

New York State Board of Elections
Commissioners Meeting
July 28, 2021

Commissioner Kellner: I will call to order the meeting of the State Board of Elections. I'm Commissioner Kellner, Chair, and next to me is Co-Chair Commissioner Kosinski, and we have Commissioners Spano and Casale. The first item is to meet as the Board of Canvassers to amend the certification of the election results for the November 3rd general election. Tom, do you just want to explain why we are amending the results?

Tom Connolly: Sure thing, Commissioner. Actually, it was just a result of Orange County canvassing results in December from their original canvass in that filing they had incorrectly combined their blank and void totals and so this actually all this did was correct that error and differentiate between the blanks and void so there was no change in the total numbers processed. Just a change in the way the way they were reported, so that the blanks and voids were reported out separately as they should be.

Commissioner Kellner: Okay, is there a motion to amend the certification.

Commissioner Spano: So moved, the amended certification.

Commissioner Kellner: Those in favor say Aye.

Commissioner Kosinski: Aye.

Commissioner Casale: Aye.

Commissioner Spano: Aye.

Commissioner Kellner: Aye.

Commissioner Kellner: Opposed? Now is there paperwork that we have to sign? Who's got the original paperwork?

Tom Connolly: Yup

(Unclear – Multiple conversations)

Commissioner Kellner: Alright, we'll sign them. Alright, so then we will move to the agenda of the Board of Elections. The first item on our Agenda is approval of the minutes from May 25, 2021.

Commissioner Kosinski: So moved.

Commissioner Casale: I'll second.

Commissioner Kellner: Any comments on the minutes?

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Commissioner Kosinski: They are lengthy. I don't normally see minutes of this length. Can I just ask, is this the new way that we are going to do minutes? Because normally they are done in sort of a shorthand way. That's fine, that's fine. I will say my position generally is that the minutes are reflected in the video that's available for the public so if people really want to know what happened at the meeting, they should look at the video, probably not read the minutes, anyway.

Commissioner Kellner: I agree with that and that the minutes really should just deal with the...

Commissioner Kosinski: Yea, I know but I am fine with them.

Commissioner Kellner: Who did this draft? Who gets credit for all this?

Commissioner Kosinski: It's a lot of work. Somebody put a lot of work.

Todd Valentine: I would start with Dawn; Bob and Kristen's secretary.

John Conklin: She was very thorough in the breakdown in Unit reports, and then the discussion that occurred.

Commissioner Kosinski: She was.

Todd Valentine: And she is still adjusting to it.

Commissioner Kellner: Which is fine, but I agree with Commissioner Kosinski that we really just need to document the actual actions that the Board takes, whether it's a vote on a Resolution or whether there's a consensus discussion.

Brian Quail: No one would be happier to hear that than Dawn.

Commissioner Kellner: Alright, those in favor of the approval of the minutes, say Aye.

Commissioner Kosinski: Aye.

Commissioner Casale: Aye.

Commissioner Spano: Aye.

Commissioner Kellner: Aye.

Commissioner Kellner: Opposed? Alright, so those minutes are adopted, and we'll start with the unit updates and of course, I will join everyone else in thanking Bob for his tremendous service. We'll miss you and also welcoming Kristen Zebrowski Stavisky and her first in-person meeting. So, alright, your final Executive report.

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Bob Brehm: Well, since our last meeting I've worked pretty hard at making sure I had a replacement on-boarded and that is no easy task, but Kristen's paperwork to appoint her is complete, and also, I served in that distinguished role as Chief Election Official for Federal purposes which comes with all of the distinction that it's granted, but mostly it's just Federal reports as to what we did to spend the grant money.

Commissioner Kellner: And to get sued.

Bob Brehm: and luckily nobody has sued recently, but the Governor's office has appointed Kristen to be the next Chief Election Official. That information went to Washington. We had a call with them last week just to introduce Kristen to them, and to set up whatever for the reports that need to take place that will hopefully be under her watch even though I have another day or so here, I'm hoping that my last report has been given. So that is important, I know we've also met, Todd and I, with Bill Cross and the HR Department. We have the budget, we have a lot of changes happening, and for once I can say, in many years, I can say I think we have enough money to pay for the people that I think we have a plan to pay for, and the list of projects we've all agreed to undertake for the next fiscal year. There are, there's a little bit of risk in there but not a big amount of risk. It's just a matter of whether or not we can get it all done in the time we have left, so that's good, excuse me, that's good news because normally I'd say we don't have any money and we don't have a plan. So, we do, so I think our normal going into the next budget is a good set-up in what will be our year responsibilities. So at least a portion of the budget that is the State's Board, I think shouldn't be as complicated, as long as we forecast what our needs are next year. The Public Finance is a big unknown and I know they're working towards coming up with a budget they can go over early in September. You also have the ability to amend that before January in case you learn more by the time we get to January, but it does help to get that as a working document as to what the public finance board is going to think or because it takes a great deal of time, both in the space planning, you know what you think you need. We made clear to the Executive Chamber and others, this is your plan, then we can work on getting it funded, but certainly from a planning point it's very helpful. So, I think it's good that they're going to be able to give your recommendation early. Hopefully you'll be able to move on that, but I still think you can amend it as you get closer to January, because they're going to know that you did more at that time. And I think it has been helpful to have that money in the Budget. I'm trying to think are we are paying anybody out of Public Finance yet? It is, I've always said it takes incredibly long to get people in the seats which still worries me as I've said, if we didn't promote from within the agency, we wouldn't have had any of the work done yet because it takes so incredibly long for someone to walk through the door. It is still a problem that needs to be worked on. It's going to be a problem that I and Todd have been dealing with. Now it will be yours to deal with Todd and it's no easy task, but it will remain.

Space Planning is still an issue. There's like one step forward, two steps backwards, usually in this process. We're still having difficulty getting an agreement on the number of people. I don't understand what the hang up is because the real people doing real work. They are part of the plan to build online voter registration, or public financing, or any of the other work that we are doing and by our account, that's about 180 people if we are able to fill all the titles, and it's going to take by their estimate 32 weeks to make the changes, so just from our 32 weeks from today is the middle of March, so we're well into filing petitions, certificates of designation for State

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nominating conventions will happen, redistricting has to happen before this, it's an awful lot of other things the agency will be working on, that will need to get meshed together, but yesterday we did have an initial discussion with the Office of General Service Commissioner Destito and her staff, they were on the call. That was when we learned that the Division Budget had sent a staffing number for this plan at 148. Nobody had told us that before. But their plan shows space for 160 people. There is 5th floor and space on the 10th Floor and space on the 1st floor. If anybody, you and I and space planning, could draw 160 little cubicles, but now we have to do the hard work, and we've done this in a number of plans that they give us, is who needs to sit where and the adjacent, you needs to sit next to that group, and what work do they do, and what space do they need, and the Commissioner did acknowledge that this was not a thing that was written in stone, that we need to have those discussions, and we've done it twice with their staff and they've come up with good plans. The only problem we've had is in the middle of making the plans, the Legislature and our responsibilities changed, so by the time they came up with a lovely plan, now we're heading in a new direction. So, that's going to be a bit of a challenge you know how to fit them in, and they are pretty adamant about this wonderful building. They say there's no other building space that they can find, and they say the Menands site because of whatever time has been wasted, would now require a full RFP as opposed to the quick way we could have gotten in February, so therefore, there's not enough time to even consider that. So, we're really going to have to look at this, you know an example, in the whole building is who sits where in the end. I'll be home, but I still worry about these things. But an example, Bill and Cheryl have been promoted to new responsibilities. In the plan there is no real space for where that unit will sit, and worse, they get rid of their spots, so when they go back fill Bill and Cheryl, where do they sit? We are a little bit like Main Street, where they built the Mayor, Fire Chief, everybody has like three or four responsibilities, you know, John and Cheryl and PIO they sit there and say how much space do they need? But they all do NVRA, they also do the Grant Programs, so you know, they have a lot of stuff, but they also have to maintain and work with Counties. Bill, you know, was a generalist, so there has to be some understanding in this process, that if we can draw a plan, that focuses on the responsibility of the people, then it shouldn't be as bad as it looked in the beginning. I'll give you an example: they rejected a plan in 2019, to redo this whole floor that would have put 108 spaces on this floor, as opposed to the 73 or so that we have now, maybe 80, and it was designed on those principles of where should OPs be, where should the counter be, who should sit, where should the units be? They did it once, but they rejected it because they said it would cost \$5 Million dollars. So, we came up with a plan that worked for the agency, but there's not enough money in the Budget to fund it. So, do we get as much planning and space as they're willing to pay for, or that we need? So that's going to be part of, we have to do something, because people are coming in and we have to have a place for them to sit. So, it's going to be a big challenge, and the forecasting that I think Bill and Cheryl, and public Financing team are putting together as to what is next. We keep finding this discussion with others in State Government. That first Budget was then, and we don't need more. We never added to the budget. We didn't tell them what money we needed in the Budget 2022 or 2023. So I think, one, having them actually appointed, doing the work, I think they have done a tremendous amount of work in the last 60 days, and I think reaching out to some of these other groups that have put programs in place, so do we have the right mix of titles, do we have the right, you know, what skill set has helped you in your experience to do this work? What's an appropriate case load? I think all of that is really going to help to put together a plan going

