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## Board of Commissioners Regular Meeting

**ROBERT A. BREHM:** Okay, we're on.

**SPEAKER:** We're on tape.

**JAMES A. WALSH:** My name is Jim Walsh, it's my honor and pleasure to be chairing today's meeting. And before we begin I would like to have my fellow commissioners introduce themselves, and to my right...

**DOUGLAS A. KELLNER:** Douglas Kellner.

**EVELYN J. AQUILA:** Evelyn Aquila.

**GREGORY P. PETERSON:** Gregory Peterson.

**JAMES A. WALSH:** And around the table?

**TODD D. VALENTINE:** Todd Valentine.

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**KIMBERLY GALVIN:** Kimberly Galvin.

**PAUL COLLINS:** Paul Collins.

**JOSEPH BURNS:** Joe Burns.

**ANNA SVIZZERO:** Anna Svizzero.

**PATRICK CAMPION:** Pat Campion.

**JOHN CONKLIN:** John Conklin.

**GEORGE STANTON:** George Stanton

**WILLIAM MCCANN:** Bill McCann.

**ELIZABETH HOGAN:** Liz Hogan.

**BOB BREHM:** Bob Brehm.

**JAMES A. WALSH:** I thank you all--

**SPEAKER:** - - around the room?

**JAMES A. WALSH:** Oh, I'm sorry, yes?

**SPEAKER:** Bob Warren, Election Operations.

**SPEAKER:** Nils Eglund, NYSTEC.

**SPEAKER:** Rob Gronszniak, NYSTEC.

**JAMES A. WALSH:** Okay.

**JAMES A. WALSH:** Sir?

**HENRY BURGER:** Oh, Henry Burger, attorney and citizen.

**SPEAKER:** Frank Hoare.

**GUY PARESES:** Guy Parisi, Attorney.

**SPEAKER:** Aimee Allaud, League of Women Votes.

### Approval of Minutes

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**JAMES A. WALSH:** Thank you all, and welcome.

First item of business, minutes of the June 22nd meeting, do we have a motion?

**SPEAKER:** I move the adoption of the minutes as [SOUNDS LIKE] recommended.

**JAMES A. WALSH:** All in favor?

**SPEAKERS:** Aye.

**JAMES A. WALSH:** Opposed, carried.

### New Business

New business, out of order we're going to vote on the Petition Rulings and I would ask Kim Galvin and Paul Collins please.

**KIM GALVIN:** Thank you for taking it out of order, Commissioners.

There's a whole slew of judges in the area that are waiting for our determinations that have asked that we notify them as soon as the Board meets, they're in the process of formulating their decisions on the many lawsuits that were filed.

Basically before you, you have what amounts to three charts and the first document - - page review consists of that first page and then if you see under "authorizations" it refers to a second authorization report.

These are determinations if you will, that were made by basically the facial insufficiency of the papers that were presented to the Board for filing.

The Authorization Report is obvious to us, of course, but to those listening many of the candidates may file a petition or an acceptance for a particular line for which they are not enrolled.

And if the party doesn't authorize them to be on the ballot and all the parts don't match up, they are not on that line in the election.

This report shows all of those candidates and all of those districts that lack an authorization from whichever party, so there will be a vote on that.

The second chart - - objections without a hearing review.

And basically these are things in which objections were filed and for whatever reason, a full hearing with the Board staff was not required.

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For example, the objections were late or there was no proof of service filed or something where they claimed insufficient signatures and a tape count show that it was right or it was correct or incorrect so that we didn't need a full hearing on the matter.

And then the last page, the last chart, 2010 - - hearing terminations are all of the hearings that were actually held, the bipartisan hearings at which time the petitioners and respondents were noticed and had the ability to come before the Board, staff and actually go through their objections and state their arguments for the Board.

And a determination as a result thereof was made and those are contained here on.

And just before you make a vote or ask any questions I know I'm not one for thanking the staff in the building, but clearly Lisa Shawn, Robiann Mitola, every staff member in this building to the one has worked incredibly hard and very long hours to put together all of the papers that comprise these five or so pages that look pretty simple.

But it was an extraordinary effort and without all of them, obviously it ran pretty smoothly I think.

So these are the Council's reports for votes on the petitions and if you could vote or have any questions on them, we would be happy to answer them, but otherwise I would move them for a vote.

**GREGORY P. PETERSON:** Now, there is a group of these which are presently in court; is that correct?

**KIM GALVIN:** There were 42 or so court cases filed, I think we've had 8 or 9 resolutions to date.

We got served again twice today; we were in court this morning so, some of these are in court and if you see a reference that says, "Off by court," or something, that was just one or two that we got in.

We didn't have the time and we don't have the decisions from the courts to go through and clean it up entirely, so we left everything that we needed to do on, so that we had a clear record as they came in and we can adjust it off or on from there.

**JAMES A. WALSH:** Any questions?

**EVELYN AQUILA:** Well, I just congratulate the staff for the hard work that went into this and I well know what it takes to do this.

**JAMES A. WALSH:** I was going to do the same, I think it--

**EVELYN AQUILA:** -- And I'm sure their work is accurate.

**JAMES A. WALSH:** Yes, when that opportunity comes up to thank the staff publicly I think everyone should take that opportunity.

On the vote to accept the petition rulings have a motion please?

**EVELYN AQUILA:** Well, I give you a motion to accept these.

**JAMES A. WALSH:** -- Second?

**DOUGLAS KELLNER:** Second.

**JAMES A. WALSH:** All in favor?

**ALL:** Aye.

**JAMES A. WALSH:** Opposed, carried, thank you.

## Unit Updates, Executive Unit

Unit Updates: Co-Executives Robert Brehm and Todd Valentine?

**TODD D. VALENTINE:** Do you want to go first?

Well, you know the petition stuff takes up a lot of our time in the middle of July, so in some respects I apologize for the lack of written reports from the staff, but it's understandable.

One big item to report aside from the day-to-day work is that we are in the process of extending our lease on the building.

All the T's aren't crossed and the I's aren't dotted yet and I don't know what the actual rent we'll be paying, but our plan is we've been informed by OGS is that the landlord has agreed to our extension.

We have some details to work out about things we want fixed, but we are planning to stay here for at least the next ten years assuming OGS just doesn't kick us out somewhere else sooner, but that is the plan.

So that was a big relief to that...and the budget passed, but I think we talked about that at the last meeting, so that hasn't impacted us at this point.

So those are the big things, yeah I'm...

**ROBERT BREHM:** Again, I think the majority of our time was spent on preparing for the petition challenges and work that will help to support the counties in preparing for the roll-out of the new voting equipment.

And you'll see some of those resolutions later in this event.

We do apologize for the lack of the staff written report that they give you ahead of time, only because everyone was either in court or in a hearing or preparing to be in court or to be in a hearing over the last several weeks.

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So we did adjust our procedure, which I think helped a lot by making clear instructions to all the staff on how to handle the hearings and then to share the worksheets with both the objectors and the candidates at least one business day before we scheduled the hearing.

So that they at least came in prepared to not necessarily rehash ground that we've pretty much settled, but where they take exception to the work that we've done.

So it helped us, I think, to at least focus our attention to be a little bit more efficient in preparing for today even though it was a lot of work.

