

NYSBOE Board Meeting May 10, 2011

1	Table of Contents	
2	Board of Commissioners Regular Meeting	1
3	Approval of Minutes.....	2
4	Unit Updates.....	2
5	Executive.....	2
6	Legal.....	6
7	Election Operations.....	6
8	Public Information	8
9	Campaign Finance.....	9
10	Information Technology.....	10
11	New Business.....	11
12	Discussion of Request by Suffolk County Board of Elections for additional ballot size options	11
13	Discussion of Request by New York City Board of Elections for advice on conducting the canvass.....	15
14	Executive Session.....	11

15

16 **Board of Commissioners Regular Meeting**

17

18 [BEGIN AUDIO]

19

20 **DOUGLAS A. KELLNER:** So on this note we'll call the meeting to order. My name is Douglas Kellner, Co-
21 Chair.

22

23 **JAMES A. WALSH:** Jim Walsh.

24

25 **GREGORY P. PETERSON:** Gregory Peterson.

26

27 **EVELYN AQUILA:** Evelyn Aquila.

28

29 **TODD D. VALENTINE:** Todd Valentine.

30

31 **KIMBERLY GALVIN:** Kim Galvin.

32

33 **JOSEPH BURNS:** Joe Burns.

34

35 **PAUL COLLINS:** Paul Collins.

36

37 **PATRICK CAMPION:** Pat Campion.

38

39 **TOM CONNOLLY:** Tom Connolly.

40

41 **JOHN CONKLIN:** John Conklin.

42

43 **GEORGE STANTON:** George Stanton

NYSBOE Board Meeting May 10, 2011

1 **WILLIAM MCCANN:** Bill McCann.

2
3 **ELIZABETH HOGAN:** Liz Hogan.

4
5 **BOB BREHM:** Bob Brehm and I wanted to mention that our colleague, Anna, isn't feeling well today.
6 And we know she is not feeling well when she misses a Board meeting, so we wish her well and that's why
7 she's not here today.

8
9 **ROBERT WARREN:** Bob Warren, Elections Operations.

10
11 **EVELYN J. AQUILA:** No, they can't get in, [LAUGHTER] let's be honest.

12 13 **Approval of Minutes**

14
15 **DOUGLAS A. KELLNER:** All right, well so the first order of business is approval of the minutes of April
16 12th, 2011.

17
18 **JAMES A. WALSH:** So moved.

19
20 **GREGORY P. PETERSON:** Second.

21
22 **DOUGLAS A. KELLNER:** Those in favor, say aye.

23
24 (Chorus of ayes)

25
26 Opposed?

27
28 (Silence)

29
30 All right, the minutes of April 12th are approved.

31 32 **Unit Updates**

33
34 We'll have the Unit Updates, Bob Brehm and Todd Valentine.

35 36 **Executive**

37
38 **BOB BREHM:** Mostly what we put in our written summary are the main items that took a lot of time.
39 The conference, I thought, was very well attended and we had many positive comments from the
40 Commissioners, so I thought that was a good sign. We had a nice--you know, we had moved to a new
41 location mostly because of the comments from the Commissioners about the last one, you know, wasn't
42 large enough and issues that they had voiced to us. So I think that PIO did a great job in finding us a new
43 location and we had a lot of very good comments about the food and the work that everybody did and the

NYSBOE Board Meeting May 10, 2011

1 program that we put on.

2
3 Also one of the other items that we've been continuing to work on is meeting with a group of the IT people
4 from the various county voter registration system vendors, and then their home-grown IT departments
5 for those counties that have their own system, and a group of county commissioners to try and integrate
6 the MOVE improvements, actually into their day-to-day business plans and the work that they're doing. So
7 that early phase implementation can be streamlined with less key-stroke and duplicative entry, so that's
8 ongoing but it's still pretty much held up by one contract that we continue to work on to get the HP/Saber
9 on board to actually make the changes.

10
11 And I think those are the main issues, I think other than, you know, the other day-to-day routine that the
12 other units will report on.

13
14 **TODD D. VALENTINE:** Yeah, I--you know, [LAUGHTER] at this point we're planning towards the next
15 county board conference in about a month from today. And then we'll go through--you know, this is an off
16 year, so there's less election pressure for us to do and its time just to do the regular work that we do
17 which is voting machines, registration, the usual stuff.

18
19 **EVELYN J. AQUILA:** And Todd, I would say on the whole it's pretty impressive, the work that many of
20 them have done. I know there are some who have to catch up, but I thought oh, you know, that's all we
21 talked about while we were there. And probably Doug would know better, because he really understands
22 this field better than I do, but I thought some of the work they had done was quite impressive.

23
24 **TODD D. VALENTINE:** The conference was well received and we'll see how they really respond in the
25 post-conference surveys when we start getting those back, but the immediate feedback from and during
26 the meeting was quite positive. And the turnout was a little larger than expected so, you know, that was
27 good for both, for the two main days of the conference, the Wednesday and the Thursday.

28
29 So I think that's a positive result and--

30
31 **EVELYN J. AQUILA:** How many people were there exactly?

