

Peter Kosinski: ...On December 12, 2019. I am Peter Kosinski to my right is Co-Chair Doug Kellner, to my left is Commissioner Greg Peterson and to my far right is Commissioner Andy Spano. We will go out of the Board of Elections and into the Board of Canvassers for the first order of business and we will convene as a Board of Canvassers to certify the election of this past November if the staff has documents that we should be reviewing.

Bob Brehm: So, the first issue for the Board of Canvassers is the vacancy in the 57th Senate District and the certifications for Mr. George M. Burello. There are two spots for each of you to sign if you're so inclined.

Commissioner Kellner: I move that we approve the certification of the canvass as prepared by the staff for all of the offices that are presented.

Peter Kosinski: Is there a second?

Gregory Peterson: Second.

Peter Kosinski: All in favor?

(Chorus of ayes). So, it's adopted unanimously.

Bob Brehm: Did you do both the Senate and...

Peter Kosinski: Yeah, that one motion covers all of the certifications.

Bob Brehm: So judicial and supreme court.

Douglas Kellner: Is there a canvass sheet that goes with this?

Bob Brehm: It's right there. No, you signed what you need. That's Todd and my signing. You've just got to give Todd the folder.

Peter Kosinski: Okay if there's no more business to come before the Board of Canvassers, we will adjourn the Board of Canvassers Meeting and back into the Board of Elections Meeting. So, our first order of business as Board of Elections are the minutes from October 2nd. There are two sets of minutes, the public minutes and the Executive Committee minutes. Is there a motion to adopt?

Douglas Kellner: So moved.

Andy Spano: Second.

Peter Kosinski: All in favor?

(Chorus of ayes) okay so both sets of minutes are adopted.

Bob Brehm: Just one point of clarification, there was just one typo that one of the staff members found in the Executive minutes.

Todd Valentine: Third or fourth paragraph: “personal” should be “personnel”.

Peter Kosinski: Has that been adjusted?

Bob Brehm: We were working to adjust it when the alarm went off this morning, so we didn't get that far.

Peter Kosinski: So, we've adopted them as amended.

Bob Brehm: I just wanted to point that out.

Peter Kosinski: Alright then we will begin unit updates. First the Executive, Bob Brehm and Todd Valentine.

Todd Valentine: Well obviously, we've been relocated due to the gas main leak in downtown Albany, and we thank the Department of Environmental Conservation for hosting us in their Board Meeting. We do appreciate that, and we'll make sure that we thank them profusely for allowing us to come in. We've been, since the election, we've been on a series of roundtables we've had with the County Boards as well as the early voting system vendors is tomorrow. We've done three so far. And what we started to look at was or asked them to talk to us about was what went well? What challenges did they face, and what changes they think would be necessary either legislation, regulation or procedure? And then obviously, we're collecting information about what was the cost. Because look with an eye towards well what additional funding will you need when you go forward? So, it's a little bit of what did it actually cost you and what do you need in the future. And by in large, they all echoed the hearing we had with regard with the legislatures, the joint assembly and Senate Election Law Committee where we testified that overall, it was a success but there were challenges with the operations of the E-poll books as far as activity. Deliveries were delayed so there were counties that would have like to use them but because of the latest of the procurement process were unable to purchase them. So, they are learning the challenges that the other faced obviously where the sites are located. Where equipment is in the site is a challenge, you have to be cognizant of that when they connect. And going forward one of the challenges was if you have large vote centers was there limited memory on the devices electronic poll books so if you want the signatures there you have to pull them down one at a time from the cloud and depending upon the configuration of the signature itself, there can be delays there. So that's something that we have to look forward to. A lot of it had to do with the vintage of some of the signatures because the older files were scanned in much larger size which prior, we didn't care about because they were printed so it really didn't matter.

(Announcement)

So, we're going to continue with that, and our plan is we have a meeting with the Voting System vendors E-poll book people we invited tomorrow and then we have one more roundtable scheduled for next Wednesday with the Downstate region counties. And from that we've been collecting their information about what went good, challenges that were faced and obviously the cost information and try to produce a report so that we can then start to educate, okay here is for our legislative program or our changes in regulation, because that's what we're doing later on in the agenda is kind of holding those, not final yet because we know there are changes to be made and we're coming up with a list of things that we know are problematic.

Andy Spano: What is the impression you got on the cost?

Todd Valentine: on the cost...

Andy Spano: I mean numbers, was it wider from what we...

Todd Valentine: I don't know because we haven't added it up. We've had about 31 counties that provided the information to us.

Andy Spano: Anyone complaint about it?

Todd Valentine: Complain about it? Well, there were complaints, they didn't say "Oh goodie", you know the challenges were like with the hours. One of the things we raised with them was well should we standardize hours? Because they put in statutes standardizing the primary election hours, of course, general election is standard hours, but they didn't do that for early voting. And actually, we heard from both sides, some of them liked the control, ability to schedule that and they liked the shorter hours so they wouldn't want it longer because they found they could hire poll workers easier. But then there were other counties that said, "Well we don't want everybody to work an entire shift, we're going to limit how many of these you can actually work, because I don't want you to burn out for 9 days". Because it actually ends up being for the regular staff a much longer period because you work the full week before, that whole week and then the week after, so it ends up being more like a 20-day span where you don't get a day off. So that's part of the complaint. And when you get to the Sunday night it becomes an issue is that turnaround to produce the election day poll books was a challenge for many boards and Erie County related this story to us. Well, their plan was on the last Saturday they started printing their poll books, the last Saturday of early voting figuring Sunday is not going to be busy. But that ended up being their busiest day and that was true statewide. Now we had no idea that would be the busiest day, we couldn't warn them. So, they ended up like all through the night on Sunday to get the poll books printed, because they print in-house to be prepared for delivery on Tuesday. So now is it something to consider that perhaps the hours on Sunday should be shortened a little bit? But if that's your

busiest day the legislature may not be willing to do that. but that's part of the logistical problem of having both of those weekends. And obviously we know we face challenges when you have a longer period of time for physical issues. We had a major rainstorm on the first Sunday where we believed that depressed turnout. But then on Halloween that Thursday, there was a declaration of disaster in 12 counties in the upstate region because of severe flooding. In fact, one of the counties had to close for the day because there was a complete travel ban in the county so they couldn't risk the lives of their poll workers, actually they couldn't travel and none of the voters couldn't get there so I guess we'll just close early voting because you couldn't do anything. But those are the challenges we see going forward when you have such a long period and now it's not just 10 days next year it will be 27 because you have three early voting periods spread out so the longer that is, the more of these types of problems, and that's part of what we want to work on next year is the continuity of operations is when you go to those issues. And it's not so much Cybersecurity although that's always a factor because we have more technology in the polling place and those were challenges too. You're always going to have those and connecting from the poll pad to the printer, the printer to the ballot, some printers can be bought, you know those are normal. Those are not Cybersecurity issues, but those connections need to be secure. We sent a team out to every county not to every poll site, of course, but to every county to look into those Cybersecurity issues and just the general operations at selected poll sites because we couldn't do everybody in the 9-day period, but we got to every county. So, we spent the time to put our own boots on the ground to say, how is this working, from our own reports.

Peter Kosinski: So, if the Sunday before election day is the busiest day, what was the least busiest day?

Todd Valentine: Least busy day?

