

>>JAMES WALSH: Good afternoon, everyone. My name is James Walsh.

>> EVELYN AQUILA: Chairman Walsh, I want to ask you a question, is this a private session?

>>JAMES WALSH: Not yet. No, thank you very much. You are on the ball.

>> You're welcome.

>>JAMES WALSH: I have an announcement to make. We have some personnel issues that we would like to discuss.

And I would like a motion to go into executive session so we can hopefully resolve those.

>> Motion to go in.

>>JAMES WALSH: All in favor?

(Chorus of ayes.)

>>JAMES WALSH: Opposed?
Carried. Thank you, we will go into executive session.

(Executive session)

>>JAMES WALSH: Thank you, everyone, for your patience. I would like to have a motion to come out of executive session, please.

>>DOUGLAS KELLNER: So moved.

>>JAMES WALSH: Second?

>>GREGORY PETERSON: Second.

>>JAMES WALSH: All in Favor?

(Chorus of ayes.)

>>JAMES WALSH: Opposed, carried.
Thank you. Item 1 - minutes of the June 19th, 2008 Board meeting.

Anyone have any additions, deletions, corrections?

>>DOUGLAS KELLNER: I move the adoption of the minutes as drafted.

>>JAMES WALSH: Second?

>>GREGORY PETERSON: Second.

>>JAMES WALSH: All in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed? Carried.

Unit updates.

Executive directors.

Stanley Zalen is first according to the agenda.

>>STANLEY ZALEN: I have nothing to speak to at this time, so I'll pass it over to Todd.

>>JAMES WALSH: Thank you, Stanley.

>>TODD VALENTINE: Well, we have one appointment to make.

We would like -- at this point Allison Carr has resigned as Special Counsel and we would like to appoint Kim Galvin from Deputy Director of Operations up to Special Counsel.

>>EVELYN AQUILA: Will Kimberly introduce herself? I'm always going to say that you know. Kimberly?

>>KIM GALVIN: I'm Kim Galvin. I started a while ago back --

And I've worked with Anna in election operations. And I'm going to move to the legal position.

>> EVELYN AQUILA: Thank you, Kimberly.

>>KIM GALVIN: Thank you, Commissioner.
Thank you, Stanley.

>>DOUGLAS KELLNER: Has the salary been agreed?

>>TODD VALENTINE: Yes, same salary.

>>JAMES WALSH: Motion?
Do we have a motion.

>>EVELYN AQUILA: I have a motion that we appoint Kimberly to the position of Special Counsel to the Board of elections.

>>JAMES WALSH: All in favor? Carried. Congratulations, Kim.

>>KIM GALVIN: Thank you.

>>JAMES WALSH: Excuse me I got myself a little off kilter.

We normally introduce ourselves. We went into executive session. Came back in here.

So my apologies. I will step back a spec, if I may, please, and ask my co-chairman to introduce himself.

>>DOUGLAS KELLNER: Douglas Keller.

>>EVELYN AQUILA: Evelyn Aquila.

>>GREGORY PETERSON: And Gregory Peterson.

>>TODD VALENTINE: Todd Valentine co-Executive Director.

>>PAUL COLLINS: Special Council's office.

>>KIM GALVIN: Kim Galvin. Special counsel I guess.

>>ANNA SVIZZERO: Anna Svizzero, Election Operations.

>> Pat Campion, Special Projects.

>> Bob Brehm, Public Information.

>> Greg Fiozo, NVRA coordinator.

>>LIZ HOGAN: Liz Hogan, Enforcement Council.

>>STANLEY ZALEN: Stanley Zalen co-Executive Director.

>> Joe -- DOB.

>> Tim Escili, Division of Budget.

>> Barbara --, Saratoga county League of Women Voters.

>> Patty Black from the New York State Independent Living Council.

>> Zachary -- from Wilson --.

>> Amy -- , League of Women Voters.

>> -----, New Yorkers for Verified Voting.

>> Bob --, NYSTEC.

>> Neil --, NYSTEC.

>> Terry Reeds, election operations.

>> Bob Warren, election operations.

>>JAMES WALSH: Thank you. And legal Kim Galvin it's your day today, Kim.

>>TODD VALENTINE: Kim or Paul can do it.

>>JAMES WALSH: Well, we don't have Paul -- Paul, can you make the report, please?
Or no?

>>PAUL COLLINS: I think I can probably do that.

I think I might be willing to given the facts and circumstances.

The ongoing HAVA compliance litigation with the Department of Justice continues.

We've had weekly conference calls with the department.

This past week -- this past Friday I filed the status report. And I indicated to the Court that insofar as to delivery of the machines are concerned, we are behind schedule.

Because what's happening is every time you ask the vendors for an updated schedule, I think they mathematically figure out how many days they have.

They divide that by the number -- and they give you this number.

And we don't have great confidence that in fact we are going to receive all of the machines by July 31st.

So we've indicated that to DOJ.
They are aware of that.

That's been an ongoing thing. But this week I did the report.

And I changed the title of that section of the report from "on schedule" to "behind schedule."

Since the Board last met, we had a problem with respect to the machines.

And Nassau County. That necessitated that Bob Warren and I go down there with a representative from the Department of Justice.

And look the situation over. They had received a number of machines.

Had complaints about them. Were not communicating with the vendor. There were very poor lines of communication.

We went down to see if some resolution could be reached.

We viewed ten machines which Nassau indicated were the types of problems they had.

It was agreed Sequoia would station a tech down there on a permanent basis.

They are down there. We are getting reports they are clearing up the problems with the machines.

Although as of this moment, I cannot advise that Nassau has agreed to start accepting machines again.

They were looking for some written plan from Sequoia.

There was some writing exchanged last evening. And I sent an e-mail to the County attorney this morning.

He has not as yet responded to see can we start delivering machines to Nassau again.

With respect to the petitioning process, I think Anna and Kim are going to address that.

So that's really in essence the legal report, the largest single thing is the Department of Justice lawsuit.

Although, they are now focusing on the New York City situation with respect to the use of

the NYS voter 2 system to ensure proper file maintenance so we do indeed have a

single statewide up to date voter registration database. That's what DOJ is now turning its attention to.

>>JAMES WALSH: Thank you, are there any questions?

>>KIM GALVIN: I just want to add a slight clarification to what Paul said. I agree with everything he said.

Except Sequoia is the one that's running late. ESNS is expected to be on schedule through next week and should have the machines out.

But Sequoia everything Paul said the issue with Nassau and the delivery schedules.

>>JAMES WALSH: Election Operations, Anna?

>>ANNA SVIZZERO: Thank you, Commissioner. We have been dealing with petition filings.

So I would review those with you.
We have 706 petitions have been filed.

229 acceptances. 201 authorizations. 117 objections have been filed.

However, so far only 41 sets of specifications have been filed that correspond to those objections.

They can still come in the mail.
Some of them are not due yet until tomorrow, or Thursday.

And we'll continue to update you.
We have teams working on specifications at present and we'll be working with Stanley and Todd later today to establish a hearing schedule so we can make sure the teams of staff that are reviewing the specs are doing so in a timely way so the hearings can be conducted and results submitted to the Board for determinations.

We continue with our unit meetings with NYS tech and sys-test our acceptance testing is ongoing Paul alluded some of the issues we've been contending with.

To date 3,026 Dominion ballot marking devices have been delivered. 2,828 of them have been tested successfully.

2,279 were shipped out to respective County Boards.

ESNS, 2,106 units have been delivered. 1,900 have been successfully tested.

And 1,560 of those have been distributed to corresponding County Boards. Bob Warren is here.

He can certainly correct me if I'm wrong.
Sequoia is expected to ship 4,519 units so they are short 1,493.

And ESNS needs to ship 2,488 and they are short only 588 units.

So if Sequoia does ramp up and manages to increase their delivery Bob Warren and his team have put a plan together to add additional hours and

weekend work to our own work schedule to try to keep up with units as they are coming in.