32
33 **TODD D. VALENTINE:** It was around 270, a little less on Wednesday, a little more on Thursday.

34
35 **EVELYN J. AQUILA:** -- Considering - - budget constraints I was really surprised.

36
37 **TODD D. VALENTINE:** Yeah, well going forward that's something that we need to consider, you know,
38 because for many years as we all know, you know, we've been meeting three state-wide meetings in a six-
39 month period. And the budget pressures have been catching up to the counties where they're forced into
40 choose to--they can't go to three meetings, they're choosing two meetings.

41
42 And we have had our pressures from our own Division of Budget as to whether or not we can consolidate
43 one of those meetings together, especially in light of our--the outreach that Bob and I have done with
44 regards to monthly conference calls with the counties to deal with when interim things come up. We have

NYSBOE Board Meeting May 10, 2011

1 an outlet for communicating to the counties on top of our electronic devices.

2
3 It's something we need to talk to the counties about, because we'd have to--they're our partners and we
4 would work with them. But those pressures, I think, have been increasing the last several years, so we
5 should be cognizant of that. You know, how that finally works out I don't know--you know, we've only
6 talked initially about it.

7
8 **EVELYN J. AQUILA:** -- Sure.

9
10 **TODD D. VALENTINE:** And only initially to the counties, but it's something that we need to be aware of
11 going forward.

12
13 **EVELYN J. AQUILA:** No, I think we are, you know?

14
15 **DOUGLAS A. KELLNER:** Yeah, I agree but I think the meetings are very important--

16
17 **TODD D. VALENTINE:** They are.

18
19 **DOUGLAS A. KELLNER:** --because they really are a good information exchange, they allow the
20 commissioners to learn from each other and I think it's invaluable that there be these face-to-face
21 meetings with the county commissioners.

22
23 **TODD D. VALENTINE:** Yeah, well John and Donna certainly are our faces of the unit, but do put a lot of
24 work into that.

25
26 **EVELYN J. AQUILA:** -- Right.

27
28 **TODD D. VALENTINE:** You know, it's also presentations that all the staff puts together; Bob and I
29 fortunately have staff to help put our presentations together and we just get to show up.
30 So but a lot of work goes into it and the face-to-face meetings are very productive, I think they have been
31 for years, that's why we do them.

32
33 But we have heard from the counties a number of--those three meetings, and it's a six-month-period
34 doesn't, you know--but it's hard--we don't--there's no reason to do any planning for more at this stage is
35 to wait to see what happens with the primary election. Because if that moves in a substantial amount then
36 well, in the past when there was a June primary there were September meetings. You had them spread out
37 over the year and you could deal with those issues.

38
39 In addition going into next year, 2012, we still don't know exactly when the presidential primary is going
40 to be, but we know the ballot access period for that presidential primary is going to be in the January
41 range for us.

42
43 So, you know, next year is going to be a--I have no idea what the calendar is going to look like.
44

NYSBOE Board Meeting May 10, 2011

1 **EVELYN J. AQUILA:** -- Uh-huh, for next year, yeah.

2

3 **TODD D. VALENTINE:** So, you know, we're going to take note that it's an issue; I doubt that we'll address
4 anything next year unless we're forced to for other reasons.

5

6 But yet, you know, we want to continue with the outreach, because we've done a lot in the last few years
7 with engaging focus groups of counties on discrete issues when we're doing planning.

8

9 And then do a broadened outreach and that has made a great difference when we're rolling out new
10 projects; that we've vetted it with a lot of counties to get local feedback.

11

12 **EVELYN J. AQUILA:** -- Yes.

13

14 **TODD D. VALENTINE:** Again, they are our partners and that's been very successful, you know?

15 It still requires a lot of work from the staff--a lot more work from the staff when you're doing that, but as
16 you're holding it seems like endless meetings and things going around, but people accept the changes
17 better. I think the changes are refined in a better manner, but everything can't work that way but we've
18 made great efforts to do that more so in the last few years.

19

20 **EVELYN J. AQUILA:** -- I noticed that the private conversations, which used to be sometimes just relaxed
21 conversation this time was business, business, business. That and they've had lots of questions and they--

22

23 **TODD D. VALENTINE:** -- No, they don't turn it off.

24

25 **EVELYN J. AQUILA:** --are they are very, very concerned about next year.

26

27 **TODD D. VALENTINE:** No, they make for--I'll admit personally they make for long days, because--

28

29 **EVELYN J. AQUILA:** -- They do because it's--I wish I had all the answers but I don't.

30

31 **TODD D. VALENTINE:** -- They never turn it off.

32

33 **EVELYN J. AQUILA:** -- No.

34

35 **TODD D. VALENTINE:** It never turns off, so it's hard.

36

37 **EVELYN J. AQUILA:** -- But they're very concerned.

38

39 **TODD D. VALENTINE:** And it's hard on all the staff, so...

40

41 **DOUGLAS A. KELLNER:** -- Well, thank you.