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forward. I don't doubt that this group will listen to that plan, but somehow, we have to communicate that to both the Legislative people, Executive Chamber, and to the public who is concerned about how we put these programs together. But that's, so I think the state of the agency to get us to March 31st. I think we are well on our way to pay the bills and do what we should, what we need for resources beyond that period of time, is still a case to be made and just one other part of that is we are now up to twenty chapter laws this year, because our Governor signed something yesterday with regard to online training of election workers, but there's still ten bills that haven't gone to the Governor yet, so not knowing when that will happen, and when those will be adopted, but that is somewhere about eighty Bills that the Governor has signed since 2019. We did get the \$5 Million Capital money in the Budget, excuse me, it is capital money in the Budget this year, that is available to the State Board, so we really need to make a priority list based on these bills. What do we estimate will be any cost to implement them, what's the timeframe, and how much money will it take? You know, is it all that \$5 Million, is it more than that \$5 Million or less. So that would be the next, and it's hard to look with a crystal ball, will the Governor sign them all? When the Governor signs them? So, we have to assume he will, and then what performing purposes do we have to do, and some of those discussions are already on the way with department Executive Directors and the IT staff, and the departments that have those responsibilities. So, I think it has been a little bit more active than I thought in the Legislative this year, but that's a big year. I mean there are some years we only have two or three bills. Twenty have been done already, with ten more; that's thirty in a year. That's a lot for a small agency to handle.

Commissioner Kellner: Are there more coming next year?

(Multiple conversations - Unclear)

Bob Brehm: Well, that is, it's on the OVR and AVR. It's on the aggressive meter, because what are you going to do if same day registration passes, and then they are going to come back and amend something. The potential as we're building this business rule, is when will they change it, just as we're rolling out the new program? So, these are all on the risk that we may have to alter these programs at the last minute. Hard to plan for, because I haven't even seen a draft of a bill to implement same day registration. If it was out there, we could at least read and anticipate it, and plan for it. So, we haven't seen one. I can say this, I didn't write one, I know Mr. Quail hasn't written one, so...

Kim Gavin: Well, I certainly didn't write one.

Bob Brehm: Right. So those are usually what we look for when we're doing it. So, I think, I think we leave... (lost sound)

Todd Valentine: Just on the Legislation front, that's why I wanted to highlight that, part of that is not just the impact at the State Board Elections with the automatic voter registration as an impact, potentially there is, well we have the portal to reopen the electronic ballot application this year, there's also a bill that does that for next year, on an ongoing basis, which is not the same as what it is today, so you know, but the changes also impact the counties to a great extent.

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You know, one of those, one side today is the online voter training, but it's optional, so fortunately that has time for that, and that's not effective yet, that's not until 90 days, and one that will impact the counties that we need information from, goes into effect January 1st for the online absentee ballot tracking system. That hasn't even been sent to the Governor for signing yet, so we think that's going to get signed, but it's hard to put resources into that, and it makes for challenging when they have these effective dates that they have put into the future, but they drop it in a spot that is very difficult to plan Budget wise after the budget has already been done, and it goes into effect before the next budget year. So, you know, one of the ones that is really going to impact the counties is the timeline for how they canvass absentee ballots. Now that's not a State Board impact necessarily, but you know that goes into effect January 1st and that is really for next year's election process, but it is still something again that hasn't been sent to the Governor, we don't know when it's going to get signed, and trying to get the counties up to speed on those. That's what we've spent a lot of doing a time doing with the Legislation is educating the counties either on our monthly calls, which we have one tomorrow, and then the conference when we have that in August we'll meet, so you know, that plus what also passed for the Grant Program. We added two new grant programs to the seven we already had, to there have been a couple of variety of things, so the counties admittedly get a little confused as to which one they can use for which things so that is one thing we have learned to provide a service to the counties board, having staff available as a resource to help them. So they did get some funding, but it doesn't cover a lot of the day to day expenses, so it's these mandates that can add in that change the local process, without the support it gets very difficult for the counties to implement that when they drop it, and they don't know it's coming in their budget year so they can't even plan for it, and so we have all of these signed that will be 30 chapters this years, we had twenty some odd last year, then fifty the year before. We're still implementing the ones from two years ago, that still haven't been able to because of budgetary issues, but in this year fortunately we're okay on this year for the budget, and hopefully we can plan for next year's, certainly when the earliest Kristen's going to work on putting that together, but at least we have a good starting point. So that is fortunate that the Legislature did listen to us, and we're able to add additional funds, so that was helpful, but we now need to ensure that that goes forward and gives us what we need for the resources for the other program we're doing with Public Campaign Finance.

Todd Valentine: I take it you're leaving now?

Bob Brehm: Pardon me? No, I was looking at...

Commissioner Spano: I have a question. First, I'd like to say something about Bob. I met him a number of years ago when he drove down after appointed, drove down to my house, and had lunch with me, and I knew right away he knew what to do. He came down to meet the Commissioner. That was a good thing for him. And I've been in and out of Government for a long time and met a long time now, he is one of the finest public servants I've ever met. He really knows what he is doing. He does it the right way. He tries not to ruffle feathers, although he is not compliant with everybody, he tells them just how he feels, and I'm going to miss you. And here is a guy fighting with pens. Here is the question. These people who are now working on the Financing, Directors, etc. they are not appointed yet?

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Bob Brehm: Well, yes, they are appointed, because you appointed them; and we have sent the paperwork to just be able to put them into the computer to pay them, along with your resolution appointing them, and that was approved in the process with an effective date of July 6th.

Commissioner Spano: So, they will be compensated retroactively from July 6th?

Bob Brehm: But you appointed them on May 25th, and they have been working there for two months.

Commissioner Spano: Well, my point is if we appointed them in May, why wouldn't they be considered from May?

Bob Brehm: That is a good point. I think they should be.

Commissioner Spano: We have the power to appoint legally. Theoretically, it may take them awhile to get them on the payroll or whatever, but technically, I would like to say this publicly, they should be paid from the date we appointed them.

Bob Brehm: The only other time we've had a problem when we appointed anyone you know, way back then, is I think that I was voted on to appoint, and then I had to resign from Schenectady to come here and so in that instance, you put in the resolution, I think you did then, you know, to take effective on whatever my on boarding date was. In this case, they were all existing staff in the building, so they immediately started working on this when they did the resolution. So, they started working with Public Finance before May 25th, but that's the date of your appointment. The statute says it's your appointment. It says the Commissioners, in this instance the six, couldn't appoint Public Finance in regular language, Public Executive Directors, Counsel, and such other Staff as you deemed necessary and within the sums appropriated. So, the review should be, is it within the sums appropriated. The authority to appoint is yours, no one else. No one else can say yes or no. No one else can say, well I don't think so.

Commissioner Spano: You're talking about the sums appropriated by the budget department or by the legislature?

Bob Brehm: Well, it's done collectively, so it's in the budget, what's authorized in the budget.

Commissioner Spano: No, but what good is the power to appoint if you can't, if that is all you do?

Bob Brehm: I've been saying that for, since 2009, when I was in this roll and I'm walking out the door today saying it.

Commissioner Kellner: Do the Commissioners need to take any additional action in order to ensure that these staff people get paid as of the date of their appointment?

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Bob Brehm: You know, when July 6th notice came, we reached out immediately to Division of Budget, and the Chamber, and it was raised yesterday in our bi-weekly call with the Deputy Secretary. I don't know that we've had the answer yet, but it's not resolved yet. So, I can't tell if it's a no since...

Commissioner Spano: Well, if this is going to be an ongoing problem, but I think we ought to make some move to reconcile, come up with a solution and you know, whether we're right or someone else is right, it's irrelevant. At this point, we are in limbo. I don't think that there is anything wrong with appointing somebody and them having to wait maybe two or three weeks or two months, or in Tom's case, what was it two years? But I think we should exercise that power and people should be compensated for what they are doing.

Commissioner Kosinski: Well, I definitely agree with the principle; they should be paid for their work since we appointed them. I agree with that principle. I think that should be our position. I agree with us pushing that and I think we should pursue it. Yes, absolutely.