So and I think we had some other suggestions how can we do it even better for the next time, so we'll work on those.

**JAMES A. WALSH:** Thank you; before I continue every meeting we do receive quite an inclusive report from all the different departments and the staff here at our meetings.

And because as has been mentioned this has been a very, very busy month as everyone can I'm sure be assured of.

In that event if anyone has any questions that may be directed to anyone around the table please feel free to do so, I'm sure they're all prepared to respond to any kind of a question you may have having to do with their operation.

### Legal Unit

Legal, Kim Galvin.

**KIM GALVIN:** Thank you, Commissioner.

In addition to what I just referenced with regard to the petition reports the unit obviously has been very busy otherwise answering calls, any kind of call you can imagine on the challenges or the petitions or the ballot access or any of those things.

We had the 42 petition lawsuits that I referenced; we apparently got served today with some cross motions--a whole new lawsuit.

And I suspect that they'll be continuing through the next week or two anyway, just to resolve the trial at the trial court level.

We have also been doing our best to monitor Nassau County's actions with regard to their machine issue and to keep the Department of Justice updated accordingly.

And I know that Paul has worked quite extensively and quite a lot on a lot of the Nassau County papers, I don't know if he wants to talk about them now or at some other point today.

**PAUL COLLINS:** Probably it's a more appropriate topic for Executive Session.

**DOUGLAS A. KELLNER:** Yeah, I would like for us to have a discussion on this and we could either do the Executive Session now or we could do at the end.

**JAMES A. WALSH:** Do a hold, we'll hold.

**DOUGLAS A. KELLNER:** Yeah.

**JAMES A. WALSH:** Okay, thank you.

**KIM GALVIN:** And that's it for the Counsel's Office.

### Election Operations Unit

**JAMES A. WALSH:** Election Operations, Anna please?

**ANNA SVIZZERO:** Thank you, Commissioners.

We have been a bit busy, not unlike every other unit in the building but in addition to the information that's in your packet and that has been shared with you today we are conducting, as we speak, a drawing downstairs on the second floor for ballot positions.

We are drawing for everyone, because obviously they don't know downstairs what your decisions are going to be today.

So those people who did not prevail on the vote that you just took simply will not be appearing on the ballot and the ballot drawing won't have any bearing on them.

Subsequent to the summer conference, which happened a day or two after we met last we did provide the County Boards of Elections with a number of forms and applications in multiple languages.

We do still have more information to send them in multiple languages, but we're waiting for budget approval to get those translations done.

That has not been granted yet, so we are on hold on a couple of those items.

We also responded to all of the boards, a couple of questions were raised at the Summer Conference and we felt the responses, since not everyone was in the room to hear them, should be shared with all.

Things relative to test decks and other generic operations issues, we continue to monitor Nassau's compliance as we were directed by the court.

We get written reports from the Nassau Board every week and we have a conference call with them, the

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reports are due by noon and we have a conference call with them in the afternoon.

I think we've only not held those calls twice, because there really wasn't any additional information other than what was in the report that we would expect to receive.

Just to summarize for you the petition activity that we've had and it's certainly changed in the last couple of days, but we have processed in excess of 515 petitions, 5 declinations, 4 substitutions, 93 sets of objections to statewide offices, 54 objections to congressional seats, 79 for senate seats, 59 for assembly seats and 10 objections to various party positions that are filed with us.

And again, we'll have more numbers for you at your next Board packet.

Other than that Joe I can't--do you have anything you want to add?

**JOE BURNS:** [Shakes Head]

**ANNA SVIZZERO:** I think that's it for Election Operations absent any questions that the Board may have.

**DOUGLAS A. KELLNER:** Well, I have a lot of complex matters regarding certification issues on the voting machines.

My suggestion is that I take it up at the time we do the resolution on the change in the Dominion software if that it's okay with everybody.

**JAMES A. WALSH:** -- Sure.

**DOUGLAS A. KELLNER:** And some of these we may need to do in Executive Session, because they involve machine security issues.

**EVELYN J. ACQUILA:** Absolutely.

**JAMES A. WALSH:** Thank you, Anna.

**ANNA SVIZZERO:** Thank you.

### Public Information Office/National Voter Registration Act Unit

**JAMES A. WALSH:** NVRA Public Information, John Conklin.

**JOHN CONKLIN:** Good afternoon, Commissioners.

Since the last meeting New York Network completed the shooting of the Spanish language television commercial on July 6th, the edits were completed; we're all ready to go.

As a matter of fact the campaign started on August 1st, I heard a radio commercial this morning when I



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was getting dressed.

So the campaign has already begun, so that's English and Spanish in the city of New York.

They are also in Chinese and Korean on the radio, so that's proceeding.

For NVRA issues we have the semi-annual training is scheduled for September 16th and 17th; the announcement for that will be sent out on August 23rd.

New training for the City University of New York is scheduled for August 10th in New York and August 12th and 19th for the State University of New York and the Community Colleges here in Albany.

There's been a significant up tick in calls and inquiries from the press and the public regarding the designating petitions and the filing for the July Periodic, which both fell on the same day.

Also the unit's participated in the continuing meetings on our progress with the MOVE (Military and Overseas Voter Empowerment) Act.

Poll site access, since the middle of June we've been reminding counties every 15 days about any up unspent portion of their 2005 HHS Poll Site Access Improvement money.

They have to expend that by September 29th or it will expire, the counties have reacted pretty well to our prodding.

We only have ten counties left with a balance of more than \$1,000 and most of them have promised that a voucher will be coming to us by our requested deadline, which is August 15th.

So this is just a reminder that if you haven't sent us something please do so by the 15th, if you have any questions call Greg or Patrick on the Public Information Line.

The number of inaccessible poll sites in the state at our last meeting was 7; it is now down to 2.

**EVELYN AQUILA:** Oh, great!

**JOHN CONKLIN:** So that's the total of my report.

**JAMES A. WALSH:** Thank you John; any questions?

ITU, George Stanton.

**GEORGE STANTON:** You skipped Campaign Finance.

**JAMES A. WALSH:** Oh, I certainly did.

Do you want to do Campaign Finance, George?

**GEORGE STANTON:** No, I'd rather not.

**JAMES A. WALSH:** All right, Elizabeth Hogan.

## Campaign Finance / Enforcement Unit

**ELIZABETH HOGAN:** I understand where you're coming from, George.

Thank you, Commissioner.

I did submit a very brief written report for the Board, so if I could just touch on the highlights.

July 15th of was the financial filing date for the Periodic, subsequent to the filing and a review of non-filers in the system staff worked to send out approximately 4,600 pieces of mail relative to the non-filing and trying to get people to file.

There's a statutory requirement that we do so and we did.

Next week on the 12th we'll initiate the lawsuit for the Failure to File the July Periodic, as of last count there we had about just over 600 I think--

**WILLIAM MCCANN:** Uh-huh.

**ELIZABETH HOGAN:** --non-filers. So we're hoping that in the interim that number will go down when we finally generate a list for the 12th; it will be significantly less we're hoping.

The Call Center staff--each Board meeting I try to give you some statistics just for general review relative to the intake and processing area of Campaign Finance.

And we remain very busy and I think we're running at a rate of about 15 percent above, in relative time period this is 2010, so I look at 2008 because of the types of elections and the numbers of committees that come to us.

