

## Table of Contents

Board of Commissioners Regular Meeting.....	1
Approval of Minutes.....	2
Unit Updates .....	2
a. Executive .....	2
b. Legal.....	4
c. Election Operations .....	11
d. Public Information.....	12
e. Campaign Finance.....	12
f. Information Technology .....	17
New Business.....	20
a. Vote on petition rulings.....	20
b. Vote on Resolution to Adopt Amendment of 6214.0 Title 9 NYCRR.....	21
c. Discussion of Letter from NYC re: Closing Out Campaigns with Large Debts .....	21
Executive Session .....	28
End.....	28

## Board of Commissioners Regular Meeting

[BEGIN AUDIO]

**DOUGLAS KELLNER:** Good afternoon everyone. My name is Douglas Kellner, co-chair of the State Board and we'll call his meeting to order.

**JAMES WALSH:** Jim Walsh

**EVELYN AQUILA:** Evelyn Aquila

**GREGORY PETERSON:** And Gregory Peterson.

**DOUGLAS KELLNER:** I ask the staff to introduce themselves please.

**TODD VALENTINE:** Todd Valentine.

**KIMBERLY GALVIN:** Kimberly Galvin

**PAT CAMPION:** Pat Campion

**TOM CONNOLLY:** Tom Connolly

**GEORGE STANTON:** George Stanton.

**BILL MCCANN:** Bill McCann

**ELIZABETH HOGAN:** Liz Hogan.

**ROBERT BREHM:** Bob Brehm

**DOUGLAS KELLNER:** And our guest?

**AIMEE ALLAUD:** Aimee Allaud of the League of Women Voters.

**BOB WARNER:** Bob Warner, Election Operations.

## Approval of Minutes

**DOUGLAS KELLNER:** So welcome to everyone. First order of business is to approve the minutes of June 13th. Is there a motion?

**JAMES WALSH:** Second.

**DOUGLAS KELLNER:** Second?

**EVELYN AQUILA:** Second.

**DOUGLAS KELLNER:** All those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS KELLNER:** Opposed?

[SILENCE]

It's approved. The unit updates, we'll start with our executive directors Bob Brehm and Todd Valentine.

## Unit Updates

### *Executive*

**TODD VALENTINE:** The biggest issue that we're facing now is the one that has been playing out in the media of course, the negotiations between the two largest unions. And obviously that did impact all state agencies, but our agency was among the first wave to issue, we were required to issue layoff notices to a number of our targeted appointments. They were eventually rescinded, but those still remain on the block

## NYSBOE Board Meeting July 28, 2011

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in the event that the union does not ratify the proposed contract. And the second union who we did not send notices out because we did not get to that point. So that still hangs over our head.

The lack of spending or approval for spending on the state level by the Division of Budget continues to be an issue. Our lease while we fully negotiated it and our host agent, the Office of General Services, supported our lease and negotiated it, the Division of Budget is not approving any outside leases until they do a complete analysis of all the existing space. It has been pretty much primarily the Albany area because that's where most agencies are focused.

**EVELYN AQUILA:** Pardon me Todd, but how many times have we moved in the past few years.

**TODD VALENTINE:** Well just once in the last ten years, so we haven't moved that often.

**EVELYN AQUILA:** It seems that often to me.

**TODD VALENTINE:** This will be our fourth building, our fourth location within the life of our agency. So that continues to be a problem to the extent that - - we are moving to extend our hold over lease, which is expiring at the end of the month. So these things just kind of hang over us.

Our briefings from the Division of Budget on to next year's budget continue to be doom and gloom. We make the point every time we speak with them and Bob is very eloquent about this is, is that we are heading into an extremely long year that will start in January really with the Presidential Primary in April. We have no idea at this point if the primary will move from September to something else. Whether it moves or not it does not matter. Our election year will continue right after the April primary. You know we are continuing with the rollout of the new machines, you know, none of that has really lessened.

It is not falling on deaf ears, but you know it is not - - I suspect that they'll make the approvals when they need to make the approvals and that seems to have been the pattern when we are absolutely desperate to get something. Oh now we will give you the money, but it's always jumping through those hoops is getting tiresome. We constantly have to ask and not beg for money, but you know and next year it is just not going to be any easier.

And of course we continue to, you know, try to get more and more things are heaped upon the agency. The latest ethics issue, while it is a minor modification than the campaign finance program it is still another obligation that the agency needs to undertake.

We'll get there, but you know it is hard on the staff and it is hard on, you want to say morale because, you know, there are a lot of -- a number of the employees know that they are working with a sword over their necks -- Those are not happy people and it is hard to make them happy because there is just nothing you can do. They're in a bad situation so we are trying, but that is our big - - I think that is the biggest challenge we are facing right now is, you know, just getting through that and still getting everything done.

## NYSBOE Board Meeting July 28, 2011

---

**EVELYN AQUILA:** It is really scary to lose your job.

**TODD VALENTINE:** Oh yeah.

**ROBERT BREHM:** I think the staff did a great job because whether you were on the list or not on the list or sort of the people who had to review and come up a plan, it wasn't a happy period of time for anybody and it was tense, but everybody still got their work done and I think they did a great job, you know, with all the turmoil. What are the rumors? What are they hearing on line? What aren't they hearing? It was not a pleasant time for many people and when we heard the news that there was a settlement for CSEA, it took very few seconds for it to go from the blog to everywhere and on the weekend when we heard the news that PEF settled, it didn't take long for that to get out.

And I think everybody at least at that point felt a little bit relieved, but it is not over. I know this week, you know, the message is still the same. We have accomplished the budget issues of the year and the legislative issues of the year and now they are focusing on the operational efficiencies and what are the risks that the agencies face from an internal control or whatever the issues are that may impact our ability to get the work done. And from our perspective, you know, there are the unknowns of what the political calendar will look like and the work that a presidential election and a state election year, an even year, does to us.

But you know we have our other issues from a technology point of view that are still, you know, out there. What changes do they make to campaign finance? We have a very old system, you know, our NYSVoter system is starting to age out and George reminds us, you know, we had the money from the federal government to put it in place, but it is coming up to its useful life and what is our plan to get beyond the useful life? So, you know, will we be able to - - is the useful life of our system going to at least get us to the point where the state might have some money again if we have a plan to replace it?

But all of those are items that we have to start preparing for and articulating because now is the preparation work for next year's budget. So they are all on our list of things to come up with and I don't think we have easy solutions and I think everybody would just have to be more creative of how we obtain efficiencies and still get the work done that we need to get done, but those are the big issues. The other are I think are in our report, which are the other routine things that we work on.

