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Commissioner Kellner: Good afternoon, everyone, I'm Douglas Kellner, Co-Chair. I'm joined by the other three Commissioners: Co-Chair Peter Kosinski, Commissioner Anthony Casale, and Commissioner Andrew Spano. First item of business today is approval of the minutes from May 2<sup>nd</sup>, May 18<sup>th</sup>, and June 27<sup>th</sup>, is there a motion?

Commissioner Spano: So moved.

Commissioner Casale: Second.

Commissioner Kellner: Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Alright, the minutes are approved. Next item on our agenda is the ballot access determinations. Now, I have in front of me two pages and all of them say prima facie reviews. Is that accurate, and some of them on ruling on specifications?

Brendan Lovullo: Yes. It's under the objections and specifications with hearing at the bottom, no hearing—

Commissioner Kellner: Okay, but that's not actually a prima facie review then, right?

Tom Connolly: I understand what you're saying.

Commissioner Kellner: Well, a prima facie review to me means we're doing it on our own, without objections, and where there are objections, we're ruling on the objection.

Kristen Zebrowski Stavisky: Yeah, so we should amend that, just remove the second page from the prima facie report.

Commissioner Casale: This includes all of the determinations for the August primary pretty much?

Brendan Lovullo: Pretty much.

Kristen Zebrowski Stavisky: Yes, the August.

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Brendan Lovullo: The August primary ones would have been passed at the last board meeting; these are the independent.

Commissioner Casale: These are the independent ones.

Brendan Lovullo: So, we'll have some other ones that do need to be worked, because yesterday was the last day for receiving those.

Kristen Zebrowski Stavisky: So that's for independent nominating petitions for Senate and Congress. So, that will come at the next meeting.

Commissioner Casale: Okay. I move we ratify the recommendations of the hearing officers.

Commissioner Kellner: Alright, is there a second?

Commissioner Spano: Second.

Commissioner Kellner: And I don't see anyone here who wants to be heard. So, those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright, so, you have adopted the staff report on petitions. The next item is to go to the unit updates. So, we'll start with our Executive Directors Kristen Zebrowski Stavisky and Todd Valentine.

Commissioner Casale: We lost Todd.

Commissioner Kellner: Well, Todd, we don't see you in the picture.

Kristen Zebrowski Stavisky: Nope.

Commissioner Kosinski: Are you on?

Todd Valentine: I'm on. I see, well no, I don't see you actually.

Commissioner Kosinski: Okay, but you're there?

Todd Valentine: I'm here.

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Kristen Zebrowski Stavisky: Thank you, Commissioners. It's been a busy few months here at the Board. After Justice McAlister issued his order outlining ballot access, we at the Board have facilitated filing periods for certificate of designations, designating petitions, and independent nominating petitions. And as Brendan stated, yesterday was the last day for objections to be filed on those independent nominating petitions for congressional and senate offices. So, we processed objections, held ballot access hearings, and we will continue to do so with the objections that came in yesterday.

On the redistricting front, we provided shape files to counties, advised them to make the required congressional and senate changes while holding off on election district changes because, as they're getting ready for the August primary, they are/were in the process of administering the June Primary. So, we have worked closely with boards to provide any assistance they have needed for that. We also advocated that the special elections for congressional district 19 and 23 be held on the same day as the August primary, as some boards would have to deal with resources, pole site locations, and sectors. OP's has provided guidance for the 22 counties involved in the special elections, and the primary on the same day, and they are continuing to work with the E-poll book and voter registration vendors to help the county boards navigate that process.

For the primary in June, we activated a secure election center. We met with our statewide partners just before and after. We had a daily hold but luckily, we had no major issues. PIO and OPs provided support for counties throughout.

On the online voter registration and automatic voter registration front, we have a signed contract with the vendor. It is in the final process of going to the Office of the Attorney General for review, and the Office of the State Comptroller. We are at the same time negotiating a memorandum of agreement with the other state that this vendor had developed their online program. So, we are in the middle of doing that and we've also seen a demo from the other states, and we hope that we'll now be moving much quickly towards online voter registration.

Commissioner Kellner: And what is the target date now?

Kristen Zebrowski Stavisky: Well, our date is May 2023. So, we may be using an interim system if we're not ready with the vendor, because we do have to hold sessions with the different county boards, and with the different units. So, we will have online registration in 2023, it just not may be the final...

Commissioner Kellner: So this is a plan B you're saying?

Kristen Zebrowski Stavisky: Yes, we have a plan B. For the Public Campaign Finance Board, we're finalizing the scope of work and we hope to be going to bid on or about August 1<sup>st</sup>. We've been working weekly with the Office of General Services through that procurement process. We have also changed the scope for the project, which I think we've talked to you throughout, to ensure that we have one integrated system, so that users internal and external will be able to go

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to candidate access, the financial filing access, case management, public reporting, and it will all be seamless, but you will not have to log into two systems to see different reports.

Commissioner Kosinski: Kristen when you say we are going to bid? For?

Kristen Zebrowski Stavisky: yes, for the software solutions.

Commissioner Kosinski: Is that going to be one bid or are there multiple bids? Or how is that going to be?

Kristen Zebrowski Stavisky: It's one bid, but it's going to be a multiyear project, probably five years. So, the beginning bid will be for the software that's needed to do the auditing function and the payments for the Public Campaign Finance bid. The last piece, so it's broken off into groups, the last piece is bringing the entire system together with candidate access, the financial filing, and all of that.

Commissioner Kosinski: Are you anticipating one vendor?

Kristen Zebrowski Stavisky: We are anticipating one vendor, yes. Well, we're hopeful there will be one vendor.

Commissioner Kosinski: One vendor to do the whole project?

Kristen Zebrowski Stavisky: For the whole project. So, there has been a lot of work done on business requirements for the Public Campaign Finance Board, and right now the different Compliance and Operations are meeting to work out those business requirements and functional requirements to make sure that everything can seamlessly come together. That's where we are with that.

Space planning – Enforcement moved to the tenth floor. We have minor issues remaining, but they are nearly complete. Administration moved into that space on the first floor and they're doing very well there. We've signed off on the furniture to accommodate the renovations to our existing first floor space. Staff moved into swing space, and they are actually doing that construction right now so, we're hoping, the beginning of August, they should be able to move back into their renovated space. Members of the PCFB have moved into temporary space on the third floor as well. We have obviously realized some space from Enforcement would be moving to the tenth floor, so it's a little bit better on the fifth floor right now, and we are still on track to begin the demolition and work on the tenth floor in February 2023. We still do not believe there's sufficient swing space identified to move everyone at once to make this project go as quickly as possible, which would be to empty this floor and reconstruct it at one time, but we continue to push in bi-weekly meetings with the Office of General Services to identify that space.

As far as ongoing meetings, we continue to meet bi-weekly with the Division of Budget, the Office of General Services. We're working closely and meeting with Enforcement bi-weekly.

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We meet with the Executive Branch bi-weekly, and we continue our monthly conference calls with the Election Commissioner's Association, which has been much needed in this time because they have been juggling a lot of different things. And we are finalizing our guidance on FOIL, finally, and the county boards are very happy to get that. So, we just got the final revisions from John Conklin, and we hope to send that this week. So, that will be helpful for them.

