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Commissioner Kellner: Good morning my name is Douglas Kellner, seated next to me is Co-Chair Peter Kosinski, and we also have present Commissioner's Andrew Spano and Anthony Casale. The first item on our agenda today is approval of the minutes from January 18th. Is there a motion?

Commissioner Kosinski: So moved.

Commissioner Spano: Second.

Commissioner Kellner: All those in favor of the minutes as circulated say aye.

Commissioner Kosinski: Aye.

Commissioner Casale: Aye.

Commissioner Spano: Aye.

Commissioner Kellner: Aye.

Commissioner Kellner: Opposed? So, the minutes are adopted. The next items on our agenda are the ballot access determinations from the prima facie review by the staff. Counsel or Tom Connolly.

Tom Connolly: Sure, thank you Commissioner. Yes, on the prima facie determinations, there's just two items we received filings from the Libertarian party however one was a certificate of designation the other was a certificate of authorization. The Libertarian party is not one of the recognized parties, its not appropriate for them to file such documents with us; I will also just add they did also just file acceptances for those reviewed ballots should they decide to file independent nominated petitions going forward.

Commissioner Kellner: So that's a report. I don't see anyone here who wants to be heard on this recommendation. So, I call for a motion to adopt the recommendation.

Commissioner Spano: So moved.

Commissioner Kosinski: Second?

Commissioner Kellner: Those in favor say aye.

Commissioner Kosinski: Aye.

Commissioner Casale: Aye.

Commissioner Spano: Aye.

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Commissioner Kellner: Aye.

Commissioner Kellner: Any opposed? So those certificates and authorizations are rejected. Then the next items on our agenda are the unit updates. We'll start with our Co-Executive Directors Kristen Zebrowski Stavisky and Todd Valentine.

Kristen Zebrowski Stavisky: Yes, I'll chime in.

Todd Valentine: Okay. We've been working backwards in time. We've been working on meeting with the County Board of Elections over the last several days as their winter meeting was scheduled. We spent yesterday, we were their featured group for that working through our basic units including the presentation by the Public Campaign Finance Board program as well as working through Counsel's office with our election law update, Operations and their update on progress for that and our IT unit as well provides status on the project that involves our County Boards. In addition to the rulings that were made on the prima facie determinations, we have been getting, and you'll hear more details from operations, the statewide nominations have been filed by other parties so those have been processed and at this point if they could speak to details, but there's no issues. We're in the process, our biggest challenge now which is to complete the enrollment report which was due on the 21st of March but with the changes to redistricting for the counties, there have been delays in the counties providing updated lists to the State Board so that we can run it from the official list. We are almost there. I think we're down to the last two counties and we're hoping that we can run those today, we're hopeful. And then from that we can then generate the signature requirement primarily for the minor parties because the other ones will usually go to the top of the list. The maps are already available to those who want them, circulation has begun on March 1st. There has been no change in the dates so by any legislation or court action, so those petitions have been circulating and obviously for local numbers, counties can generate local numbers but not the official number but as long as the audit of ours matches, they will be able to generate the walking list. So, the process is moving forward.

Commissioner Kellner: Excuse me Todd. What are the two counties that we're waiting for?

Tom Connolly: Currently at this point it is Onondaga County and Orange County. They completed their redistricting changes on their end, it's just a matter of that data getting through to the statewide voter list and they're the source of the data for the enrollment.

Commissioner Kellner: I'm kind of surprised to hear that. Okay, thank you.

Todd Valentine: So that will lead us to obviously from this point going forward our major objective will be, obviously the ballot access the filings will start the beginning of April and then preparation for the primary and we will continue to monitor any legislative changes that might impact that. So far there haven't been any so. We're still moving forward and I thought the

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educational opportunities we gave to the County Boards were well received, so we continue that's a work in progress.

Kristen Zebrowski Stavisky: I really don't have much to add other than the Chamber did ask us with ITS to identify our top three technology needs and we gave them an overview on online voter registration, automatic voter registration, public campaign finance board and the absentee portal and tracking. We gave them the overview of the project, our timelines and what the challenges have been. And as we have stated at the previous meeting and in many meetings, our challenges continue to be procurement and space and we were very clear in what our needs are and we're hopeful that this afternoon's meeting at OGS and Budget will lead us in a more positive direction.

Commissioner Kellner: Okay, anything else? Great and we'll turn to Election Operations Tom Connolly and Brendan Lovullo.

Tom Connolly: Thank you Commissioner. As Todd mentioned, we did receive the designation documents for the four recognized parties that had statewide positions. And we just prepared the prima facie determination list which you just took action on. We have been working with the counties to navigate them through the redistricting process with their voter registration systems. As I just mentioned, we are down to about the two. I am in contact with the counties and their vendor to try to figure out ways to get that information here. I'm hopeful that we can get the full statewide data ready for enrollment polls today.

We are preparing for the filing in a little bit less than a month with respect to all the positions that are up this year. We've been working through revisions to the affidavit ballot envelope which is on the agenda for this meeting later on. And we've also been working with other units on guidance for the counties with regard to the new absentee canvassing law.

With regard to voting systems, since the last meeting Dominion, the Commissioners did adopt a resolution permitting the Operations Unit to move forward with testing their new system. We've been meeting with both Dominion, SLI which is our federal testing lab partner, and NYSTEC to discuss the project timeline accepting plan and we're just getting all the documents and the hardware itself both here at the State Board and at the testing lab so they can move forward with that.

Clear Ballot has two items in the certification pipeline; one is just a modification to the existing software use for Central Count scanning. That makes some changes to reporting features and also removes the limit on the number of styles that it can process. The other item in the pipeline is a full-fledged voting system. They submitted application information to us. We are reviewing that for completeness, and we anticipate we would bring that before the Board to permit us to move forward with testing on that system at the next meeting. With regard to Hart, Hart has also submitted an application for their voting system. We did review all of that. It is complete. We provided the Commissioners with a summary as we did with Dominion last month and we have a resolution on the agenda later on to permit us to move forward with testing of that whole system.

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ES&S at this point they're being consistent in telling us that they expect to submit that new system sometime later this month. And we did have discussions with Democracy Live about their ballot-marking device but that's kind of been in a holding pattern lately, we're waiting for them to essentially send new hardware and equipment before they decide to move forward with submitting anything.

With regard to the Electronic Poll Book Systems, we do have a deadline of next Friday for the E-Pollbook vendors to submit a revision that they want us to consider for approval before the primary. We received two of the three so far. We do expect to receive the other one before the deadline and then we would anticipate going through that testing process with them. Hopefully, if all goes well, you will be able to consider their approval for use in the primary election.

And then, lastly, with regards to the statewide absentee tracker that needs to be developed, we've been working with PIO and IT to finalize the requirements for that and we can work with these county vendors and their homegrown systems. So, they will be providing us with the information that we need to display. Brendan anything else? Any questions?

Commissioner Kellner: No, it sounds like you have a lot in the pipeline at this point.

Tom Connolly: I will say that we have been having conversations with our testing partners that we anticipated this, but we wanted to make sure that they had the necessary resources to lead that increased pipeline.

Commissioner Kellner: Well done. Alright so then we'll turn to the Counsel reports. Brian Quail and Kim Galvin.

Brian Quail: Thank you. The Counsel Unit, we're continuing to engage in a number of cases. In the NAACP vs. New York State Board of Election case, we're dealing with line warming. We have made a motion to dismiss since the last meeting and the reply, rather the response of the plaintiffs is due on the 31st day of March. In the DSCC case we have an extension of time to answer and the Attorney General's Office will be representing the Board. The UJP case, Commissioners are familiar with the bill on the appeal to second circuit and we've been monitoring the redistricting case in Harkenrider in Steuben County.

Commissioner Kellner: And just to give a brief summary, yesterday some activity in the redistricting case.

Brian Quail: Sure, a little bit of activity yesterday in the redistricting case. The court made clear that the court was not going to alter the current political calendar that's unfolding presently. Where it did not dismiss the case and the court granted the plaintiff's limited discovery and memorialized that decision in an order and that order was immediately appealed. So that's the latest in that.

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Commissioner Kellner: And did I correctly understand that order that the judge indicated that he at least thinks that there's a deadline of April 4th for him to make a decision?

Brian Quail: Yes, and I don't understand exactly what that is because he also made clear that he wasn't going to alter the line board this year so if you are scratching your head on that point so am I. If anyone has any insights, yeah I don't know. But he did indicate that he plans on ruling on this...

Commissioner Kosinski: Did any of the party's indicate to him that April 4th is the deadline?

Brian Quail: Yeah, in the papers I don't think so. I don't really know where that came from. I mean that does correspond with the beginning of filing the petition. The first day to file.

Todd Valentine: That's the only thing it dovetails with.

Brian Quail: And he's already made clear that he's not altering the lines for this year so it doesn't quite line up.

Todd Valentine: The only thing is if you're going to stop everything, you want to stop it before they filed.

Commissioner Kosinski: But he indicated he's not going to stop it.

Commissioner Kellner: Well I just wanted to ask and as I say a lot of the people who watch our meetings are political junkies and like to learn what's going on.

Brian Quail: Yeah, and I have a phone call out on that issue that you just heard. Because I'm like what is that about? Yes. And in terms of the Compliance Unit, I spoke with staff this morning and I think that collectively we would agree that the last month, the month of February has been the busiest month in Compliance since the inception of the unit because of the enormous number of committees that have come forward to address filing issues and seek terminations such that, the number of nonfilers which we started February at 4,290 for the January periodic, is now down to 2,368 still a very large number but a very substantial number of committees that have come to us. A record number of terminations since January 1 of this year have been effectuated its somewhere in the neighborhood of 800. And in addition, because we haven't been able to ramp up staff recently, 3,518 reviews were completed since the last board meeting. So at this point, and again, we just had the January filing, there's 13,360 that have been assigned but not yet reviewed reports. So it has been a very busy time. And I'm sure the Enforcement Counsel will take more about that. And at the present time also the number of paid Internet digital ads that have been filed have spiked. I think because of the new system being online and it's much easier to file those that compliance has improved. The total 159 independent expenditure committees, 82 of them independent expenditure committees have actually filed paid Internet digital ads for a total of 740 which is a very dramatic increase in the number of those that have been filed. And that's it for me.

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Commissioner Kellner: Any questions. Then Michael Johnson we'll turn to you on the Enforcement and I will just begin by saying, I second what Brian has said that I've gotten a tremendous feedback that people are paying attention now for the first time in many years because of the actions of the Enforcement Unit and most of the calls I've gotten are people complaining saying, "Why are you doing this?" And, of course, the answer is, "You have as yet not complied with the law." And they were like "Well, why do I have to do this now? So, I'm sorry Michael."

Michael Johnson: You're absolutely right I've heard some people say, "Why are you doing this?" "Because you didn't make your file." And "Why are we getting this letter from you?" "Because you haven't made your filing yet." I mean what we've done is we got a list from Brian's folks on February 4th I believe that was the second list we got and it was as of February 2nd. So, what we wound up doing is that's what we were going to use to do all those mailing costs. But because of a little issue we had with loading funds to our Pitney Bowes machine, that list the letters didn't go out. There was probably, I don't know at least a week, week and a half timeframe between the time we got the list of nonfilers and when we were going to send out the letter. So what the unit decided to do is within that timeframe we knew that there were probably people who have made filings since that and for them to not get letters, the unit did something that they've done in the past where you go online you can go to the campaign finance website the public facing website and do a campaign finance bulk download and that is pretty much up to date and accurate in terms of who made their filings. So, what we did is we took the list of nonfilers and compared it against the list of people who filed. If your name was on the list for actually making your filing and you were on the nonfiling list, we would take your name off to make sure you didn't get a letter. So that's it. One little glitch that we actually found was when you do a campaign finance bulk download, the only thing it doesn't give you is if you file a no activity report, you're not included in this bulk download. So, consequently you had about 600 or 800 people or so who filed no activity reports. They got letters even though they did make their filings and they got letters because when you did the bulk download, they did not show up as making their filings. Now, I don't know the reason for that particular glitch but the consequences of something like that is if say for instance, I'm a student and I want to research who made all of their filings in January? The information I'm going to get isn't going to include anyone whose made a no filing a no activity report which I thought was interesting. And it doesn't say anything about that on the public facing website like if you do a bulk download you're not going to get that information. So that might be something that we probably will want to look at.