Paul discussed the Nassau report.
Bob Grunsiak from NYS tech did a procedure.

Brian -- from the Department of Justice also went through our procedure at the centralized testing site.

And Bob and Paul have some comments separately that they are putting in a report so that we can give that to the Board that would accompany NYS tech's report as to the visit in Nassau.

The interim asset management solution, which we've been working on has been completed.

Tom Wood at NYS tech deserves a lot of credit for this. He has been putting in a lot of hours on this project.

And we have instruction documents for both Sequoia customers and ESNS customers.

And Tom and his team and our folks out at the site have prepopulated 35 counties -- reports for 35 counties so those counties don't have to do data entry.

We also determined that we will send the asset management program to the counties that have received all of their ballot marking devices.

Because to send it to the ones that only got their 10% means they are going to have to fill out this spreadsheet more than one time and we didn't want to burden them at this time of the year with that extra work.

We are hoping to get that out if not this afternoon tomorrow to those 35 counties.

We have been in contact with several Boards concerning their interest in participating in a lot 1 pilot project.

This fall there have been some e-mails exchanged and I think perhaps that issue will come up later.

However Ulster is the only County that submitted a request to the co-Directors for consideration.

We're still -- for consideration. We're still waiting for approval from the Civil Service for the three positions we are hoping to establish and recruit for and fill.

Those people will be doing the initial work on auditing the maintenance reports and preelection reports from counties.

But also would be doing programming for County Boards on a pilot basis at least initially.

And that they would also be support for building test decks.

That's going to be a new process for a lot of our Boards this year.

And otherwise be available to learn the system and serve as support here by phone.

Or in person, if we need to go out and assist a County Board that's having a particularly difficult time.

We distributed to County Boards last week a CD on which were aggregated the e-mails that we've been sending out regarding all of the policies and procedures.

Our own and theirs. We were sending those out by e-mail following up in hard copy and we thought we would aggregate them all so that counties can start putting a library together of procedures and

documents, forms to be filled out, et cetera.
And those can be amended.

We're also going to make those available through a portal on our web site so that we don't have to worry about who is reading e-mail or who is getting faxes or who opens the mail.

Hopefully there will be enough opportunities for access to this information and we won't have any gaps in the delivery of those messages.

And I think that is all we have by way of an update.

We would like to thank everybody from the agency. We had a particularly helpful team of temporary staff this year with petitions.

Everybody really helped. Because all of our experienced staffers are either no longer with us or up at the fondly referred to dude ranch doing acceptance testing. So we're really under the gun.

And everybody really came through. We were not here late. I think just two evenings.

Nothing past 7:00 o'clock. So it was a real eye opener for us. And we really just want to thank everybody in the agency and the temps that helped us to deal with the petition filings.

Now hopefully everybody can step up and help with specs and we'll be golden by the time we have to schedule a meeting for determinations. And I don't think I have anything else.

>>JAMES WALSH: Thank you.
Anyone have questions?

>>DOUGLAS KELLNER: Anna, are there any policy issues with respect to certification testing that need to be referred to the Commissioners?

>>ANNA SVIZZERO: The certification issues that were tripping us up in the ballot marking device world were change of life issues with vendors.

For example, different parts were no longer being made available. And we had in-house agreed to a process.

We're incorporating that into our official office procedures.

And I thought at the last Board meeting we had agreed to move ahead with that concept.

So we'll have a formal procedure. Our procedures have not been voted on by the Board.

But they have always been shared with the Board.

So that it's clear and documented what our plan is going to be. So we will incorporate those understandings that we came to last month just before the last meeting into that procedure.

And we can share that with the Commissioners by mail as soon as we get that done hopefully within the next day or two.

>>DOUGLAS KELLNER: Well you see in the next day or two. In the daily reports that we -- that the Board

receives from sys test, they talk about issues that they are still awaiting resolution from the Board of Elections on.

Is that in fact the case, that they are still awaiting instructions from the Board?

Or have they gotten those instructions but they just don't understand that you have actually decided?

>>ANNA SVIZZERO: The one outstanding issue that we had that was resolved, that request for information, concerned the stand-alone concept.

And it was submitted by Sequoia. We did issue our opinion. We're going to continue to interpret that requirement as being stand-alone operating environments for systems.

However, we understand the need in larger Boards for that position to be reconsidered.

So we're asking NYS tech to look at our regulation and offer an amendment that has language that the Commissioners could be comfortable with and also the additional security codicils if you will that will have to go along with amending the regulation,

the 62.10 section that speaks to no networking capabilities for those systems. Because clearly in other Boards, in larger

Boards, there needs to be more than one person who is programming a ballot.

The checks and balances would clearly be there in the proof reading.

But the number of ballot styles is going to drive how many people need to work on that process at a single time. So there needs to be a better approach.

>>KIM GALVIN: If I just may add to Anna, I believe that we've addressed all of the outstanding sys test issues except for one, the configurable files issue.

>>ANNA SVIZZERO: Yes, that's true.

>>KIM GALVIN: There are some aspects of the machines that could be configured differently by individual counties.

So what we're trying to do is go over it with the consultants, and in-house, to decide what you would allow. Like the number of ports -- reports to be run is one versus something that we certainly don't want counties to be able to change within, you know -- have Monroe have one and Orleans have a different thing.

But I think we've had plenty of discussions about that. And that's the last outstanding issue that I recall that we have for them.

>>ANNA SVIZZERO: The only one is Sequoia keeps referring to the central absentee system as part of lot 1.

We told them it's not lot 1 and perhaps we need to expand on that for sys test systems because it does show up in their report

even though as recently as the last status meeting we told them it's a separate track if the vendor wants to pursue it.

>>DOUGLAS KELLNER: You've raised the three issues that I noted where I thought the Board had made

decisions and sys test keeps putting in their reports that they are waiting for a Board decision.

>>KIM GALVIN: We clarified that. Anna is correct we have gone over it the last

couple of times particularly on the closed network and central con scanner but in -- we've gone through most of it and the vast majority of it we've given them an answer.

But there are seven or eight that we still need to answer them on.

But -- so in part we haven't answered one and we have answered the other two.

>>DOUGLAS KELLNER: Is there anybody who is actually checking in election operations to make sure everybody is current with all of their ongoing responsibilities?

So are we current in receiving the escrow payments for the fees?

>>ANNA SVIZZERO: Yes, Terry Breeds monitors the information from sys test and NYS tech and both of those consultants are

on notice that they need to let us know when they see a depletion of those funds to a certain level so we can get an advanced notice so we can come back to you to authorize the notice.

>>KIM GALVIN: The Board to our cost is current, as well.

>>ANNA SVIZZERO: Yes.

>>DOUGLAS KELLNER: Has the review been made to ascertain that all of the certification documentation has been submitted that's required by the regulations.

>>ANNA SVIZZERO: Sys test and NYS tech continue to do that. That's been a struggle and those appear as risks in the status reports from sys test.

>>DOUGLAS KELLNER: We still haven't received all of the documentation.

>>ANNA SVIZZERO: No we have not. we sent an e-mail to the vendors about a week and a half ago. Urging them.

They get the same status reports every day that we see.

We urged them to look at the issues there and come to resolution with them as far as sys test is concerned.

We have a weekly status call with Sequoia. We haven't found a convenient time to do so with ESNS.

But we'll be doing that in person on those phone calls to get them to continue to try to resolve these issues.

Because if we don't clearly certification by the date that's in the timeline that we've agreed to with the courts is in jeopardy.

>>DOUGLAS KELLNER: Is the timeline doable as it is now?

Or is it relatively unlikely in view of the large number of outstanding issues with each vendor that the timeline would be adhered to?

>>ANNA SVIZZERO: The timeline isn't blown yet, which is a term that we use regularly.

I think a number of the discrepancies that are reported in the Sequoia deal with documentation and not necessarily deficiencies.

In that way we'll probably get to that point once testing starts.