And, as far as accessible absentee ballots litigations, we did send information to the county boards regarding our settlement in the Hernandez matter and our new plan for accessible ballots, and we're helping them - working to complete that procurement process and, in the meantime, they are still facilitating acceptable ballots as we've been doing throughout. And I will turn to Todd to see if he has anything to add. Otherwise, that concludes my report.

Todd Valentine: No, I think that covered it comprehensively. I have nothing to add.

Kristen Zebrowski Stavisky: Okay.

Commissioner Kellner: Alright, well then, we'll go to Election Operations, Tom Connolly, and Brendan Lovullo.

Tom Connolly: Thank you, Commissioner. Since our last meeting was on June 27<sup>th</sup>, the day after was the June 28<sup>th</sup> primary. We did support all of the boards in their efforts to administer the primary election. We only had one fire. That was in Jefferson County, and I'm happy it was at the fire department, so they were able to put that out fairly quickly. Otherwise, it was a fairly smooth election day. It was the first run of the new canvassing procedures which had allowed for the scanning of absentee ballots prior to the election. We did implement software that allowed the county boards to aggregate the results from their central count and their precinct system so that those results could be included in the election night reporting. That was a success, happily. After the election, we did receive the data on absentee and affidavit voters as we do our statewide data match, within days after the election, so that the counties have the information on potential matches of voters that may have voted in more than one county, before they canvassed the affidavit ballots. This year we had just shy of a quarter of a million records, which we were able to turn around in less than 24 hours and get that out to the counties. We've received independent nominating ballot access filings.

Commissioner Kellner: So the quarter million records are people who voted by affidavit ballot?

Tom Connolly: People who voted either by absentee or affidavit ballot, and then we actually, those are the records that we received from the county boards, and then we look at that, and we also cross reference all of the voter history that we get for in person voting for who will be voting on election day. And we look for matches based on criteria of certain number of characters with the last name, first name, date of birth, and then provide those potential matches to the counties so that when they go to canvass their affidavit ballots, they can see that this person already voted in person or by an absentee ballot or affidavit ballot somewhere else.

Commissioner Kellner: And how many matches out of a quarter million?

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Tom Connolly: That I don't know because we actually have them broken up into 52 different files so it actually has to go back and aggregate them but I'm sure we can find that out for you.

Commissioner Kellner: Well, what's your guesstimate?

Tom Connolly: You know...

Mike Haber: Not off hand, but in the past, it's a very small number.

Tom Connolly: Yeah, if you say...

Commissioner Kellner: I'm trying to get the idea. Are we talking dozens or hundreds or?

Tom Connolly: I think statewide, it could probably get itself into the hundreds. I know for example, we were talking with Westchester, so I remember their spreadsheet in my mind, and I think they had seven matches or seven potential matches. And again, we do the first five letters of their last name, first three letters of their first name, and their date of birth. So, it could very easily be a false match, it could be a Danielle and a Daniel where the last names, or it could be a very common name.

Kristen Zebrowski Stavisky: I will tell you from my experience as a commissioner, we would get a list usually under ten and very few, if any, were actual matches. We would then, the counties then do their research provided to them and they determine no, this is not. As Tom said, it could be Danielle, Daniel things like that, it's a very, very small number.

Commissioner Kellner: Thank you.

Tom Connolly: We were receiving candidate nominating petitions. You've had the determinations in front of you before. We also received a number of declamations and substitutions after the primary as a result of primary losses. We did distribute...

Commissioner Kellner: which is also new this year

Tom Connolly: Yep. We distributed certification of the office primary ballot and also the special elections for the 19<sup>th</sup> and 23<sup>rd</sup> Congressional District. As Kristen said, we did develop guidance to help those boards, the 22 boards that will run those two special elections, how to program their machines so they will be able to use the same set of machines on election day, in the two different elections, so they wouldn't have to have two separate sets. We wanted to get prioritize the machine guidance first because they were programming their ballots in order to get them out in time for the military and overseas deadline 46 days before the election. We are then following up tomorrow. We have a number of phone calls with the E-poll vendors, and we'll also be working with the voter registration vendors of those counties to make sure that they are fully aware of what options they have for administering the election. Obviously, the poll books can be a little tricky, because the primary election has a 25-day cut off, and the special election has a 10-

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day registration cut off. So, there are different cut off deadlines for who's eligible to vote in the election, and then on top of that, where the congressional primaries in August will be run on the new lines, the special elections are run on the old lines, and so that information has kind of already made its way out of the voter registration systems at the local level, but trying to kind of reconstitute that information to figure out who were the eligible voters under the old district boundary who are eligible to vote in the election? So, certainly challenging, but we have been working on it. Happily, most of the counties of the 22 are wholly contained in both. On the 19<sup>th</sup> there are four counties that are partially contained and two of them are by towns, so it's a lot easier to kind of figure out the boundaries. In the 23<sup>rd</sup>, nine of the eleven in that district are wholly contained, and the other two that are partial also have very clear-cut boundaries that the election districts didn't have to be redrawn as a result of the new lines. So, we're hopeful that it will all work its way out. It might be a little complicated for some of the boards they can't use the same set of poll books or E-poll books for both elections, and they don't have enough to run two separate sets, they may have to consider running one election using E-poll books and one using a printed poll book.

Commissioner Kosinski: I'm sorry, so that issue. So, do we know if the poll books can handle that sort of a situation where you have two different time frames for registering to vote, where you have the 10 day and the 45 day, or are they able to adjust in a way that I could use one poll book for that poll site to identify a voter that is eligible to vote in one election, and not another?

Tom Connolly: So, we are meeting with all three vendors tomorrow to go over this. In my head, I've already come up with a way that can be done, but it's not necessarily easy to implement because it requires the counties do a lot more manual alteration of the data that comes out of their voter registration systems before it gets into the E-poll book systems, and then with the 10-day cut off with the special, you're also kind of running up against the first day of early voting. So, they don't have a lot of time to do that alteration and turn around. So, it might just be easier on them to just kind of take a smoother path of either being able to choose different sets, where one electronic and one printed. But, if their system--if any of the E-poll book systems can handle it in a way where they can filter out what ballot they might provide to the voter based on a registration date or some other criteria or flag, that's what we're hoping to find out tomorrow.

Commissioner Kosinski: So, it may be dependent upon the vendor, how you're actually going to be able to.

Tom Connolly: Yes, and all three vendors are involved in between the two districts.

Commissioner Kosinski: So, some boards may have to use paper poll books, and some may not. Is that the potential here?

Tom Connolly: Yes.

Commissioner Casale: So, when a voter presents for both the special and the primary, they get two ballots at one time, or they have to go back through the line again?

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Tom Connolly: Two ballots at one time.

Commissioner Kosinski: And they feed them into the same...

Tom Connolly: Yep, same machine has been programmed to accommodate both elections.

Commissioner Kellner: And that's done, I mean that's not a problem?

Tom Connolly: Correct. We'd already worked with, all 22 counties are Dominion Counties so we worked with Dominion to get guidance put together. We did give that out to all of the county boards, we did have a webinar in which we went over that guidance and answered any questions they may have had. They were able to program them. Those ballots have already gone one, or at least the military and overseas ballots already went out last week, so it looks like they will be able to hold elections on the same set of machines. Because needing to have two separate sets of machines was definitely going to be a logistical burden for a number of them.

