

DOUGLAS KELLNER: Good afternoon. My name is Douglas Kellner, co-chair of the State Board of Elections. I call this meeting to order and ask my colleagues to identify themselves.

: Jim Walsh.

: Gregory Peterson.

: Evelyn Aquila.

DOUGLAS KELLNER: Our staff?

: Bob Brehm.

: Liz Hogan.

: Pat Champion.

: Anna Svizzero.

: Paul Collins.

: Pat Tracy.

: Kim Galvin.

: Bob Warren.

DOUGLAS KELLNER: And our guests?

(guest names off mic)

DOUGLAS KELLNER: Welcome to our guests.

So first order of business is approval of the minutes of September 5.

Anybody have any comments on the minutes?

No?

Those in favor of approving the minutes say aye.

(All members responded aye.)

DOUGLAS KELLNER: Opposed?

The minutes are adopted.

Next is the unit updates.

I don't see Todd here yet.

We will come back to the Executive Directors and call on Kim Galvin to report for the legal department.

KIM GALVIN: Thank you, commissioner.

Since we were last here, it seems very recently, Paul and I continued to answer the almost every imaginable question you can get about voter registration from jails, halfway houses, whatever you have and other questions and we continued to monitor the situation with the NYC HAVA issues as well as the machine lot 1 testing issues and to follow up with the BMD with Anna and apprised the Department of Justice as to the events and the circumstances and the advancements there.

We continue to also, Paul and I, draft, edit and actually just edit and file the Court report with the counties.

Unfortunately there hasn't been very much good news to report in those court reports with those machine issues.

In addition we are answering and handling the variety of lawsuits.

Since you were last here there were independent nominating petitioning lawsuits.

More specifically this week very intensively there has been a slough of judicial nominating convention lawsuits.

Currently we have three, two returnable after this meeting today and one next week that are subject to the determinations that will be made that we'll be asking you to make at the end of the meeting today as well as some other things that are currently in litigation.

That's about it.

DOUGLAS KELLNER: Any questions?

Okay.

We'll then go to the Executive Directors.

Todd?

TODD VALENTINE: Big news we are moving forward with the budget planning.

That was included, we do that as a presentation, but it's legally the governor's budget and we present what we have.

EVELYN AQUILA: Our piece?

TODD VALENTINE: Our piece of it.

Obviously the legislature makes their changes and the Governor reviews that.

We did meet with the division of budget with regard to the spending plan for this year.

There's a, currently there was a target of 7 percent cuts which for the current, in both the current fiscal year and the next fiscal year, we have been able to put together a plan, Stanley and I working with the staff for meeting this fiscal year, was less of a challenge because at the time they asked for it there were a number of staff positions that remained unfilled and we had another cost savings from not exercising our right to a contract with the saver help desk.

We were able to meet that goal without any pain.

Next year it's a little bit different to meet that same cut in the reduction of our budget has forced us to reevaluate our planned acquisition of the fifth floor and come to the conclusion that we simply can't afford it.

With that financial bind in place, what we've done and I started working with Bob now that Stanley is currently absent is to put together a meeting

He has been working with the staffs yesterday.

Yesterday?

Yesterday they met to develop a space plan for the unit that is impacted the greatest, the financial disclosure unit which was the whole purpose, one of the purposes behind acquiring that fifth floor was to create the space.

What we have had to do is start meeting to analyze, to determine the space needs for the bodies that we intend to hire because our goal is, we need the people, but somehow we have to reutilize the space we're in now to accommodate them.

And then what we have planned for is a meeting next week with our space planner from OGS to see if there's any physical construction that needs to be done that we could outline for the budget or outline for the landlord to bid out and then we will also meet with the furniture person to reconfigure our existing cubicles and see if there's anything we need to acquire either new or if possible furniture we can acquire from surplus OGS furniture at no cost. That's the analysis they are undertaking at now.

The other big impact for next fiscal year, unfortunately we can't afford the State fair.

That's the conclusion we came to in a bipartisan manner.

We still have the outreach, the voter outreach has always been successful.

It's just gotten expensive.

So we are unable to continue to support that.

And we will probably have to scale back, not scale back the meeting but probably the location of our annual conference, moving it to having it in Syracuse.

The largest expense there is the travel cost of our staff to go, since it's outside of the 50 mile radius.

They have to charge the per diem, so that's approximately \$20,000 savings by having it either in Albany or within a short distance from Albany so we can save on the travel costs here and still put on the conference.

We think that communication is a necessary element.

It's just we need to find a more fiscally less expensive way to do it.

There has been rumor, you know, we've talked about video conferencing, but it's the interaction that is the key there and a lot of that gets lost.

We do have periodic conference calls with

Right now we have been doing it with county leadership and we are hoping to expand that with a new phone system so we have every county listen in.

You can't have everybody talking at the same time, but they will be able to listen in.

The budget we put together or has been put together is basically, we have been mandated to have a no growth budget.

It's pretty much last year's budget with some of those minor changes included as far as the spending plan.

And we also have one additional element that we have had to add.

We are anticipating

It wasn't included in the other budget, an additional \$7.5 million in federal money that was made available from the federal government in this federal fiscal year which was not put in the original budget because we adopted our state fiscal year.

We need to put it in for the next fiscal year.

I think right now our suggestion for the division of budget is, similar to the money we got late in the year last year was to put it in the eight localities, earmark it for the counties but with the proviso that in the event we need to spend it for state money, we have a way to transfer it to our state fund so that the State board can use it if there are certain funds.

EVELYN AQUILA: Todd, I hate to interrupt you, but is there any way that the conference could be looked upon out of that money?

Because in a way, it is an aid to the locale, an aid to the counties.

We are meaning and talking to them at a time that it's imperative to have that dialogue and be with them in person.

With the new machines going in, with enforcement and all of the things that are happening with the Spitzer bill, all of the things that they expect us to be able to do, I don't know if there's a way to look or way to solve some of our problems, but as we look at the conference, we don't do that to aid ourselves; we do it as an outreach to aid others.

I don't know. Maybe I'm way off base. I'm not a CPA or accountant.

I was just wondering if any of that federal money could be used for the conference.

TODD VALENTINE: Hmm, well, some of it could, but the problem that we face with that is the federal money that we get is under a prior existing maintenance of effort use.

You can't use federal money to supplant what you were using state money for.

We never really analyzed the conference in that light.

EVELYN AQUILA: Okay.

That gives me an answer right now.

TODD VALENTINE: At this point, we use the federal money primarily to support the counties.

The counties get clearly the lion's share of that money.

But we also used it to pay for the salaries of personnel here on our staff. We tend to expand part of the election operations unit.

We are proposing to add three additional people out of some of the federal money in order to continue with the testing for next year.

That's part of what the ear mark is for.

We did that with the bulk of the federal money was spent really on the database development from the State level.

So we never really analyzed the conference as purely a federal level.

A lot of the conference does discuss purely state matters.

I mean, that's part of our goal is to deal with, you know, election administration issues on the county and state level.

So we never really looked at it this way.

EVELYN AQUILA: I thought during the crisis time, especially these next two years are mostly going to be about the new machines which come under HAVA which is a federal law.

It will be about a lot the other things that HAVA has referred to and asked us to do.

In a way, there is a federal element in the next few meetings that we are going to have, until people get used to everything or maybe I'm stretching it too far.

I leave it to you and Bob.

TODD VALENTINE: We can certainly investigate that, if the use of those monies would fall underneath that.

We are not opposed to doing that.

Go ahead.

BOB BREHM: In order to make the appropriation for the new federal dollars, we have to update our state HAVA plan.

Some work had started in that regard and also towards the end of the federal fiscal year there was a lot of talk in Washington because the competing federal agencies, one wanted to take the money away if all the States didn't use it by the end of the federal fiscal year and the election assistance commission took a very strong position that it should be treated the same way the other HAVA dollars were treated, it's when it's used.

Luckily we received word in the last week or so, that the EAC position went out.

So the money is available for us and we have to retool our efforts to update our plan and then update the application for the new money.

The only other item and it's one that I don't have, I didn't work on but I know Todd and I spoke about in Stanley's absence is the internal control effort, you know,

efforts are going forward to develop a draft and to come up with a document that we can work on once we get it a little further along and then to share it with you and get your comments on whether or not you have any other suggestions of what we should be looking at.

So that are effort is ongoing.

EVELYN AQUILA: I think you should all be congratulated on the fact that you're giving up the extra space.

It's going to be very, very crowded.

That really is a sacrifice.

I think

BOB BREHM: You should be congratulated, too, because we're going to have to use this room.