Commissioner Spano: See, I wouldn't even put you in a situation where we, there are other ramifications for appointing somebody, people like to give input on what's going on, but we know that's a fact and that's done, and we make the appointment. We should, I think, have a policy when we are at a point when we know who we want, just make the appointment and then they can get paid whenever they get paid.

Commissioner Kosinski: Well, I agree with you, it's just the problem seems to be, is we don't control that. It is controlled by Budget. They've decided for whatever reason to hold it up where this July 6th date came from, I have no idea. Do you?

Bob Brehm: I think that is when the Division of Budget signed the whatever, the hiring freeze waiver.

Commissioner Kosinski: So really, it depends on their action, not our action.

Bob Brehm: Because it is computer, we can't even just type their name in the system and say they've started. There is no paper system. It's a computer system and the computer system doesn't allow you to hit the button until the Commissioner - excuse me - Director of Division of Budget signs the waiver, and then we did get an e-mail in Kristen's case, and then it takes the staffer to put it in the computer so we can process the paperwork.

Commissioner Spano: In a freeze, I can understand, because everyone is frozen, so and we had an unusual situation that way. But in a normal situation, I think that once we get, we say your appointed...

Commissioner Kellner: The Governor's position is that the freeze implemented in 2008 is still in effect. That's what I understand.

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Bob Brehm: Well, the Patterson freeze, which was a freeze, has never been unfrozen. That process continued when we had money, but it was still a, how it was considered a freeze it stayed in effect. Then the pandemic came along, and everybody wasn't sure what the budget was going to have, what was going to happen to the budget. But then at the end of the season, the revenues exceeded what they estimated, and the Federal Government gave them more money than they estimated so in reality, there is no freeze, per se. And some of these are paid for with Federal Grant money, and the Federal Grant money Legislation says it spends in accordance with the majority vote of the four of you, so that's 3 yes votes and we have not had problems spending the Federal money based on that principle, until this past year because the people that were in the PIO Unit that was part of the secure election center, they held out for six months and they were supposed to help do work and based on what we had heard through one of the secured briefings, that we needed to deal with misinformation and social media about election administration, not running for election, but issues like poll sites and things people purposely saying the wrong thing so we could get the right message out and that was an agreement Todd and I had attended a meeting in the Executive Chamber how we were going to recommend to you what that Grant money, \$20 million in 2020 Federal Cybersecurity. We had all of the cyber people, State Police, others in the room, everybody said this was necessary and we put it in place and for the life of me, that was February 10th and they shut down Government shortly after that, March 10th, sorry. I think we shut down March 13th, somewhere around there, and then it's been a bear to get it done and I'm like, but it's Federal money.

Commissioner Kosinski: I still think this doesn't relate to us, because it's a Statewide policy that the Governor's office sits on the appointments for whatever period of time based on their timetable, not the agencies, so I don't think it's a State Board problem, you know, it's a Statewide problem.

Commissioner Spano: Well, it's not really.

Commissioner Kosinski: No?

Commissioner Spano: No, the Commissioner comes in, and wants to do this. They serve to the pleasure of the Governor. We don't serve it...

Commissioner Kosinski: No, we have a different relationship, that's true, and we are in a bit of a different position, because we have some autonomy that some state agencies don't have, which I know we've talked about, but I'm just saying I think the way the budget approaches agency appointments is pretty similar to how it works, and they can't just be thrown in with that group. It's frustrating, no question about it. I mean the problem to me is the Legislature gives us these programs to run, charges us with these duties and then we're unable to fill them because budget holds up our money to hire and spend in order to fulfill those obligations. I don't know if you've reached out to the Legislative leaders. It seems to me; I know you did on the space issues. It seems to me this is also their issue. If they want us to do public financing, they have to step up to the Governor, they have to go to the Governor and say these guys need their money, they need their approvals, they need their people to get the program we want done. That's the way I see it. The Legislature wants this done, and if they want it done, then they have to go to the Governor

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and say, you've got to do this, help them out because otherwise it's not going to get done. If they are not willing to step up, what can I say? I mean, I don't know how to respond to that. We're doing what we are told to do, and if they don't give us the resources to do it, it's on them.

Commissioner Kellner: But the other option, which I've been discussing for years, is that we make clear that we've made the appointments and the effective date and sue them and get a judge to tell them you have to pay these people.

Commissioner Kosinski: I know we've discussed that, and you know I'm concerned about that, winning the battle, I just feel that down the road if we create that kind of relationship with the Governor's office, adversarial like that, that while this year we may win, we have the money, it's in the budget, we can spend it, next year's budget will not look the same, and I'm just concerned about the long-term impact. That's my reluctance to doing that, and I was hoping we wouldn't have to create that relationship. It seems to me that we should have a more congenial relationship with the Governor's office. We shouldn't be suing our own Governor to run a program that the State Legislature has charged us to run. It's ridiculous.

Commissioner Kellner: Well, that's how I feel, is that if you have a law, and the law says this is the procedure and the Governor doesn't follow it, that you should call him on it.

Commissioner Kosinski: Well, I think we're calling it him on it here, it's just how you do it, and I guess whether you want to the point of suing him, I'm not sure that gets us where we want to be.

Commissioner Kellner: See, I get sued, I mean, you and I both get sued dozens of times, and I don't take it personally. Lots of people who sue us are friends, and the idea is to have the judge say, yeah, this is what the rule is.

Commissioner Spano: Yeah, but I agree with Peter on this. Yea, this is you don't want to win the battle and lose the war.

Commissioner Casale: It seems to me that the legislature that shared the most concern and they are the people that are enacting the laws primarily asking us to do something in the public good, and I find it very interesting that we have this space problem. When I first came on board and I heard about the space problem, we wrote a letter to Legislature and all of a sudden, the space problem was moving forward, maybe not perfect, but it's moving forward. Maybe go back to the Legislature and explain to them that we are having issues. We cannot do what they expect us to do. They're answerable to the public, as are we, and when voters complain that they can't get whatever service it is or whatever program it is they want, when County Boards complain they can't get something that they need, let them know where the buck stops, and the buck is stopping on the second floor and it's not flowing up. Why they hold onto their money, God knows. This has been going on for years though. I was a commissioner of another agency at one time, same problem.

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Commissioner Spano: It is a cost saving measure, that's it. Hold it for two months; you pick up how many thousands of dollars. If you do that with \$100,000

Commissioner Casale: Today's interest rate, you're not picking up very much.

Bob Brehm: And the election doesn't move so then it gets closer, so just every time our administrators put the paperwork forward, we include the section of the Statute that says it is, it's not done and I've done this for a long, you know, I have raised this with others and I say to the Governor's office, it is irrational with the fixed state of elections where we have to do certain things because other than the pandemic, we don't move the election. We can't get this work done in the time we have to help, you know, train 60,000 poll workers in time. If we can't get the people in place to get the work done, and we're not that big of an agency, so it's not like we have that big of advantage to just sit there and say and again what's worse, you know, is the faces around the table are already doing three or four different things, and now you're saying, well now just add one more. It won't be that bad. It is. It does have an effect. It does have an effect. Now, what do we do? We have, we haven't been invited yet, but there is a hearing in September, I am told, in the Senate, the Assembly tends to hold one in the Fall. The Assembly Hearing always includes a reference to the Budgets, no matter what topic. If it's still bad by then, I would, if it were me, and I were sitting here in the chair still, this would be page one of my testimony.

Commissioner Kellner: We discuss it all the time. I think that there is a way to bring the lawsuit to focus them on their legal responsibility does not sever the relationship. I respect that...

Commissioner Spano: Say you're working in a job ever since May and they are working in the job and they finally get approval from the Budget Office, and start getting paid from November on and they have...

Commissioner Kellner: ... retroactive pay, right, pay but then that puts them in the same position, and I think it's better if we do it for them. In other words, we've already got some people now who have lost six weeks of their salary increase and their seniority time, because of the Budget Office delaying from May 25th appointment to the July 6th waiver, and the real issue is does the Budget Office have the right to require that waiver, from the State Board of Elections employees...

Commissioner Kosinski: Doug, I have to be honest with you, it's not just do they have a right, it's the wrong thing to do. It's not just the legalities here. It's just the right thing to do would be to pay the people for the work that they're doing. It's just wrong, and I mean I'm sure reluctant to rely on the legalities of the issue, while I agree with you, I think we have a legal leg to stand on if we wanted to go to Court. The fact of the matter is we charged these people to do this work on May 25th. They have been doing it since May 25th, for God's sake, paying them is the right thing to do. And to have the Governor's office hold that up, it's just wrong, and they should be told that. You are just wrong. That's not the right thing to do.

Commissioner Kellner: But they've been told that.

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Commissioner Kosinski: Well, I don't know what they've been told, but I just don't understand the attitude. People are doing a job, for God's sake, pay them.

