
Commissioner Kellner: Good afternoon, I am Douglas Kellner and I'm calling to order first the meeting of the Board of Canvassers and then we'll have the Commissioners of the State Board of Elections. I'm joined by my co-chair Peter Kosinski, and Commissioner's Andrew Spano, and Anthony Casale. So, the first item on our agenda is the certification of election results from the November 7th, 2023 General Election. Those have been distributed. I believe that the only offices we were responsible for were the supreme court.

Brendan Lovullo: We have the supreme court and the two proxies.

Commissioner Kellner: And the two proxies. Okay, so any comments?

Commissioner Kosinski: I'll make a motion to accept the report as submitted by the staff?

Commissioner Spano: Second.

Commissioner Kellner: Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed, none, so the results have been certified and that concludes the agenda for the State Board of Canvassers. So, going to the State Board of Elections, the first items are minutes for August 2nd, 2023, and September 6, 2023. I note that the introductory line on the September 6th minutes has what was probably a typo. So, it's on the, I'm sorry, it's on the August 6th one. On the second line, it should say "the meeting of the New York State Board of Elections". Or it could say "Commissioners of the New York State Board of Elections". So, who is going to type this and what should the exact text be?

Commissioner Kosinski: I think it should mirror what's in September, New York State Board of Elections. "The Commissioners of the New York State Board of Elections", so.

Commissioner Kellner: So, with that revision, is there a motion to approve the minutes as revised. Second?

Commissioner Spano: Second.

Commissioner Kellner: Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright, the minutes are adopted. Who exactly is going to do that revision?

Tom Connolly: We'll get a revision, and we'll take care of it.

Commissioner Kellner: Alright, so then, we turn to unit updates. We'll start with Executive Directors Kristen Zebrowski Stavisky, and Ray Riley.

Kristen Zebrowski Stavisky: Good afternoon, commissioners. The Co-Executive Directors worked with staff throughout the agency and coordinated with county boards and other state agencies on many issues since our September 6th, 2023, Board Meeting. The November 7th, General Election was relatively quiet at the State Board, as was just mentioned. The contests were limited here to Supreme Court and Statewide Ballot Propositions. As always, we supported the county boards with all issues related to their local races, the secure election center, coordinated with our federal, state, and local partners for daily security check-ins. These partnerships continue to grow and provide critical support and response for emergent situations. The biggest issues continue to be power outages related to poll sites, but all were resolved quickly, and did not impact voting. On Election Day, as you may have heard, there was a lockdown at Mohawk Community College. There was, it was first reported as a possible active shooter, we did have a poll site there. So, we immediately convened our meeting. Thankfully, it was a false alarm, but we worked directly with law enforcement and our partners of the local board to address the situation. The Oneida County Board took immediate action, they moved the poll site, and voting continued without interruption. As terrible as it was, thankfully it was a false alarm. It was nice to see that what we put in place did work, and we came together with our partners...

Commissioner Casale: in that media market, but when I got home for lunch it was all over the TV. They did a great job. They scrolled the TV all afternoon, the local stations. They did a good job working with the media.

Kristen Zebrowski Stavisky: Absolutely, Commissioner. Online Voter Registration and Automatic Voter Registration, as you know we launched phase 1 of Online Voter Registration on May 31st, 2023. The New York City Board of Election worked on a parallel track and launched the same day. Since that date, we have had 13,463 New Yorkers utilize the online systems to register. We are carefully monitoring usage, and we are seeking to raise awareness to more residents to access the system. We are in the middle of planning for phase 2 of online Voter Registration, which will bring enhancements and improvements, and will also connect it to our clearinghouse, once we complete work with the New York State ITS on Automatic Voter

Registration. And also, as mentioned, we did partner with New York State ITS to implement Automatic Voter Registration in the clearinghouse necessary to transfer the information efficiently between the state board, the county boards, and the AVR agencies. We have a regular meeting cadence with ITS. We finalized the project scopes. The work is underway, and we are finalizing the timeline, and continue to meet with all the AVR agencies including the Department of Labor, the Department of Health, New York City's Housing Authority, the Department of Motor Vehicles, and the Office of Temporary Disability Assistance. The project schedule anticipates 2 phases; phase 1 is expected to run through May 2024, and phase 2 through August 2024. And as this project proceeds, the individual agencies will begin their internal projects with their ITS staff to enable Automatic Voter Registration, and to connect to our clearinghouse so that registration information may be communicated to and ingested by our county boards. We are also working on regulations for Automatic Voter Registration to guide the agencies through this process. As you heard earlier in our Public Campaign Finance Board Meeting, the software solution for the Public Matching Program which has now become an agencywide software solution, was with the funding was approved by the Division of Budget, the contract was signed. It was approved by the Office of the Attorney General and is currently under final review with the State Comptroller. The funding was approved just before Thanksgiving, and once that review is complete, we'll onboard the vendor, and as you know, we did create a manual solution. And I'll just add my congratulations to the PCFB staff, for doing a really amazing job on that software.

Good news on space planning, finally. Construction on the southside of the 5th floor is expected to be completed by the end of this December. We continue our biweekly job meetings to coordinate with the vendors and with the Office of General Services. We expect the construction on this side to begin in early January once the staff is relocated. As you know, our budget, our full-time equivalent level has gone up to 210 with PCFB employees, and really, we were at a critical point in the growth of our agency. We are thrilled to report that we'll be allocated a second floor in this building. We expect to occupy the south side of that new floor in early January and shortly thereafter the northside as soon as that agency is able to vacate the space. The space is in good shape although we may look to renovate maybe two years down the road because I think it's one of the only floors in this building that has not yet been renovated. But most importantly, it accommodates our agency's growth, it brings longstanding space issues to a close, and it accomplishes our primary goal, which I know is also a priority for the Commissioners, that the agency remains together in one location. And as always, we do follow a complex calendar and deadline to ensure that operations are not impacted as we transition to this Presidential year, and we will move space and staff as needed to make sure that the ballot access process is unfettered for the public.

The website redesign project is nearly complete. We expect to go live, I believe, in February 2024. The PIO staff has done an amazing job as has the project manager. As you know, our current website is difficult to navigate at home to thousands of PDF documents. And the date of migration was not easy, but it was done quickly and expertly, and managed seamlessly by PIO and our project managers. So, I really congratulate them on that.

We continue a biweekly meeting schedule with the Division of Budget and the Office of General Services. We continue to meet with Enforcement biweekly, and biweekly with the Executive Branch. We continue our monthly conference call to the Election Commissioners Association; the last call was on November 30th. We're also continuing to work on training and guidance to make sure that we can provide the resources to the county boards so that they have the tools they need to do their job efficiently. We recently issued guidance for early mail voting, and we will update our canvas guidance to incorporate the early mail ballot process. We're looking forward to the January 2024 conference, and we're working with the program committee of the Election Commissioners Association to craft a robust training program. I would also mention that PIO in conjunction with the rest of the units, Executive, Election Operations, continue to work with the counties on FOIL requests and requests about the New York State Voter Registration database to make sure that we are countering mis and disinformation.

Finally, we have begun development work for the State Board of Election Training Institute as established by Chapter 477 of the Laws of 2023. It directs us to develop curriculum for certified poll worker training, and train the trainer programs, and county boards will enroll at least 2 trainers in the program to become and maintain certified poll workers and then we'll be able to train to meet the needs in their county. And the institute will really enable us to develop a uniform statewide curriculum and make sure that poll voters are having the same experience statewide. That is my report. I return it to my counterpart Ray to see if he has anything he'd like to add.

Ray Riley: Not much. The only thing I'll say is then we'll be certified in crossovers. Many of the counties are still hard at work, on some of the manual hand counts. Based on their elections, we continue to provide support and guidance to them as they do the cleanup for 2023, and we get into 2024 which will be a very busy year for all of us. We look to continue our relationship with the counties to provide support as needed, as they need.

Commissioner Casale: What is your overall evaluation of the law that requires the manual hand count. Is there a percentage? We get these smaller areas, smaller elections, is the percentage so small that it's causing more than are necessary, do you think. Or I guess the question is, any results was there a major switch in any elections because of this?

Kristen Zebrowski Stavisky: No, there are very few changes. We are tracking all that information, and we are actually trying to look if we want to recommend maybe shifting the percentage.

Tom Connolly: And one of the things that we saw this year, which I think was somewhat new this year, there were a lot of contests that were either a write in one or there was a write in only contest. And since, you were dealing with a much smaller number of those...

Commissioner Casale: So, it's a sad state of affairs is the smaller towns, people aren't even, nobody, no candidates on the ballot. In one place for Highway Super, for Town Council, I was looking at the results of my local results, I was amazed.

Tom Connolly: Right, so if we're dealing with just a write in only contest, you're in much smaller numbers, and you're more likely to trigger the threshold for a hand count.

Ray Riley: The only true contest, I'll add to that, is county races in general tend to be a very small turnout. So, in a lot of jurisdictions you end up doing a manual hand count for every single county committee race that was on the ballot, because it is limited to a single election district, and that's obviously very cumbersome for the counties. In most cases those numbers will be almost identical, margin will be, may not be wide for a public office, but I think wide for a party position.

Commissioner Kellner: So, are we going to get a report on the data? I believe that Operations had promised a report from the '22 election cycle, but it haven't seen that report or even the underlying data on it, and I think it would be useful again to have the data for 2023 in terms of just how many counts there are, and what changes have occurred as a result.

Kristen Zebrowski Stavisky: We can certainly put that together, Commissioner.

Commissioner Kellner: Well, but that's what you said a year ago, too.

Kristen Zebrowski Stavisky: I thought we did send that.

Tom Connolly: I think we have sent the data, but I will go back and take a look. I know we collected data from the counties for each of their manual hand counts.

Commissioner Spano: There's a lot of money being wasted on these turnout situations, 10-day advance. I mean, if you go to the poll station, there's no one there. You have four or five workers sitting there, you go in to vote, and an hour later someone else comes in.

Commissioner Casale: They keep that in the mandates because then you have to have one in the city, and you have to have one here.

Commissioner Spano: No, I agree with you. Having been County Executive, and having had a patient list of those things, it really bothers me. And someone either has to work on turnout, so it's appropriate that you have the system there, or you have to look at some of the smaller areas, especially, and see if they get more flexibility on what they do instead of spending all that money. It just bothers me every time I got to vote.

Commissioner Casale: And the four of us appeared before the Senate a couple of years ago, we said, one size doesn't fit all, give us flexibility and it didn't happen.

Commissioner Spano: I mean, it's just a waste of money in some places, and everywhere, I mean every race isn't going to have controversies like Trump/Biden, you know that pulls people out.

Commissioner Kellner: I think we are in agreement on that.

Commissioner Spano: And you said you had no candidates, no candidates, we had one bullet candidate on the ballot plus the judges, but you know.

Commissioner Kellner: And if you have a special election where you anticipate the turnout, it's only going to be 15 or 20% and you still have to fully staff early voting.

Commissioner Spano: It's a real problem.

Commissioner Kosinski: So, I guess we're looking for two sets of data then, one on early turnout what the numbers are, in addition to this hand count data. So, whatever you guys can get together on that would be helpful.