EVELYN AQUILA: I really think it's very, very good.

TODD VALENTINE: When we get closer to an actual plan.

EVELYN AQUILA: It takes a great deal of sacrifice especially from the enforcement council.

DOUGLAS KELLNER: I don't see Liz smiling.

TODD VALENTINE: It is an affected unit. There's no question about it.

Obviously Liz and Bob and others have worked together to come up with something...

EVELYN AQUILA: You won't have luxurious accommodations as it was.

DOUGLAS KELLNER: The campaign finance unit is more than half the agency mission right now.

TODD VALENTINE: We have to focus our efforts on getting them the space and the working conditions they need.

If we can't get the space because we simply can't afford it. That doesn't preclude us from moving in the future. It's just for right now. The reason we can't afford it is

EVELYN AQUILA: I understand that.

TODD VALENTINE: We would be pushing an agency out.

We have to not only pay for us to move but pay to move them out.

EVELYN AQUILA: I didn't realize that.

TODD VALENTINE: That's what we can't afford.

If they were just moving out, I think their lease is ended in 2011 or 2012.

Once they move out, if they choose to move out, which we hear that they may, the Court systems

EVELYN AQUILA: Or if they're smart they'll wait to push them out because then we'll pay.

TODD VALENTINE: We have been on the receiving end of that, too, where we have been, our last move to here, we were pushed out of Empire State Plaza.

EVELYN AQUILA: Yes, we were.

TODD VALENTINE: Our costs were borne by, at that time it was DMV.

We have been on the other end of that, too.

It's just the way it goes around.

EVELYN AQUILA: Right.

DOUGLAS KELLNER: Anything else for the Executive Directors?

We'll then turn to elections operations and Anna Svizzero.

ANNA SVIZZERO: Thank you, commissioners.

Since our last meeting we received certificates of nomination for the justices of the Supreme Court.

We processed 27 of them with 54 candidates. Subsequent to those documents being filed we received eight sets of objections and eight sets of corresponding corresponding specifications.

We did certified our ballot on the 29th to the county boards.

Our certification addresses the manner in which the candidates are to appear on the ballot, the order of them, the names that the candidates selected, the party emblems and we obviously certify for president, vice president, Supreme Court, Congress, Senate and Assembly and the boards build their ballots from that point on.

Our unit meetings, our status meetings continue with NYS tech and Sysest.

We are working with both of them to assure that any issues that either sys test or the vendors have that require any clarification of any sort we stay on top of so we're not part of any delay in that process.

So we think we have those down to a minimum.

They do appear on the sys test status reports, if those are documents you happen to be perusing.

We have received information from counties about their BMD use in the primary election.

Also as Amy Allo promised at the last board meeting, the League of Women Voters provided some information to us.

We have anecdotal information from our own staff who voted or attempted to use BMD's at the primary election.

Also some comments from the County Boards as I said...

Based on those, Bob and Warren put together informational sheets for the counties for both the ES;S clients and the Dominion customers so they can turn it into something they can pack with the inspector supplies, et cetera.

The cover letter of that is clearly going to encourage the county boards to make sure that the ballot marking devices are powered up.

You don't wait until a voter comes in to ask to use one to turn it on.

Perhaps they need additional training.

Perhaps they can simply send a letter to the inspectors and tell them to visit our Web site because there is an excellent tutorial on the Web site that they can take advantage of without having to pay the inspectors come in for training sessions.

So we're hoping to have that out...

Kim and I need to review that and then...

DOUGLAS KELLNER: On that, I would start with emphasizing that anyone can use the ballot marking devices.

ANNA SVIZZERO: Yes.

DOUGLAS KELLNER: And the counties really need to communicate that to the inspectors.

There are too many anecdotal reports of people who ask to use the BMDs and are told they are only for disabled people.

ANNA SVIZZERO: We'll make that a priority.

That is on the tip sheet that Bob prepared, but we will emphasize...

EVELYN AQUILA: I was going to ask you the same thing, Anna, getting a letter out to the counties reminding them that that's important.

ANNA SVIZZERO: We will do that.

We are planning on scheduling another series of sys tech training sessions to teach the boards how to build a test deck for these BMD's.

We think the more they do that the better off they'll be next year.

We can do this at the central testing site that we have.

It's a county expense obviously to come here, but we are providing hand outs to them whether they come or not.

That should be helpful.

A number of boards requested it and it's easy for us to do.

We just have to find a convenient time after local registration but before the craziness really starts.

We are attempting based on the summit meeting we had with the Department of Justice and the vendors gathering information on how many additional BMDs and how many scanners the county boards may think they want to buy.

We told the boards that this was not going to be binding in any way. It wouldn't be used to become a requisition or purchase order but it would help us plan for the production time and for acceptance testing so that when we review the existing timeline that we have with DOJ we would have a better sense of the work that was ahead of us.

We only heard from 19 boards so far.

We are going to continue to reach out to boards to get more information from them.

Based on what they've told us so far, there are a handful of ballot marking devices they think they want.

These 19 boards want 15 ballot marking devices - 180 scanners.

We heard from the ES;S customers - only the Dominion counties.

We will work to get better numbers and we can share those with everybody a bit later.

We did get our draft report from the comptroller's audit on the topic of absentee voting.

We haven't really had chance to go through it or sit down and discuss it, or prepare any kind of a draft, but we clearly need to do that and that's on the agenda for the coming week or so.

We are working with answering calls with county boards dealing with ballot layout issues.

All the same questions that all the other unit heads have been talking about.

And we are working closely with the federal voter assistance program.

Issues with voters who are in the military or overseas who can't get ballots back to their boards on time or even get ballots from the board in order to vote.

We are working through those issues.

We continue to assist in opening mail and respond to go a flurry of phone calls on a regular basis.

Other than that, that's election ops agenda for the next several weeks.

DOUGLAS KELLNER: Kim?

KIM GALVIN: I might surprise Anna because I'm saying this, but I don't think it will surprise her at all because I think it's just...

Personally I wanted to let the board know that I think the lot 1 testing is in a very, very bad state of affairs at this time. I thought the summit meeting between the vendors, the testers and us was going to jerk them into some sort of positive action and to be honest, they aren't even bothering to give us the head fake that they are reacting to it at all.

Through no fault and I mean this sincerely, of the board or staff here or the NYS tech staff for that matter we continue to have several weekly calls, push the meetings and whether or not the testing lab

I know they are listening

Is in over their heads on this whole effort or they are just

I don't know where we are, but we told the Department of Justice this morning we thought that things were in an awful state and they are thinking about ways that they from their end can give us suggestions or whatever and we are trying desperately in house to figure out a way to put ourselves on a path for success because Anna mentioned reviewing the existing timeline and reviewing it now puts us farther out, I think, than is even manageable for next year.

I think that I just sounded that alarm for what it's worth and I'll continue to do that and will continue to try to creatively and diligently work to find resolution or answers, but it seems to be at a critical impasse here that for whatever reason we can't...

EVELYN AQUILA: Are they deliberately driving their feet?

KIM GALVIN: No, I don't believe anyone doesn't have the intentional will to get it done.

I just think we just can't get it together.

EVELYN AQUILA: I thought they were waiting for the election to happen and see how their machines fare across the country and other states because there have been serious problems in Pennsylvania and New Jersey and in Connecticut.

I mean, we could go on and on and on.

KIM GALVIN: I think it's just a change in the way they've done business.

It's a dramatic increase in the level and requirements that the machines are being tested to.

And I think the totality of the circumstances is we're still sitting here not nearly where we should be at this stage of the game to get these machines out for next year.

JIM WALSH: It's the testing process that is the problem at this point, isn't it?

KIM GALVIN: The testing process is the problem. Have they come up with a test that works or are they on a learning curve as far as that's concerned?

KIM GALVIN: We expressed some concern that we thought the testing agency would be at a different level going into the process than we are finding that they are.

That plays into the vendor readiness and their ability to use the vendor's documents to create these test cases that you hear so much about.

Whatever the cause and whoever the blame or whatever the reason, we can't seem to get these people on a path where they are going to be successful.

I think that the testing lab has its issues, I think the vendors have issues around certainly we'll take responsibility for some of the issues.

I know that the Commissioners have received correspondence from one of the vendors regarding the escalating and crazy cost estimates.

I think those are real issues.

I think we are at a critical

Anna and I said, we talk with everybody and Bob Warren and find a creative way to do it and no matter what we do, we can't move it as quickly as it needs to be done.

ANNA SVIZZERO: We don't want you to think that we just listen in on these calls and everything is happy.

