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## Board of Canvassers Meeting

[BEGIN AUDIO]

**DOUGLAS A. KELLNER:** So we begin the meeting of the Board of Canvassers to certify the results of the special, of the general election for the 100th Assembly District. Is there a motion to approve the certification?

**EVENLYN J. AQUILA:** A motion to approve.

**JAMES A. WALSH:** Second.

**DOUGLAS A. KELLNER:** All those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS A. KELLNER:** Opposed? All right so that carries and we will sign the paperwork now. We will certify the election. It's just two sheets of paper, the certification and the canvas?

Congratulations to Assemblyman Kirwan and his landslide victory.

**EVENLYN J. AQUILA:** It took a while. [LAUGH]

**DOUGLAS A. KELLNER:** All right so that concludes the meeting of the Board of Canvassers.

## Board of Commissioners Regular Meeting

**DOUGLAS A. KELLNER:** We will now call to order the Commissioners of the State Board.

### Approval of Minutes

**DOUGLAS A. KELLNER:** The first item of business is the approval of the Minutes of December 23rd and January 19th. Is there a motion to accept the Minutes as presented?

**JAMES A. WALSH:** So moved.

**EVENLYN J. AQUILA:** Second.

**DOUGLAS A. KELLNER:** Those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS A. KELLNER:** Opposed, nay?

### Unit Updates

**DOUGLAS A. KELLNER:** All right it passes and we'll have the unit updates. We'll start with the co-executive directors Robert Brehm and Todd Valentine.

### Executive

**ROBERT BREHM:** Some of the interesting items, we participated in the Election Commissioners Winter Conference in Rockland County. In addition to the foot of snow that fell during the Conference, they had a nice crowd. Todd and I participated in the MOVE Act portion and other people did different sessions and will probably cover it in their unit report, but I think the one thing that was universal in the communication was they were very satisfied with the vendor we picked and the work that ScytI did in order to help them through because every deadline we had was at the last minute, while we extremely busy doing so many other items. And they did say that they thought they worked very well together and it was very helpful to their ability to meet those deadlines and get the work done. So one it was nice to know that the vendor we picked was well received. You know we continue to have our conference calls with the counties and covered a number of items of interest to them. There are two main items I think, the Shoe Box program, which from our perspective, you know, having heard so often that New York is last to do HAVA compliance. There has not been a lot of guidance from the EAC on how to meet the requirements of spending the extra money once you have certified compliance with Title III or even how to comply with certified compliance with Title III. We did the phone call Tuesday, February 8th and had not yet received the guidance from the EAC, but it came later that afternoon, but you know it's many years after it would have been helpful. But we're reviewing it in order to get the documentation filed and so the counties can start accessing that additional bit of money. One, they gave us guidelines on how to submit the documentation, but they still haven't really given us the guidelines that they promised over a year now in the making of how actually to run the Shoe Box program

**TODD VALENTINE:** Right, that's still missing.

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**ROBERT BREHM:** That's still missing. It would be very helpful to get that as soon as possible.

**EVELYN J. AQUILA:** Excuse me Bob, would you explain the Show Box program to people who watch this won't know what it is.

**ROBERT BREHM:** Well the counties know because we've talked with them, but that's a good point. The ones we've, you know, HAVA requires that we reserve, you know, the money that was available in HAVA to comply with four major components, replacement of voting systems, statewide voter registration lists, the HAVA complaint procedure and fail-safe voting through affidavit voting. We always had affidavit voting so that was an easy one to comply with. It took us until this fall to meet the replacement of those voting systems. So now that we have the guidelines we can review them and make sure we're complete, submit our paperwork to HAVA and once that has been completed we can use whatever HAVA funds have not been spent bringing us into compliance on other items that would further the administration of a federal election. We've been telling counties to whatever other items that they need to spend money on keep all of their documentation and put it in a shoe box so that once - -

**EVELYN J. AQUILA:** So that's a big shoebox, right? [LAUGH]

**ROBERT BREHM:** Well some of them have bigger shoe boxes than others, but once we get the guidelines from the Federal Election Systems Commission we could then do the best we could to reimburse them for as many receipts they had in the shoe box assuming the EAC allows us to reimburse them for any of it. So we're not sure of their guidelines yet. They have not shared them. So we are waiting for that part of it. The other item, they had recommended that we work with a committee that the EAC would put together to help us to come up with the items that may be impacted by MOVE related to when the primary and the general election take place. So the ballots can meet the federal 45-day transmission guidelines. So they identified six commissioners, well five commissioners and Steve Richman from the City of New York and we had that preliminary phone call yesterday so that was one of the items. There was an action item from the last phone call. And Todd and I participated both in the NASAD Conference. FVAP had a conference as we arrived. I got there I think for the last 15 minutes. Todd got to participate a little bit more in the FVAP program. We both participated in the Overseas Vote Foundation Conference on Thursday that was happening in another building nearby. And that was very well-attended and it was webcast and I know people here commented how fine a job Todd and I did at our program. [LAUGH] Well if they were thinking otherwise, they hadn't said it yet. [LAUGH] And then Bob Howe and I serve as New York reps on the standards board and that conference was in Oklahoma City last week. And different things happened, but it wasn't as detail-oriented as I thought the standards board might have been.