And so when you compare those kinds of statistics we're running higher than we have been.

I did indicate to you that in July alone the four people that we now have in our Call Center down from double that handled 2,675 calls for assistance relative to filing.

We run very, very busy.

The rest of the staff other than the Call Center, you know, we could not spare them, the rest of the staff in Campaign Finance and in Enforcement assisted in the petition process to the extent that we were able to give the time.

As well, the different subunits of Education and Training and Audit continue with the projects that are

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pretty much ongoing and that I've referenced in the update to you in writing.

I think those are the high points, Bill would you like to add anything?

**WILLIAM MCCANN:** Yeah, just that on the lawsuit we anticipate historically that the number will be somewhere around 400.

We hope that it's less, a couple of years ago we started actively seeking the assistance from the county boards where we send them the list of the people from their county and say, "Help us out."

And we found over time that that's been very successful.

And also the other thing is to point it out with the people on the phone, because it can be a thankless job.

But a lot of these calls are really--they can take over an hour, some of the folks that they're handling--they're handling technical questions.

And also frankly the same with George's staff when they're assisting people on technical issues on how to use the software and things like that.

So it could be very trying, but again just the sheer volume of well over 2,500 calls in a month with four people, you know, they're up to their eyeballs so they do a great job.

So I want to commend them for that.

**GREGORY P. PETERSON:** Is there--well, maybe I'll save the question for George--is there any way that when somebody files their campaign finance report to you and there's something wrong with it technically or otherwise, you know, like immediately or they push the wrong button if they get a reject directly from the computer that it hasn't been received or something along those lines; is that possible?

And again, now maybe that's more George's question than - -.

**ELIZABETH HOGAN:** Well, we have discussed issues of that nature with George, and I guess I'll leave it--I think though to leave it to George to explain the technical issues that he's presented to us that surround that.

**GREGORY P. PETERSON:** So rather than go through the arduous task again of it coming to you, then you sending a letter then, you know, it going back and forth it seems to me at the time that somebody presses the button that says, "send" and it's rejected at this end, that something should go back immediately to them saying, "Yes, your thing has not been filed properly or you didn't dot your I or didn't cross your T or you pressed the wrong button."

Whatever it is, so that something goes back, so that they will know instantaneously when they send it over the Internet that they get some sort of response right away.

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It would save obviously postage, you know, again staff work getting this stuff out.

**GEORGE STANTON:** Do you want me to answer that now?

**GREGORY P. PETERSON:** I would like you to, yes. [LAUGHTER]

**GEORGE STANTON:** No, we can't do it in the method we're receiving now, because we're receiving by email. Which is once we've received an email from there on it's a totally manual process, so there's no way to link the files after we load them and find out that there's an error back to the email.

I've discussed with Bill and Elizabeth a better method for doing it wherein a voter could log onto the Internet, attach their file and we could connect all of the information that they give us and put an email back to it.

But that would require a little bit of involvement, which we can do in-house without a problem.

And so I don't think it's a huge deal, but it would require re-educating all of the filers that there's a new way to--

**GREGORY P. PETERSON:** Well, even if you do by email and again isn't there a code or an authorization that they have to put in?

**GEORGE STANTON:** No, no, it's separate from the email.

The problem is--

**TODD VALENTINE:** -- It's a file attachment.

**GEORGE STANTON:** --the email is basically like a postman dropping a letter in your mailbox and--

**GREGORY P. PETERSON:** So the rejection comes thereafter--

**GEORGE STANTON:** Yes.

**GREGORY P. PETERSON:** --when the email gets opened.

**GEORGE STANTON:** Yes, because we may have to open it and load in the email.

Well, if they deliver the email after 5:00 o'clock in the evening we're not going to be even looking at it until 9:00 o'clock the next morning, but...

**GREGORY P. PETERSON:** So it physically takes somebody to open that email?

**GEORGE STANTON:** Yes.

**GREGORY P. PETERSON:** At which point they say the authorization number is wrong or whatever then

it bounces?

**GEORGE STANTON:** Yes, and that's typically when we're busy it's done by more than--some person might open the email, drop the file in the folder where it gets loaded from and then open the next email.

And then somebody else is coming along and loading those files, so it's not even one person following the whole process through.

It's a bad--well, it's an imperfect process for doing this kind of thing.

I would like to see--

**SPEAKER:** -- It is, I mean --

**GEORGE STANTON:** --move to the upload-type thing, which some of my staff is looking into how to do that right now.

**GREGORY P. PETERSON:** It would seem to be a lot more efficient than--

**GEORGE STANTON:** -- It would absolutely be more efficient, it would--

**GREGORY P. PETERSON:** --using staff time to go over something that may be as simple again as, you know, ABC2 and you know that's your number instead of ABC1, which should have been your number.

**GEORGE STANTON:** Yeah, I mean this method was devised a long time ago and we do need to go to a better method, I agree 100 percent.

The education of the filer will be the biggest piece of that.

**TODD VALENTINE:** And when we started we had a much smaller number of filers, so rather than invest in a large infrastructure at the time it made sense.

But now we can--

**GREGORY P. PETERSON:** It's not making sense now.

**TODD VALENTINE:** Not now, no, no.

**ELIZABETH HOGAN:** No.

**SPEAKER:** --

**ELIZABETH HOGAN:** But every time we've just modified the software, you know, as we've gone along over the past 15 years.

And now we're left with a hodge-podge of--

**WILLIAM MCCANN:** So here the situation is, is when we first developed the software in 1999 you filed your report on a diskette and then you had to have a piece paper where you signed it and said, "Here's my report."

Then when email came into vogue and people had it across the board we changed it to have to process this piece of paper.

To reject the diskette we said, "Okay, we'll give you a pin number, which will now act as your electronic signature and instead of giving us the piece of paper with your signature we'll take the pin."

Then over time there was an education on that where our goal was to say, "Well, we want to take the report and that's to get the information to the public as soon as possible."

Subsequent to that after that short period of time we now reject the report when the pin doesn't match the filer identification number and it's in that process where the report comes in attached to an email, which is the vast majority of how they do it.

Once it goes into IT, it goes into an email inbox, they take the report off of it and put it in a folder and then they look at it, at that juncture they're looking to determine is there a problem with the pin and the filer ID where it would be rejected.

And then now the issue is how do you then go back and marry back to the original email then send out a notice, how to--

**ELIZABETH:** Because now it takes up to a week for the filer to get a notice that their filing was bad.

**GREGORY P. PETERSON:** Well, that's the point.

I mean, you know, basically you're talking about a filer who's done the right thing or tried to do the right thing and doesn't find out until a week or so later that, "Oops, I made a mistake."

And then he's got like four days or something, whatever it is, to correct it and get it redone.

And again, if they redo it and that bounces you've got another week and all of a sudden they wind up with a naughty notice.

**ELIZABETH HOGAN:** -- Right, on a list.

**GREGORY P. PETERSON:** Which I don't think is appropriate.

**EVELYN AQUILA:** Yeah.

**GEORGE STANTON:** Yeah, I would really like to see us move to the other method, because we could check right up front.

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The person would have to put in a pin number and if they don't have the right pin number we could tell them, you know, it's rejected.