Commissioner Spano: Well, all the employees of all those other departments work for the Governor, he can and do whatever he wants with them. We're not asking for him to do this for the whole company. We're only asking him to do this for this organization because we have the right to it.

Commissioner Kellner: Alright....

Commissioner Spano: And if it's only a problem of pay here, how about the problem with needing an employee, having the money in the budget, and not getting it, and not having anybody do the work.

Commissioner Kosinski: That's going to become a problem because we don't have the internal people....

Kim Galvin: Logan Smith's paperwork has been there for three weeks.

Commissioner Kosinski: It's going to get worse from what you're saying.

Kim Galvin: And he works at the Assembly, and they are saying.

UNCLEAR (Multiple Conversations)

Commissioner Kosinski: That's a good point.

Commissioner Spano: You know, Doug has brought it up many, many times but in the context of a lawsuit right now, I would like to see if there are other alternatives.

Commissioner Kosinski: I would too. I think reaching out to the Legislative leaders again, is one of those, because again, it is their program. They're the ones that passed this. They're the ones that want it, fine, then you better give us the resources to do it, and they need to be made aware that the Governor's office is holding those resources.

Commissioner Kellner: And they have been in particularly helpful, and I will especially point out that Senator Kruger who is the Chairman of the Senate Finance Committee on several times done that and it has worked.

Commissioner Kosinski: Good.

Commissioner Kellner: But I don't think she should have to do that.

Commissioner Kosinski: Well, no, but...

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Commissioner Kellner: And I don't mean to say that she is the only one. There have been people in both the Senate and the Assembly who have also helped us. She has been particularly responsive. Alright, anything else?

Commissioner Kosinski: Yes, before we leave that, I just want to a minute to congratulate Bob on his retirement, and it's been a pleasure working with you. I just wanted to say that as well. We've had a long relationship. Started in Schenectady County when you were there, and since you've come here, so I really appreciate all the work you've done. You have been a great partner to work with, and I wish you well in your retirement and I also want to welcome Kristen. We haven't met, but I want to welcome you to the Board as well. On my behalf, I wish you well, and look forward to that as well. I'm glad you came today. Bob, I think we are doing something tonight for you so we will see you.

Commissioner Casale: I believe I may have known Bob longer than anybody on the Board, because I first met him when he was a young pup came to work, discussed it today, thirty-seven years ago at State Legislature. I said to myself, 'this guy is going places' and he did.

Bob Brehm: We ended up in the same place. I remember my first day in the Assembly. I was told to go to Room 306 in the Capital and bring this piece of paper as a young intern and you walk in the Capital you go to this end, to the front door of the Chamber and thirty-something is in the back end of the Chamber, and they have a big sign that says Members Only, and nobody is around, and so bring this to 306 so finally I was brave enough to walk down the hallway, and I opened the door finally, 306. As an intern, I worked for a different member, Assemblyman Bragman, and he walked in and said are you from Bragman's Office, where you been? And I said nobody told me I could walk down this hallway. He told me I could. I still remember that day.

Commissioner Kellner: Alright, we'll miss you. So, let's go on to our Counsel report, Kim Galvin and Brian Quail.

Brian Quail: Thank you very much, Commissioner. The Unit continues to work on its six active cases since we last met, one of which is new, having quasi ballot access case out of Staten Island, the Rhinehart case, which is returnable tomorrow that we were working on. The Legislature in having changed felon forfeiture on voter registration to only continues along as the person is actually in jail and the statute requires the Board by early September to provide certain educational materials, and the unit has been working on that, Kim and I have been discussing it and Kim's been working on the draft, and offered to share it with me yesterday, and I said please let's wait until day after tomorrow, but we've been talking through, working on that. The agency's been working on automatic voter registration and online voter registration. The Counsel's office has been involved in those meetings, and in that process, likewise assisting Public Campaign Financing unit to review regulations which they did a fantastic job on. The Compliance Unit has processed or has received 165,910 total filings so far, of which 148,626 have been fully processed, numbers reviewed actually I should say "processed". That number, that deficit, operating deficit we're catching up from some issues from the pandemic. Also, we have been working cooperatively and very substantively with the Enforcement Unit. The Chief

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Enforcement Counsel has determined to not continue on with the Appeal in the Sugarman case. That dropped from our list of active cases, and we've been engaging in discussions on implementing the regulations of board directive manner. To that end, also with the failures to file, with the live periodic we've been discussing process and procedure with Enforcement Unit and has been quite productive. I'll let others speak more to that, at the appropriate time on the agenda.

We also have continued to work on drafting guidance with relation to the close contest recounts, based on specific experiences with the primary election where various questions and issues and came up, so we're trying to follow the action that the past instructs and the future invites, so it's a learning curve for the primary. I hope to be able to provide very instructive guidance for the boards for the General. Similarly, continuing to work with Oneida County Commissioners with the Operations unit in their work to right the ship.

Kim Galvin: I just want to comment that it's interesting because we have a new Enforcement Counsel that is actually going to do enforcement. When I e-mail, and I'm sure he will speak to this and I don't want to take it away, but when an email went out yesterday and immediately the phones started ringing and the comments were like, wow, we haven't gotten one of these e-mails in seven years. We haven't talked to anybody in five years. We thought that this unit was closed, so while the staff is handling that giant influx of calls, they are happy and relieved that it is occurring. So thank you Counselor Johnson for his efforts, and I know personally, people that know that I'm a crier and so I'll save my crying for later, but on behalf of the Republican staff, that Mr. Brehm, I just want you to know that you will be missed, and when I retire, if I have one person that appreciates you as much as I do, and we all do, consider myself as having a job well done.

Bob Brehm: Thank you.

Commissioner Kellner: Any questions? Then we'll go to Election Operations, Tom Connolly.

Tom Connolly: Thank you Commissioner and thank you Kim for setting me up for that one. So, in the lead up to the Primary, the Operations Unit obviously was very busy, working with the County Boards. We did make sure that we collected the various early voting security plans the network security plans, from all of the Boards and reviewed them to make sure that we have the most up-to-date ones on file with us. We do work with all the Counties with adherence to the guidance for accessible absentee ballots and ensure that they follow the latest guidelines the Counsel came out with. We did receive the Office of Court Administration to get and distribute additional assignments from all the early voting areas and times for early voting Election Day. Staff was available to all the county boards throughout all hours of early voting. Brendan and I did leave the building. He went out west to Niagara. I took an extended road trip through Oneida, Onondaga, Monroe, Chemung, and Otsego just to see how all was going. It was going fairly well, albeit it was a somewhat quiet early voting period this go around. We did collect the information from all the counties on affidavit and absentee voters, so that we could do the data matching within 48 hours, since that Executive Order was still in effect at that time. We provided that information out, with the help of IT, but we did issue amended certifications for the offices

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to be filled at the general election, in part because of the Chapter 188 of the laws of 2021, which created additional vacancies in the various traditional districts, as well as retirement of Justice Capatola in the 10th Judicial District, and the vacancy created in the 1st JD due to Justice Cannataro's appointment to the Court of Appeals. We did prepare, after the primary, the roll call information for all of the party chairs for the Judicial Conventions for all parties. We did collect survey information on accessible absentee ballots along with the information on the CURES. To that end, I also I know that this is one thing that Bob finally did get before he gets to retirement, and asking me since I've been in Election Operations to try to get the annual statistical survey out to the county boards long before they need to fill it out, at the beginning of the year, so that survey had gone out earlier this month, and many boards were very happy get it earlier so they could be sure to get us the correct information to us, part of our going away gift. You got that, and you got the actual formatted statements on canvass that you've been wanting for years. One last thing I wanted to follow up on, and the general topic was, the last meeting I had hoped to have the report ready for all the commissioners with regard to Westchester County, and what Brendan and I have looked into, and discussed with Westchester about some of the information that was concerning, what seemed to be a novelist number of blanks and voids in certain particular districts in Westchester County. We had gone down to the Board; we had met with the commissioners and their staff. I will have the final report to you in short order, but in a nutshell, what had happened, is I think the board had gotten somewhat overwhelmed, as many boards had, with the volume of absentee ballots, that they were dealing with and some absentee ballots, although was the same ballot, had been scanned under a different election district, so as whereas blanks and voids were attributed to the wrong ED. So basically, that some, there were no net changes to the votes and all the votes were indeed counted from what we can tell, it was just that they were reported under a different Election District, so some would have seemed to have more than they should of, and some would have seemed to be less. So, it was just trying to finish up some of the statistical analysis to just kind of illustrate that, so you will have that report soon. With regard to voting systems, and I do know that people are interested in the ExpressVote, ES&S will be coming to the State Board on August 10th. Their hope is to demonstrate the ExpressVote XL and the changes that they've made, since we certified all components of the 6041 system, except for the ExpressVote. They have not submitted any software or any documentation on any of those changes. I think it is their hope just to kind of go over what they think has addressed the deficiencies that we found in the last run of testing. It would be then subsequent to that conversation that we would expect them to submit a modification for their voting system for further testing. With regard to the other vendors, it's kind of been quiet for a little bit, but we do continue to have our conversations with Dominion, Clear Ballot, Hart Intercivic, and Democracy Live, with regard to their systems and their intent to submit them this year to begin certification testing on those. Then also the operation staff has been out since the meeting to seven counties to perform testing, and we will be scheduling visits three more in the near future, as some counties continue to receive newer systems to replace older ones. With regard to electronic poll books, we will have two submissions from vendors, from the three vendors that we have, that they want to have tested and hopefully approved before the general election. KNOWiNK it's a minor update, it's not really an update to the application itself, it's an update to the underlying operating system that runs on the iPads that the application runs on, but we will be doing some testing on that, and then Tenex did submit an application change, so we will be obviously doing more extensive testing on that, and we would have testing done and the