Commissioner Casale: We'll look at the last couple of years of early voting, plus both Election Day compared to when it was Election Day only. Is there a major difference or not, or is it the same people just voting at different times?

Commissioner Spano: That's what I think we're doing; we're just stretching out the same group.

Commissioner Kellner: Any other questions?

Commissioner Spano: And you can vote by absentee ballot anytime you want if anything like that passes, it's going to be another problem.

Kristen Zebrowski Stavisky: We will get that data together for you.

Commissioner Kellner: Alright, so we'll now turn to Election Operations, Amy Hild and Brendan Lovullo.

Amy Hild: Thank you, Commissioner. We prepared the certification for the general election, and each packet of certifications documents and related information which will be delivered to the appropriate entity. Staff was available to county boards with support throughout all hours of early voting and on Election Day. We continue to work with other units to coordinate state board communication with counties on post-election activities. Staff continues to conduct acceptance testing for counties, and we have scheduling through the end of January. Working with civic roundtable taskforce and we have 61 counties participating on that platform. working with counties to collect extensive ballot cure manual income and 3% audit surveys, and to sustain the county boards with their annual statistical surveys. We have been working with each of the vote agent registration systems on updates as they pertain to early mail ballots and redistricting. And we are continuing to work on regulation for VVSG2.0.

For our electronic poll book, we approved some de minimis changes to the electronic poll books for KnowInc. and Tenex, and we're continuing to work with the vendor for updates to the systems to be ready for 2024. We continue our work with IT and other units toward the

development and implementation of OVR and AVR and continue to work with IT and counties to monitor process for voter registration system migration. Brendan?

Brendan Lovullo: I don't have anything to add other than I just wanted to say thank you to all the counties. We know how hard everyone has worked and is continuing to work with the hand counts and everything else, for getting us all the information that we need to certify the races that we have here, and also thanks to the Operations staff who has compiled all the information for the results, and certifications, and has all the letters and certificates already to go for the winners right now as well.

Tom Connolly: The only other thing I want to add on because this kind of comes off of Executive and Operations, maybe even a little bit of Counsel, is just recently this week we had the proclamation for the special election in the third congressional district. So, that election has been set for February 13th. That impacts Nassau County and Queens. So, we are working with those boards to make sure that any redistricting changes that they need to do are done this weekend as we would expect to start like that, just so they are ready to go for their election cycle, and we will support them as we move forward with anything they need as well.

Commissioner Kosinski: Do we know how many boards are looking to buy a new voting machines right now?

Brendan Lovullo: We have a number of counties are looking to upgrade current machines, same vendor, we also have some counties that are looking to go to a new vendor. I believe right now we actually have staff out at the counties this week doing a couple county certifications or acceptance testing of those machines. I want to say, I don't know the specifics, but I think we at least have 7 or 8 that are in the hopper that we're going to be doing in the coming weeks, and then going onto January...

Commissioner Kosinski: Buy new or upgrade?

Brendan Lovullo: A combination of both. Some of them depending on which vendor they have and which system they have, and some of the new systems work with some of the older machines, and some of the new vendors are just obviously a new...

Commissioner Kosinski: I mean, are we anticipating most of our boards turning over their machines in the next couple of years, or what do you see the expectation of the...

Kristen Zebrowski Stavisky: Yes, because they're really at the end of their life.

Commissioner Kosinski: So, they are. Pretty much everybody will have to either upgrade or buy new systems within the next couple of years, is that the expectation?

Kristen Zebrowski Stavisky: Yes.

Amy Hild: And we do have a spreadsheet that we could certainly share, Commissioner with...

Commissioner Kosinski: That's okay. I just want a general sense of what's going on out there.

Commissioner Kellner: I would be interested in that spreadsheet.

Amy Hild: Sure.

Commissioner Kellner: And do you communicate with verified voting that keeps this nationwide chart of election equipment that each county is using so that they can update their chart?

Tom Connolly: I don't know if we have necessarily communicated with them, but I do know that is information that is tracked in the EAVES survey, so every two years we do update the vendor and equipment that's used for ballot marking, for scanning in each of the counties, yes.

Commissioner Kellner: I would love for us to put that on our website just like North Carolina does. I think I circulated that page. I know it's hard getting stuff on our website.

Tom Connolly: Right, as part of the process with moving into the new website, we have been moving towards revising some of the information as it pertains to not just voting technology, but also the election systems that are in place in different counties, so that we can ask for new equipment for some of the existing vendors, add some of the new vendors. Obviously, adding changes to the list of which counties are using what equipment, but we are also going to add to that information about the electronic poll books that are used in each of the different counties, and the voter registration systems.

Kristen Zebrowski Stavisky: Commissioner, the new website, the platform is much more agile, so it will be a lot easier for us to do those updates.

Commissioner Kosinski: Is there any money available for these counties to help with this migration to the systems. Do we at the state offer any financing or feds offer any financing, or is this all being done at the local level now?

Kristen Zebrowski Stavisky: No, there's actually state funds, and some still have some federal funds, I believe, grant funds. But there's also, we in our latest budget request, did also ask for additional money for electronic poll books, because those devices were basically tablets which have a much shorter lifespan. So, we have been cognizant of that. We did a grant fund so they can utilize, many have.

Tom Connolly: So, as Kristen was saying, so two of the 3 E-poll book systems that are used in the State of New York use iPads. So, iPads typically have a 5-year life cycle before the software doesn't want to support the hardware. It's something that we started in 2019 and we're good to kind of get through the 2024 cycle, but boards will have to start figuring about replacing some of their fleet of tablets.

Commissioner Kosinski: Five years. Well, so these guys have got to be upgrading their stuff every 5 years, is that our expectation, these tablets I mean? The hard machines we give like a 10-year, 12-year life span?

Kristen Zebrowski Stavisky: We've had a good run right now.

Commissioner Kosinski: But that's it: now. I mean, that's the new, where you have to upgrade that frequently. I mean that's just a big expenditure for these counties, that's all, I just wondered if we could help. It seems like the state should be helping them, because this is a big burden on them and...

Kristen Zebrowski Stavisky: Yea, they have, they've given technology funds for that purpose.

Commissioner Kellner: It was \$5 million in the last budget, right?

Kristen Zebrowski Stavisky: No, I believe it was \$15 million.

Jennifer Wilson: \$15 million new, it's \$35 million total.

Commissioner Kellner: Okay, so, we'll turn to Counsels, Brian Quail, and Kevin Murphy.

Brian Quail: Good afternoon, commissioners. We have approximately 10 active cases presently, you'll note that on the agenda we have a place at the end for a motion for Executive Session, I would ask the commissioners at that time to entertain a motion to go into Executive Session to discuss pending litigation pursuant to Public Officers Law section 105.1D, but if there are any questions, it should be entertained in public about any of the pending cases, happy to do that. Let me now just transition into the work of the Compliance Unit. We have, since the last board meeting, there haven't been any deficiency referrals. I was told by the Compliance staff that a quarterly referral is actually slated to go tomorrow. In terms of compliance reviews, the unit's been very busy since the last meeting, 10,710 reviews were completed since the September meeting of the board.

In terms of candidate matching, one of the most efficacious issues that compliance has had over the course of many years, is identifying candidates at the local level who have likely filing obligations, but that we have not been able to identify and reach out to what I would call wholesome or completely. And through significant effort over the first of the last few filings, the Compliance Unit has pretty much gotten that process down, or a few wrinkles have been worked out, but 7,475 candidates were uploaded into the system as a result of their efforts. 5,442 of those candidates matched existing FIDAS records, and those folks were identified and informed that they likely had filing obligations, and then there were 2,033 candidates for whom there were no records in our system, and those folks were also reached out to and said that they need to file something. In terms of registered candidates, that matching process caused a tremendous flow of communications to the unit, such that since the last board meeting, 3,225 additional candidates were registered, predominantly candidate filing exemption forms, but not entirely. 139

committees were registered in that time. The Compliance Unit completed 80 treasurer resignation reviews, and 558 committee candidate records in due course were terminated. The Compliance combined Training Unit, since the last meeting has conducted four live webinars, two of them dealing with Campaign Finance topics generally, one of them a How-To tutorial on how to use the filing system, and then the ever popular, Winding Down the Campaign Seminar which is given at the end of every election cycle. Two more of those seminars, webinars are scheduled and thus far, in this tranche of training 194 registrants participated in those last trainings just since the last Board Meeting. The Training Unit also has been engaged in very in-depth training on Campaign Finance for new staff, and they've conducted approximately seven training sessions for newly onboarded staff on the ins and outs of campaign finance law and process. The Unit has received 750 e-mails into the general CF Info E-mail account since the last meeting. Those are inquiries that range from anything from how to register, to questions about substantive campaign finance issues, and those have all been contended with in due course. That would be the Compliance report.

Commissioner Kellner: Anything else? Okay. So, then we'll go to Enforcement Counsel.

Mike Johnson: Based on conversations I've had with Brian and Kevin, there's an interest in our progress with regard to what we discussed at our last Board Meeting which was the nonfiler mass judgement test that we were going to be instituting and also the three election hearing officer cases. The 25 nonfiler test is a little bit more complex, so let me talk about that first. Initially, when I had mentioned we were only going to be 25 as a test, I know that seemed to bring up some sort of questions, well, why can't you do them all at once, and things like that. Given what we have found in terms of the process we're going through, there are obstacles in place that makes it impossible to do it all at once. Whether or not you agree, that's the truth. We started with 25, and I can explain real quick, what we did was we took roughly 325 or however many it was of nonfilers who didn't make their filing. We ran it to an Excel random self-generating formula to come up with the 25. What we would then do is look at those 25 and based upon whether or not the certified letters were actually received, and we look at the tracking numbers, they made it into that 25. If the first batch contained some that didn't get it, we put more back in, ultimately, we got our 25 random committees as our sample. Now, we decided for purposes to make this quick, we filed electronically, and as you all know, the courts are going more toward electronic filing now. The electronic filing process: we had one attorney who did it, and we can only use one attorney, because you can only do it under one attorney's profile. You can't have two or three attorneys' doing it at the same time. So, we had one attorney who did it. It took him six hours to enter all of that information into the court system. What we have found out in talking and working with the court, is there is a process by which we could literally provide them with all of the information, and they could input it for us. So, there is a workaround on that. Our IT person and one of our special investigators have really taken an IT related course to figure out exactly what we need to do on our end to make this happen. And then to work with the court system to say, okay, it can be done, for instance like taxes finance, with tax limits, so we could like to be able to do mass filings as well. So, that can be done. The second option is the contract dealing with the process servers. That contract was first entered into prior to the existence of the division. If it was entered into in 2013, I believe, then it was renewed several

times afterward. Once we started looking at the contract to utilize it for our purposes, a couple of things cropped up. Number 1, that contract while it may have been adequate for whatever the Board's needs were back in 2013, it so does not meet the needs of what we need, want to do now. If you look at the contract, the dollar amount for the contract itself initially said, "Not to exceed \$50,000" the contract number actually is because there's some mathematical computations that had to be done, the total amount is roughly \$24,000. And there is a built-in estimate usage of 58 cases a year, so it's literally \$24,000 over the course of five years. If you factor into the cost of how they break it down based on the regions, essentially the contract is not designed to serve more than an estimated 290 respondents over a five-year period. So, what we will do at that point because my feeling at that point was, you know, we can help sort of augment things by doing the service ourselves. But the problem we run into with that, and I'm pointed out to both co-executive directors, and I pointed it out, and raised the issue at several board meetings, the Use of Force policy prevents us, the peace officers, from going out armed to deal with going and serving, and things of that nature. I cannot and will not send people to do this type of work and put themselves at risk. That's a reality.