Commissioner Casale: Going back to the June primary, are all the absentees received after election day now being counted, or been counted?

Tom Connolly: So, obviously, anything that was received prior to Election Day, and that was process pursuant to the new canvassing laws which is within four days of receipt, were scanned either on the day before the first day of early voting, or after the close of poll on that last day. So, anything received after that part would be canvassed after the election, some boards may choose to do it on a rolling basis, some of them may choose to do it at one time. The only thing that changed was the timeframe for processing, on or after election day upon receipt of an absentee ballot, you had to process it within one day instead of four days before the election day. But then, obviously, there's the cure process at play. So, the last day that an absentee ballot could have been timely returned to a county board would have been July 5<sup>th</sup>. And then if that absentee ballot required a cure, the last day that that cure would be received would be this Friday.

Commissioner Casale: So, with respect to the new rules prior to election, were any complaints or questions received here in terms of either news media, candidates who did not, did most of them understand the rules, was there any confusion? Any questions raised about new process?

Tom Connolly: Well, as far as the press, I don't know Jen if you received any.

Jennifer Wilson: We had a few inquiries, but it was very easy to explain, so it wasn't...

Commissioner Casale: Any complaints received from the news media of transparency or inability to see what's going on?

Jennifer Wilson: No, no we didn't get any.

Commissioner Casale: If somebody wanted to observe they had to appear at least twice a week...



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Tom Connolly: It depends on how, depends on whatever the county sets. So, the county could actually do it literally every single day if they wanted to, or they could do it twice a week which would allow them that 4-day kind of window. One of the things that I commented on in an earlier meeting was that, and I know in the elections world, you only often hear about the bad news and not the good news. But the fact that we were actually successful in getting all of those absentee results in the unofficial Election Night reporting...

Commissioner Casale: [unintelligible]

Tom Connolly: Right and we didn't get any yeah rah, way to go guys, but we also didn't get any kind of complaints, which was interesting because there usually always were the complaints about yeah, when we are going to get these results? When are we going to get these results? So, now we've given them a whole boatload more results on election night than silence, which I guess we'll just take, it's good enough of a compliment that we'll get in the elections world.

Kristen Zebrowski Stavisky: Todd and I are still talking about getting results. The issue of getting the results primarily from the county is still something I think we have to explore. We've discussed it a little bit that night, because we are still waiting on certain counties, they're very, very late. But it's something that's on our minds. We want to figure out a way to make that easier.

Tom Connolly: Let's see, where was I, alright. So, obviously as I mentioned last Friday was the deadline for getting out military and overseas ballots. We worked with PIO and IT to kind of make sure that all the counties had uploaded them. There obviously were some late minute ballot changes, particularly in the congressional district, so we had to make sure because the judge in that matter enjoined the county boards from sending out any ballots without a candidate's name on it. So, but we did kind of give them the head's up that that was likely to come down the pike last week, and they were able to make the program changes and have the ballots ready to go. So, all three of them in that district, were able to upload the ballots with the candidate's name on it that the judge had required be put on it, in time to meet the deadline. We've also been collecting paperwork as we do, lots of paperwork, lots of surveys. The audit paperwork and statement to canvass for the June primary and then for the other primary, we are collecting candidate notices and sample ballots. As Kristen mentioned, we have been involved in working on the procurement of the accessible absentee portal. We will be distributing additional guidance to the county boards for the August primary to just kind of remind them of the process that needs to be followed. We will also be inquiring, as we do after each election, as to the numbers of federal absentees requested, how many were sent, and how many were received, how many were counted, and how many were rejected? That's also pursuant to the settlement agreement. Also, we're continuing to work with IT, PIO and others about the absentee tracker, which went into effect this year. And then, also voter registration systems. We did have a new voter registration system that was approved earlier in the year, so that is one of the newer VR vendors rollout in the state in Chenango County. We do have another demo tomorrow from Know Ink! who is one of the E-poll book vendors, looking to give a demonstration of their voter registration system. I also know that I think Tenex has expressed some interest another E-poll book vendor in bringing their voter registration system before us for review and possible approval.

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With regard to voting systems, Dominion is undergoing certification testing so that's kind of chugging away. Clear Ballot, there are two things on Clear Ballot that have happened. Clear Count 2.2 which is their central count systems and update to their currently certified system. They are at the end of that process, SLI our testing lab is finalizing their reports. After they are done, NYSTEK will review their reports, and will provide their own report to us. We will then put those together and possibly put our own county executive summary on top of it and provide it to you, likely for consideration at the next board meeting to approve. That is like I said, just an update to their current central count system that alleviates a couple of things; one of which was an issue that really impacted mainly in New York City because there was a limitation on the number of ballot styles that the software could handle. That has not been an issue for New York City in the primaries, because it's not a general election, but it will be an issue for the general. So, we're hoping to have that software all done and before you for a certification vote, so that it can be used in the general, possibly.

In addition, Clear Ballot also has their Clear Vote software which is their first foray into the precinct voting system market. That is going to be a whole new system. There is a resolution on the agenda later on to permit us to move forward with testing of that. Hart has completed and passed the EAC Federal Certification, the system that they submitted to us. They were putting through the federal certification first. They're going to leverage that federal certification for kind of what we call transfer credit where applicable for the New York requirements and the New York process. So, we're going to be starting the New York requirement testing now. NYSTEK is reviewing the test matrix that SLI has prepared. So, we should be underway for the state requirement testing very soon. And then lastly, we have ES&S who submitted an application. We finalized that, we reviewed it. They have done all the preapplication work, and we also have a resolution later on in the agenda for you to permit us to move forward with testing of their new system. I think that's all I have at the moment. Brendan?

Brendan Lovullo: Thank you, Tom.

Tom Connolly: You're welcome.

Brendan Lovullo: I'm good.

Tom Connolly: Are there any questions?

Commissioner Kellner: Okay. And we move to our Counsels, Brian Quail and Kim Galvin are both engaged, and I see Aaron Suggs is here, our Deputy, and I see that Kevin Murphy the other Deputy Counsel is online. Kevin, you want to turn your video on?

Aaron Suggs: Sure, yeah, I'll give the report. Thank you. So, Counsel has been very busy since our last meeting. We've had a number of ballot access cases. So, I'll go through some of them: Sandusky v Wilson, which was a night party invalidator case, yesterday an effort to validate Mr. Wilson's petition was rejected by court. We also have a number of Libertarian cases, O'Connor v Sharp and Sharp v O'Connor. Both of those are still--have not been resolved, but I'll note there

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was an application by the Libertarians in second circuit for similar relief, that was rejected. We also have another libertarian case Hauser v O'Connor that's returnable in Albany County on July 25<sup>th</sup>. We have another case for Boyd v Schreiber, the candidate Shiroff remains on the ballot, and that one was decided in June. For the old senate district 60, we had Parobek v Carlisle, the designated petition was valid in that case. We have two Egru cases for new CD 26. That case is, was returnable on Monday—err last Friday, I apologize.

Commissioner Kosinski: Aaron, are these line-by-line objections that are going to court now, or are these general?