These calls are not pleasant.

The language is very plain, the tenor is such that we are really trying to get them to understand how critical this is, but it is clearly a whole new thought process for them.

These vendors that are doing this testing, were certified by the election assistance commission to have met some level of criteria in order to do this testing.

We changed all of that.

What they were certified to do and what we are now asking them to do are two completely different things.

We talked before about how we changed the face of all of this.

It is haunting us to some degree but we all still think we are on the right track and are doing the right thing. It's just really hard to change the 20 plus years of that institutionalization of how life used to be and how it needs to be now.

We had them redo the master test plan five times.

This document is thousands of pages long, just to make sure we are getting all of the requirements tested in a way that you four Commissioners can sign it and we can put out a voter process that people have faith in.

: We are talking about meeting federal standards aren't we?

: That's the appropriate line as far as we're concerned, it should meet federal standards.

ANNA SVIZZERO: But testing to meet those standards and testing to ensure that the known vulnerabilities that we have seen in the systems around the country, A, identifying all of those issues and testing to them requires a significant rethinking of what they originally thought would be tested.

And it's, as I said it's a very difficult mind set for them to break and the relationship between the lab and the vendors has to be very different in the world that we've created now.

That's troubling to the vendors.

And may be difficult for sys test, too.

We've changed every single prong of this approach because of what New York needs to accomplish.

: And to be honest, they have no incentive to do it in a quicker fashion. It's money.

ANNA SVIZZERO: We told them there was no incentive for them to step up.

EVELYN AQUILA: The EAC certified these machines to a level that we would not live with.

DOUGLAS KELLNER: Now wait a minute. I think Anna misspoke before.

Your words were, I think, that the EAC has certified these vendors.

ANNA SVIZZERO: No, ITA vendors.

: Testing labs.

DOUGLAS KELLNER: What you mean is that they accredited the testing labs because neither of these vendors have received certification.

ANNA SVIZZERO: You're correct, I'm sorry.

EVELYN AQUILA: If you look at these -- the federal election commission, I told you at the last meeting, they're having a meeting talking about campaign spending and several gentlemen got up in the back and started to scream about these machines and said they don't work in our state, they don't work in our state.

You certified them.

You had your people certify them.

They went on to explain and said no, we didn't.

We are not involved with that.

Go see the EAC.

Then sure enough, on C-Span a couple of weeks back, there's the EAC with the same group of men screaming at them.

And they tried to say we never certified one machine.

We did not certify machines.

All we did was certify testing labs.

Now most states in the United States bought these machines.

MAN: And they're still

And they are sub par.

EVELYN AQUILA: And they're not working in many, many places. They are just not working.

If you pick up the paper once in a while and Lou Dobbs, who I don't watch that much, but every time I watch that man, he's saying the voting machines don't work! They don't work! The elections are being stolen.

Nobody knows who you are voting for.

He goes on and on and he has all these experts on and they all say the same thing.

I have to say this - One night a woman came on from some big organization but she said I have to say New York State isn't letting that happen to them.

They are examining these machines. It's the first time in this country somebody is taking the time to examine these machines before they say they can work.

And I said oh, I have to call that lady up.

(Chuckles.)

ANNA SVIZZERO: I would agree with Kim that everyone is committed, all of the vendors, both of the vendors and the lab have told us they are committed to getting this done.

It's such a huge project, such a different project.

And the money it is costing is attributable to any number of reasons.

We are just trying to make sure we are not one of them.

If they ask us to clarify something, we want to vet it in the house and clarify it in a way that it's something we can resolve in house in a timely way.

We committed to getting better at that so we're not part of the problem.

EVELYN AQUILA: Unfortunately, Anna, the public says ATM machines work.

Why don't these work?

That's the big answer

ANNA SVIZZERO: If the ATM fails, you can call the bank the next morning and they can put the money in your account or take it out.

You can't call anybody they day after election day and say that's not what I meant to do.

JIM WALSH: I appreciate this being brought up. I think it should be brought up at every single meeting we have.

These are public meetings.

These meetings are watched by some people.

We have a responsibility to several parties here.

The federal government.

We have vendors and voters and ourselves and the reputation at stake. There will be some finger pointing if this doesn't work out in a proper time frame and the work that's being done here is fabulous, but it's not going to be recognized unless we show that we have done everything in our power to meet the deadline.

That requires the reports that you people give here today.

I think they are crucial to establishing the work that has been done by the State Board of Elections.

DOUGLAS KELLNER: Paul Collins?

PAUL COLLINS: Commissioner, Following up on your request, just so that all the Commissioners are aware, we weekly make reports to the Department of Justice.

We have fully disclosed these issues.

We are trying jointly with them to see if we can come to some resolution.

: What is their reaction, if I might ask?

We have federal mandates here.

Yet, you know, you have

KIM GALVIN: Then are almost

: We have federal mandates and let's see, the federal

The entire thing is federal.

The entire thing is federal and they are telling us what to do to meet standards that they haven't met anywhere in the country and expect us to carry their water.

I don't understand, there's some shortfall here someplace or some short sightedness some place.

It just boggles my mind.

I was thinking about that on the ride up here.

What do we do come next year when all of a sudden we are going to have a federal judge say you should have done this or you should have done that and we say excuse me, sir, but you are a federal judge and we're trying to comply with federal standards and did all the things we could possibly do and nobody can meet it.

What do we do? Go back to lever machines which probably work better than anything else we've ever had. I'm not saying I advocate that.

However, if you have something that works and something that doesn't work, I vote for the thing that works.

DOUGLAS KELLNER: At least not to spend \$150 million.

(Overlapping speakers).

: Let's grab what happened, what didn't work in Iowa and use that process.

I don't know, it boggles my mind.

EVELYN AQUILA: Mine, too.

: I think it's very important and I haven't seen those reports, maybe I would like to see the reports that go to the U.S. Attorney's office because I really want to know what they know, what their reaction is.

If they're watching on the Web, please answer me.

EVELYN AQUILA: Mr. Hessmann was here, the head

: That's very nice, but I want to know what his stance is.

What is his

EVELYN AQUILA: Get it done, get it done.

: Get it done - that's very easy.

White wash the building with a tooth brush, get it done.

How are you going to get these things done if...

EVELYN AQUILA: The Commissioners here, we put our hand up and we take an oath that we will protect the voters of the state of New York.

And I think that's very important.

He is not involved.

KIM GALVIN: In fairness to Brian Heferman, he is very engaged and tries to give us suggestions and he's as exasperated as we are with the lack of progress.

And this morning he said, -- we're going to have to come see if we can come up with suggestions.

He is actively trying to help.

I understand all your points.

EVELYN AQUILA: It has been the stance of the Department of Justice to get it done, get it done.

I understand that.

When they first came us to and we try to say why we were doing a much bigger project in examining the machines to make sure they work, it seemed like nobody wanted to listen to the fact that they weren't working all over the country.

And in fact, somebody gave us a book.

I don't know who the heck it was.

It was this thick and it was full of different things from different newspapers, different clippings from all the newspapers in the United States about where the machines went in and failed.

Now, I'll tell you, it was this thick and it had in it, I really don't know who did it.

One of the citizens groups.

It had in it every single state in the United States had machines that were not working.

Every brand that was out there by every vendor.

I mean, some counties had to get rid of them all.

The last election there was a piece, might have been in the New York Times, that said Pennsylvania takes electronic voting machines out and rolls out lever votes in the middle of election day.

In the counties that still had the lever machines, some didn't and they had to bring in paper ballots.

It's all over the country.

New Jersey says their machines are not counting right.

They have more votes on the machines than people who voted.

So this is not just in one set place.

You know, Connecticut has complaints that they breakdown early in the day.

And then they have to go to paper ballots the rest of the day.

Not little counties, not just 1ED, across counties across the State.

This is on and on and on.

Los Angeles had to get rid of them all to a great loss of money.

They sold those machines to someone else.

: Great!

EVELYN AQUILA: Belgium or some other country.

(Laughter.)

: Probably one of the corporations having a lot of problems.

EVELYN AQUILA: I shouldn't quote it because I can't remember, I don't know who.

There is a problem.

I can't believe that the Department of Justice and that the federal judge doesn't know these things.

They are very smart people.

They read the newspapers.

I'm sure, and they must be exceptionally interested in these things because they are dealing with them with us.

So I think that I don't know what to say.

The vendors evidently see this as a much bigger job than they ever thought of.

Yes, Paul?

I shouldn't.

Mr. Chairman?

PAUL COLLINS: It's important, Commissioners, and all of us are in accord that we as an institution are doing everything we can do to move this process along.