Commissioner Kellner: Well, that is just outrageous.

Mike Johnson: Oh, really?

Commissioner Kellner: How many process servers actually carry weapons when they go out and serve...

Mike Johnson: Well, I can tell you this...

Commissioner Kellner: Certainly, none of the law firms on my staff or the people in New York City who do most of the process server, and on the very rare occasion, alright, never mind. Your whole report, I'll just let you finish your report, but it so upsets me that all we have are excuses after excuses after excuses for not doing the fundamental work that needs to get done to get people to sanction those who don't file their reports.

Mike Johnson: So, if I say the contract only provides for service of 290 people over a 5-year period and you've got well over 300, you say that is an excuse?

Commissioner Kellner: Yes. First of all, it's the first time that I'm hearing that that's the problem. Second, is that...

Mike Johnson: Well, it's the first time that we have come up with the problem. So, I mean you wouldn't have heard about it till we started doing it.

Commissioner Kellner: Well, there are other ways to solve this problem, but they don't get solved if every time there is a little bit of a hiccup, we say, oh, that means we can't do anything and then...

Mike Johnson: Did I say that?

Commissioner Kellner: Go ahead.

Mike Johnson: Did I say that Doug? I didn't say that. But I think we need to be clear here, that's not what I said.

Commissioner Kellner: Well, I don't see the commitment to get this done, and to actually sanction people for not filing their reports. And if legislation is needed, write the legislation. I wrote a draft, but it didn't go anywhere because my colleagues didn't think that that was a way to go. But nobody else has written any other way of doing this. But the problem is that...

Mike Johnson: I mean just like at the earlier meeting you talked about you wished we could do fines. The statute doesn't give us that authority to do so.

Commissioner Kellner: So, let's write it into the statute.

Mike Johnson: We're more than happy to work with Brian and come up with legislation. At one point, you said, well come up with a Regulation. That goes far beyond our authority in terms of doing our Regulation.

Commissioner Kellner: Didn't we do the regulation?

Brian Quail: We did a regulation that allows for the Enforcement Unit on nonfilings to proceed directly to a supreme court proceeding, very much like the pre-2014 regime without having to go through a hearing officer. So, essentially, for failure to file, reinstates the status quo ante for 2014 with respect only for failure to file.

Commissioner Kellner: Right, and so you're saying though that notwithstanding that, that that's not enough because it's too hard to file, and it's too hard to get the supreme court to provide for alternative service, and Bill, well, Bill McCann is not here now. But Bill will remember very well, you weren't the counsel at that time, but I was urging him to change our proposed order to show cause to provide for simpler serving procedures.

Mike Johnson: Well, and back in 2009 or so, during the mortgage crisis is when the courts really started cracking down on the server. So, as a result of that, that's why now the process is much more difficult. And as far as you know, the service is concerned in terms of what the process...

Commissioner Kellner: See, I wish we could engage in this privately because...

Mike Johnson: I'm more than happy to engage privately with you, Doug, instead of you sitting here thinking I'm making up excuses, cause it's not true.

Commissioner Kellner: Well, I certainly believe that that's the case. You haven't contacted me, you didn't give me a heads up that your report would be that gee, we haven't really been able to start any supreme court cases.

Mike Johnson: Well, that's not what I said. We've already, we just heard from the process server today that they have finally completed service of those 25 actions that we started. So, that's been completed. Now, based on the contract itself, there's actually, for whatever reason, and again, I don't know why, there's a two-week period built in before they even have to begin taking action in making the service. So, there's a two-week window right there that nothing gets done.

Commissioner Kosinski: Mike, who's the contract with?

Mike Johnson: It's um Nation...

Commissioner Kosinski: No no, I mean with us at the Board of Elections, is it our contract, the Board of Elections contract? Based on what we entered into at some point? Who entered into this?

Mike Johnson: Well, let's see, 2013, it would have been signed by the two then Co-Executive Directors.

Commissioner Kellner: We can do a new contract, right?

Commissioner Spano: Can we let him finish his report?

Commissioner Kellner: Yes, I'm sorry, go ahead.

Mike Johnson: As far as the contract is concerned and we have been diligent in seeing if there's any issues or any instances where there's a possible ability to say the process servers have violated the contract. So, far that's not happened. The only thing right now for us is as we do more and more cases, we're going to come upon that dollar amount threshold very soon, much quicker than the five-years. At that point, that gives us the ability to not renew the contract, but negotiate a whole new contract, because it's much easier to negotiate a new contract for better terms that work for us, as opposed to just renewing what's already there, and we know now it doesn't fit.

Commissioner Kosinski: I'm sorry, Andy. In all due deference, couldn't we get a second process server? One is not sufficient, couldn't we go out and solicit another service, process service that we can then use in addition to this one, if this one isn't sufficient?

Mike Johnson: I would reach out to OGS and there are a couple of things that I, one thing...

Commissioner Kosinski: That's a rhetorical question, Mike. I think we could. I don't know why we don't. If this doesn't work, then I suggest we go find another that is.

Mike Johnson: What I would like to do is get another process server. Cause this one, they're located on Ronkonkoma. So, if there are things that need to be served up in Buffalo, they have to find someone who will take that piecemeal and do it for them. What I would like to work out with OGS if we could figure out regionally, different process servers. But then that requires okay, based on the work that we are looking to do, is that dollar amount threshold high enough for someone to take on the work? You raised a great point, I'm more than willing because that was something that we had talked about doing once we tried to burn down this contract and what's it worth is, looking for more than just one vendor. Because, for instance, this particular vendor is also used by the Attorney General's Office, however, I can assure you their contract terms are probably a whole lot different than what we have, and they use more than just one vendor, they use multiple ones.

Commissioner Kellner: Yeah, the Sheriff's serve.

Commissioner Kosinski: Well, the concern we have Micheal, is you know the information I have is we have somewhere in the neighborhood of 1600 failures to file for July that still are outstanding. You apparently are now pursuing 25 of those. I guess the concern, and I share Commissioner Kellner's concern is, that means there's over 1,600 sitting there not being pursued, and under what you're describing, they're not going to be pursued.

Mike Johnson: Ah no...

Commissioner Kosinski: At least in the near future. Let me finish, let me finish. So, our concern is that there's still a huge number of failures to file just sitting unaddressed. We were frustrated with the previous Counsel not doing anything, you're at least doing something but 25 out of 1,660 or whatever the number is, is very, very tiny, and we just feel there's a frustration here that we're not pursuing more. I, as you know, have a frustration and a concern about selective enforcement, some of which I've seen here, and that I think this goes into that again, where 25 are now going to get pursued but 1,600 are not. Why 25? Why are we picking 25 out even? Why not all 1,600, you're trying to describe that, but it seems to me the goal has to be 1,600. Everybody's go to get pursued in the same way, I think it's very unfair to pick out 25 just arbitrarily and say, "We're going to go after you, but we're going to leave the other 1,600 untouched" because that smacks a selective prosecution to me, which I think is a very bad process to you. So, I think there's a lot of frustration here on this, and we're looking for solutions.

Mike Johnson: I never said that we would not go pursue...

Commissioner Spano: That's why I want him to finish his report.

Commissioner Kosinski: I know, but I'd like to get to the point here at some point too.

Mike Johnson: I never said that I was not going to pursue the rest of them. What I'm simply saying is, we have realized the shortcoming that currently exists in working with the court

system to come up with the ability to utilize their process to do both downloads, so we could get all 1,600 in at one time, as opposed to doing you know five at a time, and that shouldn't be a problem. Like I said, since it's done for tax leads, if we can do that, that's great. As far as getting this process getting it served, great. You know, Tony, you raised the issue about using Sheriff's Office. One of the concerns, because we had kicked out, we thought about that as an issue. One of the concerns, however real it is, is you're using a Sheriff, an elected official, to enforce or to serve papers. Now, is that how we should do it? I don't know, I don't have an opinion on that yet.

Commissioner Casale: I'm trying to be helpful here in terms of efficiency, there's a Sheriff in every county of the state, it's a constitution of the law, who cares the party affiliation, and the Sheriff doesn't serve it, they have a Deputy that goes out and does it, the civil division.

Michael Johnson: Right. Exactly.

Commissioner Casale: Now, I know the attorney's upstate use the Sheriff, and then of course they have to pay the Sheriff.

Mike Johnson: Right. Now is that an option? It very well might be, cause that's yet another option that we need to and will explore, we will examine. It would be great if we could do that because if we could do something along those lines, we wouldn't necessarily have to worry and depend so much on the process.

Commissioner Casale: Let's just clarify one thing: you said, did you say that under the E-filing the state uses, only one attorney is allowed to file in each court?

Mike Johnson: No, I'm sorry. At a time, on this matter here. It's not like me and the other attorneys upstairs can all sit and do this. It has to be done under one person.

Commissioner Casale: Per court?

Commissioner Kosinski: Per filing.

Commissioner Casale: You're filing multiple cases under one filing?

Mike Johnson: Yes. So, if we could...

Commissioner Casale: I hear ya.

Mike Johnson: So that's why I can't have, if I could have 3 attorneys or 4 attorneys sitting on computers, all doing it at the same time, that's one thing, but I can't do that.

Commissioner Kellner: Well, you could do four cases.

Commissioner Casale: Is it because each one has a separate account or something? I don't understand.

Commissioner Kellner: I'm very familiar with the E-filing system, I use it every day, and there are lots of workarounds for it, but you know, if you'd just call and talk with us about it, then we could communicate on this, and we wouldn't be in this situation where your report is all negative, and I feel like we're not moving forward in the goal, just as Commissioner Kosinski stated which is it's a very simple goal. I don't care if the fine is \$25 or \$100, I want there to be a fine when somebody is late with their filing. If they don't file at all, it should be greater. Now, the legislature put in this provision that you can get a \$10,000 fine for not filing and okay a \$10,000 fine that should be hard to collect. But we are in a position where we could propose draft legislation to change it, we can up with the solution to change the regulation, but obviously it's not a solution if the Enforcement Counsel isn't going to sit there and file all these cases and do these orders to show cause. In order to show cause, we propose to the court what the provision for service is, and most of the time the judges do it, and that's what Bill McCann learned when I had the same criticism 15 years ago, or 10 years ago. We don't need a personal process server to show up at somebody's door in order to collect a \$250 fine. That should be sufficient to send them at the last known mailing address. Now, by the way after Risa was appointed, um, when we adopted the regulations for the hearing officer, I had proposed at that time a simpler, less complicated service process, but I lost that in that amendment. But I don't see anybody taking a comprehensive view of saying this is how we're going to do it. If we need new legislation, then let's write it up in a report and give it to the legislature and say this is the legislation we need. But these litigation filing excuses, I just don't buy it now months after we changed the regulation to allow for this process. And I wish, alright, I'm just going on and on, and it's not productive, because it is just criticism. And without having a dialogue and details, it's hard to make a constructive criticism. But just saying it's too hard, if an associate comes into my office and says, "This is too hard, but I had no solutions for it" then, that's not somebody who's going to stay in my law firm.