Aaron Suggs: Some of them are line by line, a lot of them are, most of them are not.

Commissioner Kosinski: Really? So there's other issues at play besides signature validation?

Aaron Suggs: Yes.

Commissioner Kosinski: Like constitutional issues?

Aaron Suggs: There's some service issues. There are also, so we have some line by lines, but we also have a lot of service issues. I'll note, and of course old CD1 which is now entirely within Suffolk County, I believe there are still some cases involving that, but Suffolk County is kind of a wrap. And CD2 we have two cases Cornicelli and Reckenbreck. Both of those cases our determinations have been upheld. In Albany County, we have Mills v Peterson this is the case that Tom was talking about. Mills was restored to the ballot and an appeal was taken in that case. We also have Stora, Stora case for the Freedom Party that's returnable in Kings County on 22<sup>nd</sup> of July. Then we also have LaRouche Independent Party which they withdrew their challenge, since there is no challenge to the petition, they withdrew that case. Last one in the ballot access realm was Grace case for the Republican Lieutenant Governor. He initially appealed, but then withdrew the appeal. So, we also have a number of redistricting cases, as I'm sure you know. Hark and Rider there was a May 20 order. We had three separate motions to intervene, all three were denied. There was one appeal by the parent party, which the oral arguments were today, which Brian is at. So, I'm sure we'll hear what happened maybe later. We also had Nichols v Hochul, which was trying to invalidate the assembly lines. The First Department did rule that the lines were invalid, but then remanded to the Supreme Court to determine the process for new lines for 2024. And the Supreme Court has set briefings on that for August 8<sup>th</sup>, and arguments for August 19<sup>th</sup>. We also had a League of Women Voter's case on the southern district. They wanted new designated petitions extended, independent fiscal deadline. They also had a motion for a preliminary injunction, which was denied. We got another League of Women Voter's case in Albany County, which wanted to cancel the June primary for Assembly, that was denied by the Supreme Court and appellate division, and they were denied twice for leave to appeal to the Court of Appeals. In other cases, the Upstate Jobs case, cross fields have been taken and the appeal is pending, our reply is due in September. In the Schmidt case, the preliminary injunction was granted to the Libertarians which allows out of state circulators to circulate their independent petitions. Our answer is due next week. Another League of Women Voter's case related to the 25-day registration cut off, that case may be mooted by the legislation that's

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pending before the Governor. We have the DCCC case, a motion for preliminary injunction is still pending. This case involves expanding cures, postmark deadlines requiring wrong county absentees to be accepted and Wrong Church says affidavits need to be counted. We're in discovery on that case and its ongoing. In the Hernandez case, this case was settled, but there is a motion pending about the remedy applying the remedy to the August primary. And then there's also a case from Judicial Watch which has been in the news, but we have not been served for that yet.

In terms of Compliance Unit, the staff has spent a lot of time on specs, but they also have been doing their normal duties. They've received, total received filings as of today is 190,759, they have completed 166,716 and there's 9,500 not completed. 4,060 reviews have been completed since last Board Meeting since January 1,446 committees and 1,478 candidate records have been terminated. Any questions?

Commissioner Kellner: No. Thank you. So, we'll turn to Michael Johnson.

Michael Johnson: Can everyone hear me? Okay, great.

Commissioner Kosinski: Barely though.

Commissioner Kellner: And you need to turn on your video.

Michael Johnson: It is on, you guys can't see me?

Commissioner Kosinski: No, we can't see you, and we really can't even hear you, Michael. You need to get closer or something.

Michael Johnson: Can you hear me now?

Commissioner Kosinski: Not great.

Kristen Zebrowski Stavisky: We have our volume up all the way, so you just need to...

Michael Johnson: Can you hear me now?

Commissioner Kosinski: Yeah, that's better, yep.

Commissioner Kellner: But your video is off.

Michael Johnson: Is it on now, cause it's certainly showing on my end that it's on.

Commissioner Kellner: No. Well, go ahead, we don't have video, but you should go ahead.

Michael Johnson: Okay, you guys received our quarterly report which shows what's been going on to date in the unit. The things that are happening so far, tomorrow we'll be onboarding a new

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attorney to back fill a vacancy that we had several months ago, and Division of Budget approved it so, I'm grateful for that. We're waiting for the July periodic nonfiler list to come out. Once that comes out, what we will do, is we will sort of do a match with that and see how many nonfilers have LLC issues still outstanding, so we can continue LLC project. We are in the process of reviewing a case management system for us in terms of being able to track all the enforcement cases. We're also in the process of continuing the development of a judgment tracking system, and that's being done in conjunction with the IT folks. We're also looking at formatting all of the determinations that have been done to date for accessibility purposes, so that once we're up and running with our website, there's no problem with anyone being able to see the determinations. We also just updated our West Law system to the new West Law, so we are pretty excited about that. All of the cases that I – that you guys have on your agenda, those cases were not part of our quarterly report, and they will appear on the third quarter report. So, just so you know if you're wondering why those cases don't show on that. We sent out an e-mail and letter dealing with the deficiency notices. As far as the deficiencies are concerned, back in May we sent out approximately I want to say about 77 e-mails and letters with regard to deficiencies. We probably have resolved about 30 of those or so. The others, I spoke to Compliance Unit, Brian Quail, we're going to have to sit down to discuss next steps because I personally think a lot of them don't necessarily warrant enforcement actions, so it'll be more along the lines of what else can be done from a compliance perspective? We didn't send out anything with regard to June for deficiency notices because the deficiency notice that we got in June, I spoke to Brian Quail, and there were still questions with regard to the accuracy of the list. So, in the best interest of everyone involved, we decided let's just hold off on this until we can be assured of the accuracy of it, and we'll pick things up hopefully with regard to accuracy with the July periodic filing. Anything other than that, the agency is still fielding a bunch of different complaints and following up on complaints and closing matters. Are there any questions?

Commissioner Kosinski: Yeah, I have a question. Mike, on your report, I'm just trying to make sure I understand how to read this. So, you have a category, Cases remaining open, and you cite 6203.4A then April 115, May 85, June 96. I'm trying to understand how to read that. does that mean you had 115 open cases in April, it went down to 85 in May and back up to 96 in June?

Michael Johnson: That's correct. And that's because a lot of the cases that were closed were old cases that were either a) older than 2 years old, or simply should have been closed but just simply never closed. And as far as the cases going back up, that simply reflects newer cases that have come in since May.

Commissioner Kosinski: Okay, well that actually goes to my next question. So, I noticed in the packet that you gave us of closed cases, the cases start as I see it, they start around September of 21 and go right up to June of 22, and that's the body of cases that you've given us today that you're closing. Does that mean your backlog has been satisfied?

Michael Johnson: For the most part, yes. For the most part, the backlog has been satisfied. There are still some that are still out there, but for the most part yes, the backlog has been satisfied.

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Commissioner Kosinski: So, I'm just trying to understand why we're seeing cases from now when there is still a backlog that hasn't been resolved?

Michael Johnson: I don't understand the question, Peter.

Commissioner Kosinski: The question is, why I'm seeing cases that arrived in June of 22, but I'm not seeing cases that you're telling me haven't been resolved from maybe years ago.