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reports prepared for you for your consideration before the next board meeting, so that if approved there is enough time for the vendors to roll out those changes to the boards before the general election. Otherwise, just the other technology projects Brian had mentioned OVR AVR, we continue to work with IT, and other units, to the extent we are involved that kind of roll out. We continue to work with IT on CAPAS and FIDAS, we have worked with the counties on receiving their local candidate filing information. That information was important. It comes through us now. It gets shared with the FIDAS end of things, so that all the local candidates, they need to be doing financial reporting, the compliance unit can be made aware of them. There's also a new law that went into effect January of this year, that required that the county boards provide the candidate's contest information to the state board, so that we can make it available on our website in a manner that is useable with a screen reader for those with disabilities. And then lastly, we have been working to finalize the process and requirements for new voter registration systems, that has been pretty much the end of that process, that will be working with Counsel on some sort of regulatory language that we will bring to you in the future, as kind of implement those requirements and hopefully we look forward to entertaining or reviewing some of the systems. I know that there's at least three vendors who have interest in bringing their systems before the board for approval, and we believe that that will probably provide counties with some additional options for their voter registration needs. That being said, Brendan do you have anything to add?

Brendan Lovullo: No, I'm good. I do want to say though, Bob, thank you very much everything. From the day I started, you obviously were – don't tell anybody – more so my friend. You will definitely be missed. Just to walk in and ask any question that I had, and your door's always open, and now it falls to Brian, and also Kristen, so keep your doors open. But again, you will be very missed, and best of luck.

Bob Brehm: Thank you.

Commissioner Kellner: Alright, so we'll go to.

Commissioner Kosinski: Tom, you were talking about early voting. So, do we have breakdowns on early voting numbers from the various counties around the State for the June Primary?

Tom Connolly: As far as turnout?

Commissioner Kosinski: Turnout.

Tom Connolly: We do collect that information. I don't have the statistics on that. We have been collecting the early voting day-by-day numbers.

Commissioner Kosinski: Yea, I was just looking for the overall numbers of various county, early voting, how that, you know, how many people were using the opportunity to vote early. Do we have that broken down?

John Conklin: We do. I don't have that in front of me, but yes.

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Commissioner Kosinski: Can I get that information? I'd like to look at that, just to see what it looks like. If you could get that to me, that would be great.

Commissioner Kellner: Can you could also track the number of people that use the ballot?

Tom Connolly: It is collected in our annual statistical survey. I'll say that they are tiny, but one of the things that we've been undertaking, with the annual surveys is to try and be as clear as possible, to ensure that the counties are answering the questions in the same way. I know that it's a struggle on the Federal level, with the EAVS survey, and I've worked with various people on the National Level trying to clean up that language. There are some boards that will just say all of their machines are BMDs, and therefore everyone used them. Whereas opposed to saying I made accessible bookings were actually initiated by, so that's one of those things. We do collect that information on an ongoing basis, and I will say that historical information may not be consistent from board to board depending on how they interpreted the question but hope to. We hope to resolve that, or at least clarify that going forward.

Commissioner Kellner: Anything else? John, you're up.

John Conklin: Thank you, Commissioner. The Public Information Office continues to remain busy. Some of the hot topics that we've been answering questions about, since the last Board meeting was obviously the June 22nd primary, ranked choice voting in New York City, the July Periodic Report that was filed, and also the new law about hand recounts for results that were within twenty votes or ½ a percentage point. One of the other things we're working on, is with the five ballot props that are going to be on the ballot this November, we asked the New York Press Service to provide us a quote for doing the advertising. We're required to publish those in a newspaper in every county in the State the week before the elections, so they are working a quote for that. Right now, it is looking to be about \$50,000, but there are still some significant areas in the State, that are missing from that quote like Westchester County and parts of New York City. Some of the minority language requirements that we would have when making that publication, so that is not complete yet. We also worked with Counsel's office on ...

Commissioner Kosinski: John, can I ask you a question about that? So, when we contract with a publication in a county, let's say we contract with The Albany Times Union to do Albany County, do they have to also put it on their website?

John Conklin: No.

Commissioner Kosinski: So, they would just publish it in the hard copy newspaper edition, but it would not appear on the website for the Times Union if I went online?

John Conklin: Correct.

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Commissioner Kosinski: Have we ever considered making that part of the obligation since I think a lot of people access their information now through the Internet access to newspapers and to various publications?

John Conklin: Well, the statutory requirements of a legal publication part, I don't know that we have ever explored the idea of requiring the publications to put them on their website, if they have one.

Commissioner Kellner: We put it on our website.

Commissioner Kosinski: We do, it would just make it more broadly available.

Commissioner Kellner: And the statute is anachronistic, and we've been asking for the repeal of the statute, right?

Todd Valentine: We asked two different times, and it passed by the legislature, and vetoed by two different governors.

Commissioner Kosinski: Well, I think we can get that which I agree is a little bit arcane that we do publish this way, but if we could at least expand it, so that it was on their website, you go on the Times Union website for example, it would appear that as well as in the published hard copy, I just thought that might expand it a little.

Commissioner Casale: Some newspapers have legal notices and advertising on their website, and some newspapers the only way you'll see it is what's called E edition, track editions, some papers do it that way. Otherwise, I don't think they would not be able to honor that request unless they had it on their, they wouldn't put just ours on there unless they put them all on there. It's a mechanical issue.

John Conklin: Well, without the statutory mandate, it would only be optional, so if the newspaper couldn't do it, we couldn't make them do it so, we can certainly explore that.

John Conklin: Okay, so the other thing I was going to say was we were working with Counsel's office on what Brian mentioned, about the new felon registration requirements law. We have to update our NVRA materials to comply with the changes for that. Some of the more routine stuff, the unit processed 118 FOIL requests in May and 117 in June. We continue to participate in the working group meetings on the automatic and online voter registration projects. We continue to participate in the weekly meetings with IT and Compliance on the public reporting part of the website for the FIDAS. So, for the website, as Todd mentioned, we reopened the Absentee Ballot application portal, the accessible absentee portal, and modified some of the language that described the qualifications on most pages, we did the same for the register to vote pages, with the felon registration requirements. We posted the webcast for the last Board meeting from May 25th for both the PCFB, and our Board. We also did a press release on the appointments that were done at the last Board meeting for the PCFB.

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For NVRA we're working on a schedule to resume in person BOE visits. As you know, Patrick Campion retired a couple of months ago. We have a new person in our unit Cassandra Bagramian who came from the Saratoga County Board of Elections, and she will be working with Mike to resume those visits.

Yesterday we had a webinar with all the counties to discuss the newest grants that were appropriated by the legislature, the Early Voting Expansion grant, and the Technology and Innovation Election Resource grant. So, I'm going to have Cheryl do a report on the grants, but before I say that, I would also like to compliment Bob on his retirement, and I feel like I have a special claim on Bob because he started in this agency as my Deputy, it was a practice for my deputies to go onto greater things. Bob was my Deputy, Cheryl was my Deputy, so but I think Bob blazed that trail for them all, so it was a pleasure to work with Bob, both as my Deputy and as a Co-Executive Director. It's been a wonderful experience with him. He will certainly be missed. We welcome Kristen. Best of luck to you, Bob.

Bob Brehm: Thank you.

John Conklin: Cheryl if you want to do a grants update.

Cheryl Couser: Great, thank you. The Public Information Office currently has eight grants to administer, as we are closing out the federal HAVA CARES Act. As John said, we had a training yesterday for the county board of elections to go over the early voting expansion grant and the tier grant. There were ninety-eight participants. They have all received their contracts and we are receiving them daily back from them so they can spend down that money. In addition, there are about twenty counties for both the Early Voting and Aid to Localities funding that had that reappropriated. The contracts were extended. Also, about twenty counties that had the Capital E-poll book grant funds extended.