**EVELYN J. AQUILA:** What do you think about standards?

**ROBERT BREHM:** And one other item that I thought was of interest, we had a preliminary meeting with representatives of Commission on Quality of Care and I see Greg Jones is here who participated with other members of the Commission on Quality of Care. And also representatives from the Catskill Center for Independence and Center for Independence for the Disabled in New York, CIDNY, helping us as subject matter experts on implementing the Chapter 505 of the laws of 2010, which require just updating the program we already have in place for pole site accessibility since the Governor signed the bill that required all poll sites to be fully accessible in a period of time to transition in the existing sites. So we had that preliminary session and we're looking forward to their input in a follow up session.

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**EVELYN J. AQUILA:** Can I ask you what the technical guidelines the Development Committee is, are they developing guidelines or are they already in place? Are they the ones that are in place or are they bringing in new ones?

**ROBERT BREHM:** They're doing a little of both. There was a report from the committee in this, the National Institute of Science and Technology where they, it's a group that advises on what the standards should be. It's made up of both, you know, state, local representatives, you know, technology people as to what the correct standards would be. Some of the work they are doing are creating standards to evaluate the MOVE Act Wizard tools that they've come up with. Some of that was a concern that I know we talked about when we were implementing MOVE, some of the programs they were putting in place had not been certified. So we would not use all the functionality of the Wizard tool that FVAP made available to us, one because it had not been certified and we were uncertain of how it would be working. So they do a number of standards of the BBSG reviewing the BBSG. They did make a point to say they're getting away from the year, you know, the BBSG 2005 and BBSG 2007 because it's too confusing to them and they are so far past 2007 that they now call the BBSG 2005 BBSG 1, the amendments they're making to that would be 1.1 and then the 2007 they're leading towards a version two. But they still have --

**EVELYN J. AQUILA:** That's a cosmetic change.

**ROBERT BREHM:** It's trying to keep track of all the comments, but they did have a comment period on what the people thought needed to be done to improve the BBSG and they are soon to release that version and have another round of comments that they hope, you know, towards the Fall filled out. Well it's pretty much the standards as we go forward for perhaps the next generation of machines. One of the items that was a concern is they are addressing, they're trying, well they're attempting to sing a lot of accessibility-related to paper based systems, but they standard doesn't seem to be equally worded for non-paper-based systems. So like the Automark would have a different standard than I think you participated in the test we had here with like the phone-a-vote system as to whether they were looking at a standard that would say now once the voter marked the ballot using the ballot marking device, they would not be a requirement to handle that paper ballot before its scanned and it was triggered to the paper world. But the phone-a-vote system creates a paper ballot in states that use it on Election Day, which still has to be handled by an attendant, by someone, a co-worker in order to be canvassed. So they clearly in the conversations need to hear from people. You know what is an appropriate standard and what's the best way to word it? So they have those items out there. They were putting them out there and hoping people would look at them, read them, think about them and follow up with comments to them so I think that will be helpful.

**JAMES A. WALSH:** You talked about poll site accessibility. How would you characterize where we stand on that? Are there a lot of places that are not complying with the law? I know you said we have time to straighten that out. How bad of a problem is it?

**ROBERT BREHM:** I know Greg or Patrick had the list last. I think most counties have reported to us that they felt that they completed the surveys. They have reviewed the surveys and either through permanent improvements or temporary improvements that they have mitigated most of those items. I think New York City was down to one or two sites, but the language of the bill pretty much says, directs the board to do certain other tasks and I think most of it is just reviewing what we already have provided. Part of our 2006 settlement with the court, one of the early items we had to come up with was general guidelines for preparing for the election. A lot of the items are in that general guideline.