Michael Johnson: Well, when I close cases, it's more along the lines of what's in front of me. And like I explained to you guys at an earlier meeting, I'm sort of still triangulating working forward and working backward at the same time because my position early on was, trying to work from the back forward, only would cause a backlog in the newer cases. So, what you're in effect seeing is me still triangulating working forward and backward at the same time.

Commissioner Kosinski: Do you have any sense of how many old cases are still out there?

Michael Johnson: Not off the top of my head because I, I mean I can give you a number, but I don't know for certain whether or not those cases have been closed by the previous Chief Enforcement Counsel, or have they just simply been put aside, and no action was ever taken up.

Commissioner Kosinski: Well, I think we can say as a board that we didn't see any cases closed by the previous Enforcement Counsel, let me just start there. So, I believe anything that's still in your file that is open or still exists, I don't believe there was a single case that was brought to this board for a formal closing by the Board, as mandated by statutes. So, I would suggest to you that whatever you've got in your office has not been closed unless you've closed it. So, I think you can start right there.

Michael Johnson: Okay.

Commissioner Kosinski: So, know that. I'm just trying to understand kind of where we are in the old cases because I'm seeing a lot of new stuff, I'm just not seeing this old stuff and I'm wondering what's happened to it. I'm sure there's statute of limitations, issues probably attached to some of these that may be running, on these older cases, and I would hate to see the statute run when there may be some credit or validity to the complaint, but it's not being addressed in a timely manner and the statute of limitations runs. So, I'm trying to understand where you are as far as trying to bring those cases to conclusion.

Michael Johnson: Well, at this point, what I'm still doing is like I said, I'm still working backward, still looking at cases that are within the statute of limitations, and whether or not those have been closed by the Chief Enforcement Counsel or not. Now, she may not have brought the information to you guys, but I'm still trying to determine okay so, what was her finding for her determination in those cases? The ones that are beyond the statute of limitations. Those are the ones that I just have to close.

Kristen Zebrowski Stavisky: So you would want a list of those cases?

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Commissioner Kosinski: Well, I'm trying to figure out where we are because I mean I just, having gone through the packet here today, I just know that these are all basically new complaints. I mean these are complaints that have come in in the last six months or so, but my understanding from our discussions over the last year that you've been here is that there's a whole backlog of cases in your office, which doesn't surprise me cause as I said, we've never seen, we never saw a single case closed by the previous Chief Enforcement Counsel, so I'm sure there must be a huge backlog in your office of old cases and I'm trying to understand what's happened to those. Because having seen so many new cases being resolved so quickly, I'm just wondering why we're not seeing any of the old cases that have been sitting there for probably years without any formal attention. Now, maybe she looked at them, I don't know, but there's been no formal resolution to them because we haven't seen them as a board, and under the statute you can only close a case if you report it to the Board. So, I'm concerned about the status of these old cases and why we're not seeing any of those.

Michael Johnson: Well, I'm still going through old cases, heck, actually I'm still opening boxes of old matters. So, I mean for me to sit here and tell you exactly how many cases there are, I could give you a number, but it wouldn't be accurate, so I'd rather simply not give you a number that I know may not necessarily be accurate.

Commissioner Kosinski: No, fair enough, but I mean I know from my own experience, there's got to be a large number, simply because we haven't seen them, so there must be, and I know from the numbers you're reporting to us, you're getting complaints in regularly. So, it isn't like there weren't any complaints being filed, I'm sure there were. I don't think this year should be much different from previous years. So, my guess is there's a reasonably large number in your office, and what concerns me is I'm not seeing any of those, but I'm seeing brand new cases being resolved rather quickly, which is great, but I wonder what happened to the old cases?

Michael Johnson: Well, like I said, the old cases, I'm still working on old cases. In all fairness, I'm trying to get the matters resolved as they appear in front of me, because I don't like hearing complaints of people saying, "Why is this taking 6 months or a year to resolve?" I'm trying to prevent that from happening. So, I'm trying to work on the cases as quickly as I can that come in front of me, while trying to devote as much time as possible to the cases that were there from the previous Chief Enforcement Counsel.

Commissioner Kosinski: Well I appreciate what you're saying Michael, I'm just concerned I'm not seeing any evidence of the old cases being addressed.

Michael Johnson: They're still coming, while it may not be a perfect system to use, it's a system nonetheless, and it's the system that I'm trying to work with in terms of dealing with the backlog of cases.

Commissioner Kosinski: So, your system that we're going to continue to see new complaints as they come in quickly, but the old cases may not come before us?

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Michael Johnson: No, you're going to still see new cases come before you, and you will see old cases. There will be a mix. How many? I can't give you a number.

Commissioner Kosinski: No, I understand you can't, I guess I'm not as worried about the number probably, as just the process, because I don't see any of those old cases in today's packet, so I'm just wondering what happened to them, and what your plan is to address them.

Michael Johnson: My plan is the plan that I outlined several months ago, which is continuing to work forward on new cases, while at the same time working backward on the old cases. The old cases just simply take a little bit more time because there's a lot more paperwork involved. There's a lot more in terms of things that were or were not done that I would or would not have done. So, it involves me sort of unraveling what's there and trying to piece it back together.

Commissioner Kellner: Anything else? Alright, well thank you very much, Michael.

Michael Johnson: Ok.

Commissioner Kellner: So, now we turn to Public Information, John Conklin, and Jennifer Wilson.

Jennifer Wilson: Good afternoon, Commissioners. PIO, like all the other offices, we have been very busy with the June primary and pending August primary. In May we responded to 141 FOIL requests, in June 182. We've been getting a lot of phone calls, a lot of requests for the political calendar, information on running for office, signature requirements, inquiries about both primaries. During the early voting period, we also staffed throughout to make sure we had somebody here to handle any phone calls from the public. For the website, we posted the updated deadlines and calendar for the August primary and special elections. We also posted additional guidance for candidates running for congressional and senate offices, including the certificate of designation for candidates who had previously filed and had ballot access. We posted election night reporting for the June primary. We've also been working with Enforcement on adding additional content to website for Enforcement, and we worked with the Campaign Finance Board on their successful website launch which is up now. So, I'm sure at the next meeting, they'll talk a lot about that. It at [PCFB.ny.gov](http://PCFB.ny.gov). It looks great. They worked with ITS on that and they did a great job. And today we posted the revised Campaign Finance handbook, which we're actually quite excited about. That was another thing that we were very excited to move forward on. Tom mentioned that we worked with the county boards and IT on Move Act compliance to ensure all of our military and overseas ballots went out last Friday, and we also had worked on that for the June primary as well. For early voting, we again, tracked the early voting, vote totals for all the 62 counties and reported those out to any public inquiries, any press inquiries. And for the August primary, right now we're just finalizing all of the early voting sites for that. That was done over the weekend. We're just making sure that NYSVoter is updated with those sites so that for August, we'll have the correct sites in there for early voting. For the ballot proposal that you all will be considering later today, we started conversations with New York State Press Services. We'll again, have to run ads in newspapers in all 62 counties to make sure that we are in compliance with statewide law. So, we started conversations with press services this past