As far as numbers of letters are concerned, we sent out certified letters. We sent out roughly 3,700.

Commissioner Kosinski: Michael let me just stop you for a minute. So is there a disagreement that those people should be included in any list that says you made a filing or if anybody's looking for a complete list of filers, does anyone disagree with Michael that that should include no activity filers?

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Brian Quail: I think that's something that we should talk about because there's some nuance. That particular report, as I understand it is used for the purpose of getting the disclosure data that has been filed. So, the person who's filed a no activity report hasn't filed any disclosure data. There are other reports that we run for who has filed and who hasn't filed and obviously the people that have filed no activity reports are factored into those reports. But I think it has to do with what is the particular report, what is the particular data actually used for? And then what happens to the magnitude of and what's the consequence in terms of the data what it looks like? Because if the committee has made a filing and their data is provided as part of the bulk download it's included in a certain way. And essentially a no activity report is a flag that there's no data here which would be true not only for people who filed no activity reports but obviously people who didn't file anything at all. So, it is a discussion we're having and I think it's a discussion we're having about to his point, the fact that that data is not included in that bulk download, people just know it. But this is the first that the particular use of the Enforcement Unit used that particular report for. It was a first use for that particular purpose. They compared X to Y and the parameters of the two things are not the same so there was this I would call donut hole of data. And there were other issues in between the two units as this process unfolded all of which are easily rectifiable going forward. It's a learning experience like 25 steps forward and 2 steps back.

Commissioner Kosinski: Well I think there's two issues; one is Michael's use of the data and he of course needs an accurate list so he can send people letters that should get letters. But the second issue is public disclosure. People looking, if you're a member of the public and you want to find out who's filed or who's in violation then you should get an accurate list. If these people, if I'm going into the website and I'm looking for a download as Michael indicated, just give me everybody who filed so I know who didn't file and I can maybe complain or do something about it and I'm not getting that information then the public is not getting a full idea of everybody who has complied with the law. Because if you file a no activity report that is putting you in compliance, at least you made a filing, and the public should know that because they should know that candidate X did whatever candidate X had to do to comply with the law by making that filing so there's not some misleading information that, oh now it appears candidate X is out of compliance and candidate Y who is running against him is banging him because he's not in compliance and there's criticism and all that goes along with that. That's not fair. That guy should be given credit in the public realm as well that I filed I did what I had to do and I'm in compliance with the law. So I think there's both Michael's interest and the public's interest.

Michael Johnson: Now, interestingly enough, if you were to go to the website and search one committee, if they filed a no activity report, you would get that information that they filed a no activity. Only from the bulk down.

Commissioner Kellner: Let me follow up on this cause I agree with Commissioner Kosinski's point. Because several of the good government groups have been calling for us to publicly post the nonfiler list so we say that there are more than 2000 committees that are out of compliance

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because they haven't filed, well where's that list? And how do you feel about actually having an official noncompliance list?

Michael Johnson: Me?

Commissioner Kellner: Both you and the compliance unit.

Brian Quail: I have no object to that. That's the will of the Commissioners...

Commissioner Kosinski: Michael, I have no problem with it as long as it's accurate. My issue is that we don't want to put out something that's inaccurate. And to be honest about this the prior Enforcement Counsel's complaint all along is it's not accurate. I can't follow up on this because it's not accurate that was her constant refrain when we would say to her, "Why aren't you following up on nonfilers?" "I can't get an accurate list, I can't get an accurate list." Well, if we don't have accurate lists then I'm not in favor of putting it out, no. But I don't know why we don't get an accurate list because it seems to me all this data is here it's in the Board, we have it all we should be able to generate a list that is indeed accurate. So, I would be in favor of it if we have an accurate list.

Brian Quail: Respectfully, I think the lists were accurate her complaint was that there were these entities that were phantom entities that don't even belong on the list so that the entity itself shouldn't be there.

Commissioner Kellner: But you're in the process of taking them out right? With the triage plan that they've had you're going to start writing off these very old committees that...

Brian Quail: In much bigger numbers. So two things are happening; first that we are more willing to take cognizance of the fact that this committee is a phantom. And secondly, his efforts, those of his unit which have been exemplary have pushed and herded lots and lots of committees to us seeking that and giving us information that we need to get them terminated to the appropriate process. Both of those things are happening at a record rate. But there is always going to be a certain number of committees that are older and some one could look at it and say they shouldn't be there because, because. But the reality is can we produce an accurate list of who created a committee? Yes. And who didn't file a required report for a periodic? The answer there also is yes. So I think the data is accurate.

Commissioner Kellner: And I guess my point is if we start posting it that will also add additional eyes to say this is what's wrong with it.

Commissioner Kosinski: That's fine but the problem with posting it is it looks official, it looks like everybody's agreed to it and now that candidate, if there is one, is being criticized for not filing when in fact that may not be true and I think that's unfair. So I just would like to know that it's accurate. Maybe it's not quite 100% but if we know there's glaring issues where we're missing trunks of information and it's not getting on the list, we shouldn't put it out.

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Commissioner Kellner: But I would want to know why too.

Commissioner Kosinski: Fair enough.

Commissioner Casale: Brian does your current technology allow you to correct this bulk download issue or not?

Brian Quail: We would need to go back to IT and talk about this again. Again, they created the download to not for the purpose of figuring out who filed and who didn't file. We do have internal reports certainly to do that and have provided those lists to Enforcement and I believe that they can produce them also, those specific reports. But, the parameters of the reports that we provide to the public can be changed and additional reports can be created to provide them. There's a time course for that but it shouldn't typically be very long we may change this. So, again that is something that we can certainly potentially do if it's something that you want.

Commissioner Casale: I agree with both Commissioners it should be accurate but also why waste time and resources, manpower sending letters to people and then it causes the phone calls.

Brian Quail: Totally agree. And it's his report but I will, it would not have been expected that they would use that report for that particular purpose and...

(All talking)

Michael Johnson: What we've decided is once we found this we're going to get together both some of his people and some of mine and we're going to talk about, okay what's best. How can it be better? What should we and what should we not do?

Commissioner Kellner: Right but the general consensus of the Commissioner's is that there should be a public report that on the Campaign Finance website to get the list of nonfilers and somebody has to keep that current so that when they file...

Brian Quail: It is kept current.

Commissioner Casale: All nonfilers or just the current reporting period? Because I know for a fact there's some who are recently who still owe from years before.

Brian Quail: That's true that for every reporting period there is a different list.

Michael Johnson: ...and it would be January periodic.

Brian Quail: So that would be something to sort of tease through as well.

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Kristen Zebrowski Stavisky: There may also be wording on the website as to what that bulk download actually entails. Some if someone is thinking they're getting that and they're getting everything, it needs to be clear that it's not what they are getting.

Michael Johnson: Right

Kristen Zebrowski Stavisky: the report needs to be added.

Michael Johnson: It should be added or something there telling people that particular filing is not there.

Commissioner Casale: So the two do communicate.

Brian Quail: All of us do and I would say I would just point out it's your report I've got to be quick here, but is that this is the first time that this happened since 2014 or possibly the beginning of 2015. So this is an extraordinary thing.

Michael Johnson: So for us to have some of these little hiccups to me it is a joy.

Commissioner Casale: That's right. Thank you.

Michael Johnson: In addition to sending out the certified letters, we also sent out e-mail. We did the e-mails before we even did the letters so this way we sent out I don't know how many thousand e-mails did we send out. So, we did that and we're still getting calls from people who sent the Campaign Financial people who have problems, needing help with their filing. So that particular aspect of what we do I think is just going well and as Brian stated, it's really picked up and we're starting to actually see results from our actions.

Now the second thing that we've actually started is what someone in the unit has called our LLC project. And I touched bases briefly with Brian who's been sort of working out again, this is a working project here with regards to the LLC. There are a couple of moving parts with that. One thing in discussing it with Brian, it's like the committees need to put down the information in terms of who are their true contributors? Who make up the LLC? And what we found out what the unit found out in looking just doing a spot check on different committees is there were committees who would have in their notes they didn't have that information or they asked and it wasn't given to them because the LLC's don't have to file that until the end of the year. So, what we've decided to do the first step is let's find out what LLC's have not filed the statement of interest. Because that's part of what the law in 2019 calls for. So, what we did was the unit from 2019 when the law took effect up until now looked at all the committees who received contributions from LLC's. Made a list of all of those LLC's and we did 2019, when the law took place, so we did 3 years worth of looking back. We came up with a list of roughly and I want to say 3,400 maybe 11 or so LLCs. They all just got letters saying, "You need to file a statement of interest with the Board of Elections." Once we get those statement of interests, those are going to Brian's unit. Once they go to Brian's unit, then the campaigns can then look and see what the

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allocation is in terms of ownership on those LLC's because that's another key part of the legislation. So that will take place. Once we have that second piece in place, then the unit is going to start looking at LLC contributions. So it's three separate parts from our perspective; first get the LLCs to file the statement of interest information they have. Then we go to the committees to say, "You need to disclose this information" then you then look at the LLCs and say, "You've made an over contribution here. You need to deal with it."

Commissioner Kellner: And I see in our legislative packet that you also drafted legislation that we're going to propose to clean this up.

Brian Quail: It was in last year and so it's carried over and it would require that the LLC statement be filed within a week of when they make their first contribution instead of a static date at the end of the year.

Commissioner Kellner: Because this system you just described is paperwork intensive and does not provide timely disclosure.

Michael Johnson: Right and it would be easier if you had the LLC file this information like he said within a week or so after they gave their contribution.

Commissioner Kellner: Well at least you're following up. But as of now nothing really happens if an LLC doesn't make their disclosure right? They get a letter.

Brian Quail: On the Compliance piece yes.

Commissioner Kellner: And on Enforcement too that at this point of an LLC doesn't just ignores your letter...

Michael Johnson: You mean if the LLC chooses to ignore the letter and not send in the statement of interest?

Commissioner Kellner: Right.

Michael Johnson: Well then the only thing, we've actually discussed this, and right now the only option that would be available to us that we're looking at is where we would bring an Article 16 where the court forces, when a court says, the law requires...

Commissioner Kellner: You'd have to get a court order to direct them to file.

Michael Johnson: Right exactly.

Commissioner Kellner: And then only after they ignore the court order, could you bring a contempt proceeding. So it's really a cumbersome enforcement.

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Commissioner Spano: Is there a way frontend to deal with this at the Secretary of State's Office? If all new filings, corporations and LLCs get a contribution at the same time and they have to use that number any time they make a contribution, it would be simple because we would just know the numbers, we could aggregate the numbers and we could look at anything we want.

Commissioner Kellner: Yeah, well.

Brian Quail: That is a very interesting notion. We have a draft letter circulated in the Counsels unit for a letter to go to the Secretary of State that may request that they provide at least in their, How to form an LLC page, information on the statement of interest requirement and a link to our website so they can see at least an inception of what their requirements are.