But there are clearly documents that ESNS needs to provide before sys test can move much further with them.

And those I think are more of an issue with that certification than Sequoia.

At least in the way that it's been explained by sys test.

>>DOUGLAS KELLNER: I saw Terry's e-mail this morning saying ESNS has made no progress over the last two weeks, was it, Terry.

>>TERRY BREEDS: Well, several things, Commissioner. We receive nightly reports, as you know. And lately the message has been the report is unchanged.

>>KIM GALVIN: But I think it's important for clarity and the totality of the circumstances

to understand that a lot of these discrepancies that we currently see are documentation discrepancies.

Maybe you don't indent enough spaces. But I don't know. But they are clearly not determinative with regard to the operation of the function of the machines.

What we started the last couple of weeks is trying to focus the testers and the consultants in a way we'll be able to clearly delineate or start to delineate okay is it it just doesn't look at pretty as they are saying it should or does it actually affect somehow the machine is supposed to be working.

So we don't have a thousand outstanding discrepancies and have everybody -- if 997 of them don't relate to how the machine actually works or functions but have to do with how they are instructions or formatted or programmed, I think we'll be able to have a clearer picture of what we're actually looking at as we move into this final stage.

>>ANNA SVIZZERO: For example if they didn't get resolved they would show up as failures in the test results.

But there could be mitigating or compensating information that makes the issue either relevant or irrelevant in the eyes of the Board as to whether you would award certification or not based on that.

So we'll have that kind of detail in the final test reports.

>>EVELYN AQUILA: Anna, in looking at the -- because this is a natural thing that happened, you know.

In looking at Nassau's complaint because we know the machines went into the field. They were received by a County.

And then there were problems. Are any of those problems things that would have been faithful to the certification of those machines?

>>ANNA SVIZZERO: No, I don't think so. I think a lot of what went on in Nassau was

the delivery of voting machines that they had not been trained to contend with.

There was perhaps in these numerous e-mails that went back and forth with procedures and recommendations on our part perhaps some of those fell through the cracks, as well.

So I think -- I think Bob and Paul's report, the sense that they got of the Justice Department at both the acceptance testing site and in Nassau,

I think a lot of those issues are -- fall within the parameters that we envisioned acceptance testing to deal with and what County ownership means to a County Board of Elections.

So I think they have an obligation to participate in the training to the level that their staff is prepared to do with the inconsistencies that may be presented to them.

Some of the issues that they raised are clearly theirs to resolve.

It wouldn't be for us to say that this dent or this ding or whatever those sorts of problems are would prompt us to reject the voting machine.

We're doing acceptance testing for purposes of the functionality of it.

The cosmetics of it, the County Board is paying for those devices with the HAVA money if they choose to reject it that's a step that's theirs to take.

Nassau is certainly in their rights to do that if they choose to.

But I don't see that these are determinatively affecting the certification.

>>EVELYN AQUILA: You know, as they are delivered into the counties, I'm hoping that

we don't have more and more counties upset that they've gotten the machines and now they don't know how to . . .

>>ANNA SVIZZERO: We don't. I know counties were crazy about the process.

They weren't crazy about their obligations within the process.

But I think our County Boards are doing the best they can.

This is the day that they knew would come when this HAVA conversation started when the public hearings started and their comments were made.

There's I think perhaps a lack of readiness in those counties that are still giving our Boards a difficult time with finding and hiring staff that can deal with voting systems.

Finding warehouse space that's appropriate for their storage and that kind of thing.

I know the Council's office sent letters to the County attorneys urging them to please listen to the needs the County Boards are bringing and find a way to help our Boards address those issues.

So I think those are the bigger hurdles that we have.

>>EVELYN AQUILA: Something brand-new is always difficult.

You have the clock ticking it makes it a little -- the pressure is a little more --

>>ANNA SVIZZERO: That is true.
I don't think we're naive at all in this.

We don't expect this to go off without a hitch but we're certainly trying to find all of the nooks and crannies where some of these issues might be hiding and try to bring them out and deal with them in advance of the actual deployment of the voting systems.

>>GREGORY PETERSON: With all due respect, I spoke to both of the Nassau Commissioners and they have a pretty professional group down there.

And their complaint really revolved around to some degree a lack of communication.

To another degree, frankly what they -- they were trying to make the machines work.

Bottom line was it was a tremendous percentage of rejection.

And that was the reason for the e-mails and the pretty strong letters and so forth.

That's on -- that's frankly on the downside. I was rather concerned that here we certify the machines up on our end. Send it down.

And then it looks like we certified something that shouldn't have been certified.

And that bothered me tremendously. I think however at this juncture and I want to compliment our staff here for going down there, paying attention to a very large County. And frankly taking action.

And putting the shoe wherever it belongs. And that really is on the vendor.

So that now that they have somebody assigned there, I think that will obviate a lot of problems that occurred and frankly nip it in the bud and have it come back on the Board where it doesn't belong.

And very honestly if the vendor can't handle it, they really should be made to tow the mark or pay the penalty.

There's no reason why -- I mean if anybody in this room bought a Dell computer or Toshiba laptop or whatever, brought it home, started it up and it didn't work and started crashing on them, hey, we would be screaming. It's the same type of thing. I liken it to this type of situation. Maybe some of it is minor.

I was given to understand a good portion of it is not minor and that certain portions were not working. Paper was jamming.

The remark that was made is it's constantly jamming what do we do? Ignore it.

How do you know if you actually have a jam or don't have a jam.

These are things frankly that Sequoia should be dealing with. Frankly it should have been done ahead of time.

Not to have reached that point where it takes hours to ask to go down there and straighten the problem out.

That being said, as I said, I think our group of professionals who went down really handled themselves well.

And I think that at this point they seem to be on track. I got a call from the Commissioners saying that -- complimenting us for the cooperation.

They appreciated it very much. They feel at this point they can make this thing go. But the schedule is tight.

>>EVELYN AQUILA: Commissioner, you know, many of the counties wanted us to do the testing of the machines on their site.

And the only problem was that we don't have the personnel to be able to do that. Erie County wanted us to do it.

New York City wanted us to do it. Nassau wanted us to do it. I think some of the counties feel neglected that we didn't do it that way.

I think we made a strong case for why.
I mean, we had to bring them to the central site.

And at that central site, you know, examine them. And we have certainly would have loved to be able to have the money and the staff to every county to have people at every county handling these machines.

But I just want to say that for -- I know some of the counties feel badly about that. But it was impossible.

It wasn't that we were being mean or inconsiderate or didn't give a darn.

It was that we didn't have any kind -- any near the kind of group of people we would have needed to have at the level of

professionalism that we had to go with these machines to -- you know, to examine them at every single County.

>>GREGORY PETERSON: I think everyone is under the gun.

>>EVELYN AQUILA: We all are.

>>GREGORY PETERSON: All our staff is overburdened here.

The staff on each of the counties, they are burdened, as well.

That whole situation very honestly would be obviated if you had a machine that worked perfectly.

And then if you have somebody that's not trainable or whatever, that's a different story.

But if the machine works perfectly and some adjustments have to be made that's something else.

That's not the way I see this. That's not the way it's been explained.

Again as I say the vendor has to be held accountable for this and strictly so.

>>EVELYN aquila: Not that I want to deflect any kind of criticism from the Board.

But the machines all over the United States have not worked perfectly.

In many states you'll pick up the New York Times and you'll see New Jersey sends all the machines back.

This is what we're seeing. I don't know.

When Ford put his car out it couldn't have been that bad. I think that slowly it will take a couple of years.

I don't know how many. You know, I hope I'm still alive when these machines work perfectly.

And I think all of us have to understand that there is this great cloud that hangs over their head of electronic voting machines.

And not the ballot marking devices as much.

They seem to work a little better.

Wouldn't you think, Doug?

>>DOUGLAS KELLNER: Yeah.

I think we have substantial problems.

>>EVELYN AQUILA: I don't think it's as bad as the bigger machines.