42

43 We'll turn to Kimberly Galvin to give the Legal Report.

44

NYSBOE Board Meeting May 10, 2011

1 Legal

2
3 **KIMBERLY GALVIN:** Thank you, most of what we've done is included in the written report.
4 A few things that we're going to follow up on more specifically in our Executive Session is our
5 conversations with the Department of Justice regarding New York City and the NYSVoter System, and a
6 proposed settlement in the Conservative Party case. Well, part of a proposed settlement in the
7 Conservative Party case; other than that it's been the routine business of the unit.

8
9 Paul, do you have anything to add?

10
11 **PAUL COLLINS:** Since we've filed our written report the Germalic case, he took a Notice of Appeal to the
12 Second Circuit from Judge Hurd's decision dismissing.

13
14 That's really it.

15
16 **KIMBERLY GALVIN:** And for all of you, I'm sorry to do this, but the Financial Disclosure Statements are
17 due May 16th for those of you within the sound of my voice that have not filed yours as of yet.

18
19 **EVELYN J. AQUILA:** --- I have to bring it.

20
21 **TODD D. VALENTINE:** I filed mine.

22
23 **KIMBERLY GALVIN:** -- Okay.

24
25 **JAMES A. WALSH:** It's always good to have - -. [LAUGHTER]

26
27 **DOUGLAS A. KELLNER:** For Election Operations, again we miss Anna and we wish her the best.

28
29 **EVELYN J. AQUILA:** -- Hope she'll feel better, yes.

30
31 **DOUGLAS A. KELLNER:** A speedy recovery and we'll hear from Joe Burns.

32 Election Operations

33
34
35 **JOSEPH BURNS:** Most of the report, the written report mostly speaks for itself. A couple of points, the unit
36 is still working with the counties in the 26th Congressional District in preparation for the special election
37 later this month.

38
39 We continue to work on asset management, in particular with the Schenectady County Board of Elections.

40
41 On the topic of usability which comes up every month, we're happy to report that the Usability Works and
42 Dana Chisnell is now the consultant that we'll be going with on our workshop orientation. We're working
43 now on finding the time and a date to conduct that.

NYSBOE Board Meeting May 10, 2011

1 On the certification Bob, could you make a few remarks?

2

3 **ROBERT WARREN:** As was mentioned at the last meeting both vendors have their source for the new
4 submission at WYLE Labs, which is being reviewed. ES&S has submitted three of the modules to SLI so far
5 and hoping to get the rest of the source code to them within the next two weeks, Dominion hopes to get
6 everything to them within the next two weeks.

7

8 SLI will then be reviewing the results of the review from WYLE Labs and then incorporating all the
9 findings that were left open from our previous certification testing and doing a complete review of the
10 code for those findings to be sure that they're all closed out.

11

12 **JOSEPH BURNS:** Finally our unit participated in the conference two weeks ago; I think it went well and I
13 think we have the socks to prove it. [LAUGHTER]
14 That's about it.

15

16 **DOUGLAS A. KELLNER:** Joe, I want to thank you and your staff again for the presentation that you did on
17 usability at the conference. That it was an excellent presentation and for me personally it was the
18 feedback that I've been looking for that at the staff level that this has become a priority issue; and I was
19 very pleased with the presentation.

20

21 The feedback from the county commissioners was also very positive, because none of us have really been
22 trained in usability and the presentation that you made was a good introduction to that subject. And I
23 think both at the state level and at the county level we need to continue to pay attention to that as a
24 priority, and I thought you did a good job.

25

26 We're looking forward to the workshop that you're putting together. Will we have space in the workshop
27 for people outside our own state board staff to attend?

28

29 **JOSEPH BURNS:** I think that that's the direction we were going to.

30

31 **DOUGLAS A. KELLNER:** There the League of Women Voters has asked whether they could send one or
32 two people to the workshop and I think that there are county commissioners who would also be
33 interested if it's feasible and cost effective.

34

35 **JOSEPH BURNS:** Yeah, I mean it's something we'll take a look at.

36

37 **DOUGLAS A. KELLNER:** Great, all right thank you again.

38

39 **EVELYN J. AQUILA:** It was excellent though, I was taking notes like crazy and I liked the opening.

40

41 **JOSEPH BURNS:** We had a fun time; we had a real fun time putting it together.

42

43 **EVELYN J. AQUILA:** Yeah, I can imagine.

44

NYSBOE Board Meeting May 10, 2011

1 **JOSEPH BURNS:** It was kind of Martin Scorsese meets Mel Brooks. [LAUGHTER]

2
3 **DOUGLAS A. KELLNER:** Well, let's hope it translates into real improvements in the ballot formatting in
4 the primary election. And I hope that the people on your staff will be taking a special look at that and also
5 working with the outside printers that the county boards use to make sure they're actually implementing
6 those principles that you illustrated on the present issues.

7
8 **EVELYN J. AQUILA:** No, that's a good point, that the print is a very good point.

9
10 **DOUGLAS A. KELLNER:** All right, we'll turn to John Conklin and Public Information.

11 **Public Information**

12
13
14 **JOHN CONKLIN:** Thank you Commissioner, good afternoon.