Commissioner Spano: You still have to look up the name, find the corporation, if they had a consistent number that followed them through every donation you would be able to follow that.

Michael Johnson: That number should also be tied to any DBAs that they may have that made contributions as well.

Commissioner Spano: And if it's an out of state corporation, they'll have to file for a number. I mean and then you don't have to worry about all this, going to court and doing all kinds of things you're talking about. It's very simple.

Commissioner Kosinski: Does the failure to file statute apply to all state application filings?

Brian Quail: In my opinion no.

Commissioner Kosinski: So there's no penalty currently in law for an LLC that does not make out a contribution statement. So, shouldn't that be part of our legislation that in addition to filing early, if you fail to file you have the same penalty at least the committee has for failure to file?

Commissioner Casale: I agree 100%.

Commissioner Kosinski: I would suggest that we add that to that piece of legislation because having no penalty attached to a LLC failure to file seems failing. You're failing on the statutory part.

Michael Johnson: Well, that's along the same lines of a suggestion I had earlier where there should be in statute they should institute a fine schedule for those who after we've sent you one or two letters, we should be able to institute and collect fines before we get to the hearing office. So if you choose to not pay the fines, then fine, we'll take you to the hearing officer and we've got a couple of cases that I've actually sent so I had a handful of hearing office matters that we're going to take up. But that's also, when we're talking about fines, that's another place where it could be instituted, and it would have to be done statutorily.

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Commissioner Kosinski: I just think those are two separate issues. I just think the fact that the LLCs have no penalty attached to their failure to file its unbelievable to me frankly that a committee has to pay \$1,000 or whatever and an LLC has no penalty at all.

Commissioner Kellner: Or another way you would write it is that the committee can't accept an LLC contribution without the statement. But either way, it needs a statutory fix.

Michael Johnson: And you know. Other than the nonfiler stuff we've been working on the LLC stuff like I said there's three specific phases. We're in phase 1. I've provided you, I must have closed at least what 25 cases so you guys have that. There's a bunch of actually stipulations that are also there. We're working on still developing and getting our own management system in place.

Commissioner Kellner: And Michael those stipulations show a lot of effort and work on the part of your office that again is something that wasn't happening during your predecessor's time. How much of that is public and is there a reluctance on your part to publicize your accomplishments?

Michael Johnson: Well, what we're doing is and I'm glad you brought that up. What the unit is doing we've been working on a web page, and we'll have a link off the main Board of Elections page for Enforcement. And like I said, we're working on it. It will improve things like what the unit does, frequently asked questions, types of problems people have that come to Enforcement. We'll have like for instance the determinations that I do, the stipulations, there will be a section for that. So, if people want to find out what happened with this particular case. So, what did they do? They'll be able to click on a drop down and read the determination and see exactly what happened.

Commissioner Casale: That would apply to all cases?

Michael Johnson: Everything that we do in the Enforcement Unit.

Commissioner Casale: So, any agreements, any stipulations that are signed by both parties are made public record?

Michael Johnson: Any determinations that I do in terms of when I close a case or if it's a stipulation that has been entered into and signed by all parties.

Commissioner Casale: All of your decisions will be made public?

Michael Johnson: Exactly.

Commissioner Casale: Do you ever get requests from negotiating the stipulations that people want to keep it confidential? Are they allowed to do that like certain court cases are sealed because that's what the parties agreed to?

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Michael Johnson: I don't really have an answer for you only because no one has made that request.

Commissioner Casale: Well to put you on the spot but what would be your attitude about this?

Michael Johnson: My attitude probably without having a particular letter right in front of me, my attitude would be in all fairness and full disclosure and transparency, the public should know.

Commissioner Casale: Thank you.

Commissioner Kellner: Well Michael this report that you've given to the Commissioners which is very lengthy and very detailed, everything in it is marked privileged and confidential which...

Commissioner Kosinski: There's documents in here that aren't. I have a determination here. I had the same question actually and I'm glad you brought it up too because I didn't know what was public and what wasn't.

Michael Johnson: The determinations are the documents that would be...

Commissioner Kosinski: So if it's labeled determination I assume that's a public document there's nothing on it that says confidential.

Michael Johnson: Correct.

Commissioner Kosinski: And I assume that can be given to anybody.

Commissioner Kellner: Well, I think that's great and as I say, this is more work in just the last month than we saw in 6 years from your predecessor.

Michael Johnson: When people do send complaints in, I mean look it does take time we can't and I know people get a little upset when they're told we can't share information. we can't share what we do. The biggest issue with that is, look, this unit works with many different law enforcement agencies, and they are sharing agreements and if I were to start sharing things in terms of what I might be doing to some outside law enforcement agency, no one is going to want to work with us. So, I understand when people say, "Well why can't you tell me what you're doing?" There are reasons why I can't tell you what we do. Now once the case or once the complaint has been finalized, you get a letter from me saying, and I spell out exactly more or less what's in the determination and what you guys think. So, people do get a letter from us or an e-mail letting them know what happened with that particular complaint that they may have got.

Commissioner Kosinski: I have one question about your list. By the way I really appreciate you're giving those to us too we haven't seen anything as was mentioned on closing of cases for 5 years and now we are seeing them that's great. My question is about older cases frankly. I'm

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seeing the cases that you're closing from 21 and 22 it seems to me those are all newer. Are there cases from back in 16, 17, 18, 19 that are still open not closed, still pending?

Michael Johnson: There are and those cases are for me more troubling because a lot of them chunks are missing, pieces of information are missing and a lot of it calls for putting parts together that are missing. A lot of the attorneys who may have worked on it are not in the unit anymore. A whole host of things. So, it's at this point those older cases its okay there are missing parts here how do I find them? So that's going on as well in terms of the cases and so yeah, a lot of the stuff will be on our website because you know what I've decided the unit needs to do is no one tells your story better than you can yourself. So that's why when people want to know what's going on, what do we do what do we don't do? They can go to the website, and they'll know, okay so this is the truth, this is what they do, this is what they don't do.

Commissioner Kosinski: I think that's great. I think that's a great idea. So, you are trying to put together these old cases to bring them out or to do something close or...

Michael Johnson: Yeah, I have to do something because there are I look at a lot of these cases, honestly, I look at boxes of stuff and go, "Whatever happened to these things?" So, I'm going through the process of looking at it and saying, look are there things here that still exist that I can pursue? Are there people who, some people may not even be in office anymore. And I mean these are the things that if that's the case I just have to...

Commissioner Kellner: I don't have a problem if they just write off the old stuff. They could look at it and see if there's anything that's...

Commissioner Kosinski: Well some of the statute of limitations may have run but I still find it troubling that we have apparently year's worth of cases that were filed with this office your unit that have not been addressed in any way whatsoever. And I find that troubling because a person that takes the time if they did to file a complaint with this office about an alleged violation of law should at least get a resolution to the matter, I think. It should not be just dropped, if we possibly can. I just find it troubling that you're having trouble finding even the information that was filed and put together and you can actually deal with the case itself.

Michael Johnson: There are matters that were closed. You guys were just never told they were closed nor were the people who filed a complaint were told they were closed.

Commissioner Kosinski: So how do we know they were closed? How do you know they were closed? Is there something in the paperwork that tells you they were closed?

Michael Johnson: Not necessarily and this is part of me filling in missing pieces. Looking through, maybe someone has old notes or our investigator who has been there since the beginning of the unit who is absolutely phenomenal and which, by the way, everyone in that unit is absolutely great, great working people but she's been there since day 1. So I lean on her to basically say, so what's going on with this? Does anyone know the history of this? Or just

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recently I came across a case where I'm looking at the notes, the attorney is no longer there, the information was put on a case management system that we no longer have and I don't know where that information is. So that's one of the things that I've actually had someone trying to track down. Where are the notes? It apparently looks like maybe it went to a hearing officer. I don't know. It says it. Do we have notes? Well it says we do but no one knows where they are.

Commissioner Kosinski: I have no response to that.

Commissioner Kellner: I think it's much more important for him to be handling the current stuff...

Commissioner Kosinski: Well I don't disagree, the current stuff is more important possibly because it's current issues but still...

Commissioner Kellner: We just have to write off what happened 5 years ago.

Michael Johnson: At this point, what I do is I look at them and if there's enough there for me to work back and put something together, I do. If there isn't then I have to work with what I have.

Commissioner Kosinski: Fair enough. Thank you.

Michael Johnson: And that's essentially it. We on-boarded a new enforcement investigator, a special investigator. As far as our move to the 10th floor, it will happen when it happens.

Commissioner Kellner: Well, we've heard good things recently that are happening in the Office of General Services.

Commissioner Spano: Every meeting for the past 5 years we had this discussion and no one has even blinked an eye about it except us and I want to tell you how much I appreciate what you've done and opened this whole thing up.

Commissioner Kellner: Alright so we'll go to Public Information, John Conklin and Jennifer Wilson.

John Conklin: Thank you Commissioner. The Public Information Unit remains busy. We've been answering a lot of questions about the 2022 political calendar, the impact of redistricting, the enrollments that Todd mentioned, when petitions are due, and LLC disclosures. We also completed at the beginning of February the NCOA process with the counties required by the statute. The unit processed 122 FOIL requests in January and 118 in February. We continue to participate in the working group meetings for automatic and online voter registration projects. We continue to have weekly meetings with IT and Compliance on the Public Reporting Page with FIDAS. We participated in the monthly ECA calls with the counties. We did a presentation on grants and NYS ballot and confidential voter registration at the conference yesterday. We did get word from the printing vendor that our shipment of English and Spanish

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registration forms will be delayed due to supply chain issues which is now scheduled for late April or early May and we've alerted the counties of that delay. We've worked on guidance for the Open Meetings Laws part of the agenda, later on the agenda. In terms of the website, we've posted today's agenda and the related documents. We posted the party vote for gubernatorial results for the 2018 general election by assembly district and by county. We put up the political calendar for the special elections in the 20th assembly district which is on April 7th and the special election of the 43rd assembly district which is on March 22nd. We posted the webcast for the last meeting January 18th meeting for both the State Board meeting and the PCFB meeting. And we just posted the 2022 Campaign Finance filing calendar and we have caught up on a number of transcripts from previous commissioners' meetings from 2021.

With regard to NVRA, we have resumed in person board visits and since the last Board meeting the unit has visited Montgomery, Saratoga, Washington, Greene, Onondaga, Ulster, Dutchess and Orange Counties and they have all been found to be compliant. Do you want to talk about grants a little bit?

Jennifer Wilson: Yeah I have one more website thing as well commissioner. So also we made live the absentee ballot portal for village elections and also for the special elections as well which Mike will probably speak more about. On Grants we are continuing to administer our 8 state and federal grants. Currently our grant totals for HAVA grants are \$1.2 million for education and training. HAVA poll site improvement \$988,000. Our Shoebox grants 5.6million and Mike Moschetti who presented at the Commissioner's Conference, he did a really great job. He also mentioned to the counties that we are going to be sending contract extensions for all those HAVA grants out to the counties within the next 2 weeks. So, expect to see those in the counties.

On our state grants our E-poll book grant we have \$75,000 remaining, our early voting aide to localities \$97,000 remaining, our early voting expansion \$831,000 remaining, our cyber security \$6.6 million and our TIER Technology Innovation and Election Resources we have \$19.8 million remaining and we are continuing contract extension for the cyber security grants, we have 8 outstanding right now. A lot of grants activity currently.

Commissioner Kellner: And I thought your unit the staff did very well at the Commissioners Conference in explaining all of the grants available. It's a lot of work for the county boards, especially the small ones to keep up with the paperwork but I think it was good that you had all those listed, thank you. Alright anything else for Public Information? So then we'll turn to Information Technology Michael Haber.