**DOUGLAS KELLNER:** Thank you. We'll turn to the legal report, Kimberly Galvin.

### *Legal*

**KIMBERLY GALVIN:** Thank you Commissioner.

Basically we set out in our written report what has been keeping us busy. There are just three main issues that are worth mentioning in the open session. But the Department of Justice, I will smile at them, is

## NYSBOE Board Meeting July 28, 2011

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keeping us very busy on three fronts. And there's a lot of new people with the Department of Justice that are now getting involved in New York, so it is not the same old faces. But we have the NYSVoter issue with New York City, which they are constantly monitoring and calling us on. We have the most recently called special election down in New York City, which there are often every day or every other day calling and monitoring us on. And then - -

**DOUGLAS KELLNER:** You are talking about the special election for Congress.

**KIMBERLY GALVIN:** Yes. And then we also have and they are still requiring some information that relates back to the 2010 elections, which we are trying to get a handle on. And most importantly the MOVE Act litigation in which we had the conference with Judge Sharpe where he clearly told us that if the Legislature didn't act he would act. So they have been very busy because all of those various parts of the Department of Justice are pretty hands on in their monitoring and require fairly quick turnaround. In addition we've been dealing with the local boards of elections and the candidates and the public regarding the petition filings and the objections and ballot access issues. There are quite a few of those. And we have also worked with the operations unit to review the filings that we've had here and in the lawsuits that may or may not go along with any of those things. That's really what has kept us busiest and I will go into some of those matters in more detail in executive session, but for purposes of the non-litigation strategies. There's also updates that we will touch on, on the double vote, over vote issues. Those cases have - -

**DOUGLAS KELLNER:** Which are close to settling, right?

**KIMBERLY GALVIN:** Which we will talk about more in executive session.

**DOUGLAS KELLNER:** Kim, there were two things that I think we should probably talk about that would be helpful because a lot of the county commissioners monitor this. Is that you talked about data with respect to military voting for 2010 elections and I think we're probably talking about the same thing. That there was a report that one of the advocacy groups for military voters had published that had cited data that showed that New York was really an outlier in terms of the number of military ballots that were returned to county boards of elections, but not actually counted on Election Day. And that the numbers in that report which I believe the Department of Justice cited when they were doing the informal conference with Judge Sharpe seem to be incredibly wrong.

**KIMBERLY GALVIN:** They actually just mentioned it in the conference with Judge Sharpe, that that had come out. And they also said they were not giving it much credence because from their review of it the number seemed erroneous as well. So they are not really paying that too much attention.

**DOUGLAS KELLNER:** So I had sent around a memo asking for us to do research on that. Is that - - Tom Connolly is doing that project or are you doing?

**TOM CONNOLLY:** I can provide you with some kind of data - -

## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** Do you know what I'm talking about? The e-mail that I sent asking, you know, basically saying hey this report has got to be wrong, but if it is right we should be finding out what is going on here.

**TOM CONNOLLY:** Right. I think that - - at first glance when it first came in we reviewed it and even looking at some of the numbers namely the number of military voters that they had New York State as having was way off. And also if you look at the report there are times when they will talk about the overall MOVE- affected voters, not just the military, but the special federal from a large number and then they will talk a ballot return rate of just the military and exclude the special federal voters so that really skews, you know, the return rate, the percentages.

**DOUGLAS KELLNER:** Well I know everybody is busy, but is there going to be a response to that? Is somebody going to put a couple paragraphs in writing to basically, you know, provide more accurate information that would refute that report?

**TOM CONNOLLY:** Sure.

**ROBERT BREHM:** Well we are still - - one of the questions that Justice has with counsel, with Kim and Kim through the staff are outstanding questions related to last fall's statistics and Kim has been working with others including Tom to get those answers. Tom has and Kim have been working to get those answers and once we get all of that it will help us to provide a clearer picture to DOJ that is based on real numbers not -

**KIMBERLY GALVIN:** They are not focused on that report as much as they have a habit now of going to the counties directly and the counties invariably are giving them different numbers than they give us, invariably, without excuse. They tell us they mailed them on time. They tell the Department of Justice no we didn't. They say there were a hundred. They tell the Department of Justice there were 128. And it has really become an issue with them and I think the Department of Justice has come to the same conclusion that we are that every time you ask them the question they give you a different answer. So it has become a real problem.

**ROBERT BREHM:** And how you ask the question. If you ask UOCAVA voter including military and special federal, it is slightly different than if you ask it just slightly different. You know they will say yeah we sent the e-mails out on the 13th of this month and then you really look at the detailed information you find out well those are applications you got after the first wave of information that had to go out in the first place. So Justice here is a little bit and they got a little bit excited, which they should. We all get a little bit excited and then when we track down the fact, it is like oh well that is not bad after all because you got it late. I mean you got it after the first shipment went out and both the MOVE Act and the state law says whatever you had on this day you have to get out by the deadline. Anything you get after this date you have to send it out as soon as practicable and that is what they did.

## NYSBOE Board Meeting July 28, 2011

---

**KIMBERLY GALVIN:** So a perfect example is this special election in New York City. The Department of Justice was told by New York City that we are assuming Brooklyn even though they said the Bronx.

**DOUGLAS KELLNER:** Well DOJ told you that New York City told them, but we do not know exactly what New York City told them.

**KIMBERLY GALVIN:** Right. But they give names, they give times, I mean they are pretty good with their details. They say the ballots were mailed last Monday.

**ROBERT BREHM:** In the Bronx, right?

**KIMBERLY GALVIN:** Whatever and now we cannot - - we are on top of it. We will not get the information from New York City so - -

**ROBERT BREHM:** We have a survey out to New York City that we provided instructions as to how and reminded them of the deadlines, how to use the tool for the electronic reminder and the fax, samples of everything they should send out. Todd had a conversation with them one day when I was not around. We had it the next day a follow up and we have the spent the last I do not know ten days making sure that everything is in place to meet the deadline. And they assured us up to yesterday everything is in place to meet the deadline.

**DOUGLAS KELLNER:** New York City.

**ROBERT BREHM:** New York City.

**EVELYN AQUILA:** Every five boroughs.

**ROBERT BREHM:** Well no, only the special election in the Ninth Congressional District, which is Kings County and Queens County, a portion. We spent last night making sure we had copies of everything, all of the ballots they had depending on what borough of New York City for all the specials, sometime between last Friday and Sunday. So they had the paper ballots to be able to do the mail transmission and the assurance I believe from Tom is the electronic should happen today.

**KIMBERLY GALVIN:** Should, lots of shoulds.

**DOUGLAS KELLNER:** So so far New York City is in full compliance.

**KIMBERLY GALVIN:** That is what I tell the Department of Justice. I say we have absolutely no reason to believe that there is not full compliance that is going to occur and up to this date everything seems to be going smoothly. That is not to say they are going to call and New York City is going to say oh there was a printing error and we did not get it or whatever it is going to happen.