Commissioner Spano: I'm not the lawyer, but he's got some questions about how we operate, and you certainly have passion in making sure we are getting this done, and I do too. But if we examine what he's saying, and what you're saying, and we put together maybe three people, two staff members and go over all this stuff, and let them figure this out based on this and based on your comments, come back to the Board with a suggestion on how to do this for the next meeting, that might be helpful.

Commissioner Kellner: I agree, and to have some communication back and forth so that there is a mutual commitment to get this done, and not just show up at the meeting and say, ah, it was too hard.

Commissioner Spano: I'd like to assume that you're both right.

Mike Johnson: Yeah, cause there's no point in, no, you're absolutely right, and that's what I would like. Because when you're saying I'm not coming up with solutions, I've pointed out issues that we've come up with, with regard to the contract. They don't seem to be real to you.

Commissioner Kellner: It would have been a lot better Michael, if when you hit that barrier, you sent an e-mail and say, "You know, we've got this problem, do you have any ideas on how to work around it?"

Mike Johnson: That's what we're doing now. We're coming up with workarounds, but obviously for you, they're not good enough, why, cause I didn't talk to you first.

Commissioner Spano: But we have an agreement on putting this group together to try to solve this problem.

Commissioner Kosinski: I guess, I don't think that we need a group personally, I think there are options here like getting another process server, I think there are things in place right now, I don't know what we need a group to do exactly, but I'm not against a group, but I'm just saying there are solutions available. I mean the reality is here, this is Michael's obligation. Now it's been removed from us, we no longer really have it, we are just asking questions, we no longer have any control over this other than to ask questions and make suggestions. And that's too bad, I think, but that's the way it is. So, really, it's up to Mike Johnson to decide how he's going to handle it, what he's going to do. Am I frustrated with where we are today, absolutely. Do I think there's solutions? Absolutely. Does Michael want to take them on? I don't know. We'll find out. Do we want to have a group talk to him again, I don't know. I know that the Executive Directors have talked to him as well, cause I raised it with them offline. I know it's come up and that's great, and I think that's terrific.

Kristen Zebrowski Stavisky: We do have a procurement, regular session with the Office of General Services and we can certainly explore with them a process server options.

Commissioner Kosinski: Is that something you would be open to, Mike?

Mike Johnson: Absolutely, because like I said previously, she became aware of it, Ray became aware of it last week, I became of it. We find out these problems as we start this process. This contract, like I said, was in place well before I got here to do this job. The shortcomings that we're finding out now, I didn't know about. It's as simple as that. I mean, so the extent that this contract was used previously, I don't know, I mean these shortcomings that we're facing in this contract now. You commissioners were here when the contract was signed. I'm sure you weren't aware of the shortcomings. How could you?

Commissioner Kosinski: Well, I wasn't here, and I don't think Commissioner Casale was either.

Mike Johnson: That's not my point.

Commissioner Kosinski: My point is the...

Commissioner Kellner: When it came up, I said to Bill McCann, change the service provision in the order to show cause that you submit to the court. And he did, and the court agreed to service by mail, and that was fine. Problem solved.

Commissioner Kosinski: Well, there's another suggestion then, maybe the courts are willing to take a different service provision which courts do, in their show cause that doesn't require personal service, that doesn't require a process server, it has a mail and mail or whatever you're doing to try to address this problem, but I think there are solutions. I'm assuming there are solutions that don't necessitate a new contract, it may have a different option to it. I'm just frustrated to see that we're only pursuing 25 that really concerned me, no question, because it really went to the selective enforcement problem I've been raising for some time, and I think when you pick out 25 out of 1,600 it just smacks of, how'd we get 25 here?

Commissioner Kellner: And no plan to get to 1,600, no plan.

Commissioner Kosinski: So that's a concern to me yes. So, I want everybody, I'm with Commissioner Kellner, I want everybody pursued. How many years, when did Risa come in 2015, we haven't had anybody pursued now for eight years, nobody, eight years of this has gone on. It's unbelievable to me, and yet that's the situation we're in. Now, we're finally talking about it seriously, and that's great, but we need to move on it, because for eight years people have gotten away with it, and this is wrong, and it needs to be changed, and it needs to be changed ASAP.

Mike Johnson: When we ran our selections, you're saying 1,600. When we pulled the nonfilers it was whatever that number was. What I'm hoping now is we can work with the court system so we can enter all this stuff in in bulk. Right now, today, we don't have the ability to do that.

Commissioner Kellner: Right, but if you can only enter 50, and I know you can enter 50 because in my firm, we just did it a week ago, then do 50 for each order to show cause.

Mike Johnson: Well, now that we've heard from the process server, they've completed that first 25, next week we begin more, as simple as that. You're making it sound as though I just picked 25 and we're stopping. That's not the case. So, I don't know what you hear, I know what I...

Commissioner Kosinski: All I know is what I've got, and I got the 25 from you a couple of weeks ago and it was told to me these are who we're going to pursue, this is it, that's all I know. And I've seen nothing since, so that's all I know. I've seen nothing in the last couple, when did you send it to me, three weeks ago, this list of 25, and I've seen nothing since, that's all I know.

Mike Johnson: And now that we know where the process servers are and like I said, we just found out they completed their service, so now we can move forward to do more, as simple as that.

Commissioner Kosinski: Well, I will say to you Michael, 25 at a clip it's going to take a long time.

Mike Johnson: And that's what I...

Commissioner Kosinski: to do 1,600 files.

Commissioner Spano: Wait, wait, I'm not defending him, but here's what I heard, here's what I heard. I heard that he's got a number of problems that he perceives. That he presented them to us, okay. You have offered solutions to this, if he could work this thing out with the court, you can do this in one shot, exactly.

Commissioner Spano: In order to do that, you have to have your people trained or have this discussion with the courts.

Mike Johnson: I need to, number one, to have my IT person figure out what does this need. He figures out what we need, then we talk to the court. This should be a real short quick...

Commissioner Spano: then when you get that information you can do the thousand at one time.

Mike Johnson: Then we can do the bulk download to the courts.

Commissioner Spano: And then you have the process problem after that?

Mike Johnson: Once we get them filed with the court, then we can deal with that, that's only secondary. Maybe the process servers, Commissioner Casale says throughout the Sheriff's office, that's another one, that's something we had also thought about. So, there are other things...

Commissioner Spano: Can you do both of them simultaneously?

Mike Johnson: Once we begin working with the courts, what we can also do is, I will reach out to certain contacts I have with the different sheriff departments and say, "Hey, how can we engage your civil division in order to do service for us? What's that cost?" If that's something they're willing to do, okay, fine. If that's something they're not willing to do, then we'll have to look at another option. As simple as that.

Commissioner Spano: Can you when you have your discussions with budget or whatever you talk about, talk about this too? Can you bring everything back to the next meeting?

Mike Johnson: I can certainly tell you where we are at the next meeting.

Commissioner Kosinski: I believe Mr. Johnson has the message; we can move on.

Mike Johnson: I had the message a long time ago, which is why I'm taking the steps that some people understand and others don't, and I can't do anything about that.

Commissioner Spano: Michael, what happens last...

Mike Johnson: I know.

Commissioner Kellner: Anything else? Alright, then we'll move to Public Information, Kathleen McGrath, and Jennifer Wilson.

Kathleen McGrath: Good afternoon, Commissioners. Starting off with our general public information functions, you may recall on the same date of our last board meeting we launched our new FOIL platform, GovQA. It's been a great centralized platform that has been very easy to use, it streamlines the process amazingly. In September, we received and completed 94 FOIL requests, in October 152, in November 133, completed all but one of them so far, and in December through this morning we've received 28 and 20 of those are already completed, so as total from the previous board meeting receiving 407 FOIL requests, completing the work on 398 of them.

In terms of the State Board website, since the previous board meeting, we've published a number of updates to the site including the June primary certification, voter registration deadlines and early voting information prior to the general. We had our updated November 1st enrollment data. 2024 Presidential primary documents, updated compliance training schedules, updated board meeting information and documents for today. We have worked with IT staff to ensure that election night reporting site was deployed properly, and voter look up was updated to person in point earlier with Oneida County having the poll site change. We worked with IT to make sure that that was redirected properly through voter look up.

And as I mentioned a few times, we're working on a website refresh. We continue to work with ITS on that every day. It is a major overhaul of the website focused on the user experience and ease of information access. We continue to demo the new website for unit heads, and make updates as needed, and we remain on track for a launch in January 2024.

In addition to the main website, PIO has been working with IT in terms of design and testing to move the 1-800 for vote and NVRA oracle applications into their new application, and the NVRA application just launched this morning. PIO has also been involved in the work with Civera which will be our new election results application on the new site.

In terms of staff updates in the unit, since our last meeting, we have backfilled two vacancies within PIO. We welcome Dawn Metzler as our new Special Projects Coordinator, and she wins the trophy as the NYESS Voter guru in our unit. She comes to us from the Greene County Board of Elections. We also welcome Dan Toomey as our new NVRA coordinator. He has been at the board for a number of years but previously in Election Operations. Both are doing a great job, and PIO is now fully staffed.

Now with Dawn starting too, we've had a lot of county board outreach prior to election day. We worked with the county boards to ensure early voting locations, and election day poll plates were properly updated. We collected early voting tryout numbers from them throughout the period, and since election day, we've continued to work with them to gather results and absentee and affidavits.

Visits to county boards in person visits will resume soon. And in terms of NVRA with Dan coming onboard, since our last meeting, staff as conducted a NVRA agency training for the State's Department of State starting that transition from Mike Moschetti to Dan Toomey and more agency trainings will be scheduled soon.

In terms of ballot propositions, the statewide ballot props, we did work with the New York Press Service to get the two statement ballot props in newspapers throughout the state prior to election day as required. And in terms of annual reports, I am pleased to announce to you today that after a bit of a delay, the 2020 annual report has been finalized and is posted to the State Boards website and I believe the four of you have copies in hand right now. The 2021 annual report is almost done too and should be going up soon. Despite delays prior to my tenure, we are working to get those finalized and posted.

In terms of public outreach, under traditional media, we issued no press releases since the last board meeting. However, we did amplify the Oneida Board Press Release on Election Day. Immediately following the last board meeting, we responded to continued inquiries about the impersonation of county board officials, press release that we had done just prior including doing media interviews, and we continue to get inquiries and response about combating that spread of misinformation that I'll talk about in just a moment as well. The other inquiries we received from the media since last board meeting, are endless in terms of a wide variety of issues including voter registration, poll workers, party enrollment figures, candidates, early voting turnout, ballot propositions, absentee, election results, campaign finance, special election procedures, early mailing voting that goes into effect in January, and next year's presidential primary ballot access. Additionally, we have received media inquiries about election offices in other states that have received suspicious mail including some that contains Fentanyl. We have fortunately not received any in the state, but we have enacted an enhanced mail security procedures and practices in the office as a safeguard against that.