15
16 I don't have very much to add to the written report, Bob and Todd touched on the whole conference.
17 You know, we did a lot of work on that; I'm pleased it turned out well. Really the best thing I could do here
18 is just put on the record the thank yous for the people who helped out. Every unit knows who did their
19 own things, but for us there were a few people who came and helped out at the registration desk: Colleen
20 Koch, Lisa Shaw, Tarry Breads, Kate Orsino, Lisa Stapleton did some other stuff in the background. Donna
21 Mullahey was absolutely indispensable in helping do the planning and the logistics, so she deserves a very
22 special thank you. And this was Tom's first conference, he helped out a great deal as well, so I also thank
23 him as well.

24
25 The other thing I would mention is that we're on schedule to finish our NYSVoter visits to the local boards
26 at the end of June. There's a couple of boards that haven't gotten back to us yet on scheduling their
27 meeting; I would encourage them to do that and they can reach out to Patrick and Greg to do that.
28 They've already been contacted, so and really that's pretty much everything unless Tom has anything to
29 add?

30
31 **TOM CONNOLLY:** I think the only thing I would just add since we're sending out reminders is we did send
32 out a link for everyone who attended the conference to provide their feedback in the survey form. I mean,
33 today we've gotten 54 completed surveys, but for anyone who attended the conference who hasn't
34 completed the survey if they would consider it, because obviously their feedback is vital to making sure
35 that it's a success in years forward.

36
37 **DOUGLAS A. KELLNER:** Good, thank you.

38
39 John and Tom, one comment that I have received from the conference is a request that we look into seeing
40 if we can get the transcripts of our commissioners meetings posted more promptly.

41
42 **JOHN CONKLIN:** Okay.

NYSBOE Board Meeting May 10, 2011

1 **DOUGLAS A. KELLNER:** Because people do look for that and they're interested in it, and it seems that it's
2 taking longer and longer to actually get them up on the website.

3
4 **JOHN CONKLIN:** There's been a couple of issues; the vendor we had in place got taken over by a larger
5 company and there have been a couple of things that we're ironing out, but that's definitely something we
6 follow up on.

7
8 **DOUGLAS A. KELLNER:** Great, thank you.

9
10 All right, Campaign Finance, Elizabeth Hogan?

11 12 Campaign Finance

13
14 **ELIZABETH HOGAN:** Thank you, Commissioner.

15
16 In the written report I included the update on the month of April's numbers, so that you can see what
17 we're doing in terms of registrations and terminations and that kind of thing. I also wanted you to know
18 that we are still waiting on the amended Reg 6214, which is the Contribution Limit Reg. We expect it'll be
19 effective in the end of June or sometime in July at the latest; we'll want you to be aware that the
20 contribution limits that have been reconfigured that appear in that reg are the limits that we telling
21 people are applicable. So we have gone with those limits.

22
23 This, we're still waiting as well for the January Periodic Judgment to be signed; it's been a couple of
24 months and I would expect that that would come any day.

25
26 We have--since the last Board meeting this was a very odd time in terms of day-to-day work. It was just
27 there were all kinds of things that were happening on a day-to-day basis for our unit that just were very
28 time consuming and we were running around a lot.

29
30 The new campaign finance web is up; we finalized the approval for the new seminar presentation.
31 This year it is the—Mary Ellen, Mark and Lorraine worked very hard on making it a more usable and
32 interesting presentation. And Bill and I sat down with them and, you know, we approved that. I actually
33 went to one of the seminars that they started, last week or I think the week before, and it was just very
34 enjoyable. They did a wonderful job and it is much improved.

35
36 We also continue in terms of the audit issues; we continue with those very time-consuming and spread-
37 out audits. I mean, those things take a lot of time, it's not the kind of thing you look at one week and the
38 next week you have a result. I mean, it takes a lot of work and there are a lot of different stages.

39
40 As well, we were very busy with the result of the Board's referral at the last meeting of the corporate over-
41 contributors. As you can well imagine, sending letters and packets and all the stuff to District Attorneys
42 across the state was very time consuming. And then we had a nice little two-day reprieve before the
43 phones started ringing off the hook with, "You know, I never heard anything about this," and the D.A.s

NYSBOE Board Meeting May 10, 2011

1 wanting packets of information and that kind of stuff. So there were--it was a very hectic kind of--we also
2 went to the conference and it was just an interesting past month.

3
4 So that's the sum and substance of what we're doing; Bill do you have anything you want to talk about?

5
6 **WILLIAM MCCANN:** No, I just talked to--you know, we got good feedback from the counties at the
7 conference. I mean, there's always this give and take especially relative to what the role of the county
8 boards are with campaign finance. And, you know, we have to remind the county boards and have that
9 discussion about there is a significant role that they still play in that, and so that's always helpful to have
10 that conversation. And so we'll continue with that.

11
12 **DOUGLAS A. KELLNER:** All right, thank you.

13
14 Information Technology, George Stanton?

