

Peter Kosinski: On August 28<sup>th</sup>, 2019. I am Peter Kosinski, and on our video, we have Commissioners Kellner, Spano, and Peterson, so we have a forum, in fact, everyone is here for the meeting. We will start today's meeting with the agenda, or the minutes, I'm sorry, from July 25, 2019.

Bob Brehm: We don't have minutes for this one.

Peter Kosinski: I have minutes in my package. Should I not consider those today? Do you not want to consider those today?

Bob Brehm: I did not have them on the agenda.

Peter Kosinski: Okay, alright, well we can put them off until the next meeting. They are not on the agenda, I am told, so we shouldn't consider them, so we will just put them off until the next meeting if the commissioners are okay with that. So, we will just move on to the new business for today. And the first item of business is the electronic poll books system vendors. We have new configurations for two of the e-poll books; KNOWiNK and Tenex, and the reports of the vendors have been submitted to the commissioners for our approval today. Is there any discussion or any motions?

Douglas Kellner: I move that we approve the proposal.

Peter Kosinski: Is there a second?

Andy Spano: I'll second that.

Peter Kosinski: It has been moved and seconded to approve the additional KNOWiNK and Tenex configurations. All in favor?

All: Aye. (Chorus of Ayes; 4-0)

Peter Kosinski: Opposed? So that is unanimously adopted. Our next order of business is the ClearBallot upgrade certification for the central count and automated audit tool. This is another upgrade to a voting system today that is before us. Is there any discussion or a motion on that matter?

Douglas Kellner: I move that...

Andy Spano: Move the resolution.

Peter Kosinski: I have a motion to move the resolution. Do I have a second?

Gregory Peterson: Second.

Peter Kosinski: All in favor?

All: Aye. (Chorus of Ayes; 4-0)

Peter Kosinski: Opposed? And that is also adopted unanimously. And our final agenda item today are rulings on...

Tom Connolly: I'm sorry, Commissioner. I just wanted to check, there were actually two proposed resolutions on that. One was the certified as the voting system and the other one was to approve it as an authorized audit tool?

Peter Kosinski: Right, right. I think we incorporated both of those.

Tom Connolly: I wanted to make sure we did.

Peter Kosinski: I mentioned both of those in our preamble, so I am thinking both of those were moved and approved. And then the final matter for today are the Prima Facie Ballot Access and Specification of Objection Report. We have a list of fifteen items that were submitted to the commissioners for adoption, and these are related to ballot access for this fall's election. Is there any discussion on that matter? I would entertain a motion to adopt...

Douglas Kellner: Excuse me, Commissioner.

Peter Kosinski: Sure.

Douglas Kellner: On the last three items, maybe it is just a nitpick, but I believe that the objections in 13, 14, and 15 should be rejected, not just as, on the grounds that they, not precisely for the grounds specified in the report and in the draft orders. The draft orders suggest that the objections raised factual issues that the board should not rule on because we are operating in the administrative capacity. Yet in my reading of the objections, the objections don't even sufficiently raise those factual issues. They just make conclusory claims without any supporting factual allegations and therefore, I think we should just reject the objections outright, as opposed to suggesting that they need to be resolved in a court proceeding.

Peter Kosinski: I'd ask the staff that gave us this. Is there any...

Todd Valentine: Well in the determination, it only mentions that, requires a finding of the facts is beyond our scope. It doesn't say it references it to the court, and I know we have that as a summary on the summary sheet of the list of rulings, so there is some question of language there, but I am not sure...

Douglas Kellner: My suggestion is that those orders say that the objections are overruled because they fail to specify sufficient facts or allegations that support ruling the petitions, ruling the certificates of nomination invalid. It's a nitpick, I mean, it is not the end of the world if we stick with the drafted language; I just think...

Peter Kosinski: Do you have the specs?

Douglas Kellner: ...when I read the objections...

Bob Brehm: Do we have other specs here, Tom?

Douglas Kellner: ...they just make long conclusory allegations without any facts that would support those allegations and therefore, I think we should say that and reject them on that basis and not just for the reasons stated in the proposed determinations.