And frankly, I think the Department of Justice is willing to lend its good offices to the same process of trying to get the vendors and the ITA to be more responsive one to the other.

No one can come in and provide the technology that is missing, but, you know, the communication aspect of this problem, we had the summit meeting that DOJ came and attended and they are willing to assist in that fashion, but our obligation, we do everything we can to move this process along.

I think in good faith we are doing that.

EVELYN AQUILA: Yes, I think we are and they have good intentions and good faith, too.

I'm not questioning them.

I'm just that there's a reality out there that we all have to grasp.

That's the difficulty in testing some of these electronic machines and it's time consuming.

The companies have complaints.

We have a letter here from one of them saying they can't afford it.

It goes on and on and on.

: If I may say, it seems to me, certainly from our staff, we are doing everything we can.

It has to be understood on a federal level that we are doing everything we can.

From what I can hear from Kim's report, I would say you give it another couple of months, especially after we get past this election and as we get into the new year.

You know what?

I want to hear plan B.

I think we have to be prepared to do something.

We are going to be standing out here sucking our thumbs and not knowing what to do.

If we have machines jammed down our throat.

As far as I'm concerned at that juncture with everything we're doing, all the frustration, we hit a dead end, we should have plan B ready to go.

DOUGLAS KELLNER: All right.

If I could change the topic then, I wanted to just ask Anna about a relatively minor issue.

One of the Presidential elector candidates used his business address on the certificate that's posted on our Web site.

And the statute requires addresses.

We have never allowed people to use Post Office Boxes or their business addresses and I'm just wondering if there's anything we can do about that.

ANNA SVIZZERO: I couldn't find anything in the filing of the list and I would defer to counsel's office.

It says list of electors have to be filed.

It doesn't define what is on the list.

But in the legal ad section of the election law that requires counties to publish candidate names and addresses, there it does say names and addresses, names and residences.

I'm not sure how to proceed.

We accepted the list as they were filed by the parties without researching them any further.

We took the addresses at face value.

So I am unable to comment any further on it.

DOUGLAS KELLNER: I have two suggestions.

One is to just change it.

And since we know what the residence address is, that we should just change it and use the correct residence address.

The other would be to notify the parties that they have to give us their residence address and ask them to be send it back to us.

: We can do the notification.

That makes the most sense.

DOUGLAS KELLNER: I'm uncomfortable in setting a precedent where candidates don't use their residence address on their official filing.

EVELYN AQUILA: Doug, many years ago, and I guess this is corporate memory, someone put down an address on 42nd street, what was purely a commercial building.

I remember when we looked into it, I don't know if Anna remembers it, if she was here then.

That person voted from that address.

They did not vote from their home, wherever it was.

They said this is where they voted from.

They stayed there several nights a week.

They were busy with their business and that's the address they use.

DOUGLAS KELLNER: Senator Buckley registered to vote from his office address at 140 Broadway and the courts determined that it was his residence and lawful registration.

But in this case the candidate is registered from a different address.

EVELYN AQUILA: Oh, all right.

That's a different story.

I'm sorry.

DOUGLAS KELLNER: And

EVELYN AQUILA: I didn't want us to

DOUGLAS KELLNER: I don't want to set a precedent where people start using Post Office Boxes or business addresses.

If he registers from that address, that's fine.

That's not where he is registered to vote.

EVELYN AQUILA: I just think we should check it before we pull it.

DOUGLAS KELLNER: Is that all right?

Consensus is we send a letter to the parties and ask them to correct it?

Okay, thank you.

Then we will move on to public information.

Bob Brehm.

BOB BREHM: Well, I have two parts to this.

I'll have Patrick look at the other half for me.

I mentioned to you how much mail is coming in at your last meeting.

During September we received over 31,000 voter registration applications and absentee ballot pieces of mail that almost everyone in the building did something to help process, slice, take staples out, collate, sort, look up the counties, and get them out to the counties.

It's a multitasking job whenever you are talking on the phone and you hear noise in the background, that usually means somebody is slicing and processing mail.

We also have updated our telephone system because a lot of the requests that we receive are for people looking for forms.

We updated the phone message to way up front identify that they can go to the Web site and download the forms.

That way when we come in in the morning we hope it will reduce some of the calls to please mail me a form, especially as we get close to the deadline.

There is not a lot of time to crisscross between the mail and the form.

One other thing that came while we were sitting here is the contract had been approved to change our voter education Web site to provide the content in all the required languages.

Our vendor has been working on it and they sent us an e mail that by October 10 they will have all of the information in all of the languages in time for this fall's election.

With that being said, Patrick has the other part of our report.

PATRICK: I have quite a few parts here.

Thank you, Commissioners.

Talk a little bit about NYS voter, Vikki and myself have been downloading NYS Voterreports as of October 1.

We developed a series of reports from the steering committee and using saber to provide a baseline of data for analysis going forward.

Our mission is to work with the county Board of Elections -- and list maintenance activities to enhance the voter experience.

In addition to this report, we will start a trend analysis of the reports which we can use going forward from October 1 into next year to identify further things.

In the area of poll site access, Bob mentioned a little bit about this.

The State board has begun working since early spring 2008 with the United States Department of Health and human services to extend a September 30 deadline to...

We had to use it or forfeit the unused portion of the funds from 2003 which was a total of \$795,000.

These grants are targeted to reimburse counties boards of election for expenses that have incurred to improve access to poll sites in the communities.

I appreciate the hard work that the county boards and Maria here has done to help process those applications.

Poll site surveys.

We have received county poll site accessible surveys from all the counties.

This represents 6,026 surveys out of a total of 6,152 different poll sites.

Our staff is busy reviewing the survey materials and access improvement applications, working with the county boards to move this process forward.

As of today we reimbursed \$369,323 that has been reimbursed to county boards for access improvements and 1,030,000 plus for voter education services.

Turning our attention to NVRA.

DOUGLAS KELLNER: Is there money that remains?

Sorry to interrupt.

Is there money that remains for voter education services?

PAT: This particular year?

Yes, there's some left over still.

DOUGLAS KELLNER: About how much?

PAT: I think it's in one of the reports.

: It was a total of 10 million when we began and 10.3 when we began and now it's 1.7.

DOUGLAS KELLNER: This is the whole rollout.

We still have next year?

PAT: Right.

DOUGLAS KELLNER: I'm sorry, go ahead.

PAT: Notices have gone out to DMV offices and county boards notifying them of the deadline for processing all voter applications that they received through the close of business on October 10.

In addition, Vikki and myself met with the program directors and coordinators over at DMV to review the procedures and monitor the process utilizing DMV to ensure that all eligible individuals are able to have their voter registration applications processed in a timely manner in order to vote in the general election.

We actually went over there yesterday to DMV to talk about the process to make sure that all the mail that comes in on the 10th is processed and we get it and it goes out.

Turning our attention to training, Greg here as completed the agency based voter registration training for supervisors throughout the State.

He visited nine locations throughout the state and trained over 250 individuals.

Online poll worker training.

All the counties have now received their online poll worker training log ins, access codes and county level administrative instructions.

We have asked them to review the instruction material, roster of local poll workers that have been loaded into the system provided by them and provide us with feedback.

If you take a look behind you here, that's an example of the features of the programs.

And finally, voter education, again public broadcast radio ads are continuing to run throughout the State.

The ads are to encourage individuals to visit vote new York.com Web site to view a video on how the machines work and see information pertaining to their voter registration status.

That's all we have to report.

DOUGLAS KELLNER: Patrick, can you tell us where we stand now in terms of auditing the identification required flags on the NYS voter database?

PAT: Well, myself and Vikki have been out to several of the counties and after taken a look at some of the reports and have updated the board on that also.

But as of right now, we've established a baseline report starting as of October 1.

This will be, all the reports now in the saber will be a good baseline to identify areas that we may see some concerns in there.

We have gone out to the counties.

We talked to several counties and pulled reports in different areas that may have been questionable areas.

We have done follow up with a lot of the counties to review their audit processes, to even go to the degree of pulling the buff cards and returning the processes back to NYS voter.

DOUGLAS KELLNER: Do we know how many voter registrations in the system now have the required flags state wide?

PAT: To show ID on the day of election?

DOUGLAS KELLNER: Right.

PAT: Right now, no.

: I don't have the number with me.

If you want the number, if I run downstairs for Five minutes I can get it.

DOUGLAS KELLNER: I would like to stay on top of this.

My understanding is that the number now is significantly less than it was two or three months ago.

PAT: Yes, right.