15 16 Information Technology

17
18 **GEORGE STANTON:** Thank you, at the risk of sounding repetitive, but there's not a whole lot to report
19 other than what I put in my written report. Just some highlights that we're getting--I think we're making
20 great progress on the new electronic filing software. We met with the Campaign Finance staff last week
21 and they're real happy with it, so we're hoping to get that wrapped up and really debug testing done this
22 summer, so that we can get maybe a beta group together in the fall to work on using and see how it works.

23
24 We've also, as Bill and Elizabeth know, we've been asking for money for the last three or four years to
25 redo the backend campaign finance system, because of some problems with that. We've actually been sort
26 of covertly working on that in-house for the last year, we've come up with a working system - -
27 Dennis Girard has done a great job on that--or Dennis Caro actually. Unfortunately he's retiring in about
28 three weeks, but he's going to pass the torch on to a couple of the other programs who are going to
29 continue to work on that with Campaign Finance the same way we did the electronic filing software.
30 And Phil Perry's done a yeoman's job on that campaign filing software, he's worked hard on that so that's--
31 -you know, he deserves credit for that.

32
33 Other than that, you know, we're just doing our routine maintenance and so forth.

34
35 OFT, I'm sure, will be looking for an annual technology plan sometime this summer, so we need to--you
36 know, unit heads need to let me know what they're looking to possibly get done even though it may be pie
37 in the sky at this point with the budget. But there are some things that we'll need to at least put on our
38 plan to ask for probably, so other than that unless you have any questions...

39
40 **DOUGLAS A. KELLNER:** George, one of the things that might be pie in the sky, but at least to think with
41 Election Operations is as the counties, more and more counties start doing electronic canvass will we have
42 a way of consolidating or picking up those electronic reports?
43

NYSBOE Board Meeting May 10, 2011

1 **GEORGE STANTON:** Well, that's actually Bill and Elizabeth's pie in the sky too, because that actually ties
2 in with the campaign financial disclosure and--

3
4 **DOUGLAS A. KELLNER:** -- Exactly, I just throw it out as something that at least in these kinds of long-term
5 planning reports that we start to put on the agenda.

6
7 That's all, that's great, all right thank you.

8
9 So we have no Old Business on the agenda; we'll turn to New Business, a discussion of the request by the
10 Suffolk County Board of Elections for additional ballot size options. Joe?

11 12 **New Business**

13
14 **JOSEPH BURNS:** Suffolk County has a need for--to use a larger 30-inch ballot. The issue—

15
16 **DOUGLAS A. KELLNER:** Why?

17
18 **JOSEPH BURNS:** Oh, because there are certain towns in the county with certain local offices that appear
19 every odd-numbered year that extend the ballot considerably for those towns. The issue here is that the
20 BMD would continue to use perforated ballots and there would be a distinction between the ballots that
21 go through the BMDs and then these 30-inch ballots that would go through the other machines.

22
23 **GREGORY P. PETERSON:** On a mechanical end is there anything preventing the vendor from being able to
24 do this software-wise, etcetera?

25
26 **EVELYN J. AQUILA:** Right.

27
28 **JOSEPH BURNS:** There would need to be changes made.

29
30 **GREGORY P. PETERSON:** And certification thereafter?

31
32 **JOSEPH BURNS:** Correct.

33
34 **EVELYN J. AQUILA:** Changes in the machine itself?

35
36 **JOSEPH BURNS:** Changes--would it be changed - - ?

37
38 **ROBERT WARREN:** -- My understanding is changes in the software.

39
40 **EVELYN J. AQUILA:** -- In the software, yeah all right. Well, that's in the machine - - to the machine.

41
42 **DOUGLAS A. KELLNER:** What's the issue that is being presented to the Commissioners today?

NYSBOE Board Meeting May 10, 2011

1 **JOSEPH BURNS:** An issue for discussion in terms of how this should be approached.

2
3 **DOUGLAS A. KELLNER:** Right, I believe Suffolk has asked for two things.

4
5 One is that they want approval to use the 30-inch ballot on the Dominion machines, and I think my
6 understanding of the staff recommendation on this is that we would consider a detailed plan for a pilot
7 project, perhaps in the three towns. But there would have to be a detailed plan that would deal with
8 addressing the risks of using the equipment before a completion of certification.

9
10 And there are two main issues when you use uncertified software: one is you want to make sure that it
11 works, so that you're not going to have any surprises on election day where you find that the equipment
12 has bugs in it and so you need to address that possibility, and with a backup plan.

13
14 And then second are the security issues because if you're using uncertified software then there's always
15 the possibility of bad code being introduced that could affect the results. So that there would need to be
16 additional safeguards in the audit process.

17
18 That's my understanding, then in addition to this because it does require a firmware change and they have
19 to go through the certification process the county needs to work out with the vendor a budget both for
20 what the vendor is going to charge for the software change and firmware change and the cost of
21 certification testing.

22
23 And I think Anna said that they would try to do as much of the usability and functionality testing in-house
24 in order to reduce that portion of the certification testing. But there would still have to be outside security
25 review of the source code, so that the county would need to budget.

26
27 And then I think there was an additional issue that was raised is that there are several other counties that
28 have at least expressed an interest in having that similar capability.