As for social media, I mentioned last board meeting that we initiated our Fun Fact Friday series. That is continuing on. It's an opportunity to share important factual, little factoids to our followers with the hopes of dispelling the disinformation that's out there. Topics covered since our last meeting include preregistration and registration, changing and updating your voter record, accessible absentee voting, military and overseas voting, and the importance of local election years. We have accounts on three different social media platforms: X or twitter, Facebook, and Instagram. Since our last board meeting, we've published 20 original posts to all of those. We've also shared three on X. In addition to our Fun Fact Fridays, these are posted about National Voter Registration date, that was in September, important deadlines for voter registration and absentee ballots and information about early voting election date and returning

absentee ballots. On Twitter, our follower count has remained steady since the last board meeting, on Facebook, we've actually increased 243 followers since the last board meeting, putting up over 4,000 followers, and we do regularly see county boards and other election related groups sharing our content. So, actually since the last board meeting, we've had almost 53,000 impressions on Facebook where our content is being disseminated. Instagram, we've added 47 follows since the last board meeting, and that content is directly copied from Facebook.

In October, we drafted and adopted a social media policy for the State Board, clarifying account access, safeguards for security, and standards for content of anything that we're putting out from the board. And we've communicated to the county boards that policy and recommended that they adopt the same or similar. We also are about to embark on what we're calling Trusted Info 2024, a campaign that was launched by the National Association of Secretaries of State. We plan to launch the social media campaign, piggybacking off that, where we work to dispel mis and disinformation while simultaneously providing factual info to New Yorkers. We actually have a series coming up shortly called 10 Days of Election Security, and with each day will provide a fact of how lists are maintained, and elections are safe and secure in this state. In terms of our blast e-mail service, we actually, our contact list for folks signing up for our e-mail have grown over 109% since our last board meeting, and we sent out four blast e-mails since then; one about National Voter Registration Day, general election reminders, early voting information, and announcement of today's board meeting.

The last thing I want to cover in my section before handing it over to Jen, is actually about mis and disinformation in New York Citizen's Audit, and this has been a priority of mine since coming into the role. You may recall from the last Board Meeting, New York Citizen's Audit released its report regarding the 2022 general election just before last board meeting, and we discussed at the time that we were drafting our response to that. We did issue that response sending it to the county boards, combating some of their claims in October. Kristen had sent an original response to their previous report in April. And then, as was recommended at last board meeting, we issued a letter to seven state level associations last month and provided them with copies of the two earlier letters to the county boards, provided them a copy of a Politifact investigation, that's the fact checking website, which ruled that one of their central claims is false. And we encouraged these associations to share information with their members.

This group continues to travel the state to present to local elected officials and encourage them to sign a resolution demanding an outside group conduct a full audit of the 2022 elections. Unfortunately, some have signed onto this resolution after only being presented with the group's claims, which on their own are attention-grabbing and salacious. However, their claims are woefully inaccurate, and I want to state that today as they present the same story across the states. As an example, one volunteer told the same story in multiple counties about appearing in the NYESS Voter Database four times, and it's simply not true. The group does not seem to understand how voter registration works in this state, and how records are updated. As far as we know, Citizens Audit has no one on the team that has ever worked in NYESS Voter on state or county level, it is an intricate database, with constantly moving parts, and involves a human process. It is presumptuous to believe that someone without experience in the database could

fully analyze this content. Additionally, as they presented across the state, I've noticed their groups' rhetoric is getting more and more troubling. They're using terms like "coming after us," they're calling folks that certify elections "criminals" and "treasonous". So, I take this very seriously. I think it's important to note that the work of county boards echoing what was said earlier, what they do every day is tireless and underappreciated, and any claims about manipulation or conspiracy or fraud are not only false, but they're disheartening, they're frustrating, they're dangerous, and they're nauseating. And so, this will be a top priority of mine as we enter 2024, we have four elections so far between special, primary, June and November. And it's important that voters in New York understand true information from real election officials, rather than a fringe group. And that's my report. Oh, I have to pass it over to Jen for grants updates.

Commissioner Kosinski: So, let's just talk a little bit. So, the name of this group is what again?

Kathleen McGrath: New York Citizens Audit.

Commissioner Kosinski: Okay. So, they're still meeting local like county legislators, town boards and they're convincing some. So, have you ever met with this group?

Kathleen McGrath: No.

Commissioner Kosinski: Have they ever asked to meet with us to discuss their concerns?

Kathleen McGrath: Not to my knowledge.

Commissioner Kosinski: Do you think it would be productive for us to do that to try to discuss with them their concerns and our response?

Kathleen McGrath: I'd be willing to address any concerns that are grounded in reality. So much of what they put out there is...

Commissioner Kosinski: But would it be worthwhile to discuss with them, if our opinion is its not grounded in reality, why we think it's not grounded in reality. I mean to try to, instead of addressing this through the boards they're meeting with, why don't we try to address it with the group that's meeting. Why don't we just sit down with them and say, "What you're saying is wrong and here's why" rather than trying to convince every county legislature in this state these people don't know what they're talking about. Here's the facts. Why don't we just try to meet with them directly?

Raymond Riley: So, we've issued a number of reports that they've obviously picked up on, which have addressed many of their concerns on a case by case basis, and their response to that have generally been to not either acknowledge what we're saying, or to say that what we're saying is not accurate or in some cases to say that there is a higher power at work that's even above us, that's playing with the database and making changes, and all sort of algorithms that we

may or may not be aware of. I believe that the job of this agency is to put forth truthful information. I think that trying to engage with people who are misinformed but, in many cases, may be willfully misconstruing the truth for their own gain. I don't think it does anything but give them a further platform to say, "We met with the State Board, and we told them everything." That being said, I'm open to a discussion about it, but we've responded with specific examples, we published those specific examples saying this is where we got it wrong, and we haven't seen any indication that says, okay they acknowledge that we published it and okay we'll go ahead and pull this claim down now. The rhetoric has increased based on our attempts to address the facts of the claim and have not decreased. Again, I just want to echo some of the claims about treasonous and coming after members of the staff, it's dangerous and inappropriate, and it does nothing but undermine the election process.

Kristen Zebrowski Stavisky: I would just add also that some of the local commissioners have attempted to engage, and it does not end well.

Commissioner Spano: I was going to say, the fact that they haven't asked for a meeting is a good indication.

Kathleen McGrath: Well, to raise a point too, I'm happy to sit down and have a conversation about facts with anyone who's interested in learning the truth. I think the problem with some of these folks, I don't want to paint too broad of a brush, but the ones that are going around the state, they don't seem to want to know the truth. They are convinced what they know is the truth, and we're covering it up.

Raymond Riley: I think on numerous occasions there have been data that they claim, and there is a public pull for them to publicly release their data, so it could be independently looked at to see how they drew their conclusions. And in a recent presentation in a county, they essentially said there would be no reason for us to do that, our data is not manipulated, it's all fine. But they still haven't released it. So, our data is public. We release it in FOIL request for anybody that asks for it on a day-to-day basis they are public, and we provide information. So, if there are allegations that are being made, people making the allegations should provide the work that's being done to provide those claims and not just make the claims without supporting data. If supporting data was provided, everybody at this table would be willing and eager to do an analysis of that.

Commissioner Kosinski: So, what's the motive here?

Kathleen McGrath: I think, I mean I'm not inside their head, but I would think that they have a vested interest in reducing trust in elections.

Commissioner Kosinski: To what end?

Brian Quail: Well, I mean based on what they actually say, they believe that there is a conspiracy, a grand conspiracy, using things called "algorithms" to manipulate voter rolls, and to have essentially phantom voters' vote. They've ignored the fact that the voter registration System

and Election machines do not talk to each other. And largely this is driven by a desire to essentially assert a thesis that it is impossible that people have actually voted the way they have voted, and so therefore there are powerful forces at work in our society that are manipulating election results. These people are fringe crazy.

Commissioner Kosinski: The claims that I've read are they believe more people voted in the last election than are registered to vote in the State of New York. That was one of the assertions I saw which they just serve a statistical analysis that we had I guess 22 million people vote and there's only 18 million people registered, that's not the number. But there's this assertion that more voted than actually were registered.

Kathleen McGrath: And we are doing that to somehow affect election results. But it's because they just in general, not to go into the weeds too much, I don't believe they understand how purged voter records work, and that the history...

Commissioner Kosinski: So, you're saying it's a lack of understanding or a willful misrepresentation?

Kathleen McGrath: I would say yes to both of those.

Raymond Riley: They claim that there were more votes in 2022 than registered voters in the State of New York is dispelled with a simple use of Google in about a minute and a half, right? I mean that is not hard data to find, turn out numbers are published, and number of registered voters are active on our website. That is easy information to find. So, making a claim like that...

Commissioner Kosinski: But you're saying they're getting traction in some of the local elected officials to actually sign onto their assertions. So, it's concerning that I mean, you're representing them to be fringe and have no basis in fact, and yet apparently some local elected officials are accepting what they're presenting to them as fact and believing them. So, I'm trying to understand how we can counteract that?

Kathleen McGrath: That's our frustration.

Raymond Riley: I think to add to that, I think...

Commissioner Spano: local officials?

Raymond Riley: I apologize, Commissioner, I think part of the reason, we got a letter to the state associations about a week ago...

Kathleen McGrath: the 28th of November.

Raymond Riley: So, I think the objectives to try to combat a lot of that, was the letter to the local associations to use that as an avenue you were requesting with, I think it was Commissioner Casale's suggestion at the last meeting, to get out ahead of the organizations. If you

present information to a group, and they only have one side of the information, it will eventually cause more compelling...

Commissioner Kosinski: I mean, so you're saying when the locals hear this, they don't go to their county board of elections and say, "Hey we had a group in today that just said, a, b, c, is there any validity to this," and they allow their county board of elections actually before, but they don't do this?

Raymond Riley: I would say my understanding is that those that have voted to adopt the resolution have not necessarily had an opportunity to combat the information, and they've acted at that individual meeting, which is part of the reason why we sent the letter to the State Associations to say, "You may hear from this group, here's our position ahead of time, if you have questions, if they come, if you want to get, you can feel free to reach out to us or your local county board and we're happy to have conversations."

Commissioner Kosinski: So, do you have a document or something that shows you the list of issues that are being raised at each one of these local meetings, and it's like three issues or five issues, do you know the...

Kathleen McGrath: yeah, they say the 2020 general election report, and the 2022 general election, and that they really do somewhat present identical presentations. I've watched countless of the Youtube videos.

Commissioner Kosinski: So, beyond the fact that they're asserting more people voted than are registered, what other facts are they...

Kathleen McGrath: There is a volunteer that claims she's in NYSVoter four times and again, in about four seconds, I was able to see that that's not true looking at.