In the training yesterday, we went over all the Aid grant programs in detail, when the eligible expense periods are, when they have to have payments in, we took extra time to go over the Cybersecurity Remediation Grant program, which requires counties to tie their claim for payment to our remediation plan, and that being said, we introduced the new members of PIO, who will be doing grant administration, Cassy and Gabrielle Dominguez replaced Cortney Padlo, so the team includes Mike, Cassy, Gabby and Ryan Richmond.

Commissioner Kellner: Okay, any questions? Then we'll go to Information Technology.

Bill Cross: Good afternoon, Commissioners. I'll start with projects, first. CAPAS-FIDAS: we continue to make numerous updates and improvements to the system. We're currently on a biweekly release schedule. If there are any changes or improvements made to the system, we publish out and list release notes. We've engaged Microsoft to review multiple areas in the system, strictly around performance and have incorporated feedback and any suggestions from them. They did a full review of the system. They basically drew multiple areas, and it's been very helpful. Of course, we continue to incorporate feedback from users, and suggestions that work to the list. The system, in terms of usage of course, we just went through the July periodic,

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which is the highest level of usage we've encountered so far. In terms of filing, there's 4300 filings for the July periodic, with the largest day of course being the deadline date, we had 14,000 filings for that in a single day. In total, the system has now processed 10,000 filings both new and old.

We're also continuing to publish filing data out to the New York State Open Data Platform. Their metrics aren't consistent, but it does look like that is receiving some significant usage, at least over 1,000 views and 100 full downloads on that data, which is a significant size data.

Online Voter Registration Automatic Registration. The RFP has finally been released and as of last Friday, we've received fifteen intents to bid for that RFP and ninety-seven vendor questions, which will be sent back to the vendors at the end of this week and will be returned to the Office of General Services. Overall, the project delay of the RFP is about seven months just as importantly for that. We are also planning four regional outreach sessions in August, to engage the county boards in the project and solicit input on needs and concerns. We have had a WebEx on that same topic, not too many of the county boards attended. It was very productive in terms of their feedback and expectations on the project what it will look like to them, not only the functionality, but what does it look like to them on their screens, in their counties, and in their systems. So, our plan is to engage them further in this outreach and bridge the gap between them and the local VR vendors in terms of that functionality and their expectations.

The Absentee Ballot Portal as John mentioned we reimplemented. And, of course, we at IT have been working with Executive Admin and others for space planning needs, etc. so it's a uniform need across the agency.

For security, for our election preparation plans around the primary, we worked with all the partners: chamber, state homeland security, state IT, DPS, EI-ISAC, FBI partners, we have been monitoring and reporting successfully. We have finalized cyber regulations before the Board today, that represent the work in the Secure Election Center input from multiple security partners, county IT leaders, county boards, and the public. We're currently working with the Office of General Services, the Division of Budget to renew security systems that were put in place for the county boards approximately 3 years ago. We are seeking to renew them for an additional 2 years. Hopefully that is moving forward. It seems at this point that it is. We continue to work with NYSTEK in numerous counties on implementation of the Risk Remediation Plans, and also the PIO reviewing reimbursement for those efforts.

As Tom indicated, the Voter Registration System standards, we're working integral with that group. Elections Infrastructure, we continue to work with SUNY and the Center for Technology and Government on that project, and as always, we are continuing to work on the security improvements of our own. We have, during I think the leave since the last meeting, had the two county incidents that the local boards were affected by, in some way. Both of those have been resolved.

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In terms of website, traffic as expected jumped up in June, due to the primary election, over 367,000 page views that month, and a comparable number on voter look up 356,000. We are also now tracking public reporting, which for June had over 92,000.

Commissioner Casale: Bill, it seems we're getting a lot of calls, and a lot of complaints about the Campaign Finance Disclosure web pages, particularly the disclosure site. People who have problems with filing initially, I had a few of those calls, I get feedback. When they call here, they get the help they need, filing is not as big a problem as it was initially, but with the disclosure and being able to read the forms, and I've actually tried to do it myself, there's still a lot of problems with a lot of glitches. I don't want to say "glitches," problems; I'm not a technician, so you figure it out. But I'm wondering, I guess the question is 'can we do more to help people with issues?' Can we educate people a little bit more? Inform them of what's going on, but also now that we're back to in person meetings, can we conduct a couple of sessions with people who are regular users of the system, including the news media, researchers, good government groups, bring them in and let them input to you and have a discussion. I know you get e-mails from people, but its impersonal. We get people in a room, we can talk a little bit, and you can sit with them, I know you're very busy, but I know a couple other agencies, I was involved with other agencies where there's applications involved, for different functions, and they would bring in the users, and the regular representatives who represent people from these interest groups, and the discussion is very good. It's back and forth, and it helps you, I think to understand what their concerns are, but maybe you can again further educate them. Because I got three or four calls just last week, I went on myself to try, and I couldn't find certain things that I could find very quickly before. Now, I'm not a regular user of the system, I just think the regular users need this help if they can.

Bill Cross: So, a lot of the work that we're doing is obviously trying to simplify what that interface needs, to make it easier. Number 2, in terms of outreach, we actually have, we run, we've had two sessions so far, although not in person because of the conditions we're operating under, but with the Press Association, as well as another one, several good governance groups, that we would launch this system and ran several examples through. There were several aha moments in terms of, okay that is what we're looking for. But also, we received very good feedback, in terms of improvements that could be made. We have done that outreach; I think we will continue to.

Commissioner Casale: I think you need to. Let me give you an example: I was on the other day, and I was just inputting, you have to answer eleven questions before you can get to whatever you're looking for. You have to start with all those dropdown boxes. I was looking at a certain page, ah just for the heck of it, I said I wonder if this person filed for a different office. When you go back to the eleven questions, you've got to put all eleven questions back in, you can't just change one item. So that's an example. That's time consuming. I guess you can't do spreadsheets.

Bill Cross: No, we actually do. If you get to your result, when you have results on a page, in the upper right-hand corner there is actually a button that you can take into a spreadsheet and download the entire results.

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Commissioner Casale: For that particular, whatever you search. Okay.

Bill Cross: But then you have the possibility to look at it in English the way you want. One of the things we've done, we're going through this section by section, is to simplify that, so you don't have to fill in the eleven. The idea was initially when this was designed, one of the complaints on the older system was the results were too broad and you couldn't find what you want because there was too much. And the design was well then, let's give the ability to people to narrow it down. I think there's a happy medium, and that's where we are going back to try and take required things off these fields and separate them into here's what's going to give me my initial results, and here's what I can do to narrow it down after. Somewhat more like you know the Amazon experience, essentially when you go into initial search there's a lot of everything. But on the left-hand side, you can say okay well we want this color, this size, like that. That's where we're heading for, so we'll hopefully get it. It's almost exactly what you're describing. Again, but the results are fully down and loadable, as I said, any of the processing improvements, even performance improvements with loading things like that we're addressing those. We've done a lot of the outreach; we've done several sessions. We will continue to do that, so we're trying.

John Conklin: I think one of the complaints that we've had, it's not so much the spreadsheets, it's that people prefer what we used to provide, which was a PDF of each report, and we can't do that anymore because PDFs are not accessible to screen readers, and people who are using the website who may have special needs. And we have to comply with that as a result of the lawsuit, so the PDFs were basically eliminated, because it's impossible to make all of them accessible. So, the alternative was for them to be able to download each search that they do into a CSV file, then they can basically put that in their pocket, take it with them, open it on their own computer, manipulate it anyway they want, like an Excel sheet, and I think that's taking some getting used to. People, once they see that and understand that that's the alternative to the old PDF spreadsheets, then they say, "Oh okay, now I understand what you've done." One of the things that they've complained that's missing is summary page from the older reports. We are working toward doing that.

Commissioner Casale: This is all in process?

John Conklin: One other thing I want to mention, we just got a letter, feedback from one of the groups we met with in the beginning Reinvent Albany, and they provided some additional feedback. They also said, "We see that you're making improvements, we appreciate that." So, they're recognizing that we're continuing to work on this. We are making improvements, and they said, "Here's a couple of things that we're noticing that you should add it to whatever you're doing." So, we do continue to do that. So, the July Periodic is the biggest filing of basically the year.

Commissioner Casale: Those are the questions that were generated recently.

John Conklin: Basically, every filer is required to make a filing for the periodic reports, it's not like an election report. So, we had something like 1500 filers on that one day, but we had large filers each day leading up to the due date. So, I think that put a little stress on the system which,

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as Bill alluded to, we've gone back to Microsoft and they've given us suggestions on how to improve that, and deal with high-volume days, and that has helped, so that will deal with some of the performance issues. One of the things Reinvent Albany has already mentioned was that you wait a bit of time for some of these reports to come out. Like I think they said that one of them was like 80 or 90 second wait. I think the performance issues that we saw out of the Microsoft issue for the high-volume days, will assist us in improving that, tremendously. So, we do continue to work with people and the filing system.