But we're hoping -- I'm sure the vendors want to sell their product.

They are trying to make a better one. But we are all going to have to grit our teeth and bear it I think for a couple of years.

>>JAMES WALSH: There are truly some bumpy roads ahead.

>>EVELYN AQUILA: Absolutely commissioner.

>>DOUGLAS KELLNER: I still have two open issues.

>>EVELYN aquila: I'm sorry.

>>DOUGLAS KELLNER: Anna, on the Ulster County as one of the experiments do we need a vote of the Board.

>>ANNA SVIZZERO: I don't know where that might be entertained by the Board.

But there was an e-mail from the Ulster County Commissioners to both of you, Todd and Stanley.

And they are asking for permission to conduct a very limited pilot.

And yes, a vote of the Board would be necessary to authorize that. I don't know where you choose to discuss it.

>>TODD VALENTINE: I did speak with one of the Commissioners, Commissioner Turkell and he said he would be putting together a detailed plan.

He alluded in his initial letter he was only seeking -- I don't know he didn't have a

detailed plan of what he intended to do specifically that both him and his

Democratic counterpart had agreed to.

They've agreed to a concept.

But I don't think we're in a -- agreed to concept but we're not in a position to agree to a concept at this point.

He did say he would have that detail plan to us knowing we're meeting next week and that by the end of this week.

>>DOUGLAS KELLNER: Who said we're meeting next week?

>>TODD VALENTINE: We need to meet in the near future to deal with petitions.

So I'm just thinking next week -- we don't have a date.

But in the near future because we do have that on board.

So we don't have a detailed -- yes, which he committed that he would work with his Democratic counterpart and get to us based upon that letter.

>>DOUGLAS KELLNER: On that -- the subject with Ulster County, I believe from a technical point of view that they need us to approve the use of the machine as a scanner with the conditions that whatever conditions we're going to set for the use of the machine as a scanner in order to comply with the certification provisions of article 9 of the election law.

So I think that's why we need to vote on it at some point.

>>TODD VALENTINE: No, we -- I know Anna has put together a plan when she was -- a package to make sure that Ulster knew exactly what it was they needed to tell us so we would be prepared to vote with it all together.

>>ANNA SVIZZERO: We've been working on that, you know, trying to get something together,

Kim and I collaboratively so we would have a checklist, steps they could follow.

>>DOUGLAS KELLNER: I saw the Ulster e-mail. That's the only thing I've seen so far is the Ulster e-mail.

And are we -- you know, I would like to at least respond to them as the agency saying yes, we should move forward with a specific plan.

>>JAMES WALSH: Does Paul have a contribution?

>> PAUL COLLINS: Commissioner, I certainly don't presume to contradict you.

I would certainly just remind all Commissioners that as part of the remedial

order of this past January this agency was directed to do everything possible to accommodate those counties who wish to

move forward on an experimental basis and perhaps a sense of the Board that this is a good thing and that we would welcome and receive it, it might be appropriate because as you know every Friday morning I have my wonderful conversation with the Department of Justice.

And I would like to be able to say at least conceptually the Board is in favor of this and we're just ironing out the details. And that's -- if that's at all possible.

>>DOUGLAS KELLNER: I would like to do that, also. Although, Paul, I don't want to fall into the

trap if you actually look at the text of the order, it doesn't say exactly what you characterized it as.

And it's a point that several people have made.

We're not under court order to do it if the machines are not properly certified.

But I'm still in favor of -- you know, I would suggest that we indicate today, again, as a Board that we are moving forward with Ulster County.

And that we do expect to favorably entertain a specific proposal that would allow them to use the Sequoia scanners in a limited number of election Districts combined with 100% hand count of the ballots.

I mean, that's what I understand their proposal is.

>>PAUL COLLINS: The limited number of election districts is what they are proposing. They are not proposing to do it countywide.

>>DOUGLAS KELLNER: Right.

>>TODD VALENTINE: That's part of what we're waiting to see exactly what it is.

>>EVELYN AQUILA: That's what we need to see.

>>TODD VALENTINE: At that point we can have the formal vote. The concept we can agree on.

>>DOUGLAS KELLNER: All four of us are agreeing.

>>EVELYN AQUILA: Yes of receiving that plan and going forward with that plan, if that plan meets --

>>TODD VALENTINE: Yes, it's an overview.
And we'll give you a recommendation.

>>EVELYN AQUILA: Absolutely.

>>DOUGLAS KELLNER: I had one last thing for Anna.

Which is Anna, are we preparing to set dates for the public usability testing of the scanners for certification?

>>ANNA SVIZZERO: We have gotten our final test plans, individual test plans and test cases from sys test, NYS tech I believe has on Thursday recommended to us that we accept those test plans.

There are some living components of them because as the vendors continue to make efforts to resolve their outstanding issues in the various status reports, some of those changes will have to be reflected in new test cases. So once I think we begin more fully testing the voting systems, then sys test would be able to tell us when they expect to complete that so that we could schedule the public functional testing that we had expected to do here in Albany. Without that initial testing, I don't think they can give us --

>>DOUGLAS KELLNER: Given the timeline that we now have with the Department of Justice,

what would be the parameters that you would be looking at for doing that public testing?

>>ANNA SVIZZERO: I would say possibly three weeks before certification we would have to be completed.

>> Yeah for its final run.

>>DOUGLAS KELLNER: Right now what's the "deadline" on the timeline.

>>ANNA SVIZZERO: Certification deadline is --

>>DOUGLAS KELLNER: Is it in November.

>>ANNA SVIZZERO: 10/1. October 1st.

>>DOUGLAS KELLNER: October 1st.

>>ANNA SVIZZERO: Right.

>>DOUGLAS KELLNER: There's no way we're going to make October 1st, right?

>>ANNA SVIZZERO: It depends on the dry run testing that these systems go through.

Those kinds of functional discrepancies are really going to tell us if we can make a certification this year or not. At least a certification by October.

>>DOUGLAS KELLNER: You're saying that you think there's a realistic chance that we could have certification testing completed by October 1st?

>>ANNA SVIZZERO: I don't want to say that because that would presume the systems function without incident in the testing world. And I know that that's just not a reality.

>>DOUGLAS KELLNER: Well then -- but if that's the case, I didn't realize it was October 1st.

Then we shouldn't be telling the justice department that we're on schedule with certification testing.

>>KIM GALVIN: There's nothing that has indicated that we can't make it yet.

>>ANNA SVIZZERO: Right.
There's no huge red flag other than --

>>DOUGLAS KELLNER: Other than several thousand discrepancies on the daily reports.

>>KIM GALVIN: If we look at the Sequoia delivery schedule realistically we think what's probably going to happen the first or second week in August.

But if they delivered everything on time and we ramped up and we did our testing, it could -- we could make the deadlines.

There's nothing that these testers have told us -- and we ask them. We ask them continually.

You know, are we -- are you telling us we're not going to make it?

And they don't tell us that. I mean, we ask them to be clear. I mean realistically are we going to make October 1st?

I mean, is there 100% likelihood?

You know, clearly that is not the case. But we could still make that deadline.

>>DOUGLAS KELLNER: Okay.

>>ANNA SVIZZERO: They may have reports that say everything fails or certain things fail.

But we keep asking them if they can complete the testing and report to us.

And we'll deal with those reports when we see them. What that means, perhaps the Board would have to consider.

If there are the sorts of failures in areas that are of more driving interest to the functionality

of the system, then there wouldn't be any logic to setting up the dates for the public test.

>>DOUGLAS KELLNER: If we're talking October 1st, shouldn't we be planning the public test for September now?

>>ANNA SVIZZERO: Yes.

>>DOUGLAS KELLNER: People need to know when the public -- people need to know what the public testing dates are going to be.

Because we have to, you know, make arrangements. So that people can be there and observe them.

>>KIM GALVIN: That's true but in fairness to the process we're only at the point where the vendors specific test cases and everything are being finalized. So you have to --

>>DOUGLAS KELLNER: Maybe the October 1st date is totally unrealistic.