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So we've given some of those documents to, you know, the technical group to review and see if we, if you know the things we need to update since 2006. We have the survey that we work with Commission on Quality of Care, the DOJ survey to make sure it was complying with the New York State Code and they confirmed for us again that it was. So we had the survey instrument. The only added item I think in the statute requires that those surveys be evaluated by someone who is, I didn't bring the statute or the language with me, but evaluated by someone familiar with accessibility. When we set out to program we worked with the Commission on Quality of Care, the Catskill Center and other groups like Paralyzed Veterans Group and others to encourage the counties to either work with those groups, to do the surveys, review their plans, come up with a program. Better yet we encourage them to use the monies that were available to Health and Human Service and HAVA to receive training from those groups on how to do the surveys yourself and what is required so that if you have vacancies in the future. So we think we have most of the pieces together and it shouldn't be that big a burden on the counties to just pull together an update and try to get it out to them as soon as possible. But mostly the counties have reported that they thought they were compliant and if we don't have to change the survey instrument itself, then I think we're doing pretty well. We'll see, but I don't think it's that big a change for the counties. It just an update to what we've been doing since 2006.

**JAMES A. WALSH:** Thank you.

**EVELYN J. AQUILA:** Thank you.

**DOUGLAS A. KELLNER:** Anything else?

**TODD VALENTINE:** No, no, I think we're plugging along.

**DOUGLAS A. KELLNER:** Greg, did you want to say anything on that subject?

**GREG JONES:** I don't really have anything to add other than we're probably trying to improve the checklist provisions of where the BMDs are and how they should be set up, most of the issues involved having them in the back. Other than that, I don't have anything to add.

**DOUGLAS A. KELLNER:** All right then we'll, thank you Greg, we'll turn to the legal report, Kimberly Galvin.

### Legal

**KIMBERLY GALVIN:** Thank you Commissioner. In addition to the written comments that I provided to you, I think there's a couple of things that are worthy of stressing or notation. As you are aware we are currently being monitored by the Department of Justice with regard to our compliance with the MOVE Act as it particularly pertains to our special and general elections. The Governor's program bill No. 4 that he submitted with regard to moving the timetables for the special election passed the Senate this morning and passed the Assembly yesterday. So I would imagine that will be signed into law. It was his bill. So I can't imagine he's going to have a problem with it in time obviously for the vacancy in the 26th Congressional District should he choose to do that. So we've been answering a lot of questions on the implications of that bill not only as it pertains to any Congressional special that may be called, but also with the looming Assembly specials of which there are currently I think possibly two and perhaps a third one that's coming down the pike.

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So people have a lot of interest in that as well as the discussions both internal, external with the Department of Justice ahead of our April 1st reporting date concerning any progress that the Board has made in effectuating change regarding the timetables for the elections that are forthcoming to insure the compliance. And we've had many, many, many conversations with people and the staff itself has developed a series of plans and we're in the process of merging our recommendations together and we've also talked with the County Commissioner group on that as well as, you know, people that we know inside and outside the building. So as Paul and I report to the Department of Justice on April 1st, again I think it's critical that we keep emphasizing the monitoring of it and making the point that they are watching and we need to do what we need to do in order to try to get some compliance there. Let's see, other than that, in addition to the written comments, we did work with Campaign Finance Staff and we put in a regulation, a consensus regulation to reflect the increase in the campaign finance limits that I believe has been moved to the Secretary of State's Office from Gore. And I too have had, as the agency ethics officer, have had a few conversations with the Public Integrity Commission, both on insuring compliance with our ethical training for those people that were required to do it under the Governor's Order as well as in preparation for the financial disclosure filing that we all had to start thinking about that will come to the forefront very quickly. I am formulating the list now and there are some new additions and new people and so I will be notifying you as soon as the first time I can with regard to when that filing is available. May 15th is the deadline so we have plenty of time, but something we all need to be aware of.

**EVELYN J. AQUILA:** Kim, I must be honest with you or maybe I was asleep or something, that's the first time I heard that is we have to give people ethical training?

**KIMBERLY GALVIN:** The Governor's office puts on training through the Commission on Public Integrity and certain people; certain staff people are required to attend.

**EVELYN J. AQUILA:** Oh I see. I completely misunderstood.

**KIMBERLY GALVIN:** No, I'm sorry, so we clarified with the Governor's staff who in this agency needed to go and by what date.

**EVELYN J. AQUILA:** I thought we had to give ethical training. I was going to say when we have, you know, what can we point to as I being able to train people? Not that we're not ethical people, don't get me wrong.

**KIMBERLY GALVIN:** I don't think they want us to be - -

**EVELYN J. AQUILA:** I think with like 25 years with the Diocese of Brooklyn I can give some ethical training.  
[LAUGH]

**KIMBERLY GALVIN:** No, but we did that, we were required to put things in our files now, our personnel files and so it's just, you know, it's obviously as the Governor probably - -

**EVELYN J. AQUILA:** Really, you know, and personnel files.

**KIMBERLY GALVIN:** Yeah, attesting to the training, the certification.

**EVELYN J. AQUILA:** Oh okay, if you had the training. I thought maybe on your ethical positions on certain things.

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**KIMBERLY GALVIN:** They are, they do seem to be a lot more active in that department recently so they, you know, it's good. So we're doing whatever we need to do on that front. That's just something that a lot of people aren't aware of.