Now the filing system from the treasurer side, as opposed to the public reporting side, where people see this publicly, we've done outreach to the treasurers. We've brought them in. We've worked with groups of treasurers. We had a beta group of people to look at that stuff, so we have done some of that outreach. We can do more of it. We've definitely have incorporated them into this process as we develop the stuff.

Commissioner Casale: On the filing side, first of all the complaints are "it's not what they're used to." They're a lot less if none at all. I just notice them walking through, you can overhear conversations in cubicles. Your people are on the phone in Compliance talking these people through it. It's the people who want to view this, maybe they have to have a way of calling in as well.

John Conklin: That's me. That's me, PIO, me and Cheryl.

Commissioner Casale: No, no I understand. Let me just say this, so I don't sound like a wise guy. CAPAD-FIDAS is an acronym, correct? If I recall my high school Latin "CAPAS" means "costal" and "FIDAS" means "faith". So, we'll cope with it and have faith that you'll get this corrected.

(All talking and laughing)

Commissioner Spano: I was looking at the Reinvent Albany, that letter they sent for you. That one seemed pretty comprehensive. I mean it looked like, attitude was good, and it looked like really helpful suggestions, there's almost 2 pages of it.

Bill Cross: Commissioner, the initial interaction we had with them was very different. You said this was very positive, but we had one of those outreach sessions with them where we walked through the system, as again several aha moments, a lot of feedback but I think there was a sense that we took their suggestions seriously, and instead of just some words that it stinks, give me some suggestions. Give us some specific things back that we can actually take and work on and improve. And this was exactly that. So, I was actually very appreciative of this.

Commissioner Spano: It required a lot of work on their part to put those two pages together. It was well thought out. My point about this is given what the Commissioner just talked about, is did we do any of this before we send this to these guys?

John Conklin: Yeah, we did, yea we did, especially with the treasurers because like I said like I said we had an alpha group and a beta group, that looked at our electronic filing system as we

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were developing it. So, I was just going to say there was a sort of winter session about the electronic filing system within a couple of days of the July periodic being due, afterwards. And there were a back and forth of like, I don't know like sixty tweets, something like that, Cheryl? And Bill looked at it, and it was basically three people. They were doing all the tweeting. So, it's like okay, we appreciate that you're exposing these issues and highlighting them, but it was just three people. Now those three people are important, we want to satisfy what they need to do, but it wasn't like it was a huge number of filers were complaining about it.

Cheryl Couser: In fact, we did go and look at that account they had associated with them on twitter, and those people had reached out to us. So, we reached out to them.

Commissioner Spano: Yeah, I saw the initial comments, and then you reached out to them, and then the second shot at, and their attitudes were very different, I could see that.

John Conklin: The first time we met with them in a WebEx meeting, we were going to do a presentation of how the thing worked, and they didn't want any part of that, because they felt that we were attempting to run out the clock on the meeting. We had allotted an hour and I said, "No, stop." We're here as long as you have questions. And it went more than an hour, and actually the person who started the conversation with us, he couldn't even stay for the full hour, but his staff stayed with us. The guy who wrote the memo yesterday, he was with us that whole time. We answered every question until they basically said, "Okay we don't have any more questions." So, we stayed with them, and I think in the end we sort of turned them around, by the end of that meeting, and that's why I think they've given us this, which I do view positively. Certainly, it's been very helpful to us, and any other group that wants to do that, we're more than willing to do that.

Bill Cross: I think out of that meeting, if nothing else was a takeaway, they knew we were listening and wanted feedback, and that we were taking action on it. So that was important. Because I don't think that meeting started that way.

John Conklin: Right, correct.

Bill Cross: And I think the follow up here this is exactly what we asked for in that meeting. As you work through this, please give us the feedback. We actually want it. We write the system, we're not using the system, we can actually look for that feedback, and give us something we can actually track down, and okay, that's it, instead of "this stinks, go look at this." I actually appreciate it you see.

Commissioner Kellner: Alright, I've been looking forward to this part of the meeting for a long time. So welcome aboard Michael Johnson, returning to a bigger and better position, and we're very happy to have you back to report on the Enforcement Unit.

Michael Johnson: I will just say first and foremost thank you. I get a lot of faces, people I do know and it's great to be back, and I've met the Commissioners, thrilled to meet each and every one of you, but in particular, Peter and Doug, who I've worked with before when I was here.

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And, I have the utmost respect for both of you guys, and I'm thrilled to be back working with your two as Co-Commissioners. So, that being said, I started here when the filing was due, so my approach, just so you guys know, my approach was I need to look at it going forward. I can't really look too far back as to what was done, because if I did that, I'm not going to get it. So, what I choose to do, was to say okay, we need to look at, we need to approach the filers. People who have not made their filings, and I know there's been issues in the past in terms of whether or not that's something the Enforcement Unit was supposed to do. When I was here, that's when I was taught the Enforcement Unit did. Campaign Finance in terms of going after the filers and the five-day, ten-day letter, whatever you call it, and the enforcement of Election Law violations. They're not mutually exclusive you can do them both, and it should be done together, that's what the Enforcement Unit does. So, that being said, what I ask the staff and the current staff, who is still there, I have to say, they're all great people, and they really kind of had to you know sort of operate without someone steering the ship for a while, and they've held down the fort. And what I've asked them to do is say, okay give me something. Let's look at, there was supposed to be quarterly reports. I don't know if you guys have gotten quarterly reports, so my approach was okay, let's look at April, May, and June, that would have been a quarter report you guys would have gotten. So, I had, so they put together their own spreadsheet, and got together the information as best as they could. And what we have here, is, in April they received 63 e-mails, in May they received fifty-two e-mails, in June one hundred and thirty-three e-mails. Out of those e-mails, the complaints they received, you know they received e-mails, they received complaints via mail, fax however, calls. April was eleven, May was fifteen, June was thirty-three. FOIL request, they received one in April, one in May. Media contact received five in April, three in May, and one in June. Now the cases that remain open, that's sort of a, I wouldn't say questionable number, but it needs a little bit more clarification. A lot of the cases that remain open couldn't be closed because there was no Chief Enforcement Counsel there to close the cases, that's number one. Number two, I can't speak to why the prior Chief Enforcement Counsel choose to either close or not close cases, that I don't know. The quick and dirty look that I did do you know, a look back, I can't tell you why certain cases weren't closed. So, that's going to need another look on my part to find out why these cases are still open. Should they have been, you know even administratively closed? So, I'll come back to you guys and say, these are the number of cases that should have been closed, and we're looking to close. What they've done also is because they didn't have a Chief Enforcement Counsel, instead of calling them cases, they just termed them "inquiries" which means they are in the process now of their inquiries, they're doing the fact finding, and putting together the information that I can look at to decided yes, this is a case. Now we need to go forward, and handle it as such, or maybe there's nothing there, but I won't know that until we actually sit down and go through that part. There are cases, like I said, they still have their increase, they're looking at that. The here and now was to deal with the letters going out and, this is a new system, but because of the, the old means work from Todd, Brian, these guys, they were great, and they realized, look we're going to help you get through this. Here's the list. The list had some hiccups, we dealt with that. so, what we've done is we've sent out e-mails. Staff was here last night getting e-mails out, because there were issues with the addresses, so I made a determination we need to get something out so let's get e-mails. Last night they got a total of four thousand, four hundred and thirty-nine e-mails out. The bounce backs that came back bad e-mails were four hundred and fifty, and there were three hundred, seventy-five that had no e-mail addresses. So, I'm going to assume those were probably

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campaigns that filed, or you guys had in the system prior to the new system where people were required to have e-mail. So, what we now do is we're going to follow up with the bad e-mails and the no e-mail addresses to then send out letters, and that type of follow up. Because now it's the Enforcement Unit's responsibility to handle this, what I'm going to be looking at is what tools do we need in order to effectively get the mailing out, and get the mailing out in a timely fashion, and get the mail out certified? They have a Pitney Bowes machine there for all intents and purposes, is simply we can't use that for this volume mailing. I mean if you were saying, okay we're going to send out five letters a week, sure, we could use that. But, not for this volume. Now they have a high-capacity machine on the other side, so what we're going to do, is see if there's a workaround. Can we use that machine and simply be, I don't know billed for whatever the cost is? I mean we'll work something out whether it's working with them and using their machine, to possibly looking to upgrade, to worst case scenario, we take it to the post office, at the end of the day it's a responsibility that needs to be done, and it will get done. So that's also something that's out there. Beyond that, we're still putting things together. It's a unit that needs to expand, because like I said, they lost a good number of staff. Why they've lost staff, I can only speculate, but I'm sure others can speculate better than I could. So that's one of my key things going forward. Get more staff, get appropriate staff. And keeping the Commissioners in the loop, in terms of what's going on.