## NYSBOE Board Meeting July 28, 2011

---

**ROBERT BREHM:** And Dawn and Pam have done very - - and we have had a lot of conversations with them. They have been working hard to make sure that they are prepared to meet the deadline in our conversations with them.

We have worked with SCYTL, we have worked with Bob Smith from N-Tier, we have worked with Steve Ferguson to make sure all of the records for all the voters that require by fax or by e-mail are up-to-date and have a process going forward for all new applications and that we are testing out the new system when it gets launched today. For all those voters that they have the e-mail address, as soon as the ballot is uploaded the system will send the e-mail out so that the staff of the Board of Election will not have to send out separate e-mails to them. And then we will have proof that the messages went out. We put a survey - - in the communications that Todd and I sent out there is a survey that they have to give us as to how they met the 45 day deadline and then there is a post election survey of what came back and was it counted or not and what were the reasons if it wasn't.

And that went for all the special elections, not just the Ninth Congressional, because we figured at least we wanted to be on top of all of them with regard to the state law, but we knew that Justice was mostly concerned with the federal congressional district.

**KIMBERLY GALVIN:** Until right now. [LAUGH]

**ROBERT BREHM:** Well they keep asking. No matter what we do, they ask.

**KIMBERLY GALVIN:** Yeah, it is new people. That is good, but they're really on it.

**DOUGLAS KELLNER:** And it sounds like we are doing everything - -

**KIMBERLY GALVIN:** We are doing everything that we can.

**DOUGLAS KELLNER:** I would appreciate it if we follow up on the data issue so that we are ready to respond to that report which, at least in national voting circles has gotten some circulation and they keep citing it against New York and we ought to correct the data errors that were generated in that report. All right, thanks.

**ANNA SVIZZERO:** In defense of the boards, I think you know we talked about this at the staff level too; the numbers that they cite as being disproportionate between ballots that go out and return ballots is because the boards are reluctant to eliminate voters from that military file, in light of the current environment. So there may be people who have some dated information there, but the boards if they are erring at all they are erring on the side of enfranchising those people and it is possible this ballot might catch up with them at some point. So there needs to be a revisit of the list maintenance so that that information is as current as possible and that will narrow the gap between what goes out and voted ballots that actually come back. That is why that - -



## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** The most troubling statistic was the one that says that the rate of rejection of returned ballots was six times higher in New York than the national average. And that just - - that number just struck me.

**ROBERT BREHM:** The November general election survey, as we have learned no matter what survey we ask, if we ask 62 counties the same question they interpret the question differently. What was returned is a big example. At the federal level because a lot of the states complained about the dead wood of applicants, the federal government and the MOVE Act went back to the application is good for one year. New York, you know, when the law had changed, went to the federal application is good for two federal general elections, a longer period of time.

**DOUGLAS KELLNER:** Which is four years.

**EVELYN AQUILA:** Which is a long time.

**ROBERT BREHM:** Could be five depending on when you applied.

So when New York adopted its MOVE Act it did not roll back to the federal standard. It said we would have a broader approach. So it is helpful now and it is in the follow up survey asked better - what came back undeliverable? Can we look at - are those new applications or old applications? Maybe we want to go back to the federal point of view. But it gives us a bad number if you compare us to other states because we have a lot more returned. For everyone that is returned undeliverable there are other people in that extra three-year category that are really being enfranchised. So we are not getting credit for having a broader approach, we are getting a negative connotation because some of the broader category of people are dead wood and come back undeliverable. So I think we have to look at improving our question so that we can at least get credit. If we had only gone to one year there would be 25% more people that would not get a chance to vote as opposed to the 12% that comes back undeliverable.

**TOM CONNOLLY:** I think the important data is not what comes back and is not counted, it is what comes back voted and is not counted.

**DOUGLAS KELLNER:** Right. But is it possible that our interpretation of that question was different than from what other states had and that is why our number was six times the national average?

**TOM CONNOLLY:** Well if you want to use the example, I mean the example I would use and it is not the exact same situation, but the 26th Congressional, you know, we followed the same protocol that we did with this congressional now as far as these pre-election surveys, the post election surveys and taking a harder look at the data. And in all the seven counties that were involved, the rates were far better than let's say our general 2010 rates. So there was an improvement. There was only one kind of outlier from a what was returned and not counted standpoint, one county and when we followed up with them, let's say they had gotten back 33 ballots, 30 of them were undeliverable because they were in the process of

## NYSBOE Board Meeting July 28, 2011

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changing over some systems and as a matter of just, you know, in the hopes of enfranchising more people, you know, they left those people on the list so they sent out ballots to them. So 30 of the 33 that came back and were not counted were just undeliverable.

**DOUGLAS KELLNER:** So that should not have been in that number, correct?

**TOM CONNOLLY:** Right.

**DOUGLAS KELLNER:** But that means that there were three that came back and were not counted.

**TOM CONNOLLY:** Right.

**DOUGLAS KELLNER:** What would be the reasons for that?

**TOM CONNOLLY:** We are trying to get more information on that and even like with some of the questions that we have been asking with the DOJ has asked us to find out from certain counties, for example we had one county that had to explain three ballots that came back late. And one of them was, it was a special federal voter from - - who mailed their ballot in from the UK, mailed it October 22nd, you know, almost a week and a half before the general election, did not put enough postage on it, it got to their board in February of this year. You know, so I mean it was not - -

**DOUGLAS KELLNER:** All right, but there is a good reason, it is clear, inadequate postage.

**TOM CONNOLLY:** Right.

**EVELYN AQUILA:** Right.

**ROBERT BREHM:** Todd and I at the January conference for the Association having suspected some of this from what we saw from the survey results in last year's general, we reiterated all the steps in the current statute that they should be taking when they get something back undeliverable to, you know, the special federal has a specific procedure to follow and the military has a different procedure to follow to actually do list maintenance and to send out the communications and to stop sending them ballots, which is what our statute says so that only those people that you have a valid application should be receiving whether electronically, by fax or by mail - - a ballot. And that way, you know, (1) do your list maintenance, (2) we're doing better tracking or asking the questions better and we are following up with them when we see an abnormality or something that we just do not understand to get a better handle. And when Justice asks Kim, Kim asks us then we, you know, put the call out to the counties to get the information so that we at least have a better understanding you know. Go get the applications, go get us the envelopes, why are they coming back late?

## NYSBOE Board Meeting July 28, 2011

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**DOUGLAS KELLNER:** And I think it would be helpful if we could break down the statistics so we can do a one or two page response to that report. And I think from our own internal management, you know, knowing how many ballots come back with inadequate postage and are late because of inadequate postage, well that is at least a relevant piece of information to have so that the legislature can evaluate whether or not they should do some other procedure.

