly, the HAVA funds group is working very hard and has been to get counties to complete their applications,

sign their contracts for the grants that have been issued for not only for accessibility issues at the polling places but also for the training, poll worker training and voter outreach.

We continue that effort every day.

We are also encouraging them to, those that have completed plans to spend that money. Many have.

Also many have spent money and haven't sent in the vouchers yet.

We would like them to do that so we can get them paid.

It's an ongoing process.

We are trying to think of new ways every day to encourage some counties to be more aggressive in that area.

We'll continue that.

We also finished planning for our conference, which is the last three days of April in Syracuse.

And the package has gone out, went out yesterday, I believe, to county Commissioners.

It will go out soon to other lists so that the plans can be made by the counties and everyone else.

We have a tentative agenda which is wide open for any changes we may want to make in the next month and a half to make sure that current topics are discussed fully at that conference.

Also we have a round of training in April for NVRA to be done in New York City. New York City needs more of this training than most other parts of the State.

We do two rounds a year in New York City and one every place else. I miss anything here, Bob?

No?

I think on top of all that we continue to get large amounts of mail for voter registration.

Again I want to thank everybody else in the agency that helps us on a daily basis to open mail.

It's a time-consuming process.

We have to transship all of those to other county boards.

We have to do it on time.

It's an aggressive thing we use.

By the way, we need extra help this summer for that because it will be even bigger.

That's all I have.

>> DOUGLAS KELLNER: Lee, when you say you need extra help, is it in the budget request?

>> LEE DAGHLIAN: If I'm not mistaken, there is room in there for temporary help for various things for the agency.

I put in my request to have at least a couple people do that kind of thing for us, for our unit.

>> DOUGLAS KELLNER: You're comfortable, Todd, that --

>> TODD VALENTINE: Those funds are typically included in even years for temporary staff.

We have to figure out, as I discussed with Stanley, the exact amount of the staff.

Those amount numbers are being percolated up from the units.

I think election ops might have had a discussion about that, more are in relation to the acceptance testing which is also going on at the same time.

Normally you would count on those staff, but those staff will be busy doing something else.

Not only do we have to replace those staff, we have the additional temporary staff and in Presidential years,

as we've learned, we do get a large influx of voter registration forms that we need to --

We just need to process.

It's not voter registration, of course.

Lee is correct that we open them up, determine which counties that they belong to appropriately, and forward them to the correct county.

That just takes just man hours to do.

In addition to the requests that we already get via the 1-800 number to mail out forms, those increased dramatically this year and our staff has to process all of those requests.

They have to listen to the messages that queue up.

We are right now getting those requests, figuring out based on the schedule how many bodies are going to be necessary and then seeing whether or not we have the money to accomplish all of that.

>> DOUGLAS KELLNER: Lee, are there any outstanding poll site issues?

>> LEE DAGHLIAN: Yes.

The NYSLC project is ongoing.

We are in contact with these counties on a regular basis.

All of them have promised to pursue those issues and to make fixes.

Some have done that.

Some have not yet, but we are, as I said, we are on it every day to try to get that resolved.

>> DOUGLAS KELLNER: In January there were one or two counties where we were concerned that they were being recalcitrant and might need additional prodding.

Have those issues been resolved?

>> LEE DAGHLIAN: I believe so.

The primary reason that it was slowed down in a couple of cases was because they hadn't completed their surveys on those polling sites to begin with and we had no data.

That is being done in one major county as we speak.

They will particularly look at those issues as they are doing that review. As I said, we will keep on it constantly.

They have some time now to get those issues resolved before the next election.

>> DOUGLAS KELLNER: All right.

Then on the auditing of the voter registration database, are we making any progress on --

I guess there were two issues that I have been raising.

One is the, just to confirm that the 800,000 name difference between NYS voter 2 and NYS voter 1 is a result of cleaning up the list and not because of errors.

And the second is that the, is auditing the flags that require voter identification for first-time voters.

Have we been making progress on either of those?

>> LEE DAGHLIAN: Well, I have to tell you, Commissioner, I have no details on that particular project,

but George and Dierdre might be able to help you with that answer a little better.

>> ANNA SVIZZERO: And Bob.

>>: I know the audit flag issue we have been looking at the people who need to have their IDs verified.

The first issue was one that we had identified when NYS voter went up in, you know, August of last year.

Fully up in August of last year.

That was a patch that we brought back to the board.

It was approved and saber made that correction.

That patch is working to do what we thought it would do.

That deals with the time out issue and it's taken care of, it's taking care of that technical thing that we brought to the board.

It's working well.

The other item that George talked to us about at the steering committee level was to try to go back and look at the counties

that might not have updated their batch verification of the IDs prior to hooking up to NYS voter.

NYS voter does it in an interactive seamless matter now, but if they didn't do it before connecting to NYS voter,

we have to do something to go backwards and help the counties to do that work now.

George is looking at it now by doing it by batch and clean that up.

For NYS voter moving forward it seems to be working well.

We are trying to go back to before NYS voter hooked up to clean up for the counties that didn't do it as nicely as we would have liked them to do it.

>> DOUGLAS KELLNER: I'm not sure I understood all of the technical jargon in that and my understanding is that Dierdre looked at 20 names,

or started the first 20 flags that she checked, which were just randomly selected, that all 20 of them were erroneously flagged.

The voter should not have been required to produce identification. It was either a typing error on the part of the county or a typing error on the part of DMV that basically mismatched the voters.

So that 20 for 20 were erroneously flagged for ID.

>> BOB BREHM: I think in that grouping, probably about five to six of those were input errors on the part of the county personnel.

I don't believe it was a DMV input error.

I believe it was a county input error.

>> DOUGLAS KELLNER: The other 15?

>> BOB BREHM: That was the patch issue.

We identified at the time that there was some little button that needed to get turned on.

When George found out that not all the buttons were turned on, he worked with sabers and the vendors to make sure they were on and working.

The next time Dierdre checked those people, the 15 were taken care of. The patch worked.

That was, it was a case where there was a timeout issue between our server and DMV's server.

That's where we fixed it?

>> TODD VALENTINE: I may be able to help here.

Accessibility it true that you and the steering committee made a matrix of all of the requirements for NYS voter and you are developing an audit strategy to make sure that it meets all of those requirements?

Certainly this is included in that, but they are looking at every requirement that the system is supposed to do.

Obviously --

>> DOUGLAS KELLNER: I'm anxious to get that auditing process moving along.

>> TODD VALENTINE: I know they are working on it.

I don't know where they are lately in developing the auditing strategy. I know they were doing that, but where it is as of today, I don't know.

>> BOB BREHM: It seems to me we're jumping ahead to my report.

>> DOUGLAS KELLNER: Is there anything else for Lee?

>> LEE DAGHLIAN: No.

>> DOUGLAS KELLNER: Thank you, Lee.
We'll stick to the agenda and get to you, George.

Next is campaign finance.

I don't see Elizabeth Hogan today.

I guess that's you, Bill.

Bill Mccan.

>> BILL: Liz couldn't be here today.

She's at a conference on the federal election, the by partisan federal finance reform.

She'll be back next week.

Campaign finance is continuing to be busy.