DOUGLAS KELLNER: Because of the efforts that you and George have made.

PAT: That's correct.

We cleared out 23,000.

DOUGLAS KELLNER: Pardon?

PAT: 23,000 potential folks were going to be asked for an ID.

Because of our investigations, they will no longer have to show ID on the day at the polls.

DOUGLAS KELLNER: I'm still interested in an audit that will show, of the

Well, we don't have to do it right now, but if you would e mail it around to us, the number in the system now that show that ID verification is required and then again I would like to review to determine what proportion of those are properly showing ID required as opposed to showing that the flag is required notwithstanding typographical errors or other reasons that, if it had been more thoroughly vetted that the ID required flag wouldn't be there.

All right, that's one issue.

The next issue is on the cancellations in the NYS voter system.

My understanding is that you did do a review of that and have found that there are no untoward cancellations that we are aware of other than the one New York City issue that is the subject of the pending HAVA complaint.

PAT: That's correct.

We did a survey of top 20 familiar names and actually went into that to see how many of those folks were purged.

Again we went out to several counties, pulled several buff cards and followed through the Deputy Commissioners in their processes internally.

Again we found that the local counties are doing a fine job and nobody was accidentally purged or people taken off the roll.

Going out and doing the audits

With Vikki, we found that the county boards are doing an excellent job in following processes.

I think we're going to continue to do this with the saber reports we are getting, we will have a baseline to go forward and get perspective on any areas that need to be helped.

DOUGLAS KELLNER: Thank you, very reassuring and good news.

All right.

We'll move to Elizabeth Hogan on campaign finance.

ELIZABETH HOGAN: Thank you, Commissioner.

It does, I reiterate what Kim said, it seems like just yesterday we were here.

I think rather than discuss with you the ongoing projects that we have in campaign finance overall, which just the the nature of campaign finances, that these projects just go on.

There's a routine, there's a process. I'm not going over them all, but I would like to hit a few highlights of things that are happening.

We are, of course, at this particular time in a frenzy of file and lawsuits.

This year we have eight filing periods and we have then eight lawsuits that follow those.

The primary filings and the election filings occur in a very compressed amount of time.

They require, you know, a continuous cycling process of where we are in terms of sending letters of reminder and creating a list for an order to show cause and getting a judgment.

On any given day when Bill and I are hand add list, we say which one does it apply to?

You don't know whether it the -- 11 or the ten or whatever.

It's a very busy time in that context.

There are actually, you know, I say this as a reminder, there's a 32 day pre general election filing due today for anyone listening to whom that applies.

We also have two more filings that are due relative to the general election.

They would be do October 24 and December 1.

And the lawsuits for non filing for those mandated reports will, and so shortly thereafter in the time frame that we have established in the enforcement calendar.

I would like to just report to the Commissioners that relative to the filling of those six program aides, administration did on the day of the last board meeting send out the canvass letters as we discussed.

At the end of the day yesterday I got from them and distributed around the list of people who are interested in those positions.

So I think probably Monday Bill and I will sit down and review the list of people who are interested in coming in for interviews and hopefully we will be able to move that process along.

The scanning project that we have discussed, I have the contract actually here.

Pat had provided it to me.

OGS forwarded it to us after the vend are signed it.

I think we are prepared to sign that contract and then send it back to OGS.

It has to go to the Attorney General for review for form and on to the comptroller for form and if that ensues, that project should be able to take initiated fairly quickly.

I am not sure, I don't think it was since our last meeting, but I'm thinking that I failed to let you know of a step in the process that has to do with the HAVA complaint process.

I can't remember the date, but It was within the last month that Bill and I sat down with NYStra, which is our dispute resolution vendor to discuss with them the process of HAVA,

the requirements of the complaint procedure and what it is that kicks in the administration or the alternative dispute resolution stage at which they would then become involved in any potential HAVA complaint that goes, you know, to that point.

And so we met with them for several hours.

We reviewed the process with them.

We got, you know, some questions from them regarding what the process would be for reviewing the types of complaint that they would receive through this process as opposed to other, you know, maybe binding arbitration issues that they would entertain in their business.

They are going to prepare some procedures that would apply relative to any dispute resolution that comes out of a HAVA complaint.

We are also on that...

We had a meeting in here, but we also had on the conference call a representative of the arbitrators on staff in this agency and the issue then is going to be, once we get these procedures and the process ironed out with the agency,

we will have to provide a training for the arbitrators so that they understand what the HAVA process is and what the basis of those complaints is and, you know, what generates those.

And so we are hoping that training process will get underway.

We talked about, in the overall scheme of things, between them and us sometime in February.

We have a group in our office now that is spending

And I discussed this with you in the past several meetings

A lot of their time in analyzing education and training aspects campaign finance requirements.

Bill and I felt that they would be a good source to use in developing an educational component of the needs that NYS TRA would have to fulfill.

We are hoping, we have already spoken to them about starting to think about putting together some sort of program that will enable us to disseminate the information that these arbitrators need in order to apply appropriate remedies to these complaints that might at some point come before them.

Let's see.

The scanning project?

One last thing if I could just mention.

I had an e mail exchange with George yesterday in which I asked him if we could then set a meeting to institute a discussion for the needs of campaign finance as relates to technology issues.

It's my understanding that, you know, in the past there was a routine meeting between campaign finance and technology and there was a, you know,

It enabled both of those units to understand what the needs of campaign finance were and to understand how IT could react to those.

And I think what happened is in the context of the tremendous demands on IT through the NYS voter database and other things that took a lot of their time, we kind of got away from that kind of thing.

I'm going to talk to George and Bill and I will sit down with him today or Monday and talk about reinstating these routine meetings because the processes that we're trying to develop

in campaign finance at this time, which result in a routine and continuous review process,

has generated some requirements from the technology side.

I know George when he does his report, part of his report is the support of campaign finance and I think it's very important that technology at this time, you know,

support campaign finance in going forward with these new projects and new ways of doing things that enable us to meet our goal of enhanced filings and public review of filings.

And so I'm going to follow through on getting these routine give and takes between technology unit and campaign finance going again and I think it will be very productive and helpful in terms of the work we have to do.

That's really all I would like to say.

Bill, do you want to add anything?

BILL McCANN: They are busy. They're doing a good job. Our staff is excellent.

We get great assistance from George's unit and it's nice that we have an institutionalized process with enforcement so it's running smoothly under the circumstances.

DOUGLAS KELLNER: Commissioner Acquilla?

COMMISSIONER ACQUILLA: We had a problem with this historically in the past and before you came, Liz.

How do the judgments go?

Are we filing the judgments and getting them done?

We don't want to find suddenly 200 of them

ELIZABETH HOGAN: All of the judgments are up to date.

COMMISSIONER ACQUILLA: Oh, good.

I knew they would be.

I just felt it had to be brought up.

DOUGLAS KELLNER: I know we talked this morning about this, about moving along the process of getting this draft regulation published.

ELIZABETH HOGAN: We did.

DOUGLAS KELLNER: So that the counties will not have to, so the people don't have to file with the counties.

ELIZABETH HOGAN: I understand your concern and I indicated I would put that back on the front burner.

One of the huge issues we have as a unit in that change in the requirement of the filing is that there's a very large educational component involved in filers understanding that just because they, you know,

under certain circumstances they can come here to the board to file, it doesn't mean that there's no longer filing with the counties.

I mean, there's still very great number of people who will have to continue to file with the counties and, you know,

what we didn't want to see in terms of not being able to provide the proper educational component of that relief of duplicate filing is that people just stop filing with the counties because they think they can.

So we were, you know, when we had discussed this change, we had also thought about the best way to provide this educational component because the last thing we want to do is,

we want to relieve the counties and the filers of the duplicate burden, but the last thing we want to do is have a large group of people who should be filing campaign financial disclosures not do so where they are supposed to be filed.

So I will put that back on the front burner and we'll address that.

BILL McCANN: It's really three issues primarily.

The original draft regulation dealt with the idea that for certain local filers who have a duplicate filing issue we might modify the regulation to at least address that.

The problem is that the educational component like Liz mentioned is that the local boards, the focus on it will be, well, everyone files with the State.

We've looked at the numbers on how many local filers in addition to what we have now would have to come to us.

It would be in excess of 10,000 more filers on top of what we have.

There's a huge number of local filers who have to be administratively addressed even if they don't give you information, you still have to get them and have to hand hold them through the whole process.

That's issue number one.

The other

DOUGLAS KELLNER: That's certainly on a statewide basis it's more efficient for us to do it in one place than to have 58 county boards doing it.

BILL McCANN: It is except for one major reason.