**SPEAKER:** In your spare time.

**GEORGE STANTON:** Well, like I said I just--

**GREGORY P. PETERSON:** It is something that really should be changed, it's just not right.

**GEORGE STANTON:** I don't think it's a matter of time that we don't have time to do it.

I think it's a matter of, as I said, educating all of the filers that they're going to have to do it a new way.

**ELIZABETH HOGAN:** That's a huge - -

**GREGORY P. PETERSON:** Yes, all right.

**GREGORY STANTON:** So we need to plan for that.

**GREGORY P. PETERSON:** Thank you.

**JAMES A. WALSH:** Any other questions from Campaign Finance?

I knew you were working with her George, you were on the report for Campaign Finance, I was right all the way along. [LAUGHTER]

### Information Technology Unit

Now George, your other department, ITU please.

**GEORGE STANTON:** Okay, just to add what we were talking about.

We have been working with Campaign Finance at sort of putting the finishing touches on the new electronic filing software, hopefully to release next year.

And that would be obviously the opportune time to switch the way that people file as well, so we're going to look into that.

In fact, we're looking into--I've been told by one of my staff that writing the application to let them upload it over the web is very doable.

So other than that we've been assisting with the MOVE Act as needed, and talking about staff just back to Campaign Finance I've got three help-desk support people down there that do an incredible job.

I just looked this morning and in the last month they've loaded over 6,000 of these Campaign Finance

reports and taken 675 help desk calls.

And that's mostly done within a 10-day-period of time, because that's when all of the on-time filers come in.

So they do a real yeoman's job down there, so the credit goes to the support staff downstairs, too.

And that's all I have unless you have questions.

**JAMES A. WALSH:** Thanks, are there any questions?

Thanks George, Old Business; discussion on the MOVE Act.

### Old Business – MOVE Act

**TODD VALENTINE:** - - start with that?

**ROBERT BREHM:** No.

**EVELYN AQUILA:** Who's speaking on that?

**ROBERT BREHM:** Patrick.

**EVELYN AQUILA:** Oh, Pat.

**PATRICK CAMPION:** My turn?

**PATRICK CAMPION:** Good afternoon, well the MOVE Act is moving along on.

On July 9th, Scytl, the company that was awarded the contract for New York State in the federal government was awarded.

On July 13th we had a face-to-face meeting here with Scytl and we laid out the projects, the timelines and set up a cooperation of communications on both sides in the deliverables.

Since then it's really taken off, all the counties have been very cooperative in commuting with Scytl.

Their voting system and voting registration vendors who are critical to the project have been sharing a lot of information.

We've established on almost a daily basis a call or a project management spreadsheet with Scytl to keep us on track.

As of today lots of good information has been exchanged by all the counties' vendors and Scytl moving forward.



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Next Wednesday we're actually going to have the first acceptance test of the site here on Wednesday.

We have also scheduled all the county regional contacts, scheduled for training for the Primary for the General Election so they'll know how this is going to unfold.

And I've also been on calls with the federal government, Pam Forbes the Program Manager for FVAP (Federal Voter Assistance Program), to give the New York State Update to the federal folks on how we're doing with the timeline.

And right now we're on, the timeline is working and we'll have as much information as possible and as much help as possible to the counties for the Primary and fully expect a full rollout for the General Elections.

**JAMES A. WALSH:** Any questions?

**ROBERT BREHM:** Just one other aspect of that, Todd and I participated in I think it was July 23rd with the Department of Justice and FVAP officials.

They had some further requests for information on the New York State Waiver application. I think the issues mostly that they were concerned about and it's something new, but they asked anyway--are we participating in the federal program and, you know, do we have expedited mail to get ballots to people late and some of those types of questions.

They still did not give us a date certain other than the statute as to when we will know whether we have the waiver or not.

But considering the ballots have to be in the mail to military voters a week from tomorrow in the Primary and 45 days before the General Election--is I think the 18th of the September--4 days after the Primary we're on a course to do what we have to do.

And hopefully they'll grant us the waiver and they think we are working very diligently with our vendor and with the counties to get a system as much functionality as possible.

And to train them on--it won't be as fully functioning in time for the September Primary.

Under the federal side the statute requires that we are compliant for the November General and there aren't many federal or military voters that even requested to get it electronically, because the system is new.

But certainly there a lot of the counties are working to provide as much information to their applicants as possible.

You know, update your application and we will have an email process if you want to.

I know FVAP is reaching out to military voters and the Overseas Vote Foundation are already reaching

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out to the overseas people to at least educate them that the change is coming and be prepared to update your application to make sure it's current, they have all the information.

And oh, by the way you can also get your ballot electronically if you update your information with the counties.

**JAMES A. WALSH:** Thanks, Bob.

**ROBERT BREHM:** Yep.

**DOUGLAS KELLNER:** Scytl says that they are going to provide us with a robust manual mapping tool. Can you explain how that's going to work?

**PATRICK CAMPION:** George?

**GEORGE STANTON:** Well, - - you sort of got my response to that.

No, I don't have any idea except that it's going to be manual.

Dave is sort of speaking for Scytl I guess, but obviously it was apparent to me at the beginning and it was Scytl after they looked at it that the real problem was going to be matching the voter to the ballot that they're supposed to get, because there is no direct link between any information we have in the state voter database to the election precinct.

And apparently there's not even necessarily that same connection within the county systems, so they are talking about building some kind of a spreadsheet application as per our conversation yesterday.

That where the counties would have to fill in the blanks in order to make the match and they'd build the bridge between the two--

**DOUGLAS KELLNER:** They, you used--

**GEORGE STANTON:** Scytl.

**PATRICK CAMPION:** Scytl.

**ROBERT BREHM:** So in time for the Primary our biggest issues are getting from the counties their jurisdiction codes in a way that's uniform.

And then also the ballot definition code, you know, what are the labels are you using to make the ballot.

For those counties that are making their ballots using either the Dominion EMS System or the ES&S EMS System if they use that same nomenclature there's a way to make it more automatic.

For those counties that are printing absentee ballots either in-house or with a vendor, a print vendor where you get a PDF and you don't have the jurisdictional codes that are electronically available that's

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where the, in time for the Primary, is a robust matching program.

We hope to have as much of it automated in time for the General as possible, but still we have that transition from counties to this EMS System.

Who is using it their Sequoia Central Count Absentee System to grade the absentee ballot, that's a totally different electronic system that, you know, won't tie in as easily.

**DOUGLAS KELLNER:** And is this a function that's going to be performed by the county boards or is this a state board function?

**ROBERT BREHM:** The matching is performed by the County Board; it's the ballot to the nomenclature because they know best their ballot-style names.

**DOUGLAS A. KELLNER:** So the county is going to be responsible for matching a PDF file that has the ballot to the voter's application that is received by email; is that the theory?

**ROBERT BREHM:** Well no, the ballot code would be assigned to the jurisdiction code. So it would know in this election district--

**DOUGLAS A. KELLNER:** That's jargon that's over my head.

**GEORGE STANTON:** Well, I think what they're planning is--

**DOUGLAS A. KELLNER:** How is it--what does the military voter have to do in order to get a Primary ballot electronically?

**GEORGE STANTON:** Well, I think the military voters; the only thing he's going to have to do is log on and say that he wants it.