Okay, well thanks very much. So Anna, you are up next on election operations.

### *Election Operations*

**ANNA SVIZZERO:** Thank you Commissioners. We do not have much to add aside from what is on our written report. We did process 78 petitions for the position of judicial delegate or alternate delegate that needed to be filed here. A lot of those are filed at the county board so we are in the process of collecting the filer information from each of the county boards so that we can prepare the official roll calls for any state committee meetings that have to happen and for the holding of the judicial conventions in September. So we are efforting that as we speak.

We do not have any news to report on the certification effort other than what is in our monthly report. We are still waiting for hardware and software from Dominion. We are expecting that momentarily. So we do not have any news to report on that front either.

We have been working with counsel's office. We have been working, you know, with whoever asked us to on the various lawsuits, working with county boards, fielding a lot of questions from them and not that we are going to be building our ballots, our team has been helping the county boards on that front as well. And I do not have anything to add.

**DOUGLAS KELLNER:** Anna, on the ballot usability issue. I think the feedback we are getting is that the county boards really have taken this issue to heart and that they are much more aware this year than they were at this time last year of the need to pay attention to ballot usability and ballot design issues and also Phoenix Graphics has taken a much higher role in terms of consulting with the counties on usability issues now as well, right?

**ANNA SVIZZERO:** I think you are right. I will leave it to Joe. Joe has been handling it on the front end, so.

**JOE BURNS:** I think that is correct. What I was going to add to what Ed said was since the last board meeting we had our workshop here on June 20th. I believe Anna and I and Bob were there the whole time. Other people, Bob and Todd stopped in at different points during the day. We had a couple representatives from county boards of elections as well as someone from the League of Women Voters there. I think in terms of what we got out of it, I think it is fair to say we had a pretty good grasp already on a lot of the principles that were articulated by the Usability Works trainers and it is something we will continue to take a look at with the counties over the weeks and months ahead.

## NYSBOE Board Meeting July 28, 2011

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**DOUGLAS KELLNER:** And as you design the primary ballots, you are actually working with them now, right? All right, well that's good, thank you. So public information, John Conklin.

### *Public Information*

**JOHN CONKLIN:** Good afternoon commissioners.

I do not really have anything to add to our written report other than to just encourage the counties to continue to file their quarterly reports. I do not know if you have anything Tom.

**TOM CONNOLLY:** The only information I will put out there is that the affidavit ballot sample that we have provided, you know, we are currently having that translated as well. So hopefully we will receive those translations - -

**DOUGLAS KELLNER:** That is the sample, right? It is the official form. It is not optional. [LAUGH]

**TOM CONNOLLY:** We will be getting those translations back probably within the week and we will provide those as well.

**DOUGLAS KELLNER:** I understand the frustration of some of the county boards because they have a supply of the old forms, but the legislature changed the law and this is now the new form that complies with the law. So this is the form everybody has to use.

**EVERLYN AQUILA:** This goes on in business and every place all around the world. They change a form and you are stuck with the millions of other pieces of paper that you have left.

**DOUGLAS KELLNER:** All right well thank you John. We will turn to campaign finance, Elizabeth Hogan.

### *Campaign Finance*

**ELIZABETH HOGAN:** Thank you Commissioner.

Just to reference a bit to the written report that I provided in your packet. As customary I give you the numbers that we work with in campaign finance and you can see for yourself that we have been busy in terms of opening and closing committees and telephone calls and all of the other various and sundry responsibilities that go with maintaining basically 11,571 registered committees. The other thing I wanted to point out was this past week was the five-day letter for the non-filing of the July periodic was sent out. We had 1,606 individual non-filers, which resulted in staff having to coordinate with IT to send out 4,818 letters. Now that is delivered by a combination of certified mail and regular.

**DOUGLAS KELLNER:** Four thousand.

## NYSBOE Board Meeting July 28, 2011

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**ELIZABETH HOGAN:** 4,818.

**BILL MCCANN:** Pieces of mail.

**ELIZABETH HOGAN:** Pieces of mail, 1,606 non-filers, but because the way the statute is written with multiple notifications, it results in a huge mailing. So that was a large effort. I also updated you that we - -

**DOUGLAS KELLNER:** It is not easy to automate that process.

**ELIZABETH HOGAN:** No it isn't.

**DOUGLAS KELLNER:** So people should understand that it's a lot of worker time that goes into doing that.

**ELIZABETH HOGAN:** It is and we coordinate with IT. They print off in terms of the certified mailings that have to go out, you know, they print off the certified mailers and there's a lot of coordination of getting the five day letters ready to go and sent out.

**GREGORY PETERSON:** How many phone calls does that generate?

**ELIZABETH HOGAN:** It generates a lot. I do not have the stats for that yet, but we are still taking them. As a result of those letters - - those went out Friday. I think we have almost 275 filings on Monday as a result of people getting those letters and then calling on Monday. So it does - - the five day letter, it is statutorily mandated that we send it. It does result in a significant number of people who file luckily because if you start with 1,606 you do not want to take 1,606 to an order to show cause obviously. So we try to get as many people as we can.

**GREGORY PETERSON:** Cut it down to a mere thousand.

**ELIZABETH HOGAN:** Yeah, well we try. [LAUGH]

**BILL MCCANN:** We provide the specific counties with a list of their filers and say could you please, you know, they know these people personally and we try to - - and they are very helpful and try to shrink the ultimate list.

**ELIZABETH HOGAN:** Yeah, they are, they're very good. And also, you know, we had 25 seminars this year. They were well attended and we certainly feel that they were worth all of the work that the staff has to go through to get those things on. What is in your packet today is the resolution as well as a copy of text for the adoption of the amendment to Regulation 6214, which is the recalculated contribution limits that appear in that regulation. As soon as you take care of that order of business and file and sign the certification that will go back to the Department of State and be published in the register and those limits will then be in place.

## NYSBOE Board Meeting July 28, 2011

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We are awaiting still the Governor's signature on that ethics bill, which as Todd alluded to earlier in his update will provide campaign finance and enforcement additional responsibilities. One of the things that it is probably going to do is - - there is probably going to have to be some interactions. Bill and I are going to have to sit down with George because there is definitely going to be some IT effects.

**DOUGLAS KELLNER:** Liz, could you summarize for us the new functions.

**ELIZABETH HOGAN:** In the bill?

**DOUGLAS KELLNER:** That's right.

**ELIZABETH HOGAN:** Well the bill, first of all it requires that by the beginning of the year we write and actually get out a new regulation relative to independent expenditures. Currently the making of independent expenditures as we see it currently, there is a type of committee that exists for the making of independent expenditures. Those kinds of committees are subject to the same requirements that all other types of registered committees, be they single candidate committees, multi candidate committees, PACs or whatever, they are required to do the same things. They have to register and file in the same way. The legislature has determined that for some reason they want us to write a regulation and submit it for adoption that addresses independent expenditure committees specifically in terms of the requirements for those committees. So we've started that. I mean we have assigned - - this morning actually I talked to two of the staff about getting information that allows us to start thinking about what we have to put into that, but it is very difficult because we are going to have a reg that only addresses those particular types of committees and then all other committees are not going to be covered in the reg.