Bob Brehm: Halloween.

Peter Kosinski: So, did we see any sort of trend as it relates to how busy the days were? Were weekends busier than weekdays? Was it busier as we got closer to the Election Day? I could certainly understand Halloween.

Andy Spano: We had a storm and a significant number of places.

Peter Kosinski: Well, that's going to affect it as well but I'm just trying to see if there's any sort of trend that we can see about how the election days were used and whether...

(Everyone talking)

Andy Spano: People talk about Tuesday vs. Sunday all the time.

Peter Kosinski: Because we had two weekends in there so I'm just curious, were the weekends the busiest days or weekdays? I mean do you have that data, or you don't have that data?

Bob Brehm: We've collected the data by day and...

Todd Valentine: There was actually a nice table at our...

(Everyone talking)

Peter Kosinski: I understand the storm issue would affect. Maybe taking those variables out.

Bob Brehm: In the testimony we did we gave at least some of that information but certainly we're also looking at the final numbers because we didn't have affidavit voters from early voting, not that that would be a big number this cycle. But I think we can start to look at trends time of day a couple of counties and in our discussions with them tried some early hours they thought well instead of always trying to get the shift up to 8:00 at night if you came and opened at 6:00 or 7:00 in the morning thinking they'd get people before work and the counties that did that told us nobody really showed up. But it's hard to tell yet whether there's been enough voter education to know what the trends are, you know we only had one election. So, certainly I think would help us to look at that information, what time of day you can really look at a lot of the counties.

Andy Spano: Not only times of day but the day.

Bob Brehm: Days, days are busier and with 5 hours of the minimum number you could be open on a weekend, you can go longer, you can't go shorter, so some counties were open for 5 hours, some counties were open for longer on the weekend, but still with long hours in both categories, in almost every category maybe 2 or 3 counties that last Sunday was not the busiest day. But it generally worked better than the counties thought, and we all thought. The only other one I think from a pushback that we're hearing from a lot of people is because it was our first time, some of the sites that did let them use them for early voting because of the stress on the building and other programs over a 10-day period, basically asked the county, please go find another site for next year. Some they learned just didn't work out because of space. You know, they had to pick these sites early and there still were a lot of moving parts as far as equipment and security and all the other components and I think they looked and said, especially for next year, when we'll expect a bigger turnout, this probably isn't the right fit. But a lot of the places, some schools that were selected are really pushing back, this is hard to be a 10-day site for early voting. But other programs, whether they have after school programs or other type of revenue type programs for the firehouse or the community room or the whatever are really concerned that they might not be the best choice for early voting. And it basically came up because Article 4 is really driven to get people to pick tax-free, you know tax-exempt property as early voting sites. New York City had asked us to look at if they

were going to start paying for rent for something like early voting sites, could we help to come up with uniform standards so that they wouldn't be accused by other counties if they got into paying for rent at least could say this is a fair number if we could help them to identify what are the factors for those incidental expenses that might be considered a reasonable amount of money to pay for rent so if we came up with that, then the counties could rely on it maybe. And they also put in place in the City a contract type vehicle but it's not a contract, a vehicle that would allow them...

Todd Valentine: It's a license to use...

Bob Brehm: A license to use a site to make sure that they had arranged something. So, a lot of that is a little different than Article 4 which has been driven all these years to just go and say, repitch your site, it's tax exempt we're using it. So, if you go to your legislative body and say, "I need money now" they're going to say, "Why do you need money? Use a tax-exempt site". And frankly for election Day there's always been this tension anyway but now when it's really 10 days and you've got to bring this stuff in and pick it up after, it's really a little longer than 10 days that ties up a lot of locations throughout the state. So, I think that's where we'll have to do some more work.

Andy Spano: What is the major objection to just have people get absentee ballots?

Bob Brehm: Other than the law?

Douglas Kellner: And security and change of custody. You are now making the postal service part of your election administration process.

Andy Spano: When I apply, I apply I fill out a form and then they send it to me. I mean...

Douglas Kellner: If it works.

Peter Kosinski: Frankly I think most of our issues as far as about security come up with absentee ballots and even coercion, I mean there's always this concern that absentee voters are being coerced into how they're voting. There is an issue that's always arisen in that context. Sometimes in nursing homes or other vulnerable communities.

Andy Spano: I've seen that.

Douglas Kellner: But there's lots of support for it and it may be the future. But I don't think it's a good idea.

Andy Spano: For that reason.

Douglas Kellner: Yep. I had two other issues about early voting I wanted to just ask about. I think it's my understanding that all but five jurisdictions did county wide early voting that you could go to any poll site? New York City...

Todd Valentine: Oh, you had to go to...

Douglas Kellner: You had to go to a deciding site.

Thomas Connolly: New York City, Westchester, Orange County and Albany.

Douglas Kellner: Okay so were there any problems that arose out of the multiple sites where a voter could go to any site in the county to do their early voting? Has there been any feedback with any problems or issues that arose from that?

Thomas Connolly: For the counties that usually vote signature model?

Douglas Kellner: Right.

Bob Brehm: The only thing we had heard a little bit was as Todd said for the counties that found their signature file was big it took a little bit longer for the signature to show up to compare. So, when the voter checked in, and could be able to sign the poll pad, it's the next step when the comparison signature would appear next to it, took a little bit of time. we heard a little bit of that if it just lost the ability to receive it quickly.

Todd Valentine: Well there were challenges with the affidavit process that one county mentioned, I think it was Onondaga because the way the poll book, because the inactive list cannot be sent to the poll site pursuant to statute, you couldn't necessarily utilize the electronic poll book because it in many instances relies upon having that list in there to validate and then they didn't know what ballot to issue from the electronic printer. So, they would have to have a separate stock of preprinted affidavit ballots because there were limitations on the ability to produce an on-demand ballot. Maybe that's a technology issue but that was a challenge they faced because they had to have this stock available at the poll site, they had to have a small stock of every affidavit ballot style available. They had a limited number of sites, so it wasn't like 37 or anything large like that but there was a challenge with that. And New York City faces a slightly different challenge. We did talk with them because they were at the last roundtable. We haven't seen Rockland or Nassau or Suffolk at this point, but they have more languages so thus they're going to have more ballot styles that they're going to have to face and that goes towards the signature issue. The size of the poll pad is limited, and you have to draw it down on the cloud, which is doable, you have to make sure that you have sufficient connectivity so that it can actually do it in, it's got to be almost instantaneous or else the voter is sitting there waiting for you to, where's the signature waiting for it to pop up. It's just going to be very frustrating to the voters. So, I think there's some technological hurdles.

Kim Galvin: The BMD can't handle all the languages in New York City either.

Todd Valentine: They do have a [problem with that because that goes the BMD themselves that they currently use can only support about, because of the large size of the audio files that have to get loaded on there, they estimate they can only fit about 2 AD's worth ballot styles on the BMD on the early voting. So, you'd have to have probably like they estimated 11 BMDs per site just in order to accommodate that language and I don't know any way to really because you can't make the BMD memory bigger and the audio files are large just because you have extra languages, particularly in Queens and Brooklyn and Manhattan, those 3 boroughs. Bronx, Staten Island have the double language. So that's where it's workable and Nassau has that, and Erie has that. So those become manageable. But those are serious hurdles to overcome.