The county is going--

**DOUGLAS A. KELLNER:** Wait, wait a minute, log onto the Internet, to a website or to send an email?

**GEORGE STANTON:** -- Right to the Scytl's, FVAP - -.

**ROBERT BREHM:** Well, the military voter has to have an application on file as a military voter at the county.

And in order to go to the program there will be a link from our website where they need to go and create, "I'm the voter."

And they will have those records that have been pre-populated already.

Those are the military voters who, as an example that we know today, have an active file they will pre-populate those people into the list.

So they will have to identify themselves.

**DOUGLAS A. KELLNER:** You have a military voter who's a seaman on a submarine in the Pacific and it's August 21 and he hasn't gotten his ballot yet.

And he's not expecting a mail delivery for another month--

**ROBERT BREHM:** Well, the default is--

**DOUGLAS A. KELLNER:** --so what does that sailor do in order to get a ballot?

**ROBERT BREHM:** --if the county board only knows to send to you by mail the default is to send you by mail.

If you can log into the system from the sub and update your record, "I need to receive this electronically," there're two options: fax it to this number and that can happen or email.

**TODD VALENTINE:** They can get off the website.

**DOUGLAS A. KELLNER:** And that's a message that's going to go to the County Board of Elections?

**ROBERT BREHM:** It goes to the County Board of Elections.

**DOUGLAS A. KELLNER:** So the County Board of Elections is going to have to process that request to send the ballot by fax or by email to the sailor who has requested that?

**ROBERT BREHM:** And that's why we're going to look at it on Wednesday, but the concept still is the county will apply, "Here are our jurisdiction codes, here are our ballot samples."

If you're in this jurisdiction in a particular election district and it's a primary and say you're a Democrat, then you will be ballot-style say 1D for Democrat.

If you're the Republican and there's a Republican Primary it would be 1R, so that they would be able to know by having the ballot loaded in that military case---

**DOUGLAS A. KELLNER:** The county would know?

**ROBERT BREHM:** The county will know.

**DOUGLAS A. KELLNER:** Not the voter, this is not the issue for the voter?

No, this is a problem for the county?

**ROBERT BREHM:** -- No, the voter doesn't get to pick whatever ballot they want.

**DOUGLAS A. KELLNER:** Yeah.

**ROBERT BREHM:** The voter just has to create the initial voter accounts, because we are so close we will try for every voter we know of to create a voter account for them.

If we have an email address already because they've given it to us we can at least provide them with their pin number to get into that account.

If they don't at least their record will be populated, they'll go in and get their email address so now we have it.

And they'll tell us either, "When am I going to get my ballot, I'm still going to get it by mail."

Or, "I'd like to update my application and get it by fax or by mail," and then the county has to accept that.

And then once they do, once the county accepts it and says, the electronic message goes back to the voter and says, "Okay, now your ballot is available you can download it from the site."

So you can download it today or maybe tonight when you're at a printer, and the ballot will come, the instructions will come.

And then the samples of what to do to make the ballot envelope to come back, the mailing envelope and the Oath envelope that's appropriate to that type of—federal voter gets a different one than the military.

**EVELYN J. ACQUILA:** May I mention, I have a nephew on a nuclear submarine out of Pearl Harbor and we visited with him and my niece earlier.

And I ask him all the time, "Do you get your ballot?"

He says, "Always, always I vote in every election."

He said, "Aunt Evelyn, could I live with you if I didn't get any ballot?"

I said, "No, but we're very good," but he gives a lot of credit to his captain, I don't know why.

He says, "Our captain always makes sure that everybody gets their ballot."

No, I don't know what role the captain plays, but you can--I mean, he's been six months under the water, you know, under the ice cap wherever they--he won't tell you where he goes, but he goes all sorts of places.

He says he always votes.

**DOUGLAS KELLNER:** Great.

**EVELYN J. AQUILA:** We may disagree with who he votes for, but he gets a ballot. [LAUGHTER]

I guess I'm just saying say that, no I don't know if that goes to every soldier, every sailor or whatever, but he's very pleased with how he gets to vote.

**TODD VALENTINE:** That's good.

**JAMES A. WALSH:** Thank you, New Business--vote on a resolution for payment of an asset management system, Tab Number 3 in your booklet.

### Resolution on Asset Management System

Anna with any comment on that, please?

**ANNA SVIZZERO:** We are pleased to be on the cusp of making our selection, hopefully we'll be doing that later today so we can't tell you who we're picking, but we have picked a firm.

And they're price came in considerably under what we had originally thought this budget ought to be.

OGS needed some time to confirm that indeed what we were quoted is what will be the law of the land once we sign all these papers.

So we do need to move money before we can go to this contract phase, which we're requesting be facilitated through Todd and Bob.

It is the system that will help us monitor the use of voting systems and be responsible for where they are and the fact that they're in good working order.

We have that obligation, because the federal money that was provided for these systems was provided in the first instance to us.

The other benefits of the system will be that the county boards can track anything and everything that they use to implement HAVA, anything they purchase with federal money, anything that they purchase with their local dollars as well within the same system.

And we can communicate more about the issues that are being encountered, monitor problems that the systems been experienced perhaps by locked or by date of production etcetera.

That kind of information will be a lot more readily available to us.

We're hoping that even though we have the obligation to do physical inventory checks of the systems we will be able to do a lot more of the associated tasks electronically and contact the county boards or send people out as needed.

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So it will save us a lot of money in the long run, it will make what we're doing a lot more effective and a lot more responsible and be truer to our obligations that were further clarified to us in the federal audit that we just completed Phase I of a number of weeks ago.

**DOUGLAS KELLNER:** I move the resolution.

**JAMES A. WALSH:** A second?

**EVELYN AQUILA:** Second.

**JAMES A. WALSH:** All in favor?

**SPEAKERS:** Aye.

**JAMES A. WALSH:** Opposed, carried.

**ANNA SVIZZERO:** Thank you.

### Discussion of Dominion Upgrade

**JAMES A. WALSH:** A vote on Dominion Upgrade, Anna and Joe Burns?

**DOUGLAS A. KELLNER:** Well, if they want to present it that's fine, but I think that there are litigation issues and security issues that I want to raise on this; that the staff is telling me that I should do that in Executive Session.

**JAMES A. WALSH:** Do that now or you want wait until after regular business?

**DOUGLAS A. KELLNER:** I think we can finish whatever else we have.

**JAMES A. WALSH:** Okay.

**SPEAKER:** And do it then.

**DOUGLAS A. KELLNER:** But it will generate a discussion and then we'd have to come back into session to vote in public.

**JAMES A. WALSH:** If everyone didn't hear that there is some discussion that will have to take place, it should be taking place in Executive Session so we will hold this for the moment.

We will discuss it in Executive Session; we will come back again and vote in public.

### Discussion of New York City BOE VMWare Request

So we move to the next item on the agenda, which is discuss the New York City VMWare request, Anna

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and Joe Burns?

**ANNA SVIZZERO:** We are - - in receipt of a request from New York City who is proposing an additional way to facilitate the exchange of information between the general offices and the borough offices.

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It creates a virtual server environment; we do have schematics in the process that has been explained to us in writing by the City Board.