Commissioner Kosinski: That's two claims, what else do they say?

Kathleen McGrath: There's folks that talk about the algorithms, and it's very almost science fiction-y of what they're getting at. And it's almost like, I would imply trying to talk higher than someone's understanding so it sounds intimidating. The resolution in itself is calling for a full outside audit of a general election. That census on its own isn't that bad. Oh, yeah, we can support that, anyone can get by on that. But the grounds for which they are basing that resolution on is there's...

Kristen Zebrowski Stavisky: they're also asserting that certain voters are the same person, they don't have the same name, they don't have the same middle initial. They are common last names.

Commissioner Kosinski: So, they have specific examples of voters they think?

Raymond Riley: In certain counties, they have provided certain specific examples.

Commissioner Kosinski: From that county.

Raymond Riley: From that county, and in some cases that information has been trickled up to us as false and it is our cursory overview of that, they claim that voters were the same person. Some of the voters were the same person. None of the voters lived in the same county. It was just they're claiming that because someone has a similar name and a date of birth, that they must be the same person. One of their other central claims we had talked about in the letter, was dates of birth and a simple misunderstanding of how registration of voters progressed in this state from the 70s on up, where once upon a time, all you had to do was confirm that you were over the age of 18, and many voters when they filled out those registration forms would just put 18+. They would just put 21+, they wouldn't list out their birthdate because certain people were uncomfortable sharing their exact age on the form. And when the counties transferred over to a voter registration database, right and they were registering those people by law which they had to, they would use a dummy date as a date of birth, because the system was requiring it, but the voter wasn't required to provide that date of birth when they registered at the time. And so again, just in a not complete understanding of how elections have come to be in the State of New York, and how registration systems have come to be in the State of New York, and using that, well this looks scary, right. This looks like it can't be, and then turning that into that there's something terrible going on behind the scenes.

Kristen Zebrowski Stavisky: Another example is if someone was registered on a state holiday, they may have preregistered on their birthday, so it turns over on the date of their registration. There's not someone sitting in an office, alone, manipulating the voter registration.

Raymond Riley: And again, these are some of the ones that we've been able to address because they're high-level claims, they're making a lot of specific claims about voter rolls and all these things, but we haven't, it's very difficult to engage in a conversation combating information that they're providing, when they haven't provided the backup data that they've drawn their conclusions from.

Commissioner Casale: We've spent a lot of time on this, and the more time we give to it, the more they will claim credibility, because we're concerned. Do we should just dismiss it as out of hand is what it is.

Commissioner Kellner: I think the letters that they wrote that Ray and Kristen wrote last week, were very good.

Commissioner Casale: Excellent.

Commissioner Kellner: They addressed the issues, they did not exaggerate, they did not pretend that we're flawless, but they laid it out very well, and I think that that's what we should continue to do. And I agree, that if there is an appropriate time to engage, we should not, I think it's a bad public policy to freeze out somebody just because they're fringe. I mean, we've had to work with lots of fringe people over the years.

Commissioner Spano: If they want to ask for a meeting, have the meeting.

Ray Riley: Meetings are public.

Commissioner Spano: If they're not asking for the meetings, don't give them the credibility of bringing them in.

Commissioner Kellner: I agree. I agree with that.

Commissioner Spano: Look, they've done psychological studies on all these groups right now, okay. You got a number of different types of people. Number 1, you're got the committee. There are people there that actually believe this stuff. Okay, you're not going to convince them of anything. I don't care how many facts you give them or whatever, they're out of it. Then you have the ones that are purposely causing a problem, they're out of it because you're not going to get to them either. So, you're left with this other group. And I don't think taking the passion of that group, and the reason that group exists, to disrupt basically, with the two groups that I'm talking about, that any kind of logic, is going to affect their situation, and they're going to continue this, because they want to escalate this as much as possible. When I made the comment about the local offices, I certainly didn't mean every local official. But there are wackos and weirdos everywhere, even in that process, and we never elevate an issue like this. What we do, is just what we're doing now, send out a letter, you don't have to get more political than this in terms of how you present what our position is.

Commissioner Kellner: But with local officials and with the press, we should be engaging, right?

Commissioner Spano: You should be having a press conference on this. This is a big issue, it's not a small issue.

Kathleen McGrath: I would say it's a fine line, it's a balancing act of trying to combat the information without giving them more oxygen than they deserve, and that's what I'm striving to straddle every day.

Commissioner Spano: They don't care.

Kristen Zebrowski Stavisky: And they don't have that conversation with local electives.

Commissioner Kosinski: Let me ask you a question, for example would it be worthwhile for us to meet with the association of counties, when they have their annual meeting up here, and make a presentation and say, "Hey guys, if you're meeting with these people on this issue, then we want to present our side of the story before you just continue down this road." I think a little outreach like that would be helpful.

Commissioner Spano: I wouldn't even suggest our side of the story, they don't have a side. I would like to present the real issue based on what we've heard.

Jennifer Wilson: For the record, this group has claimed that they have asked for a meeting with us, I have never seen a letter, an e-mail, they come to visit us to drop things off, but never has there been an actual request for a meeting. So, money. On our grants, we do have a number of grants that are going to be expiring at the end of this year, all of our three early voting grants, our E-poll books, early voting expansion, early voting aid to localities, will all expire on January 28th. We have very small amounts of money, and they are all under a million dollars, in fact some under \$500,000. And then for our cybersecurity remediation grant, that would be expiring December 31st. We do have some money left in there, originally \$9 million now \$3.1 million. This is specifically for remediation of different sort of security aspects of elections, and we are working with the Secure Election Center to make sure that all those funds are going to be spent down, early voting to counties to make sure that no money is going to be left behind on the table. They do have some time even after the deadline to spend if they submit their claims, they get 90 more days, so they do have time to submit, they just got to send them now.

On our federal grants, we're continuing to administer our federal grants. We have reports due at the end of this month for our HAVA Shoebox, HAVA poll site improvement, and our HAVA cybersecurity, so we'll have more information on that for our next meeting. Commissioner Kellner actually made us aware that the EAC has some new funding of the Help America Vote College Program Poll worker Grant and the Service Day Mini Grants. There is a million dollars in total available. These are very specific in terms of poll worker recruitment and for students in college recruitment, so we did share that with the counties, and invite them to apply to those and support them in writing those applications. The Service Day Mini Grant could be something that the state may want to look into. We're still considering, there is up to \$10,000 to support for grantees for specific days of action for co-worker recruitment day and Help America Vote Day. Right now, the work that we do on outreach on that is free, which we like, but if we can find something that we can spend that money on whether its Google ads, or ads on Facebook, then we will certainly apply for that. The deadline to apply is not until December 18th, so we're still just mowing over whether or not we think that that funding would be useful for the State Board.

And that's all I have on grants, actually. Just one more thing, on the Tier Grant, our technology grant for supporting equipment that did come earlier, we did have \$35 million, we have spent that down quite a bit. We have \$14.7 million left. So, there is still some money on the table with that grant.

Commissioner Kellner: Alright, good. With the website, one good thing is that I see, that already you've got the special election calendar up there, and I've been bugging Kristen for a week about the political calendar, and finally got it today, I hope you're going to be posting the political calendar.

Kathleen McGrath: Everything that's going on the current website is being migrated to the new one to make sure everything's mirrored, but it'll be on the current website, if it's not already up yet, probably in a day.

Commissioner Kellner: That would be great. And then there's a couple of things on the home page, and it's the home page that I'm concerned about, on the current web page, that I think you've got a lot of legacy stuff that stays on the home page. So, for example, all the old 2023 election stuff, is it really relevant to somebody who's logging in now, and I'm not saying that it shouldn't be somewhere on the website, but should it be in the upper right-hand box, which is where your eye is first drawn to attention? And should the Use of Force Policy be on the homepage still?

Brian Quail: It's required to be there by law.

Commissioner Kellner: On the homepage?

Brian Quail: I believe so, yes, specifically. I'll double check.

Commissioner Kellner: I don't see it on other agency's homepages.

Brendan Lovullo: We could be doing something right. (All laughing).

Commissioner Kellner: That's a great response if that's the case.

Kathleen McGrath: But the point taken, and I think you're really going to like the new website.

Commissioner Kellner: Alright, and Brendan and I do appreciate that comment. Alright, so Michael Haber.

Michael Haber: Well, nothing nearly as exciting as PIO, with whom we do work very closely on keeping the website up to date, if we need to do so, and so, I will just jump to that portion. Before we've talked about the website refresh, but working closely between our units and with others, the refresh does continue to go well, data migration is already discussed and also gone very well. We participated in demos of the site earlier this week. And also, this week we did take part in a demo on the improvements of historical results, that were also referenced in the PIO report. We anticipate both being on track to be rolled out in January of 2024. As a note I did confirm with my staff during this meeting that if desired, we can certainly easily add the operations spreadsheet to the website if that is a desire to do so, but that should be fairly easy to do.

Commissioner Kellner: Well, I'm in favor of it. I don't know if anybody's opposed to it. But I think on the voting machine page, there's a lot of old information that may not be so useful, but very useful would be the current use of voting equipment by each county. And I think I sent about two months ago a model of the North Carolina page, which I think was a pretty good model, I would say.

Michael Haber: We can certainly look at that and as I said, getting the spreadsheet out there in some obviously accessible format, should not be a problem.

Commissioner Kellner: Great, thank you.

Michael Haber: Alright, what else do we have? Well, as always IT has been really involved in supporting all of the units in their operations here. A lot of what we do has already been referenced, so I won't belabor points. I will say that the online voter registration phase 2 is indeed under development, we had a discussion earlier this week on exactly which additional functionality would be added first. For the Automatic Voter Registration project, we've been engaging very closely with the New York State Office of ITS for the development and deployment, including our infrastructure team working closely with our counterparts over there and with our partners at Microsoft, in terms of developing the environment for that project.

As state's expansion has continued, we've been heavily involved in the IT unit and relocating personnel between floors and different locations, moving equipment, confirming our network status for new spaces, such as the newly identified floor. And of course, as the staff has grown, our team's been kept pretty busy supporting onboarding of new personnel, and also deploying new laptops and related peripheral equipment to SBOE staff.

We have also begun, in regard to the early mail voting legislation, in preparation to be on time for that should deployment be needed, we have begun creation of the request portal and tracking sites. We anticipate a very on time and smooth roll out there. There was also reference to the fact that we are updating some of our last remaining legacy applications on our old Oracle system, including the 1-800-For-Vote and the NVRA tracking and reporting. Those apps are being moved off so that we can retire some otherwise unneeded, unused data.

And we have been for the PCFB agency modernization software, as mentioned the contract makes its way through the necessary approvals, in preparation for that, we've been pursuing some relevant technical training for IT staff in expectation for supporting that development and maintenance of the new system and are also building out our technical team accordingly. And prior to that implementation, of course, our development team continues to enhance existing CAPAS-FIDAS systems to perform the functionality needed in the interim.