One issue is scanning.

We are meeting with the vendor on Tuesday to put the final numbers together on what that would be.

And then we hope to have that kicked off within the subsequent month.

That's a long standing project that we have had our eyes on for a long time because of our filing issues, not having the literal physical space

to be able to accommodate our approximately 10,000 files that we have now. They will be working with IT to finalize what the hardware requirements

will be to accommodate the scanning and then we hope that will be again going off shortly.

We have been working with OGS to put together our RFP for process servers.

As you know, because of the marked increase in our need for process servers we have expanded beyond the scope of basic purchase orders.

We had to go to contracting and we are finalizing that.

Our hope if we keep on schedule is to have that issued on February 25. We just have to put the final touches on the document.

But I anticipate that will be done by then.

Then we'll see what the universe is of responders.

We did file today, this morning in court, the order to show cause for the failure to file the 2008 periodic report.

They were approximately 475 respondents named in that action.
I've asked that the copy be forwarded to you.

So you should be getting that shortly. And that's returnable in March.

Along the lines of what we are filing, we will be meeting with the governor's office of regulatory reform sometime next week.

Our agency contact was on vacation this week, but we'll be meeting next week to get the ball rolling on processing our reg through that office.

Our office is currently working with the various county boards of elections on our campaign finance seminar schedule which will take place in May and June.

This being an off year for local elections we will be doing approximately 15 campaign finance seminars throughout the month of May and June.

We are also working on the filer update, going through all our files in April.

Our hand book, we have a committee of staff working on the handbook update with our goal to send it to OGS in the month of March so it can be printed for use this year.

George's unit and he may touch on this, has a committee working on our software.

We have a joint group of people who will be working on that to move forward on that system modification.

So that's an exciting development.

Obviously at the appropriate time we'll have to figure out when we might unleash that on the world, but it certainly won't be this year.

Finally we are working on the finalizing our

HAVA internal complaint processes.

We have been working with forms with NYS tech on that.

Our goal as part of our state board conference to have a segment working with the county boards of elections because the statute requires that

county boards be able to intake and process informal complaints.

We will have a process in place to facilitate matters between the county and state boards to facilitate proper filing of these complaints.

That will be a segment at our conference in the summer.
And we'll look forward that that. Again, it's very busy.

The calls are up but staff is working diligently and I think we provide a very good service to the public.

>> DOUGLAS KELLNER: How are we doing on the over contribution report?

>> BILL: Very good.

We are right now on target to bring to the board the 2006 election cycle over contributions.

The staff is doing follow-up correspondence right now.

Staff is still processing the voluminous report on the 2006 corporate over contribution project.

We are on the time line for that. We anticipate doing 2007 year as well.

Liz can speak more directly to that when she comes back for the next meeting, but I have every believe that we are moving along on those.

>> DOUGLAS KELLNER: Are you able to give us an estimate on when that reaches the Commissioners?

>> BILL: I think 2006 will be sometime this late spring or summer.

2007, our goal is to have it complete by the end of the year.

>> DOUGLAS KELLNER: I notice we don't have any new enforcement cases for this meeting.

>> BILL: That's right, Liz asked that we not have any on the calendar for this meeting. We put them off to the next meeting.

>> DOUGLAS KELLNER: All right.

How are we doing in terms of processing that backlog?

>> BILL: Very well.

As you know, we have another attorney we are looking forward to having another attorney to fill the two positions.

So we would have four attorneys working on the processing.

All 2006 cases have been assigned.

We anticipate sometime before the end of March they will be all processed to the board.

Frankly our goal is to have the complete backlog of complaints processed through to the board sometime before the end of July.

So our goal, and I think it's more than reachable, is to go into the 2008 election cycle being within a 30 day period of complaints coming to the board.

That's the plan of president unit and I have every expectation we will meet that.

>> DOUGLAS KELLNER: That's great.

All right. Any other questions?

Then we will turn to George Stanton.

>> GEORGE: Okay.

A couple other things here and we'll get back to what we were talking about earlier.

As you remember, I had told you at the last board meeting that the public voter lookup Web site would be up.

It went up the next week.

And after it went up, we actually did a modification to improve it.

We found out some people were having difficulty finding themselves because of the way that addresses were processed in the lookup.

We took address out of the equation so people can look themselves up by using name, date of birth, county and zip code.

That seems to be working very well now, from what I understand.

I continue to work pretty much daily with the counties to help clean up some of the data in the database.

We had problems where, with invalid districts.

As you remember, the Assembly District 72 in New York City being assigned to the wrong county, that kind of thing.

Those are cleaned up now.

New York City put in a permanent fix for the geo system so voters get assigned to the right district now.

We found mapping issues between the county and the state with different party codes with some counties.

We are working on getting those cleaned up along with we found registration dates that didn't make sense because they were in the future.

We are looking to clean those up also.

As far as the system goes, we will be doing a health check on the hardware the third weekend in March on a Saturday and Sunday.

So it won't have any effect on the system productivity at all.

We are also at the same time doing all of this, we are handling the purchasing needs for any technology equipment

that the entire agency needs right now because we are getting to the end of the fiscal year.

We want to make sure we are up to speed and have the equipment for all the new hires in Bill and Elizabeth's unit.

That kind of thing.

As was mentioned earlier with the DMV matches, we have tested a procedure where we -

We tested it with Niagara county because we wanted to test it with NTS and they chose Niagara county,

wherein we took every voter in the database that was registered on or after January 1, 2003, with the implementation of HAVA.

Their ID requirement was set so that they had to show diment at the polls.

They did have either a Social Security number or DMV number in their final and we have been running those through DMV.

We started that two days ago. They are partially through it.

We cut the number of ID requires for those, for those that meet that criteria down by 63 percent. That's actually working extremely well.

And if it works, you know, as it looks like we are probably going to hit in the 75 to 85 percent range reduction rate on that,

by the time they are done and we want to implement it to the rest of the counties which are taking part in the DMV batch process.

Not all of the counties are ready to do that, but all of the NTS and independent counties are.

So we should be able to cut those down by a great deal.

The one other thing I wanted to say, there seems to be a lot of misconception over the missing 800,000 people in the list.

And technically there's not 800,000 missing people in the list.

The numbers that were run by somebody were taken from all of the voters in the database in NYS voter 1 which included all of the canceled voters,

which technically are not voters in the list.

When we went live with NYS voter 2, the steering committee at the jadz

sessions, everybody decided we would start clean and not bring in the canceled voters.

So I actually still have the NYS voter 1 data in my system downstairs.

I ran the number of purged voters in NYS voter one or the canceled voters and it was just about 800,000.

>> DOUGLAS KELLNER: Right.

>> GEORGE: That sort of explains that.

Unless somebody comes to us with a specific person who thinks they have been left out of the database and we can actually check it, it's difficult.

But I think the numbers prove what the difference is.

As far as the auditing procedures, I sent a draft out to the steering committee two weeks ago on,

we had gone through all of the business procedures that we had put into the RFP, picked out which ones we thought we should be monitoring the

system for to make sure it's working right and put together a draft a couple weeks ago of what they were and what we should be doing,

what I thought we should be doing to audit them and take a look at the run. At the meeting this week nobody had had a chance to go through it yet and comment on it.