Michael Haber: Good morning Commissioners. I'll do my best not to duplicate information that's already been discussed here today. I'll talk about CAPAS-FIDAS I'll note that our help desk also has seen an increase in filers calling for assistance following action from Enforcement. And to that note from the early discussion, my staff reports available to meet with Compliance and Enforcement on developing additional inquires. Additional regular internal meetings do continue with the various business units on enhancements and refinements and other updates that

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are employed on a biweekly schedule. There are EFS updates being made and plan to be made for the Public Campaign Finance that was discussed a little bit earlier.

Commissioner Kellner: What is EFS?

Michael Haber: Electronic Filing System. My apologies we at IT are often known for getting bogged down in our acronyms. But that update of our existing EFS is giving us an interim solution before the final solution is procured.

In terms of Public Campaign Finance, again, fair amount was discussed earlier but we are participating in white boarding sessions that were mentioned on requirements definition. And we will be assisting and continue to assist the evaluation through the ITS web hosting services that we're looking to use for the Public Campaign Finance website and the content management. And, of course, in assisting with the scope of work that's under development primarily by our NYSTEC folks.

In terms of online voter registration automatic voter registration after the evaluation process a vendor was selected and that selection was provided to OGS. Since that, OGS has been working on the terms and conditions and finalize the contract with that vendor. We're prepared to begin once that contract is finalized. We also continue a regular cadence of meetings with designated AVR agencies to assist them in becoming prepared for the sending of data as well as the state ITS and VR vendors.

In terms of the NYSVoter world, redistricting efforts, our staff has provided support to operations and to counties in auditing records in preparation of enrollment numbers. As mentioned earlier, the Absentee Ballot Request portal was currently up and running for those counties that oversee their village elections and that are involved in special elections. We have also been meeting with Operations staff and PIO on data and recording requirements for the absentee affidavit ballot tracker. Those requirements were shared internally and discussed as well with the old registration system vendors. The core functionality is targeted to be live by April 1st utilizing all the required data that's available from Allegany County. We also continue to be involved in the space planning efforts along with executive and admin and others. As was mentioned earlier, cabling has begun in the first location that we are expanding into and is expected to be completed shortly, possibly already completed. All locations are projected by OGS to be completed by approximately March 25th based on the latest communications.

Commissioner Kellner: When you say all locations, what specifically are you talking about?

Michael Haber: So, there are multiple locations in this building that we're expected to expand into, all of them in this building. But several locations on the first floor, there's a build out on the fifth floor and there's additional space on the third and then Enforcement on the 10th.

Kristen Zebrowski Stavisky: And they're just temporary space.

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Commissioner Kellner: And that 5th floor is the old Enforcement space is that where you're working?

Michael Haber: That's what some enhancement might be done to. Obviously, in terms of networking, cabling, we don't really need to do anything new for that on the 5th floor, we already have all of our network established here on the 5th floor. There maybe a need to do some minor dropping a couple of extra jacks in or if we have a new workstation needs set up or something like that.

Commissioner Kellner: So first and tenth.

Kristen Zebrowski Stavisky: There is expansion on the 5th floor isn't there?

Michael Haber: Yes, we are adding additional switches.

Commissioner Kellner: Alright I'm sorry to interrupt you Michael. I was just curious what you were talking about.

Michael Haber: In terms of security, given the current world situation, we continue to receive regular information and updates from our Cybersecurity partners on both the state and federal levels. And, of course, we continue to make ongoing improvements in security to our own network. Our secure Election Center team is regularly monitoring our network and there isn't anything that seems at all unusual so far. I will knock on wood, no cyber instance is detected but we continue to monitor that closely.

For our own environment, we did recently complete our 10 CSR that's a nationwide Cybersecurity review assessment and I was led by our Chief Information Security Officer Ben Spear with input from our security and infrastructure teams. Due to some of the improvements that have been made recently and over the last year, we scored above average in almost all categories for state agencies and we are well above average overall compared to other elections agencies. So, we are very pleased by that. We also showed an increase over our own scores from last year.

We continue to work with security with NYSTEC and counties on limitation of their risk remediation plan that were developed over the course of the last few years. We've also extended grant deadline I think may have been mentioned previously for this effort for an additional 2 years due to supply chain issues in order for them to accomplish the remediation efforts on their plans. We've also extended the cyber advisory services that are available to counties through NYSTEC advisors. And in terms of Elections infrastructure, we continue working on the future of elections infrastructure projects with the SUNY Center of Technology and Government who, of course, were on-site at the Election Commission Association meeting conference yesterday to report on their findings. IT also participated in the conference having presentations of both Cybersecurity and general IT updates.

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And we also continue to backfill and augment necessary staffing positions. We have a new NYSTEC project manager who will be finding some general oversight IT projects. And lastly, in terms of the website...

Commissioner Kellner: When you say NYSTEC project manager is that a NYSTEC employee or is that somebody on your staff who works with NYSTEC?

Michael Laber: It's a NYSTEC employee. It's actually a backfill of my own previous position from when I was with NYSTEC prior to coming to this role here at the State Board.

Commissioner Kellner: And who is the new person?

Michael Haber: The new person is Jeannine Jacobs. She started earlier this week and she has spent a little time on-site and we've made some introductions and she will be getting a handle on many of the projects that we have in place. She will also be assisting Operations with the NYSTEC work over there.

Kristen Zebrowski Stavisky: She attended the conference yesterday.

Commissioner Kellner: Yes, I did get to meet her. I didn't know who she was. Good.

Michael Haber: We certainly have high hopes there. And lastly, in terms of website analytics, we had over 166,000 page views in January and over 158,000 page views in February. The top five pages visited were apart from the home page Voter Registration, Campaign Finance, the District Map, and How to Run for an Office. And that's all I have.

Commissioner Kellner: Thank you Michael. Is there anything else? Alright then we'll move onto old business. First item was the FOIL Open Meetings Guidance, and I would say that we raised the request at the last Commissioner's Meeting that the staff preserve something, and I thought they put considerable time and effort into this. So, I will say thank you.

Kristen Zebrowski Stavisky: Commissioner's this will be forwarded today to the Council of the Committees on the Open Government just to make sure we're in line with that and it was also in response to our discussion last month but the county boards are really getting inundated with lots of technical FOIL requests. In fact, I had four different counties approach me at the conference and we've been helping them through that process.

Commissioner Kellner: So if you will indulge me. I had a couple misfits I wanted to just talk about. Back in 2005 and 2006 I remember having extensive discussions and negotiations about the confidentiality language that we would put in Part 6209 which was the voting system standards and I thought we worked out pretty carefully language that makes all of the voting systems certification submissions open public records with the exception of submissions that were designated confidential for legitimate proprietary reasons and for disclosure of information that would compromise the security of the voting system. So, I don't dispute the language that I

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guess I marked up page 9 where we talk about responses that say, "If disclosed would jeopardize the security of its information technology asset." Alright, I agree that when that is a true statement, that that is an appropriate response. But then the question is, is it a true statement? That disclosing a written report document or portion concerning, I'm looking at the third one now, let's see, "All records starting" alright I apologize, and I only got this this morning. But "concerning event logs from the Central Count Computers. The window with then to viewer log shows a log of application system messages including errors, information, messages and warnings. So, is it true that disclosing the event log compromises the security of a voting information system?

Tom Connolly: I think it could because if they will be using usernames and you don't want to ever disclose any of that information.

Commissioner Kellner: Well, I agree that you'd want to redact usernames.

Tom Connolly: I think it could and again, I think you could probably release something that had been redacted because there could be, depending on what the actual event was, I could see how it would compromise the security of the system.

Commissioner Kellner: Alright, well so what I want to flag is that you know I hate for example that the New York City Board of Election conducts all of their business in Executive Session by saying that its litigation related because they're afraid that something is going to get litigated. And I don't think that that is an appropriate use of an Executive Session. I don't want to see that a response for voting system information to just routinely be, if disclosed it would jeopardize the security of its information technology assets without actually flagging that there should be some intelligent review of that request and review of whether redaction would protect from compromising the security. Because frankly, some of these election integrity groups, what they're trying to do is, in many ways a positive thing. They're trying to even though they may be starting out from the premise that this system is not trustworthy, by being transparent and allowing them to look at it, almost all of their objections melt away as they see, for example, that when there's a hand count in a close contest that the hand count corresponds to the machine count. And the same thing, if there is an issue with a voting machine malfunction or if an error log is being triggered, I don't think that we should hide that fact unless it actually does compromise the security of the system. I'm sorry I'm so long winded. And I'd like to at least put a paragraph in here that just says, this should not be a routine response to every inquiry relating to the operation of a voting machine or...

Tom Connolly: And I think that we've been very clear with the vendor.

(All talking)

Commissioner Casale: This is guidance only, correct? And we don't enforce it this is enforced by government or...

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Kristen Zebrowski Stavisky: Yeah we don't enforce it. We're trying to assist the Board in what you're asking for.

Commissioner Kellner: Open government has law enforcement.

Tom Connolly: So I would just say that we've filled in very proactive with all of the vendors, especially the new ones with regard to their technical documentation about how any kind of blanket confidentiality statement is not allowable and that they really have to detail and scalpel what they are going to be the proprietary confidential and have a good reason why for us to evaluate and decide. I do think that we probably take a look more into the secure looking at information that's being produced by the voting machine during its use. So I think that is something that obviously we haven't really looked at before but we can surely put language in there and we can always tell the counties should they have any kind of questions about whether or not certain files are produced by their voting system should be redacted or you know, withheld in any way we can still see the context of it.

Commissioner Kellner: Yeah, I think you and Brendan have been very good on this point in terms of disclosing certification submissions and putting a pretty good line on what shouldn't be disclosed. But Commissioner Casale, just to address too, I think the guidance is still significant especially nowadays you're entitled to legal fees on a successful FOIL challenge in court so that if we or the Committee on Open Government gives a written guidance and the board doesn't honor that guidance, the successful party in court is going to get legal fees and will site our guidance for getting the legal fees.

Commissioner Kosinski: No, I agree, I think the issue to me is that whatever guidance we put out is going to be used even though there is no enforcement authority, clearly it's going to be used that there's evidence that there is one about what the State Board put out, good, bad or indifferent. I'm certainly in favor of as much transparency as we can possibly have. I think that's a real strength of our system, I think it always has been in New York State with elections so I would encourage, if we can allow people to see things we should. I think that should be our fallback. If there are security concerns, personal privacy concerns, I certainly think those should be adhered to but given that I think the fall back should always be you can see it. So, if redaction works and you can at least disclose some of it with some redactions, I think that's a better way to go than just a blanket denial. So, I don't know how that works. I have not reviewed all this either because I just got it too, but my suggestion is we try to do that. As an Open Meetings Board I get it we're going to run it by them but they don't know the Election Law, they don't understand our process, they don't know anything about us. I can tell you we've dealt with them before. They don't have any understanding of how we work or what our issues are. So, it's fine going to run it by them but it really comes back to us to make the right call here.

Commissioner Kellner: I agree with that too. I don't think there's great value in sending...

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Commissioner Kosinski: Yeah its okay but I just don't feel they have that knowledge to know how elections work or what our systems are or anything about us. So I think we should rely on our own best practices here.

Commissioner Kellner: And it's particularly difficult when you have two election's Commissioners who have day-to-day administrative responsibilities on drawing the line. I thought the report did a pretty good job on that in terms of saying, okay this is what you should do in a publicly noticed meeting and this is a gray area and this is where, obviously on your day to day election administration you don't need to have an open meeting to call up the technician and say, you need to go over to the poll site and repair that voting machine.

