

Peter Kosinski: I'd like to welcome everyone to the meeting of the state Board of Elections here on July 25th, 2019. I am Peter Kosinski. To my right is Commissioner Doug Kellner. To his right is Commissioner Spano and to my left is Commissioner Peterson. And first order of business today is to take up the minutes from the June 6th and June 27th meeting.

Douglas Kellner: I move the adoption of the minutes as proposed.

Peter Kosinski: Second. All in favor? (Chorus of Ayes; 4-0) Opposed? Those are carried. We'll begin the meeting then with unit updates. We'll start with the Executive, Bob Brehm and Todd Valentine.

Todd Valentine: We're still working, you know, as you'll see by that board meeting, we're still working on getting the regulations in place that relate to a lot of the activities for early voting and you'll also see that we're still dealing with the expenditures related to the budget materials, which we can talk about on the separate item. In the meantime, the primary has been mostly completed but not final everywhere. The New York City is still engaged in its close election for the Queens district attorney. We are in the process when they talk about from election operations necessary activities to certify the roll call so for the judicial conventions, which will be the next order of activity. Those start August 8th through the 14th and then certificates of nomination are due on the 15th. So, while it seems like we have a free summer, we really don't. And then I don't want to – I usually steal the thunder of every other unit so I'm not going to try that today. Bob?

Bob Brehm: I think it's been a busy season. We have 21 chapter laws that have been signed this year amending something in the Election law. There are 29 more that passed both houses, the legislature and are pending transmittal to the governor's office. We watch daily to see what's gone over just to see if there any election-related bills. To this morning's check, there are a number pending in the governor's office, none related to the election law yet. So all that's very busy. There's a certain number that are still coming our way that will require further review and work of people here. Our staff that we put together with the assistance of NYSTEC is busy looking through this group of bills and identifying which will require additional resources in order to accomplish. One of the bills that was passed was the online registration. In many conversations that we've had, either with the division of budget in person, on the phone or with representatives of the chamber, our dep. secretary and others, had indicated that the state board should come up with a plan to implement online registration and the other things that touch it and give them a plan to identify within the existing state budget, not our budget, but the existing state budget funds to implement that plan. So we do have a good team that's

working on putting a plan together. Our estimate on when that plan will be developed to deliver to the chamber is, I think we estimated it will be ready for August 9th, somewhere around there. So we're looking to schedule that meeting. And then hopefully they'll identify funds to actually implement the plan. We're also looking as use that effort for what our budget will be for the next fiscal year, what resources we're going to need going forward. So we're assuming the whole list of 50 items, the ones that are chaptered and the others could be considered. So for planning purposes, we're assuming they will be signed and that we'll have to do something for them. And right now, we're looking at which of the chapters require say, only the county board to do something, which would require the state board to do something. And if we have to do something, try to put it into a category of what is our estimate. Is it a big lift or small lift? Does it require an IT solution? Does it require regulations? Does it require – you know, what unit in the building would take the lead on it? So from a planning purpose, that's where we're at. Certainly the only other major issues for a status is probably the risk assessments reports that are coming out of Grant Thornton, our vendor. We have somewhere near the number of 25 county reports that are drafted that between our support staff in the building, the secure elections center and the consultants NYSTEC we're providing feedback to the vendor. Our next status call is tomorrow. One of the items that we requested the vendor do is to give us their summary report that kind of looks at trends throughout the state. It's the last deliverable on the list, but because we're getting close to trying to figure out next steps and budget, we wanted it instead of giving it to us right now, the estimate would have been September, we asked them to give it to us early. And we just got a draft of that report on Friday.

Peter Kosinski: Now when you say "trends", what are you referring to?

Bob Brehm: How many counties have this problem. Is it an issue that is a one up in a county or is it across the spectrum of counties? Is it small counties, big counties? So we just got that report and we're trying to review it in house, but also our original plan once we got that report was to assemble the same kind of group that we met with to make the original plan. You know, homeland security, the governor's taskforce on cyber security, various stakeholders who are familiar with cyber security issues and looking at this list of items, how would they prioritize where we should start with the resources we have? And then also make the case for where are there other resources to fill that gap, because we don't have that many dollars left to do cyber security at all. But of the limited resources we do have, what's the best bang for the buck based on this assessment?

Peter Kosinski: So you're saying they've completed 25 counties?

Bob Brehm: They've done all of the board visits and now it's a matter of writing up the reports. And the reports are looking at thousands of artifacts within a county depending on their size. But a lot of records to come up with a report that gives information in a way that it has to kind of cross the county IT directors but the board of elections and also a little bit the county executive, county manager kind of. And they all kind of speak a different language of cyber understanding. And also the work that we have with NYSTEC was kind of our quality control. Are we missing any of the things that are in there that need to be pointed out in this report? So over the next month, we should have those pretty well finished so that we can share with them the county, have a discussion with the county, what do they mean, and then where are we at for the next steps. And our plan was whatever money we have left is to help them mitigate the list of problems and then since we had limited dollars, how do we best target them? Do we pay for, an example, here are the biggest risks and we will pay to fix those biggest risks if your county doesn't have one of those, maybe we'll get you on the next round, or do we look at every county and pay for a per capita amount of items on their list so that everybody gets raised. I think we only have about \$2.5 million left to spend so I don't know either one of those is where – no matter what we do, it's not going to be enough so we really want to get the input of people who have a cyber perspective.

Gregory Peterson: You say \$2.5 million left. From what?

Bob Brehm: Oh good. From the state and federal cyber dollars. In that plan, we've identified a certain amount of spending for the intrusion detection services that are in every county now except 2 that we're still working on. We have managed security services that we're rolling out as part of that contract, we did the original 4 counties that are pilot counties, we're doing the next 12 and so far 30 counties have said "We want this". It was a voluntary program. So 30 counties will have the managed security services.

Todd Valentine: We did the risk assessments.

Bob Brehm: And then we're doing the risk assessments.

Todd Valentine: And we've also provided a baseline cyber hygiene training to every county board in the state, including us.

Bob Brehm: And some of the money this week and next week, the federal homeland security is doing free for the State of New York, for the state Board of Elections, our risk assessment. So

some of that money we've identified as what we anticipate will need to be fixed once they do their exit interview with us next Friday. And then on top of that, there's about \$2.4 million in federal funds. There's a little bit of state funds, but one of the resolutions that you're asked to consider today is requesting to use that money for some of the day-to-day expenses. I think that will cover us partially through the end of the fiscal year. I anticipate once we get through the next quarter a better assessment and we may come back to you with a recommendation that we transfer more of that money to pay day-to-day expenses, just to get us through this fiscal year. So that's why there might be a little more state cyber money, but right now I think we have to be cautious with that because I think we need that just to get to the end of the state fiscal year. I don't know if that's good news or bad news, but I hope I answered your question.

Gregory Peterson: You answered the question, it's just that there really is no money for this. It's going through us to the local county boards to rescue them really, and there's not enough money for that plus what we need.

Bob Brehm: And I think one of the best –

Gregory Peterson: To say that there's \$2.5 million, or two-somewhat odd million dollars is not really there, for us to spend.

Bob Brehm: The 2.5 is because it's the federal money.

Gregory Peterson: I understand, but again there's too much to do, it's going to be spread so thin, it's going to be totally ineffectual.

Bob Brehm: Well that, I

Gregory Peterson: And the state really has to pay...belly-up.

Bob Brehm: And I think from the trends that we've been looking at is how do you protect election infrastructure that the computer systems, the infrastructure that you're protecting are just part of the overall county infrastructure. You know, the state law and one of the issues that makes us a little stronger from a security perspective with regard to voting machines, is they're not part of any other network, they're isolated. There are only 5 counties in the State of New York that have some level of segmentation or isolation of the voter registration system infrastructure. So even if we came out with the review and said "We ought to isolate voter reg systems like we do voting machines", that's expensive and it would take us a long time to be

able to take them out and set up a separate system. If it were one of those risk assessments that came back and said half are already done, we only have half to do, but they are largely, all of them. So that means if we're going to do regulations, if we said any of the computers that are attached to NYSVoter need to be up to date and patched, well that's just about every computer in a county, because it's not isolated. So there's a number of things that we will get out of this report that we will come back to you and say based on this, here's what we recommend as early regulations.

Gregory Peterson: The real bad news is going to come after the risk assessment.

Bob Brehm: I think September's meeting would probably be a bigger list, because I think by then we will have the report, we'll have the panel that looks at it, but it's again, it's helping us to get close to the next budget submission. I think it will build the case why, here's what we have. At least we can make the case for the next fiscal year, here's what we need. If we get it, we'll do it. If we don't, we'll have to part the issues.

Peter Kosinski: So I guess that begs the question: What do we do for next year? I mean you're talking about April of 2020 now as a budgetary cycle potentially. So you're saying our budgetary commitment this year is pretty much committed. At this point, we're down to \$2.5 million left in, as I recall it there was about \$20 million of federal money and another \$5 million of state money, ballpark. So you're saying of that \$25 million, we're doing to about 2.5 left to utilize for cyber security purposes in the state for this fiscal year? And this fiscal year includes, as I see it, November's election, which is upcoming and then next spring we'll have a presidential primary election in this state, in probably, I don't know they've set those dates.

Bob Brehm: April 28th.

Peter Kosinski: So that's less than a month after the budget would come out next year, so that would cut us pretty short. So it seems to me the money we have now is the money that we can utilize to safeguard the 2019 general and the 2020 presidential, and next year's budget would be potentially used for future elections. But my concern then is are we prepared to safeguard this fall's election and the presidential primary with the current allocations as they exist?

Bob Brehm: There's a slight additional, the state cyber money, there's a little bit, the \$5 million state money. We've already spent a little over \$1 million of that. Today we're asking you to allocate \$1.2 million just to pay the operational expenses of the board, because we can, under

that program, do that and that's the only place that we can just pay, otherwise we're going to run out of money somewhere around October of this year.

Kim Galvin: So the short answer is no.

Bob Brehm: So there might be a little bit more of state cyber money, but I don't recommend we commit that to cyber programs yet, because I think we're going to have to come back to you in at least the second quarter, maybe the third quarter of the year to finish closing the gap. So and then we still might need a little bit of that money into the next fiscal year just to pay this off.

Peter Kosinski: So we're taking money out of money that was originally allocated for cyber security and diverting it to administration of the office?

Bob Brehm: Correct.

Peter Kosinski: That's why I understood the resolution today.