29
30 And then there's the state concern on whether we would want to require everyone to use it, so that there's
31 a single set of firmware that's being used statewide for the Dominion machines rather than having two
32 different ones floating out there.

33
34 Todd and Bob, have we left out anything?

35
36 **TODD D. VALENTINE:** No, I think that's accurate.

37
38 **GREGORY P. PETERSON:** So as far as this year though was concerned, Commissioner, what do you think?
39 I would think that on a--as you said they're in the beginning on a pilot program to let Suffolk move ahead
40 in this direction, because they really do have a very serious problem out there. I'd like to see them have
41 some relief, but I think it's also up to Suffolk to negotiate with their vendor to make sure these things a)
42 can be done and not blowing smoke, but actually can be done and can be accomplished. And then move as
43 quickly as possible towards certification, which will then satisfy the requirements of our Board.

44

NYSBOE Board Meeting May 10, 2011

1 **EVELYN J. AQUILA:** Yeah, my only thought was 30 inches, you know, when you think about a 30-inch
2 ballot that's almost--

3
4 **GREGORY P. PETERSON:** Two.

5
6 **EVELYN J. AQUILA:** Two and a half feet long; that's a long, long ballot, you know?
7 And I often wonder if it would be better if people would be allowed to have two ballots that were
8 shorter.

9
10 **DOUGLAS A. KELLNER:** Well, that's what they don't want to do.

11
12 **EVELYN J. AQUILA:** I know they don't, I know they don't but it seems to me what's this--

13
14 **GREGORY P. PETERSON:** -- It bumps the cost up tremendously.

15
16 **EVELYN J. AQUILA:** Oh, okay.

17
18 **GREGORY P. PETERSON:** Each one of these things have to be done, you know, as if every single person in
19 the county is going to be voting and therefore have to be vote--so if you're doubling the amount of papers.

20
21 **EVELYN J. AQUILA:** -- Forgive me, but I didn't think of the cost that - -

22
23 **GREGORY P. PETERSON:** -- There's an entire forest in Oregon - -

24
25 **EVELYN J. AQUILA:** Right, I know, I know, I know. But I'm just thinking of getting this long ballot, if that
26 sort of makes people say, "Oh, I'm not going to vote on this long thing. Let me pick out the three people I
27 want and do it and get it over with," that's my only fear. How long does it take to vote on a 30-inch ballot?
28 It has to take a little bit longer, you know, but who am I talk?

29
30 **GREGORY P. PETERSON:** -- It's VPI, Voting Per Inch so...

31
32 **BOB BREHM:** When Dominion first came on the scene and started showing people their system they
33 touted it as having a 30. I remember that first conference they attended in Lake Placid, they said they
34 would have a 30-inch capacity. When we were in Kerhonkson at that winter conference, they showed a lot
35 of people a 30-inch ballot and then when they gave it to us for certification it wasn't there. So you could
36 see here Suffolk has expressed some concern that they have a number of offices that your option is
37 perforating and if they choose, in the future, to go with perforation there's nothing that this would do that
38 would stop them from making that decision.

39
40 **EVELYN J. AQUILA:** Well, that makes it two sheets - yeah.

41
42 **BOB BREHM:** If they wanted to have a full sheet of paper this would give them the option.

43
44 **GREGORY P. PETERSON:** And gets them past this election, right?

NYSBOE Board Meeting May 10, 2011

1 **BOB BREHM:** It's all a matter of what can we work out with them, if you're inclined to support a 30-inch
2 ballot and a pilot then I think we would want--we would need the Suffolk County people at the table. We
3 would definitely need Dominion at the table to put some concrete, you know, reassurances on the table.
4

5 **EVELYN J. AQUILA:** -- Well Dominion - - right, absolutely.
6

7 **BOB BREHM:** Here's what we think we can do, because whenever we work with the vendor it's always
8 what they think they can do, how long it might take, what's an estimate of the cost, what's an estimate of
9 the certification period of time and cost, and what will Suffolk agree to as far as how do we minimize the
10 impact of a pilot project in those three towns.
11

12 **EVELYN J. AQUILA:** Why I worry is because Dominion said they had a 30-inch ballot and then when we
13 came to certification they didn't have one anymore. You know, that makes me wonder why; what problem
14 - - .
15

16 **KIMBERLY GALVIN:** -- Well, they said it was capable of doing it. From my discussions with them it's not
17 that big a deal to create another template and drop it in.
18

19 **EVELYN J. AQUILA:** Mm-hmm, okay.
20

21 **BOB BREHM:** It's just a software and a firmware change - - put it into the - - .
22

23 **EVELYN J. AQUILA:** -- I thought it was odd that they didn't present it at the time of the certification, that's
24 all. I just say that puts a thought in the back of my mind, "Is there a problem, does it jam the machine
25 because it's so long?"
26

27 **BOB BREHM:** What about--
28

29 **EVELYN J. AQUILA:** Is there something that happens?
30

31 **BOB BREHM:** The ballot marking device end of the scanner can only accept a certain size piece
32 of paper.
33