Turning to Cybersecurity, the Secure Election Center had a successful election period, coordinating with our federal, state, and county partners to respond to potential concerns, some of which were discussed earlier. We conducted an initial Lessons Learned session, and are working with partners to conduct an exercise across partners at the Executive level in preparation for the 2024 election. Our Secure Election Center is also currently working with our partners at NYSTEK to conduct our first cybersecurity reassessments, were finalized for county board elections. We're finalizing the review of the initial counties, and actively working with others to validate their compliance with the cyber security regulation. We're given a report on being in compliance with that regulation every year. This was us going around and actually validating that report.

We are approaching the end of the state board's mandatory annual Cybersecurity Awareness Training for county boards and state board staff. It's a very comprehensive training covering a range of topics. State and county board staff are expected to complete it by December 31st.

And we have also renewed the cybersecurity monitoring services that we provide for county boards so we will be providing that for the upcoming additional year as well.

I do have some analytics from usage of the website for September, October, and November. Without reading off all of it, it is, of course, interesting to note that as expected the number of users increase significantly as we get closer to the election. In fact, it appears that the number of users visiting the website more than doubled from month upon month from September to October, and then again to November. Popular pages were registering to vote including the Online Voter Registration system, Absentee voting, statewide ballot proposals, and then in November, the 2023 election results. And that concludes my report.

Commissioner Kellner: Thank you, Michael.

Commissioner Spano: I have a question. Do you support, does your unit support people working virtually?

Michael Haber: Yes. Yes, we do.

Commissioner Spano: How many people?

Michael Haber: Throughout the agency, I would say that there are, I don't have exact numbers. I will say that most staff certainly have the capability, most of them have the capability to work virtually, there are some units that as we have become strict in space, in particular, some units have gone to a hybrid model for people working from home part of the time and in the office part of the time, that includes the IT unit as well, I would say for our staff, almost all are on a hybrid model, in terms of being in the office some days and working from home other days with the exception of a few folks.

Commissioner Spano: Did your unit get involved in it?

Michael Haber: What's that?

Commissioner Spano: Does your unit get involved in this?

Kathleen McGrath? My unit? We have mostly full-time in office staff.

Commissioner Spano: But you don't interact with these other people that are doing things virtually at all?

Kathleen McGrath: We interact with everyone through WebEx's and teams and stuff, whether someone's home or in the office, we're in constant communication.

Commissioner Spano: Is there a thought of increasing people who do this?

Michael Haber: I'll say that, again, relative to the build out, that has been happening, we have some additional units have implemented hybrid models for some staff where the functions of the staff allow for it. I think that is more a response to being constricted on space, while the build out is happening, rather than a strong desire to do so.

Commissioner Spano: I just wanted to ask, I think because in corporations that are dealing with this, the hybrid model seems to be more prevalent now and coming through. But the space requirements and the virtual use are hand in hand, and they develop the space requirements based on the anticipation of how many people are going to be doing things virtually.

Raymond Riley: If I can, the agency is an in-person agency because we do the work of elections and for the most part, we need to be here when we do that. So, our space requirements have been built out to expect 100% attendance in the office in order to function. We have moved to a hybrid model in some cases, but that has been almost exclusively triggered by the space constraints due to construction. The belief is for us to move those staff that are currently on Hybrid models back to in person once we have the necessary space to accommodate. But we talk about PCFB, Compliance somewhere on the hybrid model, those staffers being in the office, being near telephones for people that are going to be calling, being able to collaborate, especially when it comes to the bipartisan nature of the board of elections, I think it's important.

Commissioner Spano: I get that. But that is the argument everyone makes in every organization. So, all I'm saying is, I think you should constantly keep this in the back of your head, evaluate your position on an ongoing basis, because things are changing.

Kristen Zebrowski Stavisky: We did, Commissioner, and actually prior to the pandemic and the space constraints, we had no ability to work remotely here. So, we do have the ability as Kathleen said, if I have to work remote one day, I can be involved in all the meetings and seamlessly work with the staff. But there is something to be said especially with the PCFB payments to having people working together, and also the ability to do a bipartisan check, and to answer the phones, and also just the infractions we have that we're casually discussing as things that come up. But I take your point.

Commissioner Spano: Yeah, my job is not to run the office. I'm just going to ask a question: one other thing for both of you, why are we still in this antiquated look on the screen? Why when someone talks, don't they have a camera that goes to the person who talks. So, on the screen, you actually see it. Outside of here, you're looking at this, it's really tough to tell who's talking.

Commissioner Kellner: That's right.

Commissioner Spano: And it just...

Commissioner Kellner: Can't we go back to the old way? With the three cameras?

Jennifer Wilson: They don't do that anymore, unfortunately. They don't offer it anymore.

Commissioner Spano: Don't they have a voice operated...

Tom Connolly: Well, there are for example, locations in this building that we've used that are not our agency locations, that have different AV systems that have cameras that will track the speaker, obviously being around a table with this many people I don't know how smart that system can be to get to the exact person.

Commissioner Kellner: But we used to have three cameras...

Tom Connolly: we used to have three cameras and we would have somebody sitting outside the room who would actually do the cut to camera one, cut to camera two based on the speaker.

Commissioner Spano: That's antiquated too.

Commissioner Kellner: Can't we... Well, maybe get somebody, and this would be PIO, right? Get a staffer to be trained in this, and then buy the equipment for it, and do it in house.

Kathleen McGrath: That's something we can discuss.

Kristen Zebrowski Stavisky: We're also doing construction, and we will be transferring. Maybe we will look at equipment that would be more...

Tom Connolly: right, and one of the things to think about also, like it was mentioned earlier in the meeting, we do have the poll worker training institute that we're standing up. There was also a bill that did not pass both houses, but that's been kind of floated for the past couple of years, about training county commissioners by the State Board and so, we've certainly had conversations as far as agency needs. You can't just hire someone to do video work for the one day a month that we might be having Commissioner's meeting. So, trying to figure out between graphic design or training, where video or AV stuff might come into play, can we try to create a spot that will serve the purposes of the agency as a whole? So when we're doing trainings, if we want to do a prerecorded training, if we want that person to be available to do video stuff during the board meetings. That's...

Commissioner Kellner: Tom, remember the evolution on ballot design. When we first said, you know we need somebody to learn about ballot design. We didn't go to hire a person to just be ballot design, we took one of your staff people and said, go to this seminar and learn about ballot design. So, the thing evolves. And my interpretation of Andy's suggestion was just is there somebody at PIO who can learn how to do video operations?

Commissioner Spano: Let me just give you an example.

Commissioner Kellner: A secretary, you know who might have fun at the different job responsibilities.

Commissioner Spano: No, I'm saying someone who is from outside looking at us right now, that's what they see. Ray made impassioned speeches, that would be much better in a focus.

Tom Connolly: Dramatic music playing behind them with the American flag (everyone laughing).

Commissioner Spano: It would be much better for the person on the other side.

Tom Connolly: We can certainly explore options whether it be through technology or through staffing.

Commissioner Spano: I'm just saying effect, we need effect.

Mike Haber: There is technology that we're aware of that certainly has this, so we need to just explore it.

Kristen Zebrowski Stavisky: Brendan is going to do it; he doesn't have enough jobs. Brendan is going to do it.

Brendan Lovullo: I'll figure something out. We'll look into it.

Commissioner Spano: We'll deal with the holograms later (Everyone laughing). There is some relevance here I think in terms of the personal activities.

Commissioner Kellner: Okay, so next is we have no old, thank you Michael, business for discussion. We have no old business. The first thing on the new business is resolution 23-29 on the Training Institute, go ahead please.

Aaron Suggs: I can speak to that. So, we have some regulations here, that have come up already, Chapter that goes into effect March of next year. So, we have some regulations to build up the train a trainer program, which would provide the Security Institute here at the State Board to train certified poll workers, inspectors who would then train poll workers in the counties. Regulations provide for that. It requires enrollment of at least two people from each county board as the curriculum requirements continuing education requirements, allows for sharing between the boards of these certified coworkers and provides for a timeline to implement this into.

Commissioner Kosinski: When you say there's two people from each board, that's one from each party, that the requirement?

Aaron Suggs: Yes.

Commissioner Casale: I think we should move it.

Commissioner Kosinski: Okay, so Commissioner Casale has moved it. Is there a second. Those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kosinski: Opposed? Passed unanimously. Next is Regulation 23-30 (sound went out). Alright so resolution 23-30 to reappoint Thomas, you pronounce it “Swyers” expires as a hearing officer. So those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? Alright. Next is the determination of the Fair Campaign Code complaints submitted from Linda Hoffman, Chair of Tompkins County Democratic Committee. We were circulated this. I’ve read it.

Commissioner Kosinski: I have a question. So, the way you’re resolving this is that you’ve decided that kind of procedurally you can't move forward with it, and so you’re dismissing it. My question is, is the substance of this complaint a Fair Campaign Code violation? They’re alleging people were changing their enrollment in order to vote in a primary. I guess that’s the way I read the allegations. There was an effort to have people change their enrollment so they could vote in a primary. I don’t think the question is resolved here, is that substantively a violation, if that were true?

Commissioner Kellner: And it really comes down, doesn’t it to whether they’re subverting the part in that process? Cause obviously, the whole goal of the party is to get people to change their enrollment and join. But there is a procedure in the election law, challenging party enrollment. She didn’t follow that procedure. She came...

Commissioner Kosinski: I mean there’s for evidence, but is this a violation, that’s what I’m trying to get to. You don’t reach that issue, because part of the reason I’m ready because the

change of enrollment process has changed in the last year or two, where they moved it way back, it used to be before the last general, now it's sometime in February. So, they've moved it up. It sort of implied the intent I thought to allow people to change their enrollment to do this. I mean it was kind of what I thought the whole idea of legislation was, well you decide in January, you see this primary coming, and you want to participate, you can change. So, I'm just trying to understand, are we perceiving that as a violation?

Kevin Murphy: I am not aware of a determination of the Board that has found that way, especially since the law changed. So, I'm not sure whether the Board has formally opined on that in the form of these...

Commissioner Kosinski: No, I don't think we have. I guess I'm asking you guys who are doing the, who is it you and Brian, are you guy the Fair Campaign Code guys? It doesn't go to Michael. So, you guys apparently analyzed this, and came up with a solution, it's fine the solution, but I just want to know is this where we are now, are you going to come to us some day and say, "Well, these guys were changing enrollments to try to get into this primary and now that's a violation." I mean people should know, I guess; I would like to know. Is this a violation now, and I just think in the new world where changes of enrollment are allowed later in the year, right before primaries arguably, are we going to perceive that as a violation? People should know, and I thought this delegation gave us a chance to maybe opine on that. It seems to me maybe we should, because this is a change in law that does almost encourage, I would argue, this kind of activity.

Commissioner Spano: Yeah, but in other states we have open primaries, and you have caucuses so people can walk in and out.

Commissioner Kosinski: No, that is not an issue, but here we have a closed primary.

Commissioner Spano: No, but I'm saying perceptually it isn't...

Commissioner Kosinski: No?

Commissioner Casale: No, but in this state it's not an open Primary.

Commissioner Spano: No, but if you're legally going in and changing your registration, who cares what the motivation is?