So we are going to, we are going to after we do this, we want to get a draft together and then we are going to bring in,

I sent out a notice yesterday actually to the standards and policy committee which we created a long time ago and it hasn't met in a long time.

, but we are going to bring them in and get their feelings on it.

So that's where that stands.

>> DOUGLAS KELLNER: On the auditing I would like to say that I think that should be a pretty high priority.

If we had an effective auditing system in place, George, I think we would have had two benefits.

One is that you wouldn't have the rumor of the 800,000 because we would have a procedure in place to confirm.

I don't think anybody is actually suggesting there are 800,000 legitimate voters who got purged from the system.

But because we aren't actually auditing the process, there's no way to basically prove that that hasn't happened.

In other words, we haven't tested the integrity of our own system.

On the other side, the flip side of that is that when we started the flags, when we started this very modest procedure of Dierdre taking just

20 names from two counties at random and found that all 20 of them should not have been flagged, that's a real problem.

So I think it's great that in the last month that we have eliminated the flagging requirements on two thirds,

but of course that means we have gone through all these election cycles where at least two thirds of the people, you know, in the books were erroneously required to produce ID.

And we still don't have an auditing procedure in effect that will work through the other kinks like typographical errors on the part of the counties.

You know, I'm not comfortable that we've licked the problem with the false ID required flags in our system.

>> GEORGE: I don't think anybody would argue that we need to be more aggressively monitoring this.

The steering committee hasn't come up with a comprehensive plan yet to do it. I do informal auditing of the database every day

looking at things that I mentioned like party codes and work with the counties on clearing those up.

We haven't put together the formal policies on how we are going to deal with those that, even though they were erroneously flagged,

they were flagged the way the system says they should be because they didn't match the DMV.

>> DOUGLAS KELLNER: You're speaking like a systems guy, but I'm looking at here is a voter required to show ID in order to vote who wasn't legally required to do that.

From our end, you know, I'm just looking to improve the integrity of that system.

All I'm saying, George, is that I think this should be a priority now.

That we did a great job getting the database up and running, but the job isn't over until we get these audit procedures in place so that as a

routine matter we are checking to make sure it's working the way it should.

Anything else?

All right.

Well, that concludes the reports.

There were two items on old business that had been carried over from the previous meetings.

The amendments to the proposed amendments to part 6204 of the regulations and I understand the plan is to bring that up on the 27th?

Is that right, Todd?

>> TODD VALENTINE: Yes.

>> DOUGLAS KELLNER: Okay.

So we will put that on the agenda for the 27th.

And then the other was my resolution on open source voting which has been carried over for each meeting.

>> HELENA MOSES DONOHUE: I think you should give Jim the courtesy of being able to understand what it's all about before we change any of our regulations.

>> DOUGLAS KELLNER: All right.

We'll put that on for the 27th as well.

If I could digress just a second, and I'm sorry for going out of order or going back.

Bill, do you know with a the status is of the regulation changes to part 6200 that we adopted?

>> BILL: I reported on that, Commissioner.

>> DOUGLAS KELLNER: Sorry if I missed it.

>> BILL: Our agency contact was on vacation.

So in speaking to his supervisor we are going to have a meeting next week when he comes back.

>> DOUGLAS KELLNER: It still hasn't been published yet.

>> BILL: Well, it has to go to Gore first.

Once we get the paperral dispensation, he gets to come back here and go to the Department of state.

But we are pushing the ball down the field.

>> DOUGLAS KELLNER: All right, my apologies.

>> BILL: That's okay.

>> DOUGLAS KELLNER: So the next is to do the voting machine determination for eerie county.

Commissioner Moore, we are glad you were able to come.

Why don't you come up and sit in Commissioner Aquila's seat.

Should I begin with having you report on what is going on?
Or Todd, do you want to provide any other background?

Maybe actually before we begin we should call Commissioner Ward and add him in now.

Do you have the phone number, Bob?

(Dial tone and sound of phone call being placed.)

(Ringing phone.)

>> BOB BREHM: Hello, Dennis?

You're on a speaker phone at the State Board of Elections conference room full of people.

>>: I'm on my office line.
(518)858-7787.

>> BOB BREHM: Call you back in a second.
Thank you.

(Dial tone and sound of phone call being placed.)

>> BOB BREHM: Hi, Dennis?

>> DENNIS: Now I can hear everybody.

>> BOB BREHM: You're on the line.

>> DOUGLAS KELLNER: Thanks.

Okay.

So is that as loud as it goes?

>> BOB BREHM: That's all the way up.

>> DOUGLAS KELLNER: Dennis, I would be grateful if you could speak up because I can barely hear you.

>> DENNIS: Can you hear me now?

>> DOUGLAS KELLNER: Much better, thank you.

So I guess we should begin by having the eerie county Commissioners present their points of view on this to try to frame the issue for the State Commissioners.

And since Commissioner Moore is here, we'll give him the courtesy of going first.

>>: Thank you very much.

I apologize for being one half of the board responsible for making the decision rest with the State board.

I feel very strong in my position.

I wrote a correspondence to address each of the Commissioners,

highlighting each of the issues which I raised at the hearing at the eerie county board.

The reason for my determination after reviewing the machines and also hearing the public advocates' positions with respect to the voting machines as well.

Rather than go through each of the points in the letter because I assume that you have had the opportunity to read it and much of it is straightforward,

I do want to highlight, however, three items with respect to that.

The spirit of HAVA in my mind as it relates to persons with a disability is to try to permit the same voting experience as a person who does not have that same disability.

And very problematic to me and I am unable to reconcile a resolution of it

is that I believe that the Sequoia machine forces a procedure which does not accomplish that purpose.

The Sequoia machine, if a person with a disability comes into the voting area, that person has to declare that disability to the table of the inspectors that are sitting taking the initial check-in.

Rather than receive the same printed ballot that every other voter in the polling location receives or the polling district receives,

that person would be handed a blank ballot.

That voter with the disability would then in addition have to declare that disability to the inspector

who is in charge of or overseeing the Sequoia ballot marking tabulation device. And it would require the inspector intervention at that point to go

and set a code which would set that to the proper ballot, which would be then marked and printed by that machine.

If a person with a disability which does not require him to use, him or her to use the ballot marking device comes into the polling booth,

they could then receive the same ballot as any other person, but the verification of that ballot on the Sequoia machine,

if a person is in a wheelchair, it is not able to be verified.

It's just way too high and physically is in a very awkward position for many persons with a disability to determine that.

In contrast to that, the Automark machine, which was the only other machine which was seriously considered to be in the final running,

I guess, by the Board of Elections, allows the person with a disability to come into the voting booth, check in and receive the same ballot as every other voter in that district.

And then proceed to a polling station which, a ballot marking station which can be located in the same proximity as everyone else is directed to to mark and cast their ballot.

Using the auto cast features and using the features on the Automark, that person can verify that person at that station,

use the auto cast and cast the ballot if he or she wishes or take that then to the tabulator in the plan A situation and feed it in as every other voter does.