Kristen Zebrowski Stavisky: Commissioners, this is a draft, we would love any feedback. That was always meant to go to the Committee on Open Government, and this is what we were doing. If there is a glaring issue please alert us and we can do further review.

Commissioner Casale: Very good, thank you.

Commissioner Kosinski: That's good; obviously somebody put a lot of work in this.

Commissioner Kellner: Alright thank you. Alright so next is a discussion on voter turnout. I guess Commissioner Spano this is yours.

Commissioner Spano: Yeah I tried to do this the last meeting but I was having trouble with my WiFi. I've been thinking about this a long time, I'm not going to try to take up too much time but I will try to hone in on it. Background wise, I've been through 13 campaigns, I've run for Town Supervisor to State Comptroller to primary in 1990 and subsequent I've won some I've lost. I've been involved. I also have been County Chairman for years. I also had a small company in the 90s that was an initial company in e-commerce, so I dealt with that. When I didn't have any customers, I dealt with it. And then I've been here. And looking over everything that we do and how it's done. I break down the election process to a few things, because there's a lot more than these. There's money, safe and fair election, knowledgeable voters, and turnout. Now on the money situation, we're doing something about it with Campaign Finance Board. First question I'm going to ask you when you run for office is how much money do you have? And then they write an article about how money screws up the election process. To solve the problem, the state gives \$12 to every \$1 you raise but it is a reaction to a real problem where there's a lot of money spent. I wish less money was spent because candidates can be a lot more creative in how they operate and that indicates how creative they could be in an office; I think that's helpful. But we have that part in place. Safe and fair elections, we're looking at everything from every perspective to make sure that when the people vote, they're counted. There are places to go, you can vote on Sunday now, they can go the week before, they can mail in their ballots. So, we've taken care of that. Two areas really very hard to address, I understand that and are significantly important to elections. One is knowledgeable voters. Of all the voters in the United States, there are over 200 million voters who actually vote who don't go to ABC, CMBC, MSMBC, Fox News, Local News, social media anything like that. 200 million.

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And we're missing some places let's make it 150 million. They walk into the booth with some idea of who they're going to vote for based on something that they might have seen, heard or think. And then there's the whole idea of turnout. And everyone says, wow, look what we did in 2020. Well, you run Trump every year, that's what you'll do, your turnout will be great. For and against it would even be better for and against it everyone knows that. So, I don't think that's an indication of anything. So, now we've spent all this money on making sure we have Sundays, holidays, every ballot is counted in 15 days not 2 days and all that stuff, and that's okay. I don't particularly like all of it but that's okay. But I wonder if we're recycling the same motives. We won't know that until we play this out. So, I asked the staff recently to just keep track of all the votes in all the counties over the next few years. They've done this what since 2018 whatever it is and its on the website because I looked at it the other day.

Tom Connolly: We have all the enrollments for solving that, but yes, I've been calculating that based on various things.

Commissioner Spano: Okay but I think number one we should keep track of that very carefully so if legislators ask us a question about that we can answer yes, it's all working. It's working because of early voting; it's working because of this or that. Now, I also think that I just moved to a new place, I registered; I wanted to find out who was running. So, I waited, I did this all on purpose. I waited to see if I would get stuff in the mail to find out and identify them. I got some stuff in the mail but I'm missing a lot of it. I didn't know what the offices where I could check that out probably but I didn't want to do that. Just what came to me. Before I went into vote though I went online and got all the information I needed, and I went in and I voted for three people because the rest of the lines were blank. There was only one candidate.

Commissioner Kosinski: In upstate New York you get used to that.

Commissioner Spano: But I just think there's something wrong with it and a lot of this because people don't feel they have a chance, and they don't run. Especially judges in the judge race high Democrat or Republican district you don't even know who's running. Just as an aside, people ask me sometimes, you ever vote for a Republican. And I say yes. Why? I know them personally so when you know them personally you know more about them you can make a decision like that. So, here's what I'm suggesting. We have all this all the capabilities here, I don't think we need any legislation for any of this and I don't want to burden what you're doing right now but this is ubiquitous. This is where people go to get information. The kind of person I'm talking about who doesn't call us up or research and get online complain about how the website is, and just look at the numbers. How many hits do we get would you say?

Michael Haber: 158,000 last month.

Commissioner Spano: Yeah, and those are unique hits right or are they combos?

Michael Haber: They were combos. Our unique sessions were give me just a quick moment to get that for you 70,000.

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Commissioner Spano: 70,000 we know how many people vote in New York State and if I say oh you get 70,000 next month, 70,000 I know it won't because it will probably be some of the same people you have here. The other thing is that when a candidate or we are asked a question, we're very courteous about it but say go online website. So you're going to vote for six candidates. Now you've got six websites to look at cause you heard go to www.andyspano.com dadadadada goes in one ear and out the other ear. So, what I'd like is something for the average voter to easily get information and understand at least a minimal amount of what's going on with the campaign without there being any override and influence from government sources or primary organizations. That's your influence when I'm here I discuss with you. You don't want us to get involved in a campaign I think you're right. But if I went on my phone and I tried this with the websites, I went on New York City's website, the first thing that comes up on that page is put in your address. So, I put in my old address in the Bronx that's all I could think of and up came senate district 32, 43, how helpful is that to the average voter? I mean at least they could have said senate and senator so and so and here's the address. But there's an attempt there but it doesn't go far enough. And people are not going to say go to the Board of Elections website. What does that mean to the average voter? And you get on and it's also a really nice website, I get around it very easy and find the things that I want. But the average voter is not going to do that. So I'd like to have an app on this phone that I can download okay and hear me out because its not just the app. I have the app I can download. I hit the app and I'm going to call it right now Smart Vote App. New York State Smart Vote App. I'm not going to call it New York Board of Elections, it could be our app but that's okay. Smart voter, I go in give me your address immediately I get everything not everything, everything that we have on our website but the stuff that I need where I'm voting. Who the candidates are, where I can get an absentee vote, whatever it is. Simple stuff, not a lot of it. Just that. You don't want to get too, I don't want to look up how many candidates in the last 20 years, they can go to our website. And by the way, the other thing it could do is you could have a little hot button to our website so if they want more than what's on this website they can just hit that and they'll get it and then they can go play around in the playground and get anything they want. Now, the other factor to this is well what do you do with this information? I've got two lists I've got Spano running against Kellner which will never happen by the way. And they look me up and they say on Spano is running but I don't know anything about Spano. Oh here's his website. I hit that and up comes my website. Now I can put anything on my website I want.

Commissioner Casale: You're suggesting to put the candidates name but no information about them?

Commissioner Spano: No, I don't want to get involved in the campaign. The only information you get is from that candidate.

Commissioner Casale: That information is now available but they do it by legal notice to newspapers. I'm just saying. What you're suggesting is that we should take it to the next generation, well then you've got to go fight the publishers.

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Commissioner Spano: No, well there's this legislation to do that right now. We have one of those things and notification to publishers then we can do it anywhere we want.

Tom Connolly: First and foremost the candidate information is already provided on our website so that's law. Also the URL or website for the candidate ...

Commissioner Spano: that's what I was going to say next because we have the URL. Like I say you have to...

Brendan Lovullo: Not everybody supplies one.

Commissioner Spano: Excuse me?

Brendan Lovullo: Not everybody supplies one.

Commissioner Spano: Well we'll figure that out. You can't discuss doing something and telling me why you can't do it.

(All talking)

Commissioner Spano: Why it can't be done that's just the problem that's all it is, that's overcome simply. I talked to a couple of senators the other day, they thought it was a good idea. So I'm not saying they'd have to vote for us because they didn't get that far, but I've talked to them and maybe they just wanted to get rid of me.

Commissioner Kellner: Essentially what you're doing is having an online voter guide like New York City Board of Elections...

Commissioner Spano: Women League of Voters has one.

Commissioner Kosinski: Just to be clear the voter guide in New York City doesn't come from the Board it comes from the Campaign Finance Committee.

Commissioner Kellner: I understand that yeah.

Commissioner Spano: But it's a voter guide. It's a voter guide. It doesn't say...

Commissioner Kellner: It's publicly funded and mail it to everybody but putting it online is maybe more efficient and less costly.

Commissioner Spano: Let me go through this with more detail. Let's say that you can file your file and you haven't done it for 3 years. What are they gonna go? They're going to check somewhere? Someone's going to go check. One person has their website on, the other person

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has their website on and it's very easy because we have them, it's not that we don't have them. We have the URL's for them right?

Tom Connolly: Yeah if they provide them to us.

Commissioner Spano: Okay we'll make sure that we get that up to date if this happens. It's just a discussion. So now, for example, and maybe during the year before we have an election, maybe you do what I said before, you put the elected representatives who represent this person and whatever information you want. But here's how I think it goes to these two problems that I talked about; if you don't call it some government entity, people are more likely to go to it. When I was in business, drive to web was really important because if you put a website out there it's like putting a box in a warehouse without any way to look for it. So, you put the two things on and now this is where something has to drive people here. They aren't just going to go there. We're not just going to someday take 5 hours off this job and have someone do something. In all of October, on television, on radio we advertise the website. If you want to be a smart voter go to Smart Voter.com or whatever it is. And guide people to that. Now you've got a competition with all the ads that are on TV. They got their ads and as this generalized ad for the voter. I think from just experience that after a while people will get used to going there because it's clean information. It's clean. You got the candidates information from both sides that's it or three sides or four sides depending how many candidates there is. And that's it. And the candidate now on their site wants to post something or put his stuff on there, that's fine. But a person who is, you might be a staunch democrat and you would never look at a republican well that's a different story. But an independent that's really looking for answers and its cause and sitting in the doctors where I do all my work from my doctor's office sitting there. You get the information. So they get that information. And there's a big upside to it, I don't know how you feel about that is that doing a website is not that hard for a candidate to do. And not only that in Westchester I go over to Purchase College and get three kids that can do this for \$20 an hour, \$10 an hour but they want to work on the campaign because they like me and they can do my website. But on the website now, I have the ability to do all kinds of things for very low cost, very low cost and I can compete because that's what the State is doing. The State is now saying go here, both candidates have the same opportunities so its not like they're telling anything you're not making the campaign one sided. So, for all those purposes, we have the information, we have the ability, we don't need legislation, I think we should try this. I think we should try it in maybe one county and see if it has any difference or do it some other way. But I just wanted to have a discussion for a few minutes that's all.

Commissioner Kosinski: Well you have two goals if I'm understanding this right; one is to drive information to voters so they're more educated and secondly is to increase turnout. I guess one is easy to measure, one is hard to measure. You can always measure turnout, easy to do. Voter knowledge impossible to really...

Commissioner Spano: No, but if you get a significant number of people that have this. You know there's a million people looking at this not 70,000.

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Commissioner Kellner: Alright so basically what do you want to do?

Commissioner Spano: I don't know maybe there's a lot of work going on and giving another burden on top of someone.

Commissioner Kellner: Well except that they're already working on a lot of these things.

Commissioner Spano: And I wouldn't schedule it till next year. I wouldn't try to make it for this one.

Commissioner Casale: We could ask the staff at some point just give us their informal input.

Commissioner Spano: You can ask the staff that would be something both sides...

(all talking)

Commissioner Kosinski: From a general perception of my side I guess, you know this turnout issue has been a vexing issue in the state for many, many years and I've seen efforts made and I think we've seen them recently, early voting, more absentee voting, longer hours voting. Registration easier doesn't do a thing. Voter turnout doesn't move. We tried all these different machinations with this alleged goal of voter turnout, it always falls flat. I mean our turnout does not increase. We haven't seen any increases since early voting started. So, the state is constantly trying to generate turnout. Turnout to me is generated by the candidates. But what drives low turnout in this state frankly is the fact that there's so few competitive races. We have such a skew of registration in the state particularly down in the City, you just don't see competitive races and that discourages turnout, totally understandable to me.