Bob Brehm: That is correct.

Peter Kosinski: And you're saying there's a resolution today of 1.2 and you think there'll be more needed to get us through our fiscal year.

Bob Brehm: Just looking at the forecast with our staff and our IT and what we think will be paid for out of this fiscal year for personal services and contractual services. It's about \$2.4 million, is my estimate. There was a little bit of re-appropriation money that didn't get line item vetoed out because we're a little closer to \$3 million at the beginning of the fiscal year. So there's a little bit of re-appropriation money, but also there's a couple of the programs that are probably based on the trajectory that we're on or going to be into the next fiscal year.

Peter Kosinski: So you think another 1.2 will have to be diverted?

Bob Brehm: I think, to tell you today this is only a partial addressing of the problem. I expect after the second quarter of the year that we'll give you a further forecast and either at the second quarter or the third quarter, we will come back to you and have to close what we will estimate is the real gap. It could be as high as \$1.2 million based on our forecast right now, additional amount of money.

Peter Kosinski: So, what confidence level do we have that we are able to address the cyber security needs of the state in the current fiscal year?

Bob Brehm: Well I think we are going to do as much as we can with the resources we have and we're going to make the case why we need additional resources. But we've been doing that.

Peter Kosinski: I know.

Bob Brehm: And what we've submitted in our testimony, the letters we've sent, we've testified before the fiscal committees before the budget. We always get invited to the assembly. I don't know if the senate now will do something similar, but we always get invited to a fall public hearing by the assembly on the budget so we're preparing for that. We don't have a date yet or subject, but it always covers the budget. And we're also preparing what to ask for in the next round. Here's what we have, we've spent it all. And here's our to-do list.

Peter Kosinski: I mean is there more money? I guess the budget has been set, the budget has been passed, the budget is done. Is there an opportunity? Is there a fund? Is there access to any more money for this agency to assist in the cyber security measures?

Bob Brehm: We're asking in the presentation on August 9th to budget that I mentioned first. These items are also on that list related to the to-do list that we have. I'm not familiar with that answer.

Douglas Kellner: Bob, hasn't the governor's office told you that they will provide resources from other agencies as necessary?

Bob Brehm: They said that to us on a few occasions. The most recent telephone call we had with them was somewhere around July 3rd or 2nd. Some division of budget people suggested that it would have to come out of the next fiscal year. But I don't know that that is a definitive answer yet. The in-person meetings that we have had with representatives of the division of the budget and the chamber said give them a plan and they would look for resources out of this year's budget to help us get through what we need to spend this year. So that's what we've been working towards. Until they tell us no, that's the plan we're on.

Gregory Peterson: Aren't you glad now that you brought up the fiscal situation to us? I'm teasing, but the bottom line is that –

Bob Brehm: I think it's the worst part of our day to try to figure out how to just keep the lights on.

Gregory Peterson: The reason for the line of questions obviously is that it concerns all of us and I think we're all concerned about it, because we don't have the money. And you're talking about cyber security, and that's a huge topic throughout the state, throughout the country for that matter. And we can't be caught short, simple as that. We're doing the best we can here, and this is not for you or anybody else, this is for whoever is watching this thing, hopefully the governor. We have to look at this thing and say "Hey, are we going to be serious about this?" Because if you are, you have to support it. And that costs money, plain and simple. And you can't leave either this board or all the boards throughout the State of New York, the county boards high and dry. If there's a mess up somewhere along the line, our whole voting system can be questioned. And that is unacceptable. And the only thing more unacceptable than that is not paying for the upgrades and so forth that are needed to ensure that cyber security is solid in this.

Bob Brehm: This only trend that I think we're looking at is to protect the election infrastructure is the entire county system. So let's say we agreed to protect election was, pick a number, \$50 million, there's still all of the other threats to the lowest hanging fruit in any county, even the five that have segmentation, there could be some other threat. So that's a bigger lift in order to protect the election, you have to protect the whole county. That's kind of a big lift for a Board of Elections of the state. And what's the acceptable level of risk for the other programs? That's where some of the people who do this for a living more than we do will be in the room in August to help us. What is a managed level of risk that is acceptable?

Douglas Kellner: And so that's a decision for the county to make on whether they can isolate their election systems from the county system. And of course a decision that we will have to make is whether we require the counties to take certain actions that may cost them money, but that we have the power to direct them to do it. And I certainly agree that the state ought to plan for that, but even if the state doesn't fund it, we could require the counties to do it if we think –

Andrew Spano: The counties are in the same position that the state is in. Looking at it with a hat that I used to wear, you'd sit there, and you'd get another mandate, it's significant. I think we have a couple of things here. One, cyber security money is used for day-to-day operating expenses, which should be a no-no. Two is we've concluded the risk assessments, correct? But we're getting our report when?

Bob Brehm: We just got the draft last Friday to review, so we are having our first status meeting tomorrow just to get feedback on whether or not we think it's –

Andrew Spano: And our next meeting is when?

Bob Brehm: We haven't scheduled it yet. We'll say in September sometime.

Andrew Spano: So by the next meeting, we'll have more information in terms of you all running the day to day stuff here. So by the next meeting we should have the risk assessment that we have here which will give us a better picture of what kind of money we're talking about. And I think at that particular point, we'll look at how we address this not only in terms of what we say to the counties, but what we say to the state.

Douglas Kellner: Good, and I certainly agree with everything Commissioner Peterson said.

Peter Kosinski: So, I think we want to be kept up to speed on where this stands. And I agree with the Commissioner. I think the immediate concern today is this resolution to divert money out of cyber security, which was dedicated to that at one time, and I know there was a budgetary change this year to allow us to access it, but it was originally dedicated and now we're diverting it for non-cyber security purposes and I think that's raised a concern here.

Gregory Peterson: But it also should be pointed out that those non-cyber security issues are issues that have been foisted upon us, or let's say promulgated by the legislature, which has given us numerous tasks that we still have to do.

Douglas Kellner: Not by the legislature. Well the legislature gave us numerous tasks but the governor line-item vetoed...

Gregory Peterson: Yes, you're right.

Douglas Kellner: ...and of the total amount of line-item vetoes that the governor did, 8% of those line-item vetoes fell on the board of elections even though our budget is less than one one-hundredth of a percent of the whole state budget. So, he singled out our agency for these line-item vetoes and there is no plausible explanation that I have ever received that could justify that attack. And those line-item vetoes constituted almost 25% of our budget, right?

Bob Brehm: It was 1.2%.

Douglas Kellner: No, of our budget.

Bob Brehm: Oh, yes. Excuse me, \$1.2 million.

Andrew Spano: What was the amount of money in those vetoes?

Bob Brehm: Well the actual money that was in the account was \$1.2 million. The re-approp. language was to the original appropriate –

Kim Galvin: It's the amount we're transferring today.

Bob Brehm: Yes. It's almost the same.

Douglas Kellner: So, this sum that we're transferring today translates directly from the line-item vetoes that the governor made...

Bob Brehm: So that would have helped us to anticipate the day-to-day, kind of keep the lights on kind of expenses. It probably would have helped with the 50 new ideas that we have to implement but then the question is to make the case...

Andy Spano: Is that along with the 1.2 that we got using the cyber security money?

Bob Brehm: I think we have very little money for any new ideas because we can't keep the lights on...

Andy Spano: But you were saying we could do was that 1.2 extra plus the cyber security money would make us whole.

Bob Brehm: Oh that would have made it that would have been very close to making us whole depending on how we manage other expenses between now and then.

Todd Valentine: We would be using a lot less.

Bob Brehm: And still have no money for any of the brand new initiatives, correct. And that's kind of when we saw all these initiatives were happening. By the time the budget was adopted

we were up to 14 new ideas that passed and were signed into law, 14 or 15 but there were more coming and I've been doing this as long as many of you have been doing this a long time, 50 in one year is unprecedented number of changes to the election law.

Kim Galvin: It's a decade's worth, usually.

Bob Brehm: So the kinds of questions that would come to Counsel, can you implement this bill or to IT can you implement this bill? Would this be a big lift? In most instances some of these ideas are not as big a lift, some are bigger lifts. But when you have 49 other cousins that you also have to do at the same time, you need a bigger dining room table for that Thanksgiving meal. And it's hard when you're trying to estimate what resources you need to get this job done and can I roll them all out with these various effective dates? Some of these might have to get parked. The risk that somebody might sue us is up there so counsel is familiar with that but what are we going to do? We do the best we can give advice to the counties. If we can come up with a temporary workaround like the transfer bill, we are desperately looking under our forecast that we're putting together. Help really won't arrive by our estimate on many of these items until 2022 according to that schedule. I can give you the preview of what you'll see next month. So for the counties, we have to put our thinking caps on to how best to mitigate as many of these temporary workarounds that they'll have to live through. So one, we're coming up with a plan if we don't get the money we're also trying to figure out are there any other things that we can do differently on this list that helps to remove the burden on the counties? That's our secondary focus as soon as we get the projection of the budget submitted.

Andy Spano: We are all familiar with what happens when you do the budget. You try to do the best you can and you reach here and you reach there and you pull money from one spot to another spot. I haven't dealt with state budget but I've certainly dealt with billions of dollars on another budget. And that doesn't mean you can't recover at some particular point. The point is if you learn at any point during the year that you have a major emergency or something I suggest we go along just the way we said. Get these reports, take a look at it, let's look at the magnitude of the problem and then let's deal with it and I guess I shouldn't whisk it under the rug. This is a real problem.

Peter Kosinski: No, I totally agree and I think we all recognize that even when the \$25 million was allocated to us between federal and state we weren't sure that was going to be sufficient. That was a just a guess by the feds and by the state of what we would need because nobody had a risk assessment done. I think what's troubling today specifically is if the \$25 million wasn't enough we are now diverting some of that to a different use and I think we all

understand the priorities that cyber security has and what we do as elections. And so it's troubling to divert money from our cyber security charge to other purposes, but I can see the need to do it. I understand why we're being asked to do it and imperative to keep the agency running but I think we're in a tough spot and I think we need to reach out and see if there are ways this can be addressed and should be addressed at the state level to at least make us whole and maybe even look for more in this arena to help the counties. Because well I think we recognize there's a county obligation here. I think there's clearly a state obligation too. Because you're right it's an unfunded mandate and you start mandating the counties do certain things and I think segregating you know we did it initially with our voter registration system. We kept it separate that was a decision we made back at the time but we understood if you make a decision not to do that, to do it later is difficult. It's expensive, time consuming and difficult to do. So if we were to take the position, counties you have to segregate because we feel from a security standpoint that's necessary, that's going to be a huge burden on those counties to do that plus it's not going to happen right away. So we have immediate needs coming up. We have elections every year, next year three times a year we have November and we can't just say, "Well we'll do it in 2020, 2021" or whatever. I think we have immediate needs. So I think there are some concerns that deserve our immediate attention. I agree. Is that your total report? Okay are there any other questions for the Directors? So we'll move on then to Counsel's Office, Kim Galvin and Brian Quail.