34 **EVELYN J. AQUILA:** -- Yeah, well that's - - exactly.
35

36 **BOB BREHM:** A 30 inch would not fit on the BMD side, so that's where they would use a perforated paper.
37 You say perforated, you put in blank paper and it prints one and then put in the second and it would print
38 the second page for the voter, and then they would bring it around for the scanner. So maybe that was the
39 reason, I don't know the reason why they didn't bring it, they just didn't and now the county wants it.
40

41 **EVELYN J. AQUILA:** Now I understand, sure.
42

NYSBOE Board Meeting May 10, 2011

1 **DOUGLAS A. KELLNER:** And another issue that we've discussed is that the--well I think it's the first thing
2 that Joe raised, which was that if they have a 30-inch ballot that's usable, on the scanner the ballot
3 marking device still can't deal with a 30-inch ballot. So the ballot marking device will be printing out—
4

5 **EVELYN J. AQUILA:** -- Have to be improved.

6
7 **DOUGLAS A. KELLNER:** --two pages, no it's not--
8

9 **EVELYN J. AQUILA:** - - scanned as if, yeah?
10

11 **DOUGLAS A. KELLNER:** --financially feasible to do that, but--
12

13 **EVELYN J. AQUILA:** -- Oh, it isn't, okay.
14

15 **DOUGLAS A. KELLNER:** --it means that it will be even more capable of distinguishing who voted on the
16 ballot marking device as opposed to who voted using the scanners without the ballot marking device; and
17 so one of the things that we have discussed is that we might encourage Suffolk as well to have a plan that
18 would increase the usage of their ballot marking devices, so that it would be less likely that people would
19 be able to associate particular ballots with particular voters.
20

21 Have we covered all the points?
22

23 **GREGORY P. PETERSON:** Yes.
24

25 **DOUGLAS A. KELLNER:** And I think our consensus is that--one is that we are receptive to Suffolk
26 proceeding and that we would consider a pilot project, but they would have to have a detailed proposal
27 that would address the risks of using it prior to completion of certification.
28

29 **EVELYN J. AQUILA:** Oh, I think we have to have that pilot program.
30 That's the only we'll get the answers to our concerns.
31

32 **DOUGLAS A. KELLNER:** And at least for now we're expecting that Suffolk would bear the expense of the
33 upgrade and the certification.
34

35 **EVELYN J. AQUILA:** Yeah, well that I'm not going to try to guess.
36

37 **DOUGLAS A. KELLNER:** All right, well if that's our consensus--
38

39 **EVELYN J. AQUILA:** -- Yes, yes.
40

41 **DOUGLAS A. KELLNER:** --there was one other issue I have asked to add to today's agenda, which is that
42 we received a short letter from the New York City Board asking for advice on conducting the canvass. And
43 my suggestion is that we ask Anna and Joe to draft a response to this, and I believe that there are two
44 issues that are of concern here.

NYSBOE Board Meeting May 10, 2011

1 The process that New York City used for preparing their canvass in the general election at each poll site
2 was extremely complicated and very time consuming, because they used multiple scanners for multiple
3 election district sites, so that any election district could use any scanner. And the result was very long
4 tapes that were printed out from each scanner when the polls were closed.

5
6 And New York City had a procedure, which they believed or some people at the City Board believed was
7 legally required--that the inspectors add up the tapes for each election district and put the results on a
8 canvass for each election district. And it's my understanding that our advice to those counties who have
9 inquired is that they are allowed to use a consolidated canvass sheet where there is a poll site with
10 multiple election districts. And that the consolidated canvass sheet merely needs to contain stapled to it,
11 the printout from each machine in that consolidated district. And that the tapes on the machine will show
12 the results for each election district on that machine, but that it is not necessary for the poll workers to
13 add up those tapes by election district on election night. That it's sufficient to just staple that to the
14 canvass, and then if there are any ballots that were not scanned at the poll site then those need to be
15 hand-counted and also manually added to the canvass sheet.

16
17 The statute does require that the inspectors sign this consolidated canvass sheet, so if they're going to use
18 a consolidated canvass sheet for 10 election districts then they would need to have all 40 inspectors sign
19 that consolidated canvass sheet, which is a little bit cumbersome but that's still better than having those
20 40 inspectors adding up the tapes before they send out the canvass sheets.

21
22 A second issue that they've raised on why they did it this way is so that they would have election night
23 results by election district. And in discussions that some of us have had with the City and reviewing what
24 other counties have done we had suggested that it's a huge mistake for New York City to be continuing to
25 do their election night reporting to the press through systems that do not take advantage of the electronic
26 capabilities of the new machines.

27
28 And I personally have recommended two counties as models on how to do this efficiently and I'm told that
29 there are several other counties. That Monroe County uses satellite locations where the memory cards are
30 brought to the satellite locations. They have at least one in each town and then in the City of Rochester I
31 think they have several locations. And they have computers that are already set up in these satellite
32 locations that have the county software, so that they can read the results directly from the memory stick
33 and communicate those results to the County Board of Elections that can then immediately post them on
34 their website and communicate them to the press. And using that system Monroe was able to get their
35 election reporting done very quickly with 100 percent accuracy, because there's no human intervention as
36 long as you actually get every memory stick. The computer is able to identify the memory stick and place
37 the results in the computer spreadsheet automatically.