**BILL MCCANN:** There are other unique dynamics.

**ELIZABETH HOGAN:** Right. There is a lot of that. In terms of the other responsibilities, there is a new provision in this ethics bill that provides for an increased penalty for non-filing of three or more periodic reports within an election cycle. There will be some statutory language relative to factors to be considered by the courts in looking at lawsuits for non-filings. It increases the penalty to \$1,000 maximum from the \$500.00 maximum that currently exists for non-filing. I think that's it.

**BILL MCCANN:** And over contributions. Receipt of over contributions, the penalty and receipt, for those receiving it. They have to refund it as there's a penalty and then a potential fine of up to \$10,000.

**ELIZABETH HOGAN:** Right. So they have to give back the over contribution in addition to the fine.

**DOUGLAS KELLNER:** The fine is on the recipient and not the contributor?

**BILL MCCANN:** Correct.

## NYSBOE Board Meeting July 28, 2011

---

**ELIZABETH HOGAN:** It is on the recipient.

**BILL MCCANN:** Well it is a three-phase thing. They have to give the over contribution back. They are subject to a penalty of twice the over contribution and then they can be subject to a fine of up to \$10,000 in a special proceeding.

**ELIZABETH HOGAN:** Right.

**DOUGLAS KELLNER:** So this is going to require an expansion of our over contribution auditing review.

**EVELYN AQUILA:** Absolutely.

**ELIZABETH HOGAN:** I mean we have not had the - -

**DOUGLAS KELLNER:** We have never brought over contributors on civil enforcement procedures. We have been referring them to the District Attorneys, right. So this is going to require us to start bringing civil proceedings.

**ELIZABETH HOGAN:** We have not - - Bill and I have not had the chance to really, I mean obviously this is not signed yet by the Governor. We have not had the chance to really figure out the impact on work.

**DOUGLAS KELLNER:** Well with the over contributions, because this is an issue we have been talking about for the last few years, it is a major burden as it is and this is - - my reading of it was that it substantially expands the board's responsibilities with respect to over contributions, but without providing any staff to do it.

**ELIZABETH HOGAN:** There is no money that I am aware of.

**BILL MCCANN:** Well there are some other statutory considerations on the literal language because reading it when it talks about candidates. You can read it one way to say that it only deals when a candidate or candidates committee takes over contributions to the exclusion of applying to part of your constituted committees or PACs so depending on the literal reading you can read it one way. I am just saying so there are nuances to it that still have to be - -

**DOUGLAS KELLNER:** We have a responsibility Bill as I keep saying where we find drafting errors or omissions like that. We really need to write them down and send them off to the legislature.

**BILL MCCANN:** We had conversations during that process at length.

**ELIZABETH HOGAN:** We did. Yes, but they were not incorporated.

## NYSBOE Board Meeting July 28, 2011

---

**BILL MCCANN:** We did our best efforts.

**ROBERT BREHM:** We could still consider it for next year's legislature.

**DOUGLAS KELLNER:** Right. I still think we should write them down and send them over.

**BILL MCCANN:** To Liz's point, we are still analyzing it.

**ELIZABETH HOGAN:** We are still trying to figure it out. And I do not know what the - - certainly when the Governor signs it, you know, we just do not know when that will be. I know the effective date is immediately. So when he signs that is going to be - -

**DOUGLAS KELLNER:** Whether it affects the primaries or not.

**ELIZABETH HOGAN:** What elections will affect. Again we just don't know.

**ROBERT BREHM:** It still has not been transmitted to him yet.

**ELIZABETH HOGAN:** It is still sitting in the Senate. So that and then, you know, we have a little bit of activity relative to the lawsuits that we previously discussed that we will certainly be happy to update you on in executive session. Do you have anything, Bill?

**BILL MCCANN:** No, the staff is doing a great job and we appreciate their efforts.

**DOUGLAS KELLNER:** Well with the lawsuits. I am just thinking of others who are watching. I am not aware of anything that really needs to be discussed in executive session on the lawsuits, right? We have an appeal that is going to be argued in the National Organization for Marriage case in front of the Second Circuit. I think that is the only significant litigation going on, right?

**ELIZABETH HOGAN:** We have the Ninth and Hope lawsuit as well.

**DOUGLAS KELLNER:** But there are no real developments in that, right?

**ELIZABETH HOGAN:** Procedural issues.

**DOUGLAS KELLNER:** Well as I said I do not want the people to think that there are some tactical litigation issues that we have to decide because everything is - - What?

**KIMBERLY GALVIN:** I said no, those are just my cases. [LAUGH]



## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** I think that is true. On the campaign finance enforcement stuff I think the litigation is going along fine. I would much rather be in the position of being a respondent on an appeal than the appellant. So I think we are in pretty good shape in that you are very much on top of the litigation and that the courts have been generally supportive of the positions that your unit has taken on how the law should be interpreted and applied. So we are doing pretty good so far.

**ELIZABETH HOGAN:** There is nothing substantive that will be in discussion at executive session.

**DOUGLAS KELLNER:** All right, thank you very much. So we go to information technology.

### *Information Technology*

**GEORGE STANTON:** Good afternoon. Actually this is our first July periodic filing going through with two less staff in IT and one less help desk person. We did survive, but it was fun and interesting. I just want to point out that we print those certified mailers and there is only one printer in the agency that prints those. So that some time down the road could become an issue. They are very difficult to print. They are on shiny paper. We have problems with print running. It took all day to print these 1,600. So at some time that could become an issue. I believe there are options for automating some of this. There are some Pitney Bowes type of equipment, which is obviously costly and may be cost prohibitive, but there are some options along those lines that would make it a lot - -

**ELIZABETH HOGAN:** And if I could just add, I mean we had issues in our own unit because we were printing the letters and our copy machine was down. It is a copy machine/printer and that was down. And you know the repairman was supposed to be there with a part and did not come and, you know it is a nightmare with these older pieces of equipment frankly.

**BILL MCCANN:** And the volume.

**ELIZABETH HOGAN:** Yes, coupled with the volume obviously.

**DOUGLAS KELLNER:** I do not think people realize just how close to the edge we are in keeping this system going. It is being held together with chewing gum and scotch tape.

**GEORGE STANTON:** In more places than most people know.

**DOUGLAS KELLNER:** And from the public's, you know, and to the credit of both of your units, you know, the public logs on to the Internet and is able to access the information, but that is not guaranteed if we are not able to fund the maintenance on it.