Bob Brehm: A lot of counties had indicated, since it was kind of a pilot, we called it a very large pilot the first roll out of this that they had learned through this effort that they think they need more equipment for poll pads or for ballot on demand printers just to service their early voting sites. Because it really was, the four-year cycle, this is the lowest turnout historically in the four-year cycle. So, we had about 3,000,000 give or take voters this year, next year we'll have about 8,000,000 so they are realizing, I mean they had very nice things to say about it that they start with, but they also said, "We think we need more equipment". And some need more voting equipment whether its valid parking devices or machines.

Douglas Kellner: The next subject is to go back to cost issue which I think Mr. Kosinski started with. Are we doing analyses of the cost?

Bob Brehm: Normally Operations asks for that information in the January/February vetting period for the annual statistical report. We sent that out right after the election as part of the roundtable and asked the people to get us the information by December 2nd. Some were still busy finishing certifying the election, but I think as we've seen in the agency, we've got 31 counties had responded, we raise it at every early voting session and we're trying to collect them all as part of this effort because the legislatures had asked us for the number, the Governor's office had asked us for the number. We wanted it and we are also tracking, I have to say under the grant program, we are for reimbursement under capital and aid to locality, we have paid two counties Niagara and Yates because they were the first ones that submitted them and there are 6 other counties that are in for actual payment of their vouchers. But everybody else, there's a few counties out there, stragglers for whatever reason haven't given us their contract yet. But we're tracking the money so we can see how much of that \$24,000,000 was spent but more importantly, how much did it cost us to run early voting in the first year? And we also asked them to tell us, will you need to buy more equipment for next year, because we started to hear that early on. And what would be, we've asked the County Boards of Elections by the time we're together at the winter conference January 6 through 9th to tell us what is the right number to advocate? What do we think the right number is that we're going to need for the budget?

Douglas Kellner: So, the Daily News did an editorial where they claimed that the cost of early voting in New York City was \$400 per early voter. I think their numbers are wrong because they're building in the capital costs of purchasing the equipment as if it was only going to be used for the one event. But still I think that it would be helpful to have that information assembled so the legislature can make a reason decision on whether the cost is worth the benefit.

Bob Brehm: Sure. They asked us when Todd and I spoke at the I think it was the November Joint Hearing before the Senate and Assembly and there were 14 members there for that session. It was the largest panel I've seen in a while. And they had asked, and we told them we were doing this after, and we would give them a copy of that follow up report.

Peter Kosinski: I think there's two good reasons, I think you alluded to one. I think we need to know what the cost benefit ratio is but also as an unfunded mandate, the county should be looking for state reimbursement, I assume they will and the state budget is coming up and I think if we're going to pursue this, they need to be aware that we need to pursue it earlier rather than later though the budgetary process.

Andy Spano: How did the turnout compare? The overall turn out between the early voting and voting compare with the previous election?

Douglas Kellner: You want to just review that chart, Bob. The turnout, the percentage with early voting.

Bob Brehm: I don't have it with me because I didn't grab it, it was on my desk and I grabbed the green folders, but...

Andy Spano: Just was it above...

Bob Brehm: well in 2015 it was slightly over 2,000,000 voters, 2,000,000 and change voters in 2015. In this based on the unofficial election night number we had roughly 97,000 affidavit ballots we had to decide whether they were valid or not, but they still showed up to vote so that's part of the number and then the absentee number that was about 150,000. So, add them altogether we're near 3,000,000 without getting the final, I haven't seen the final certified number of voters. But it's 3,000,000.

Peter Kosinski: And out of that 3,000,000 how many were early?

Bob Brehm: 257,000 were early. So about 8% maybe of the total number of people who did vote were early, the rest were...

Andy Spano: Can you tell me the first number.

Bob Brehm: In 2015 overall turnout was 2,000,000 and change.

Andy Spano: So, this was greater than? You've got almost a million people more.

Todd Valentine: Yeah, I don't remember what the enrollment was in 2015.

Bob Brehm: But our chart had compared...

Todd Valentine: so, we have had more voters.

Douglas Kellner: the turnout went up?

Bob Brehm: Yes. So, the chart we made showed the total number of voters now, how many voted early, we're waiting for the certified number of how many, the final number of everybody else and so you can see the chart for each county compared against 2015.

Andy Spano: There was more advertising than there normally would be for a regular election without early voting.

Bob Brehm: Yes and no.

Todd Valentine: Well, there were more press stories.

Bob Brehm: Press helped. It was a brand-new program so I think if you look at the people factored into like the campaigns, and it was new to everybody so a lot of things I think people will start including early voting as the candidate to get the message out a little bit differently. And there wasn't a lot of that that I noticed. There was a little bit but there wasn't a lot. So, I think you'll see some of that and everybody will understand.

Andy Spano: Well, I got mail from a number...

Bob Brehm: Well, I can only speak to Schenectady. But even talking to some of the counties, it really hadn't connected yet. But I think we'll see that grow because it's just the nature of you know you're running a cycle you use the tools you have. But I did notice it wasn't fully kicking in yet from that perspective.

Andy Spano: Well, I think for a first shot the time you had it was a good turnout. It worked very well considering what could have happened.

Bob Brehm: The main point we made was this wasn't like on May 1st there was a book that had everything figured out, so the path was laid out. There was a lot of risk early on, the counties had to make decisions before we even knew the voting the E-poll books would be ready, or the contract would be in place or even the money would be approved because of the problems we had getting those grant programs approved. So, there were a lot of hoping it all came together at the end. And in the Suffolk County case, they had

announced that they were going to be geographically located because they were afraid if all of the things, they were planning didn't come together, that's all they could support. But they, in their own plan, had a spot where they said, if it comes together by this date we can expand. Expanding is good to offer more services as long as you can effectively do them. Retracting would be a sign of failure. And they got to a happy point in their plan, and they made the decision to say they were going to do vote centers. And I thought that worked, it was a good model because there were a lot of counties that pulled their hair out thinking, you know what hair they had left, and they were biting their nails because it really came to the last minute of that Thursday leading up to early voting. So, I think the county administrators did a great job in very challenging times to put this out. And it wasn't the philosophical disagreement that maybe people had is early voting a good idea or a bad idea? Everybody rolled up their sleeves and said, "We've got to do this" and they did the best they could, and I think they did a marvelous job on a really tough, tough...

Andy Spano: The decision to do it this year instead of next year was a really good one.

Bob Brehm: Yes.

Peter Kosinski: Anything else? You guys have anything else besides early voting to report to us?

Bob Brehm: There's one other item I wanted to raise since you asked. It's not a surprise that we continue to have a challenge with our budget. We plan to have for you at the end of this quarter an analysis of where we are with the money and...

Peter Kosinski: At the end of this month?

Bob Brehm: Correct. So, we believe at your January 16th, meeting that you schedule, we will come to you with a fine tuning of that resolution you've already adopted to allow us to use up to \$1.2 million of the Cybersecurity money to pay the day-to-day expenses. From our forecast here today, I think we're going to have to ask you to go slightly above that number, I just don't know the number yet but after this quarter is completed with our forecast for the fourth quarter, we will come to you in January with a resolution asking for that approval. But one of the programs is the online voter registration program. We have no money to run that program. We submitted as an agency a plan on August 7th to the Division of Budget. Per their request, they had indicted at the time the bill was being passed in the budget that the State board should provide a detailed plan and they would fund it out of resources other than our agency resources. We submitted that plan on August 7th. Today we received an answer while we were sitting here waiting for this meeting to start that they expect to fund it and give us the answer. But we have incurred approximately \$400,000 in expenses so far without a way to pay it.