Peter Kosinski: Alright, I would just like to take a minute to just look at the specs before we make a final determination on this. They are going to get the specs if you could just hang out for a minute, so we could take a look at them. So, just so I understand, Commissioner, this relates to both the objections to the Independence party nominations and to the Working Families party nominations?

Douglas Kellner: Ah, yes. I am trying to open up the specs myself.

Peter Kosinski: Okay.

Douglas Kellner: My recollection is that it was all three of them. It is virtually the same language in the draft.

Peter Kosinski: Okay.

Bob Brehm: They used some more language in the draft...

Peter Kosinski: Let's take a look.

Bob Brehm: Are they somewhere else, or with the court case?

Todd Valentine: We only have to look at the specs. I don't remember them being insufficient. The question would be if we are rejecting the rejections does that impact their ability to go to court?

Peter Kosinski: Could be. I don't know.

Bob Brehm: I think it was overruling the objections, so I don't think it's, I think like Prima Facie if you failed to do something timely to be a qualified objector, but I don't think we have come to that conclusion; only if we overrule it, you are still a qualified objector to go to court.

Douglas Kellner: That's right. I am not suggesting that

Bob Brehm: A Prima Facie would say...

Douglas Kellner: ...the objections, only that

Bob Brehm: ...you are not a qualified objector, but if we just overrule...

Douglas Kellner: ...my determination that if the language in the determination is that the objections failed to provide sufficient factual allegations to form the basis for invalidating the certificate of nomination.

Peter Kosinski: So is this, let's see, I am just looking at the specs right now. So, this is the, specific to Jerrold Whalen, Diane Devlin, Kara Biscaglia, Chairman Frank MacKay, okay, here are the specs. Chairman Frank MacKay has no authority to name Charles Lamont as convener. Chairman Frank MacKay could not delegate authority to choose the time and place the events party convention to any convener. Charles Lamont and no authority to act as convener and had no authority to choose the time and place.

Douglas Kellner: I guess my point, Commissioner, is that that allegation by itself, to just say that someone has no authority...

Peter Kosinski: Right.

Douglas Kellner: ...doesn't spell out a sufficient basis for us to make a determination. In other words, he is not saying why he doesn't have authority, or he is not saying who does have the authority. It is just an unsupported conclusory allegation.

Peter Kosinski: Let me just see. So, these are two, so there are two objections to the Independence party, and they are both the same objection by two different people. Is that correct?

Bob Brehm: Yes, one is by Ed Defolo, and one is by Pleasic.

Peter Kosinski: Got it. And then the next one is to the Working Families party. Okay. So, you're saying the one to the Working Families party is also insufficient? Is that your position? Because they are different in that what they say. So, the one for the Working Families party is by Christine McInerny, time and place of the JD 8 Working Families party judicial convention was called and set by D.L. McManis. This violates the rules, no filing. Indicates David Chutney was designated party convener.

Todd Valentine: See, I don't think the determinations are incorrect in that it states that it requires finding facts that we really are unable to do.

Peter Kosinski: Okay.

Todd Valentine: And I am not sure that the determination would, should be altered because I think, it says, yeah you have filed them, and we don't have the facts and the

ability. It requires actions that we don't have the capability, and it is beyond our scope to do.

Douglas Kellner: Well, see I don't agree with that. I think that if they actually provided all of the proper documentation that we could rule on it. We don't have to rule on it, but that we could rule on it. But they haven't provided that documentation and have not provided sufficient allegations. Maybe the Working Families party is stronger than the other two because she actually has a little bit more specificity of what it is that she is complaining about. But the other two are just conclusive. It is just one step better than simply saying we object because the certificates are invalid. They don't say why they are invalid.

Bob Brehm: I think in regard to the Working Families or any party, if they don't provide conveners to the state board, we give the roll call to the party, and it is their obligation, certainly we give them to anybody that calls us and asks a copy.

Todd Valentine: Right. We don't necessarily know who the conveners are...

Bob Brehm: But if they don't give us a convener, it assumes, you know, it says that they didn't give us the convener, many don't give us the convener. There is no, so what? We give the roll call to the parties when they don't tell us who, when we have no other knowledge of who the convener is.

Todd Valentine: It is a function of the party to designate the convener at some point. If they tell us, then that is fine, but if they don't, there has never been a penalty if they don't.

Bob Brehm: Right, but they are assuming that there is because they didn't tell us who it is, which I don't know for sure if they told us who the convener is in that party. But where the party doesn't tell us, any of the eight parties, we send it to the party.

Todd Valentine: And I would have no information as to who the convener is.

Douglas Kellner: Suppose, let me just give a hypothetical here. Suppose the party designates the convener, and somebody else calls the convention and files a certificate, and they provide us, and the objector provides us with that documentation that the certificate that was filed was not by the proper convener designated by the party. I would rule on that, and I would reject, I would rule on that factual issue based on the documents presented to us. And as I say, I am nitpicking here, but I would simply ask that the determinations not use the language that it uses here, that it requires findings and facts and considerations of intended circumstances beyond the administrative scope of board review, but instead say that the specific objections do not allege, do not provide sufficient documentation to form a basis for invalidation of the certificate, or something like that. I am very flexible on the language, as long as it doesn't suggest that we don't have jurisdiction to rule on it.

Peter Kosinski: Well I will say that reading these, I think there is a difference in the specificity of the objections for the Working Families, as opposed to the Independence. I think the one on the Working Families does go into more detail. It talks about the purported convener, David Chudney, called a roll. A convener was nominated. Subsequently, David Chudney called for his own nomination, and it alleges that the election of David Chudney is in direct contravention of the clear provisions of Election Law 6-126, that requires a convener to perform no other function and that David Chudney acted beyond that. So, it does appear to me there is more detail in that objection than there is in the other objection. I don't think I would want them in together to that extent. There are more factual allegations made in that particular objection. So, do you, I mean, I am not sure...

Douglas Kellner: Well, except, alright, we, which one is the Working Families, which number is it?

Peter Kosinski: Number 15. That's the last one on our list.

Douglas Kellner: Well again, it says, the text of the determination says that it is beyond the ministerial scope of board review, when in fact, I would like it to be something to the effect that fails to provide sufficient documentation to support a finding that the certificate of nomination should be invalidated.

Peter Kosinski: You're talking about the Working Families, what, what more would you be looking for, beyond what was stated in the objection?

Douglas Kellner: Well, why are we rejecting it? We are rejecting it because we don't agree that they have established that the convener had no authority to convene the convention, correct?

Peter Kosinski: I thought we were rejecting it because the finding was that the facts as alleged go beyond the capabilities of this board to make a decision regarding the legality of this and that this was something that is beyond our ministerial capacity.

Douglas Kellner: Why is that?

Todd Valentine: It's because...

Douglas Kellner: I don't agree that we can't make a finding of fact on that.

Todd Valentine: Well we don't know what happened at the convention. We don't know how the convener ended up doing it. We don't have the facts of how that occurred at the convention. We have the end result, but we don't have what occurred before that for that convener to begin that convention, so there is a piece that we don't have.

Douglas Kellner: So, the reason we are denying it is because we don't have, we don't have the documentation that would support an allegation that the person was not entitled to convene the convention.

Todd Valentine: And the way we phrase that or the standard language that we have been using is when there are documents or issues that are beyond us, it is beyond our ministerial scope. We don't have that in house, so I don't, I don't have any way to do that. It is beyond what we would review. That has been the standard language we have been using for quite some time, so this does not...

Bill McCann: If I could just add, this is in court right now, and I, my concern is I would not modify these documents to the extent that it would remove the intent to invalidate the specs, so that we remove their ability to stay in court on the matter.

Bob Brehm: But we're not invalidating them. We're overruling them.

Douglas Kellner: I am not saying invalidate the specs. I am only seeking to modify that language.

Bill McCann: Well as long as that is the intent because again, my only concern is I wouldn't want someone to be able to raise that. We generally take a hands-off policy, and they will quibble about it in the courthouse, which is where they are literally right now.

Bob Brehm: But we have overruled, you know, if they have said a petition is invalid for insufficient signatures and you don't agree with them, they don't lose their ability to go to court as a qualified objector, as long as they brought their case documents.

Bill McCann: I just don't want to invalidate the specs.

Peter Kosinski: Yes, I think that is the distinction now. I think it is not whether we are ruling the petition in or out, but whether we are ruling the specifics are sufficient, and you are suggesting that they're not sufficient, Commissioner?

Douglas Kellner: They don't provide documentation to support that allegation.

Todd Valentine: If they never file the list of conveners with us, there would be no documentation for them to provide.

Douglas Kellner: I agree, but if they want us to rule it invalid, they would have to provide that documentation, and if they did provide the documentation, I would not decline to rule on it. I would rule on it and say that the convener was not authorized to convene the convention.

Peter Kosinski: So, let's just go through this for a minute. So, on this one, they are alleging that the convener called the delegates, and then the convener was nominated and

elected temporary chair. And their allegation is that the law does not allow a convener to be elected the permanent chair of the convention. So then, so then the decision is, is that enough to invalidate the convention? Am I correct in characterizing what they are alleging here?

Todd Valentine: You are correct.

Peter Kosinski: So, Commissioner, you are saying that if what the objector is alleging is true, that you would be prepared to invalidate the convention based on those allegations, but you don't feel they provided you sufficient factual detail to make that determination?

Douglas Kellner: You know, I am now seeing your point because the other side is not here to say, wait a minute, that's not true, and so we would then be excepting as true an allegation without due process to the other side.

Peter Kosinski: Yes, I think there would have had to be a hearing on these.

Douglas Kellner: That's right.

Peter Kosinski: We didn't have a hearing on either one of them, which I agree would have given the two sides an opportunity to come in and present the case as they felt, and that was not afforded to anybody in these cases, is that correct?

Bob Brehm: Correct.

Peter Kosinski: So, I am just uncomfortable changing the rules sort of at this point. We are at the commissioner level, and the hearing time is already lapsed, and there wasn't a hearing to flesh this out more...

Bob Brehm: We have talked about this wording, and we tried to come up with wording that is acceptable to the four of you because it is your determination, and that's why we say generally beyond, I mean, could we do some of that work, but in every instance, it is hard to be judge and jury and take in documentation beyond the four corners of what the law requires them to give us in the first place.

Peter Kosinski: I mean we don't take testimony at hearings.

Bob Brehm: Right, that's why when we...

Peter Kosinski: I get that, we never have, and I think that is beyond our ability as a board to take testimony and basically then you are really making decisions based on credibility of the witnesses. That is not the role of an administrative agency. I think that has always been seen as the role of the courts to determine when you have disputes of facts, whether or not you believe this person over that person. So, in that sense, I can see where a



hearing wasn't warranted, but I am just trying to understand our position today. I hate to deny people of their rights.

Douglas Kellner: On 15, I am willing to yield. I think that is right, but now let's turn to 13 and 14.

Peter Kosinski: Okay. So, 13 and 14 are the same. They are two different objectors, but I believe the objections themselves are the same. Is that correct? So, let's look at that one. So, Chairman MacKay had no authority. Chairman MacKay could not delegate. Chairman MacKay had no authority to choose time and place, process used for naming conveners.

Douglas Kellner: So, what I am suggesting with respect to that one because to simply say he had no authority and without saying who did have the authority and to provide documentation or some citation for that; they do not make sufficient allegations to support a finding of invalidity.

Peter Kosinski: So, I see they are different, so this is a different objection.

Todd Valentine: They are different, and again, we didn't, we never got a list of conveners for this party, so we don't know who the convener was. They do reference the chairman of the state committee as to whether or not he had what authority he did or how he did his delegation of who ended up being the convener, which the rules, we can take on notice who the chairman of the party is, I don't think that is an issue. So I don't know what more would be sufficient because what they are asking us to do is to go into the designation of the convener, which we would never have seen if we were never provided a list and then make a determination as to whether that was done properly. We have no idea and no way to get that information on the document, so that is why it is beyond our scope and that's why the language is this way. To suggest that the objections are insufficient, you know, sets up a new threshold for us to determine insufficiency of objections, not just in this instance, but in many other instances where we have objections that are a little vague, shall we say, although I think this provides some allegation. The question is whether it has a sufficiency of an allegation, and our answer is well we don't know because we don't have all of the facts, and we have no way of getting them. We didn't set up a hearing, so they, I don't know what they would have brought in. I really don't know because it would have been something that occurred prior to the convention, so would not necessarily be reflected in the minutes. So, there is something missing here, and that is why it is beyond our scope because we don't see it.

Peter Kosinski: I guess it's a question of what...

Douglas Kellner: That's what I want to say in the determination.

Peter Kosinski: I'm sorry, do you have language that you want to say in the determination?

Douglas Kellner: That the objections fail to provide sufficient factual support for a finding of invalidity of the petition, of the certificate of nomination.

(Sound wave ceases for a period of time and then begins mid-sentence.)

Peter Kosinski: ...objections have to be. I mean, in my experience, the general objection says nothing more than I hear by object to the nomination or designation of such and such a candidate to such and such an office. That is the general objection. Then the specific objection has to give me some detail as to what my objection is. In this case, they are saying that Frank MacKay had no authority to name Charles Lamont as convener. Frank MacKay could not delegate authority to choose time and place. Charles Lamont had no authority. So, they do give more specifics of what the objections. I didn't see the general, but I am presuming it was pretty perfunctory as I outlined, and now this is giving us more detail as to why that nomination should be rejected. It doesn't provide every detail about why the chairman had no authority, but it does provide us with the allegation that the chairman had no authority, could not delegate the authority, the convener had no authority to act as convener, so they make the allegations to that extent. And you are suggesting that you don't believe that is sufficiently specified.

Douglas Kellner: It doesn't say why he has no authority or who does have the authority, and that is conclusory. If that were a pleading in front of the judge, you would reject that. And I am not suggesting that the spec is invalid; I am simply saying that based on the information supplied, it is not sufficient to justify a finding of invalidity.

Peter Kosinski: But isn't that the same thing as saying it is invalid?

Douglas Kellner: You are overruling the specification. We are not finding the certificate of nomination invalid.

Peter Kosinski: No, no, no, we are not. I mean the proposal that was given to us was not to invalidate these, it is to...

Douglas Kellner: No, it is to say that it is beyond the administrative scope of board review and I don't agree.

Peter Kosinski: Right. And you don't agree with that? You don't agree that it is beyond our administrative?

Douglas Kellner: No, I believe that they failed to provide sufficient information on which to make a ruling.

Todd Valentine: That's a ruling on the objections.

Peter Kosinski: I am just trying to understand the level of responsibility here that you are imposing on these objectors. So, they would have to come in with actual proof in the

spec itself as to why the allegation that Frank MacKay has no authority is true. They would have to give us that information as part of the spec.

Douglas Kellner: Right.

Peter Kosinski: And they would have to give us why Charles Lamont had no authority to act as convener. We would need that in the spec itself.

Douglas Kellner: That's correct. That's what I am saying.

Todd Valentine: But we've never had that standard.

Douglas Kellner: Now failing to provide that, it just doesn't provide a basis for us to rule that...

Peter Kosinski: See I think, I think that's, I mean in my view, that is what happens at a hearing is, you know, you give me this information, and then at the hearing, had we had one, which we didn't, the objector would have to come in and show why MacKay had no authority, why Frank MacKay had no authority, and then the candidates would have the ability to come in at the, in the context of the hearing and demonstrate why he did. And that would then become the subject matter of the hearing but wouldn't necessarily be put out chapter and verse in the context of the spec itself. Like if I object to a petition based on residency or something like that, I would say they are not a resident of the jurisdiction, let's say that is my objection, but then at the hearing, I would have to come in and demonstrate that where the candidate would have the ability to come in at the same hearing and say no I am and here is proof of that I am, but the objection and the spec didn't necessarily set out chapter and verse why I think they are not a resident. It would merely state, I think you are not a resident, but the hearing would give you that ability to come in with the further proof as to why I am asserting that while the candidate has the ability to come in and make their counter argument. That's my view of how the objection process works, so the specifics, and you understand, as I know you do, we are dealing with laymen often here, so to hold them to a standard of a court pleading, I am not really comfortable with because we don't always have attorneys that are objectors or even representing objectors. These are many times laymen who don't understand the rules of courtroom decorum and how you would make a case in a courtroom. To hold them to that standard that you have to specify everything out; I think is a high standard to hold, and it is the hearing that really has that fleshing out of the allegations and the ability to defend yourself. That's my vision of how the process works. That said, I am comfortable with what we have in front of us to make a determination. I understand they are in court now. Is that what you said? So, I am sure they are going through a lot more detail in court, and the court is holding it to whatever standard, but I am just not comfortable holding these objectors to that high a level when they file objections with us. It sort of obviates the need for a hearing in a sense.

Douglas Kellner: Well I suggest then that you rewrite the determination to simply say that we are denying it, and then we can have separate concurring opinions. I will write two sentences; you can use this language or whatever other language you want. I think we're all agreed that we are finding that we are overruling the objection to the certificate of nomination, but I don't agree to this language that it is beyond the administrative scope of board review.

Peter Kosinski: Okay, and again, I don't know if I would use the word overruling. I think what we are doing is we are deferring to another body, in essence the courts, to determine the validity or invalidity of the certificate before us because the matter that was raised in the context of the objection is beyond the ability of an ministerial body to rule on.

Douglas Kellner: And I don't agree, but that's the case.

Peter Kosinski: Okay. Well I think that is where our difference maybe comes in then, as to whether or not this board has the authority to rule on matters of this nature.

Todd Valentine: Well we are also setting a standard that the objector did not know about, well after they filed their objections. There was no regulation that says here is what your specs have to be or what the detail level of it. I think we should be uncomfortable changing that well after they filed everything without an opportunity for the parties to be heard on that.

Peter Kosinski: Well we have regulations, don't we on specs?

Todd Valentine: We do, but it doesn't go into...

Peter Kosinski: They don't go to this extent, they don't address...

Todd Valentine: Not documenting, no it could never do that because, you know, it is more the format of what you are providing for us.

Douglas Kellner: Actually, the New York City regulations on specifications do have a paragraph that says where factual information is required to support the objection for the board, and that factual information has to be attached to the specification. It is something along those lines. I didn't quote it. So, look, as I say, I don't agree in 13 and 14 to the language in the determination. I don't object to the substance of the determination, but if you want me to vote in favor of it, I am not going to vote in favor of that language in the text of the determination.

Peter Kosinski: Okay. I would just note that our, the State Board's regulation 6204.1 speaks to specifications, but it speaks only to specifications to designating and independent nominating petitions. I don't believe we have...

Tom Connolly: Regs for nominations.

Peter Kosinski: ...regulations that relate to this specific type of document that does list out how you are supposed to do your specs for a petition, but this is not a petition, this is a certificate of nomination and minutes, and our specs really don't speak directly to that, so I don't think we have a regulation we can look to, to give guidance to people on this particular topic.

Todd Valentine: Well this objection actually goes towards what the party did to assign the convener to the convention. It is not even in the certificate of nomination or in the minutes; it is the action that occurred before that by the party. That's what the objection is that he didn't have the authority to set this convener. The convener is listed there as saying that whatever happened before is improper.

Peter Kosinski: Right.

Todd Valentine: Well we don't have any of those documents. We have no way to look at it, we have no way to bring the parties in. I mean, that is really a matter that is beyond our purview.

Peter Kosinski: Okay, well, um, I am comfortable with what we have in front of us, but I know Commissioner Kellner, you are not. You want to, now let me distinguish these. Are we still speaking about the last one on the Working Families party or have you agreed to that one?

Douglas Kellner: I am withdrawing my concern with that one.

Peter Kosinski: Okay, so we will go back then, you are talking about...

Douglas Kellner: 13 and 14...

Peter Kosinski: ...13 and 14, which are the specs to the Independence party nominating convention. There were two separate sets of specs, but you are making the same contention on both sets, that they are not sufficient in detail, but I am comfortable that they are for our purposes sufficient and that again, this would have been fleshed out in a hearing had there been one, but you then agree with the conclusion that we should leave the certificates valid, but you don't agree with the language in the determination that was written by the staff, and I do agree with it. I don't know where the other two commissioners are, but I think as far as the ruling of the board, we can agree that we would support a ruling that these are valid as of today because we are not ruling them invalid, but that you would want to have different language in the determination.

Douglas Kellner: Correct.

Peter Kosinski: So, we may have to have more than one determination, even though the conclusion is the same; the wording in the determination will be different. Is that fair to say?

Douglas Kellner: Right.

Peter Kosinski: Okay. I don't know about the other two commissioners, if you have any thoughts on this. I am thinking you had some time to look at this while we were speaking here, and if you have any thoughts, I am certainly interested.

Andrew Spano: My thoughts are that the determination is the most important aspect of this. That is my opinion. And, I have no opinion on the reason for it.

Gregory Peterson: I agree. For the purposes that we are convening today, you know, I have no problem with it. However, I do understand Commissioner Kellner's objection and for him to insert an additional determination on those particular two, 13 and 14, and I certainly would not have any objection to that.

Peter Kosinski: Okay, well then let's do it this way. I think we can rule on the report given to us by the staff. I am willing to entertain a motion that we would adopt the report, the summary report that was supplied by the staff, as written, and then if Commissioner Kellner or any other commissioner wants to have a separate determination on those two matters that would, of course, be within their rights. I personally would support the one that was submitted.

Todd Valentine: So, we would approve this one, but then allow a minority determination?

Peter Kosinski: I don't know if it is minority; it might just be

Douglas Kellner: I would call it a concurring...

Todd Valentine: That makes sense.

Douglas Kellner: Why don't I just write two sentences and say Commissioner Kellner concurs in the result, and then I'll write one or two sentences that say that I would rule that the certificate of nomination remains valid because the specifications of objections do not supply sufficient facts...

Peter Kosinski: Okay.

Douglas Kellner: ...on which one could make a determination.

Peter Kosinski: You would certainly be allowed to submit your own language in the concurring opinion.

Bob Brehm: But would the co-executive director sign the version that was before you?

Douglas Kellner: I believe that my concurrence should be above the signature of the co-executive directors.

Bob Brehm: Is that acceptable to all of you?

Peter Kosinski: Yes, we could do that. I think it should be included, I agree, in whatever document is provided by the board. Commissioner Kellner has a slightly different...

Bill McCann: And I don't believe that should impact the court proceeding because the Commissioner indicated that it is not his intent to reject the specs.

Peter Kosinski: That's fine. Okay, alright, so if we are all in agreement on that, I would entertain a motion to adopt the report as provided by staff with that one amending provision.

Andy Spano: So, moved.

Gregory Peterson: So, moved.

Peter Kosinski: All in favor?

All: Aye. (Chorus of Ayes:4-0)

Peter Kosinski: Opposed? Then it is all agreed upon. And according to my agenda, that is the last item that we have on the agenda unless there are any other items to come before the board today or any need for an executive session, which I don't believe we have. Is there anything else? No, okay, then I would entertain a motion to adjourn. And our next meeting, I believe, is scheduled for October 2<sup>nd</sup>.

Todd Valentine: Next regularly scheduled.

Peter Kosinski: Next regularly scheduled although there may be the need for an intervening meeting, but that will come from the staff if that is needed, but as of today, we will adjourn until October 2, 2019. Is there a motion?

Gregory Peterson: So, moved.

Peter Kosinski: All in favor?

All: Aye. (Chorus of Ayes: 4-0)

Peter Kosinski: Okay. Thank you, Commissioners. Okay, I think we are done here.

Bob Brehm: Tom, these were copies of the specifications?

Peter Kosinski: Oh, I am sorry. Are we done?