Commissioner Kellner: Well people don't really care who their county Court Judge is.

Commissioner Kosinski: Well maybe they don't care but I think a lack of it is just lack of competition. I mean what you said about last year or 2020 big turn out why? Competitive race. Presidential always drives it when you have a competitive presidential race really drives it. It's competition that drives it. I think it's difficult for the State of New York to devise systems to devise ideas, this will drive turnout. It just doesn't work. So, I'm just not of a mind, first of all I don't really see our job as driving turnout I think that is the candidate's job. It's the job of the parties to make the races competitive to drive turnout. So, I'm just not convinced that we can really manipulate turnout that way by coming up with some new system that we as a state devised.

Commissioner Spano: Peter I respect your input all the time especially like this. This is monetarily this is not expensive at all. The only expensive part would be advertising in terms of advertising all over. And minimally, minimally if you don't want to include the websites at least make it easier for a voter to find information. When I took over the county there were no websites around but I had this company so I knew what to do and we did it. I made the website

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the logo of the county so it was on every bus, everything, the old logo of and it drove everyone to that website. And what that did was when a phone call came in on a question, this is what used to happen, come in and someone would answer it. Picture a Board of Elections like someone here, they would have to look at it and say, "Oh you got the wrong person" even if they had the right person, now we have to go find the information, I don't have the information. The stress on the working day of individuals in the office decreases when you have a website that everyone is looking at. It just decreases because they go right there for their information and don't bother you especially if its simple and easy. So even if you wouldn't want to do the candidates website, the information alone is valuable.

Commissioner Kosinski: Hey listen, I'm not against what you're suggesting I just think we need realistic expectations of what we can do in the elections community.

Commissioner Kellner: And we support the concept of us making it easy to provide information.

Commissioner Kosinski: I think an informed voter is our best voter I do totally agree with that if we can do something to help inform our voters who the candidates are, what's going on out there, I think that's always a benefit to the vote.

Commissioner Spano: When I ran, I never worried about informed votes. They would dig up piles of dirt to find out how I thought about something and how my opponents thought. They weren't the ones to worry about the old Stevenson comment, "Mr. Stevenson all the intelligent people are voting for you." He said, "Yeah but I gotta win the election." You know what I mean. You need a modicum of good information in order to vote intelligently. It doesn't mean that you shouldn't have a right to vote if you don't have that information, its just that it would be better for all of us if they did, especially in these times.

Commissioner Kellner: Alright. So, we move to new business. The first item is the resolution regarding the absentee and affidavit ballot canvass.

Commissioner Kosinski: So this is the one that moves the date for them to provide this information to the third day. Now I heard some complaining yesterday at the conference about this move from 7 to 3, some of the counties were concerned they couldn't meet that date and I just wanted to know what your guy's reaction to that was about before we do this.

Tom Connolly: The current laws are 7 days after a primary, 10 days after a general. During the past couple of years there was an Executive Order that changed that to 48 hours after the election. One of the reasons why we looked at the legislation for early canvassing was around what day to make sense is that with the affidavit, the canvassing of the affidavit ballots required to have it 4 business days after the election but like I said yesterday at the presentation that falls on the Monday after the election. And so the last business day technically before that that we could then get the information from the counties so that we could do what we would need, which would be Friday, which would be three days after the election. So if we get it on there we are happy to work over the weekend to aggregate all of that information and do the data matching

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that we do and then provide the files to the county for that when it comes time for them to start performing their canvass, they have the information from the other counties so they can make an informed decision as to whether or not they should count on that date.

Commissioner Kellner: And that's one day longer than the executive order provides.

Tom Connolly: Right.

Commissioner Kellner: So, we've actually made it easier for the counties not that it...

(All talking)

Commissioner Kellner: What alternative would you propose to comply with the statute?

Commissioner Kosinski: I don't I'm just trying to understand what the practicalities are for the counties to meet this date.

Kristen Zebrowski Stavisky: The E-poll books also make it easier to meet this because they can collect the affidavit information there and we've encouraged them to do it as their going. During early voting most counties take those affidavits and they're doing that research right that day when they get back making the list. So it's not something the end of Election Day you have a pile of affidavits that you haven't even started on. There are tools in the E-poll book that make it easier for them.

Commissioner Kosinski: Do all our counties have E-poll books now?

Tom Connolly: Everyone except for one. All but one.

Commissioner Kellner: And who is that?

Tom Conolly: Hamilton.

Kristen Zebrowski Stavisky: At least we could certainly assist them in making sure that they're using the functionality and not all...

Commissioner Kosinski: and you feel that the new E-poll books make this eminently doable your suggestion. So this concern that the counties raised, you don't believe was valid in the current context of the E-poll book.

Commissioner Kellner: Their concern, just like so many of the things with this year's changes required, new staffing plans and if you don't have the staff then you can't do it. It can't be done without the staff.

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Commissioner Kosinski: So what happens when the county can't do it or doesn't have the staffing because the county, the legislature won't give it to them and now they're stuck without being able to comply with it?

Tom Connolly: So what we've typically done in the past is like I said, we've often done this over a weekend. So if we have to kind of push the deadline back beyond Friday because counties are still working on it, then I'll come in on Sunday and make sure it gets done. But even by then they still aren't able to provide us with all of the information, we hope they'd be able to provide us with something and we'll just do the statewide data match and put in whatever information we've been provided.

(All talking)

Commissioner Kosinski: There is this mad rush to get the election results out now. There seems to be this huge concern over the legislature that election results are not being provided early enough so they've changed all of these systems including this law, I've been complaining about and came up yesterday about the absentee ballot counts. Just to rush through, I think, the results but I think sometimes you strain the system in a way that you start making it too difficult for people to comply with these timeframes and I just want to be sure that the time frames are realistic and we're not putting something on our counties that they simply can't meet because somebody in the legislature decided, "Oh we need these results on Tuesday, I can't wait till Wednesday." But the Boards are under certain constraints here as to what they can practically provide.

Commissioner Kellner: But if the county legislature won't provide the staffing to actually do what their Board of Elections is required to do, they're not acting lawfully.

Kristen Zebrowski Stavisky: The ownness is really on the larger counties and they tend to have more resources.

Commissioner Kosinski: Let me understand this again just for my own mind, so this is going to dovetail with that four-day count of affidavits is that right? So they've moved up the count of affidavits from whenever that was happening at the counties which was later than 4 days for sure, to four days. So you have to count your affidavits within 4 days of the election and in order to do that accurately, we need this information by Thursday so we can make sure nobody's voted twice in the state of New York right? That's the issue as I understand it.

Commissioner Kellner: And I guess we should underscore that this is an antifraud provision. So, the failure to comply with this does not prevent their canvassing of the ballots, it does remove one of the safety checks that we built into the system to make sure that people aren't double voting.

Commissioner Kosinski: And I appreciate that. I appreciate that because that's a concern.

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Commissioner Kellner: So, the other point here is that if you threw out this process entirely, it wouldn't stop us from canvassing the ballots, but one of the safety checks or the antifraud provisions would be eliminated.

Commissioner Kosinski: My only other take on this is somebody, somewhere that I don't know came up with this four-day rule. I don't know where it came from, maybe somebody can tell me. but it's an arbitrary day, somebody picked out of the sky, we want four-day counts of affidavits. I have no idea where it came from, who came up with that and why.

Commissioner Kellner: I believe it came from copying the general procedures that other states use and that's what drove in other words the four-days was on when to canvass the provisional ballots, this particular comes from a unique New York issue which is that we have voters who vote in other counties, how do we know whether or not they cast an affidavit ballot.

Commissioner Kosinski: So, the third day falls on a Friday, fourth day falls on a Saturday.

Tom Connolly: Affidavit canvass is the fourth business day so it would become Monday.

Commissioner Kosinski: So, when you talk about this weekend this Sunday, you're going to come in it's actually going to meet their deadline of Monday. So, we could actually allow this to happen over the weekend and still comply with their Monday deadline.

Tom Connolly: We could but typically we go with Friday because it's a business day.

Commissioner Kosinski: No, I understand that. I'm not asking you to come in Sunday.

Tom Connolly: But if they're going to come in on the weekend so am I.

Commissioner Kosinski: I get it, I get it, so you're really talking about not a four-day count but a seven-day count? Six-day count is the real number its not four days that's really inaccurate.

Commissioner Casale: With all the changes we've made we still can't certify the ballots until seven days after the election. You still have to wait seven days for military, overseas...

Tom Connolly: thirteen for general and then you have the cure provisions to take into consideration.

Commissioner Casale: That would actually take them out past our deadline. I realize there aren't that many close to election. But I'm saying they haven't accomplished anything here.

Tom Connolly: Then they...

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Commissioner Casale: The thing I heard in the public domain was they wanted everybody to know on Election Night what really happened. We can't wait past Election Night, yeah they didn't change that statute they can't.

Commissioner Kellner: Commissioner I guess my point indirectly was saying it's your side that wants this regulation because I think that there are a lot of people on our side out there saying we don't need to have this complicated fraud check procedure, that its enough that later on if we find out that somebody double voted, we would go prosecute them and the odds of somebody doubling voting by this Ruth Goldberg method of moving into a different county and casting an affidavit ballot after they voted in their old count is pretty remote.

Commissioner Casale: Oh, oh it happens. I didn't realize we were taking sides here but that's okay.

Commissioner Kellner: No, but it is because this discussion is oriented as if you're hostile to the three day rule when it's a rule that's being put in as an antifraud measure that isn't really...

Commissioner Casale: I'm not against the rule my question is why do we go through all these machinations of we've got to count, this early absentee counting is ridiculous in my mind. Counting it early is not going to make it any more honest, it's not going to make it anymore efficient. That was my point.

Commissioner Kellner: I agree with you on the first point, it isn't going to make it more honest, but it is going to be substantially more efficient because of what happens post election.

Commissioner Casale: Post election and I participated in a few, New York has a very transparent process for county absentees and affidavit for county elections. They always have and to take that away from the public and take that away from the candidate I don't really think its right.

Commissioner Kellner: Well, they just have to do it before.

Commissioner Casale: If they're allowed to do it.

(All talking)

Commissioner Casale: The resources, you're off campaigning, you've got to keep running back and forth to the Board of Elections to see what's going on. The Boards are busy doing their work everyday and running early voting and then they've got people stop and start counting ballots or opening envelops, they have to do this...

Commissioner Kellner: And how they do it in 43 other states. So, New York is...

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Commissioner Casale: Well, you can't talk about other states. I watched, I don't know about Pennsylvania, but I watched where there was a big problem on both sides of the isle, they wouldn't let anybody in the room to watch the counting post election.

Commissioner Kellner: Yeah, and I don't agree with that either but all I'm saying is that what the legislature did was remove the rule that you can vote in person after you've mailed in an affidavit an absentee ballot which is the rule in all but I think just two other states and to advance the process. Basically to say, look, once you've given somebody an affidavit an absentee ballot and you've approved their application, then they should be allowed to have that vote count and that there shouldn't be some defects that raised after the election that discounts the ballot. That's the theory behind it.

Commissioner Kosinski: We could argue that. I think we all agree but my concern here today really was raised at the conference when some of the counties pushed back about this three-day rule. I'm just trying to understand. Do we feel, and apparently, we do that the three-day rule is very meetable, that the electronic poll books will allow them to do the work that they need to do within the three-days and that that concern that was raised is not reason to not do this. I guess I'm trying to understand this. Listen, I mean I don't know who proposed the three-day rule but it has to be done to comply with the four-day rule.