Also very problematic with me is the foot --

And that, I think, is a very great benefit of Automark, being able to be detached from the tabulator and be located in the polling site

in the same place as everybody else is tabulating their ballot.

Very problematic to me is the fact that the Sequoia system -- initially when I saw it, this was back in the summer of 2006 and I thought it had a great deal of promise at the time.

It was tethered to the machine so it could be located in a more remote location, but at least as demonstrated in our office

and as is my understanding, it is attached to the tabulator and as a result the person with a disability --

I'm thinking particularly a person with a hidden disability is basically on display in the middle of the room with all their

neighbors parading by feeding in the ballot to the tabulator.
To me I find that very problematic and troublesome.

That also brings us to a practical problem object one of the other issues that I want to highlight in my letter.

That is both Commissioner ward and I have gone through a great deal of effort over the past year in an attempt to

consolidate polling locations to determine polling locations that are suitable and make sense for voting and meet the mandates of handicapped accessibility.

When Lee Daglien was talking earlier about the counties working through their survey and haven't met all the requirements,

it sounded very familiar if he wasn't talking about us, but I think he was

(Chuckles.)

>>: We're attempting to work through that.

And the problem that I see with the Sequoia machine, in my mind having a very awkward footprint is that it requires access to all four sides.

We have a number of locations which are suitable for handicapped entrance access such as schools that also have other concerns

such as safety of elementary school students or town halls which have larger foyer areas but have auditoriums at a slant.

By having the unit together in one central, in one location with required access on all four sides makes many of those locations that we have in

erie county very difficult to continue to use, which then brings us back again to a whole problem of having to revisit polling sites.

And there are some locations where they are just not any suitable polling sites remaining.

So we would then have to go to schools and ask principals of elementary school students to let us use rooms further into the school, auditoriums,

gyms, away from handicapped access entrances and then there again,

bringing up all the other concerns that we've experienced in the past such as safety, guidance, people getting lost wandering the halls.

The third issue talks about the, is with respect to the modification of the machine.

I'm concerned that unlike the Automark which we use in eerie county, we are familiar with and we have the support of the advocacy groups for the disabled.

We have training ready to start immediately because we had the machine in our offices.

The staff has already been trained in the use of that.

Rather than being able to present this and continue our community effort which have really started since September of 2006 when we first used the machine,

a little prior to that, we have to wait until we get a Sequoia machine of which I am still unfamiliar as to what the final version is going to be.

The modifications which have been proposed, both at the Saratoga conference following the breakfast meeting, in our offices, and even what we have heard today,

are differences which isn't that the machine is going to be black instead of gray or minor modifications.

These are ones that are very major in my mind to the operation and functionality of the machine and also the process by which the inspectors, the Board of Elections employees have to utilize. We are familiar with the Automark.

We chose that among the other choices that we had for the ballot marking device in 2006.

It hasn't been a perfect machine.

I don't believe there was a perfect machine.

But we worked through the bugs that we have had on it.

Basically the last election that we have had, the most recent elections that we have had have been incident free.

It's accepted by the advocates for the disabled.

It's accepted by the office of the disabled in our county, by the independent living center, both of whom have sent correspondence as well to the State board.

And I'm looking forward to using them as a partner in this,

not as a group which objects to ballot marking device which is being forced on us and something different than what they are familiar with.

>> DOUGLAS KELLNER: All right.

Thanks, Commissioner.

We will hear from Commissioner Ward now.

>>: Well, members of the board and Commissioner Moore,

I think there's a few things I made clear at our hearing that I felt that were relevant here.

Number one, I think we start out by assuming that any one of these machines, including our experience with the Automark with DS and S are going to have glitches in them.

This is all technology that is relatively new.

We know that we are going to have glitches.

I concur with Commissioner Moore that we have worked through glitches with Automark.

But I think admittedly many of the problems that we had with Automark had to be done with long distance over the telephone

service assistance from a company, in this case ES&S which is headquartered in Omaha, Nebraska.

They hadn't shown any indication of moving into New York for purposes of having more localized service available to supplement whatever we could do over the phone.

One of the concerns that I have about this is that it seems as though we had one machine and had enough problems with it including one day on election day when we had to essentially have an

Employee disassemble the machine with instructions over the telephone. In order to get it working.

That was not, that was not what I considered to be great service.

And that gets into, that's sort of a back-door segue into the so-called homogeneity or the geographic dominance of one machine.

Although that's not a sole criteria here, one of the concerns I have is that I assume that any one of these technologies that we purchase,

we are going to have technical glitches.

That's just the way it works.

And the availability of service and assistance by the manufacturer is going to be a major concern for these people.

And for us and for anybody who is working on them.

So the fact that we have experience with glitches with the ES&S machine --I'm not saying they aren't glitches that can't be worked out.

I think glitches in any of these machines can be worked out.

Recognizing that's going to be a fact of life and the need to have service to take care of these glitches is an important factor.

When we look at the map of New York State, the old saying if one person jumped off the bridge, would you jump off, too?

No, but the whole series, 52 counties across the state and including the entire geographic area of the State that we come

from, every single county will be with the sequoia machine.

It seems unlikely that ES and S was going to establish a service center in Buffalo to handle our concerns.

The first thing to handle the glitches that will inevitably arise, inevitably we will be doing long distance, whether to Omaha,

Nebraska or if by some chance they decide they want to open a service center,

we might get lucky and there might be one in New York City.

That's a long way from eerie county and Buffalo.

That's a factor that should be taken into account.

As far as the use of the machine by the handicapped community, I mean, there's going to be --

There are objections to every system, but I am assuming that we've already gone through and I don't know if I want to reinvent the wheel at the local level.

I have to give some deference to the State Board of Elections, having already put the Automark or the Sequoia machine on the list of approved V M.D.es.

I know that the State board, I'm assuming part of the decision making process took into account input from various communities as well as the technical side of the machines.

All of these machines have difficulties.
People who have handicaps face difficulties every day.

What we are trying to do here, we have a balance of a number of interests that we have to look out for here.

These are systems that have by the actions of the State board, this system has met the criteria of the state legislation, is on an approved list.

I think at that point I'm not going to begin to second-guess the decisions of the

State board inputting it on the list. I think it is now one of --

Now we have a number of them, given the State court decisions, but we now have something that has been approved by the authority that makes this approval process.

And I'm not going to go back through and try to substitute my judgment.

I'm going to say from here forward I want to see how the other factors that a county has to take into account will affect our decision.

And that's why I move to, I talk about the geographic homogeneity of the decision making.

I think that's a factor.

Another aspect of that is, when we get into public service announcements and publicity on the use of these machines,

here we sit at the center of the western New York media market.

Everybody else in the adjoining seven counties has a different machine. What are we going to do in public service announcements.

If you're in eerie county, this is what you get.
If you're in another county, you get another one.

That is part of the public information that goes along with all of this. As far as the machines themselves, I think that the Sequoia,

one of the factors that I weighed in here, and I'm not embarrassed to say about it, is the cost factor.

We are running into a situation where the A and B component together here is 11-five, plus delivery costs.

The Automark and its complementary scanning machine is going to be 13-seven.

We are going to be talking in terms of 2,000 to \$2,200 per unit plus.