And we should perhaps put together a more realistic deadline and notify the Justice Department.

>>KIM GALVIN: I think it's an unrealistic deadline if you think every discrepancy is going to be closed out without a

compensating condition or remedial action to ensure the problem. But I think there's a

totality of a plan that's still feasible. And I'm the biggest cryer of all.

>>DOUGLAS KELLNER: That's fine, Kim.
If you really think that.

When you see feasible are you talking 5% chance or 25% chance?

>>KIM GALVIN: You know the track opens tomorrow. I'm saying it's probably less than even money that we'll make it.

But it's not a long shot yet. I mean there's --

>>DOUGLAS KELLNER: If that's the case, then I'm sort of insisting that you give me the public testing dates now rather than tell me two days before you want to do the public testing that you're going to have public testing.

Because it's not going to be meaningful public access if you only announce --

>>KIM GALVIN: It's just -- NYS test started to talk to us about gathering what that would entail the public testing.

So we'll work with them and see if we can come up with a firmer schedule.

>>DOUGLAS KELLNER: From my end, we should try to have a realistic date.

If it's not realistic to do it within the current DOJ timetable, we should tell DOJ and try to do what's realistic.

>>KIM GALVIN: I understand that.

>>JAMES WALSH: Paul?

>>PAUL COLLINS: You just did.

>>DOUGLAS KELLNER: Paul, I'm not sure --

>>PAUL COLLINS: Some of the comments you've told me about them and New York City and the statewide voter registration

database tell me that just talking about it at the meeting doesn't really notify DOJ.

>>PAUL COLLINS: As you know they monitor these meetings.

>>DOUGLAS KELLNER: I'm happy for that.

But we still need to -- well, first of all, we haven't said we've blown the deadline.

But it seems clear to me looking at the daily discrepancy reports and the lack of meaningful progress in dealing with those discrepancies that we've still got a ways to go.

And so I'm having serious doubts. I actually thought the date was in November. But I guess that's the date for the Commissioners.

>>KIM GALVIN: Yeah.

>>DOUGLAS KELLNER: But -- well, we need to have these public tests.

And if we're going to -- and we need to schedule them sufficiently in advance so that there's real notice to the public of the dates that we're going to do that.

All right. Thank you for indulging me on all of that.

>>JAMES WALSH: Does anyone have any other further questions? Thank you, Anna and all who participated. NVRA update, Bob Brehm.

>>BOB BREHM: Hello. First I would like to formally introduce Patrick.

He went through on our first round of introductions.

Patrick Campion started in our unit last Thursday.

And has the title of Coordinator of Special Projects.

So he will assist with our various County funds program.

Our NVRA activities, the NYS voter work we do as well as helping to administer the County funds grant programs and the other projects that come along during the year.

We welcome him. He's starting to get his feet wet.

Introducing him to all of the various tasks that we do.

And we welcome him. We are currently working in a number of different projects that have a near deadline.

The State Fair is one of those. We reached out to the counties for volunteers to staff our booth at the State Fair.

It runs August 21st through September 1st.

So anyone who is watching our Webcast or

anyone here who would like to sign up for a tour at the State Fair, we hope you'll stop by and do so.

We're also working on what we will provide at the State Fair.

We always do a large number of voter registration and absentee applications.

We also this year will be introducing the voter education portal that we are working to develop.

And it's consuming a great deal of our time. We hope to have that done by the end of this month.

And we will introduce it at the State Fair. We're also working on the poll worker training program and to some extent we are

a couple of weeks behind our original schedule. And that's caused by a couple of reasons.

The vendor -- one of the vendors had changed after they gave a signoff on our --

well they provided the original training material then they gave a signoff on our

material that we were going to go to video on. And after we created the video, we

received an update which was changing the key function of the paddle and the sip and puff device for voters with disabilities.

So needless to say, we have to edit those requirements. So we're a little behind.

And also we received some comments through our Steering Committee from our County Commissioners that we would like

a period of time once the Steering Committee and we have all settled on the functionality to roll it out to the County

Commissioners for a period of week before then launching it.

And that was a reasonable request.

So we thought it was better to make sure

that everybody was comfortable in knowing how it all worked before we put it out there for all of the inspectors.

Because the first line of support for the program is the County Commissioners to answer questions that come up.

So we look to have that ready for the first week of August, also, for co-worker training. But both projects are -- you know, we're very busy with.

And we have a number of you know daily activities. We couldn't accomplish the work we're doing if it wasn't for our Steering Committee.

The 12 County Commissioners who participate in that. And also we have input from the commission on quality of care and

they have been great, giving a great deal of their time and energy to that. The County funds program.

This is our first report that I can happily tell you several things.

We have completed contracts with every County for both the poll site access and the voter education.

And that is taken a great deal of time and energy of everyone at both the County level and our office.

The other thing that I think is great to be able to say is for the first time we've gone over a million dollars in our reimbursement to the counties for the moneys that they have put forward for that.

And it's mostly for the poll site access.
And it's starting to make up a little bit with the co-worker training and voter education.

But those are good signs. The staff continues to work on those.

On a daily basis, to make sure that we, you know, do the work that we need to provide the services that the counties need with this money.

We have scheduled for the fall our routine NVRA agency training.

Greg has a series of classes that we perform to train the people who actually supervise the agencies on what their requirements are.

We do several training sessions throughout the year because of the turnover in the staff at the agencies.

And this is our regular training.
Notice just went out to all of the agency

leaders expressing our concern that they send the appropriate people to the training classes, especially for those sites that

we've identified in the past have had some issues that we have had to talk to about.

And it seems like that -- that we're receiving some positive responses. The letters just went out.

But the signup sheets are starting to come in. And it looks like they are listening to our encouraging words that they participate in the training. I think that covers all of the subjects.

>> What kind of registrations do you get at the State Fair?

>>BOB BREHM: We did over 2,000 last year. You know, it's a busy time.

So you get a lot of people who move.
You get a lot of people who are visiting the fair.

Their children are going to college.
So we get a lot of absentee applications.

Depending on the day. Military day we get a lot of military applications for family members who are overseas and their

family member collecting the application.
So we bring, you know, information.

People who moved, name change, it's a little of everything. It is a large number of applications that we process.

>>JAMES WALSH: Thank you. Any questions? Thank you, Bob. Campaign finance, Liz Hogan.

>>LIZ HOGAN: Last Tuesday, July 15th, there was a periodic filing due in campaign finance.

The open committees that report to us is in excess of 9,000 at this point in time.

The letters of non-filing will be going out probably on Thursday.

In keeping with the effort of campaign finance to get the reports, that's really what we want. We don't want to sue people.

Later on today we'll be going to the County Boards an e-mail list of non-filers in their counties at the election Commissioners conference in the summer.

We told them those were coming. We asked for their assistance because we really want to help -- them to help us help those people file.

That being said we will sue them if they do not file. The order to show cause is due to be signed on August 7th.

We will then proceed in taking judgments.
But we will make every effort to actually get

the compliance because that's really what we're after.

The contract for the electronic files project that we're working on is at the vendor.

Waiting for signoff on that. Bill and I both reviewed it. And signed off on the provisions.

We're waiting for it to come back to us in final form to go to the comptroller.

The corporate -- I mean there's a number of projects that we have going on that continue.

The 2006 corporate review is on its timeline.
It's online.

The 2007 has begun. We also -- a major project in our unit that a number of people are involved in and we've got a couple of

people who have come on staff who will exercise a lot of supervision over the

policies and procedures manual that we're looking to write and rewrite in some sections and to write new as needed.

So that's moving along. We are also -- we've met with George's people on the operating neutral software.

That is the filer and updates to our system. And that is really very nice. It's in very good shape.

We will work toward at some point getting a pilot project in place for that.