Commissioner Kellner: And it had to be leaned in than the forty-eight hour rule that the Governor put in basically at the request of, in anticipation of the arguments that antifraud people were making that by allowing statewide change of address by affidavit voting would create new opportunities for fraud.

Tom Connolly: I want to be very clear that I don't think anyone here is saying that this is simple for the county boards to do. It is a challenge but as Commissioner Kellner said, it's a matter of when you know what you're up against, you simply have to staff accordingly. The regulation is already in place but the only way that this is actually going to be in effect for the antifraud component is that if it occurs before the legislative you know there's a deadline for the canvass of affidavits out. So nothing happens afterwards and it doesn't benefit that. So three days. We tried to give as much time as we could and even as I said, I'll be happy to try and get as much more beyond that that I think is possible.

Commissioner Kosinski: Well it sounds like we don't have much of a choice let me just start here based on the statutory scheme but I am, of course concerned that this is actually being implemented and implemented properly and that there is actually a realistic way on how they can get this information to us, and do get the information to us. So I certainly want to follow through on this. that we see the experience of this this year. So this will happen at the first election in June and we can see how the counties handle this. But I think we do need to monitor how realistic all these dates, you know these dates get changed without any discuss with boards of elections. This is part of my complaint here and this is generally speaking. And this bill was passed without any discussions with Board of Elections that I am aware of. Certainly I had no discussions about it and I'm not aware of anybody that did. And here we are imposed with these

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date that people come up with, God knows from where. The boards have to suddenly meet without any discussion without any preparation without any ability to say, “Gee that may not work and here’s why”, you just meet it and then you have to figure it out. Well good luck. Because we have 58 county boards out there that have staffing issues, some of them do some of the don’t but I understand I’m sympathetic to the ones that do. We have so many smaller upstate counties simply don’t have the staff to implement these new requirements that are being laid upon them every year now it seems. Every year we go through this massive change and every massive change has massive implications at our county boards that require more staff. They don’t control their staff, their county legislature controls their staff. And I know how hard it is for some of these counties to convince their legislature, “I need more staff because they just changed the law.” And if they don’t give them the staff to do this, you know we’re have luck right now with the state legislature giving us staff, we know how hard it is too. But they don’t get the staff how are they going to suddenly do this work?

Commissioner Spano: For every one staff member you’re talking to.

Commissioner Kosinski: Right at the county level you are.

Kristen Zebrowski Stavisky: We certainly recognize the strain on the boards. Having been in a board I can tell you that I hear your concerns and I do believe the E-poll book will help mitigate it for the board. But we certainly will monitor.

Commissioner Kellner: Alright, are we ready to vote on this?

Commissioner Kosinski: We are ready to vote.

Commissioner Kellner: Those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Opposed? Alright that regulation is adopted. Next is the Voter Verification DMV resolution 2204.

Todd Valentine: This performs our matching regulations through the changes that were made in the Department of Motor Vehicles identification.

Commissioner Casale: General operability?

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Todd Valentine: Yes, because we're still matching on first name, last name more importantly was the driver's license number and date of birth. Gender was always an optional field anyways so we didn't always match on everybody anyway and this will help us.

Commissioner Kosinski: So maybe you can just describe for a minute what prompted this change? In our law why are we having to remove gender?

Todd Valentine: This is prompted by the Department of Motor Vehicles change in a statute in which they had to add an additional gender field that was male, female, and X or undisclosed.

Commissioner Kosinski: So they've added two gender options that don't work with our particular regulation?

Kristen Zebrowski Stavisky: Also our gender its optional for registration.

Commissioner Kellner: Anything else? Alright, so those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Opposed? That's adopted. Next is the resolution that allows certification testing for the new Hart system. I don't think we need to discuss that.

Commissioner Kosinski: This is just to authorize testing right?

Commissioner Kellner: Okay so those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Opposed? Alright next is our legislative packet and we already had discussion of one item on the LLCs.

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Commissioner Kosinski: Yeah if I could just reiterate. I would suggest we add a penalty portion to that legislation so that LLCs failure to file their attribution filing which should come in earlier but whenever they file it, if they don't file it there should be a civil penalty much like the candidate committees are imposed.

Commissioner Casale: These are our proposals. Where do we submit these? Do these become program bills?

Brian Quail: We could yes, but technically they're not program bills in the sense that you mean that word because the Board of Elections technically is not a program agency of the Governor but they're the equivalent of a program bill.

Commissioner Casale: Are we responsible for any sponsors?

Brian Quail: No, we don't find sponsors we prepare the entire packet, the actual legislative language that goes with it and then its communicated to the chairs of the respective committees in the house and leadership of the house. And it's posted on our website.

Commissioner Casale: Do we have any connections over there? Do we have to vote to approve this?

Brian Quail: It would be a motion.

Commissioner Casale: So, moved.

Commissioner Kosinski: Second.

Commissioner Kellner: Alright those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kosinski: I'm just going to make one suggestion because I hate to complain, I think there's too many here. Let me just start there. I think our better strategy if I can say this would be to reduce them to ones we really, really want, maybe five or so because I think to ask for twenty some bills is unrealistic and I would suggest we prioritize them at a minimum with the bills we think are most important. Some of these are clean up bills that I know they'd be nice to have but frankly don't do anything because some law has been declared unconstitutional and is it confusing when you read the law and its no longer applicable? Yes. But does it actually do

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anything to take it out of the law? No, because the law has already been changed. With that said, I just think working the legislature, when you get a package of twenty bills...

Commissioner Spano: Categorize them.

Commissioner Kosinski: Something that highlights them.

Commissioner Kellner: ...put us on record those. Is to say here's what we had and in fact we do prioritize them. Well I mean I know that Kristen, Brian and I are constantly in contact with the legislature.

Commissioner Kosinski: So, you prioritize them when you talk to them?

Commissioner Kellner: Of course, yeah.

Commissioner Kosinski: Okay well it's your side of the isle so I'll just leave that to you.

Commissioner Kellner: My number one priority has been getting ballot images as public records and so far I've only got through the Senate on that one. And the same issue comes up with the Election Commissioners Association and their list and there's a bipartisan list and then there's also the Democratic caucus. But at least for the record, I think on this LLC issue we've identified where even our proposal may be a little weaker than it should be.

Brian Quail: Do you want to move that to the top of the list and make the amendment? So, we'll make the amendment as the Commissioner's direct it?

Commissioner Kellner: No, you want to circulate it so that there's bipartisan support and I would add not only the, I absolutely agree with Commissioner Kosinski that there should be a penalty but maybe we should also provide that you can't receive the contribution until they file the list. Just like we say you can't receive a contribution until you registered your committee.

Commissioner Kosinski: I'm open with the penalty just another way to get there.

Commissioner Kellner: I could pick on some of these start time for poll workers is it true that in every single location the poll worker needs to be there 1 hour early and indeed I've been saying we should have split shifts. Does that mean every poll as well?

Kristen Zebrowski Stavisky: There's a lot more to set up and more equipment these days. Making sure there's connectivity and vote on demand is working and early voting and all of that.

Commissioner Kellner: And I don't know why a county board can't require somebody to come one hour early there anyway even if the statute says a half hour.

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Todd Valentine: It helps with the justification for payment on county legislative side if they increase the hours.

Commissioner Kellner: Okay now did we vote on this?

Commissioner Kosinski: On the legislation? Oh we didn't vote on that yet okay.

Commissioner Kellner: So those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Alright that's adopted. Affidavit envelopes, very pleased to see this come in. Somebody want to explain what the difference on this?

Tom Connolly: The update is largely in, actually, its completely in section B first and foremost we had the 5th reason which is that the record for the board indicates that I have been issued an absentee ballot. This is now a new reason for a voter to be voting that affidavit ballot. And the other change was the addition of the italicized text under the first check box which came out of the conversation that the Commissioners had initiated about trying to clarify what happens when a voter's record apparently does not show up on a poll book.

Commissioner Kellner: And I hope that the official size of the form is not 8 ½ x 14. What is the official sizes of the form?

Tom Connolly: Well the set of the form is normally done so that it can be scaled to the two means both sizes 9x12 and 10x14. So it is larger than 11x14 but I don't have it.

Commissioner Kellner: Yeah, but I would like that to be clear that no board should send out the form as its been given to the Commissioners where its even worse for you.

Commissioner Kosinski: Mine was given out 8 ½ x 11, I can't read it but it was given out to me as 8 ½ x 11.

Commissioner Kellner: And mine is on a 14".

Commissioner Kosinski: You can actually read it.

Commissioner Kellner: No, I can't read that.

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Commissioner Kosinski: I can't read that either because 8 ½ x 11.

Commissioner Kellner: But I'm 69 years old. So, its our fault.

(All talking)

Commissioner Kellner: I want the resolution clear what the minimum font size is on the form that we're approving so that a county, I mean if it's 20" I don't mind 8 ¾ x 20 inches but I want it clear that this is not acceptable.

Kristen Zebrowski Stavisky: This is shrunk fit, the issue right now is that there's a huge supply chain issue with envelopes and paper in some counties who have actually order the envelopes waiting for us to approve those that they can be printed.

Commissioner Kellner: Yeah, but the question is if they don't have 20" paper I am saying they cannot use 14" paper, they'll have to put it on two pages.

Tom Connolly: So two things I offer: number one, in the past whenever we approved changes to the voter registration form or to the affidavit envelop, I don't believe there is an accompanying resolution. We can certainly, when we send out the new form template, we can advise them of that. What I will also offer is that at some point we have engaged with the Center of Civic Design and looking at options for changing the notice of voters. People also suggested some changes to the affidavit envelop with a two-sided document. But at this point because we're dealing with the changes...

Commissioner Kellner: I'm only one commissioner but I want to make it clear that the text of this form is okay but the actual form presented to me is not acceptable because I don't regard it as being legible.

Kristen Zebrowski Stavisky: Some counties have a double-sided form but they are required to do it in Spanish and English. I will say I can try and get you copies of, for example, Rockland's form, you can read it, it's bigger than...

Todd Valentine: Well the margins were wider.

Commissioner Kellner: But 8 ½ x 14 if this is blown up full size it's probably 20" long but that means the county would have to have 20" paper to use.

Kristen Zebrowski Stavisky: Yeah, their envelopes are bigger than legal size most of them but there's variety.

Commissioner Kellner: I guess, I'm repeating myself, but legal size is not acceptable. It's not legible.

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Commissioner Kosinski: Do we have a font size that we apply to all our forms?

Kristen Zebrowski Stavisky: I don't think this copy which was made by a staff member here is actually representative of what it looks like. The margins shrunk when they made the copy. So we can try to get you something that is full representative.

(All talking)

Commissioner Kellner: I don't think you can give that to a voter because it's too small.

Commissioner Casale: Blue against white the contrast is easier to read than this one.

Commissioner Kosinski: Do we dictate to the counties the size of font on their forms?

Commissioner Kellner: No, we're in charge of the forms so...

Commissioner Kosinski: Do we dictate font size to counties on which forms, ballot forms?

Tom Connolly: No.

Commissioner Kosinski: We haven't done that?

Tom Connolly: The only requirement for font size is on the ballot.

Commissioner Kosinski: But outside of that all other forms are basically up to the counties as to how it actually looks.

Tom Connolly: Right.

Kristen Zebrowski Stavisky: And many county websites for example will say, if you're printing this registration form fit to print because you may not have legal paper. So registrations forms actually come in on letter paper.