And I expect that we will when we finally decide on this, when the A component comes in we will have 500 to 700, the Commissioners haven't decided on that yet, units.

You're talking about in excess of a million dollars differential on the cost.

That to me is part of the stewardship of the Board of Elections and the tax payers for elections.

If it's an approved piece of equipment from the State Board of Elections, I think that's a factor that weighs very heavily in my decision.

I feel comfortable going back to my county government and saying we have done the best we can here.

We are not guaranteeing there won't be glitches.

We are not guaranteeing every person will be happy, but I tell you, there's a lot of people just not happy about HAVA generally.

The time on that is past.

It is a fact of life and we have to accept it.

There's a major budgetary difference between the two here at the outset in the HAVA funds.

I think that is something that is not an illegitimate consideration and finally, you know, again it's another factor,

but I think we all have to look at the origins of where the manufacture is taking place.

The Sequoia, the vast majority of that machine is constructed within the state of New York.

I can't think that will do anything but assist us in getting replacement machinery or actually meeting the orders when the

initial plan B and then plan A decisions and orders are processed.

Of course, it is part of a larger, the economic fabric of the state of New York. Again with many other things being at least equal if not weighing

towards Sequoia, it's definitely a factor that I can point to a fact that a good portion of this is constructed within the boundaries of the state of New York.

I think we are all members of the part of government, all part of the political process in this state and part of the economic process that this state is facing.

I think that anyone who would say that the expenditure of \$200 million on funds for these machines, once it is mandated,

it certainly isn't a negative factor to know that a good portion of that is going to be expended within the state of New York.

All of those things, I think we have an honest disagreement, Commissioner Moore and I.

We have done a lot of studying, been through a lot over the last couple of years, but the time has come, we can come to a conclusion.

I'm comfortable with the decision on the Sequoia, comforted to know that 52 other counties are comfortable in the same decision.

So I think that's the basis under which I propose or voted to adopt the Sequoia B, and ultimately the A machine as well.

>>: If I can respond?

I am not sure why the Sequoia machine will be manufactured.

I won't comment on that --

The local government has bidding --

I think that determination has been made.

With respect to the service, there is no evidence which would suggest that the service which we received from ES and S or

Sequoia for that are matter would be altered either positively or negative in any respect.

We have Sequoia equipment in our absentee tabulation.

We utilize the Automark currently and we have a data registration system which is ES&S.

And the service that I have to say for both Sequoia and ES&S is good. You have overnight delivery, freight.

The State board has imposed in the contracts with the vendors various service requirements which negates the entire issue.

The other point which was brought up and I'm trying to -- I lost my train of thought now.

Oh, the difference in cost.

I look at this both as a plan B and a plan A solution.

I'm very comfortable with this.

Certainly within, as has been discussed with the budget office with eerie county, it would entail a lesser cost to us during the course of this year.

I think depending on the modifications which are required by plan A to both of those systems,

that cost is still up in the air and I think when you factor in all of those items plus the training that we would have to go through --

Here is the other item which I talked about or that I remember now, to compare eerie county to the neighboring counties and its proximity. We are different already.

We started our primary elections at six AM. All other counties start at noon.

We have 608,000 registered voters.

We can't even begin to compare to Wyoming county or our neighboring counties of genessee, Niagara and others.

The closest one in registration is Monroe county. They are about 60 percent of what we have.

The warehousing procedures, our transportation procedures, everything is so different than all other upstate counties.

Saying that just because other counties close to us have it, this is the way to go, it doesn't really solve the problem.

I think that the cost in the end when you factor in the training, we have already undertaken community outreach and we are the center.

So we are going to dictate a great deal of the outreach through eerie county through local television, newspaper, radio, county fair.

When you factor in those aspects, the costs are really minimal.

And actually it assists us in this year's budget where we have already had an unanticipated expenditure such as this and we can absorb it within our budget.

And the county budget office quite frankly has told us we have to absorb this within our cost.

And you are familiar that eerie county has not been without budget crises. We are currently under a control board.

It's important that we live within our budget and being able to put in a purchase order or have a 5 percent share of 2.5 million is substantially less than a 5 percent share of 4.5 million.

>> DOUGLAS KELLNER: Dennis, do you have anything else to add?

>>: No, I think everybody, I think, is pretty familiar with what the issues are here.

I trust that the board will make a wise and studied decision.

>> DOUGLAS KELLNER: I have a couple of questions, if --
Is this okay, to proceed this way?

>> JIM: Yes.

>> DOUGLAS KELLNER: Fine with you, Jim?

All right.

Raffle, attached to your thing is this sample polling place lay out.

Something you put together or something that you got from one of our mock-ups?

>>: I received that from a Sequoia vendor in an e-mail as a suggested lay out.

In any event, in the --

>> DOUGLAS KELLNER: They are their own worst enemies.

I wouldn't have done it this way.

Anna, have you seen this before?

The suggested poll site layout for Sequoia Image Cast site?

>> ANNA SVIZZERO: No.

>> DOUGLAS KELLNER: Go ahead.

I thought where they placed the machine here is not where I would have done it based on what I've seen, either in its ballot marking device only

configuration or in its plan A configuration, but I do agree with you that in the plan A configuration the voter goes to the opposite side of the

machine from the scanner in order to operate the ballot marking device. And you do need access on all four sides.

>>: You also access the machine on the one side.

The inspectors would access the machines to retrieve supplies and that's the ballot catching area and the other side is the printer.

You have actually all four sides of the machine utilized.

>> DOUGLAS KELLNER: When you were going through the cost factors before with the --

In the ballot marking device only mode, you do save the cost of printing the ballots with the Sequoia machine, right?

>>: That's correct, yes.

>>: That's correct.

But we will be using the Sequoia absentee process and that requires us to have preprinted ballots as well,

although we don't have to have committee men listed on the absentees, that's really not that much of an additional step to what we already do.

>> DOUGLAS KELLNER: So is there anything that the three state Commissioners can gain from pursuing the questioning here?

I get the impression that they are fairly locked in.

>> HELENA MOSES DONOHUE: It appears that way.

>> DOUGLAS KELLNER: Do either of the eerie Commissioners have any questions for each other?

>>: I mean, we talk.

(Laughter.)

>>: We have had extensive discussions.

We have an honest, what Mr. Ward's correctly characterized as an honest disagreement.

>>: There are such things.

>> DOUGLAS KELLNER: Yes, I think I have been party to them at the State board as well.

All right.

>>: We appreciate the opportunity to be heard.

>> DOUGLAS KELLNER: I think I understand the issues.

And do any of the senior staff at the State board have any comments they want to make?

>>: Commissioner, I just want everybody to know that by reason of various court orders, there are any number of machines that are available.

>> DOUGLAS KELLNER: Five to be specific.

>> PAUL: Five vendors, okay?

Everybody understands that.

I just don't want some vendor to say well, you know, when they ticked off the machines, they didn't mention my machines.

But you all are comfortable that you know the universe of machines?

>>: Trust me, I have a stack of messages on my desk.

>>: Thats all.

>> DOUGLAS KELLNER: As we went through it, we --

>>: We went through an exhaustive process at the beginning when we selected the Sequoia compared to the Avante and Automark.