Andy Spano: Did you give them a date?

Bob Brehm: They claim that they fully plan on answering our questions and that they fully are committed to funding it and they just need a little bit more time to tell us how but it would be my recommendation at your meeting in January if they haven't given us a real way to pay the bills, it's, I can't ask you to pass that resolution without resolving it by then, because it's almost \$700,000 this fiscal year planning to pay to prepare to implement OVR. We put in our budget request the next fiscal year to build it so we either have to park it and stop until we get money, or we have to, they have to answer the question, how do we pay the bills?

Andy Spano: So, you want a discussion at the next meeting around the fact that whether we stop this program or don't stop it depending on whether we get the money?

Bob Brehm: Well, I think we need to stop it at that time.

Andy Spano: I think we ought to get that comment on the record today.

Douglas Kellner: My understanding of the situation is that budget is telling us, go ahead, keep working on this program, keep spending money for this program even though it is not appropriated, and Budget is continuing to look for the source to cover that expenditure. Now obviously that's not the ideal way to run a government agency but Budget is telling us to go ahead and keep working on this program even though it does not have a budgeted appropriation. That's my understanding.

Peter Kosinski: Is that what you guys are hearing?

Bob Brehm: Well, we just got that answer from Budget while we were here.

Peter Kosinski: So that's the recommendation that we just keep moving forward, spending money we don't have, and they will find money at some later date to backfill the money we're spending.

Todd Valentine: But that's what they've said since we met with them right after the Budget was adopted in April.

Peter Kosinski: To be honest, I'm already concerned that we're taking money out of Cybersecurity and devoting it to just normal everyday operations of this agency because Cybersecurity is such a big issue and I'm a little surprised frankly that there's been this willingness by the administration to say, "Fine take that money and use it for something else" because Cybersecurity to me is a priority. And we're already delving into that part of our budget and taking money out of there.

Andy Spano: That was a temporary fix that was part of Budget.

Peter Kosinski: It was, that was part of the budget process you're right which concerned me at the time and still does but now its even getting apparently worse. They're making

us take even more money out of Cybersecurity to cover these costs assuming if they don't find another source for us.

Bob Brehm: What they say is that they feel, what they say is they believe our agency has enough money to spend on these bills...

Douglas Kellner: You're talking Budget?

Bob Brehm: Budget has said and our Deputy's secretary Jonathan Smith especially after the time we voted to take the \$1.2 million was that they have enough money in the budget as they say so to pay these bills. Todd and I and Tom Jerosse and Jennifer Blanch our HR people and Bill Cross and our hosted team at the Office of General Service has spent way too much time that we should have dedicated to early voting and so many other things to track all these dollars. And by our forecast, if you put in that \$700,000 to pay for this year's planning of OVR, we're somewhere about \$2.4 million in the hole. We have checked every couch cushion, every residual account, every federal dollar, every state dollar and there is no money left in the cookie jar. And we have laid that out and put it in front of all, and to be honest that story hasn't changed. The four memos that you all received from us on this subject since January, it hasn't changed since then. So, the only thing that has changed is they stopped calling us irresponsible people for saying it because we had proved we were right. But where we're at is how do we solve it? They claim that they're working with us to solve it and I'm hopeful of that.

Douglas Kellner: I think we have to take them at their word.

Bob Brehm: But we met with them on April 14th and said, we have a busy year, we can't spend the whole year figuring out where the money is, we have to do these programs. So, I would like to resolve the dollars so that we stop having this structural problem and we can actually focus on running the day to day...

Douglas Kellner: So, Bob you said that the Governor's Office, as they do every year, called you and asked for suggestions on what should go into the State of the State.

Bob Brehm: Yeah, my recommendation is keep it simple. Pledge to fully fund this year's initiatives that they signed into law.

Kim Galvin: Don't forget public finances.

Bob Brehm: That's another issue they signed into law because they signed the budget chapter putting that in place.

Douglas Kellner: But it was a pretty simple sentence. You could keep the speech pretty short.

Peter Kosinski: Alright any other questions? Anything else from the Co-Executive Directors? No, okay then we'll move onto council that would be Kim Galvin and Brian Quail.

Kim Galvin: It does play right into the public financing should it survive the 22nd for the legislature to come back and amend it and I'm anticipating that it will.

Douglas Kellner: You are?

Kim Galvin: That it will survive.

Peter Kosinski: Actually, let me ask a question about that now that you raised that. If the legislature doesn't return by December 22nd and make amendments, what prevents them from coming back January 4th and making amendments?

Kim Galvin: Nothing.

Peter Kosinski: So, this idea if it doesn't happen by December 22nd somehow this program is set in stone is not real, is it? I mean that could be changed at any time with the legislature, right?

Kim Galvin: Yeah.

Peter Kosinski: I just wanted to make that clear. I think that's been sort of misrepresented out there that if this December 22nd date passes, there's no going back...

Kim Galvin: ... recommended by the people that want it misrepresented.

Peter Kosinski: Well having worked for the legislature, I never quite understood this idea that somehow this date...

(Everyone talking)

It's like they come back and do it if they want to.

Kim Galvin: Yes, don't tell them that. So, they're in court right now 2:00 on the Public Financing case out in Niagara County. So, the commissioned work has taken a little out of pocket but...

Douglas Kellner: Well Kim I think we all agree that you did an outstanding job...

Peter Kosinski: it was a worthy cause.

Douglas Kellner: ...on the commission and that you made a great contribution and even though you did not support the final resolution, you made a big impact on what was adopted.

Kim Galvin: Well, thank you. I tried to make it clear that obviously those against the program were outnumbered but we endeavored to do the best we could to make it as workable as we could should it get passed and withstand the court challenges that are anticipated. And I think to the credit of all nine members that everybody had slightly or drastically different agendas depending on what day it was, but I think everybody worked to do the best that they could under the circumstances even though it's a strange way to create a \$100 billion program. But that being said, they are in court there today.

Since our last meeting, we've been busy, that's an understatement. We've been in trial in the Common Cause case. The trial SWAT team went down to New York City and managed themselves very well. From what I understand we've obviously had early voting, we've had Election Day, we had all the calls and everything leading up to all of the Election Day and early voting and all the questions on time off from work took most of our time.

We finished up the Campaign Commission, which is another thing, it's very difficult to try to plan for a program that needs immediate action when you don't have the money to do it when there's four cases challenging it. So, it's an interesting scenario. I mean the three new campaign finance commissioners are set to be appointed in June and it's anticipated that the rules and regulations will be in some form of draft by then okay, but we have us. We can do that probably but then we need software changes to the already overworked IT staff with no money to do that so I think we'll make it past today's court challenges but we've already been put on notice that there will be several more challenges to various aspects and there is no severability clause and whatever that means I don't really know what's going to happen with the end of it but it's a difficult situation to manage because it's a huge, obviously, program that will require many people, a new office, computers, to do it right. I'd basically stake my life on it for those other Commission members so we're going to try to do the best that we can. But those are some issues that we're facing.