We have reviewed this with NYSTEC, they've prepared some information for us and Bob Warren on our own team has made some suggestions on how we can monitor this.

We envision the City Board having to report to us on the systems installation and its use, initially the installation and its use in both the Primary and the General Election.

We would probably send someone down from our own staff to see how the system has been configured and speak to the staff that is at the City Board implementing it.

So we're proposing that we do permit the City Board to use this software in the way that it's been described to us in the documentation they provided.

**DOUGLAS A. KELLNER:** Now Anna, I don't see a specific resolution but a resolution is necessary right, because the system technically requires certification to be used?

**ANNA SVIZZERO:** No, it fits within the context of the closed network definition and position paper that we have in place already.

We've been approaching it based on the conversation we had with NYSTEC and subsequent to that in a manner similar to the counties being required to purchase antivirus software and backup software for these systems.

As long as they tell us what they are and we review it with NYSTEC and make sure that they're industry standard, commonly available products.

And make sure that they're installed in a manner that's consistent with our procedures and hardened accordingly that it falls into that same category of software applications even though this is a much broader purpose in the City.

**DOUGLAS A. KELLNER:** Bob Warren wrote a short memorandum that I thought was very good in framing all the issues on this.

And then NYSTEC did a response, are we still sticking to the memorandum that Bob Warren originally wrote or are there any changes to the recommendation that he had made originally?

**ANNA SVIZZERO:** You can speak for yourself.

**BOB WARREN:** They utilize it as a pilot, we get the report from them after the Primary and then after



the General and then we make a final determination after the two pilots are run.

And we see what effect, if any; there was running the VMS in that environment.

**DOUGLAS A. KELLNER:** Okay, but I don't know that it's right to call it pilot in this one.

I mean, maybe what we're doing is giving them temporary authorization subject to further review, but it's not that they're going to use this partially.

This is going to be implemented throughout the New York City system, right?

**JAMES A. WALSH:** Yes.

**DOUGLAS A. KELLNER:** And I think that makes sense.

I think the City's proposal made sense and I think that your response to it also made sense.

So we're going to get an interim approval and there's going to be somebody from the State Board to monitor the use of the system during the Primary to make sure that it doesn't compromise any of the other procedures that have been set forth with respect to certification of the system, right?

**EVELYN AQUILA:** I think the way you said it was perfect, --

**SPEAKER:** Okay.

**DOUGLAS A. KELLNER:** I don't think so.

**EVELYN J. AQUILA:** Subject to later review, and we want to say review right after the Primary?

**DOUGLAS A. KELLNER:** No, I think that's fine and we don't have to do anything, because they're basically saying it falls within the exception to the certification requirements.

**SPEAKER:** I --

**DOUGLAS A. KELLNER:** All right, that's great.

Okay, thank you.

## Discussion of Suffolk County BOE Request to use Central Scanner

**JAMES A. WALSH:** Discuss the Suffolk County Central Scanning request, Anna?

**ANNA SVIZZERO:** The Dominion Voting Systems has submitted a central scanning system that eventually will replace the Sequoia Absentee Ballot System that we have now.

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That system, in order to continue to be used, would have to be recertified, so we are expecting that it will be phased out and replaced by this system.

It's only just been delivered to us, it's been demoed by the vendor one time.

Subsequent to learning of that Suffolk County has requested the use of this in this in the Primary Election even though it's not certified.

I think our position was that--

**DOUGLAS A. KELLNER:** Well, critical to that is Suffolk County has also said that they would do a 100 percent hand count in the primary.

**ANNA SVIZZERO:** True, I don't take issue with their intention to do the 100 percent hand count, I just think that this--we've discussed it, Joe and I, and put this memo together.

I think that the roll-out is huge; Suffolk County was not part of the pilot project.

They are a very good board I--

**DOUGLAS A. KELLNER:** Talking about the rollout of the new ImageCast?

**ANNA SVIZZERO:** The entire Election Day System and Suffolk was not part of the pilot project.

I think there are issues that they will be experiencing for the first time and to add this other aspect of it at the same time would be problematic.

In addition, we have selfish reasons.

This would require a significant dedication of State Board staff to work with them on this pilot project.

And in the Primary we don't feel that we have the ability to dedicate the staff to that effort.

We are dealing daily with the issues related to a statewide roll-out of this system, the Election Day Scanning System, and to redirect staff from that would leave us at a disadvantage potentially.

So our proposal is that they rate our procedures for us used this time, over the next 30 days to do so and that the Board consider once we've reviewed those procedures and worked with Suffolk to make any changes that we think are in their interest.

In our collective interest let them do the pilot after General Election.

They will have had the benefit of rolling out the Election Day System and learning those lessons, whatever those may be.

And having had the chance to draft the procedures that we're going to need to see for the use of the

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Election Day System--excuse me--the Absentee Ballot System.

I don't know that there's a value going to other boards that are using Central Count Absentees right now, because the Dominion System is very different.

Some of you may know there are header cards, ballots are gathered by election district and scanned accordingly.

In this new Dominion System none of that happens, so we're still dealing with how this system is actually going to work, but I don't know that there would be lessons learned from the actual scanning of the ballots.

There may be in ballot preparation and ballot management that they could learn from the other boards and perhaps they could visit those boards that are doing central counts when they actually occur.

Westchester is one that was near them, obviously New York City, and they could visit either of those in the pilot in the Primary Election.

And again, we would authorize them to do the pilot at the General Election.

Sorry to ramble there, but I'm--

**DOUGLAS A. KELLNER:** I'm very troubled by that report, Anna.

Let's start with the first part, which is defining what it is that they proposed, what Suffolk County proposed.

I believe that from my reading of this is that Suffolk County proposed two things--one is that for the Primary Election that they would do a pilot using the new central scanner.

And that they would do a 100 percent hand count of all of the paper ballots, and that the hand count would be the decisive determinant of the results for the canvas.

And then Suffolk went on to say that assuming that there were no problems with the pilot in the Primary that they would take a small percentage of districts that would be subject to a hand count for the General Election, but that they would use the new scanner system for the entire General Election.

I understand what the Elections Operations Department is saying, which is that the State Board just doesn't have the personnel available to go to Suffolk County on Primary Day to evaluate the new scanner, and that we don't have the time to put together a proper certification testing protocol before September or indeed before November.

**GREGORY P. PETERSON:** Well, I think this was originally proposed by them back in February and our response was to get everything to the Board here ASAP.

So that we could do the proper testing etcetera, and the bottom line is we just got it recently.

I mean, what they say sounds very logical, however time-wise it puts us in a terrible crunch.

**DOUGLAS A. KELLNER:** Well, I guess I am uncomfortable with this dichotomy.

It's funny that I don't have a problem with them running a pilot in the Primary with a 100 percent hand count, because the 100 percent hand count is the decisive number and I don't think that there's any indication that the use of the uncertified equipment would in any way detract from the integrity of the election.

On the other hand in November, Anna I heard you say that you thought that they should be allowed to do a pilot in November without defining what that pilot is.

And are you proposing that they would use uncertified equipment in November without a 100 percent hand count for the uncertified equipment?

And if not, what is the alternative that's available to Suffolk?

Are they going to have to use the old equipment that eventually needs to be recertified anyway, or are they going to just have to do a hand count?