Kim Galvin: Well interestingly enough after that very serious question, my first comment was going to be the new law books are in and the favorite part of my job is picking the color so if anybody needs one let us know. It's a good color.

We've been busy working on regulations. They are coming up on the agenda.

Litigation is, of course, very busy and one significant update is on the DeRosier case on the political apparel case of the Magistrate, recommended that the case be dismissed and it's going to the District Court for the ultimate decision. Common Cause case regarding the inactive voters is currently at a settlement conference in New York City that's where Bill and Nick are. We were served as we were all meeting by the Conservative Party and the Working Family Party complaints regarding the Public Financing Commission. I haven't read them yet.

We've worked with some trouble getting through the FAQ's, the frequently asked questions, on the time off to vote. People are screaming, amending, no one wants responsibility so I think we ultimately sent out the final version Friday.

Bob Brehm: Posted.

John Conklin: It was posted before that, but we kept making adjustments.

Kim Galvin: Yeah, we had people complaining that they were referenced in it like Civil Service and things like that so we had to keep taking them out. So that's there even though we still don't really understand how that's going to work or who is going to enforce it.

Peter Kosinski: Isn't the labor department also maintaining interpretations of that?

Kim Galvin: It's a very quick whip around. Labor to Civil Service to us and back and there and...

Peter Kosinski: Who's in charge?

Kim Galvin: I don't know, Kim is, Brian is. Kim thinks it's absolutely ridiculous bill, but Brian is working through trying to figure it out. So we have that going.

We have the use of force policy that's coming up for discussion.

The PLLC and the LLC forms that these entities are supposed to file with us as of December 31st, setting forth their ownership responsibilities and percentages. We've approved the form and posted it on our website, those are due 12/31. It is kind of backwards because they're giving contributions now and...

Peter Kosinski: How is the compliance with that? Are filers able to comply with...

Kim Galvin: Oh they love it. They're trying. They're trying.

Peter Kosinski: It must be difficult since the LLCs don't have to do their filing till the end of the year.

Kim Galvin: Right, it's very curious the order.

Peter Kosinski: I mean are you getting compliance or are they...

Kim Galvin: They are they're trying to comply.

Brian Quail: And Kudos to the unit in terms of having given out three very detailed compliance documents. So we have given people a good roadmap and have resources available to folks to do the compliance.

Kim Galvin: Although we are getting you know so many questions, so many questions from every range of candidate to business to party committees. You know do they have to be broken out even a \$50 contribution? We're working to create a real way to break them out because we didn't have a system for that so we're directly them now to the partnership break outs, the housekeeping committees, everybody is struggling. It's taking up a lot of time.

Compliance is reviewing the primary reports and the July periodic reports. Call volume because those were so close together is extremely heavy. In addition, the call volume was increased because the Enforcement Division sent out an e-mail to certain filers on some list that had provided e-mails, very generic, you are missing a filing not what filing. So they're calling Compliance. Our people are trying to work through trying to figure out why they got this filing from Enforcement, etc. We're continuing to meet our staff with IT regarding various projects. And actually Mr. Mahoney is here and we're working on determining a way of right now we have the 10 day post primary and the July periodic and they fall within a very short period of time because the calendar has been moved up to June so we're trying to work with the calendar, the statute and the regulations. Certain things require two reports before one after at least one every 6 months so we're trying, the staff is trying to work through that to see if we can separate those a bit.

Peter Kosinski: Isn't there a rule right now that if you have to file two reports within a certain period of time you can skip one?

Kim Galvin: We're like 2 days outside it or something like that it's a very close thing.

Douglas Kellner: But, we could change that.

Kim Galvin: Well...

Peyer Kosinski: It's a regulation isn't it?

Brian Quail: Yes, there's a statutory requirement and a regulatory requirement and we think we can amend the right regulation to get rid of one of those filings and meet the statute.

Kim Galvin: But we're still working through that because there's a lot of...

Peter Kosinski: Makes sense.

Kim Galvin: ...things to do. The seminar season will wrap up in Albany on August 7th. The CLE and the CTE for the accountants in Albany County and last but not least, on behalf of the Unit, they requested me to tell you and to highlight that Marie Woodward a long-term and beloved employee by the unit has retired and she's out living the dream, at Glimmerglass in a show she's been casted for and she's missed and we wish her well. So that's all I have.

Peter Kosinski: Any questions?

Douglas Kellner: And I think we should also point out that Ms. Galvin was appointed to the Commission of Campaign Finance and I think that's a significant position and I know that they have no staff so we are probably the most overwhelmed agency in the State Government right now on a per capita basis but to the extent that the agency can help you with your commission duties, I encourage that.

Kim Galvin: Well thank you very much and I think that regardless of whether or not it was me or someone else, I think it's very important to have a vocal supporter of the Board in what we do and an understanding of the costs and the processes that work here. So thank you.

Peter Kosinski: I agree, and I congratulate Kim as well but I think it was important for us to be represented and we couldn't have a better representative than Kim Galvin and we will, of course, defer to Leader Kolb in his good judgment in selecting her.

Kim Galvin: Yes, and I will defer to Leader Kolb as well. I don't know if it was a blessing or a curse but we'll see how it shakes out.

Peter Kosinski: I'm sure you'll keep us apprised...

Kim Galvin: I will, I will.

Peter Kosinski: ...of the workings of your group. I think you have a short frame, isn't that a December 1 timeframe you have to have something completed, so time is running?

Kim Galvin: It is, and we are not speeding along so...

Peter Kosinski: Well I noticed you just got appointed.

Kim Galvin: And we are not speeding along so I will do my best.

Peter Kosinski: So, August, September, October, November, you have four months.

Kim Galvin: Thank you Commissioner Kosinski for instilling in me that little bit of fear, thank you.

Peter Kosinski: Are you guys...is that the end of your report?

Kim Galvin: I think so.

Peter Kosinski: Any other questions? Alright then we'll move onto Election Operations, Tom Connolly and Brenda Lovullo.

Tom Connolly: Thank you commissioner. As Todd mentioned before the Operations Unit has been working with filing the results from the primary election or they put the 57th in the Senate District primary and also primaries in the various judicial districts with the delegates and alternate delegates. As such we were also preparing the roll calls to be disseminated to the different parties for their conventions. We also amended our certification for the November election twice since our last meeting due to two new vacancies in the 5th and the 7th judicial districts. The most recent went out yesterday.

With regard to the voting machines for ES&S the secondary source review is still underway by our independent security consultant. We are also working with them, NYSTEC, to determine any kind of additional security and functional testing that might be necessary since this is the first new system that the Board has really evaluated in some time.

With regards to Dominion, we continue to work with them on some of the additional reporting functionality for the ICE machine and procedures for the county boards to follow for that. Clear Ballot which is used for the automated audit, we're finalizing the latest submission and we look to be scheduling a public test in the near future and once that's all complete, we will bring that before you for approval.

With regard to electronic poll books, obviously the last couple of meetings have been, from our perspective, focused on that. We were doing our work in reviewing and evaluating the various submissions. Since the last meeting we have been meeting with some of the approved poll book vendors to discuss various logistics as far as their roll out as they try to go out and sell their systems to the counties, talking about acceptance testing procedure to be followed, default configurations for New York State as far as language, various oaths that are appearing up on the screen and we want to make sure they are actually the ones that are New York specific. So we continue to work with them. We continue to work with the other vendors who submitted a system that has not yet been recommended for approval. Later on in the meeting we will be discussing two other items; one is one of the approved vendors, KNOWiNK, has submitted an additional configuration to be approved for use and one of the other vendors that had previously been approved, NTS, has requested to withdraw their system from the list of approved systems for use in New York State.

Otherwise, Brendan went with Jason from our unit and also Jeff Baez from IT. They kind of did a visit to the Albany County Board of Elections on a more secure election center focus looking at the Voter Registration system and other processes. We continue to work with various counties that we have been kind of pulled in for their assistance and also vendors to kind of work our procedures for early voting that includes not just the operation of machines during the early voting period and also on election day, but also figuring out other processes like Election Night Reporting to see what kind of options there are for reporting that information from the county boards to us.

We did perform some acceptance testing for the Clear Ballot system. They approved the Clear Ballot System in Orange County and also the machines that were received by Franklin County, which were the Dominion ICE machines.

We continue to participate with the Center for Technology and Government. Their voter registration data analysis project that we have been working on and we continue to work with IT on revisions to the CAPAS program and also to our MOVE system. I don't know if you have anything.

Brendan Lovullo: Excellent, thank you.

Tom Connolly: That would be it for now. Yes.

Peter Kosinski: Any questions of either Tom or Brendan? Okay, thanks. And we will move on to John Conklin and I believe Cheryl isn't here so John you're in charge of having the report on NVRA and PIO.

John Conklin: Thank you Commissioner. So the Public Information Unit has been busy since the last board meeting. We've gotten a lot of inquiries, lots of questions on the June primary, inquiries about the interaction of state PACs and federal PACs, when the deadline is for enrollment changes to be effective for next years' Presidential primary. We had some questions on polling and the Fair Campaign Code. Lots of questions about the July periodic report and the 10-day post primary as Kim mentioned. Questions on when parties should be holding their organizational meetings. Lots of questions about the Queens District Attorney race and what happens if there's a tie vote in a primary. Judicial district delegates and conventions. A lot of people seem to want to run for Congress next year so we had a lot of questions about what that would be like. Since the local primary was moved from September to June, it seems like a lot of local communities are recognizing that lawn signs will be out for a much longer period of time during the year and they're grappling with that so they also had questions about that which is basically a local zoning issue.

Kim Galvin: Unconstitutional.

John Conklin: We had some questions about the little known schedule O which Brian and Ken alluded to which is where the Limited Liability Companies report their breakouts and the partnerships. The probably far and away and still the number one topic that we're asked about is the time off to vote question and how that's to be interpreted but probably within the last week or so, coming up on the outside was questions about the new Green Light Law and how that will be administered.