Bob Brehm: Could I interrupt just for a minute? They're beginning to lock down our building we won't be able to get anything out. So, does anybody at this table need Tom Jerosse to pick anything up for us so we can go home today? Okay sorry.

Kim Galvin: So that's all in flux. I've been obviously the people in the compliance unit have been thinking about it. We've talked about it. Brian and I have talked about it. We've all talked about it but its going to be interesting after Christmas or the holidays to actually focus on that because it's going to require almost immediate attention to get software in order by the time the call back provisions and the matching provisions that were going to need.

Andy Spano: These new compliance commissioners, they meet separately?

Kim Galvin: No, with you. The new compliance commissioners are three added to the four.

Andy Spano: Oh okay.

Douglas Kellner: We are all Commissioners.

Kim Galvin: Right so as I was explaining, we discussed and envisioned as you sat as the Board of Canvassers today, you came out you sat as the State Board of Elections, you come out you sit in the Public Financing Commission.

Andy Spano: What happens with the Enforcement Counsel?

Kim Galvin: She continues to do what she does now.

Douglas Kellner: What does she do now (laughing)?

Kim Galvin: She has nothing to do with this new program, nothing.

Andy Spano: No but right now is there a tie on those issues?

Kim Galvin: No, no that will continue with the State Board of Elections. She has absolutely nothing to do with the Public Financing Program. No Enforcement component.

Douglas Kellner: Well and indeed any office that's covered by that program now will be enforced by the new seven Commissioners', right?

Bob Brehm: Correct.

Kim Galvin: Should both of the candidates participate in the program, or one or the other, they fall under the jurisdiction of the new board.

Douglas Kellner: So, her jurisdiction has actually been somewhat reduced.

Kim Galvin: Flipped a little bit.

Douglas Kellner: Yeah.

Kim Galvin: So that's a whole other part of the new program that has to be set up and we have no money for and don't know if it will survive. Okay so we have many meetings as they talked about with the IT department on online voter registration. They've already talked about that. calls have started on the 2020 primaries for President. Lots of them on

one side in particular. We've done the regular work in the units. Compliance help filing reviews. The New York City Campaign Finance Board has a lot of questions on the bill that was passed that says if you file there it satisfies your requirement to file here.

Bob Brehm: We didn't determine that, right? We have to determine that that...

Kim Galvin: Right, so we have to work through all those questions and figure out how to implement that. Two hundred or so LLC statements have been filed setting out their ownership percentages so Brian and I discussed posting as of a certain date to give the filers, cause we're getting FOILS and now the committees are calling, "Did my LLC file because they wouldn't give it to me. Did they give it to you? Do I have to give their money back?" So, we're going to post as of a certain date all of those that we received and then update it because they have until the 31st to continue to file those partnership statements with us.

We have some regulations coming up later on the agenda. We have the conference in early January trying to figure out what we're going to do there. And we had Thanksgiving 2 weeks ago and Christmas in 2 weeks and I think that's about it. Unless anybody has any questions specifically.

Brian Quail: And I have nothing to add.

Peter Kosinski: Any questions for the Counsels? If not, we'll move onto Election Operations, Tom Connelly and Brendan Lovullo.

Tom Connelly: Thank you Commissioner I'll do my best to remember my unit report from memory, it's back on my desk. But obviously we were doing a lot of work around Election Day and the early voting period. We did our best to support the Boards as this was their first time implementing this program. We had staff available for all hours of the Early voting and throughout the voting period so that if anyone had a question while polls were open in any county, we had someone available at the state board available for them. As Todd mentioned, we did go out and visit at least one early voting site in every county. We covered 4,300 miles in case anyone would want to know over 7 days.

Brendan and I both went out. There were 8 of us in total that covered the entire state. I did Long Island all five boroughs on Halloween so that was a fun drive. Obviously, after the election we worked with, well on election night, we worked with county boards to get all these results into our system for publishing because some of them had been segregated between the early voting and the Election Day polls to make sure they were able to merge those and provide them to us for Election Day. Subsequent to election day, we did work with all of the county boards to get a list of all of the affidavit voters, and we were then able to aggregate them with the help of the IT department within the timeframe that was set forth in the regulations that we were able to share all affidavit voters with all counties statewide. We also attempted to do somewhat of a matching algorithm to see if there was a voter in one, a voter in one county that also tried to vote an affidavit in another county. That resulted in there being nobody. There were zero matches. We also then, obviously

worked with getting statements of canvass from all the Boards for the results that you certified earlier in the meeting.

With regard to the voting machines, as for ES&S we continue to work with the vendor, the testing lab SLI and also the independent security consultant which is NYSTEK, we also contracted another firm ATSAK to do a review of the secondary source code and the testing that ES&S and their vendor had done. We continue to go back and forth with them asking for additional information or for them to provide us with the documentation on some of the test cases that's ongoing. There is a tentatively scheduled public demonstration of the Express Vote XL to occur on the Board on January 14th at 1:00 p.m. with regard to Dominion, they are working on an improved hash checking procedure. The reason they're doing this is the new ICE machine, they already have a program in place on the older ICP so it's a little bit more of an onerous manual processing to do the hash checking on the ICE so they're working to kind of create a procedure that would create some sort of equivalent to make it easier for county boards to get the hash value to ensure that the software on the machine is indeed the certified software.

With regard to Clear Ballot there will be some, we anticipate there being some engineering change orders. Probably at the next meeting I will mention just for some end-of-life equipment namely some laptops and server hardware.

On the front of new vendors, we did, I mentioned at the last meeting we were going to be having a meeting with Hart and InterCivic about their voting system. That meeting did get rescheduled and will indeed occur next week. They're going to be coming in having conversations with us about the certification process so to decide whether or not they want to submit a system for certification. In addition, Democracy Works, Democracy Live came in last month to show us their Omni ballot which is stand-alone ballot marking device that comes in a little bit of a briefcase. They're considering submitting that. one of the nice things about that was it was able to create ballot detecting right on the certified scanners. So, they were only looking to possibly submit just the BMD only part of things. They say that it should be able to work with both systems. But they came in, they gave us a demo of it along with some individuals from Microsoft because Microsoft built some of the components of the system and we are continuing those conversations with them. Also, we've been participating in the early voting Roundtables with the counties. We just had one recently on Monday. We do have one tomorrow with the vendors, the vendors for the E-poll books, the valid printers, the voting machines themselves and the voter registration system. So, basically all the different technology vendors that are involved in some way, shape or form are beginning to end for early voting. We invited them to the table so we can get their feedback on how they thought it was rolled out and if they think there are any improvements that can be done that we want to recommend to the legislature or change through regulation.

We are also scheduling one on one calls to each of the E-poll book vendors next week to kind of really dive a little bit deeper into their experience with their customer base on early voting and if they were used on election day to try to figure out if there are issues

that can be resolved at the very least before the April election. And then obviously if there are other changes that were made from their customers, we want to kind of talk and get that feedback and figure out how can we get those changes implemented, those changes submitted to us so that we have time to do our review and make sure there is compliance with all the requirements. Make sure we can do our security and vulnerability testing as well so that we could possibly bring that before you for approval, additional systems or newer revisions to the systems. I think that's pretty much all I can remember at this point.

Gregory Peterson: You must have memorized that thing before you got here.