**EVELYN J. AQUILA:** It's not the training that's in question; it's the applying of the training that's the question.  
[LAUGH]

**KIMBERLY GALVIN:** That is certainly true.

**EVELYN J. AQUILA:** Right. I went to college with a lot of people who took ethics.

**KIMBERLY GALVIN:** And since we are at the Board of Election, and we have sort of a unique atmosphere here, it makes it an interesting line, but I think we're all doing all right.

**EVELYN J. AQUILA:** It's important. I'm not saying it's unimportant you know. I just thought how they were going to, I thought if we had to give the training how were we going to work that out? I misunderstood. All right, thank you.

**DOUGLAS A. KELLNER:** Kim, at our last meeting with talked about changing the reporting period on HAVA compliance. Have there been discussions on that?

**KIMBERLY GALVIN:** You know there were discussions. I drafted a letter. I talked with Paul obviously and Jeff Devoran and Brian Heffernan and we just haven't filed it. It is drafted, but I'll do that this week to the court.

**DOUGLAS A. KELLNER:** Anything else Paul?

**PAUL COLLINS:** The motions to dismiss the Nassau County case have been scheduled for March 18th, the return date of the motions to dismiss.

The court may or may not take oral argument on that day or at all. Other than that, that's - -

**DOUGLAS A. KELLNER:** Okay thank you very much. We'll turn to election operations, Anna Svizzero.

### Election Operations

**ANNA SVIZZERO:** Thank you Commissioner. Aside from our written report, we don't have too much to add. I can let you know that we are still expecting source code findings from ES&S's software submissions. Those are being reviewed by WYLE. Those are being tested by WYLE and they'll be submitted to SysTest. That has not happened yet, but we're expecting that to happen at some point during this month. We've made it clear that the end of March is a hard deadline for us. Dominion understands that deadline as well and we've confirmed with them that their software will be delivered by the end of the month for all of those issues. We will then do the same thing, have software source code reviewed. We intend to do all the functional testing here at the State Board for a number of reasons. So our staff right now is putting those test plans together. We will use some of the test cases from the original certification. We will be building those elections and producing ballots so that we can conduct that functional testing here. It's more expedient. It's more cost-effective and I think that we'll get a quality product in the process. We have not heard about a central count system from ES&S although Dominion continues to assert that they will be delivering one to us again by the end of March.

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So we're expecting certification efforts on both of those fronts shortly thereafter. I don't think anything in addition to report on that score, but I'm happy to answer any questions you have.

**DOUGLAS A. KELLNER:** Anna, we had this separate item for election operations to update on ballot redesign and usability.

**ANNA SVIZZERO:** I will defer to John and Phil Jorzac from our unit, are the two designees with those responsibilities now, so.

**JOSEPH BURNS:** We've been communicating with a few different usability experts to look at potential training and/or workshops for the staff here and I think we're up to three that we've gotten estimates from at this point, with one of those three had stated that they could get us additional experts to talk to about training. And the weeks ahead will be hopefully trying to line up one or another as a potential trainer for the staff.

**DOUGLAS A. KELLNER:** And so do I understand now that Phil Jorzac really has been assigned the responsibility to be the Board's usability officer or the liaison with the county boards on usability issues? Is that a done deal now?

**JOSEPH BURNS:** I guess I'd say he's been working on it. [LAUGH] I don't want to speak where I shouldn't speak or give somebody a designation I shouldn't give them, but --

**DOUGLAS A. KELLNER:** Well I've been railing away for the last four or five meetings about the need for somebody to be designated with that job responsibility.

**ANNA SVIZZERO:** We designated Joe and Phil to do those two things, but Phil has been reaching out to the entities gathering information and that kind of thing. So Phil is going to be our staff level go-to guy, but we did want two people to have that responsibility so that if one was ever out or, you know, they look at things from two different perspectives, then certainly all the nuances would be absorbed by both people and we have more than one resource at the State Board. Having one person here that knows that thing is never good for us. We need that to be two people so, but Phil is clear on his mission as I'm sure Joe is. I will speak to that point of your conversation.

**DOUGLAS A. KELLNER:** That's good. I'm glad this is moving along and I also appreciated that you distributed the ballot formats that you'd collected. You collected a couple hundred ballots from around the country and having all those examples was very helpful to look at that to compare what other jurisdictions are doing. And then on certification issues election operations is also working up this year's modifications. Anna, you want to just talk about exactly what the state of that project is now and what the projected timeline is.