When we experienced problems with Automark, we went back to see if there was another machine we would like and we settled on the Automark as well.

I think both Commissioners of eerie have discounted DRE.
Is that correct, Dennis?

>>: Yes.

>>: When I made my selection as a Commissioner, I didn't --
I received quotes and the ESS solution makes more sense with eerie county.

Among ES and S and premiere, one because it recognizes the fact of the training that we've already gone through on the Automark and in addition

to that we have our operating system, our voter registration database system whose contract is up in June which we have to renegotiate as well.

So staying with that vender makes a lot more sense between Automark and ES&S if we are selected.

>> DOUGLAS KELLNER: If you were going to rang your fourth and fifth choices, I understand that you both agree that liberty and Avonte would be your fourth and fifth choices.

>>: Correct.

>> DOUGLAS KELLNER: Which is four and which is five?

>>: I could tie them.

It would be a tie.

>>: I would put Avonte a little bit ahead of Liberty, I think.

(Chuckles.)

>>: But they are very close to a tie.

I wouldn't disagree with that.

>> DOUGLAS KELLNER: Commissioner Ward, do you have any --

>>: As long as we are.

>> DOUGLAS KELLNER: Ranking Avonte four and Liberty five.

>>: For machines we are never going to get, I concur with Commissioner Moore on that.

(Chuckles.)

>> DOUGLAS KELLNER: All right.

I take it there's nothing that the three of us can do short of deciding this to get either of you to move on this.

>>: I am going to move to the other end of the table to avoid physical contact.

(Laughter.)

>>: I think the answer is no.

>> DOUGLAS KELLNER: Commissioner Ward.

>>: You guys are having all the fun up there.

I leave it to you to decide.

>> DOUGLAS KELLNER: All right.

Commissioner Donohue, you want to speak first on this?

>> HELENA MOSES DONOHUE: I just wanted to ask Ralph a question.

You already have been operating with the Automark.

>>: That's correct.

>> HELENA MOSES DONOHUE: Okay.

So do I understand this correctly that it would be less expensive for you to --

Stay with this because of the training and the operation system that you have in place so far?

>>: Well, certainly all of the media, local media is familiar with the Automark.

Whenever we have a display of ballot marking device, it's the Automark in our office.

Indeed, Commissioner Ward was in the newspaper in front of an Automark just this past week.

All of our outreach has been done with the Automark.

That means to colleges, to advocacy groups for disabled, the independent living center, eerie county fair.

Our staff has been trained on the Automark.

Certainly not as extensively as would be required as we go through and would receive more, but all of those costs would be saved.

I think that's reflected in the ES&S proposal.

>> DOUGLAS KELLNER: But isn't that less than the cost of printing the ballots?

I mean, I heard.

(Overlapping speakers).

>> DOUGLAS KELLNER: Last year that's all you guys complained about --Actually it's two years ago in 2006.

I remember each of you coming to me and saying: How come we hadn't budgeted in the cost of printing the ballots and there was constant complaints about the Automark system.

>>: Right.

In the proposal is, from ES&S and from --

I'm not sure if it's in premiere's or not, but there's an on demand printing solution where the costs were generated to a large extent in

eerie county, where they would be, in committee years where you have a contest on the working families line and there were three registered

voters in that election district and there would be a minimum of 150 ballots or 100 ballots which would have to be printed.

That's what ran up the cost.

That is solved in our proposal, in my proposal, with the ES and S with the on demand solution.

So you would be able to handle those small committee fights, those small party fights.

Erie county has more than any of the upstate counties, at least going through to Albany of those local fights.

It's not unusual for us to have seven different ballot styles or coats. Monroe county doesn't come close to this.

In addition, we have jurisdictions required by federal law to have Spanish speaking interpreters there.

I imagine that would carry on to the requirements here.

Those could be handled by our on demand solution and other printing of the larger districts of the larger codes could be done by an outside vendor.

So I think that's a way that we would be really able to control the ballot cost and gives us the greatest flexibility.

I have heard conflicting information with respect to the Sequoia.

It was announced generally that at least for 2009 we would be required to go through Sequoia or their designated partner for the printing costs of the ballots.

Once Sequoia came up to our offices this past week, they said that was not the case.

If that was the case, that would amount to perhaps --

It's a very close to probably 800 to \$900,000 impact upon our budget for 2009.

And having the on demand solution that ES and S proposes and is in our quote certainly helps us with the flexibility to alleviate that cost.

That's one big factor that will allow us to be somewhat in control of our own destiny.

>>: One of the things I think when we talk about the cost of the education, and there's no question that we have staff that are trained on it, but you know,

there aren't that many and I don't think that the cost of putting your staff members in a position where they have they been trained, the number of hours and the cost of that is de minimus in the overall.

The main cost of training is to the election inspectors.
And of course, neither --

They both start out and both will need to be done within the context of the election inspector training or however we do it.

I think the State has to take a look at how we mandate training, whether every inspector has to have it or whether we will have super inspectors, but there are many ways to address that.

While there's no question that we have had some experience with our one machine, I don't consider that could be a major factor here and I just

think we have a significant expense ahead of us no matter which system we choose, but that's going to be, 99 percent of that cost is involved in election inspectors.

I think that's where the --Is going to be.

I consider that to be primarily a de minimus factor here.

>>: If you take a look at what Mr. Ward sent up to the State board on page 8 and page 11 are the differences between the ES&S and the premiere costs,

which is one of the largest factors that I determined to go with the ES and S as the vendor and that is the training costs for ES and S are 5400

I think they are utilizing a model which we train the trainer type situation, while premiere has costs of 72,000, staff training 87-60 and other services that don't have --

In addition to that, both the Sequoia and the premiere have a substantial amount included in freight which is not included in the ES&S Automark quote.

We noticed that.

We called ES&S and they sent us back a quote.

This was a revised quote which said the freight included in the above costs.

That's probably 32,000, I think, savings from the premiere.
And a substantial amount also in the Sequoia.

>> HELENA MOSES DONOHUE: And you, from what I gather, you relied pretty heavily on the arguments from the community of the disabled?

>>: Very much so.

>> HELENA MOSES DONOHUE: That's why HAVA exists.

>>: And I see them, they are very --

The advocates for the persons with disabilities are very accepting of the Automark.

They are very encouragingment they are basically a partner with us. We utilize the Independent living center as one of the sites for disabled voting in eerie county one year.

We have had tremendous interaction with the office of disabled in notifying and community outreach.

They like this machine.

They are very familiar with the machine.
We see them as a partner in this process.

I am very much concerned, particularly in light of the letter from the independent living center which says they can not recommend the Sequoia machine.

I don't want them opposing us in this process.

And I see that we would have difficulty in doing that.

That will carry over to the selection of our polling location sites and the access to the polling locations.

I just see this as a compound effect.

>> DOUGLAS KELLNER: Anything else?

>>: Nothing.

>> HELENA MOSES DONOHUE: My questions have been answered. Thank you.

>>: Thank you.

>> HELENA MOSES DONOHUE: I appreciate it.

>> DOUGLAS KELLNER: All right.

Well, I know this is going to be difficult for us.