Tom Connelly: Well, it was on the screen, so I remember what the screen looks like.

Douglas Kellner: On the issue with the signatures for the E-poll books that I had the experience of using the no-ink system in New York City and it's virtually impossible to write a signature on the screen that looks anything like my regular signature or the signature that's already in the book. So that as a biometric identification device, it appears to be useless, in my view. But I wonder if your unit is looking into that issue. Is there guidance to the counties? For example, I can't imagine that poll workers are actually challenging people because their signatures don't look right. And then I noticed an e-mail from Commissioner Green in Chautauqua County where he said that the vendor of their system actually allows the board to update the signature on record with the scribble that comes from the E-poll book. Well, that was his question. So, I'm suggesting that this needs to be added to the to-do list of the Operations Unit is to look into this issue and that for all of us we may be thinking about how we advise the legislature on this.

Peter Kosinski: Why is the signature so...

Gregory Peterson: Two things; one is usually you sign something when it's down on the desk, this thing is on a bias so that's number one, number two have you ever tried to do this in the supermarket or anything it's a scribble. So, you look at your normal signature it's a whole different thing.

Douglas Kellner: But the difference between the supermarket and the and the election is in the supermarket it's an electronic signature simply to close the contract. In other words,...

Bob Brehm: The supermarket is to prove that there is a person there.

Douglas Kellner: No Bob I'm talking now on a legal analysis under Article 4 of the Uniform Commercial Code that the signature even if it's a scribble, the very fact that you put a mark on it, it's the equivalent of putting an X. You've now closed this legal requirement for entering into the credit contract that's required under the Uniform Commercial Code. That's not the reason for the signature in election administration. In

election administration the signature was the best means of biometric identification in the 1840s when they first started using signatures. And well I mean it doesn't work through an E-poll book, and of course there are other means of biometric identification now that are much better. I turn on my laptop with my thumbprint.

Kim Galvin: We'd be all for that if you wanted them to give their thumb print as a...

Douglas Kellner: Well, I'm for it to but I think that there will be...

Andy Spano: I have facial recognition on mine.

Douglas Kellner: There would be major pushback from civil liberties groups so.

Andy Spano: You're absolutely right though. I have tried in the supermarket once my initials because I like to write my signature. I gave that up and starting just writing my signature, now I don't do anything, I just scribble. And that's the progression and I think you might find with voters after a while because it just doesn't come out right.

Douglas Kellner: Well, that's why I'm saying I'm raising the issue, it's not at the top of the agenda but it's something to keep in mind and I would certainly urge you think about what guidance should be given to the counties on the issue especially New York doesn't require ID to begin with.

Andy Spano: That would be the simple thing.

Gregory Peterson: That would be the simplest thing you're right.

Douglas Kellner: But then there's also this issue of whether counties should use these scrolls on the E-poll book to update their registration record and...

Bob Brehm: Well, they use the poll book now to make that decision and first of all, there's two issues; if the signature is so scribbly, did they have the correct person sign it? It's still the responsibility of the constitution and the statute so I don't know how we necessarily move beyond it and what guidance should we give to make sure they're doing it right?

Douglas Kellner: And that can be changed though and that's our job.

Bob Brehm: I think as part of the analysis we should do that but what I'm saying is having the ability to upload a signature if you should want to, an example, name change. Now you have the signature it's only in the new gadget as opposed to the hard printed that you had up till now. So, the statute still says you can sign as your new name, but you still want to make sure you've captured it for the next time. So, some of that we have to work on. The other issue that came up a little bit that you mentioned with the ID, there is some wording issues I think we have to make sure that we put into the guidance for

inspectors. An example, in Erie County, they had a postcard made it perfectly clear that if you use this postcard, it had a barcode on it it would help expedite your experience. But it was a lovely card with nice messages that you don't need to bring it, it's not required but if you use it, it helps you. New York City had a similar card without necessarily the messaging that went with it, or at least they only showed me the card, I didn't see if there were other messages.

Douglas Kellner: I saw the messaging I got mine.

Bob Brehm: So, we had a few places even one of our own employees said, they asked me for my driver's license. And it was because the devices have a barcode reader, and it can read your name and it would speed you through. So, Erie County, because they did a special mailing, they have a lot of people who used it and it really shows a speeding up the line and if you look at it for next year, it's a good thing to have but we want to make sure it gets worded correctly so that voters know the expectation. We did get a few calls; I noted the league is here and they raised it a little bit in some of what they saw, and a number of other people did to us. People heard whatever word you said, they thought it was checking my ID.

Douglas Kellner: It's a sensitive issue.

Bob Brehm: It's a sensitive issue and we need to give guidance to the county about how to deal with it correctly. Not to don't do it but if you're going to train people, here's the way to do it. And also, to train the public as to this is a good thing. And there are some people on the list who need their ID verified also. So, we just want to make sure everybody understands that this here is a new thing, especially in vote centers where you have common name. Paul Collins our former Deputy Counsel saw me in Albany of all places. There was a friend of his who has a rather Irish name, and he went to the vote center. And when he got there somebody else by the same name had signed his because there are many people by this same name. They picked the wrong person. So, he voted an affidavit. But the card, if you get a common name like Bob Smith and you're in Manhattan and there's 300 of them, they still have to scroll down to find the right one. The card could help to speed the line. It would help. So, it's what we learned there were a few calls its not a crisis level, but we want to be at the front of making sure that we give guidance to the county as quickly as we can for the next time, because it will help.

Douglas Kellner: And if we use the fingerprint that also will help.

Andy Spano: Whether it helps or not is not the issue that he brought up. He brought up that the signature didn't look like the signature.

Gregory Peterson: Well, you could be challenged on that. The inspectors could challenge. If you go there and say, "My name is Greg Peterson" and they say okay they can challenge your signature.

Douglas Kellner: And then all you'd have to do is...

Gregory Peterson: Let me show you my license...

Douglas Kellner: No all you have to do is take the oath, so it really isn't that productive to make the challenge.

Bob Brehm: When I started in 91, we had real things in a book with 30 spots for you to sign and you had the original duff card in the book, and you could see as people progressed with their signature whether it be age or disability or just stop signing it the same way. So, you could see as it went that it's not the same one as when you registered in 1983 but its different. You don't see that anymore because there's only one image that you get to look at.

Douglas Kellner: So, look these are all issues. I'm just suggesting that this has to be on the agenda although maybe not at the very top of the agenda.

Peter Kosinski: Okay that's a good issue. Anything else then for Election Operations? If not, we'll move onto the NVRA John Conklin and Cheryl Couser.

John Conklin: Thank you Commissioner. So, the Public Information Office was very busy since the last Board meeting. We've had lots of inquiries; obviously early voting was a very significant undertaking. We had lots of questions about it. We're still getting questions on the deadline to change one's enrollment as well. We had questions about the grants that this state received, the political calendar, different vacancies in the office that are occurring around the state, the electronic poll books, campaign finance is always an area where we receive questions, a little bit about the Move Act but the topic that has returned to the top of the list once again is time off to vote. We had many, many, many questions about that around Election Day so that, that has receded since then, but it came back with a bullet to the top of the chart again.

So, the 2018 annual report is complete.

Douglas Kellner: 2018.

John Conklin: So, I had intended to have copies for you all but we're back in the office.

Peter Kosinski: So, it is complete?