**ANNA SVIZZERO:** We do have two lists of functional changes that would be reflected in the software that's being looked at right now on the ES&S side and that will be looked at in the Dominion package that's being delivered. We had talked about sending maybe an inquiry to the county boards. I don't want to inundate them with all of the technical information provided to us, but perhaps ask the county boards outside the issues relating to ballot, font size and the lines, width between contest, etc., that we asked them for, to give us a list of any additional functionality or some other feature that they would find helpful in that system. And at least we could have a working document moving forward so we can send that information that request out through the election ops e-mail box.



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New York City has submitted a rather lengthy list of system requirements that they have, but we do have a change management process that requires that we review them and the minimal ones we approve and major ones you would approve as a board. So we have reminded ES&S that there is a change management in process and will acknowledge receipt of the list from New York City and explain that change management process to them as well and we can share that rather lengthy list with you if you like. We're happy to do that.

**DOUGLAS A. KELLNER:** I think that there are people who would be interested in that. Anna, on the list of modifications that we've been talking about, we're talking about how the canvas reports are printed out for ES&S.

**ANNA SVIZZERO:** The election result tapes, yes.

**DOUGLAS A. KELLNER:** And then we're also talking for both systems to develop a more usable system for accessing the ballot images and perhaps printing out all of the ballot images so that they could be distributed.

**ANNA SVIZZERO:** We have had that conversation with Dominion initially and we will be having that conversation with the ES&S. We haven't had that chance to do that, but that is on our list, yes.

**DOUGLAS A. KELLNER:** And then you are also talking to the vendors about changing the voter notification screens for over votes, right?

**ANNA SVIZZERO:** Yes, that is part of the conversation related to that litigation.

**DOUGLAS A. KELLNER:** All right, and what's the schedule now for finalizing; I assume we want to do this in one list so that this is one project that can be certified at once? And what's the schedule?

**ANNA SVIZZERO:** We can assume that much. I think from that regard we had some time and cost estimates from the vendors related to the direct screens that were provided, but without a definitive answer as to what they have to do that work and that clock won't start ticking until that point in time and today is March 3rd so - -

**DOUGLAS A. KELLNER:** So we need to get that done and then to finalize what these other modifications are going to be.

**ANNA SVIZZERO:** Yes.

**DOUGLAS A. KELLNER:** And could I suggest that that really needs to be done with budget estimates by our next meeting in mid April?

**ANNA SVIZZERO:** Very good.

**DOUGLAS A. KELLNER:** And that the commissioners should have a budget presented to them and then the choice of what modifications we want to move forward with by that time? Because I'm concerned that if we don't get it done by then we're never gonna be able to finish it in time for this year's elections. Okay, so we move to Public Information, John Conklin.

## Public Information

**JOHN CONKLIN:** Good afternoon commissioners. I just have two things to add to the written report now that you've certified the results for the 100th Assembly District. We've posted those to the web site this morning. Also the NVRA units completed site visits this week to Hamilton, Clinton, Franklin and St. Lawrence Counties. That was Patrick and Greg in our unit and Tarry Breads was part of that as well, separately. As far as I know that went very well, but we will review those visits and if there's any changes that need to be implemented they will be taken care of. Do you have anything to add Patrick?

**PATRICK CAMPION:** No.

**JOHN CONKLIN:** So that's it.

**EVELYN J. AQUILA:** Could I ask you a question? You met with the Center for Independence for Disabled People. Now was there anything that you learned there that is particularly egregious that's happening at the polls that was brought up? You know anything that we really should know about?

**JOHN CONKLIN:** Well at the same meeting that Bob was at, that he mentioned in his unit report, I personally was not there because I'd been out on medical leave for a few weeks.

**EVELYN J. AQUILA:** Oh you weren't there. Oh okay.

**JOHN CONKLIN:** So, but Bob was there, Greg Jones was there, and I think that either one of them could answer.

**EVELYN J. AQUILA:** I would like to hear what might have been presented to us as --

**JOHN CONKLIN:** Oh I'm sorry, and Tom Connolly was there as well. I'm sorry. I couldn't remember if that was before or after you started. So my deputy would be happy to answer any questions for you. [LAUGH]

**EVELYN J. AQUILA:** He just came on the job. I don't want you to ignore any problems that might be out there for the handicapped. I think we have to address them as well as everything else. Whoever wants to speak?

**DOUGLAS A. KELLNER:** Greg, what are the most significant issues with respect to disability access that need to be addressed at this point?