So in terms of the unit we participated in the monthly ECA call back in June.

We processed 77 FOILS for the month of June.

We issued two press releases since the last Board Meeting both with regard to the electronic poll book, the initial approval of the first three vendors and then the additional vendor who has since withdrawn.

We participated in a National Table Top the Vote presentation. The agency did a presentation on best practices around trainings and also incident response procedures.

We're updating the voter registration form, the NVRA form and the affidavit ballot forms, that's in your packet today to accommodate the new 16-year old's being pre-registered. That will be effective January 1st. We expect to have new forms for the county boards by December of this year so when it takes effect in January they'll be set.

We participated in a general meeting to discuss all the chapters that the agency has to deal with as a result of the recently closed legislative session.

We're collecting ADA poll site surveys for the early voting locations. We're collecting early voting communication plans from the county boards. We had a meeting to discuss changes that have to be implemented in NYSVoter to accommodate early voting voter history.

For the website we posted the webcast for the June 6th meeting and the June 27th meeting. We did post the frequently asked questions advisory guidance document for the time off to vote issue. And we also posted a statement of identity form for LLCs and PLLCs.

In terms of NVRA Sheryl and I and Patrick and Michael went down to New York City. We did a refresher training on NVRA tracking of transmittals. We met with the executive board and we also had staff from each of the five boroughs from their registration units and their list maintenance units that went very well I believe and was well received.

In terms of the HAVA contracts, all the contracts are up-to-date and signed. Our unit will be administering the new early voting grant program and the E poll book grant programs so we're working on contracts for that. We set up an e-mail box to receive contracts, questions about contracts and we anticipate doing a training webinar in early August and again at the summer conference, so the counties understanding how to administer the contracts.

Lastly, the Website Accessibility Coordinator...

Kim Galvin: That's John.

John Conklin: Yeah, that's me. We continue to have internal meetings with IT. We've been working on a couple of the last remaining issues with regard to the website. The Election Night Reporting site, the Voter Look-up site and the MOVE Act applications still are things we have to resolve before the end of the year. So that's everything.

Peter Kosinski: Any questions? Thank you, John. So we'll move on to William Cross ITU.

William Cross: Good afternoon Commissioners. I'll start with projects. CAPAS-FIDAS development continues on the project recent activity continues to be focused on the EFS portion but also now ballot access testing as we finalize development. We did encounter some difficulties this period with the authentication software which is the log in portion to access the system which requires to postpone the soft launch with the beta group. However these issues have just now been resolved actually earlier this week and we're finalizing testing and will be rescheduling the first session with that group on or about August 14th. We have also made significant progress with the data conversion efforts which has been problematic. Up until now that's bringing over the legacy data from the old system into the new and aligning it so they have a historical reference in the new system. We made very good progress with that in the past couple of weeks and we hope to have this actually complete for the beta group in the same timeframe for next month for them to use.

For NYSVoter, as we mentioned last month, we were working with the voter registration vendors and the three custom counties to find system changes in theirs and our systems to accommodate early voting indicators. Those requirements have been finalized and shared with the vendors. All indicated that they should have no issues in implementing them in the timeframe.

We're also finalizing development of the in-house MOVE application or NYSBallot application to replace the currently outsourced one. We plan to begin county outreach and testing during the next two weeks for that.

As Bob mentioned, we've been key participant in working with the executive and other units on budgeting issues and impact of new legislation particularly with respect to IT requirements of many of them. E poll books as well, IT has worked with Ops as well as with Executive and OGS on procurement and security issues around E poll book.

Accessibility, as John mentioned, we also continue working with PIO and the other units. We had the engaged vendor complete their initial audit of our website and identified any current existing accessibility issues. We now believe we have all of those addressed; everything from their findings and we'll be scheduling a follow up scan, confirmation scan, with them to confirm that. And we've also have been planning the Voter Look-up / Election Night Reporting sites as well as scans, preproduction scans, for CAPAS-FIDAS and the MOVE applications.

On security, the Cyber Security Board efforts I think Bob gave a good rundown in terms of the county risk assessment. All site visits have been completed and we are now in the reporting

phase. Received about 25 of those reports. We finalized one, provided comments on 12 others and continue to review the others as received and we were also currently reviewing the draft trend report.

Intrusion Detection Systems have essentially been completed throughout the state with the exception of two counties which we continue to work with to define either to get them to sign up for the program or define they have this existing capability already somehow.

And for managed security services, we've completed the five pilot counties and the next batch of 13 is currently under way. We've also begun discussions with OGS and the other partners again as executive mentioned about our next phase of mitigation and remediation with the counties and how best to address those issues and needs identified in the security risk assessments.

We participated in the National TableTop exercise. Jeff Baez, our Chief Information Security Officer presented during that exercise one of the states represented as New York and we were able to relate some of the efforts that we've done over the past year or so with regard to cyber security and our efforts with the counties.

And we also continue to work with SUNY Center for Technology and Government on the NYSVoter data abnormality project to gain better understanding analytics from existing data and look for potential issues.

And as always, we are working on multiple security improvements here internally for our own infrastructure, and we're currently working with DHS this week and next for them to perform assessment of our infrastructure and applications. And we'll presumably have reports from that soon to follow.

For the website, traffic for the website has been at normal levels, slight bump up around primary election and that was it.

Peter Kosinski: Any questions?

Douglas Kellner: What is the current schedule for CAPAS-FIDAS?

Bill Cross: Soft launch for the beta group will be August. Based on feedback from that we are still looking within this year.

Peter Kosinski: Well that's great. I mean this has been a long time coming. It's been years, and years, and years and years and to see it...

Douglas Kellner: Eleven years.

Peter Kosinski: Okay, eleven years. And to see it potentially you know the light at the end of the tunnel is encouraging.

Bill Cross: For me also.

Peter Kosinski: I'm sure it is as I know we raised it almost every meeting.

Douglas Kellner: It could be a freight train.

Peter Kosinski: Hopefully not.

Bill Cross: Please Commissioner...

Kim Galvin: We have a lot of freight trains headed towards us.

Peter Kosinski: Besides cyber security I think this is our biggest priority. I mean cyber security being number one to everybody but this CAPAS-FIDAS fix I think is right there because I think it's going to really enhance the public's experience.

Douglas Kellner: Long overdue.

Peter Kosinski: Long overdue and it's really going to make the public's access to campaign finance information so much better.

Bill Cross: Absolutely, and from all the demos we provided so far and, of course, not all full functionality we received very good feedback and people seem generally pleased with what they've seen so far so it is very hopeful.

Peter Kosinski: Well we're hopeful as well. So hopefully the testing will go well and everything will roll out. Okay thanks. Anything else for Bill? Okay then we'll move on, we have well we have on the agenda Risa Sugarman with Enforcement I see she again...

Todd Valentine: She's not here.

Peter Kosinski: ...has chosen not to attend the meeting.

Douglas Kellner: So, let's just go through the statistics again. How many subpoenas has she brought requested from us this year?

Brian Quail: Zero. But I didn't bring the statistic but some of these I know.

Douglas Kellner: And how many criminal proceedings has she proposed this year?

Brian Quail: Zero.

Kim Galvin: She hasn't been here in a year has she?

Douglas Kellner: And how many hearing officer proceedings?

Brian Quail: I checked this one this morning because I myself actually asked Bob because I was incredulous that there hadn't been at least one, the number is zero.

Douglas Kellner: Zero, zero, zero.

Andy Spano: But she gets good press.

Kim Galvin: Unbelievable.

Bob Brehm: Don't let the facts get in the way.

Kim Galvin: Oh, me and the filter....

Andy Spano: This may be irrelevant...

Douglas Kellner: Okay well I just wanted to check that I didn't miss anything in the last month.

Brian Quail: You have not.

Peter Kosinski: My understanding is that her refusal to come to the Board Meeting, you've asked?

Todd Valentine: We have asked her, that's correct.

Bob Brehm: About every two weeks.

Peter Kosinski: And she refuses to come based on the pending litigation?

Todd Valentine: That's true.

Douglas Kellner: That she started.

Todd Valentine: That's also accurate.

Kim Galvin: And interestingly enough it's been several, several months now and we called the court for a status update and they assured us they would call us back and never did.

Peter Kosinski: That was my next question. Do we have any updates on the status of the court suit so apparently not and that was all filed when? Do you remember the dates?

Brian Quail: I don't remember the exact date, earlier in the year.

Kim Galvin: Early in the year.

Peter Kosinski: So it's been pending for quite some time. Well hopefully that will get resolved soon and we can get...

Kim Galvin: Well it's interesting they wouldn't even call back.

Douglas Kellner: And Brian, what is the number of open referrals? Do you have that?

Brian Quail: In terms of deficiencies around over 1200 and less than 1300 of those are open.

Kim Galvin: All of them.

Brian Quail: The number for failures to file for the January periodic 2,289. We haven't set over it yet but the number of failures-to-file for July 2019 is 3,181 which may be a record.

Kim Galvin: I think it's virtually all of them minus a handful are still open.

Douglas Kellner: Okay, I just wanted to confirm that...

Kim Galvin: Well interestingly enough...

Douglas Kellner: If you were an election lawyer and your client came to you and said, "What are the consequences if I don't file?" I guess you would ethically tell them, "Yes you should file"...

Kim Galvin: And then I would wink hard.

Douglas Kellner: ...the law makes this penalty and that penalty and then they ask you, "Well if I don't file what are the chances of those penalties being imposed on me?" and I guess you'd have to say they're virtually zero.

Bib Brehm: Imposed on you...

Kim Galvin: First I would assess who my client is because it increases significantly...

Douglas Kellner: Oh right if your client was somebody who got press attention then that might be something...

Kim Galvin: Well interestingly enough the Public Financing Commission, when it's enacted, they're going to need an Enforcement Counsel so...

Douglas Kellner: Well I think, and my understanding, and I haven't talked to you about it, but I've talked to other members of the Commission, is that they all understand that even if the Board of Elections was going to get assigned the task there's no way you could implement a Public Financing System with the existing Enforcement structure. So I hope the Commission will keep that in mind as well.

Kim Galvin: I'm with you.

Douglas Kellner: Alright sorry for the debate.

Peter Kosinski: That's okay. Is there anything else? This is the end of the unit reports. Anything else?