John Conklin: It is complete. We have every unit in it. It will be posted as soon as we have the opportunity to get back in the office and I'll put it up and have copies for you gentleman at the earliest convenience.

Douglas Kellner: Posting mine is sufficient.

Peter Kosinski: Me as well, posting is fine.

Andy Spano: Me too.

Gregory Peterson: Post them all.

John Conklin: Okay so we processed 150 FOILS in October and 99 in November. We issued three press releases since the last Board Meeting; the first one was for the Voter Registration deadline for the general election, the second one was on unofficial turnout numbers for early voting that we did Sunday before Election Day and the third was to discuss the testimony that Bob and Todd did at the Joint Hearing in New York City for the Senate and Assembly. So, we also helped prepare that testimony for the Joint Hearing. We also organized and attended the early voting roundtables. We also have the new Voter Registration Form that's coming out because the legislature made the change making 16-year-olds eligible to preregister, so those forms are being shipped out this month in preparation for the enacting date which is January 1st. It will be effective January 1st.

DMV notified us that they will be updating their website with that issue as well on January 1 and the customer basing devices that they have in every office will be updated January 2nd.

So, with regard to the website, we posted Election Night results for State Supreme Court as Tom mentioned and also for the special election and the 57th Senate District. We posted the webcast and the transcript for the October 2nd meeting. We had to post some updates from the 2020 political calendar and the 2019 political calendar, and it was my intention today to post a memo or summary memo on the Presidential Primary Ballot Access Provisions for the Democratic and the Republican plan. So that was approved yesterday.

And the last thing is we posted the calendar of events as Todd mentioned, the public demo for the ES&S voting system tool for January 14th, I think.

With regard to NVRA, Michael and Patrick visited New York City this month, so they have completed every county board in the 2-year cycle now for NYESS Voter review purposes.

With regard to website accessibility...

Douglas Kellner: On that issue, how do we stand in terms of NYESS Voter compliance now by the counties?

John Conklin: Every board that we visited was substantially compliant or completely compliant, so they are keeping up to date. There were a couple of boards that had some minor issues where they were over the 30 days on certain things like deceased

cancellations or updating duplicates or things like that. They have substantially improved those positions, so I think they're all doing what we need them to do, and they are in compliance.

So again, the website accessibility issue the first report that was due under the settlement was submitted in October and we continue to have internal meetings with IT and the other stakeholders to discuss the parts of the website that need to have final action before the end of the year. So, Cheryl do you want to talk about the grants?

Cheryl Couser: Just a quick comment, we also posted the November first enrollment numbers. As Bob mentioned, two county boards were reimbursed in full for the two early voting grants, they were Niagara and Yates. And I have some brief statistics on both grants. To the capital grant 91% or 53 counties submitted their grant paperwork to the State Board. Fifty-one of those were approved by the State Comptroller and sent back to the county boards and eight submitted claim for payment.

Douglas Kellner: So, Cheryl, what are the five counties that haven't submitted?

Cheryl Couser: I have that information, but I didn't bring my folder with me. But I can have that for you I'm hoping at the next Board Meeting we can give more of statistics because the trend we see happening is that unlike other grants where people submit and they submit for some costs, counties are submitting one thing for payment because their costs are higher than the grant amount. So, I can get you that information either tomorrow in an e-mail if you would like or at the next meeting.

For the ...

Douglas Kellner: I think if you have it for the conference.

Cheryl Couser: I'll have it for the conference. On Aid to localities, the State Board received 41 grants for the county boards that's 71%, 31 were approved by the State Comptroller and sent back to the county boards, 17 have not yet been received and three claims were submitted for payment. And again, since yesterday we received Putnam and they sent in both claims for payment and the claim for payment expenses are significant.

Peter Kosinski: Okay. Is that all?

Cheryl Couser: That is all.

Peter Kosinski: Do you have any questions? Okay thank you. Then we'll move onto ITU, Bill Cross.

Bill Cross: Good afternoon commissioners. I also apologize I don't have a written report with me. In terms of system development, we continue on all fronts, as Bob indicated we're making significant progress on the Online Voter Registration. Not having the

upfront funding, we are actively or have been actively pursuing developing business requirements and drafting what new architecture for that system would be.

On CAPAS-FIDAS our developing continues as well. we made significant progress in mostly the application development but as I footnoted each time, the difficulty we've had so far with completing it has been data migration from the legacy system to the new system, moving it all over so all the balances are correct and things like that. That is an effort we're still struggling with although we've made significant progress on it.

My other footnote has generally been staffing and it's also been very difficult for the last 2 months in that regards as well. We did lose one key tester and one developer, the tester has gone back and is a leasing issue, the other person accepted a promotion in a different agency so now we're back to VISA. But progress is continuing. We are still very close to implementation. I hope by the next board meeting that we will have full details laying out what that timeline actually looks like and what the plan rolled out in detail will be for at that point.

On the security front, we've completed several of the vendors now completed several of the county board risk assessments they provide to the counties with an offer of discussing the reports also enlisting some feedback from them in terms of what kinds of assistance would be useful for them mitigating the results of those risk assessments. We have not yet really received anything substantial back from the counties in terms of that ask, but we will follow up with them. Since that time, we've also finalized more reports and they will probably be going out at the end of this week. Also, in the security front we continue to work and develop the scope for a new project for our next version of what election infrastructure would look like. So, in terms of increasing security end to end, we're in discussions with Center for Technology and Government (CTG) on that and we are currently revising the scope to manageable resource level and cost estimate. It's been busy.

Accessibility, we are in very good shape for what the requirements are for the end of December. Two significant systems that have to be brought up to date and meet accessibility guidelines on voter look up and election night reporting. Both of these are being redeveloped and will be complete or expected to be complete by the end of the month. The benefit is not only are we implementing requirements we have to for accessibility but also in terms of responsiveness. So, there will be a much better user experience to download on a cell phone or a tablet sizable take an opportunity to update the user interface as well. I do not have the stats of the web in front of me from Election Day.

Douglas Kellner: I take it you're working on the online voter registration project we were talking about before with the funding issues. Has there been interaction with the New York City Public Campaign Finance Board and what is your evaluation of the usability of their system for a statewide application?

Bill Cross: The system itself from what I've seen is not a pick it up and put it on where we can use it that way, a lot of the work that was developed because of the online screens and the workflow in terms of those lines we are definitely utilizing. We're actually using that as the basis for our own user interface development as we go through it.

Douglas Kellner: So, it is going to save some of the cost by taking that on? Great. Okay and then the second thing is, to what extent are you involved so far in what computer resources are needed for the public campaign finance implementation?

Bill Cross: Nothing. I certainly will be.

Kim Galvin: No, there hasn't been any internal "meetings" yet on that.

Douglas Kellner: Are there going to be submissions made to budget in terms of, what's the timeline?

Bob Brehm: With everything that back Todd and I met with Deputy Secretary Smith I'll do it from memory, last Wednesday and there were a number of things on our regular agenda to talk with him. He asked us to start focusing in January on what that, I mean we've got a pretty big list already, but what that list will be. I mentioned to Kim and others that that's what they're looking for in early January to make sure that whatever our ask will be and from that perspective I don't think it's what we need in next year's budget as big as what we also need immediately in this fiscal year to get started.