My own view is that in choosing between them, that I think that they should go with Sequoia.

I think the most compelling reason is that 51 of the counties have chosen it and all of their neighbors have chosen it.

The majority of Commissioners who has had to go through this analysis have come down with a determination that the Sequoia machine better meets the needs.

I think that the second key factor influencing me is the cost factor that in my analysis of the costs, that I think that Commissioner Moore is

overlooking some key cost discrepancies and that there is a significant cost advantage with the Sequoia machine.

I think also the location of the service is important.

The fact that the Sequoia machine comes out of its home base in western New York is a big advantage in getting service, especially in light of the pretty checkered set of problems that --

Pretty checkered set of problems that eerie county was complaining about and a number of other counties in dealing with ES and S over the past few years.

Those are the main factors that influence my decision.

So I would recommend that it be Sequoia, ESS2, premiere three, Avonte four and Liberty five.

>> HELENA MOSES DONOHUE: I disagree.

We have already been threatened that the disabled community will sue us.

I don't know whether it was a loose canon or whether it's true.

If they support one over the other and have had the chance to use it --Remember, this has already been created.

They are using this system.

So I, you know, I don't understand why you would change it if it's working.

I have a resolution.

Based upon the failure of the eerie county Board of Elections to agree to choose a lot 2 ballot marking device, arguments having been made by both

Commissioners to the State board on the record today pursuant to election law section 7-203 I here by move that ES and S model A300 be selected for use in eerie county.

>> JIM: I second the motion in doing so I want to first thank Commissioner ward and Commissioner Moore.

We appreciate the presentation you gave today.

It obviously was an honest difference of opinion.

I think it was very professionally presented,

Again we thank you for that presentation.

Commissioner Moore gave a very convincing case, and excellent arguments on behalf of his position.

The fact that the Automark is currently used is, I think, a very strong plus for it.

If it's currently used and they are not having any problems with it, it works.

That's something very strong to be said about some of the tests.

I'm sure in some of the other types of machinery.

The staff is trained.

They don't have to go through that again.

The staff is familiar with it.

Personally I fore see this to be a large problem perhaps in other areas coming up in the coming year that staff are not trained, staff are going to have to be trained.

This is going to have to be a huge undertaking.

It's incident free and there seems to be wide support, support within the community, support within the government, although split in some places.

Support in the office of disability that the company letter presents.
Independent living.

I think the arguments are overwhelmingly in favor of Commissioner Moore's presentation and again I second that motion.

>> DOUGLAS KELLNER: All right.

We'll take a vote.

Those in favor --

Well, call the names.

Commissioner Donohue?

>> HELENA MOSES DONOHUE: --

On this resolution?

Could you go Doug your resolution.

>> HELENA MOSES DONOHUE: Aye.

>> DOUGLAS KELLNER: Commissioner Walsh?

>> JIM: Aye.

>> DOUGLAS KELLNER: And Commissioner Kellner notes no.

The State board is split on this and we'll leave it to the lawyers to take it to the next step -

-

>> TODD VALENTINE: They clearly will be directed to notify, the Justice Department is watching now but officially they should notify them of this.

>> DOUGLAS KELLNER: I think we all agree on that.

>> HELENA MOSES DONOHUE: Okay.

>> DOUGLAS KELLNER: The next item on the agenda is the CEMAC meeting.

Todd or Stanley, do you want to say anything before I call on Amy Elled?

>> STANLEY ZALEN: Arrangements are being made to accommodate them on, I believe the 21st around noon.

Those arrangements are being made to do that.

>> DOUGLAS KELLNER: Amy, you asked to address us.

You can do it from back there or come up here, whichever you prefer.

>> AMY: I will hand Commissioners copies of my statement.

I can read it from back here.

>> DOUGLAS KELLNER: If you're just reading a statement, I think we would rather just read the written statement.

>> AMY: I would like it to be in the public record.

>> DOUGLAS KELLNER: Okay.

Why don't you give us a copy of it first.

I haven't seen it.

>> AMY: It's coming forward.

No, no one has seen it.

>> AMY: The citizen advisory committee was originally created under the election reform and modernization act of 2005.

For the purpose of establishing a committee composed of election administration professionals, party officials, organizations representing persons with disabilities, and voters who could advise the New York State Board of Elections on voting machine certification.

The original law expired on April 30, 2006 and a new bill extending the CEMAC until July 1, 2010 was passed by the legislature and signed by governor Spitzer on August 1, 2007.

The law designates that a representative of the league of women voters of New York State should be a member of the committee and the committee should meet four times a year.

Section seven-201 states that the committee shall have access to each machine or system submitted for examination and assist the state Board of Elections in the examination

of the voting machines or systems pursuant to this section by recommending which machines or systems meet the requirements of section seven-201 of this title and the federal help America vote act.

Furthermore the State Board of Elections shall take such recommendation into consideration when determining whether a machine or system meets the requirements of section 7-202 of this title and the help America vote act end quote.

Further identical bill memos in support of legislation which accompany both the Assembly and Senate bills state that

"CEMAC will continue to advise the State Board of Elections on voting machine certification." indicating that there was bipartisan support for this legislation.

The statute explicitly requires that access to each machine or system be made available to the committee with the objective of assisting and advising the State Board of Elections.

It is appropriate and within the definition and purpose of the law that members of the committee if they so desire should have access to all

information remaining to the operations and functionality of voting system, machines or systems prior to meeting and formally advising the

State Board of Elections on whether machines meet the New York State and federal requirements of HAVA.

To deny or obstruct access to this information will prevent the CEMAC from fulfilling the mandate of the law and is not within the spirit and intent of the law.

CEMAC should not be used as a rubber stamp.

Access in a timely manner to the technical data packages of the various systems submitted for certification is critical to the committee's ability to perform its function.

The league's designated representative to CEMAC, Paula Parrey, previously signed a standard oath of office for officials pledging confidentiality of the information received to him.

The League of Women Voters of New York State strongly urges you to uphold the clear mandate and intent of the law so that CEMAC can perform its duties.

Thank you for the opportunity, Commissioners.

>> DOUGLAS KELLNER: Thank you, Ms. Elled.

I think that what the league of women voters is raising then is this issue that was the subject of e-mail correspondence in the last week,

which was Paula Parrey's request that he be given access to the technical documentation spitted in the certification process.

And I had indicated that I agree that the members of CEMAC should have access to that information as long as they agree to respect the confidentiality rules.

And Todd, you had indicated some dissent from that view.

>> TODD VALENTINE: I believe that's incorrect.

I only raised questions.

There was no dissent.

Why, what was the resolution that the CEMAC had made and I wonder why they delayed until today to bring this information forward.

I think this is great information that would have been, probably could have resolved this quicker had they brought it to our attention much sooner.

Now that they brought it to our attention, I don't know why they delayed. All I raised were questions.

There was no yes or no.

It was just questions why had the committee made these determinations? I was unaware of this.

I don't know why they have been made.

>> DOUGLAS KELLNER: I don't know that they have made any determines yet.

>> TODD VALENTINE: The information that they are presenting today, I don't know why they --

>> DOUGLAS KELLNER: This is the league of women voters, not the committee.