**ANNA SVIZZERO:** Well, they have no old equipment.

They don't count ballots centrally there right now in an automated way.

They don't need our permission to use the Election Day Op-Scan Ballot as an absentee ballot and hand count it.

A lot of boards are doing that this year, so I don't in my own mind see that as a pilot project.

**DOUGLAS A. KELLNER:** And they don't need our permission to take all the ballots and put them into the ImageCast, right?

Is there any reason why they can't just set up ten ImageCasts and use them as central scanners?

**KIM GALVIN:** Well, would each individual scanner be set up with all of the ballot styles?

**SPEAKER:** -- I'd be --

[MULTIPLE VOICES]

**DOUGLAS A. KELLNER:** Well, that would be the limiting factor is they would have to decide how many ballot styles they would stick into the--

**KIM GALVIN:** Unlike one big machine, which is loaded with everything that - -

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**DOUGLAS A. KELLNER:** Well, and it's also slower, because you have to have a person push the button to stick in each ballot.

But that may be faster than a hand count and that equipment's already certified.

**ANNA SVIZZERO:** Right.

**DOUGLAS A. KELLNER:** So I don't have a problem with that option, but I do have a problem with them using uncertified equipment in November before it's been tested and before the procedures have been reviewed unless it's going to be backed up with a hand count or some other method that makes us confident that there's not going to be any compromise over the integrity of the count.

**ANNA SVIZZERO:** I think what ideally we are really hoping for is to use this time to craft a pilot project for them and use what they do post-primary certification as some sort of functional testing.

But we'd have to craft this pilot with them, I don't know that it's fair to get a letter on July 28th and ask this Board to move forward on something without having a week to consider what that project might be.

Especially with everything else that we've had on our plate now, so perhaps this is premature but I think at least if we were of the mind that a pilot would be possible in the General Election then we could spend some time crafting that program with the Suffolk County Board.

And make sure that there the audit protections and the procedures and the use of the system is understood by them and understood by us.

As I said we've had one demonstration on the system that's downstairs, but we have not had any time to become familiar with it ourselves.

So we're concerned that we need to be part of that process and we just need a better crafted program and we need to be part of that conversation with Suffolk.

**EVELYN J. AQUILA:** Anna, I'm concerned over product programs in General Elections.

I imagine the volume that we're going to see, because it's a big election.

That the volume itself is going to take up an awful lot of time, so I'm sure that this going to be a very difficult pilot no matter what we do.

**ANNA SVIZZERO:** It is, but it's a great learning process and as I said that board has been very helpful in the past in helping us navigate some issues.

They're very good at giving us honest feedback; we would just like to work with them to craft the pilot rather than simply respond yes or no to this letter.

**EVELYN J. AQUILA:** I'm not denying any of that, Anna.

**ANNA SVIZZERO:** No, I understand.

**EVELYN J. AQUILA:** What my concern is when you have an election where the numbers are going to be big, which I expect.

There's going to be a big turnout, there always is in a gubernatorial election, the United States Senators are running.

Can you really present to the public a pilot program in a General Election in that kind of, you know, general concern by the citizens?

**KIM GALVIN:** Well perhaps maybe it wouldn't be a full county thing, maybe it would be a certain ties or-

**EVELYN J. AQUILA:** I don't know, it just bothers me and I'm not technical. I don't have all the technical things that you need, but I see it as a concern.

**DOUGLAS A. KELLNER:** Let's go back to the actual text of their request, all right?

That's on Page 2 of Suffolk County's request with respect to the Primary they're saying the program's not intended to replace or substitute the State Board's requirements of conducting its own functionality test on the device.

However, since the scanner's results will not be used to certify the Primary Elections it's Suffolk's hope that we can use the scanner without and/or prior to the State Board's conducting its own functionality test on the same.

I don't understand why we would deny that request, just because we don't have the manpower to go down there and watch them do that.

And that's the first part of my question, and then we can talk about what we would or would not promise to do for the General.

Where I'm much more conservative and less willing to go along with what they request or what Election Operations is proposing.

If they're saying, "We're going to do 100 percent hand count and we're going to use that to certify the results--

**ANNA SVIZZERO:** That's not --.

**DOUGLAS A. KELLNER:** --to me we could stop there and say, "Well, all right nobody has any problem with that.

**ANNA SVIZZERO:** True, yeah.

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**DOUGLAS A. KELLNER:** That's the status quo.

And then they say, "Well, we've got these ballots and we've got this new equipment, we'd at least like to feed the ballots into the machines and see what happens."

So in effect they're doing their own functionality test.

**TODD D. VALENTINE** -----don't like that.

**DOUGLAS A. KELLNER:** What?

**TODD D. VALENTINE:** Well, I think the answer to your question is once you canvas the ballots the problem is now they're asking to re-canvas the ballots a second time with a second system.

They could simply, if they wanted to see if the system worked, they could do that with a test deck knowing the outcome, and that would give them the validation that the machine works.

What they're asking to do is to take live ballots and use that as a test deck on a system that, again we are asking a week before the Board meets to respond to that when again the system has only been delivered to us shortly before that.

We haven't even had an opportunity to run a complete test deck through it.

**KIM GALVIN:** What would they do if there's a discrepancy?

**DOUGLAS A. KELLNER:** Well, they say that the hand-count is going to be the official count.

**TODD D. VALENTINE:** So then why do they want to run live ballots through - - ?

**DOUGLAS A. KELLNER:** I think I see your point is you're saying, "Yeah, they're just using this as a test deck."

**TODD D. VALENTINE:** It's a glorified test deck.

**EVELYN AQUILA:** I agree.

**TODD D. VALENTINE:** And I think that's problematic, because it then would potentially create--if a discrepancy has arisen now they've actually canvassed the ballots twice, which I don't believe they're permitted to do under the law.

And it's now a raised a potential issue to the validity of the election, because now you will have a discrepancy that will need to be resolved regardless of what they say.

**ROBERT BREHM:** It goes to the County Board of Elections.

**DOUGLAS A. KELLNER:** So they canvas it again.

I guess I see your point that why they have to do it during the Primary doesn't make--

**TODD D. VALENTINE:** It doesn't make any sense.

**DOUGLAS A. KELLNER:** It doesn't make any sense.

And as to the General I wouldn't make any promises, because--

**TODD D. VALENTINE:** I agree.

**DOUGLAS A. KELLNER:** --until the equipment is certified it can't be used for the canvas.

**TODD D. VALENTINE:** Right.

**EVELYN AQUILA:** Absolutely right.

**DOUGLAS A. KELLNER:** And certainly they're proposal that they would take ten percent and if the ten percent is accurate then they could - - 90 percent without hand-counting--

**TODD D. VALENTINE:** No, I don't...

**DOUGLAS A. KELLNER:** --and without certification I wouldn't agree to it.

**ROBERT BREHM:**----- audit of them and then - -.

**DOUGLAS A. KELLNER:** Is there a consensus then that we should just at this point tell Suffolk that we're taking their request under advisement and that they are not authorized to use it for the Primary?

**JAMES A. WALSH:** I think this has been a very good discussion, if anyone is watching this I think they can see this is has been a very bipartisan discussion, I think very fair.

The recommendations made by staff are I think very solid; we have a very short time we're dealing with here.