Andy Spano: She not doing that work would suggest that some of that money be moved over.

Peter Kosinski: That would be nice.

Kim Galvin: She gives back money every year.

Andy Spano: Excuse me?

Kim Galvin: Her unit gives back money every year to the tune of hundreds of thousands of dollars.

Andy Spano: Then she doesn't do what she's supposed to do. Right?

Kim Galvin: Well, her staff has decreased now another person less, so she's down to 5, which was our original enforcement staff for all those years.

Douglas Kellner: Except we were doing enforcement in those years. Okay.

Peter Kosinski: How about now? Do you think we're done? No, I mean if there's something else. If not, we're going to move onto old business.

Andy Spano: These little asides don't count.

Peter Kosinski: Alright so we'll move onto old business which I have none listed. Does anybody have any old business they want to bring up? Okay we'll move onto new business and we have a number of items under new business. So, the first one is, this was referred to earlier I believe, Tom you referred to this, this is the change in the KNOWiNK software, some change or addition there may be to major system works. Go ahead.

Tom Connolly: Yes, so the software is unchanged so there's no difference in the way that the system works. Somewhat similar in fashion to voting system hardware is there at times when a

hardware like a screen or another hardware component needs to be swapped out and they want to add that to the approved certification. For E poll books, the KNOWiNK platform uses iPads and one of the things that they had wanted to add to the approved list of configuration for use in New York State was the use of an iPad that had a built in cellular connection. So, whereas the other iPads that were included in the configurations we had already tested and approved relied on external network connection, in some cases a Wi-Fi router or Mi-Fi this directly communicates with the cloud through the built-in cellular connection. So this is just the addition of that hardware but everything else is unchanged.

Peter Kosinski: Are there any questions about this need for approval?

Douglas Kellner: No, I move the resolution.

Andy Spano: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) Alright so that's approved. And we have another NTS which we just approved at our last meeting, special meeting I might add, has apparently chosen not to be active in New York State and wanted to actually have their system taken off the market. Do I understand it? So we would be...

Tom Connolly: Removing them from the list for approval.

Peter Kosinski: Removing them from the list of eligible vendors.

Tom Connolly: Correct.

Douglas Kellner: I move the resolution.

Gregory Peterson: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) So that's approved as well. Alright then we'll move on to some emergency, well these are not, these are adoptions I believe of these are all emergency. Are all of these emergency adoptions?

Kim Galvin: They are.

Peter Kosinski: All four? Okay so we'll take them one by one, let's take them one by one so we understand where we're going.

Kim Galvin: Well, okay.

Peter Kosinski: Do you disagree with that?

Kim Galvin: Well, two of them are just simply a re-adoption, 6210.10 and 6210.18. Ah, the emergency...the time period hasn't passed for final adoption as of today so we're readopting them for 60 days. It's a placeholder till our next meeting when everything is right.

Peter Kosinski: So there's nothing changed here, this is sort of...

Kim Galvin: The language is the same.

Peter Kosinski: Sort of a housekeeping.

Kim Galvin: Correct.

Douglas Kellner: So moved.

Peter Kosinski: So we can look at those two then are housekeeping events; this is 6210.10, 6210.18. Motion to approve? Second? All in favor? (Chorus of ayes; 4-0). So we'll see those again at the next meeting? Is that correct, for permanent adoption?

Kim Galvin: 60 days.

Bob Brehm: Nick's our calendar person so when tells us they're properly aged...

Peter Kosinski: So we will see these again for final adoption. And the next one is the 6210.19. This is the machine for early voting. This I believe relates to the...

Kim Galvin: This also is an emergency adoption but it will be for 90 days and there was one change that I'll highlight and that section 3. We attempted to address the vote center issue that people were concerned about.

Peter Kosinski: This will really allow vote centers to occur, which our previous regulations, I understand, demanded so many voting machines that it made it impossible.

Kim Galvin: Well there was one line in there that would have allowed them to do it anyway if they sought permission, like Nassau County, but this makes it clearer and sets a standard.

Douglas Kellner: A more reasonable standard and of course, the counties can still make the application to us for fewer machines if they can show us that they're going...

Kim Galvin: Well, we're only requiring two so they could.

Brian Quail: They have to follow the formula and allocate them among all of the vote center sites that people can go to so their total allocation has to meet the formula but they have to allocate at least two to any given poll site.

Kim Galvin: But they could request a downward modification from the totality.

Douglas Kellner: That's what I want to emphasize. That they can still request a downward modification but then they have the burden of showing us that the modification is not going to...

Kim Galvin: Right and there is the provision that you know if at any time they see that the number of machines is not sufficient, they have to, within a day or that day, send out more machines.

Brian Quail: Thirty-minute wait time is referenced multiple times to make sure that is complied with.

Kim Galvin: High-lighted...

Peter Kosinski: Okay fair enough. Well I understand we're in a sort of testing period for the first time out at these early voting sites so hopefully things go well and everybody is serviced. We'll see how it goes. Is there a motion to adopt?

Douglas Kellner: So moved.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) that's adopted. And the last one is the procedures for early voting. And do you want to just give us a quick...

Brian Quail: Yes, this is a re-adoption of the emergency regulation. It would otherwise timeout on August 6th like two of the others and it is not right for final adoption until July 28th. So in order to push us over to keep them in effect, it's readopting the emergency for an additional 60 days.

Peter Kosinski: So, this again is kind of housekeeping?

Brian Quail: Yes, sir.

Kim Galvin: And just to be clear for those that may be listening, obviously we would still be accepting any comments that people would like to make on all of these.

Peter Kosinski: Have we gotten any comments on any of these?

Brian Quail: There are some comments I think that we have received.

Peter Kosinski: On this particular ones?

Brian Quail: 6211, yes.

Kim Galvin: We've gotten a lot of phone calls on the vote center issue too, maybe not official comments as much as yelling, but we've gotten them.

Peter Kosinski: From the counties or from...

Kim Galvin: Yeah, no not the voters.

Peter Kosinski: The counties are mad?

Kim Galvin: Yeah, so they should be happier today.

Peter Kosinski: Alright so is there a motion on the early voting regulation?

Douglas Kellner: So moved.

Peter Kosinski: Second?

Gregory Peterson: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) Opposed? So those are all adopted and we'll be seeing all of those again.

Todd Valentine: That's correct.

Brian Quail: Yes. Nothing is finalized.

Peter Kosinski: Okay. Next one is a resolution for the use of force by our peace officers, this relates I believe to the Enforcement Counsel's office only. My understanding is that there are only two peace officers and they are in her office. So this relates specifically to that. This is something that was adopted pursuant to state law?

Todd Valentine: That's correct, part of the budget, part ZZ of chapter 55 required that any agency which employs peace officers to adopt a model use of force policy which that budget provision also required that the state police with the Municipal Police Training Council adopt a model policy which they did and they've sent to us and the draft that we came up with is based upon that. We did share a draft with Ms. Sugarman at the end of last week and she provided comments to you or to us and then we in turn sent it to you yesterday as well as what claims to be her model policy. I'm not sure what authority she adopted that under or when it was adopted. There is no indication of a date, a time or an authority but and we're looking at her comments. I don't know that we've completed our review of those.

Douglas Kellner: Well I think we should note that we asked her to come to the meetings and talk with the Commissioners about this issue and she ignored that request, which is contentious and really in violation of her obligations as an employee a state employee subject to regulations of the Commissioners but I think that given the lack of urgency over doing this, there's no time limit for us to adopt it?

Todd Valentine: No there is not.

Douglas Kellner: So I think it makes sense to put it over for another month and that would give us a chance to actually review her comments.

Gregory Peterson: Well that's fair.

Andy Spano: A policy for this kind of thing I think only does two things; it sets up training criteria because once you have a policy you can then look at it and say, okay what kind of training do I have to have these people in? And the other thing is then when someone gets shot or someone uses their weapon it sets up the criteria for a standard for whatever you do in a trial. It doesn't stop any of it. So I would like to see if we could do it, some sort of training situation put in there that looks at how they're trained. Because that's very significant in use of force. It's the most significant thing in the use of force. I understand they do go for some training.

Todd Valentine: They do, the Municipal Police Training Council does require a certain level of training for anybody that's designated as a peace officer. I don't know if that's been upgraded.

Andy Spano: What kind of level is that?

Todd Valentine: You know off the top of my head I don't know. I know it has to deal with firearms handling and obviously safe storage and use. But I don't know if this law will indicate what their minimum training standards would be changed to. It's a good question.

Andy Spano: My feeling about this is this is a situation where we are peace officers that go into a situation, they're not policemen. They're not law enforcement that kind of thing. Probably what they would run into is not so much significantly hostile but run into someone who has some sort of deficiency, mental deficiency or somewhat and that's really the concern I have and then recognizing that and being able to have some skill to monitoring it and handling it before they use other force.

Kim Galvin: I agree.

Andy Spano: I don't know whether they have that kind of training or not but I think that would be significant.

Kim Galvin: Well her own policy references the use of deadly physical force so we're the Board for Elections for god sakes.

Andy Spano: I'm not so much concerned with the wording anymore because I don't think that changes anything.

Douglas Kellner: I think you're right and there is a section part 11 is particular training but I understand your comments.

Andy Spano: I mean if the difference is in the activity that we perform we should look at the kind of incident that would probably occur and they should have some training in it.

Bob Brehm: I think from a historical perspective, when we looked at procedures, when we made the regulation, when the peace officers were before the Enforcement situation we have now, there was a requirement that they be certified as having met that training, a training regimen at the time and since you've deferred the authority now, you've granted the authority to Enforcement, all we requested in the regulation was the confirmation that that training has been completed and satisfactorily in order to maintain the authority that was set under the program.

Andy Spano: Was that to your satisfaction?

Bob Brehm: Well that's part of the lawsuit

Andy Spano: She doesn't report that.

Bob Brehm: Well nothing gets reported.

Kim Galvin: Objected to our prior limitations on carrying a handgun in the board proper that makes a lot of the staff nervous.

Andy Spano: I think this is important because if you have an incident...

Kim Galvin: I agree.

Andy Spano: Immediately after the incident you re-evaluate your whole program and usually there's an uptick in the program. I mean so we should start off...

Bob Brehm: It does speak to agencies but the general concept of the law is the State Police, local police, county sheriff, correctional facilities and then it gets around to agencies like us. We're not doing a lot of those things. We're investigating...