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month and we have also started conversations with our translator to make sure that that will be translated into Spanish, Bengali, Chinese and Korean. So, after today's meeting, we'll move ahead with that. For social media, we participated in the National Association of State Election Directors Social Media Working Group in July. There was a representative on there from Twitter, who has offered a training to New York State, so we are just finalizing the date for that for counties and for us to participate in, looking to missing disinformation spotting that on twitter, reporting that and making sure it doesn't get out of hand. In May and June, we posted 22 tweets and ten Facebook posts about upcoming primary deadlines and registration, absentee voting, early voting, and also on election day and we also used our social media to respond to any questions or inquiries from the public regarding the primary. We also further informed about the new absentee voting procedures regarding the use of affidavits for absentee voters, and as mentioned, we didn't get any complaints about that, so we're pretty pleased with that. And for traditional media, we continue to field inquiries about both the primary and then also Campaign Finance reporting for the May, June, and July Periodics. And then finally grants. Grants is always very busy. Continue to administer our nine grants, our HAVA grants and also our Early Voting grants working on the contract extension for those. Our repeat postage grant our \$4 million, we are just finalizing the contract now with OGS. So that was scheduled to begin July 1, and counties will be reimbursed back until July 1. That covers various expenses related to the new law requiring pre-paid postage for absentee ballots and also for absentee ballot applications. So, we're hoping to have those final contracts soon, and either way the county will get paid back to July 1. That is the full report.

Commissioner Spano: Is there any way to quantify the number of calls you got about running for office now or in the past?

Jennifer Wilson: I would say, well Operations gets a lot of calls as well about running for office. So, I would say probably in the 100 to 200 zone.

Commissioner Spano: Is that higher than normal, would you know? I mean you are new.

Jennifer Wilson: Well, I know a lot of them are very serious about running for President so.

Tom Connolly: It's a steady flow.

Commissioner Spano: They may not be turning out, but they're running.

Commissioner Kellner: Alright, well thank you very much. And finally, we go to Information Technology, Michael Haber.

Michael Haber: Good afternoon, Commissioners. So, you've probably heard by now it's been a busy summer here at the Board. IT has spent much of our time in preparation for/to primary elections and related activities for the various units and systems. Things that have already been mentioned here Election Night reporting, the absentee and affidavit ballot comparison and the upload of the new ballots and so forth. This Friday is the July 15<sup>th</sup> is the deadline to file the July periodic reports, so our CAPAS-FIDAS team is monitoring performance in the FIDAS systems

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and answering questions. There have also been updates to our electric filing system in support of the Public Campaign Finance project, and that's an interim solution until the final solution is put in place. And speaking of Public Campaign Finance, their new website was successfully developed and deployed last week, with assistance from IT and in collaboration with the unit there. And as was also discussed earlier, IT continues to anticipate in finalizing the scope of work for the final software for that. We also discussed earlier OVR and AVR. We, of course have that signed contract there, and we need to work on the memorandum of understanding with other states. Likewise at the same time, work on our plan B backup solution interim. The modified absentee ballot request portal is currently up and running and has had a variety of added modifications and enhancements. The absentee ballot tracker was successfully deployed on schedule earlier this year, and as was discussed, we're currently able to display all the required elements there that were cited, and we worked closely with our vendors on their timeline for getting all relevant data elements to us.

In state of expansion, again, this was mostly covered but we completed our connectivity for the new locations. Some of our development team is currently in the swing space in the building, while their primary space is being built out. In terms of cybersecurity, as was also mentioned, during the June primary election cycle, we had our regular touch points on a daily basis. There are 30 partners that was coordinated by our Chief Information Security Office, Ben Spear. We are happy to report that there were no significant cybersecurity incidents that occurred during that time. Our secure election center infrastructure team still regularly monitor our network to review any unusual activity, and we work with a variety of partners and vendors to keep our security measures updated and fresh with technology.

The Secure Election Center staff has also begun contacting county boards and county IT staff regarding completion of cyber regulation reporting, cyber regulations were passed last year, and which are due on August 1<sup>st</sup> of this year. That communication with the counties will continue to ramp up over the next few weeks. We continue to work with NYSTEK and numerous counties on implementation of their risk mitigation plans as well. And we work with the SUNY Center for technology government, there is an ongoing inter elections infrastructure project and phase two of that project is in process.

And lastly, we will be attending in August the multi states information sharing at Ellis Center meeting, that's hosted in August by the Center for Internet Security which is a good opportunity for discussions with other partners and representatives from other state agencies.

Commissioner Kellner: Well, thank you, Michael. We don't have any old business on the agenda. Our first item of new business is resolution 22-10 which is the certification and approval of the abstract and form of submission for The Clean Water Clean Air, and Green jobs Environmental Bond Act of 2022. So, the legislature adopted this. Has it gone through the procedure?

Kristen Zebrowski Stavisky: Yes, it did.

Commissioner Kellner: So, this is the draft that has been sent to us.

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Commissioner Kosinski: This is nothing different than what I have. It's my understanding that the legislature described the language for the proposition.

Kristen Zebrowski Stavisky: Yes, it was sent to the...or done.

Commissioner Casale: Or are we responsible for it? Get it from the AG?

Commissioner Kosinski: The form on the ballot would be dictated by the legislation, right?

Kristen Zebrowski Stavisky: Yes.

Commissioner Kellner: Alright so I'll move to adopt the resolution. Is there a second?

Commissioner Spano: Second.

Commissioner Kellner: Alright, any discussion? Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright, the resolution is adopted. Alright the next item on our agenda is resolution 22-11 to permit certification testing of Western Systems and software EBS 23.0.1 voting system. So, this is just to start the process?

Tom Connolly and Brendan Lovullo: Correct.

Commissioner Kellner: And I guess I've said it before, I'm not sure why the commissioners are asked when somebody wants to start the application.

Commissioner Kosinski: I'm not either.

Tom Connolly: I'm not sure if its statutory. I know for the modifications we cannot bring them before you, but when there's a brand-new system submission, the process normally is we have an application process, there's a lot of information that the vendor must provide to us before we can even say it's complete.

Commissioner Kosinski: I think the question is, why would we reject an application?

Tom Connolly: I don't know. This is certainly a process in which I inherited.

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Commissioner Kosinski: I know but can you envision a situation where we'd say no, we don't want to test your machine for some reason?

Tom Connolly: I cannot.

Commissioner Kosinski: It's not our money that we're using to test it. Isn't like we're protecting state money here, right? It's the vendor money.

Commissioner Kellner: Well, we do have staff on it.

Commissioner Kosinski: Well, we do have staff time, so maybe that's the reason.

Commissioner Kellner: But I certainly would not object if we changed the policy so that when the vendor makes an application, we just proceed on the application and notify them.

Tom Connolly: Sure, OK.

Commissioner Kosinski: Yeah, I wouldn't object either, I don't think. Just so I can understand though this particular one, is this the one we saw last year that was rejected by this board?

Tom Connolly: So yes, and no.

Commissioner Kosinski: Is this a resubmission of the same basic machine with amendments to try to address those issues, is that how I understand it?