That's always been a wish, but the technological concern is, we don't have a system in place right now for the systematic identification and capture of local candidates which drives the bus as issue number one.

The other issue compounding our concern was, a bigger issue that impacts a lot of filers is our software.

We have been developing, we have in beta now our software.

So when we go to plan on unleashing that, which is going to be excellent, but there's still going to be a process of rolling it out,

when do we roll it out and to whom.

We have to beta it in the first place.

We have to find out with our resources that we have take those two major projects, one absorbing more filers but at the same time rolling out a whole new software.

With our staff, that's two huge projects that you have to juggle at the same time.

So as it stands now, all the system isn't as good as it could be, it's basically functioning as is.

If we were to take on those additional filers, it would overwhelm our internal resources.

If I had to pick my fight, my fight would be let's get the software modified and give that to the public and allow them to have ease in filing versus let's take on another 10,000 plus filers on top of the ones we already have.

Not that we couldn't or wouldn't ultimately do that, but that's a huge undertaking.

DOUGLAS KELLNER: I understand that.

I think the fact is that in a lot of the counties now they are not enforcing the filing requirements anyway.

BILL McCANN: Right.

DOUGLAS KELLNER: So that at least on paper shifting it to the State makes sense so that we can allow the counties to eliminate that.

Of course, the other option is to write the legislation which we can propose to the legislature to essentially abolish all county filings and put everything on the State.

ELIZABETH HOGAN: But the problem with that, Commissioner, we did that and it really goes to the problem that Bill raised, we don't have a method to capture who that people are.

At this point in time, a group of people goes to the county and they are there and they are identified.

If the county has no role in this call and everyone should come here, in 2005 when it was just state filers who came here and we have 1500 filers and now we have 9500 filers.

We have 8,000 local filers and another eight or 10,000 out there that we don't know who they are anyway.

The eight we do know, we know because they come here.

DOUGLAS KELLNER: We are using the counties as an excuse for not doing it, though.

My review is that most of the counties aren't doing it anyway, even though they may be statutory required to do it.

And what we should do is concentrate on building the system to require the counties to notify us of all candidates and ideally to do it in a computer system so that the counties will be notified us through a uniform communication.

ELIZABETH HOGAN: Something like NYS voter which is a bottoms up system which gives us automatic information.

DOUGLAS KELLNER: In the meantime we have very confusing regulations for the people who do seek to comply, which requires them to file in both places so you have counties spending resources on taking in the filings, even if they don't prosecute those who don't file with them.

While at the same time we are the only ones who are really capable of putting it online.

ELIZABETH HOGAN: Even if we did have a system that identified these filers, if we pull in, if we have 9500 filers now and pull in an additional ten, that's almost 20,000 filers.

With our staff, I don't even know how ...

DOUGLAS KELLNER: But that's, that should be in the budget request and we should make that clear.

But right now as I say, I don't think the counties are doing it.

And on paper we are requiring this double filing which doesn't make any sense.

The sooner we address that, the better.

And to the extent that it means a budgetary increase, then we have to put it in, especially if it is replacing a county effort in a way that is more efficient statewide.

Well, that's my view.

What?

: That's a lot of money.

DOUGLAS KELLNER: All right.

Anything else, Liz?

ELIZABETH HOGAN: No, thank you.

DOUGLAS KELLNER: We'll turn to George Stanton.

GEORGE STANTON: Thank you, Commissioner.

I'm not actually going to talk about supporting campaign finance.

Everybody knows by now we do that.

What I do want to.

ELIZABETH HOGAN: Can I interrupt?

I never meant to say that they were not.

What I was saying was, I want to do foster a better understanding between the units.

GEORGE STANTON: That's not what I was implying either.

Everybody hears it all the time, so I don't need to go over it.

What I do need to mention, though, next Friday, by next Friday I have to file our annual technology plan.

It really affects any project that's going on in any unit that I don't know about.

I need to know about.

And some of them I know about, I probably need more details on.

The annual technology plan is filed with the CIO's office, and it's what the division of budget uses to determine how much money a department gets for IT projects.

Basically if a project is not on the IT plan, they are not going to come up with money for it.

So all of the units realize if they have something going on, I really should know about it.

JIM WALSH: I assume that you have more than just an annual technology plan.

Is there some long five year, ten year plan or anything?

GEORGE STANTON: We never developed along range plan simply because

Not a formal one.

We should without a doubt have an ongoing long range plan.

Over the past years we have been so busy on getting by that we haven't been able to put together a long range plan.

We are sort of at the end of the long range technology plan that we have right now.

We should have a five year plan.

We do have, in IT we do have some long range plans for replacement of equipment.

We have replacement of equipment cycles and things like that.

But not an overall plan.

JIM WALSH: Not technologically but budgetarily, this is an expensive business, as you know.

The longer you can predict your future, how much easier it is to meet your budgetary requirements.

GEORGE STANTON: Between Patty's office and my office, we do keep in touch with what the needs are going to be for the next couple of years for licensing, but there's no formal written plan.

JIM WALSH: I should add. The division of the budget would like to know what you are planning on.

GEORGE STANTON: Oh, yeah, they're always curious.

JIM WALSH: Thank you.

GEORGE STANTON: Part of the problem with that is, sometimes there's plans that they consider technology plans that I don't hear about until the last minute.

I'm not getting feedback from all of the units through the agency because people currently don't necessarily think of something they are doing just, for instance,

the NYS tech piece of that, the State, the OFT, the budget, all of those, consider that a technology project but it's not, you know,

in terms of the board's work necessarily a technology project.

So it's a little bit tricky there.

NYS voter has been doing what it is supposed to be doing and doing it very well.

It's very stable.

Actually we have been up for a year now, over a year.

I did run some numbers just for giggles here.

For September we handled about 158,000 new voter messages.

And about 916,532 update messages.

Those could be any kind of a change to a voter, along with millions of transactions for auditing and global updates, those kinds of things.

Let me continue on with NYS voter.

We did go down to New York City to talk with the technical folks down there to talk about changes they would like to see done.

We are reviewing them now amongst the steering committee to see where we are going to go with that.

As Patrick alluded to earlier, we did put up, we had met over the last couple months with the steering committee, came up with this whole monitoring and auditing process and probably at least a dozen new reports that is we wanted.

Saber created those reports.

They were rolled out over the last two weeks and are all available now so that Patrick and Vikki can run them at will to do the analysis that they need to do in the auditing.

One thing of note that will affect NYS voter has to do with the voter cutoff date.

We received notification that Social Security is turning off their facilities.

In fact they are closing their buildings on Columbus day weekend, right at the voter registration cutoff.

So there is going to be a four day weekend there where we will not be able to verify any Social Security numbers from Friday, October 10 through the following Tuesday morning.

So that's going to, we probably should notify counties that that's going on.

Once they come back online, those messages should get Social Security and get verified, but it may take a day or two to catch up.

TODD VALENTINE: The election assistance asked the Social Security Administration not to do that and we are awaiting their response.

GEORGE STANTON: Irk probably tell you what their response would be.

TODD VALENTINE: I'm not so sure they won't change their mine.

The impact, it is not just us.

It impacts the entire country.

They have their timing for maintenance, it doesn't have to be done that weekend.

That's what they've asked them to do.

They haven't responded yet, but they haven't said no.

GEORGE STANTON: It would be nice if they do change their mind.

It's an annual thing that they do.

Let's see.

I did also quickly gather statistics on the Web site.

For the last month or so before I came up.

We have been running probably between seven and 10,000 hits a day on the Web site.

And probably roughly the same number that are going to check their voter registration status.

But in the last three days we've spiked from, you know, probably an average of 7,000 a day to we are getting up close to the 25, 30,000 hit a day range.

It's, it looks like the trend is continuing to rise.

This is pretty normal.

We never had as good figures as what we do this year because we are using Google analytics to see who is hitting our Web site and where they are coming from, but we always have a spike around election time and it's not going to be any different this year.

In fact, I'm sure it is going to be much greater because people can get on our Web site and check their voter registration status and where they can go to vote.

DOUGLAS KELLNER: George, if that number spikes up to a million a day, is that going to start to create service problems?

GEORGE STANTON: It could.

I don't know, it would be more probably in the line of through put on the network lines than server problems.

But we've

I don't think we've ever gotten up to a million a day but we have

DOUGLAS KELLNER: Do you have a plan in place or system in place to prevent the system from crashing if there is an excessive demand?

Do you know that this happened in New York City four years ago?

GEORGE STANTON: Yes.

With the resources we have, there's nothing you can do to keep the system from crashing.