Gregory Peterson: I think that's how we're getting those nonfliers...

(Everyone talking)

Bob Brehm: From a point of view of the kind of work that yes peace officers may but in their normal day of work, in the history of the subpoenas that have come before you for consideration which is to go get a record somewhere in a bank or a treasurer, it wasn't to break down the door, certainly not to arrest anybody, I mean granted things could happen. So that's why we tried to look at it since we're not the state police, we're not a local police agency. The types of interactions that we have related to type of work we do and that's why we tried to look at it from that perspective also.

Douglas Kellner: Bottom line is there's really no reason for our agency personnel to be using force for anything.

Andy Spano: I'm telling you, you can be threatened.

Douglas Kellner: Threatening and defending is different.

Andy Spano: But there are situations where people just react and you look at them and you feel life is threatened. The most dangerous person with a weapon is the least trained.

Kim Galvin: Agreed.

Douglas Kellner: Yes, agreed.

Andy Spano: So you either take away the weapons or you train them better.

Douglas Kellner: Well I guess I'm in favor of taking away the weapons that there's no reason for any State Board of Elections personnel to have a weapon.

Bob Brehm: I don't even think our people serve the subpoenas.

Todd Valentine: No she contracts out for service.

Bob Brehm: But of the number individuals the Board has issued peace officer status there's still two working with the agency. So they have to be trained. They have to be covered by the policy.

Kim Galvin: Or it has to be taken away.

Bob Brehm: Well I guess failure to meet the requirement is something you would have to consider.

Kim Galvin: Or thou giveth and thou shall taketh away.

Bob Brehm: Correct.

Andy Spano: You also want trained investigators. You want guys, people, personnel who will take that job.

Gregory Peterson: There's no reason for it.

Douglas Kellner: Take away the peace officer designation.

Gregory Peterson: There's no reason for it.

Douglas Kellner: Alright well let's think about that, maybe...

Peter Kosinski: We can entertain that as well but I do think I agree with Commissioner Kellner, I think we should delay this until we get a handle on it but I do think there are a number of considerations. For example, one of the things I don't know is what situations actually present themselves where peace officer status is necessary? What are we talking about where you're in a situation where you need to invoke firearms on someone? I don't know what that is. I'm curious when that might occur in this agency.

Douglas Kellner: We can ask.

Peter Kosinski: Well I would like to if...

Douglas Kellner: I'm not aware of any incidence since the agency was formed in 1974.

Andy Spano: But you've had peace officers before?

Peter Kosinski: Yes, we have. And it was always an issue. I will say this it was always an issue here as to whether or not that status should be conferred upon any of our staff.

Kim Galvin: And when they were here they kept their weapons in a locked box not on their hip.

Todd Valentine: But they were also under the Board's direct control.

Kim Galvin: That's right.

Peter Kosinski: So there is an issue there. Okay well we'll consider all of this.

Bob Brehm: So we'll add that to old business at the next meeting.

Peter Kosinski: And I haven't had a chance to read Risa's...

Douglas Kellner: Do we have the right to call the state police for assistance?

Bob Brehm: Yes.

Peter Kosinski: Okay let's move on them to the next item which is the updated Voter reg form I believe this is to reflect the new law that allows 16 year old's to preregister so we had to change our forms to accommodate that and this intended to do that is that correct?

John Conklin: That is correct.

Peter Kosinski: So I have in front of me three forms; there is the agency-based voter reg form, there is the regular voter reg form and then there's the affidavit oath which goes with affidavit voting. Those are the three forms before us.

Douglas Kellner: So moved.

Peter Kosinski: I have a question I want to raise something about one of these forms just so I understand. And this is the affidavit ballot envelope form I'm talking about which now

incorporates the 16 year old, because in that transaction those who vote affidavit but are registered can register so at least they'll vote for the next election. So on this form that will be changed with what I think is kind of awkward language but I guess it complies with the statute so that's just the way it is. My question really relates down to the affidavit with the person that swears to down below when they sign this document. Because up top you're saying you're going to have to check a box that says you're at least 16, understand that you must be 18 before Election Day to vote and you'll be 18 at the time of election. Goes through the statutory language. But the bottom when I'm swearing, one of the elements I'm swearing to is that I meet the requirements to register to vote in New York State which it seems to me these people do not. So I'm a 16-year-old person who comes to the poll site to try to vote I guess that's our situation. I'm not sure why they're there but they're there and the person the poll worker says, "You can't vote you're not in the book" so they take the form they go I'm 16 I guess I can do this and they check the box I'm 16 but I'll be 18...

Douglas Kellner: But the statute says you can register to vote but you won't be eligible to vote until you turn 18.

Peter Kosinski: So are you a registered voter at 16?

Bob Brehm: You're a preregistered voter.

Brian Quail: If I could address this issue because there is a couple little snags. There is a little bit of a disconnect between the registration and preregistration language and we noted different states have sort of dealt with this the same way in terms of how it then translates into the affidavit at the bottom. Several states are doing what we're doing which is not placing additional language in the affidavit. In our case, we have an excellent reason for not changing that language which is rather uncharacteristically in §5-210 I think it's in sub 11 but I have to change it back to figure out which subdivision it's in it actually says a place for the applicant to execute the form on a line which is clearly labeled signature of applicant preceded by the following specific form of affirmation. So in considering whether or not we could change the affidavit, we have this still in the statute very specific requirement that this be the exact language so we did not change it. We were somewhat comforted by the fact that we found that several other states that have preregistrations also had left their affidavit in the same condition. But I acknowledge there is a little bit of a disconnect between the register language and the concept of preregister and registered.

Peter Kosinski: Frankly I'm not questioning why you didn't change it, I understand there's a statutory requirement, I just feel that you're now placing this person this 16 year old or 17 year old for that matter in a position where they're saying, I want to register, I'm not old enough to vote but then I'm saying I meet all the requirements to register. I'm not my view of the statute.

Douglas Kellner: Preregistered that's not the same as registered to vote.

Peter Kosinski: But these are not registered.

Kim Galvin: Well I think there will be a poll worker disconnect in some instances. If you go in and say hi and they say you're not in the poll book but I'm 16 and I can do this, I can imagine poll workers that aren't well versed in this would say, you're 16.

Peter Kosinski: Well that may happen but if the person wants to they can fill this out I don't dispute that I'm just feeling we're putting them in a spot where they're affirming swearing to something that at least in my view isn't really true. You're not really registered to vote yet.

Douglas Kellner: No, but you are. The statute explicitly says you can register to vote at age 16. That doesn't give you the right to vote it gives you the right to register.

Peter Kosinski: So are you considered a registered voter when you do this is that how we read it?

Bob Brehm: Our reg we have a category of preregistered and they show up in the list as preregistered in order to end up in the poll book they, depending on the system, but it's usually they review the number of persons who are in this preregistered category who will be 18 by whatever election they're bringing the poll book for and they manually move them from the prereg category to the reg category just to appear in the poll book because that's the workaround that they have now. So it's mostly done in a manual because there aren't a ton of people in this category anyway.

Andy Spano: They would not appear in the poll books.

Bob Brehm: Preregistered normally don't that's why they manually go through and look.

John Conklin: When they say preregistered or pending it's the same operative.

Brian Quail: I think for purposes of the affidavit they wouldn't fit the definition of registered because the legislature gave us that affidavit knowing that it would be used in this category. So to harmonize what the legislature did in making a change to the law in context of the way it currently exists, I think that at least for purposes of the affidavit preregister and register are the same.

Kim Galvin: It would have been easier to have a different form.

Peter Kosinski: Okay.

Brian Quail: There are a lot of things they under different circumstances would be better with a different form.

(Everyone talking and laughing)

Kim Galvin: You know like a driver's permit vs. a license that says it will take effect in 2028.

Peter Kosinski: Okay is there a motion then to adopt this?

Douglas Kellner: So moved.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor? (Chorus of ayes: 4-0) Opposed? That's also adopted. Then we'll move onto the contract for alternative dispute resolution and I believe that relates to HAVA complaints, is that correct?

Todd Valentine: Yes.

Peter Kosinski: Is that something we have to have under HAVA to give people a place to go to resolve the complaints?

Kim Galvin: Correct.

Peter Kosinski: Is this something that we contract out for?

Kim Galvin: Yes.

Peter Kosinski: And we only pay for whatever we use?

Brian Quail: Under this we would only pay for what we use at an hourly rate so there is no expense unless the service is used.

Peter Kosinski: And how often is the service used?

Brian Quail: In the history of the agency it has not been used.

Peter Kosinski: It's never been used.

Kim Galvin: And these were the only ones that were applied to the...

Todd Valentine: That's true.

Peter Kosinski: Alright is there any...

Bob Brehm: So just so you understand the appropriation of money isn't it's an authority to use money it's not an appropriation of money. We will tie some money to the contract just to sign the contract.

Andy Spano: I move we adopt the resolution.

Douglas Kellner: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) Opposed? That is also adopted. We move onto our next item which is the cyber security spending and I believe this is briefly what we discussed at the beginning of the meeting. Is there any more discussion on this? This is again to remind everybody it's to remove \$1.2 million out of the cyber security account into the regular Board of Elections account.

Douglas Kellner: Which we are all doing reluctantly. But we feel we have no choice.

Peter Kosinski: Right. So is there a motion to approve?

Douglas Kellner: So moved.

Peter Kosinski: Second?

Gregory Peterson: Second.

Peter Kosinski: All in favor? (Chorus of ayes; 4-0) Opposed? We're all opposed but we're all voting in favor. That's our situation.

Bob Brehm: There is a July 2019 Secure Election Center report that's attached to that. That resolution was to give you an update on the work that we've been doing.

Peter Kosinski: I'm going to read that actually now that you mentioned it. Is that in my pack?

Todd Valentine: It should be part of the resolution.

Peter Kosinski: Okay then the last one is a Fair Campaign Code matter. This is something else that we don't see a lot of at this agency. There was a Fair Campaign Code complaint made here and under the law we then have to decide whether to refer it to a hearing officer for resolution. I guess this is, I don't know if we want to get into what this is but...

Douglas Kellner: No, I read it.

Peter Kosinski: Yeah I looked at it too.

Douglas Kellner: The report is good, the question is, is it right for a hearing now?

Peter Kosinski: I guess they want a hearing and it can't be resolved any other way?