**GEORGE STANTON:** We have been witnessing problems on that front too because we need to update our Oracle equipment and we asked budget six months ago and they drug their feet and they finally did just

## NYSBOE Board Meeting July 28, 2011

---

okay us to buy it this week. So we can update our equipment hopefully before the Fall filings. I don't know. Let's see how long it takes to actually get the equipment, which should not be long but getting it configured and uploading the data is another story.

**ROBERT BREHM:** Buying equipment is not easy, so if there is a Pitney Bowes solution that ought to be outsourced for printing - - that's our best shot - - if it's a back-up plan. But buying a piece of equipment is not easy under the economic climate unless it is absolutely necessary and even then as George said I took six months to get approval. Something and we had to show them more often if the system crashed.

**DOUGLAS KELLNER:** We really should be doing a cross-benefit analysis, I mean if we are outsourcing it. When we could make a capital expenditure and save money in the long run for the state. We ought to do that.

But the scary thing is that we have so many problems that at some point it is possible that the whole system could go down in a way that we could not recover from it and we'll be criticized even though we are warning that, you know, we are working with a dilapidated jalopy here and one would expect that problems will occur.

**ROBERT BREHM:** I know George has it in his unit for his internal controls from a risk point of view, for date issues related to the equipment. It is certainly part of the internal controls of finance.

**GEORGE STANTON:** It is only a matter of time for something - - it reminds me of being back on the farm as a kid tying things together with bailing wire and chewing gum.

**ELIZABETH HOGAN:** But on these days when we are doing these projects you just do not know what it is going to come up and then you just deal with it the best you can when it happens. And we have been fortunate in that we have been able to get this accomplished, but it is not pretty on the days when these things are happening here, it really is not.

**GEORGE STANTON:** Right. Well fortunately we get things accomplished because we have good people that figure something out.

**DOUGLAS KELLNER:** It's like driving a car with 200,000 miles on it that you have to wonder how long is it going to be able to keep going and - -

**BILL MCCANN:** - - and perhaps even reach a figure of current staff to see if the current model is working, to see if there might be ways to have efficiencies because when we do all these projects, they become all hands on deck with the traditional - - that would do it, it is just beyond those numbers. So now you get into those other dynamic. So we are considering those types of things.

## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** So I'm glad we are airing the problem anyway and certainly I know it is something that Bob and Todd are addressing when they put the budget together.

**ROBERT BREHM:** It's in a side letter, they never let us put it in the budget, but from our point of view it is the items when we meet with the team, you know, Bob Eckels and Cheryl working on the internal controls.

And we talked to the units. These are issues that when we do next year's round of internal controls, you know, and we just completed earlier this year our submission, but since then we have a number of issues that have happened and if George's software that took us six months to buy and hardware does not solve some of it, we know it will never solve all of it, it is just like, you know, it is one solution with a finger in the dyke before it breaks and we continue to have to evaluate what is our risk level and all we can do in this time is let the finance people know, the budget people know this is the situation we are in and hopefully they will give us the resources to get it done.

**DOUGLAS KELLNER:** So we interrupted you George. Is there anything else?

**GEORGE STANTON:** Okay, well the next thing as long as we are talking about money, I might as well talk about the other project we are working on that I have had staff working on for a few months now is conversion to the state e-mail system. And I know I have said this in house, but I do not know if I have ever said it at a board meeting that we are actually going from a system which really did not cost us anything to a system that there is going to be a monthly charge associated with. I cannot remember if it is two, \$3,000, but we will be billed by OFT for using the state e-mail system. And a lot of it is based on the storage, how much storage we use and we do have a few people that never delete e-mail. So it is overwhelming.

**KIMBERLY GALVIN:** And you are required - -

**GEORGE STANTON:** Yeah, it was an executive order signed by Governor Patterson that we go to the state e-mail system. So it is just another, I mean something like that is a little frustrating. If you cannot buy a piece of equipment you need, but you have to pay another agency to use e-mails that you were using for nothing. But that is just my personal frustration.

We are also working on getting started with the next step in the MOVE Act. We have put together a process flow and distributed them. We are going to be having some JAD sessions the week of - - actually on August 9, SCYTL and HP and NYSBOE is going to have a JAD session and then the following day on the 10<sup>th</sup>, we are bringing in the county vendors and some county commissioners to continue that JAD session and from there we will design a plan and move forward.

The other thing we meet pretty much weekly, sometimes every ten days with New York City via phone conference to talk about their file maintenance. We sent them files for the deceased and the felons. They have - - a couple of counties have actually made good progress on it. I cannot remember which ones now.

**KIMBERLY GALVIN:** Richmond.

**GEORGE STANTON:** Richmond and it is either Brooklyn, no it was Kings. They have made good progress on it. The other ones really have not done much to get started on them at all. We were told in the conference yesterday that it is because staff was helping out with petitions at the central office and they have since returned to their respective boroughs and should be working on them within the next week.

We also sent them a duplicate file. It was 50,000 or something like that I guess. They are in the process of printing intent to cancel letters to send out to that group. They said they should go out August 2nd. They have 30 days to return them and then they will process those the same way they did when they did it in 2008. We have also, with HP's help, we have come up with a possible long-term solution where we will, instead of them having to log on to NYSVoter and perform their maintenance, we will send the information to them. They will modify their system so that they can see on line what other counties see on line when they log in and be able to do it through their own system so it goes through their quality and their bi-partisan process and gets processed back to us. We are just in the early stages of that. We have to talk about the technical requirements and all that kind of thing and then I think we need some kind of a commitment from New York City that, you know, if we are going to spend money to - - this is a major change to our system. If we are going to spend money to do it then they are going to have to spend money on Bob Smith to do it, but I think we need a commitment that is going to be used. And that is all I got.

**DOUGLAS KELLNER:** All right, thanks very much. We do not have any old business on the agenda so we will move to new business.

### New Business

#### *Vote on petition rulings*

**DOUGLAS KELLNER:** The first is the presentation of the report on documents for prima facie review. We have the written reports. I do not know that we need to go into any of the details. So is there a motion to approve the report that the legal staff has prepared?

**EVELYN AQUILA:** Motion to approve.

**JAMES WALSH:** Second.

**DOUGLAS KELLNER:** All those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS KELLNER:** Opposed?

[SILENCE]

So it is adopted unanimously. Is there a separate report for rulings on objections?