Tom Connolly: So, what has been submitted is the hardware is the same hardware as it was last year, it is a completely new piece of software and firmware, so whereas the old version which was 6041 was running on windows 7. This does have all the same hardware components the Excel, the DS200, the DS850, 450 and I can't remember if the 950 was part of last years, but regardless, after last year's process, they basically decided to not just make the changes to the Excel, because all of the other components of 6041 were certified, they decided to resubmit an entirely new system so the 6401 is a whole new piece of software, it's on windows 10. It does have the DS 200, the DS300 which are briefing scanners. It does have the Express Vote XL about marking device which is what was brought before us last year, but they did address the discrepancies, or they believe they've addressed the discrepancies that were cited in the reporting from the last round. And then they have 3 different central count scanners that are part of the overall system.

Commissioner Kellner: So, does this system include a ballot marking device that is in the same physical cabinet as the scanner?

Tom Connolly: Yes.

Commissioner Kellner: And that's the Express Vote XL?

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Tom Connolly: Correct.

Commissioner Kellner: Alright, and what is your tentative schedule for when the public testing will take place and when the final?

Tom Connolly: As far as the final report, it's going to be, I think sometime next June, is the tentative end time for the testing, according to our testing partners. That can certainly change. Obviously, that process is just going through the testing once. As they go through the testing, if they find any kind of discrepancies or issues that ES&S will have to make adjustments to, that can certainly push that timeframe out. As far as the public testing of this, we haven't scheduled anything yet. Normally, the process has been, to this point, which may be changing now, has been that we wait until we get the permission to move forward from the Commissioners, then we have a kickoff meeting with the vendor, then we start doing biweekly meetings. So, one of the first things that we probably would discuss on those meetings would be, when can we schedule at least a public demonstration of the system for those individuals or groups that might be interested in kind of having a hands-on experience with the hardware?

Commissioner Kellner: And if there is someone in the public who wants to be informed of that process, how do they get on that list?

Tom Connolly: We don't necessarily send out an e-mail, the last one we always publish those dates on our website. Certainly, in advance so that people will know when we will be doing a public demonstration of any software. We will absolutely discuss it at any of the board meetings, but if they wanted to reach out to election operations or myself personally, I'm happy to make them aware of whenever that date gets set.

Commissioner Kellner: Now, I noticed that on the website, we have a high-level category for HAVA related materials that still includes a lot of the Legacy materials from 2005 through 2008, when we were going through the initial certification. But there is very little that seems to be on the website about currently pending certification projects. And I'm wondering if that's really backwards. That the HAVA stuff, I don't mind leaving it there or burying it somewhere, where it's not quite so prominent on the home page. Could we update the website in a way that shows all of the pending certification and review applications, so that also covers what you're working on with respect to poll books and any other system and technology reviews that are ongoing, so the people can get that information. I know that some states have very excellent websites that are very thorough. I mean, I'm impressed by what California has where it's not very difficult to get a lot of detailed information on their testing programs for each set.

Tom Connolly : Well, we certainly worked towards doing that when we had originally done the HAVA section on the website, was actually much more robust previously and we had to kind of trim that down due to the inaccessibility's over the content, and then we started--have undertaken some efforts to start rebuilding that section, especially with something like a pipeline, that kind of shows where each of the different systems are at in the process, much like the way that the EAC does at the federal level. We have had some staff turnover, but we are completing the

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machine staff, the new individual is starting next Thursday. So, I'm hopeful that we can kind of reignite that effort and get more stuff on the website.

Commissioner Kellner: Alright, well that's good. My own suggestion is that HAVA should not be a bullet link on the home page, it should be subordinate to something else, like loading system testing, or something like that, and as I say, I don't object to having that old historic information there although I think it's at a higher level in the organization of our website than it ought to be. For example, all the competing plan that we could agree on the voting system if we have to go to Judge Sharp for our alternative systems? I don't know.

Commissioner Casale: Do it in reverse chronological order.

Commissioner Kellner: But if you want to find out what they're actually look at now...

Commissioner Kosinski: this is a system that configuration was being debated in the legislature this year. Is that correct? This is the one that has that component in it that legislature was being asked to basically outlaw in New York, is that right?

Tom Connolly: This is a system that would be impacted by that legislation. There are other systems that are...

Commissioner Kosinski: it's the configuration that we're talking about. So, we know this has some controversy attached to it, so I guess having some public disclosure here is important, so the public knows what we're doing. We, of course, were working under the current law, but I understood there was an effort in the legislature to basically outlaw this type of a system in New York, but it wasn't successful, so we're still going ahead which I understand.

Commissioner Kellner: One aspect, yeah.

Commissioner Kosinski: I do have some public interest here so.

Commissioner Kellner: And one of the options that I think the vendor has left open, is that even though the machine is capable of doing both, is to separate.

Tom Connolly: Right, because even though the Express Vote XL can theoretically act as a ballot marking device only, but also a ballot marking device and tabulator, the concerns over the security of the ballot marking and the scanning of the ballot, if you were to break that out, can still produce voter cards with the voter's choices, and then that itself can be scanned on a separate DS200 or DS300.

Commissioner Kellner: And that would comply with the legislation the senate passed. But, okay, so, I think we're pushing for transparency.

Commissioner Kosinski: Well we'll see what happens. Absolutely, so I'm in favor of going ahead with the testing, and see where we are, but I just think we should be aware that there is

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public interest in this, and I agree with the Commissioner, that we should be out there making sure we know what we're doing with this, and people want to observe, they should be given a chance to observe and comment, and whatever else they want to do.

Commissioner Kellner: So, I'll take that as a second to the resolution. Is there any further discussion? All in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Spano: Do we need a motion to change the procedure?

Tom Connolly: I don't think you do. I'll take your word for it.

Commissioner Kellner: Okay, but we'll still vote on resolution 22-12 which is to authorize Clear Ballot review. I think all of our prior comments apply to this system as well. Although this one is not anywhere near as controversial. So those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Right, that's adopted. And okay, resolution 22-13 to adopt amendments to part 6211.6-9 related to voter history and prevention of duplicate voting. So, this is to make the proposed resolutions permanent, is that it?

Tom Connolly: I believe it is. This is the change to, as I mentioned before, talking about the statewide data match. Previously, our regulations had two different timeframes, one for the primary and one for the general, as a result of the change of law with regard to early canvassing of absentee ballots and the canvass of affidavit ballots happening on the 4<sup>th</sup> business day after the election, it required us to move up the deadline for that data and make it standardized for both elections. The change was that the counties had to provide the information to the state board within 3 days of the election.

Commissioner Kosinski: So, you implemented that this year? So boards had to report within three days? Did they have any problems? Meeting that deadline?

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Tom Connolly: For the most part, most of them were able to get there in time. I mean, I think I did receive a file as late as Saturday morning, and we were able to implement that in, but for the most part, by the end of the day when I left here on Friday, we had most of the counties data.

Commissioner Casale: So, this is just the date?

Tom Connolly: Yeah, just moving it to the 3 days.

Commissioner Casale: It doesn't really change the process then?

Tom Connolly: Right.

Commissioner Kosinski: And just an off-hand question, what happens when a board doesn't meet the deadline? We say three days and it takes six.

Brendan Lovullo: They receive a lot of phone calls from us.

Kristen Zebrowski Stavisky: That last day, they're being hounded by us.

Commissioner Kosinski: So, we don't really have a mechanism to force it, it's just we are asking them in essence to do this within three days and hopefully they will, and it sounds like most of them are, which is great, but I'm just curious.