38
39 Nassau did not have satellite locations, Nassau instead worked out with the police to have these memory
40 cards immediately brought to the Nassau County Board offices in Mineola. And again, the cards were
41 immediately read into the Nassau County election management reporting system that they had previously
42 set up and they were able to get their reports also out with 100 percent accuracy except for one or two
43 districts where they didn't get the sticks back and had to send out search parties for those sticks. But it

NYSBOE Board Meeting May 10, 2011

1 was a very successful system and again with 100 percent accuracy, because there's no human
2 intervention.

3
4 **EVELYN J. AQUILA:** And I'm going to--I believe that Nassau is the second largest county after New York
5 City?

6
7 **DOUGLAS A. KELLNER:** Suffolk is.

8
9 **EVELYN J. AQUILA:** Suffolk is--oh, Suffolk is larger than Nassau?

10
11 **DOUGLAS A. KELLNER:** Yes.

12
13 **EVELYN J. AQUILA:** Oh, I didn't realize that, yeah.

14
15 **DOUGLAS A. KELLNER:** So I've urged New York City to look at that and Nassau has exactly the same
16 statute governing their canvass that New York City does. And we believe after looking at it that 9126
17 subdivision 3 does authorize this method of transmission of the votes to the public. So I appreciate
18 everybody listening to me on this and if everyone agrees we can ask Anna and Joe to write a letter to that
19 effect.

20
21 **GREGORY P. PETERSON:** Absolutely.

22
23 **JAMES A. WALSH:** Yes, agreed.

24
25 **DOUGLAS A. KELLNER:** All right, well thank you.

26
27 I think that concludes the public portion of our meeting, we should talk about dates.
28 Todd and Bob, is there a recommendation on when we meet again? I think we were talking about doing it
29 either on the way to the County Commissioners Conference or on the way back from it?

30
31 **TODD D. VALENTINE:** Yeah, on the way would be Monday the 13th of June and on the way back would be
32 Thursday the 16th.

33
34 **JAMES A. WALSH:** Is there any preference, I'm okay with either one.

35
36 **GREGORY P. PETERSON:** Same here.

37
38 **EVELYN J. AQUILA:** What date are you saying?

39
40 **DOUGLAS A. KELLNER:** -- Monday the 13th, which is on our way up.

41
42 **EVELYN J. AQUILA:** -- Yeah, okay.

43
44 **DOUGLAS A. KELLNER:** -- or Thursday the 16h, which is on our way back.

NYSBOE Board Meeting May 10, 2011

1 **JAMES A. WALSH:** It would be held here, I guess.
2
3 **EVELYN J. AQUILA:** Let me just see it here for a minute, because I--one of those days is making me think
4 there's something I have to do.
5
6 **DOUGLAS A. KELLNER:** What was the agency that used a laptop and Skype in order to-- [LAUGHS]
7
8 **BOB BREHM:** Well, you can but it depends on how long of a meeting you're going to have how well - -
9
10 **DOUGLAS A. KELLNER:** -- They said, yeah each time somebody spoke they had to move with it here.
11 [LAUGHTER]
12
13 **GREGORY P. PETERSON:** Yeah, it doesn't work to well.
14
15 **TODD D. VALENTINE:** Yeah, - - it got really tired pretty quickly.
16
17 **DOUGLAS A. KELLNER:** Evelyn?
18
19 **EVELYN J. AQUILA:** I'm open to either date. I think Monday may be better, because you're - - but it - -
20 anybody - - .
21
22 **DOUGLAS A. KELLNER:** All right, so for now it's Monday.
23
24 **JAMES A. WALSH:** Okay, Monday the 13th?
25
26 **EVELYN J. AQUILA:** -- Unless somebody's superstitious, it's not Friday.
27
28 **DOUGLAS A. KELLNER:** -- And do we need to do it before noon; do we need an earlier time than noon?
29
30 **TODD D. VALENTINE:** No, because that's a travel day, so within--Lake George is only an hour from here
31 so...
32
33 **DOUGLAS A. KELLNER:** -- It works, okay.
34
35 **EVELYN J. AQUILA:** How far is Lake George from here?
36
37 **TODD D. VALENTINE:** About an hour.
38
39 **EVELYN J. AQUILA:** Oh, well that's not bad.
40
41 **TODD D. VALENTINE:** Yeah.
42
43 **DOUGLAS A. KELLNER:** All right, then I think the next order of business is a motion to go into
44 Executive Session. We don't have Campaign Finance Reports, right?

NYSBOE Board Meeting May 10, 2011

1 **ELIZABETH HOGAN:** No, sorry not at this time.

2

3 **DOUGLAS A. KELLNER:** -- But we do have pending litigation, I think we have two issues of pending
4 litigation we want to discuss, so those in favor?

5

6 (Chorus of ayes)

7

8 Opposed?

9

10 (Silence)

11

12 All right, so thank you.

13

14 **[BREAK FOR EXECUTIVE SESSION]**

15

16 **[END AUDIO]**