Brendan Lovullo: And I think what someone said earlier about the paper, a lot of paper has been ordered and is sitting in warehouses from either vendors that own the paper or the City Board of elections has paper that they've ordered. So, I think changing something now would be detrimental to their printing jobs.

Brian Quail: And envelopes which is even harder than paper.

Commissioner Casale: Are you having complaints about this from the voters? This is at the poll site right?

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Tom Connolly: It is.

Commissioner Casale: So, if the voter says, "I can't read this or I can't see what it says" there is somebody that will assist them at home or someplace else right?

Tom Connolly: Either that or a lot of the proxy booths will also have magnifying lenses or..

Commissioner Kellner: Or they don't read it they just sign it.

Commissioner Casale: If somebody can't read it and asks for assistance.

Kristen Zebrowski Stavisky: Absolutely.

Tom Connolly: This started off Brian I don't remember the actual year that we had to make a change where it would become a voter registration form but what the Board did then was basically take the voter registration form and just put it on the envelop. And since then, section B has steadily increased in reasons that we are looking at ways to make this more usable.

Commissioner Kellner: And it was 2011 when the senate flipped. The bills got through before...

Commissioner Kosinski: Well part of the problem is we keep adding things to these forms because we keep wanting to give more and more and more information and it just makes the form more complex, more verbiage, smaller print.

Tom Connolly: We are working on trying to resolve that, and from like, they provided like a draft of an idea which is definitely different but being that we're in the time crunch that we're in with paper and people needing to have stuff ordered these now to have them ready for the June primary, we wanted to at least put in a language that Commissioner Kellner had requested and then we had to enter into the absentee ballot and tell County Boards, "Listen, we're looking to make this a little bit more usable in the future so maybe don't order 5 years worth."

Commissioner Kosinski: Yeah, I think we need to try to clean it up if we can because its nice to add the information, it's helpful I don't deny that but it does clutter it.

Kristen Zebrowski Stavisky: It is a longer-term project as Tom said and especially since they had to reprint these some any times over the past several years. So, absolutely, it needs to be a lot cleaner.

Commissioner Kellner: Okay I got that off my chest.

Commissioner Spano: For some reason this bothers me. It says, "I wish to enter into a political party." I think we should put, "I do not want a party" up front. I think that people check things when they read it and they get to another part and they say, "Oh I didn't have to check that."

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Tom Connolly: I will say that's the order that we went with when we made the changes to voter registration form and we added that new language.

Commissioner Spano: Yeah, I know that. I'm just saying looking at this here I know the way some of my relatives mark these things.

(All talking)

Kristen Zebrowski Stavisky: I think the language changing made was actually very helpful.

(All talking)

Commissioner Kellner: Are you able to read that? I can't read the other and I've got my glasses on. Wait till you're my age.

Todd Valentine: Do we need a motion to adopt the language?

Commissioner Kosinski: Do we?

Tom Connolly: The Board has to approve it.

Commissioner Kellner: Alright is there any more discussion? Alright those in favor say aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Opposed? Ah the New York City Board of Corrections letter. Did they show you, my draft?

Commissioner Kosinski: No.

(All talking)

Commissioner Kellner: Can somebody go make copies of the draft so we can show that to the Commissioners? I never got the attachment by the way even on the original I never got the attachment.

Commissioner Kosinski: Is this the letter for the City Council?

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Commissioner Casale: Certain Councilmen.

Commissioner Kellner: I never got it; it wasn't attached to the original...

(all talking)

Commissioner Kellner: Here's a draft that I wrote which basically says that the Board of Elections has no role to play with respect to the implementation of Chapter 46A. I don't know what more to say than to say we have no role to play.

Commissioner Casale: You're suggesting that they have the right to do what they want with municipal elections and the state is not going to participate.

Commissioner Kellner: All I'm suggesting is, personally, you're anticipating my personal view but the letter doesn't say that. The letter just says we have no role to play.

Commissioner Kosinski: So is there something in their local law about this, about getting the information to us?

Commissioner Kellner: The local law says that they should code noncitizen voters as M with a code letter M and that they should file their lists with us.

Commissioner Kosinski: And why are they filing with us?

Commissioner Kellner: Doesn't say.

Todd Valentine: It does, because it goes on to say to be included in any appropriate list.

Commissioner Kosinski: So they're be...

Kristen Zebrowski Stavisky: In and appropriate list

Commissioner Kosinski: Be incorporated in the statewide voter registration list is that what it says? I'm sorry where is this section that you're reading from?

Todd Valentin: Page 4.

Commissioner Kosinski: Page 4. Okay so registrations for municipal voters entered into this record shall not contain, lalalala, municipal voter registration shall be filed with the state Board of Elections with such designation to be included in any appropriate list or database in accordance with law. What do you think they're referencing here? Do we know?

Brian Quail: Can I comment on that?

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Commissioner Kosinski: Sure.

Brian Quail: I think, particularly if you look at where the legislation was developed over time when it was originally written, we weren't in there at all. So the way that that section that you just read commissioner works in my view is that though the City Councils commanded the Board of Elections to do this and it comes to the end and it says, "and file this list with the State Board of Elections to be included in any appropriate lists." I think the determination as to what would be legally appropriate in terms of including that into the City Council is saying it would be up to the State Board of Elections to determine. I don't think it's a direct command to us because obviously that's not what they do to do anything with it. It would be up for us to determine whether or not we were going to be doing anything with it. And there is probably the consensus that we should simply say thank you when we get it.

Commissioner Casale: I would probably say more than thank you.

Commissioner Kosinski: But I just don't understand what their goal was here. Do you have any idea? They clearly incorporated us now into this bill. I mean we can say we have nothing to do with this but for some reason the City Board decided in passing or City Council in passing this to incorporate the state into this somehow. This goes back a little bit to what was an issue at a prior time about the whole, the whole rank choice voting issue. Where yeah, that was a local law but you the State got involved because we certified voting machines. And I, as you know, objected and still do about the authority of the City to create a whole new voting system for their municipality and not follow State Law. I think that's wrong, I don't think it's allowed. I don't think they should be able to do it but I understand they did it and we are kind of jammed up, I certainly felt I did with, "Well if you don't certify the voting machine they're going to run it on paper." Well that's a terrible result and I was totally against that because paper balloting hand counting is the worst way to run an election. So, I allowed it. But here we go again. We have the City Council passing a law a local law and then incorporating the State into it and asking our opinion. I think they're wrong. I think having noncitizens vote is not allowed. I think the State and the constitution, statute...

Commissioner Kellner: So, you disagree with the conclusion as well as my draft?

Commissioner Kosinski: I think we need to be more direct. Let me read it again.

Commissioner Kellner: I'm trying to get a common denominator especially on an issue where we are not involved. We are not parties to the lawsuits, and my answer is that we have no role to play with respect to the implementation of their city Charter provisions.

Commissioner Casale: So, you're suggesting even if the courts rule, they can do this in the City...

Commissioner Kellner: They'll e-mail us their list and Todd will put it somewhere.

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Kristen Zebrowski Stavisky: In an appropriate file.

Commissioner Kellner: And I might add that I have heard Todd say on multiple occasions over the years that anybody can file anything with us and I won't go on to describe what some of the things he's given as examples that have been filed with us.

Todd Valentine: It's been a long career.

(Everyone laughing)

Commissioner Kellner: No, its fine Todd and I said the same thing myself many times. But I want to answer their letter. I was annoyed that they sent us the letter because I didn't think, because what are they really trying to do. They're going to say, "Oh the State Board never responded to our letter" just like they did to us with Rank Choice Voting.

Commissioner Casale: My experience has been all the years in government, especially legislature, you can disagree with what I say but I can't defend not answering. We've got to answer them and I think your answer needs to be spruced up a little bit.

Commissioner Kosinski: I don't know, I think we need a little time to look at it but I don't know if I can do this right here right now. I'd just like a little time to look at it. I'm in favor of responding, I agree with that.

Commissioner Casale: I think if they're watching they'll know what we think.

(All talking)

Commissioner Casale: We don't want to put anything in writing that's going to bridge the case.

Commissioner Kellner: Well, I don't see how this bridges the case. Alright so you want to meet at noon on Monday?

Commissioner Kosinski: Noon on Monday on this is that a good time?

Todd Valentine: I am not available.

Commissioner Kosinski: Well let's just talk about it, what's the timeframe here for the City, what's going on with this from a time stance?

Commissioner Casale: Do we need a vote on this, can we just do it by consensus, circulate and just sign off on it or...

Commissioner Kellner: Yeah, but I want to do it.

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Kristen Zebrowski Stavisky: You're asking us for guidance.

Commissioner Kellner: I'm going back to Rank Choice Voting where we were jerked around for a long time instead of just...

Commissioner Casale: I'm not suggesting that, I'm just saying does it require a vote or consensus. It's actually a letter, we're not passing a resolution. We just circulate it and...

Commissioner Kellner: Can we set a time for doing that?

Commissioner Kosinski: Well what's the implementation of this?

Commissioner Kellner: The City is required to provide a plan for implementation to the City Council is it by June 30th?

Kristen Zebrowski Stavisky: July 1st.

Commissioner Kellner: Okay and that's very similar to what the Rank Choice Voting provision did. Now as you know, I sent multiple letters to them and they missed their date and they turned around and blamed us for why they didn't put their Rank Choice Voting implementation plan together and that's exactly what they're doing here again. They're trying to make it look like we're the ones who are holding them up from doing their job. And they sent us the letter 6 weeks ago right.

Kristen Zebrowski Stavisky: January 19th. We also did not, just to be clear we did not receive the underlying letter that they referenced.

Commissioner Kellner: Now we're being picky.

Kristen Zebrowski Stavisky: No, I'm not being picky, I'm just saying...

Commissioner Kellner: I looked at the letter on January 22nd and said, this letter is nonsense, they have a nerve sending it to us this way as if we're the ones who are responsible for their implementation and without proposing anything that they propose to do other than file a list with us which is what the statute says. And for us to take 6 weeks to get back to them to say we have nothing to do with this is annoying to me. But if you need more time to do...

Commissioner Kosinski: Well to be fair to me you just gave me the letter as we're sitting here so I don't think it's fair to accuse me of holding things up.

Commissioner Kellner: Well except I said on January 22nd, this is how we should respond.

(All talking)

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Commissioner Kosinski: But I'm willing to try to do something sooner rather than later. So they have a July 1st date which is still a ways off. It's March, April, May, June. They have 4 months to put a plan together you said. And you think they're waiting for our response for their response to our to this letter?

Commissioner Kellner: I am dealing with what they did to us with Rank Choice Voting not withstanding multiple letters from me to them saying that, "You need to put together your plan and proposal." They turned it all around and say, "Oh the State didn't give us any guidance and that's why we didn't do it."

Commissioner Spano: And they're going to say you're a month lag and...

Commissioner Kellner: So that's why I think that sooner than later we need to officially send them back and say, we don't have any role in this.

Kristen Zebrowski Stavisky: We drafted a more formal letter and get feedback by maybe next Friday and meet?

Commissioner Casale: Yeah, we'll try to do something in a week or so sure.

Kristen Zebrowski Stavisky: So we'll circulate it.

Commissioner Kosinski: If you could do that and then we can get a better handle on it. But listen, we agree a response is warranted that's why we brought it up today.

Commissioner Casale: That's why we have no position; we have no role in this.

(All talking)

Kristen Zebrowski Stavisky: Great.

Commissioner Kellner: An Executive Session is needed? I don't think it's needed. And we have to set a date. We said the first Monday in May, May 2nd.

Commissioner Kosinski: If something comes up in between.

Commissioner Kellner: Alright we stand adjourned, thank you very much.