Commissioner Kosinski: Well, that's the question. I mean there's some implication in this write up that if we could get past the procedural issues, we would find a violation of these. I'm not necessarily agreeing with that by the way.

Commissioner Spano: It's a slippery slope.

Kevin Murphy: I don't believe we have. In the absence of a complaint that we could reach that issue, I'd be happy to have that discussion. We'd have to examine whether it's appropriate to have a determination in that regard made prior to a fact pattern coming before us.

Commissioner Kosinski: We've got a fact pattern here; you would arguably do it and even though you have procedural issue attached here, but I think it's important for people to know what the rules are, that's all. I don't know if I would wait for someone to do it, shouldn't people know what the rules are on this?

Commissioner Kellner: I would suggest that we do have 130 years of experience with what I regard to be the standard on this, which is set forth in 16-110 and it says, "The Supreme Court or a justice there within the judicial district and the proceeding instituted by enrollment be cancelled if it appears from the proceedings before such chairman or subcommittee and other proofs that the person is not in sympathy with the principles of the party." And there's a case law on this. The party chair.

Commissioner Casale: In this case, did the party chair bring that action?

Commissioner Kellner: Yes, she filed it.

Commissioner Kosinski: She didn't file that action; she filed this action.

Commissioner Kellner: Exactly. She'd rather do that than coming to go to court.

Commissioner Kosinski: Well, the difference is in the court proceeding you're just prevented from doing it. In this proceeding you are assessed a penalty for having done it. We can't really prevent you from doing it, I don't think, as an agency, but we can penalize you for doing it.

Commissioner Kellner: Well, I guess my opinion, first of all I agree with how it was drafted. I think that Kevin and Brian did a good job on it. But to me, it would be a Fair Campaign Code violation if you intentionally set up a process of switching voters who were not in sympathy with the party in order to subvert the party's primary. That's the standard that I would use but that's not before us today. And it's a tough standard to meet. There've been different...

Commissioner Kosinski: cases that they've met it. I know of cases where they...

Commissioner Kellner: and I saw it as a matter of fact when I was board chair.

Commissioner Kosinski: I just felt with the change in law, which now allows later changes in enrollment, I think this issue may become more common, because I can just envision a fact pattern where this will be happening, and I'm just thinking it would be useful for us to have an opinion. This might be something to have an opinion on, to inform people of what the rules are regarding this particular kind of activity. Because again, I think the legislation was changed to encourage this, that was my sense of it, otherwise why did you move the date way back? Well,

that was to encourage people arguably, to vote in a different party's primary. So, are we still going to find that to be a violation? And I mean, I'm not saying one way or the other right now, but I think I would like to see some sort of analysis of that and come to some conclusion just to get the public so they know, and they should know what the rules are.

Commissioner Kellner: It's a problem similar to, I equate it with the problem of voters who register to vote in Brooklyn to vote in primary elections, and then immediately change their residence so they can vote in Orange County in the General Election, and kind of we evolved a policy on that, or they evolved a policy, right? A voter can do that once or twice, but they can't do it every year, right? Isn't that the policy. Didn't you run into that in Rockland County? That people would change their...

Kristen Zebrowski Stavisky: Yeah, but I don't think there was any, I think there was some legal...

Commissioner Kellner: But hasn't Orange County and Brooklyn basically, they didn't stop that practice?

Brian Quail: Commissioner, to your point, they have available to them the mechanism exactly the one that you pointed to, and there have been cases under that provision, I believe in one or both of those counties overtime. But they would be held for the burden of proof.

Commissioner Casale: In that case they changed residence, not party.

Commissioner Kellner: No, but it's the same kind of thing.

Brian Quail: And the issue there, it's a similar issue, you're right, when it's just the residence change but it's a similar issue. You have to have a bone fide residence for voting, and the issue is that in New York, you can choose among residences that are bone fide. But Commissioner Kellner is advancing the view that at some point you simply have to choose, because the bouncing back and forth piece is problematic. And I will tell you I don't know the precise time frame of where the law sits presently on that, but it is definitely a fact pattern that is vexatious.

Commissioner Spano: You're talking about if you vote in one place for the Primary, and another place in the General?

Brian Quail: Every year. Moving back and forth.

Commissioner Spano: Yeah, but that becomes pretty obviously, but if you're just registering to vote in the primary and staying there voting in the general, that's very hard to detect or even prove that there was some...

Brian Quail: And usually there isn't. if the person has two bonafide residences, and at some point or another, makes a decision to switch between the one they're currently voting from to another one, as long as they meet the caselaw threshold for having bonafide, legitimate, non-sham, connection to the residence that they're changing to, the mere change is not a problem.

Commissioner Casale: 36 people in one house is not illegal?

Tom Connolly: But there are also people on Long Island who might want to register on Long Island and address the vote in the March village election, but then change their party enrollment, because they also have an apartment in New York City, because they want to be able to vote in that general election in New York City. And they would just do everything back and forth every year.

Brian Quail: When we received questions on this in Counsel, we have advised people not to engage in that practice, that it is essentially wrong.

Commissioner Casale: When these complaints come in, do they go right to Counsel's Office?

Kevin Murphy: Yes.

Commissioner Casale: So, there's no indication of who wrote the opinions, we used to have these things signed then they come to the board or?

Commissioner Kosinski: I don't disagree with this opinion, I just think...

Commissioner Casale: here was that they changed from not enrolled to a particular party, would that change be sufficient?

Commissioner Kosinski: Yeah, that would change the analysis certainly.

Kevin Murphy: They wouldn't be changing from one party to another because they wouldn't be eligible, they wouldn't be voting from one primary to another. If they're not eligible to vote in a primary or register until after the general in the primary.

Commissioner Kosinski: Alright, well sorry, I just wanted to bring that up.

Commissioner Kellner: I think there was already a motion on this.

Brian Quail: We would need a motion, we had Commissioner Casale.

Commissioner Kellner: It was moved and seconded. So, those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed? So, it's adopted. Next is the legislative packet. Now there was one item on this that I wanted to talk about, which is 24-21. I get the point Commissioner Casale actually referred to it before, that the manual recount provision now is over, over increasing we have too many manual recounts. You may also recall that I had drafted a proposal for the legislature that had a sliding scale trigger, which I still think is the better approach. It passed the assembly, but in the final negotiations, the Senate insisted on the current version. Rolling out exclusion party positions on the manual recount, in my view, is throwing out the baby with the bathwater or basically saying, we don't care about the accuracy of counts and party positions. The point of the hand count is that in very close contests, the hand count can change the outcome of the election, and therefore, what we should be doing is defining what is a very close contest where it's worth the effort to do a hand count. A hand count in a county committee race only takes five minutes.

Raymond Riley: I respectfully disagree, because I've done a couple hundred of them, going through multiple ballots in one days' worth of ballots...

Commissioner Kellner: because of the bins, yeah.

Raymond Riley: Yeah, it's not a five-minute process, it's a couple of days.

Commissioner Kellner: Point well taken, Ray, but in my proposal, you would've only had a hand count in a typical county committee election where there are 100 votes if they were within two votes of each other.

Commissioner Casale: So, you're talking about a number of votes as opposed to percentage? Right now, the threshold's percentage, right?

Commissioner Kellner: Well, it's both, if it's within 20 votes, it basically requires a hand count for every county committee contest potentially.

Raymond Riley: I'm unfamiliar with the proposal, so I apologize. I will say that in the model in which the law came up with, a procedure that existed already in the City of New York which was prior to the legislation being enacted, and the city model had exempted delegates from hand count. I'm sure you're familiar with the reason why, is that they were originally in the proposal, and then the hand count for the delegate race, a judicial delegate race doesn't have a democratic party, took so long, that by the time they had finished the hand count, the convention was already over. So, the purpose of it was party positions intend to include delegate races and obviously we

may have some primaries for that coming up with the Presidential primary. And it includes county committees which represent 85 to 90% of them.

Commissioner Kellner: But it also includes state committee and district leaders, and in Manhattan well, in Brooklyn too now, when they have district leader contests, you can be spending \$100,000 on the Primary, and to say that you don't get a hand count for that contest, that's my concern, that this bill, that this is over broad. Do we need to have a hand count in every county committee contest, absolutely not. And by the way, you know I had a bitter argument with Senator Gianaris over changing it from my formula to his formula.

Commissioner Kosinski: Do you want to pull it?

Commissioner Kellner: Yes, and then redraft it, the way I did it or tweak mine. But you know what I really wanted was to get that report done, so that we could go back and say that the current statutory formula, you know with real evidence is way over inclusive. The underlying basis for this is that roughly, roughly 1 out of every 750 ballots is marked in a way that the machine reads it differently than what the law requires. And it's usually almost always the fault of the voter that that happens, but it's about 1 out of every 750. So, if you have a contest with a million, well, alright, my point is, that if there are only 100 votes, you shouldn't be hand counting.

Commissioner Casale: The key is...(Everyone talking)

Commissioner Kellner: Alright, so my motion is to amend the list by taking 24-21 out of it. Is there a second to that?

Commissioner Spano: Second.

Commissioner Kosinski: I'm just going to make two comments if I could. One is, I don't like hand counts, so anything to eliminate hand counts, I'm all in favor. Number 2, I think there's too many on here, if you want my opinion. Sending over 26 proposals to legislature is not realistic. We're not going to get 26 bills passed this year. I just wondered if it isn't better if we picked out three of four that we really, really want that are priorities of ours, and put those somewhere separate that says, "These are the ones we really want because they're really important for the following reasons" and make it a more realistic list that we might actually accomplish something. I just think you send this over, it's a lot of bills, and I don't think we're going to get that kind of attention over there. So, those are my suggestions. I'm not hard core.

Commissioner Casale: These go to the Speaker and the Leader as a departmental bill? Is it supposed to go into the Governor first?

Commissioner Kosinski: Yes, we do our own bills directly to legislature. Yea, we don't go through the Governor's Office.

Commissioner Spano: This 24-08 about the schools not accessible not scheduling regular instruction. Does that mean they close, or does that mean that the kids are in there not getting regular instruction?

Tom Connolly: It means they're not there.

Kristen Zebrowski Stavisky: Non instruction the students are not there. So, they could be doing staff development, they could be, yeah.

Commissioner Spano: Ok.

Commissioner Kellner: Alright, so I'm willing to go along with the list, removing 24-21 but your point is well taken.

Commissioner Kosinski: Yeah, it's just an idea, that maybe the staff could look at as far as priorities go.

Commissioner Spano: When you order it, you say, these are absolutely needed. And then they will say, okay.

Commissioner Kosinski: I know, but the problem here is there's 27 or...

Commissioner Kellner: you're right on that, but you know what they also do is they pick and choose on the technical line. So, we're going to vote. Those in favor of the proposals with the one omission say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Opposed. Alright, that's adopted. Now Brian, do we really need this Executive Session?

Brian Quail: It can wait till January I think, in my opinion.

Commissioner Kosinski: Alright there's a motion to go into Executive Session for litigation matters, those in favor say aye.

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kellner: Alright, that's done. You can turn the tape off; we're not going to be taking anymore official action today.