Commissioner Kosinski: Well, I just want to say, I want to welcome Michael back. I was here when he was here years ago, and I respect his abilities. He was great when he was here. I think it's a real strength to bring to the job, that you have experience here. You understand the law. You understand how we work. I think we have a cooperative relationship, should have. Unfortunately, with the prior Enforcement Counsel, we did not have that. I think it was very unfortunate, and hurt the work of your office, as well as our operation. But I think with cooperation, I think it'll go very well. We have this in common, we both left here, we both came back. So, I know you bring a lot to the table. Happy that you're here, and I welcome very much the attitude that you're bringing, which is to work with us, which is the way it should be, and the way it always should have been. We can help you, you can help us, and that's the way it should work, because that's what we're here for and I look forward to working with you. So, I'm thrilled you're back, and I'm sure you will do well going forward.

Michael Johnson: Hey, you know, I was talking to the Commissioners earlier, I'm going to be looking at the different regulations to see how they can be tweaked, what's better, what can stay, all that kind of stuff as I mentioned earlier. One of the regulations in particular that I think at some point, I'd like to discuss with you guys involves the issue of firearms. Right now, there are none in the Enforcement Unit. But just so you know, my position on firearms, we had in here, as you recall Peter, the investigator had a firearm. The last time I was here as the Enforcement Counsel, I had an issue where a candidate who was removed from the ballot, took it personal and started issuing threats at me, would show up in public places wherever I'd be. Once I left here, he started making inquiries to find out where I lived. And because of that, that was when my wife said to me, "You need to take your own action, your own protection." So, I have a permit for firearms, so I have a different view in terms of the Enforcement Unit, and the use of firearms. It needs to number one, of course, be responsible and they need to be locked away. So that's my

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viewpoint on it, and that's why I say I'd like to, that's one of the things that I'd like to revisit with the Commissioners.

Commissioner Kosinski: Well, for my own purposes, I look forward to your input on, we did issue the regulations. I don't, and I think it's a very good sign you dropped the lawsuit, which I think had no merit. I think, And I appreciate that very much, very good gesture.

Commissioner Kosinski: And if you have any suggestions on those regulations, I'm certainly open to talking to you about them, if you have issues with them and hopefully, we can work through them.

Michael Johnson: Yeah, I'd like to sort of just make certain that a lot of the regulations are in place for the agency as a whole and like I said, like Bill McCann said to me, he said, "So, Emerald City is open now" and I said, (unintelligible).

Commissioner Kosinski: Okay, good.

Commissioner Kellner: Anything else? Alright thank you again, Mike. So, I don't believe there is any old business. To new business, the first item on your agenda is the resolution formally adopting Cybersecurity Requirements for State Boards of Elections. And this is the final adoption of these regulations, correct? Have we received any comments? Suggestions?

Commissioner Kosinski: Well, we did. In my packet I had a whole series of comments, and the way you guys resolved them, or at least either adjusted or responded. So, everything seems to have been addressed. I mean the concern I've had on these frankly, is the smaller counties have the ability to actually implement the kinds of Cybersecurity that we want? And I know they have limited resources, and I know a lot of these county boards are reliant on their counties, not the county board itself, doesn't run their own system. They have an IT unit within the county that runs it, so they have to go outside their own Board to try to make sure this stuff gets implemented. I just wanted to know that we were cognizant of that, and sensitive to that, and we weren't imposing things that just weren't realistic that people just weren't going to do. That was my only issue.

Bill Cross: I can speak a to that a little bit, this certainly wasn't done in a vacuum. One of the major parts we had with this was NYSLGITDA. I can't tell you it's an acronym.

Tom Connolly: New York State Local Government I T Director's Association.

Bill Cross: Thank you very much. Was a representative group of all of the county IT directors and CIO's. Because ultimately, in very few places, the IT falls to the County Board, they're all - almost all - owned by County IT. So, these are the people that would be charged with implementing it and reporting. We work very close with them in terms of a workgroup facilitated by CTG because they work closely with that group, to bridge the gap. We had several working sessions.

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Todd Valentine: That's SUNY Center for Technology.

Bill Cross: And we actually through the process did adjust before the initial regulations back in March, just really paring it down to essentially what we considered achievable baseline for the counties. It's not the gold standard, it's moving the needle forward. It's many of the things that they're already doing, solidifies what it does since we upped the ante a little bit on some of the things that really need to be done, in terms of standards. But we really worked closely with...

Commissioner Kosinski: Bill, should I assume this is sort of an evolving area, that whole Cybersecurity environment is evolving, as different problems pop up, arise, just not elections, but generally...

Bill Cross: yeah

Commissioner Kosinski: Are we going to adjust these going down the road and address those?

Bill Cross: We will, we try to make them broad enough, where we try not to be overly descriptive about a lot of things and lay out what should be done, not necessarily how to do them. And a lot of times, based on what their environment is, they maybe do things differently than what we laid out to go about how to. So, Cybersecurity's always evolving, and it's always something different that's being - coming at them. And I think what we have is a good baseline. We do expect to revise it at some point, and it is flexible. I think what we're putting in place now is something at least lays out some uniformity that we have with that in terms of expectations. And elections isn't alone, there's several counties that mentioned that they had received regulations from other areas of the state and such, like that where one of the key feedback that we received from the county IT Director, you know like you've got your regulations, we have DFS regulations and we have several others that we are putting together as we unify the county regulations around cyber and then they would put things where they're different, you know hot to keep it outlined for these but they actually appreciated it, because it was fairly comprehensive. So, this lays out like I said it's a baseline, something we think is achievable by all. The feedback we received is just that we've made the offer of working with counties in implementation of these and actually have had several of those sessions already. Talked through how they will achieve some of these, and in most cases, these aren't unfunded mandates. Many of the things that are in the regulation are also in the remediation plans for them to do, they'll be provided funding for. The things that potentially aren't, that are ongoing, we do have the additional grant funds now that could supplement things that weren't in the regulations. So, like I said, we've done a lot of work to put it together, and a lot of follow up work to put together, both sides, input from partners, on what should be in there, and input from partners of as far as they're going to be charged with implementing.

Commissioner Kosinski: Thanks. With that all said, I'll move these.

Commissioner Kellner: Is there a second?

Commissioner Casale: I do.

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Commissioner Kellner: Any discussion? Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed. Alright so part 62-20 is adopted. The next item on the agenda is the certification of the Statewide Ballot proposals, and Brian and Kim, do you want to just briefly report? And we've got recommended text from the Attorney General, and has staff recommended any changes from that text?

Brian Quail: Yes. So, there are four propositions Two through Five that are in the packet that were provided to the Commissioners. And in bulk of most instances, the OAG's text was adopted, but there were some changes. In proposal number Two, the word "fundamental" one of the environmental parts of the label was removed. And there was a clause in the Ten-day advance Learner Registration requirement, that was in the OAG draft, and have speculated as to how it might be implemented. And we left it in more descriptive form. Again, that was annotated for the Commissioners. The Absentee Abstract and question were also slightly amended to just very succinctly say what the various succinct change in the constitution was. And there were no changes to the OAG's draft at all, with respect to the jurisdiction to the New York City civil court change. And staff does not yet have a recommendation for the Commissioners on Proposal One, but we are continuing to work on what we're achieving on that and would recommend that the Commissioners meet again, on or before the deadline for the certification, which would be August 2nd which is Monday.

Commissioner Kellner: I move that we adopt the staff revisions for Proposals Two through Five. Is there a second?

Commissioner Spano: Second.

Commissioner Kellner: Abstention? We just agree that they were right to take out the word "fundamental", that that was an editorial word put in by the Attorney General, and I don't know what a fundamental right is as opposed to other rights. Okay. So, let's take a vote on the text for Proposals Two through Five. Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

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Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? So that's adopted. And since Monday is the deadline, plan to meet Monday at noon.

Commissioner Kosinski: Yea.

All: That's fine.

Bob Brehm: It will require two of your signatures on the ones you've adopted.

Commissioner Kellner: And we had the certification which was also. So, I don't believe there are any items for Executive Session. And we've discussed a tentative date for our next meeting.

Bob Brehm: 30th.

Todd Valentine: August 30th.

Commissioner Kellner: So, I think we can...

Commissioner Kosinski: Move to adjourn? Until Monday? I'll move to adjourn until Monday.

Casale: In-person or virtually?

Commissioner Kosinski: Well, I think we can do it either way, but it's just the one item that will be on the agenda right? So, you could probably just do it virtually if you want, your choice. But I would move that we adjourn till Monday at noon.

Commissioner Kellner: Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed?