

9/17/2008 NYS Board of Elections Transcript provided by Webcasting.com, Inc.

>>JAMES WALSH: Good afternoon, ladies and gentlemen.

My name is James Walsh.

I'll be chairing this afternoon's meeting and I would like to have the fellow

Commissioners introduce themselves.

>>DOUGLAS KELLER: Douglas Keller.

>>GREGORY PETERSON: Gregory Peterson.

>>EVELYN AQUILLA: Evelyn Aquilla.

>>Todd Valentine, Co-Executive Director.

>>Kim Galvin, Special Counsel.

>>Paul Collins, deputy special counsel

>>Anna Svizzero, director of election operations.

>>Rick Fiozo, NVRA.

>>Pat Campion, NVRA.

>>Bob Brehm, public information.

>>Bill McCann, deputy counsel.

>>Liz Hogan, enforcement counsel.

>>Stanley Zalen, Co-Executive Director.

>>JAMES WALSH: Thank you, everyone.

Before we get into the beginning of our

session I understand that the last meeting we had some very kind and appropriate made regarding our past Commissioner, Neil Kelleher.

And I would like to put a couple of words into the record.

Neil and I were friends for almost 50 years.

So I knew him throughout his entire career.

A man that I greatly admire.

I learned a lot from him both politically and philosophically.

He was a fun person to be with.
He enjoyed life and politics and serving people.

Never lost an election. One of the greatest speakers I ever heard he could put tears in your eyes and make you smile at the end of the speech.

He was just a wonderful, wonderful person.
He had a wake -- I've been to a lot of -- I've been to a lot of wakes as you do in this business.

I went to the wake and I've never been to one so well attended.

For a person 85 years old normally the attendance of wakes of people of that age was fairly small and the comment said it was reaching around

2,000 people that showed up.
It just went on and on around the block.
You had to be talking about a second and

third generation of people standing in line for hours to get in to say -- give their respects to the family.

He was a great man. I couldn't speak too highly of him. I was honored by Neil's request to be a bearer at his funeral.

And I did get in to see him fortunately I just called him once a week to get an update on
how he was doing and we talked about politics and everything else.

And the day I called his wife said he had been taken to the hospital.

And I was going away the following day so I said I'll stop down to see him. He was in the hospital with him for about an hour.

Just we had a normal conversation we would have. He looked and sounded pretty good.

I shook his hand and told him I'll see you when I get back.

And unfortunately that never was to be.
But after the funeral I guess I would end my remarks by a comment that was made by

our local assembly man here Jack McAne and he saw me after the funeral and realized I knew him for so long and Jack

very simply put it all down in a few words and he said you lost your good friend didn't you.

I said yes, I did. And I guess that's what we can say to the people that stood in that line.

We lost a good friend and we here at this Board have lost a good friend and he's not replaceable.

So good luck my good friend. Executive updates, Todd Valentine and Stanley Zalen.

>>TODD VALENTINE: Do we have any minutes?

Oh, they were just approved. Well, the updates will be more discussed in the machines.

You know, we have a plan to -- you know we spent all day yesterday meeting with our tester and as well as the Department of

Justice and the voting machine vendors dealing with those issues and those will be discussed more fully in the meeting.

That's kind of been occupying our time and I'm sure -- and we'll give a brief update on any issues of the primary.

So from the executive level, our focus now is on the budget for next year which everybody I'm sure has seen in the papers that the state is having its issues with money.

And that trickles down to every agency.

We have a scheduled meeting with our

division -- our analyst from the division of budget as well as our supervisor on Friday to go over you know what the real sense is.

Because you know we are in a slightly unique position in that we have a court ordered mandate to meet a certain deadline to implement machines.

And while some of that will come from Federal money, it still does require some

general fund money for the staff that support that and some of the activities that go behind that.

So we need to be cognizant that we're not in a position while there is a hiring freeze, we

still have to have that flexibility to have the additional staff to support that which is a point I'm sure we're going to emphasize on Friday.

And you know what other sacrifices we end up having to make in not expending money we would like to minimize as much as we can.

Because we're a very small agency.

We don't have a lot of fat to trim.

So we don't have a large staff.

We don't have a huge office space.

We don't have satellite offices.

And our mission is very narrowly focused.

But I think as in any government agency there's always things that we will just -- we're just not going to do them anymore

because we had to make the hard choices.
But we need to get the picture from the

money side from the budget before we can start making those hard choices as to okay we're not going to do versus not doing that.

>>EVELYN AQUILLA: I think we should also note at this moment that our enforcement division has been enlarged through state law last year.

They passed a state bill that enforced enforcement.

So -- enlarged enforcement quite a bit.
So that's a problem, too, I would say.

>>TODD VALENTINE: That's part of the mandate that we face is we have to do certain things.

And the public demands it, the voting public demands it and certainly the legislators who put those into provisions and the

governors that sign those demand it.
But on the other hand you can't take our money away to do it.

So that's the explanation I know.

>>EVELYN AQUILLA: I just wanted to note it for consideration. That's all.

>>JAMES WALSH: Yeah, sure.

>>TODD VALENTINE: Anything.

>>STANLEY ZALEN: No, I have nothing further to add.

>>DOUGLAS KELLER: I would just remind the executive directors that at least for me, I'm still waiting for the report on the internal audit procedures.

And I think that if we had those procedures in place, if it be -- it would be a little bit easier to deal with the budget issues because we would have more objective data to deal with.

But it is a statutory requirement. You know I raised the issue six months ago and we still haven't gotten the report on this.

And I will be coming increasingly aggressive as I feel that the executive directors are ignoring this issue.

>>JAMES WALSH: Any other comments or questions? Thank you. Legal, Kim Galvin?

>>KIM GALVIN: Since we last met, we've been primarily focused on finishing the -- with election operations the specification hearings.

And finishing up on the independent petitions.

And answering the court papers still surrounding them.

There are still three pending court matters as a result of the petition process.

Paul was in court on one this morning.
He can give you an update on that.

And then there's two next week, one in Buffalo and one in Albany.

The vote on the petition, the petitions will come later under new business.

But we -- as Todd mentioned we did have a meeting with the Department of Justice yesterday.

Brian Heferdon from the Department of Justice and Jeffrey Devor from the Attorney

General's office came and we engaged in a series of meetings surrounding the series of issues that are of significance or importance to the Federal government,

particularly the New York City database and HAVA complaint issues and of course the Lot I testing for the voting machines: There

were also meetings before and after.
It was the whole day.

Personally I feel that the meetings were generally successful and that they allowed for a more fully discussed slate of issues with the relevant staff.

And the actual -- Mr. Heferdon from DOJ to engage in a fully discourse as opposed to Paul and I being the intermediaries on the product calls.

He was able to ask questions.
We were able to give him fuller answers.
And he was clear in articulating his position with regard to where they believe Judge

Sharp stands on the issues and what he believes will be his position moving forward.
While I feel it was important for the HAVA

sessions of the New York City database issues more importantly I think was a result of the machine meetings.

We had all of the vendors, the testing labs, the security personnel in the room.

To look at where we are on a timeline and how we're going to move the process forward.

Where we need to you know do what we can to increase communication or perhaps allow for more transparency in the process

amongst the parties so that people have a greater understanding of the expectations.

Justice was here. As a result of the meetings, he indicated to Paul and I that he thought that very particularized meetings were going to have to come as a result.

We're going to have a series of internal meetings and external meetings to try to implement and flesh out many of the

productive ideas that were set forth yesterday. And that's -- since we saw you last other than the routine court --

>>EVELYN AQUILLA: Was Heferdon there by himself?

>>KIM GALVIN: He was by himself.
But he was very engaged in the process.

>>EVELYN AQUILLA: Oh, he has been.
He is.

>>KIM GALVIN: Oh, yeah, he was prepared and understood exactly where he wanted to ask us questions about where we were and where we stood.

>>EVELYN AQUILLA: I'm hoping at the end of the meeting I think Doug and I are hoping that maybe we can meet in executive session to go over these issues, you know, more fully.

If everyone is agreeable.
I don't know.

You should have said that or I should have said that.

>>DOUGLAS KELLER: That's fine.

>>KIM GALVIN: There are many details that we can discuss more fully.

>>EVELYN AQUILLA: Not in front of the public.

Yeah, and I think we should do that. Thank you.

>>KIM GALVIN: That's what we've been doing since we last saw you just a few days ago it seems.

>>JAMES WALSH: Anything further?

>>KIM GALVIN: No unless Paul wants to add something.

>>PAUL COLLINS: No you covered it very well.

We're just banging along with that and three open independent nomination cases.

>>KIM GALVIN: Yeah and those petitions were I mean 5,000 signatures and 6500 signatures.

So they took a great deal of effort on the whole staff.

All of the people to get it through.

>>JAMES WALSH: Complete?

>>KIM GALVIN: Yeah.

>>JAMES WALSH: Election operations, Anna?

>>ANNA SVIZZERO: Thank you, Commissioner.

We are moving forward since our last meeting. We have as Kim pointed out and I will echo her thanks to the staff that worked on these objections.

They were lengthy, detailed.
Not the easiest to contend with.

And thank goodness we only had three sets of them.

We have begun to prepare documents for the state committees for their official roll calls.

We have begun to prepare the official roll calls of the conduct for the judicial conventions which are upcoming.

We have begun, also, to collect results.
I saw the first of them this morning from the

primaries that were conducted around the state so that those results can be aggregated.

And we'll be certifying our ballot on the 29th of September.

I'm not aware of any outstanding issues in those County Boards that would preclude us from doing that.

But as results start to come in, we'll keep an eye on that, as well.

Our regular status meetings with NYS Tech and Sys Test are ongoing.

As you know we had a summit meeting yesterday of sorts.

I would agree with Kim that it was helpful that everyone got the opportunity to speak their mind and that justice got to hear it firsthand. It wasn't colored by anything that we might say.

Not that we do that. But we wanted to be sure he understood from everyone what their issues were.

We have -- I provided for you for informational purposes a summary of the

devices that were used in the primary. We had 3350 units in place ballot marking devices at the primary on Tuesday.

1333 people voted on them.
Including people in this room.

And including some people in this room who tried and couldn't.

We are collecting information from the

County Boards relative to their use problems that they encountered.

We put a summary of the data we had so far together in front of you.

We think a lot of the issues are related to training.

The inspectors need to be much more comfortable with these devices.

And as time goes on they clearly will be.
We're looking to receive from the County Boards.

And we've started to get them summaries of trouble call sheets or anecdotal information they've collected.

We've sought that out from different sources.
Amy Palin said she will be providing some

from her contacts as well so we can put some tip sheets for the County Boards to

include in their inspector supplies and to mail out to the inspectors perhaps that would give them a little more

encouragement in making the devices available and the degree to which they

provide help to voters who need it, who want to use these devices.

Also attached in that informational packet is the revised estimate from Sys Test.

On the costs and time required to complete testing.

Needless to say, there was a lot of conversation on this count yesterday.

We're looking to meet in-house to discuss perhaps some of the ideas that were

brought up yesterday that would provide some economies to this process, both in time and in money.

But clearly the overarching goal we have is to get it right, make sure that there are voting systems that voters can use with ultimate faith.

So any of the ideas that were raised that would at all compromise that goal I think would be ones that the Board would agree would not be implemented.

However, there were some ideas that we think have some merit to them.

But we need some more time to reflect on them and assess them.

And NYS Tech has been contributing greatly to try to find ways to make this a better process.

One of the interesting details that we found in the discussions yesterday related to the number of discrepancies that are being called out by Sys Test in the testing process.

And the vendors seem to object to some of the numbers that are provided.

However, they've accepted in huge degree the discrepancies without incident in one case 91% of discrepancies the vendor is acknowledging as valid and is attempting to resolve them.

And in another case it's 99% of the discrepancies that have been accepted as valid.

So that's a very telling figure from this process.

We now have a rating system for the discrepancies related to risk.

Their impact on the schedule. And on the general certification process as a whole so that's helping to define and compartmentalize the kinds of issues that

Sys Test is discovering. It's not an easy process. It clearly is a lengthy one.

And it's one that everyone is committed to.

That was a very clear message in yesterday's session that the vendors are committed to seeing this through.

That Sys Test is committed to New York's goals and NYS Tech is ensuring that Sys Test does so in a manner that the Board

can be comfortable with in accepting those reports when they are indeed presented.

Other than that, we are preparing documents for local registration which happens in Presidential years so we

should have those out to our County Boards either later today or tomorrow morning and I think for elections operations, that's it.

>>JAMES WALSH: Any questions?

Thank you.

>>ANNA SVIZZERO: Thank you.

>>JAMES WALSH: Public information officer, Bob Brehm?

>>BOB BREHM: Hello. A couple of items for our unit the vote-NY.com web site has been up since the 25th of August.

And there's two general areas to cover.
We've received so far 32 responses.
It's also a tool to try and recruit poll workers.

So 32 individuals have already, you know gone to the site and identified themselves as interested and we're forwarding that information to the County Boards.

We hope as the radio advertising campaign and the other outreach works, it will help to fulfill that portion as well as educate voters on how to operate the equipment.

We did receive approval from the state comptroller last week of the contract

extension to convert the information on our web site for the voter education web site and all of the required languages.

So SOE received the go ahead to make those changes and we hope to have that worked on shortly.

We continue to make the final changes or updates to the poll worker training component of that activity.

The platform is completed. The training videos are completed. We completed last week obtaining the updated manuals from the vendors.

For the poll worker component of the machines to put onto the library. We've updated all of the County level web

links and log user activity and we're planning a mailing to the counties to go out shortly to have them access all of the information.

We've created a County level administrative user manual and a state level user manual

that will assist us in all of the functions related to monitoring and loading the poll workers and doing the required reports.

To track the activity.

So that activity we hope to have completed this week.

The next phase for that project is to do the final edits on the manuals.

And also part of our work is to prepare a CD to give to the counties so that in addition to

the web based training, they can also have a PC based training in case they are at a training location where web access is not available.

So those CDs I know Hope is working downstairs to try and get all of the electronics worked out so we can transfer the data.

And make those CDs for distribution.

The County funds program we continue to work on the various County funds activities.

We have all the poll site surveys except for one county.

Erie County is working with their providers.

We know the surveys are done we just don't have them all in yet.

We have 91% of all of the surveys done in the state with EErie County being the only one not in.

Out of the 6241 poll sites the surveys identified that over 4,000 need improvement.

And to date we can see from the quarterly

reports that a little over 1100 have already been completed. And the last quarterly report we have is from July 1st.

So the next quarter we hope to have an updated number on the number that was improved -- that actually had been improved so far.

We are at the level of reimbursement for the County expenditures. A little over \$1.3 million.

And we continue to process those invoices as they come in.

And work with the counties to get all of the required paperwork completed.

And I mentioned to you at the last meeting the increase in the voter registration activity. Last month, again, we did 3700 for the month.

This month so far we're at over 17,000 forms processed.

So the mail delivery truck is making a regular visit here.

And everybody in the building when they are not proofing a petition or doing anything else, they are opening and helping us to sort the mail.

And we get those out as quickly as we can.

And that -- other than our regular work that is the highlight of what we've been doing since our last meeting . . .

>>JAMES WALSH: Thank you.

Questions? Campaign finance, Liz Hogan?

>>LIZ HOGAN: Thanks, Commissioner.

Since the last meeting a couple of things I'll just touch on.

It's my understanding that from our secretary that today we received the signed judgement for the July periodic lawsuit.

So that will be entered today. The upcoming -- there will be an upcoming judgement date of October 3rd for the 32

day preprimary and the order to show cause for the preprimary lawsuit will be signed hopefully on September the 24th.

As far as the workload, if I may say for campaign finance, intake and processing, there are a series of upcoming filings this year.

The ten day post primary.
The 32. The 11 day pre-- or the 32.

The 11 day and 27 day post general.

In the context of that, if I could just briefly touch on something we've already touched

on here today and that's the staffing to take care of those processing questions and you know problems. I've said it before.

And we briefly touched today, we are down to two people to handle that.

You know I understand there are budget issues and that you know since last time

we spoke there's been no canvassing of civil service lists as I raised at the last meeting.

So we're at the status quo. And I just -- I have to raise because it's a concern to me that if we are not able to effectively address

the questions and the problems prefiling through providing the telephone service that my fear is that there will be a reflective rise in issues of enforcement.

Because we will not be able to have assisted these filers who need assistance in getting their filings done correctly.

And you know since Day 1 I've said that our agenda is to foster compliance.

And my belief is that we do that best through addressing problems before they manifest themselves here.

So I think -- I think it's valid to just raise to you that I have concerns that the less available staff and hours we have to devote

to the prefiling issues, the more problems we're going to see on the other end in terms of enforcement issues.

So I would just like to just bring that to your attention as something that I have on my mind.

>>DOUGLAS KELLER: Liz, before you go on.

>>LIZ HOGAN: Yes.

>>DOUGLAS KELLER: I thought we discussed this at the last commission meeting and that you were going to go ahead and canvas the civil service list to fill those slots.

>>LIZ HOGAN: I have no authority to authorize that canvas.

>>DOUGLAS KELLER: The Commissioners do.

>> I thought that's what we were doing, too.

We still need to do the required justification before we can hire anybody of course

through the -- through -- based on the Governor's executive order on the hiring freeze but that still doesn't preclude us from canvassing the list.

>>DOUGLAS KELLER: I left two weeks ago thinking we were going to canvas the list. So what happened.

>>TODD VALENTINE: I thought that, too.

We still have a hiring problem but I don't know why --

>>DOUGLAS KELLER: Is this a Mike and Jeff issue?

>>LIZ HOGAN: Not that I'm aware of.

As I said to you I had talked to administration.

They indicated that they could not go ahead without -- doing the canvas without the authority --

>>DOUGLAS KELLER: You talked to administration.

>>LIZ HOGAN: Tom Jeoroin our administrative officer who has the list.

He told me at the last meeting we couldn't canvas the list without Todd and Stanley approving the canvas.

>>DOUGLAS KELLER: Were Todd and Stanley asked to approve the canvas.

>>LIZ HOGAN: At the last meeting I asked --

>>TODD VALENTINE: I can't see that.

He raised the issue about you're still going to need to do the hiring freeze. But right, I'm with Stanley --

>>DOUGLAS KELLER: Well, is it appropriate for me to make a specific motion right now directing that the list be canvassed?

Or --

>>GREGORY PETERSON: I think that's understood.

>>EVELYN AQUILLA: I think you've made your point. I don't think we have to make a motion.

Follow through on this, please.
We have your word.

>>TODD VALENTINE, STANLEY ZALEN: Yeah.

>>EVELYN AQUILLA: I think that was it.
There was just a mixup on that.

>>LIZ HOGAN: Certainly Commissioner.

>> GREGORY PETERSON:The hiring freeze is obviously going to be some kind of a problem. I don't care how big or how small.

>>EVELYN AQUILLA: That's why we want to speak privately.

>>JAMES WALSH: Maybe this belongs in executive session. There's a possibility of any part-time hiring just for one project for a short period of time under contract funds or anything.

>>LIZ HOGAN: There are a couple issues relative to this kind of work is that is you have to be to a level of knowledge to the particular law and applicable filing issues.

And I think looking at that kind of analysis from maybe a fill-in kind of thing where

there's a set project to be done and the parameters are obvious I think might work.
But just off the top of my head and I had not considered it.

But I don't know that we could ever bring somebody on in a temporary or part-time basis and have them be able to assist

people and give them the correct interpretation of the law as to the filing issues. It doesn't seem like a feasible thing.

>>JAMES WALSH: I was sure that would be the answer but I had to ask the question.
Continue, please.

>>LIZ HOGAN: Okay. From the education and training perspective, Bill and I met with the people on our staff who are looking at this issue.

Again, you know, our goal is that they present potential projects to us that will

foster the understanding of people who have to file and enable them to do so correctly.

So we had a meeting with them this past week.

They presented a number of options to us.
Things they had been thinking about as projects that they might work on.

To address a wider audience. And I think, you know, a more appropriate audience than perhaps the seminars type project -- or seminar type schedule that we have now reaches.

But both Bill and I and I think I can speak for him on this that we were very impressed with what they had done.

They had really done a great assessment of the issues and you know the kinds of things that they could work on and they presented it to us for our direction on what was -- what took precedence, what should wait. And we did that.

So now they are going to come back with some actual real projects to work on. And some drafts and I'll be happy to share those with you, Commissioners, when we get those.

But I think that's -- that's going very well.
And we were very happy with that. We met with the audit staff, also.

The '06 corporate overcontribution project is on track.

And that's really winding down. So we should be getting a report from staff I think next month is the date of the timeline for us to get their report.

And for us to look at it and see where -- you know how we can come to the Board with a report on that. So that's looking good.

They are also looking on the '07 overcontribution project. Our team has worked for the past three weeks to try to get a report of potential corporate overcontributors that we feel is reliable.

We had had problems in the past in getting such a report because of the nature of the technology I think in the reporting schedules and where certain data was on those schedules.

And how it was able to be incorporated into this report that we got which was basically -- well it is now I think going to turn out to be

an Excel spreadsheet and be much more usable and reliable for us. We feel very confident about that. So that's started.

We sat down just earlier this week with that staff. And actually set forth the timeline for which this project, you know, will proceed.

And I -- they are working very hard. I'm very pleased with that. All staff is working on the procedures project as I update you on every Board meeting.

And what we have been able to do because we have specific staff working on specific project is we are having them write the procedure as they go through each particular phase of a project.

It's just much easier to do that than in retrospect sit down and say: Now what do we have to do when we do that project?

So it's worth it for them to take a little bit of time or maybe sometimes it's not so a little bit of time but the time they need right now when they are working on something to say:

Oh, yeah, that step needs to be done first or these are the ways we set the parameters to do this in order to get the product that we need to effectively do the project.

That's what we are doing and it's not an easy task and something that won't be done quickly but it's something we're working steadily on.

And I think when the report or when the project of procedures is completed, it's

going to be very in depth and it's going to cover a lot of detail. So I think it's worth it. That's what we are working on.

>>JAMES WALSH: Questions?

>>EVELYN AQUILLA: I would like to say something, though, if -- I know -- are there no questions?

You know, Bob and I spent Election Day by going out to several places. And we went to Nassau.

We went to see the -- we went into Nassau's Board of elections. They were working very hard.

And I think Bob would want to tell you he had a full -- we had a full conversation with them about some of their concerns.

We went to King's County we went also to some of the election polls and some of the -- we went up to see the King's County Board and they were also -- King's County

Board and they were working hard and we all talked about the ballot marking devices

and they all talked about it until unfortunately not until later in the day in King's County did we see somebody using a ballot marking device.

Most places we hadn't seen anybody use that yet.

We were unhappy about that. In fact the woman that did use it in King's County I talked her into using it. The poor soul.

She used it and really loved it when she used it. And we did go into New York City, in Manhattan.

And we went into several of their people with voting but people were voting there because they had a very hot primary going on.

So we did cover about four different counties.

And it was -- it's always good to go.

They are always happy to see that you are there and you are concerned.

And I would like Bob to talk about Nassau County, our meeting with the people running Nassau County, what they had to say.

>>BOB BREHM: Well, they -- it was a nice visit.

>>EVELYN AQUILLA: Good thing I had him with me. He knows everything.

>>BOB BREHM: We were able to see the work that they are doing to prepare. And the training that they put forward.

They had a really nice you know setup for the voting machine.

Mostly their concerns were assessing the consumables.

The supplies.

The deadlines.

You know, with everybody ordering their screens and their privacy sleeves. And their accessibility devices for the straws and the paddles.

I mean one of the biggest concerns still Nassau County has and I think we've heard from some counties before this day,

Sequoia has changed the sip and puff straw so if you were a county that received your initial supply of materials you had one sip and puff straw.

And then they subsequently come out with the gooseneck straw which is device that's I

think more recommended by the advocates.

Because it's easier to operate. Gooseneck than it was the headset.

The real problem is they have different size straws that you use for consumables.

So Nassau County had expressed a concern that they would have two different

types of accessibility devices that they would have to supply and train and buy

consumables for and would like us to work to streamline that so that either the vendor replaces the initial 45.

And I came back and shared that with Anna.

And I think she had indicated that that is the plan.

But it's one of those things that we'll continue to work on.

They identified some locations where ballot marking devices would be used in the election.

And we did go visit the site. Unfortunately at the time we were there a little before 1:00 o'clock.

And no one had gone to that site yet to use the ballot marking device.

There were two EDs at that location.

But the gentleman that was there was fully knowledgeable in how it operated.

They had a really nice setup to the maximum extent practical.

It provided the screens and the covers and the positioning, the voting machine in a way

that wasn't right near the entrance and would provide both the path of travel around the machine that was accessible and also privacy to the voter that used it.

>>EVELYN AQUILLA: They are doing very good in Nassau County.

They are training. Their training program I thought was excellent, excellent.

>>JAMES WALSH: Good. Good to hear.

The two sip and puff I assume they are interchangeable, if one had one they can bring the other.

>>BOB BREHM: There's a port on both types of machines that has a universal plug. They first identified to use a headset.

But the advocates and the vendor made an accommodation to switch to the gooseneck,

which pretty much attaches to a device and then you can just position the straw and it's easier for a voter to operate it.

>>EVELYN AQUILLA: We were all very concerned about what we get when we went to any of the offices.

Will they get their deliveries on time? You know, will they get everything on time?

Will there be enough for them to come and things like that. And I mean --

>>DOUGLAS KELLER: That's what Nassau had.

>>BOB BREHM: Some of the devices were manufactured in Westchester County and

they found it easier to work with Sequoia Dominion to actually have a person from -- to drive to Westchester to pick them up

otherwise they would have to get flown and go through customs and get shipped and

packaged and go through customs again and they never would have arrived in time

so that was a level of frustration they had to deal with how do I get my supplies.
And they started going there.

>>EVELYN AQUILLA: If it's made in New York State then it has to go to Toronto and
then it has to come back in and then you know these are the kind of red tape things that we don't control.
But you know really, really you said yourself isn't that ridiculous?

They are made here they could put them on a truck and send them down but no they go to Toronto and
come back in through

customs and maybe that takes a long time coming back in who knows maybe every
machine needs to make sure they don't have a bomb in it or something.

But it's things that don't make any sense.
And they are things that we don't control.
We really don't control.

But every place where we went I got to say that I thought people were working very hard.
People are concerned.

I could say in the city of New York between some different offices we went through, we're not the most
popular people they want us to come.

They were very nice to us. But it wasn't the same as they did last year. There was a warmth.

It was sort of like: Oh, those people are here from Albany.

But on the whole it was -- I wish more people had tried the new machine. That's the only thing.

I'm disappointed that so many of the BMDs were not used.

And people will have to learn about them. They will have to learn. And it will take time. Thank you.

>>JAMES WALSH: Thank you, Commissioner is there anyone here to report for ITU?
No?

I take that as a negative.
Old business.
New business.
Kim Galvin, Paul Collins, petition rulings.

>>KIM GALVIN: I believe you have the chart in your packets dated today.

Setting forth three hearing determinations and one prima facia determination.

Relating to the independents.

The three in the top box, hearings were held.
The 59th District and the 19th

Congressional District were multi--day significant hearings.

The 118th was convened and then -- in a relatively short period of time a
determination was made that the petition was valid with no objection by the objector to that.

And then the prima facia determination we received on September 8th, that one-page
petition for President of the United States, which was insufficient in a variety of respects.

>> Could you speak up just a little bit, please either talk this way --

>>KIM GALVIN: I'm sorry.
Basically we did three -- we have three

hearing determinations in which the staff's recommendations is all of them be found valid.

After two of them had multi--day hearings.
And one prima facia determination of

invalidity based upon a petition for President of the United States.
That was one page long.

>>EVELYN AQUILLA: I have just one question. KM, can that be a first name.

>>KIM GALVIN: Karen Michael Waller it just didn't fit.

>>EVELYN AQUILLA: I just want to say --

>>KIM GALVIN: No it's spelled out here.

>>EVELYN AQUILLA: Okay.
Thank you; thank you.

>>JAMES WALSH: Any questions?
Can I have a motion?

To adopt the report.

>>JAMES WALSH: Yeah, can I have a motion.

>>GREGORY PETERSON: Move that the recommendation of the staff be adopted.

>>JAMES WALSH: Second?

>>DOUGLAS KELLNER: Second.

>>EVELYN AQUILLA: Yes.

>>JAMES WALSH: All in favor?

(Chorus of ayes.)

>>JAMES WALSH: Opposed?

Carried.

Do you have more to continue, Kim?

>>KIM GALVIN: No, that's it.

>>JAMES WALSH: That's everything?

>>KIM GALVIN: Yeah.

>>JAMES WALSH: Any other business.

>>DOUGLAS KELLER: Well, we have a couple of things.

I just want to go back to this issue on staffing and the campaign enforcement unit to make sure there's no ambiguity.

That we're agreed that we're going to canvas the list, the civil service list.
And that that's going to start this afternoon.

>>TODD VALENTINE: Well, yeah.

I don't know when the actual canvas will occur.

But yes.

It says in the memo.

I don't know when they will get --

>>DOUGLAS KELLER: This afternoon.

>>TODD VALENTINE: Yeah, I don't know when that gets started.

>>DOUGLAS KELLER: And that to the extent that there's any paperwork necessary

to send to the budget office to justify filling the vacancy, that that will move forward without delay.

>>TODD VALENTINE: Uh-huh the unit that wants to hire the personnel will need to put together a memo to support that.

>>DOUGLAS KELLER: But there's not going to be any veto of the paperwork from this point forward going forward?

>>TODD VALENTINE: They are going to need to provide that justification as to the hiring itself.

A lot of those factors are not in our control.

>>DOUGLAS KELLER: Right. But we're -- there's not going to be a paperwork holdup at the Executive Director level of processing that application?

>>TODD VALENTINE: Not anticipating it.
There hasn't been any at this point.
Do you believe that there has?
Because I'm not aware of any.

>>DOUGLAS KELLER: Well, I think we already heard that there was.

>> GREGORY PETERSON: No, I believe what happened was they never got the message to start off with it. To pass for their authority.

>>DOUGLAS KELLER: Okay. But if it's going to be held up you'll notify the four Commissioners that you're holding it up.

>>TODD VALENTINE: I think Mr. Zalen can notify you as well as I can I don't know why you're discussing this with me alone he's also part of this problem.

>>DOUGLAS KELLER: Stanley you agree.

>>STANLEY ZALEN: If it's being held up we'll notify the Commissioners.

>>DOUGLAS KELLER: All right. Okay. Then you wanted a motion for executive session. We need to set a date for the next meeting.

>>EVELYN AQUILLA: Okay.

>>PAUL COLLINS: Commissioner Walsh.
I don't know whether you wish to discuss this in executive session or not. But Kim and I and others have drafted a letter -- pardon me?

>>KIM GALVIN: I believe thought it would be more appropriate to do it in the executive session.

>>DOUGLAS KELLER: Before we actually vote on the motion to go into executive session can we agree on the date of the next meeting?

>>EVELYN AQUILLA: Yes. No Wednesdays from here on in. I'm teaching. Second grade.

>> October 10th.

>> JAMES WALSH: No Wednesdays?

>> EVELYN AQUILLA: Well, I teach CCD.

>>DOUGLAS KELLER: How about Tuesday, October 7th? Or Thursday, October 9th? Well, Thursday, October 9th is Yom Kippur. So the 7th is good.

>> 7th is good.

>>EVELYN AQUILLA: October 7th.

>>JAMES WALSH: Okay.
We have four votes for the 7th.

>> That's a Tuesday.

>>DOUGLAS KELLER: All right.
I move that we go into executive session to discuss litigation.

>>JAMES WALSH: Excuse me.

>> Commissioner, could I say something?
I would like to object to your going into executive session to discuss process and improvements to the Lot I process, which is what you --

>>EVELYN AQUILLA: No we're discussing.

>> Before you said you were going to go into executive session to discuss what was discussed at the meetings for process.

You can only go into executive session for personnel or legal issues.

>>JAMES WALSH: Or contractual issues.

>> But we're talking about the process here.

>>EVELYN AQUILLA: We're talking about a legal issue maybe.

>> Well, maybe those could be separated.
The public has a right to know what process improvements are being discussed.

>>EVELYN AQUILLA: This is -- we discussed everything that happened for you with the Department of Justice.

Now we have to look into some things they want us to look at.

>>DOUGLAS KELLER: Yeah, I'm not aware that we're going to discuss any voting machine process issues.

>>EVELYN AQUILLA: No.

>>DOUGLAS KELLER: We're going to talk about the litigation with New York City and --

>>EVELYN AQUILLA: We're talking litigation.

>>DOUGLAS KELLER: And the two counties.

>> I just want to get on the record.
You earlier said you were going to discuss process.

>>JAMES WALSH: I appreciate your comments.

>> Thank you, Commissioner.

>>JAMES WALSH: We appreciate your comments. We have a second on the motion.

>>EVELYN AQUILLA: Second.

>>JAMES WALSH: All in favor.

(Chorus of ayes.)

>>JAMES WALSH: Opposed?
Carried.

>> May I say something else on the same topic. With respect to the use of the ballot marking devices during the primary, I've been in communication with league members across the state.

And of course we don't have chapters in all 62 counties. And it would be anecdotal.

But I do want to sit and say -- and I will be compiling the reports to send on -- I've spoken with Anna earlier.

And she suggested that I send those onto her and to Kim. And I want to stress again, they are anecdotal.

But they are experiences of voters. One of the strong things that I have seen that has come across is that the counties

are actively discouraging voters who are not disabled from using the ballot marking devices.

And I again having spoken with Anna, I have her assurances that once you have compiled a more complete report of -- from

your own counties and from other observations, you will be resending

instructions to the Commissioners of the various counties before the general election.

But I in my own experience and I used to hear in Albany County and I was told by --

just as an example of the instruction that was given to this particular inspector who assisted me in using it.

They were actively discouraging or were told to discourage voters from using the ballot marking device.

And we're told that it was only to be used by disabled voters in several cases.

I'm aware of this, Ms. Aquilla those were not the instructions promulgated by this Board.

But some time between what you have sent out and the instructions that the

Commissioners have given to their inspectors, the message has gotten completely distorted.

One case in particular in Albany County, a co-president of the Albany County league of women voters who wanted to try it was asked to produce evidence of disability.

Asked to produce evidence of disability.

As it turns out, she is not disabled. But in order to use that, she had to wink wink: Yes, I'm disabled.

I think that between now and November if we want to have these devices used that we need to -- the Board needs to actively

engage with the Commissioners. And with their training and improve the training.

>>EVELYN AQUILLA: It would be nice if we can get that in writing.

>> Oh, I intend to.

>>EVELYN AQUILLA: The person who did that with that person -- where that person came from.

>> Oh, I can produce that.

>>EVELYN AQUILLA: We would like to have that in writing. Because we didn't see that anywhere. Not any place.

>> I'm sure it's random across the state.

>>EVELYN AQUILLA: We were random.
I just walked into random places where people were voting.
And no one did that.

>> It probably -- you may not have gotten across the whole update of New York.

>> We're talking about through Buffalo to Utica to Albany.

>>EVELYN AQUILLA: We need written information.

>> This should not be difficult to do.

>>EVELYN AQUILLA: If you would do that for us.

>> Anyone that complained that's what happened if they would be willing to give their name and what neighborhood they came from so we know.

To say that that happened that every single Commissioner did that across the state, I don't know if that's true or not.

Because we -- I saw four different you know counties. And I never saw that anywhere.

>> Perhaps we should all be working together to make sure it doesn't happen anywhere.

We should be -- we should be actively cooperating so that it will not happen anywhere.

>>EVELYN AQUILLA: We have to know it really happened. Who it happened to.

And what place it happened.

Because then we have proof to tell somebody.

>> We have told you we will have that.

We will do that. We have already told you that.

What we're asking of this Board is that you work cooperatively with the other local Boards to make sure that this type of thing does not happen in the future.

>>EVELYN AQUILLA: Well, it's hard to -- I feel we can do that.

But it's kind of hard to point a finger at innocent people. You know.

It would be nice if we knew where that happened so we could really be certain about it.

>> We do not want to have to go to the press that the state Board of elections is not or is less --

>>EVELYN AQUILLA: That wouldn't be true.

>> GREGORY PETERSON: That is an affront to this Board, madam.

That is an affront to this Board. We have told people what to do.

It filters down to the local Commissioners.

The Commissioners tell the local election inspectors and if some election inspector in

Buffalo or wherever makes a mistake or does the wrong thing or takes a shortcut that's one person out of thousand election inspectors.

>> We agree but the responsibility of this Board insures the local Board --

>> GREGORY PETERSON: This takes that responsibility seriously and it will make sure our directions are sent out and

hopefully it will be followed if they are not followed obviously we will be talk with those who do it.

>> Thank you.

>> GREGORY PETERSON: You're welcome.

>> EVELYN AQUILLA: We can't say all of the Commissioners in upstate New York violated this when we don't know.

>> JAMES WALSH: Okay, everyone.
We're going into executive session.

>> EVELYN AQUILLA: We need to know who and where.

>> JAMES WALSH: The points are well made we're going to move to go into executive session. We have agreed to do that. Please kill the power.