On the personnel issue I raised several meetings ago the fact that of the six

program aides that we have in our unit whose responsibility it is to assist filers and

answer questions of filers and really run the call center, we had lost a number of those people.

Of the six people who do that work, we are down to two. If I may, and Bill has got some figures here of the calls that we took last week in the filing period.

I would like to say to the Commissioners and just make it known that the campaign finance staff has stepped up in a very admirable way considering how far down we were on personnel to do this project.

And they really stepped up and did everything they could.

People who were assigned to other functions stepped back into the calls and it was really a team effort.

And I really commend them. They did a great job. On that issue Bill and I will be conducting interviews next week for the program aides.

I think it is on Monday and Tuesday afternoon we have the afternoon scheduled to interview people and hopefully we can very quickly fill those positions.

Of course it doesn't help us with this filing.
But it gives us an opportunity to train them well.

And you know maybe a little bit of time you know freeing up by the people who need to do the training aspect of that.

So we're hoping to move into that relatively quickly. I think really that -- those are the major points of things that have been happening in campaign finance. Bill, do you have anything right off the top of your fingers.

>>BILL McCANN: Yeah we had some numbers run down stairs.

In the last six and a half days there's been approximately 1,000 calls that have been handled by the staff.

In the last 11 and a half days it's been close to 1400.

So they are definitely swamped and that's on top of the calls that George's unit takes from the help desk.

They are also in a huge project right now, which is the early dummy letter so to speak that goes out to people for the file we've implemented in the last several years with the County Board of Elections to have them help us have people file.

We're in the process of doing that. But the calls are huge and the staff is doing a monster job on that.

>>LIZ HOGAN: They really did.

>>JAMES WALSH: Questions?

>>EVELYN AQUILA: No, I have to say that's unbelievable. 1,000 calls, 1400.

>>JAMES WALSH: We share in your congratulations to the campaign staff for the work they've done.

>>LIZ HOGAN: Thanks, Commissioners, appreciate it.

>>JAMES WALSH: Back to you George Stanton.

>>GEORGE STANTON: Thank you.
Just like everybody else, we've been pretty

busy downstairs because we basically help everybody else out with their projects so it keeps us busy.

Over the past few weeks several weeks we've done a lot of reconfigurations of PCs with new people coming in, people leaving, people moving to different locations so that requires reconfigurations of hardware, software and so forth.

And setting up new accounts for people for you know network, e-mail use.

So that keeps part of our team pretty busy.
We've also been doing the July periodic reports the campaign finance reports.

I don't know exactly how many actual calls we've received.

I know we've logged approximately 400 help desk calls.

I know they don't get all logged because people just sometimes don't have time to get them logged if it's a simple problem.

And of course, we in ITU, we are the ones who receive and load all of those filings from the filers.

So we've actually loaded 390 4 filings as of this morning. In July.

The plan to purchase permission, which we have to file with OFT for the scanning project was filed with OFT about three weeks ago.

It still has not been approved. It's still in a pending status. I checked that this morning.

So we're just waiting for them now. We've also been supporting the Kappa system.

When petitions start coming in there's always changes to letters and things like that that have to be going on.

The petitions get reported on the web site so people can keep track of who files petitions, those kinds of things.

This is also our first year for using the new NYS voter system for petition checking.

So we did a couple of sessions on -- in training our state Board users on how to

use the NYS voter system to look up voters and decide whether the objections are good or bad.

We've also -- one of our staff has also been supporting Bob's co-worker training project as a technical advisor.

We've been supporting -- I've basically been supporting counsel on the Department of

Justice case and also the HAVA complaint.

As far as NYS voter goes, my technical staff

continues to work with saber and Microsoft to fine tune the automatic monitoring of the system. We are getting that tuned pretty good now.

So we are not getting as many false reports of problems as we were getting.

And they are continually working with saber for knowledge transfer for the event down the road takeover of the system on our own.

We continually provide ad hoc reports for staff,

especially the new staff that's going to be doing the auditing work on NYS voter.

And in fact, I'm working with saber right now to get those -- get an estimate on getting those reports put out onto the web

applications so that the auditors will be able to run them on their own whenever they want to without having to come to me and look for a report.

Bob and Bill and I will be negotiating the next year's maintenance and support level agreement with saber on I believe it's August 8th saber is coming in for that.

OGS, we have the option of two years additional maintenance and support.

OGS has recommended to me that we go for the full two years.

And then cancel if we want to after that.
Rather than do it twice.

But we will be -- Bill and Bob and I will be working on that.

We have a reverification project that's been ongoing.

If you'll recall back in October I believe the Board approved the enhancements to the

NYS voter system so that we could -- all of the voters that were registered since

January 1st, 2003 who had not met the ID verification requirements yet. And rerun them back through DMV or Social

Security, depending on which number they gave us.

That has been completed for all counties except the New York City counties and we are waiting for them to notify us that they have made the changes to their system so that they can handle the data coming back to them in a way that we send it back.

We had great success with all the other counties ranging in the 75% cleanup range for a lot of them.

I guess that's about it. Unless you have questions.

>>DOUGLAS KELLNER: Could you elaborate on that last issue?

What is the problem with the New York City system that it won't allow the reverification.

>>GEORGE STANTON: One of the things we did when we created -- we had to enhance our end, of course.

But we also had to have the counties make some changes to the way they handle transactions coming back to them so that they could handle them.

It's a very small change for the verification. The only thing they have to do is verify that they can handle a transaction coming back to them that does not have a County transaction ID on it.

Because these are pulled out of the database rather than on a one-to-one basis back and forth.

I don't think it's a big deal. I have asked them whether they can handle it.

They may be able to handle it without any changing anything. I've asked if they could but I never got an answer.

>>DOUGLAS KELLNER: Who have you asked?

>>GEORGE STANTON: I have emailed Steve Ferguson and their vendor Bob Smith.

>>DOUGLAS KELLNER: Do you know how many registrations in New York City have voter ID flags on them now?

>>GEORGE STANTON: As a matter of fact I do. Well, Bronx has -- oh, Bob has got it pulled. 253,685 for the five.

>>EVELYN AQUILA: 153,000?

>>DOUGLAS KELLNER: 200.

>>GEORGE STANTON: But this number includes those that may not have even given us an ID number.

I also have individual numbers on those that did provide.

>>DOUGLAS KELLNER: Yeah, but this is a major issue.

>>GEORGE STANTON: It is a major issue. I agree.

>>EVELYN aquila: Sure.

>>BOB BREHM: This was what was a part of that March 4th meeting that we held here in Albany with all of the vendors, supported

counties, the independent counties.

New York City was represented with their IT staff and their vendor.

We went through a number of issues.

This is one of them.

And I think we've even -- I know I've mentioned it to the executive staff as often as I can.

That this is an issue that would allow us to -- especially with the Social Security numbers.

You know, when we were doing it by batch before we connected to the fully integrated

NYS voter system, we had no way to take the number -- the Social Security number and go to SSA to get that checked.

It's only with NYS voter that we are able to do that.

So the ability to go in for all of those people that are in a pending category needs this change.

And we -- you know, the Board approved the requirement that counties connect this last October.

The city said we had to wait until the Presidential primary to be completed before

they made any change to their system and that's why we picked March 4th as our meeting date.

To this date we still don't have confirmation that the city has authorized the IT people to make this change.

>>DOUGLAS KELLNER: But basically in the other 57 counties that have run the system,

you were having a rate of well over 75% were having the flags removed as a result of the reverification process.

So applying that here, we're talking about 175,000 voters who would get the ID required flags removed if the city did this.

>>GEORGE STANTON: Actually I did the math quick there's less than 100,000 who

actually gave us a drivers ID or Social Security number.

>> It would be a higher percentage of a smaller number. Because --

>>EVELYN AQUILA: That's about 3 million registered voters?

>> Not every applicant gave us the numbers to start with.

>>EVELYN AQUILA: Is it 3.8?

>>TODD VALENTINE: If I understand you correctly George what you're saying based upon your math is then

the reverification would only then be towards approximately 100,000 voters.