Kim Galvin: Looking at this late last night, they do, both sides do want it. There is also a criminal component of it that went to Enforcement and there is also a civil litigation currently ongoing that when I looked up the docket number there are several documents that are active, they seem to be litigating this very completely in Nassau County Supreme Court. So I don't know if us holding a hearing would interfere with that or interfere with the ongoing investigation of the enforcement division.

Douglas Kellner: What do you recommend?

Kim Galvin: I would recommend a delay, a tabling.

Brian Quail: I would concur on that recommendation that we not dismiss it but that we hold it in abeyance pending the fact-finding and determinations in the civil litigation being conducted on Long Island.

Douglas Kellner: Well put.

Peter Kosinski: How does everybody feel about that? Okay so we will just put that off and again will be under old business maybe at the next meeting. Keep it on old business we'll have to dispose of it at some point one way or the other so at this point we'll defer until the next meeting. I would like, that's the end of the session. Is there anything else to come before the Board? I'd like a quick executive session if we could to speak about pending litigation.

Lulu Friesdat: I also am here I have requested in writing permission to speak today. I'm Lulu Friesdat and I'm the co-founder of Smart Elections.

Peter Kosinski: Well can you speak...

Douglas Kellner: I have no objections.

1:32:33

Lulu Friesdat: I wanted to follow up with you. A number of us were here at the June 6th meeting and I wanted to follow up with some of the issues that we brought up there. We had

assurances from the board at that point that the security issues with Dominion ICE would be further investigated and you would at least take into consideration the decertification of the machine which is what many people have written and requested. We had over 130 letters at that time and I know that more voters have continued to write to you because we're getting copies of those letters. So I know that there is a pretty strong outpouring from the public requesting the decertification of that hybrid machine. So we wanted an update on that.

Peter Kosinski: Well I think the update is that you can see what happened at today's meeting. There was no action regarding that particular machine and at this point it remains a certified machine based upon your requirements as a state certified voting system and no change in that.

Lulu Friesdat: So I don't really feel that the assurances that we were given that there would be consideration for the new information that we brought last month, I don't have the feeling that that's been taken into consideration. I have the sense that you're just saying, "Well it's just the status quo". But I remember Commissioner Spano saying you know you have these Ph.D.'s, you have these experts here and we have other experts advising us also, but we will take this under consideration. So we had a feeling that there would be at least a reevaluation and I'm not having a sense that that took place.

Andy Spano: Yeah and we did take it under consideration, we thought about it and we didn't vote at this meeting to do anything else but keep the machines as they were as they were approved. We listened very carefully, I thought about it and we thought about it, no one brought it up and said, "Well let's do this or let's do that" that was it. Didn't change my mind. I don't know about the rest of them I didn't talk to them.

Lulu Friesdat: So was there actually a meeting where this was discussed or e-mails went back and forth that we could get copies of?

Andy Spano: No, there wasn't.

Lulu Friesdat: So there was actually no discussion after that meeting? The June 6th meeting.

Andy Spano: Not to my knowledge.

Lulu Friesdat: I see, so there hasn't actually been a reconsideration of the new issues that we brought up at that meeting including...

Andy Spano: No, no, no, no, there was a reconsideration of it we just didn't have a meeting. The meeting was in my head in his head, in his head. If we were going to reconsider it, we would have brought it up.

Lulu Friesdat: Alright that doesn't actually seem like a reconsideration. We had Professor Appel come from Princeton and bring you know his testimony to you and a strong concern.

Andy Spano: We had a lot of that information before that's why I brought it up again and that's why Appel was here and you all were here. That was a big consideration. I listened very carefully that's because I was very concerned about it and I'm sure everyone else on the Board was and the way we would operate then is to say to each other, "Hey we think this is very serious let's go and meet" we didn't think that.

Lulu Friesdat: So then my next follow up question would be, there are specific mitigations that are listed in the report that came from New York's own security lab including putting a phone block in the machine, taking the print cartridge out of the machine, opening the machine so that poll workers can see if the print card is running. Have the four counties that are using Dominion Ice now been appraised of those mitigations those mitigation steps and are they getting any sort of training in conducting those?

Tom Connolly: Commissioner, would like me to address that?

Peter Kosinski: Tom why don't you speak to that?

Tom Connolly: So there were a number of counties that had a primary election last month that were using some or all of the election was conducted using the ICE machine. The Election Operations Unit did provide them, well told each and every one of them had a discussion with them about some of the concerns. We told them what the recommendations were and based on what was able to be done at the time, we provided them with procedures that they should follow to ensure that there was no issue with the machines. As I mentioned in my unit report earlier, we continue to work with Dominion on trying to figure out if there's an easier way to implement certain protections that were discussed in the report that you referenced because some of the things that we mentioned, we also mentioned in that report why they might not be a great idea. As far as like a foam block because then you can cause wear and tear on the machine. As far as leaving the back door open, you now have a physically open machine which is not very good from a perception standpoint. So we were trying to figure out and we continue to do so how do we implement those protections in a way that makes the process,

doesn't really interrupt the normal process to make it easier for the county boards to implement and for the poll workers as well.

Lulu Friesdat: So all four counties, you met with all four counties that are using the machines now?

Tom Connolly: All four but I think only three of them had elections. I'd have to go back and look but yes, everyone that was using the machines in the June primary were contracted by Brendan and myself.

Lulu Friesdat: Okay cause I think there's a new county that just purchased them. Can we get a list of the documents that were provided to those counties and the suggestions that are being made?

Tom Connolly: Yeah I mean we can look at them and make sure there's no security issues but for the most part I think it would be redacted if at all.

Lulu Friesdat: You would redact it?

Tom Connolly: Well I'd have to go back through the things that we sent. In the most part it would be a public document I don't think there's anything in there as far as the documentation that we provide to the counties that we wouldn't want released. So if a lot of it was how to operate the machine or to set up the machines in a way that will allow them to be used safely. So I think that we would probably be able to provide you the entire document. I would simply go back and make sure nothing from a security standpoint was redacted. I'm sorry?

Kim Galvin: More safely. How they would be used, they are being used safely but more safely to address some of the concerns. I think Dominion itself is also considering another change to disallow the auto cast even on the BMD functionality so that it would have to be returned to the voter so there would be no process for it to double vote.

Tom Connolly: That was one of the options that we provided to the counties turning one of their machines into what's called provisional mode that would not allow it to function as a scanner but only as a ballot marking device.

Lulu Friesdat: Oh so they're actually considering that as a standard modification for the machine?

Tom Connolly: Well that's something that can be done now, But obviously if you're as opposed to buying one machine for ballot marking and one machine for scanning, you'd have to buy two full service machines to cover those two separate processes and it would be double expense for a county.

Lulu Friesdat: Yeah it's a very expensive marking device, its \$14,000 for just a BMD.

Tom Connolly: We provide the ability of the county to turn one of the machines that they had spares because some of these counties with their primary elections didn't necessarily have a county wide primary so they may have had some spare machine to use and we just told them if they wanted to they had the option of using one of these spare machines and putting it into provisional mode which forces to function only as a ballot marking device and the ballot would then have to be brought over physically by the voter and scanned into a scanner.

Lulu Friesdat: I see and is that now standard recommendation that Dominion is making on that machine?

Tom Connolly: Dominion is looking to submit a software change that would address some of these issues. I don't think that's something that they would have to submit since it's already possible so that was one of the options that we provided to the counties that were using the machines at the time.

Lulu Friesdat: Thank you for addressing that for me. And then we were interested also in where you were at with the certification process for the Express Vote XL I heard you say they were doing the secondary source code review. Is that correct?

Tom Connolly: Correct.

Lulu Friesdat: So that's with NYSTEC now?

Tom Connolly: Correct.

Lulu Friesdat: And what is the timeline that you're expecting for that Express Vote XL to come before the Board for certification?

Tom Connolly: I have no expectation of a timeframe right now at this point because right now NYSTEC is doing the secondary source code review. They had some questions that arose out of that, that we're trying to get information from the testing lab that did the initial force code review and documentation. So until such time that everything is satisfied to Brendan and my satisfaction, it will not be presented to the Commissioners for approval.

Lulu Friesdat: Three month, six months, one month, nine months?

Tom Connolly: Again, this is dependent on outside organizations to provide us with the documentation and then for our own independent security consultants to feel comfortable and satisfied with that documentation. So I can't give you any sort of a timeframe. I don't foresee it happening anytime in the next few months.

Lulu Friesdat: Is there going to be more advanced notification that that will be on the agenda? One of the things I think that is frustrating for people is for example with the June 27th meeting the NTS system got certified it was literally 24 hours' notice and a lot of people in various election groups around the state are centered in New York City and that's very short notice to make a trip to come up here and be at that meeting. So, when the certification comes up for Express Vote XL, will there be a reasonable say 2 to 3-week advance notice to the public? This is going to be on our meetings, we posted it on your website with advance notice?

Douglas Kellner: Let me answer that. If you have comments about the Express Vote those comments should be forthcoming now and not 24 hours before our meeting. And there are certain public aspects of the testing process that go on so it is from my point of view, it is not productive to get a three sentence e-mail that is not substantive telling me don't certify something because that's not how I make decisions and I suggest my colleagues don't work that way either. That we work off very substantive testing and review process that goes through our regulations. So right now is the time for you to ask for the technical data package that has been submitted for certification. Now is the time for you to ask for the test reports that have been available and to get put on a list for additional test reports as they come in. Now is the time to ask for notification of the public usability testing and what other public tests are there? There's a public usability test, is there any other public testing?

Tom Connolly: I don't believe so no. I mean when we were looking to do in the past I know many of the systems were put out for public testing towards the end of the process, Brendan and I had wanted to put this one out sooner since it is a new system and I would only that with regard to the timeframe as I try to do every meeting give some sort of expectation. I'm never

going to just bring up a machine for certification at a meeting without saying at the meeting before that I expect to do so.

Lulu Friesdat: That's great and I really appreciate you providing me with that information. I do think that I have previously requested to be put on a list for additional reports. I know that I've asked you for those so I can put that in writing again. I would like to be on the list.

Douglas Kellner: And I just want to make it clear that I have given you that outline of what documents are produced in the certification process months ago. That this isn't the first time you've heard from me that this is what you need to do if you want to be involved in the certification review process.

Lulu Friesdat: I thought that I had requested that so who needs to receive that request?

Peter Kosinski: John Conklin, he's our public information person.

John Conklin: Go to INFO@elections.ny.gov.