**GREG JONES:** New York City has its own peculiar --

**EVELYN J. AQUILA:** Greg, could you speak a little louder?

**GREG JONES:** New York City has its own peculiar problems, which I think is everybody is aware of. I can tell you this, we finished the vote survey that we'd given and I can tell you that statewide the biggest number of good to excellent ratings was in the poll site accessibility category so I think that's really a feather in the cap not only with the State Board, but the local boards have done a very good job. Obviously there are some problems that exist at particular poll sites, which we are going to try to address with the training that we're doing and with the survey that we're going to modify a little bit.

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But I think that we're going to be in good shape, even on their own survey. CIDNY by the way, if you want to look at, they do have their survey on-line. And there were some particular issues at particular locations, but by and large there's been great improvement.

**ROBERT BREHM:** One of the items that CIDNY mentioned that they thought would be helpful, you know, the county boards train the inspectors early on. They do the surveys early on, but there are nuances that happen after they got the building and selected it and by the time it's Election Day. So they recommended and Greg mentioned earlier recommending an Election Day checklist of the kind of things just to make sure, a reminder so that somebody has and we put in our training that we, the manual and the SOE training that we've come up with and things to look at on election day to (1) if it's something that's a problem, alert the board, but (2) if it's a minor item, you know, try and find a way. If somebody puts something in the way, in the path from the door to the polling site, you can get the custodian to move it or you can deal with it before it turns into, you know, somebody being injured. So they had recommended a checklist and we said certainly we'd be happy to look at something and maybe incorporate it in the plan if it made a lot of sense.

**GREG JONES:** We were going to add a section for the poll workers themselves probably as a last defense as Bob is pointing out to obstacles that might have been placed from the time it might have been surveyed and when it's not used as a poll site. And so the last line of defense is the poll workers coming in in the morning perhaps to move the garbage can that's blocking the hall or whatever it might be. So there will be a component in that survey checklist to deal with those issues also.

**EVELYN J. AQUILA:** One of the things I noticed in going around with Bob and I guess cause I have arthritis in one of my knees I noticed it now, but the handicapped entrance sometimes is twice as far from the polling place than anything else and it's a long walk to get to and then it's a long walk once you're inside, but I don't know since the buildings were built at the turn of the century, I don't know if anything can be done about that.

**GREG JONES:** We still have to deal with a lot of old building issues. Obviously New York State in particular - -

**EVELYN J. AQUILA:** Well especially I'm in Brooklyn - -

**GREG JONES:** I think, even, I'm sorry I didn't mean to interrupt you.

**EVELYN J. AQUILA:** We were in Brooklyn and Queens that day mostly you know.

**GREG JONES:** Well most of the complaints in that regard really dealt with signage and not knowing where the accessible entrance was if it wasn't in front of the building. There were some comments about that and not knowing where - -

**EVELYN J. AQUILA:** You had to go look for it, that's true, that's true. I saw that too.

**GREG JONES:** And that's going to be one of the elements on the survey.

**EVELYN J. AQUILA:** I just want to put it out in the open in case you will start to think about it.

**GREG JONES:** Thank you. I appreciate your concern.

**EVELYN J. AQUILA:** You're welcome.

**JOHN CONKLIN:** Thanks Greg.

**DOUGLAS A. KELLNER:** Thank you. Elizabeth Hogan for Campaign Finance.

### Campaign Finance

**ELIZABETH HOGAN:** Thanks commissioner. Good afternoon, I submitted pretty much the unit report in the same format that I usually do so that I can just plug in the continuing kind of information that you can have at your disposal relative to what we're doing in Campaign Finance. There are a couple of issues that I just did want to highlight. One of them you'll notice in the report the high number of non-filers in the January periodic, There were over 5,500 filers who didn't file and that some type of action had to be taken relative to and that included the statutory requirement that we mail a number of letters to candidates and treasurers and we subsequently did create an order to show cause to go forward in the lawsuit and the numbers were down certainly significantly 'cause a lot of people filed, but that whole process to get the numbers down to, you know, 300, what was it 300?

**WILLIAM MCCANN:** 530.

**ELIZABETH HOGAN:** It was 530 who actually were on the order to show cause. I just wanted you to be aware of those kind of numbers and, you know, with the budget considerations that we always have, I want you to be aware that we're suing for the January periodic and those numbers, you know, what it will cost and our estimate is it costs upwards of \$25,000 to sue for that non filing. So I just wanted you to be aware of that place in the budgetary issues. As Kim mentioned, the four-year recalculation of campaign finance contribution limits that appears in 6214 of our regs was due for February 1st. I was out of the office for a few weeks and Kim picked up the ball and, you know, proceeded with getting that reg done. I appreciate it very much and as she said it is at the Department of State. So it's a consensus reg we expect there to be no public comment on it as the comment would only relate to the manner in which we calculated and we used the CPI published by the government. So we expect that that will be routine. The other thing that I wanted to point out because it's been a concern especially raised by you Commissioner Kellner is the issue with the software. I wanted to make you aware that, you know, we've been made aware by IT that the software that we're working on in response I think specifically a number of years ago the usability for Mac computer users to make it compliant. I wanted you to be aware when we learned it of the implication of the use of these mobile devices like iPads and the inability to use those kind of devices when people are giving up traditional computers, even laptops. The inability to use those mobile devices because they don't use software, they use applications, the ability to use those for filing and with the number of people using those kind of devices instead of computers. They are not accessible, or filing is not able to be done on those things and those things would require web-based filing. I just want to bring it to your attention as soon as we were aware of it.