>>GEORGE STANTON: Roughly 100,000 but if you get 75% of them.

>> TODD VALENTINE: We should be accurate as to the number. That's a lot different - that's half of what was previously stated out of 4 million voters.

Again these are all registered voters. There's no issue about that. This is a separate issue.

>>EVELYN AQUILA: Is 4 million the exact number or 3.8? I don't know.

>>TODD VALENTINE: I don't know the exact numbers off the top of my head.

>>EVELYN AQUILA: Do you, George, know the exact numbers?

>>GEORGE STANTON: Not without doing some math.

>>EVELYN AQUILA: How many in kings County? I have to ask how things are at home.

>>GEORGE STANTON: 1,243,081.
That's total voters though this isn't just active.

>>EVELYN AQUILA: Okay.

>>TODD VALENTINE: It does help from an audit point of view getting those done.

>>DOUGLAS KELLNER: I've made a note to follow up on this at our next meeting.

And George, I would ask that you, you know, send an e-mail out.

And I would ask that the executive directors follow up with the executive directors of the

city Board to get an explanation of what the issues are and why this isn't being done so we can have a report for the next meeting.

>>GEORGE STANTON: The last e-mail I sent out on this was not responded to.

>>DOUGLAS KELLNER: I don't know if I have seen a copy of that. You are usually pretty good about copying me in the e-mails.

>>GEORGE STANTON: I may have missed you.

>>DOUGLAS KELLNER: I would ask our own executive directors to follow this up with the executive directors of the city Board.

And sort of escalate this issue. Because this is -- it's not a small issue.

Just as we're going to do the HAVA order in a few minutes. Which is also a significant issue. Thank you.

>>JAMES WALSH: Thank you. Under old business. Vote on HAVA complaint. Ms. Hogan and Bill McCann.

>>LIZ HOGAN: Well, we have for your review a determination in HAVA complaint 0801.

And I'll just distribute this to you.

>>EVELYN AQUILA: Have you changed it since this one.

>>LIZ HOGAN: This is the most current.

>>EVELYN AQUILA: The most recent.

>>LIZ HOGAN: Okay. One more we need. There you are.

>>EVELYN AQUILA: Have there been big changes on this?

>>LIZ HOGAN: No, there were small changes. And Paul, would you care to discuss the changes on the draft version.

>>PAUL COLLINS: Sure. Yes.

>>EVELYN AQUILA: I read the other one.

>>PAUL COLLINS: This was an evolving document --

>>DOUGLAS KELLNER: Does somebody have my notes before you get to this just so I can . . .

>>PAUL COLLINS: Yes. It's easier if you don't have them.
[Laughter.]

>>PAUL COLLINS: Commissioner, you will see immediately that your request to move something from a footnote to the text was not complied with.

>>DOUGLAS KELLNER: That's okay.

>>PAUL COLLINS: Simply because the secretarial staff was unable to do it. Right. Okay.

>> It was a formatting thing.

>> It was formatting.

>> They did great work.

>>PAUL COLLINS: They did. It jumps right out at you.

Additionally, Commissioner, the reference to how the Legislature in its infinite wisdom has from time to time exempted New York City from variant requirements but failed to do so here does not appear on that revised document because as you know, this was submitted on a by partisan basis.

And Mr. McCann was uncomfortable with removing that language.

I believe Commissioner Kellener that your other edits were undertaken.

The bottom line for the rest of the Commissioners on this determination is that we had a hearing.

The claimant came in with his variant complaints.

We afforded the New York City Board the full opportunity to submit any evidence they had to the contrary.

They chose not to avail themselves to that opportunity.

We closed electric after having it open for three additional days so New York could respond.

And the conclusion is pretty much foregone.

That there is not proper maintenance occurring under statute regulation or Federal HAVA requirements.

And we direct the New York Board to do so. We propose rather that this Board direct the New York Board to do so.

Because under the law the final arbiters of what's appropriate is the Board.

You have the right to overrule the determination of your designees, Ms. Carr and myself.

And you can vote to do something other than what we have suggested.

From a procedural point of view there's a little wrinkle was Ms. Carr having resigned.

And I think you could approach that in one of two ways.

Either you could take that section of our statute and rules and indicate that there was a failure of the hearing officers to agree.

And then you could act and superimpose your own judgement over that.

Although, I will advise -- and I don't think I'm making a misrepresentation when I say this

that the conclusion and remedy was in fact agreed all the way around the table when we were working on that before Ms. Carr

resigned when she was in full accord with that. The other way to do it is perhaps

should you desire to substitute Mr. McCann as a hearing officer for the two Republican Commissioners to take Ms. Carr's place,

Mr. McCann was present at the hearing.

Was present during the birthing of this document and its variant iterations.

That's another way of doing it. However, whichever way you choose, I suspect that the adoption of this as a Board decision covers a multitude of sins.

>>EVELYN AQUILA: I have one question.

I just have one question I guess it probably fits George better.

We ask in this for August 20th, 2008. On or before they do this. Is that possible by August 20th.

>>PAUL COLLINS: Commissioner that was taken from the statute that the

Legislature requires that they process new voters by that date. That date is driven by --

>>EVELYN AQUILA: I was just wondering if it's -- is it physically possible to get it done by August 20th.

>>DOUGLAS KELLNER: In my view it's physically possible but it will require an overwhelming effort and a huge

commitment on the part of the Board to do that. At the same time they are doing petition processing.

>>EVELYN AQUILA: And everything else. Getting ready for primary sending the books out because the books have to be put in order so they can go out.

>>DOUGLAS KELLNER: But does it have to be done? The answer is yes.

They have allowed this to fester by not doing what they should have been doing all along.

>>EVELYN AQUILA: I was just afraid that's an impossible date for the city.

>>DOUGLAS KELLNER: But the other thing is will they actually do it.

>>EVELYN AQUILA: Yeah. Well, that's the overriding question.

>>DOUGLAS KELLNER: Could I just ask a few questions. On Page 23.

And Paul, thank you very much. I know, Paul, you did the huge job in getting the initial draft together.

>>PAUL COLLINS: Commissioner, your edits made it much less adversarial and more judicious. So I thank you.

>>DOUGLAS KELLNER: Well, just suggestions. But on the top of Page 23,

that first sentence, the sheer volume of voters in the city of New York has led the

Legislature various places in the election law to provide separate procedures for the city of New York.

What are those procedures? Because I'm not aware of any real significant exceptions for New York City. That's why I thought --

>>PAUL COLLINS: In the petitioning process and all of that there's except in the city of New York, except in the city of New York.

>>DOUGLAS KELLNER: Where.

>>PAUL COLLINS: I don't have it in front of me. But there are various sections where the New York City Board is treated differently than the other counties throughout the state.

>>TODD VALENTINE: Well for example in the filing period for filing of petitions all petitions are required to be filed in person. So that's a significant difference.

>>DOUGLAS KELLNER: That's not because of the volume of voters. That's because of the --

>>TODD VALENTINE: It has to do with the volume of petitions and the location of the filing.

I mean mail may actually be just as convenient from Queens -- but that's a decision based on the volume.

We assume volume. That's a good question.

That's an assumption we made because the statute has been there for such a long time.

>>DOUGLAS KELLNER: As I say, my suggestions to remove those four sentences.

Because I don't think they add anything to the decision.

And I don't think they are well supported legally, either. Where it says the sheer volume -
-

>>GREGORY PETERSON: Leave those out and start from simply.

>>DOUGLAS KELLNER: That's right; that's right.

>>EVELYN aquila: Well --

>>DOUGLAS KELLNER: It's not the end of the world to me if you want to leave it -- if you insist on leaving it in.

>>EVELYN AQUILA: I see that it makes sense. I'm not a lawyer.

Someone says to me the law should always make common sense.

I don't know if that's true. You're saying because of the volume in New York City.

And not saying other counties may not have the same.