And I think your last comment too Doug that there's no guarantee that this would be used for the General Election either.

I don't think anyone feels we're on a solid enough ground yet to be making any hard recommendations to anyone on this subject.

And there're more elections to come, let's go into them with a feeling of more perfection than we have today.

So the discussion has been held, if you'd like to move on that's fine.



**DOUGLAS A. KELLNER:** That's fine.

## Update on System Certification Findings

**JAMES A. WALSH:** Okay, Update on the Voting System Certification Findings, Anne and Joe? That was in a separate folder we had.

**ROBERT BREHM:** All right, well that's some of the background information or--

**DOUGLAS A. KELLNER:** That's for the Executive Session.

**JAMES A. WALSH:** Okay, Enforcement Matters, we want to do an Executive Session.

**DOUGLAS A. KELLNER:** I don't know that there's anything we have to talk about that we're two--was it two Liz that we had talked about pulling?

**ELIZABETH HOGAN:** There were two that you wished to have tabled to be rewritten and I discussed them with Bill and he discussed them with the commissioners Walsh and Peterson.

**DOUGLAS KELLNER:** Yes.

**ELIZABETH HOGAN:** There was one that you wished that was going to--

**EVELYN J. AQUILA:** Can you tell me - - they are again?

**ELIZABETH HOGAN:** Shouldn't we go into Executive Session to talk about the audits?

**ROBERT BREHM:** Yeah.

## (Executive Session)

## Enforcement Matters

**TODD VALENTINE:** I think he's just recording the numbers of which one you're recommending to table.

**DOUGLAS A. KELLNER:** 9-92 was the one dealing with--

**EVELYN J. AQUILA:** -- Yeah, the first one right. Right, I remember that yes, tabled.

**DOUGLAS A. KELLNER:** --the Election Law 17-110.

**EVELYN J. AQUILA:** -- Yeah.

**DOUGLAS A. KELLNER:** And then 9-122 was the letter that instead of sending it back to the DA we were going to close it.

**ELIZABETH HOGAN:** Yes, and we'll rework 11.

**DOUGLAS A. KELLNER:** And then 9-172 was just going to be held.

**ELIZABETH HOGAN:** It was going to be tabled right, for further work.

**EVELYN J. AQUILLO:** -- On the DA one I know that's absolutely --

**DOUGLAS A. KELLNER:** Okay.

**ELIZABETH HOGAN:** And 09-167 there was going to be a sentence in the determination stricken by agreement.

**DOUGLAS A. KELLNER:** Wait a minute, 167--oh right, okay. So there're four changes, all right so 167--09-167 we're approving with the change in one sentence.

**ELIZABETH HOGAN:** -- That's correct.

**DOUGLAS A. KELLNER:** Could we take a vote on that?

**JAMES A. WALSH:** Okay, a motion?

**DOUGLAS KELLNER:** So moved.

**JAMES A. WALSH:** A motion, a second?

**EVELYN AQUILA:** Aye.

**JAMES A. WALSH:** All in favor?

**DOUGLAS KELLNER:** Aye.

**JAMES A. WALSH:** Opposed, carried.

**DOUGLAS A. KELLNER:** All right, then the three others we're holding for the next meeting: 9-92, 9-122 and 9-172. And then my motion is that we approve the recommendation of the Enforcement staff with respect to all of the other items listed on the agenda.

**JAMES A. WALSH:** A second?

**GREGORY P. PETERSON:** Second.

**JAMES A. WALSH:** All in favor?

**JAMES A. WALSH:** Opposed, it carries.

## NYSBOE Board Meeting August 5, 2010

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Okay, do you want to set a date for the next meeting before we go?

**DOUGLAS A. KELLNER:** Okay.

**EVELYN AQUILA:** September, right?

**GREGORY P. PETERSON:** Jeez, I hate to even think about that.

**EVELYN J. AQUILA:** Before or after the Primary, it's before because the Primary's on the 14th.

**ROBERT BREHM:** The Primary's on the 14th and--

**EVELYN AQUILA:** Thursday's a better day for me, but I know you guys don't like Thursdays.

**Gregory P. PETERSON:** It doesn't bother me.

**DOUGLAS A. KELLNER:** Well, how about Thursday the 2nd, that's four weeks from today?

**EVELYN J. AQUILA:** Thursday the 2nd okay, because that's not Labor Day weekend yet, right is it?

**GREGORY P. PETERSON:** I don't know...

**ROBERT BREHM:** Labor Day's the 6th.

**DOUGLAS A. KELLNER:** Labor Day is the 6th.

**EVELYN J. AQUILA:** The 6th, okay.

**DOUGLAS A. KELLNER:** But the Jewish holidays start the following week, so...

**EVELYN J. AQUILA:** Okay, is September 2nd okay?

**JAMES A. WALSH:** 2<sup>nd</sup>? 2<sup>nd</sup>?

**EVELYN J. AQUILA:** Okay, just that as we get into the holidays so that loses dates.

**JAMES A. WALSH:** Well wait, let Greg look.

**EVELYN J. AQUILA:** Greg is looking.

**TODD VALENTINE:** Well, all of--

**ROBERT BREHM:** I'm not sure we'll be done with--

**TODD D. VALENTINE:** Yeah, because the filing period for independent petitions is the 10th through the

17th.

**GREGORY P. PETERSON:** Is when?

**TODD D. VALENTINE:** Is August 10th through the 17th, we don't get as many objections or certainly as many petitions filed.

[MULTIPLE VOICES]

**SPEAKER:** So we might have to come back at the end ... So we might have to do two meetings in September.

**TODD D. VALENTINE:** Yeah, my--

**DOUGLAS A. KELLNER:** I think we should schedule a meeting before the Primary.

**EVELYN AQUILA:** In a way yes, no?

**JAMES A. WALSH:** Well, if we're scheduling it there has to be some other reason for doing that, just so that we're on the books all right?

**SPEAKER:** --

[MULTIPLE VOICES]

**EVELYN J. AQUILA:** Greg, the 2nd was all right with you?

**GREGORY P. PETERSON:** Yeah.

**JAMES A. WALSH:** So we'll set it for the second, but if anything should come up we will have a further discussion.

**EVELYN J. AQUILA:** Which we always do.

**DOUGLAS A. KELLNER:** All right, so I move that we go into Executive Session to discuss litigation matters and then also voting machine certification issues that involve security provisions.

**JAMES A. WALSH:** Do we have a second?

**EVELYN AQUILA:** Aye.

**JAMES A. WALSH:** I guess that was a yes, so all in favor aye.

Opposed, carried.

We will go into Executive Session, we will come back and we will vote if that is the consensus of the

## NYSBOE Board Meeting August 5, 2010

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Commissioners, thank you.

Executive Session (Intermission)

**JAMES A. WALSH:** We have set our next meeting date for September the 2nd, any other business to come before us?

If not we'll accept a motion to adjourn.

**DOUGLAS KELLNER:** So moved.

**EVELYN J. AQUILA:** Second.

**JAMES A. WALSH:** So moved.

**JAMES A. WALSH:** A second, all in favor?

**SPEAKERS:** Aye.

**JAMES A. WALSH:** Opposed, carried, we're adjourned, thank you.

[END VIDEO]