The good thing about a Web site, if it crashes, you restart it.

It could be up and down up and down thing.

You can only get so much water through a 1 inch pipe.

DOUGLAS KELLNER: Is there a way to increase the size of the pipe for a couple of days?

GEORGE STANTON: No.

Not at this juncture.

This will be a good test, though, for the system to see if we need to do something ongoing.

DOUGLAS KELLNER: Okay.

GEORGE STANTON: We have never had

The first year we had a Web site, we got locked up.

But it was because of a licensing issue only allowing a certain number people on at a time.

A firewall issue.

Once we resolved that, we never really had an issue since.

DOUGLAS KELLNER: I just remind you to look at what happened to New York City four years ago.

I know they have taken a number of steps that they say that won't appear this time around.

GEORGE STANTON: There are probably some things we can look at that will cut down on usage, such as taking certain things offline for a day.

If people are looking for voter registration, we might be able to take the campaign finance reports offline for a day or something like that.

It will cut down and help the performance.

DOUGLAS KELLNER: Just think through a backup plan and maybe even just give New York City a call as to just what happened four years ago with them and to see if

Just to avoid, you know, whatever we can avoid.

Just a heads up, that's all.

All right, thanks a lot.

All right.

We'll move on to, there's no old business.

We'll move to new business.

First is, it says here on the agenda petition rulings, but I think we mean rulings on certificates of nomination.

KIM GALVIN: Actually one acceptance.

I think this is a little bit more confusing than in the past because there's, there was a variety of issues raised and objections that we are not customary and they related to nominating conventions.

If I can just make one amendment to the paper you have in front of you.

If you look at the third judicial district, which is the second one down on the chart,

the last sentence says review of our documents indicates that this is not true.

I think you can strike that line because we have since come to a difference of opinion at the staff level.

Then I think it's probably easier if we

I mean, the vote would be to accept the staff recommendations that the specific objections are invalid which in effect would leave the underlying documents in place for all but the third judicial district.

If we can take them as a vote all together, I think that might be easiest.

DOUGLAS KELLNER: Let's do the first one which is...

KIM GALVIN: The acceptance?

DOUGLAS KELLNER: Certificate of acceptance because that's different from the others.

So those in favor of the staff report say aye.

COMMISSIONER ACQUILLA: Isn't that the complaint is invalid?

KIM GALVIN: Right.

COMMISSIONER ACQUILLA: The complaint is.

TODD VALENTINE: Acceptance.

DOUGLAS KELLNER: No, we're talking about the top one on the sheet.

COMMISSIONER ACQUILLA: I'm sorry.

DOUGLAS KELLNER: This is that the

You don't get on the ballot by accepting a nomination that no one offered you.

(Chuckles.)

DOUGLAS KELLNER: So the staff report is to reject the certificate of acceptance and those in favor say aye.

(All members responded "aye.")

DOUGLAS KELLNER: Opposed?

(There is no response.)

DOUGLAS KELLNER: That's adopted unanimously.

The second motion is to accept the staff report for everything except the third judicial district.

That's the fourth, and three items in the Fifth Judicial District where the specifications are being rejected and therefore the petition

The certificates are being ruled valid.

Those in favor say aye.

(All members responded "aye.")

DOUGLAS KELLNER: Opposed?

(There is no response.)

DOUGLAS KELLNER: So that's adopted.

All right.

Now, you want to explain what the issues are in the Third Judicial District?

KIM GALVIN: Sure.

The third judicial district there was a working families convention and one side is claiming that there was, by operation of law,

an insufficient number of delegates at that convention to lawfully constitute a quorum and nominate a candidate for Supreme Court justice.

We as staff several times went back and looked at the documentation as was set forth and the specific objections.

Initially why that original sentence was there, we looked at the party call and did the math and said, well, geez,

we disagree with the specific objection as stated.

We then went back and looked at the rules, did the math to determine the number of delegates that should have been set forth on the party call and found,

some of us found that there was an error in that math and an error in the party call which in fact led to an insufficient number of delegates at the nominating convention.

So we

That's where we are.

DOUGLAS KELLNER: All right.

I take it the objection was to the certificate, right?

KIM GALVIN: Correct.

DOUGLAS KELLNER: I don't have a copy of the certificate in front of me, but was there anything inaccurate that was stated on the certificate?

KIM GALVIN: Itself?

DOUGLAS KELLNER: Right.

KIM GALVIN: No.

DOUGLAS KELLNER: How would we as a ministerial agency be able to go beyond what is in the certificate?

COMMISSIONER ACQUILLA: Not supposed to.

DOUGLAS KELLNER: Isn't that solely an issue for the Court?

KIM GALVIN: One side of the building does in fact think that.

DOUGLAS KELLNER: All right.

We should just vote and get it over with.

KIM GALVIN: Right.

DOUGLAS KELLNER: Certainly my view is that

It's well established law, there's lots of Court of Appeals cases on it that the board acts as a ministerial agency and doesn't go behind the certificate.

The staff report is that the objections are overruled and that the petition remain

That the certificate remain valid.

COMMISSIONER ACQUILLA: And I agree with that.

DOUGLAS KELLNER: Well, we'll vote on that.

Those in favor?

COMMISSIONER ACQUILLA: I make a motion to vote in favor.

Aye.

DOUGLAS KELLNER: All right.

I vote aye.

JIM WALSH: Nay.

: Nay.

DOUGLAS KELLNER: Two to two and the motion fails.

And I guess since we are split.

COMMISSIONER ACQUILLA: Split, we can't knock anybody off the ballot.

KIM GALVIN: Until the court decides.

COMMISSIONER ACQUILLA: We shouldn't look further.

That's not our obligation.

I fought many petition battles in my young days.

We were never never allowed to look further into the information that was given to the Board of Elections.

You go to court if you want to go further.

That's the way it was in New York.

Is it still in that way in New York City?

DOUGLAS KELLNER: I think it's a matter of law.

Does that cover those four items listed on the agenda?

KIM GALVIN: Uh huh.

DOUGLAS KELLNER: We are now to to the resolution to approve three project assistance positions.

Anna?

ANNA SVIZZERO: These are the positions we have been discussing for quite awhile and the board has been supportive of them.

We only just heard yesterday that civil service approved them.

That's why the resolution is late coming to you.

DOUGLAS KELLNER: You've given us a written resolution?

ANNA SVIZZERO: Yes.

DOUGLAS KELLNER: Any questions about the resolution?

Those in favor say aye.

(All members responded "aye.")

DOUGLAS KELLNER: Opposed?

(There is no response.)

DOUGLAS KELLNER: Great.

ANNA SVIZZERO: Thank you.

DOUGLAS KELLNER: Next Susan Cohen has asked for a couple of minutes to make a short presentation to the board regarding disability access.

SUSAN COHEN: Did I don't know not get the handouts that I provided?

(Overlapping speakers)

SUSAN COHEN: I have some here if anyone needs it.

DOUGLAS KELLNER: Let's get to the point.

: My name is Susan Cohen.

I want to thank Commissioner Kellner for this important opportunity.

I met most people here but not met the two new Commissioners.

DOUGLAS KELLNER: Please thank all the Commissioners.

SUSAN COHEN: I want to thank all the Commissioners for your time.

I have been elected as the disability advocate.

I am passionate and have been working on this for five years.

I am a specialist in voting machine technology, in poll worker training, and ballot marking machines and disability outreach and training.

Right now I'm an independent consultant and my business is voting solutions.

I work closely with disability organizations but I do not represent any of them.

I want to be clear.

One of my main clients is Sequoia voting system and I am helping them make their machine as accessible and user friendly as possible.

I have been going through a statewide focus group process.

I have become very knowledgeable, but I want to be clear, my comments today are Susan Cohen as an independent consultant.

I don't represent anybody, including Sequoia right now.

I just want to be clear.

You know, I get a lot of reports and I want to talk about some of the things that happen on primary day and I want to really talk about proactive solutions.

I'm a huge idea person and I have been collecting many ideas.

I guess I have not had a forum to communicate them.

I appreciate the opportunity.

You know, there's a lot of concrete suggestions on this sheet.

I would love to request that the counties also receive a copy of this electronically because I think this is a value to them as well.

There is a lot of work to be done and I first want to take one minute to commend everyone in this room.

In 2003 when I started this process, I never thought I would be standing in front of this group.

The disability community was strongly at odds with the way New York State was handling HAVA compliance.

A lot of this is history of the struggles.

As of last year we broke the ice with the Board of Elections and you guys have been accommodating and returned my calls and you are working hard.