New York City has led the Legislature in various places to provide separate procedures.

And it goes onto say through the consolidated non-consolidated.

However, with the Legislature has determined to exempt New York City from any statutory requirement has done so.

This is the important one. In clear and precise language. That's the important

signature there and they are trying to say there was no change when New York City in this case.

>>DOUGLAS KELLNER: The city didn't even claim an exception so why are we even going into that.

>>EVELYN AQUILA: The city didn't say it's too much work for us.

>>DOUGLAS KELLNER: No.
And she didn't claim an exception.

>>EVELYN AQUILA: They just said we will -- do it.

>>DOUGLAS KELLNER: It's not the end of the world for me.

I just think it's better if you take out those four sentences.

>>PAUL COLLINS: Commissioners maybe it's possible to split the baby and remove the first sentence and remove the word however from the second sentence. And start where.

>>TODD VALENTINE: That's true. That would be accurate.

>>DOUGLAS KELLNER: All right.
Okay.

>>STANLEY ZALEN: The last word of the fourth sentence, unable to set any fourth sentence, unable to set none exists.

So we just need an extra S in that word.

>>EVELYN AQUILA: What sentence is that?

>>DOUGLAS KELLNER: You know, on that counsel for the city Board was unable to cite any such language, nobody asked them to cite it.

And they didn't claim it. That's why this whole section to me makes no sense. But that sentence, again, is --

>>TODD VALENTINE: Take that sentence out.

>>PAUL COLLINS: Commissioner as you're the one who is going to have to vote on this, I don't have a problem taking that out.

>>GREGORY PETERSON: But were they asked?

>>PAUL COLLINS: We asked them what's your evidence. What do you got?

>>GREGORY PETERSON: It doesn't matter. As far as I'm concerned, you can take it out.

>>PAUL COLLINS: That's fine.

>>DOUGLAS KELLNER: I would delete -- all right. My motion is to delete everything from the sheer volume down to because none exists.

And then we would start with simply put.

>> Okay.
Done.

>>DOUGLAS KELLNER: All right.

>>EVELYN AQUILA: You're saying the city is required --

>>DOUGLAS KELLNER: That's it.
Those are my only things.
That's all I have.

>>JAMES WALSH: Is there a motion?

>>GREGORY PETERSON: I move that the HAVA complaint as drafted be adopted.

>>DOUGLAS KELLNER: The decision.

>>GREGORY PETERSON: The decision.

>>PAUL COLLINS: And this will be the decision of the Board.

>>DOUGLAS KELLNER: As amended.

>>PAUL COLLINS: As amended. It will be by the four of you. Fine. Just so we're clear on the procedure.

>>JAMES WALSH: We have a second.

>>DOUGLAS KELLNER: Second.
We're adopting the decision as amended by the four Commissioners.

>>JAMES WALSH: On the motion any question?

>>EVELYN AQUILA: Yes -- I'm in favor.

>>JAMES WALSH: On the motion all in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed? Okay.

>>PAUL COLLINS: Fine.

>>JAMES WALSH: Item 4 we have a report for voting purposes a petition objection determinations. Kim?

>>DOUGLAS KELLNER: Has this changed from what went out last night.

>>KIM GALVIN: No we made an amendment this morning and something dropped off. But this is what you got last night.

>>DOUGLAS KELLNER: The reason I asked because I'm prepared to vote on the same thing.

>>KIM GALVIN: Yeah the original version we changed and supplemented with you Commissioners this morning.

Something dropped off and we changed the date here. Nothing substantive has changed.

>>DOUGLAS KELLNER: Just give me half a minute.

[Background talking.]

>>DOUGLAS KELLNER: So we're ruling where the certificates of acceptance where there's more than one certificate filed, we're ruling the improper one out.

But that's not affecting the ruling on the properly filed suit.

>>KIM GALVIN: Right.

>>DOUGLAS KELLNER: So for example, with respect to Eric Mass's candidacy on the work that was declined, he will remain a candidate because there is a different valid certificate filed, right?

>>ANNA SVIZZERO: Yes. And the next two entries are the same sort of scenario.

The document we're references is invalid but the candidate will remain on the ballot.

>>DOUGLAS KELLNER: Okay. I'm prepared to move the whole list as drafted.

>> Second.

>>JAMES WALSH: Any questions?

All in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed?

Carried. Do we have a motion to go into executive session or is there one needed?

>>DOUGLAS KELLNER: I have three issues I wanted to raise. And I don't mind doing them in the public session.

Because they are substantive issues.

But if people think there's a policy problem with even talking about them in public --

>>KIM GALVIN: I would prefer the Commissioners go into executive session on it, Commissioner.

>>DOUGLAS KELLNER: All right.

>>JAMES WALSH: Do we have a motion.

>>EVELYN AQUILA: Motion to go into executive session.

>>DOUGLAS KELLNER: Before we do that, I think the only other thing was to set the date of our next meeting.

>>TODD VALENTINE: We're scheduled on the calendar indicates that we're scheduled to certify the primary ballot on Monday, August 4th.

>>DOUGLAS KELLNER: Can we meet that day.

>>TODD VALENTINE: We could.

>>DOUGLAS KELLNER: That's the best.

>>EVELYN AQUILA: Yeah, August 4th would work for me.

>>DOUGLAS KELLNER: The week before I have commitments.

>>TODD VALENTINE: Okay.

>>DOUGLAS KELLNER: Thank you.

>>EVELYN AQUILA: Is everybody okay with August 4th?

>>TODD VALENTINE: Sure. I'm not traveling anywhere. So I'm here all day.

>>EVELYN AQUILA: 12 is okay.

>>TODD VALENTINE: That allows enough time for --

>>EVELYN AQUILA: All we have to do is just come in, the --

>> LIZ HOGAN: Is the meeting only for that or will you entertain other business?

>>DOUGLAS KELLNER: I would like to hear what's going on with the city on the ID flags and also on the compliance with the order.

>>TODD VALENTINE: We'll certainly have to have some feedback on that.

>>EVELYN AQUILA: We can have a few things like what's happening at the Department of Justice.

And we are expecting the plan for All Star County and plan A.

So those are the three main things.

>>LIZ HOGAN: But will you entertain enforcement cases on that day or prefer not?

>>DOUGLAS KELLNER: I would urge you.

I'm very happy you got 20 of them done so I will say publicly thank you for getting these done.

But I notice we're ruling on cases that were submitted in January '06.

>>LIZ HOGAN: We're doing our best, Commissioner.

>>DOUGLAS KELLNER: I just think that you know we really have to make an effort to try to come more current.

So with that, we can vote to go into executive session now.

And we can tell the public that we don't expect to come back.

>>JAMES WALSH: Motion has been made, seconded, all in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed? Thank you, we're going into executive session.

(EXECUTIVE SESSION)

JAMES WALSH: Motion to come out of executive session?

>> So moved.

>> JAMES WALSH: Second?

>> Second.

>> JAMES WALSH: All in favor?

>> ALL: Aye.

>> JAMES WALSH: Opposed?

Carried. We are out of executive session.

Commissioner Kellner, do you have a motion?

>> DOUGLAS KELLNER: Mr. Chairman, I move that we approve all of the campaign finance preliminary determinations

subject to the amendment in CMP06-61, CMP06-68, CMP06-83 and CMP07-01,

and that we also approve the complaint without preliminary determination, CMP06-44.

>>JAMES WALSH: Do I have a second.

>>GREGORY PETERSON: Second.

>> JAMES WALSH: All in favor?

>>ALL: Aye:

>> JAMES WALSH: Opposed? Carried.

>>DOUGLAS KELLNER: Move to adjourn to August 4th at noon.

>>JAMES WALSH: Move to adjourn to August 4th at noon is the motion. Do we have a second?

>> GREGORY PETERSON: Second.

>>JAMES WALSH: All in favor?

>>ALL: Aye.

>>JAMES WALSH: Opposed? Carried. And away we go.