**DOUGLAS A. KELLNER:** And so what are we doing to address it?

**WILLIAM MCCANN:** Well I can tell you that we've been working on the software and the work that we're doing there is not for naught. It is being very productive. We've also been told by IT that the software that they're developing can be adapted for web-based application. Where the rubber meets the road, so to speak, is that there's a significant hardware and software implication because when you're looking at eleven plus thousand filers (a) the data form and (b) to have the software capability to allow 11,000 people to all show up on the same day because they need to make their filing, that is a significant thing. So I think, I was talking with Bob and Todd, we clearly need to develop a true sense of it.

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Well how much does that cost? We know tangentially. We know, in speaking about it, we know - - and George has made no secret about it that there is a significant cost that would be associated with the data form and the software plus staffing concerns. But clearly to have something that is current, as current as you can be because software by its very nature, the minute you come out it's already out of the date in some fashion. But clearly the software that we're developing now which is updated to what we have in the system is not the direction we need to go, but there is a cost that needs to come from that, so.

**ELIZABETH HOGAN:** And we have asked for a number of years for funding to do an assessment of what it would take to implement a web based filing system and again we put a figure in this year's budget for money to proceed with the kind of analysis. So there are several issues, budgetary issues. One is the initial analysis of "What do we need?" And the second issue would be a procurement to provide the implementation of that. So it's going to cost some money to do it, but it's really, you know, we find ourselves in a really difficult spot because, you know, we're, as Bill said the software update is not for naught because Mac users, computer users would still, that will address their inability to file. And also the design of the software is such that it makes filing easier and more common sense and it also makes it easier from our perspective in assessing the filings, but it does not address this issue of the web based filing, which I think is going to get more and more significant as more and more people use these mobile devices to the exclusion of old computers.

**DOUGLAS A. KELLNER:** Well I appreciate the report and that you're working on it and that, you know, we have put the proposals for consideration in the budget and obviously others will make the decision on the budget. But at least we have laid out what needs to be done so that the Governor and the Legislature can decide whether this is important enough for them to devote their resources to it.

**EVELYN J. AQUILA:** I think we absolutely should, but could I ask you one question? Do you have any idea what percentage of people are filing that way - using iPads?

**ELIZABETH HOGAN:** Well nobody is filing in that way because we don't - -

**EVELYN J. AQUILA:** But there is a - -

**ELIZABETH HOGAN:** Well we don't have a web-based system so nobody can use it. They must use either a desktop or a laptop computer because they need to use our software. They need to actually - -

**EVELYN J. AQUILA:** But they have to use our own, but they would prefer to use other - -

**ELIZABETH HOGAN:** Yes, because it's easier to file on the web and that's the direction that we're going technologically.

**DOUGLAS A. KELLNER:** Right now you have to have Microsoft Windows.

**EVELYN J. AQUILA:** All my grandchildren have their iPads. I understand exactly what you mean.

**ROBERT BREHM:** It's hard to stay current with technology because the iPad 2 came out yesterday, but the iPad came out not that long ago and people considering keeping the most current technological item they suggest that the iPad 3 will be out by Christmas. So it's very difficult for government to keep up with the latest technology. Our hope is to finish this project to bring it to the last or it's not even the last, it's the Mac technology because so many users use that. And if we stop to pick up every new one, I mean there's two issues.

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Finish what we're doing as quickly as we can and then there's the whole issue of whether people outside the building, the Legislature, advocacy groups calling for changes to reform campaign finance, whatever may or may not happen, we know we had a system that was designed in 1990s and needs a lot of work to be accessible to a lot of people. And you know it has to compete with funds that just doesn't seem to be around right now. So whatever they decide our responsibilities will be, we continue to identify in many of our conversations with groups and legislative leaders and budget people that this is something that we need to find some money in order to (1) research what it's not doing and how best to come up with a system that will do what it needs to do and then that's just the research phase and then the implementation money. So those are two items that I don't think we have a big chance of right now getting because there is no money, but we've identified that repeatedly.