I want to thank you for all the efforts that you do.

And I do recognize the efforts.

But all that being said there is still work to be done.

I wanted to just give a little assessment of that.

The media has not, even though I always used the media I have not been pleased with the way the media has been handling these voting machines.

It had a dire impact on the disability community in using the machine.

I have been very disturbed on the low usability of these voting machines and unless a strong commitment is made I have a deep concern that they

are not going to be used to the fullest extent which would be really too bad considering the extreme amount of money that tax payers have paid for these machines and

I believe these problems could be avoided and changed and that's why I'm here today to give you proactive suggestions, for you and the counties and community as a whole.

I have a fear that, Bob, you said there was \$10 million for poll worker training?

BOB BREHM: Voter education.

SUSAN COHEN: Voter education.

Well, the efforts and money that has been spent just mirrors everything that has been suggested but from my end I would say 80 percent of the disability community has no idea that these new machines exist at this point.

That's not a scientific number, but I have been calling -- a lot of state agency heads, these are the people who really have direct access to individuals with disabilities.

Most of the heads don't even know that these machines exist.

So my concern is that money is going to be spent and the real community who really is disenfranchised up to this point will not even know that they exist and they will continue to not vote or they will vote absentee.

And I would like to avoid that situation.

Because I would just

It's a lose lose for everybody and the tax payers are outraged because we spent 53 million dollars and ten voters in the State use it.

But this can be avoided.

I really want to make sure that the available resources between now and 2009 can be used smartly.

The suggestions I'm giving you are ways to do that.

You know, the other big fear is in 2009 you have to train the entire community because it's all new machines and then the disability needs get put on the curb and they don't get first priority and, therefore, this could be lost.

It could become the big state joke.

All these wonderful machines that nobody uses.

We don't want that happening.

You know, there's a lot of merit in the Web site.

It's a very helpful tool.

There's a lot of merit in the radio spots, but I have to

Unfortunately, I have to say this.

Most of the people we're really dealing with don't have access to the Internet and most of them don't even have access to the radio.

Most individuals are being disenfranchised live in group homes and with their families.

As a result of that a lot of the money being expended is going to few people.

The other thing that a lot of the State Commissioners use is Independent Living Centers.

I used to work for Independent Living.

I think they are wonderful organizations but I have to say that's only a small percentage of the disability community at large.

And a lot of the Commissioners are relying on this one group.

That one group only reaches people who live in the community.

They don't really outreach to the large group of people who rely on state facilities and privately owned facilities.

Therefore, the majority of the voters are not going to find out about these machines unless we do something differently.

So I want to just conclude with the concrete suggestions.

Number one, do not give up your efforts to outreach the disability community.

Even when the funds are exhausted people with disabilities want to vote at the polls but for years they have been alienated in the process.

It will take time for these machines to be used.

I am asking the entire community in

welcoming individuals into the electoral process.

In order to reach the community, the large community, that means the government groups, all the people that, the wonderful citizens that come to these meetings that are concerned, they all need to chip in and help us.

The disability community is trying, but there's a lot to be done.

Other states, what they call disability vote projects in other states that I'm very familiar with that span all the resources together and have wonderful get out to vote campaigns.

They are usually nonpartisan outreaches.

I would like to see something like that started in New York.

I tried to do it working for NYS--but it was hard to pull off.

If anybody is listening out there, to bring it out there that this can happen and we can get people out to vote.

It's going to take several years.

But it's very feasible.

I want to maybe initiate that effort with some support from the State board and the counties.

Okay.

I have a whole list of ideas.

I can't go over them now, but I'm happy to sit down with anyone who would like them.

DOUGLAS KELLNER: And Susan, we have your written presentation.

So I think all of the Commissioners are very interested in these ideas and that we'll review them very carefully.

Does anybody have any other questions?

That they would like to address?

JIM WALSH: Thank you.

SUSAN COHEN: I would like to finish by saying that there is a commitment involved in getting these machines used.

I know this is why you have to do it.

But there is also a certain level now that the machines are in every polling place, let's really make an effort to make sure these are used.

And not just because the law tells you to, but because it's the right thing to do.

Once that happens, it will be a whole new voters that will finally get their voices heard.

COMMISSIONER ACQUILLA: I also think the leadership in the disability community has to join that.

They have to get people out to vote.

It's

We can do a lot.

We can communicate.

We can talk.

But the people in the disability community trust their own leadership and their own leadership has to do that.

I've spoken to people in the disability community who are not active like you.

Some of them are happy with having an absentee ballot.

Some of the retirees are very happy with having an absentee ballot and they can't see the benefit to them by having to struggle out on a bad day maybe to vote at the polls.

So there's a job on both sides here.

And for the leadership of the disability community.

SUSAN COHEN: Absolutely.

Unfortunately

I will say one more comment and I will leave, I promise.

Unfortunately only a small portion of the disability community has been outreached to.

Next week there is a council that is 23 state agency heads that meet quarterly.

None of them

I shouldn't say none.

I don't know how many exactly are aware that these machines even exist.

It's true those state agencies that the word could get out, so it's just unfortunately only a few members of the disability community have been working on this and a lot of them are unaware.

A good part of the work is to get aware.

I believe those funds, those county funds if they are well spent can do that, but I'm concerned that a lot of commissioners

are doing it alone, not asking for help and using their best knowledge.

It's like a secret hand shake.

If you don't know the secret hand shake, you can put a lot of money into it and not have the results you are looking for.

That's what I want to avoid.

DOUGLAS KELLNER: We appreciate your presentation.

As I say, we will be carefully reviewing the points.

I also wanted to acknowledge I got a letter from, or all the Commissioners got a letter from Helen -- from the the Catskill center for independence

where she also spoke about their concerns that there's need for more interactive base training for poll workers.

We will also be reviewing that. Yes, sir?

AUDIENCE MEMBER: I'm with the State independent living council.

Responding to what was said by one of the Commissioners, I'm sorry, I don't know Helen's name.

DOUGLAS KELLNER: Commissioner Aquila.

: I'm speaking for NYSILC.

We certainly agree that the disability organizations need to do their part.

Not to discount anything that Susan said.

She made good points.

I just want to emphasize that the county Commissioners, many of them need to do much more to encourage people to use the new machines rather than discourage people.

This was my experience on primary day.

What's your disability?

An illegal question.

And the second thing was the comment after I voted, I was allowed to vote on the BMD and the person who showed me had been trained, but they,

the head person who asked me that unfortunate question also said, and I conclude with this, you know, we discourage people from using these new machines.

Now, who is the we?

And that's what I would like to know.

And I think it's the responsibility of the State board to find out more.

Thank you.

DOUGLAS KELLNER: I think we got that message and Anna is going to be putting out a letter to the county commissioners reminding them of that.

Thank you.

I think we are at the end of the meeting.

: One last thing on behalf of all of us on the board, we should send wishes for a speedy recovery to Stanley.

He certainly is missed here today.

COMMISSIONER ACQUILLA: Yes, of course.

He will be back soon.

DOUGLAS KELLNER: Should we talk about the next meeting date?

Before or after the election, I guess is the key question.

COMMISSIONER ACQUILLA: Later in November I'm going to Florida for Thanksgiving.

DOUGLAS KELLNER: Well we're in the last week of October or first week of November.

Should we meet the week before the election?

COMMISSIONER ACQUILLA: That's up to the staff really.

They bear the brunt of that.

JIM WALSH: A lot of things going on.

COMMISSIONER ACQUILLA: I want to see the dates.

KIM GALVIN: I want to see the dates.

: Set it for after and if

BOB BREHM: We have to have the one by December 8 in order to certify.

DOUGLAS KELLNER: We have to meet twice by that time.

Thursday after the election?

BOB BREHM: Thursday is the same week as the 6th.

COMMISSIONER ACQUILLA: Okay.

Election day is the 4th.

Then the 6th?

DOUGLAS KELLNER: Tentatively say Thursday, the 6th?

That's just tentative.

We'll see what develops.

COMMISSIONER ACQUILLA: Everybody check their calendars.

DOUGLAS KELLNER: We should also plan then that we'll have to meet at least the first week of December to do certifications.

COMMISSIONER ACQUILLA: Yes.

You know my birthday, December 9.

DOUGLAS KELLNER: No, no, that's too late.

COMMISSIONER ACQUILLA: I thought we would meet on my birthday and we could have a cup cake.

DOUGLAS KELLNER: We can still have a cup cake.

COMMISSIONER ACQUILLA: I'm only teasing.

DOUGLAS KELLNER: With that we stand adjourned.

Thank you all.