**ROBERT BREHM:** We didn't have objections.

**KIMBERLY GALVIN:** No, it is all in the report.

**DOUGLAS KELLNER:** There were no objections, right?

**ROBERT BREHM:** Well - -

**DOUGLAS KELLNER:** We dismissed an objection because the objector was unqualified.

*Vote on Resolution to Adopt Amendment of 6214.0 Title 9 NYCRR*

**DOUGLAS KELLNER:** So the next item is the resolution to adopt the amendment to Part 6214.0 of the Rules and Regulations that has been distributed. Is there a motion to approve it?

**GREGORY PETERSON:** So moved.

**JAMES WALSH:** Second.

**DOUGLAS KELLNER:** All those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS KELLNER:** Opposed?

[SILENCE]

That is approved.

*Discussion of Letter from NYC re: Closing Out Campaigns with Large Debts*

**DOUGLAS KELLNER:** Then the next is the discussion on the letter from New York City requesting an opinion from the State Board on the procedures for closing out campaign committees with outstanding debts. Liz and Bill, do you want to summarize the problem or would you like me to go into - -

**ELIZABETH HOGAN:** You can go right ahead.

## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** So the issue here is that there are a number of committees - -my guess is the numbers are in the dozens rather than just to put it in perspective, but correct me if I am wrong about the number - - where the committees are required to continue filing twice yearly even though those committees were for election campaigns that have long passed, but the committees cannot close out their accounts because they have outstanding debts that they are not allowed to write off because writing off the debts would violate the over contribution laws or rules. And so we have some committees either locally that are filing with the county boards such as the example that New York City sent us or committees that file with our board where the campaigns are ten, even 20 years ago. And there is no clear mechanism as to how the committee can close that account because they have no means of raising the funds to pay off the campaign debts. The creditors of the committee have no legal means of enforcing the debts because the statute of limitations is long expired and yet procedurally the committees have to keep filing these reports every six months.

So my understanding is that at the State Board, we have been dealing with this on a case by case basis and that there are a couple, not very many, probably less than five, but again you can correct me, where we have allowed them to write off the debts and file a termination report so that they do not have to keep filing every six months. And New York City is asking us to provide formal guidelines for committees to file with them and presumably it would be applicable state wide as to how somebody can close out these committees.

Some of the issues involved here; this has been an issue with the Federal Election Commission and the Federal Election Commission has no procedures for closing out committees and they have committees now that are 30 years old or more where people are still filing because the FEC will not let them close out the committees by writing off contributions that would not comply with the statute. If we allow filers to write these off, we are creating a loophole where people can disguise contributions that are in excess of the limit by making loans. On the other hand, we have no enforcement mechanism either. So even if that is the case that the creditors are not seeking re-payment of long outstanding loans, we're not doing anything to enforce it.

**BILL MCCANN:** I'd like to make a distinction on that issue.

**DOUGLAS KELLNER:** Go ahead.

**BILL MCCANN:** The issue of a loan because the statute always has language that addresses to the extent a loan is not repaid by Election Day, but not over the limit it would be deemed a violation, etc. This would be in the case of an outstanding commercial debt that you owe to a vendor for services.

**DOUGLAS KELLNER:** So what are the issues involved in not - - so what is the reaction of the campaign finance unit in terms of writing up guidelines on how these committees can be terminated?

## NYSBOE Board Meeting July 28, 2011

---

**ELIZABETH HOGAN:** Well, quite frankly again and I hate to say this again having said it earlier in my report, but since this letter came in, which was this month, this is the first it has really come to such a level of discussion. And I do not really feel that Bill and I have had the real opportunity to take the time to really sit down and assess the pros and cons of a policy to allow debt to be written off.

Now granted this is not; it is an issue when committees face an over contribution issue on the part of the creditor. That is not to say that in dealing with debt, small debt, which is not, you know, necessarily going to be an over contribution that they cannot have the creditor write it off and have it become a contribution and provided you are not in an over contribution status, that is not going to be an issue. It is a large contributions or it is large debt for like professional services from accounting firms and public relations firms and lawyers. Those are the big debts that we are talking about.

And so we have not had the time to assess this request and we certainly have not had the time, and I do not know how long it would take us, to be able to assess the number of instances or the committees that are pending here that would fall into different categories of a result for example if we were to follow up on committees where, you know, they are old, they have negative balances or outstanding debt and they cannot close. X percentage of those may be able to be resolved not through the process that we are talking about here, but through the treasurer and the candidate taking the effort to address the small debt that exists, in a way that is acceptable to everybody without ever getting to a forgiveness on the part of the board's issue and in administrative termination. It is the instances where the debt is very high that we are going to have the issues, but we have no idea what percentage of committees we have currently that might be in the situation of being more than ten years old or 15 years old and only filing no activity reports twice a year just to keep themselves open because they can't close.

I do not know what percentage of those really is an over contribution issue or how much of it is just laziness because, you know, the treasurer is going to have to go out and figure out how to resolve this thing. I do not know because we just have not done that. We just have not had the time to do that kind of a review.

**BILL MCCANN:** And it's not a priority.

**ELIZABETH HOGAN:** Right.

**EVERLYN AQUILA:** So in three months, does that give you a reasonable amount of time?

**ELIZABETH HOGAN:** I do not know.

**EVERLYN AQUILA:** I mean it has laid there for ten years, what is three more months?

**ELIZABETH HOGAN:** Well it is not even ten years. I mean ten years is an arbitrary number from the perspective of - -

## NYSBOE Board Meeting July 28, 2011

---

**GREGORY PETERSON:** You have handled some of these things in house on a case-by-case basis.

**ELIZABETH HOGAN:** Once or twice, I mean very infrequently and we have never had that I am aware of since I have been here, we have never had a request from a county to address a committee that only is registered with them, that is not a state board committee.

**GREGORY PETERSON:** Then well why do not they deal with it on a case-by-case basis?

**DOUGLAS KELLNER:** They want to do it in a way that is consistent with our policy.

**GREGORY PETERSON:** With what? With the entire state of New York?

**EVELYN AQUILA:** It is standards I guess.

**DOUGLAS KELLNER:** We could do that, but I think that the city board wanted to do it in a way that was consistent with the state board's policy.

**GREGORY PETERSON:** I do not think there would be any criticism if they took a step in the right - - you know it is one that is filed only with them? Let them take what action they need and certainly they would have the justification for it and leave it as it is. And in the meantime we can certainly look into it, you know, when we get the chance to with all the other things that we have on our plate here, especially campaign finance. I do not think, I do not see any urgency in this at all.

**EVELYN AQUILA:** So what should we say? What would you be comfortable with if we said that we would look into this, but it would take time? Because we do not see it as an urgent issue before us right now, but we will.

**ELIZABETH HOGAN:** I am not saying that this is not an urgent issue relative to some people, but I am saying that where this fits into the demands on our time and our staff at this point in time, we would have to fit it in frankly and I am not saying that it is not worth doing that. I think all of these projects that we would love to do are worth doing. It always comes down to what should we put our efforts into on any given day and we take our direction from you four commissioners. If this is a priority item that you want us to fit in, we will do it, but I do not know how long it would take to do it.