**EVELYN J. AQUILA:** My other son has something that's about this big. He got it for his birthday last month and he can move anything and I don't know what information he has on there, but it is unbelievable. What time a certain person that you know the King of France - -, he's got it. It's beyond the iPad. It's the next thing, do you know what they call it?

**ROBERT BREHM:** Android or iPhone.

**KIMBERLY GALVIN:** iPhones.

**ELIZABETH HOGAN:** The other thing - -

**EVELYN J. AQUILA:** He can do anything with it. It's unbelievable.

**ELIZABETH HOGAN:** Aside from the web-based issue which goes to the use of the mobile devices and things like that, aside from that, there was the issue that came up that was really rather frightening and luckily got resolved, was that apparently Apple, our software is written in Java. Now I am no tech person, but it's written in this Java, which is this language, whatever. But the issue that came up was that Apple was going to stop supporting Java and therefore if that had happened and it was averted at the last minute by I guess Steve Jobs signed some kind of an agreement that they would for now continue to support Java. But if they don't, that's going to wipe out all of the Mac users then.

**WILLIAM MCCANN:** The fundamental issue is and the hand held devices as a convenience method, the web-based application applies to any computer. As long as you have access to the Internet, you have access to web-based applications. And here's the thing. When we have the software fully developed and the implementation is really where, from our standpoint, is now you have to implement it, you have to educate filers on what the differences are, there's an actual cost to field place the software, but it's the public perception at the end of the day the state of New York will come out with something that isn't even remotely current, but it's going to be out of date and it will just be another example of the State doing something. Well gee that's great, you might as well just keep what you have now if you're really not moving the ball down the field all that much more from a practical standpoint.

**DOUGLAS A. KELLNER:** No you're moving the ball down the field all right? Right now you have a system that can only be accessed through Microsoft Windows. You're almost finished with a system that will expand the number of users who can access it significantly. Finish that. You've put in the request for the budget to do the next step and that's a decision that's above our pay grade so - -

**WILLIAM MCCANN:** Well there's no question that it will be beneficial. But I'm just saying that it's still right where people are going to say well great,

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**DOUGLAS A. KELLNER:** We recognize the limitations, but we're doing what we can to move forward and the key thing is the priority within the agency to keep the old system functioning even though it's being held together with chewing gum and spit. And the fact is that with all those limitations and with the very substantial decrease in personnel you've kept the system working so that the public can at least get access to the information that is filed. All right next is information technology.

### Information Technology

**DOUGLAS A. KELLNER:** George Stanton is out sick today, but we do have his written report and I think we've already discussed the main issues with his unit anyway.

### Old Business

**DOUGLAS A. KELLNER:** You could put it either under information technology or under old business. We had the issue of carrying over the green party enrollments. Is that now resolved that we've come to consensus on this?

**TODD VALENTINE:** Yes, it's been resolved. I mean it's not finished obviously because it's in process. Our delay was, part of the delay at this point is just getting a contractor on board to make the correct changes so we can do the batch updates and then, you know, we have a draft to send out to the counties that we put together to notify them. Obviously we approve the voter registration form. So that's now in place. The translations are being done.

**DOUGLAS A. KELLNER:** I just want to confirm then that the commissioners have made this policy decision that persons who were registered as not enrolled in any party but who had listed as Green as their preference will be automatically updated to be enrolled in the Green Party and I guess you had talked about sending them a notice that that change was going to take place.

**TODD VALENTINE:** Basically we have an obligation. That's part of a normal process anyway. The slight wrinkle would be done because of their status.

**DOUGLAS A. KELLNER:** I just wanted to confirm that all the commissioners were on board with it.

**EVELYN J. AQUILA:** Yes, I think we said that at our last meeting.

**DOUGLAS A. KELLNER:** All right and I don't think there's any new business.

**TODD VALENTINE:** Not right now.

**DOUGLAS A. KELLNER:** We had discussed having our next meeting for April 12, 2011. We said that last time. So that's Tuesday, April 12th and I have one short item for executive session on pending litigation. So I'll move that we go into executive session to discuss pending litigation.

**JAMES A. WALSH:** Second.

**DOUGLAS A. KELLNER:** Is that okay commissioner Aquila?

**EVELYN J. AQUILA:** I believe Easter is - -

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**ROBERT BREHM:** Easter is the 24th.

**EVELYN J. AQUILA:** The 24th, good, good, good.

**DOUGLAS A. KELLNER:** So are we going to go into executive session?

**EVELYN J. AQUILA:** Yes.

**DOUGLAS A. KELLNER:** All right, thank you.

[BREAK FOR EXECUTIVE SESSION]

[END AUDIO]