Lulu Friesdat: Okay so I'll make that request. And then we were concerned about the Robis poll books they're running on the Aces laptops. There was a report that came out in 2018 about half a million Aces laptops were compromised with malware and it was definitely something that we were concerned about. Was there any investigation done of the Robis E poll books and whether or not they're running on those Aces laptops?

Tom Connolly: Yes, and the answer is no they're not.

Lulu Friesdat: They're not running on the Aces laptops?

Tom Connolly: Correct.

Lulu Friesdat: Perfect, thank you so much I appreciate knowing that. The two other issues that I wanted to bring up some of the people from disability communities that we're in touch with have been asking for years for the full face ballot provision to be eliminated and I went back into research and there was actually a report from the Brennan Center in 2005 which was submitted to the State Board of Elections that the full face ballot provision actually is not written into the statute. The Brennan Center did a report saying this was actually a misinterpretation.

Douglas Kellner: I'm very familiar with the report and we don't agree.

Peter Kosinski: We don't agree. That's a misstatement by the Brennan Center in our opinion. They misinterpreted the law.

Lulu Friesdat: Wow, okay.

Peter Kosinski: So we did go through that.

Douglas Kellner: Actually, I think she's also mischaracterizing the Brennan Center, you and I had this discussion many years ago, we're very familiar with what's in the report. I have made public recommendations to the legislature on handling the law and, of course, this year finally there was a passage of the ballot...

Brian Quail: Voter Friendly Ballot Act.

Douglas Kellner: Act which is the legislature's last word on the subject. But you know now is not an appropriate time to be raising all these issues.

Lulu Friesdat: What is the appropriate time? This is the public meeting of the Board of Elections so I have sent much of this information through letters. When you say...

Douglas Kellner: Not about the full-face ballot. That's the first time I've heard that from you. Okay.

Peter Kosinski: Go ahead you have one more point.

Lulu Friesdat: Yeah so I think it's great to hear that you had presented information to the legislature about the full face ballot and will be interested to hear what your input is because the representatives that I've spoken to from the disability community it's one of their top concerns. They're very frustrated about it and it affects everybody because you can't, there's a lot of voting machines that were not allowed to use in New York State because of that provision. So I think it's something that is really important to take a look at especially with respect to that communities needs being met. So I look forward to finding out what your thoughts are on that Douglas. And then the other issue that I'm concerned about is the lack of transparency with the audits and the recounts. So for example, I requested from the New York

State Board of Election to video tape the audit of the 45th City Council District race. I had credentials from the candidates to be there.

Kim Galvin: We don't do that.

Lulu Friesdat: But the legal counsel for the New York City Board of Elections was not allowing anyone to video tape any of the audits. They're not allowing anybody to tape of the recount in Queens. That's an historic recount. If we want to look at other recount legislation for the state which is going to be put forward in the next legislative session, it would be so helpful for us to have had video tape of that recount so people could look at it and see what is it like? But because the legal counsel for the New York City Board of Elections is being so what feels obstructionist in that regard not to allow just journalists, people who are trained to go in there and videotape to do that then we've lost that opportunity. So I wanted to know you could help facilitate a more transparent relationship in those situations.

Peter Kosinski: Have you raised this with the City Board of Elections?

Lulu Friesdat: I have repeatedly yeah.

Peter Kosinski: At a Board Meeting?

Lulu Friesdat: I've been back and forth with Valerie Vasquez and with the New York City Counsel Richman, those are the people I've been in contact with.

Peter Kosinski: But you haven't gone to a Board meeting to articulate this?

Lulu Friesdat: Actually I haven't had time to go the Board meeting since the issue came up. I was testifying in Florida at the US Commission on Civil Rights and various other obligations.

Peter Kosinski: Fair enough I just think it would be more appropriate to raise that with their Board then this Board. I think the issue is a City issue which apparently it is, I think it would be appropriate to raise it with their Commissioners at their Board meeting and see what their reaction is. I don't know what their policy is frankly. I don't know how they handle situations like this but this seems like it is something to raise with their Board other than this Board.

Lulu Friesdat: I will do that. I think it would be great if New York State Board would put in just...

Peter Kosinski: I think what would be helpful to us is if you raise it at a City Board Meeting and they gave you an answer, we could then maybe look at that. But I think in this context for us to just weigh in on something that you haven't even raised with them yet probably isn't even appropriate. It's better if you raise it with them first to see what their reaction is and then if you're still dissatisfied, then maybe we can talk about it. But to raise it here first just doesn't seem appropriate to me. You need to raise it with them first to be fair to them so they have a chance to react first.

Lulu Friesdat: Okay I will raise it. I have raised it repeatedly as I said...

Peter Kosinski: No I understand but you didn't raise it with the Commissioners so I think that would be appropriate.

Lulu Friesdat: Well it was a very time sensitive issue because of the recount happening and the recount just ended this morning. So we've lost an opportunity.

Peter Kosinski: Fair enough. I gotcha.

Lulu Friesdat: Okay thank you very much.

Peter Kosinski: Thank you for coming. Okay I don't think we have anything else unless we can set a next date but I do want that quick executive session if we could afterwards about the litigation. And other than that we just have to set a board meeting.

Bob Brehm: So it would be helpful, based on the anticipated calendar if we could pencil in a scheduled WebEx meeting or in person meeting just to deal with any prima fascia issues from the Certificates of nomination last week of August. It's only a WebEx meeting if we need to have one if there's a prima fascia with any it's for the judicial submissions. But an in person meeting anytime in mid-September.

Kim Galvin: I'll be traveling the state.

Peter Kosinski: How about the 28th?

Todd Valentine: In August?

Kim Galvin: Doing math.

Andy Spano: 28th of August?

Peter Kosinski: August 28th.

Bob Brehm: So 12:00 noon WebEx? We can post that out there.

Peter Kosinski: Whichever way you want to do it.

Bob Brehm: Or for those of you to come.

Peter Kosinski: I mean if you want to have a full meeting I'm okay with that. You don't think we'll have anything else going on?

Andy Spano: I would prefer not,

Peter Kosinski: You would prefer not. So the 28th.

Bob Brehm: And then anytime the middle of September. We need to have a meeting by December 13th in order to certify the election results and then how do you want to handle September, October, November is certainly...

Kim Galvin: Let's all go the hearings on public finance.

Bob Brehm: And then we want make sure we free up some time to go to Kim's hearing.

Douglas Kellner: So you want us to put in our calendars now the 12th and the 13th of December? The thirteenth is a Friday, 12th is a Thursday.

Bob Brehm: You have to meet not later than the 15th which is Sunday that means we've got to at least Friday.

Todd Valentine: The 12th would be better.

Bob Brehm: The 12th is better.

Douglas Kellner: Alright so we're going to block out the 12th right now...

Andy Spano: 12th of September?

Kim Galvin: December.

Brian Quail: We're working backwards.

Douglas Kellner: The 12th of December just because that's required. It's in our calendars and we'll schedule around it.

Todd Valentine: It's gotta happen.

Peter Kosinski: Well how about this then, we'll do the 28th meeting I mean can we talk about September then or do you want to...

Kim Galvin: If necessary. You might not need it.

Peter Kosinski: September is not a great month for me, I'll do one if we have to, if not we'll definitely do one in October if we don't do September.

Bob Brehm: It's up to you when we want to meet. That's why I laid out...

Andy Spano: The sooner we pick these dates...

Bob Brehm: The 28th is good for us.

Douglas Kellner: The Election Commissioners conference is September 2nd to September 5th.

Peter Kosinski: Right it's the conference up in Saratoga.

Bob Brehm: 3rd through the 6th. Labor Day is...

Peter Kosinski: So whatever you want to do.

Bob Brehm: So, the 28th will allow us to certify any races that we have to certify for the general.

Peter Kosinski: What are you talking about?

Bob Brehm: That will allow us to...

Peter Kosinski: Oh we're still in August okay.

Bob Brehm: This August 28 day is fine. Any time that you want to meet September, October, November is up to you. You want to divide them, hold two during that period of time whatever number you want.

Peter Kosinski: Well do you want to talk about it or do you want to do it now?

Douglas Kellner: I'm flexible.

Andy Spano: I'd like to do it now.

Peter Kosinski: Well it would be good if I could push it to the first of October but if we can't I'll do September. I'll do what we have to do.

Andy Spano: I could always call in, which I prefer not to do.

Gregory Peterson: I'm good with the end of September.

Andy Spano: End of September is okay with me.

Peter Kosinski: I can't, well bad for me but again, I'll do it if we have to.

Gregory Peterson: We could do the first week in October if you want to.

Peter Kosinski: I think that's bad for Andy.

Andy Spano: Let's do it, I'll...

Peter Kosinski: How about we pick the third of October?

Andy Spano: Let's just do it, get the date you guys want and I'll work it out.

Peter Kosinski: How's the third of October? Can we try that?

Douglas Kellner: Now wait a minute, let me just check on that.

Andy Spano: That's the only date that's not good I can't even call in on that date.

Todd Valentine: The 2nd or 1st?

Kim Galvin: These are the busiest retired men I've ever seen.

Douglas Kellner: Alright that works that week's okay. I'm not available the 8th.

Peter Kosinski: Let's do the 2nd of October? Second of October? Okay let's do the 2nd of October it will be a full Board meeting.

Bob Brehm: The other one would be whatever we need to clean up the ballot.

Peter Kosinski: Okay.

Bob Brehm: And we're going to pencil in December 12th also. Well that's panned in that's even better. So panned is October 2 and December 12th pencil.

Andy Spano: Pending is October 2?

Bob Brehm: No panned. Penned. In ink.

Peter Kosinski: And if something comes up let us know.

Bob Brehm: Well I don't know so little that we'll come here for judge in the first place. There might be nothing that's why it's easier to cancel a meeting than it is for us to come to you at the last minute trying to pencil it is.

Kim Galvin: Saratoga is nice in the summer.

Brian Quail: Too much traffic.

Kim Galvin: No, the track's over.

Peter Kosinski: Alright I think we're done. I'll make a, well...

Bob Brehm: What room is? So they can take the cameras down to do executive session.

Peter Kosinski: Yeah and I don't care who comes to it I just want to talk about this.

Douglas Kellner: Well, then let's just go...

Peter Kosinski: I'd do it right here.

Kim Galvin: No, the cameras. Not with the cameras.

Todd Valentine: We could just go to the law library next door.

Brian Quail: We're set up in the law library.

John Conklin: Motion to adjourn?

END