**DOUGLAS KELLNER:** I think Commissioner Peterson's recommendation is fine with me, that maybe what we should do is draft a letter to the city that would give them some discretion in how they handle this and give them - -

**GREGORY PETERSON:** There certainly would not be any criticism on our part of any action they take. Let them investigate and take up the action that they feel is appropriate.



## NYSBOE Board Meeting July 28, 2011

---

**DOUGLAS KELLNER:** And maybe we could summarize what we have done in the handful of cases where we have done that so we can just draft a letter.

**ELIZABETH HOGAN:** And frankly the first call I received from the signatory on this letter, when I received this telephone call about this matter I went through that entire analysis as I see it from, you know, how you would look at a matter where you have got an aging committee and you have got the debt issues and you have got debt broken down into categories which might be an over contribution issue and which might not. I did go through all that. I want you to know that.

**DOUGLAS KELLNER:** And Liz, you know, it was my hope that you would just put that in writing and turn that into a formal opinion, but if people do not want to do the formal opinion I am happy to - -

**ELIZABETH HOGAN:** I just want you to know that I attempted to address this issue when it first came up on the phone.

**DOUGLAS KELLNER:** For these professional debts, my own view is that they are not really debts because often law firms or consulting firms will charge a stated figure and say well if you can pay it this is what you pay, without the expectation of ever getting, that it's really contingent.

**KIMBERLY GALVIN:** And the same thing we have cases that you cannot give legal fees because it is over contribution and we have ruled that way.

**DOUGLAS KELLNER:** Pardon?

**KIMBERLY GALVIN:** I mean we have had cases - -

**ELIZABETH HOGAN:** There has to be a fair market value.

**DOUGLAS KELLNER:** But that is the problem is that in these professional services cases there is such a range in terms of what is fair market value. I am sure those of us who are lawyers in our own practice, if something does not turn out where our clients cannot pay us, we will often take much less than the list price and without real regret because - -

**KIMBERLY GALVIN:** But certainly that is creating a giant loophole. That is a formal opinion.

**DOUGLAS KELLNER:** Well with professional services maybe not.

**GREGORY PETERSON:** I do not think the commission would say anything about a formal opinion.

**KIMBERLY GALVIN:** No, that is what I am saying. To do a formal opinion it would be - -

## NYSBOE Board Meeting July 28, 2011

---

**GREGORY PETERSON:** I think it is going to take a lot to sit down and go through all the nuances and all the loopholes and try to close them all, which is a tremendous effort. And I am not saying it is not worth it, but somewhere down the line we certainly can promulgate those rules and regulations. In the interim, however, the New York City board is a very sophisticated group. They have great people down there. You know what let them investigate. Do what they have to do and that is it. Let the chips fall where they may down there you know. I certainly would not criticize them for whatever action they take.

**EVELYN AQUILA:** You know Greg in talking about this with Bob, and this is not particularly to this very instant, but I said to him, you know, these issues must be in other states too. They cannot all just be ours and on many subjects. We talked about many subjects. And I said I do not think it would hurt if Bob, somehow we could get together with Massachusetts, Connecticut, a couple of other states and they meet and talk about some of these issues.

**GREGORY PETERSON:** But we are smarter than all the other states.

**EVELYN AQUILA:** I know.

**DOUGLAS KELLNER:** And the Federal Election Commission still has not advised.

**EVELYN AQUILA:** Everybody has found solutions to certain things. Why could not we benefit from that type of conversation?

**DOUGLAS KELLNER:** I am not aware of anybody anywhere in the country that has dealt with this issue. That this is an open issue for a lot of campaign finance dollars.

**EVELYN AQUILA:** This issue is - - conversation. It was not that big issue I expected to be solved by it, but I think we should give Bob that permission to reach out to a couple of the other states and be able to meet and Todd so the two of them could meet with some of these and say how do you handle this or that or the other and we might learn something from them. We are not autonomous here. We are the United States of America.

**TODD VALENTINE:** Well just - -

**DOUGLAS KELLNER:** Commissioner Walsh wanted to say something.

**JAMES WALSH:** I wanted to agree with what Commissioner Peterson has said here. In addition to the report we have already heard about the time constraints and the things that get piled on you daily. I am looking forward to next year, which is going to be like a double whammy considering what the past workload has been. This does not rise to the occasion of being on top of the pile of high priorities for the moment, but I think Commissioner Peterson's recommendation is right on the money and I think that is where it is at this time.

## NYSBOE Board Meeting July 28, 2011

---

**ELIZABETH HOGAN:** Would you like me to draft a letter for your review at the next board meeting?

**DOUGLAS KELLNER:** Or just circulate it by e-mail.

**ELIZABETH HOGAN:** Okay.

**DOUGLAS KELLNER:** So we do not even have to wait for that because I think we have a consensus.

**JAMES WALSH:** We do.

**DOUGLAS KELLNER:** All right, thank you and I appreciate at least having the discussion on this.

Does anybody want to go into executive session on the campaign finance preliminary determinations and the complaints about required preliminary determinations? All right so I move that we approve the reports as prepared by the Campaign Finance unit. Is there a second?

**JAMES WALSH:** Second.

**DOUGLAS KELLNER:** Those in favor say aye.

[CHORUS OF AYE]

**DOUGLAS KELLNER:** Opposed?

All right so they are approved and Kim you wanted an executive session on litigation.

**KIMBERLY GALVIN:** Yes, there are just a couple of things I need to talk about.

**DOUGLAS KELLNER:** All right then we should talk about our next meeting in September?

**EVELYN AQUILA:** At the end of August I am going to be away.

**TODD VALENTINE:** Well we usually time it in regards to the independent filing period, not - - beginning of September.

**DOUGLAS KELLNER:** So do you want to propose a date?

**TODD VALENTINE:** Well Labor Day is the 5th of September.

**EVELYN AQUILA:** I am not around Labor Day. [LAUGH]

## NYSBOE Board Meeting July 28, 2011

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**TODD VALENTINE:** And the primary is the 13th of September so one of those, either of those two weeks would work so it is up to - -

**DOUGLAS KELLNER:** Well September 8th is the Thursday after Labor Day?

**TODD VALENTINE:** Yeah.

**PARTICIPANTS:** - -

**DOUGLAS KELLNER:** Ok, so we are talking about September 15<sup>th</sup>.

All right we are moving to go into executive session to discuss litigation matters. Those in favor say aye.

[CHORUS OF AYES]

**DOUGLAS KELLNER:** Opposed?

And I do not expect that we will be coming back into public session.

[BREAK FOR EXECUTIVE SESSION]

[END AUDIO]