>> TODD VALENTINE: But as she read in her statement, it's their representative that has raised these issues.

So I assume that they are speaking for their representative.

There's no reason they can't have the information.

I only question whether as a single individual they can make that request as opposed to the entire committee.

That was all.

It's really the committee's decision as to how they proceed.

If they want the information, clearly it's available.

Obviously they have to comply with the nondisclosure agreements.

To an extent, though, we have not --

We haven't really released that information from the building here.

Except to, our testing agent, we've actually because of the proprietary nature and of course the important nature of this we, people have viewed it here on site.

I don't know if that's a problem.

>> DOUGLAS KELLNER: My understanding is, it's about to be put online, password access only.

>> TODD VALENTINE: Right.

It's still restricted.

I don't see that as a problem.

I see the committee.

(Overlapping speakers).

>> DOUGLAS KELLNER: Can we agree to give those members of the citizens election modernization advisory committee who asked for access to that

information, access provided they understand the appropriate confidentiality restrictions?

>> TODD VALENTINE: Sure.

>> DOUGLAS KELLNER: I'm asking the Commissioners Walsh

Walsh I would like to say something, if I may.

As of today I am a member of that committee and as of today, I will be resigning as a member of the committee.

I don't want to get into a conflict of interest at the first meeting.

>> DOUGLAS KELLNER: Commissioner Donohue, is that okay with you?

>> HELENA MOSES DONOHUE: As long as it's okay with the attorneysment.

>> DOUGLAS KELLNER: I think that resolves your issue.

>>: Could we have a formal agreement for access?

>> DOUGLAS KELLNER: Yes.

The Commissioners have unanimously agreed.

>>: Thank you very much.

>> DOUGLAS KELLNER: You've already signed the confidentiality papers.

You may have to resubmit them because you signed them under the old committee instead of the new committee and, you know, it's my view that

what Bo had created would suffice, but you know, I think any reasonable drafting of the -
-

>>: I will sign another nondisclosure if you want.

>>: Terry Breezeman is coordinating that under the disclosure statements.

She'll follow up on that.

>> DOUGLAS KELLNER: That concludes our agenda.

>> HELENA MOSES DONOHUE: I want to make two --

>> DOUGLAS KELLNER: You asked for an executive session.

>> HELENA MOSES DONOHUE: I want to make two separate statements.

>> ALLISON: Absolutely and then I have something to add.

>> HELENA MOSES DONOHUE: First of all, I spoke with Evelyn Aquila day before yesterday.

She is sounding much stronger.

And we hope that she will be back for our next meeting and Neil, we're going to miss him, but it was his decision that his health was really deteriorating and we welcome back Jim Walsh.

He was an excellent Commissioner before.

So he should be an excellent Commissioner again.

Thank you for your time.

>> DOUGLAS KELLNER: Thank you.

>> ALLISON: I have just passed out the Court's decision that just came in in Avonte.

I'm sure you would like a few minutes to read it, but the order does require certain action of the board today.

(Pause.)

>>: I'm still here.

You can disconnect me if you want.

(Laughter.)

>> TODD VALENTINE: Thank you for participating.

>> STANLEY ZALEN: Dennis, you're welcome to stay as long as you want. You want to stay on?

>>: I wouldn't mind if someone gives me a synopsis of the Avante decision.

>> STANLEY ZALEN: I'm only on page two.
Stay tuned for the surprise ending.

>>: It's not a surprise.

(Pause.)

>>: Anticipation is building here.

>> STANLEY ZALEN: For the reasons stated in Liberty and premiere, the Court find that the EVC30 --

In other words, the Avante, does meet the full face ballot requirement.

>>: That's the touch screen one?

>> STANLEY ZALEN: Right, the touch screen one.

(Pause.)

>> DOUGLAS KELLNER: The problem is, we have two competing court orders. Counsel will have to recommend to us what they do.

We have a court order from the Department of Justice which makes their time limits binding and we have a court order from a State court judge who has basically violated the federal court order.

So we will give all the Commissioners time to finish reading and Allison, my first question to you will be what course of action you recommend.

>> ALLISON: I would ask that the Commissioners go into executive session to discussion this litigation.

>> DOUGLAS KELLNER: Do you think you want to read the ordered portion of this --

>> ALLISON: I would like to discuss it first and then come back in.

>> DOUGLAS KELLNER: Motion to go into executive session.

All say aye?

(All members responded "aye.").

>>: Can someone give us an synopsis of this?

>> DOUGLAS KELLNER: Soon, Bo, soon.

We are in executive session.

I ask everybody to leave except the counsels, Bill McCann, Anna advise and Bob Brehm.

(The meeting adjourned to executive session.)

(Please stand by for the continuation of the New York State Board of Elections meeting.).

(Pause.)

(Please stand by for the New York State Board of Elections meeting.).

(Please stand by for the streaming text of the New York State Board of Elections meeting.).

>> DOUGLAS KELLNER: Should have been a notation.

>> HELENA MOSES DONOHUE: I have never been asked.

>> DOUGLAS KELLNER: Helen arc, you still compete ... what a nightmare.

Irki are we back on, Lee?

We're back on.

Waiting for the red light.

(Pause.)

>> DOUGLAS KELLNER: Are we back on?

>>: Yes.

>> DOUGLAS KELLNER: I'm calling the meeting back to order.

Allison, do you want me to read it or you want to read your draft resolution?

>> ALLISON KERR: Whichever you like.

>> DOUGLAS KELLNER: I prefer you to read it.

>> ALLISON KERR: All right.

Resolution on court ordered on voting machines.

The Court has ordered that the State board's prior determinations Avante's two systems, the EBV308ES and EVC308FFBMD are vacated and annulled.

The Court has directed the State Board of Elections to approve the Avante EBV308SPR BMD and EVC308FFBMD voting systems before August 20, 2008.

The State Board of Elections concludes that with respect to Avante that this determination shall not affect the general condition applicable to

all approved ballot marking devices that petitioner in's system must still pass the performance testing to be conducted upon all initially approved machines and systems.

The Court further ordered that the Board of Elections is directed immediately to examine petitioner's systems, the Avante 308SPR BMD and

EVC308FF BMD and that all counties are directed that they may re-rank their choices to include the EVCSVR BMD on or before February 19, 2008.

And in furtherance of the Court order set out above reserving all rights previously resold, be it resolved that the EVCSVRBMD is immediately included

in the vendor selection process and that any information regarding that system not previously disseminated to the counties be done so immediately.

>> DOUGLAS KELLNER: So we have the typo in systems, just cross out the "S" okay.

Those in favor of the resolution say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

(There was no response.)

>> DOUGLAS KELLNER: The resolution is unanimously adopted.

Again I will ask counsel to notify the Department of Justice immediately.

And I would just say that in considering whether to vote for this, we are very much aware of the federal time line and that the Commissioners don't

believe that even if the county does change a selection as permitted by Justice O'Connor's court order that it would impair any of the following steps in the timeline.

So that we believe that it was in the spirit of both the federal court order and the State court order to adopt the resolution that we drafted.

We've agreed that our next meeting will be February 27 at noon.

I don't think there's any --

Is there any other business?

Then we stand adjourned.