Commissioner Kellner: And if they don't, I guess theoretically we could go to court.

Commissioner Kosinski: Yeah, I know that.

Tom Connolly: And one of the things though is this is a manual process, and it does require the county boards to export information out of their voter registration systems, and also to compile the information on their voters who are voting by affidavit ballot, which is often a very much of the data entry process. Sometimes they can get it off their E-poll books, sometimes its more manual. As we go forward now with the absentee tracker, which also tracks affidavits, that information is going to be fed systematically from their VR systems into NYSVoter, and like that once everything is fully up and running and integrated, we won't need to ask counties for that information anymore, we can just extract it right out of there.

Commissioner Kosinski: So, that's the goal is we can get the information ourselves, resident here, that we actually can pull out.

Tom Connolly: So, this way we don't have to...

Commissioner Kosinski: What timeframe would we be able to do that in, do you think? I mean I don't know, Michael do you have a sense of that?



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Michael Haber: Well, the local VR vendors should, once they are fully supplying us the information that we've asked for, and so I would anticipate by the end of the year.

Commissioner Kosinski: So, for next year's election do you think we'd have that? It sounds like a much better process to me.

Kristen Zebrowski Stavisky: We've given the VR vendors; we've told them that their deadline to complete this is the end of the year.

Commissioner Kosinski: Ok great, that would be great. Okay.

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

Commissioner Kosinski: Sure.

Commissioner Kellner: Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright No. 22-13 is adopted. 22-14 are regulations the same regulations 6217.6-9 relating to gender designations for voter identification verification.

(everyone talking)

Kristen Zebrowski Stavisky: Yeah, unfortunately...

Tom Connolly: ...It looks like the middle two pages are the old ones?

Kristen Zebrowski Stavisky: Yes, they are.

Tom Connolly: So, the first and last page are correct.

Commissioner Kosinski: I only have two pages.

Tom Connolly: Oh, then you are all set.

Commissioner Kosinski: So, this is the one where DMV removed gender off their form, so we no longer capture gender as part of our information from DMV? Is that what it is?

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Michael Haber: It's along those lines. We do capture gender; however, we're not intending to use it any longer based upon this, for identification purpose.

Commissioner Kosinski: And that's because...

Michael Haber: the different classifications of gender that DMV has as opposed to...

Commissioner Kosinski: they have more than male and female now, is that right? And that would not be helpful for us to know? Is that what we've concluded?

Kristen Zebrowski Stavisky: Ours is optional now.

Commissioner Kosinski: It's not helpful? Cause this is another identification point for a voter, I'm just trying to understand so, if a DMV capture, I don't even know what their form says now male, female, something else?

Tom Connolly: Intersex.

Michael Haber: Unknown and Intersex are the other two.

Commissioner Kosinski: So, our capturing what they do have is no longer useful to us because of that change, is that our conclusion?

Tom Connolly: I believe it was capturing the data as a voter registration transaction or it would be in the future, I think it's a matter of when we leverage our connection with DMV to kind of verify identification, normally that's either done with the DMV number or the social security number. So, I think that gender may have been included in that kind of data match before, and now it's being removed from the regulations.

Commissioner Kosinski: But doesn't it have to do with the change in the DMV form? We were still capturing when DMV just did male, female, now we're eliminating it because DMV's expanded the number of genders that you can choose, and I'm just trying to understand why that expansion would cause us to just drop the whole thing rather than trying to accommodate it, or use what is useful to us, rather than just eliminating it.

Michael Haber: The problem would impart the false negatives, so if somebody does not supply us with a gender or if they had previously supplied us with a gender such as male or female and they now identify otherwise at the DMV, we will receive a mismatch even if all the other criteria does match. So, it simply makes more work at the county side for them to then go through and verify that that is a match, even though DMV said it was not based upon gender not matching.

Tom Connolly: And part of it also is limitation on the part of local VR vendor system. Not all of them are able to capture the multiple new genders as well. So, it would require changes in their system and our system just to accommodate those changes.

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Commissioner Kosinski: Okay, so under this we would be left with the driver's license or nondriver number and name?

Kristen Zebrowski Stavisky: And date of birth.

Commissioner Kosinski: I'm sorry, and date of birth. So, we would have 3 elements matched not 4 basically.

Commissioner Casale: We get the driver's license number?

Tom Connolly: We would either get a driver's license number or a nondriver ID. So, on the form right now, on the voter registration form...

Commissioner Casale: online

Tom Connolly: or on paper, you can give either your driver's license or nondriver's ID, the last four of your social security, or you can state that you do not have either of those two. But, if you provide any of the first two, we leverage our connection with DMV to check both. So, DMV, what happens is they'll see a county board receives a voter registration form in some way, shape, or form, they enter that voter's information into their system, including the driver's license number that was provided. It's then sent to NYESS voter, NYESS voter then checks with DMV and says, hey, I have this voter with this driver's license number, do you have a match? And DMV tells us yes or no.

Commissioner Casale: All through the computer?

Tom Connolly: I'm sorry?

Commissioner Casale: All through the computer?

Tom Connolly: Correct. So, therefore it will tell us if the ID has been verified either information.

Commissioner Casale: We ask for driver's license; we don't ask for the birth certificate?

Tom Connolly: No, you can provide it, I believe a birth certificate as part of an ID, there are different other like pieces, like using a utility bill if you want to verify your identification. This is just for verifying your identification.

Commissioner Kellner: At registration.

Commissioner Casale: No, I understand.

Tom Connolly: And also provided just the last four of your social, we then pass that information along to the DMV and then DMV has a connection to the social security...

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Commissioner Casale: DMV uses what's called a point system are you aware of that?

Tom Connolly: Yes. But their proof of identity for their point system is different from what we're doing just to verify the ID.

Commissioner Kellner: Alright? Any further discussion?

Commissioner Kosinski: Yea, I just want to go on record as saying, I don't think this is a good idea necessarily, but I think we're in a sense being forced into really, by DMV's changes, so I think we don't really have too many options here but the more identifiers we have the better to verify the legitimacy of our voter registration system. But I understand the changes are affecting us.

Commissioner Casale: the DMV changes are special.

Tom Connolly: I can't speak to why the DMV ended up changing theirs.

Aaron Suggs: They were special, they did a bill and changed, they added a new gender ID.

Commissioner Casale: It is what it is.

Commissioner Kellner: All those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? So that resolution is adopted. And I believe that concludes our business for today. We have a next meeting date set?

Commissioner Kosinski: I think the 15<sup>th</sup>, right?

Commissioner Casale: August 15<sup>th</sup>.

Commissioner Kellner: Okay.

Commissioner Kosinski: So, all set with everybody?

Commissioner Casale: So, possible August 30, right?

Commissioner Kosinski: August 15<sup>th</sup>.

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Commissioner Spano: What are we talking about, August 15<sup>th</sup>?

Commissioner Kosinski: August 15<sup>th</sup>, Monday the 15<sup>th</sup>.

Commissioner Casale: Then August 30<sup>th</sup> if needed.

Kristen Zebrowski Stavisky: Right.

Commissioner Kosinski: Right.

Commissioner Kellner: Alright so those in favor of adjourning say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright. So we stand adjourned.