Kim Galvin: Well, there's two components; one we need to work on the software immediately. Because as we all know, things take longer than we generally first anticipate.

Douglas Kellner: And Kim when you say the software hum us a few bars on what the...

Kim Galvin: Well for example, we have two different types of matching ratios; we have a statewide matching ratio at 6:1 for any donation up to \$250 and we have thresholds that have to be met before someone qualifies. We have a legislative in district match on a progressive scale starting at 12:1 down to 8:1. 12:1 for the first \$50, 9:1 for the next \$100 and then 8:1 for the next \$100. So there has to be a way to distinguish, if I give \$50 now and \$50 then and \$100 there, and then there's also which matching ratio do you use? How do we identify that? What is the treasurer responsible to do? I'm hoping to, because I'm in the rest of that commission on that I'm hoping that the treasurer when they start to punch in the name to give a donation will have a sort of dropdown screen so they can see the prior contributions and there's an interesting one that came late to the table with a \$250 claw back. Basically, if you give more than \$250, none of your donation will be matched. So if I give you \$250 in district now I'm sure somebody is going to challenge it, and \$250 now we do 12, 9, 8, if I give you \$100 later it's incumbent on the treasurer to either recognize that and give back that contribution and continue with the \$2600 that the first \$250 provided or if they proceed forward they have to be

identified that all of the claw back, all of the public funds that they were given based upon that first donation have now exceeded a matchable limit and we take all of the money back.

Douglas Kellner: And if they make that mistake, they'll get fined either way.

Andy Spano: I didn't even follow it so it's alright.

Kim Galvin: The goal is the Compliance Unit will identify that in the review of these files.

Peter Kosinski: So those dollar thresholds are not per donation, it's per donor.

Kim Galvin: Per donor. Per cycle.

Peter Kosinski: So, you have to be able to merge those donor's contributions over a cycle of a campaign.

Kim Galvin: That's right and hopefully the Compliance Unit will say to Bob Brehm running for State Senate, we matched your \$100 donation to this amount now somebody is going to give you \$200 more dollars, we're going to have to take that money back or you're going to have to return that donation. I mean it's not a gotcha as much as a compliance effort that's going to have to be undertaken in the get go and it will take some getting used to. and it's going to take a little work. And all of that manual work you can't really do it manually so we're going to have to develop some sort of system that will identify when you punch in KIMGAL with 2 little parts of the address there will be a dropdown for any possible matches within that district. We also have an average median income requirement for the legislative districts which will lessen the thresholds that the candidates need to meet prior to being able to be matched. That AMI decision has to be made 2 years prior to the event which is basically now because the first donations are 2022.

Douglas Kellner: So, Kim is the best expert on this.

Kim Galvin: I'm excited about it and I'm not even being sarcastic. I am so far into this thing.

Andy Spano: If I had to prepare my budget every year, I wouldn't be excited.

Kim Galvin: No, you wouldn't but I'm into it. We're going to do it; we are going to do it.

(Everybody talking)

Andy Spano: If I had a large family, I could scam this whole system every time there was an election.

Kim Galvin: You could.

Andy Spano: And I could make 10 to 1 on my money.

Kim Galvin: I think you're working against your own self-interest here, but you could that's why we have to be very careful. But what it does, it does incentivize the candidates work within their districts for the smaller donor. A smaller donor at \$50 is now worth \$600. A \$250 donation is worth 23 or 24 whatever the math works out to be so the focus now should be \$100 barbeques, \$50 barbeques within your district as opposed to going outside for the larger contribution limits. And if you followed anything you'll understand that the limits have been reduced considerably that take effect in 2022 when this program starts.

Douglas Kellner: Although you'd never know it from reading the press.

Kim Galvin: You would never know that 67,900 has been reduced to 18,900 at a primary and 9,000 at a general and it's still a catastrophe.

Andy Spano: I'm glad I heard you speak because I know you everyone thought this through.

Kim Galvin: We did think it through. We talked about it a lot.

Bob Brehm: From a funding point of view, we have a lot of work to do. I hate to keep bring this up. It is our challenge. And if we don't get any money until the next fiscal year to start, it is going to be a challenge. So, it will be a challenge if we get money in January.

Kim Galvin: My state legacy is a public financing program; my father is flipping in the grave.

John Conklin: Kim wants public financing, Douglas Kellner wants voter ID.

(Everyone laughing)

Douglas Kellner: I didn't say that though John don't quote me. I said this is a better biometric system, I did not advocate it.

Kim Galvin: I think we can do it.

John Conklin: Voter ID?

Kim Galvin: No public finance. I got the business rules dude. I got flow charts, I got everything, I'm ready except till the court throws it out with no separability clause and then I'm going to be really upset.

(Everyone talking)

Andy Spano: ...require an ID card.

Bob Brehm: Well banks to open an account require some.

Todd Valentine: For new bank accounts, yes, they do.

(Everyone talking)

Douglas Kellner: With the finger you shouldn't need registration. You register unless you're not 18 and they have you in the system as a felon or an alien.

Peter Kosinski: Any other questions?

Andy Spano: You walk up to the machine; it takes your face you get your ballot and that's it.

Douglas Kellner: He's very tolerant today.

Peter Kosinski: Any other questions for Bill? Okay thank you. That is the end of our ATU report. Next is Enforcement by Risa Sugarman and I noticed that Risa isn't here again today. I just have to ask, was Risa asked to attend the meeting?

Todd Valentine: Yes.

Peter Kosinski: She has been again. So again, she's refused to come. Well, I will say I'm very disappointed by this for myself that she's refusing to come for our meetings now. We did get a ruling from the court on the issue that I think she was using to not come to these meetings. And now the court has ruled, and she still refuses to come so I don't quite understand why. I know she lost the case but that should not be a reason to not attend our meetings. So unfortunately, we're not going to get a report from her which I think is too bad.

Bob Brehm: We did ask for the report. After the court decision we communicated the decision and requested the report that was ordered in the decision, and we were told that she won't talk about it until she wants to talk about it.

Peter Kosinski: Yeah, I don't understand what her basis is then for not attending our Board Meetings. Did she articulate one to you?

Bob Brehm: She hasn't really other than I think that while this litigation is pending. I do note and I think Kim is suing over the public financing in her capacity elsewhere and she still comes.

Kim Galvin: That's right I am suing...

Peter Kosinski: Well, I will say I never agreed with the premise that if you're suing the Board, you still don't have to attend meetings. I really don't agree with that but at the same time once the litigation has ended which I believe it did in October when the judge ruled, it seems to me that issue has now been resolved and there is no basis to not attend meetings. I think it's very unfortunate that this Board is not able to receive a report from Risa Sugarman, ask questions of Risa Sugarman and get information from her Unit.

Andy Spano: We should send a subpoena.

Douglas Kellner: As she's required by law.

Peter Kosinski: As she's required by law.

Douglas Kellner: Okay can we just let's go through the report, how many criminal referrals have there been this year?

Brian Quail: Zero.

Douglas Kellner: And how many hearing officer proceedings have been commenced?

Brian Quail: Two in 2019.

Douglas Kellner: And how many referrals for nonfiling have been made to her unit?

Brian Quail: Many, many. For the January periodic it was 2,652 in which 2,085 remain outstanding and with the July periodic, there were 2,533.

Douglas Kellner: And how many complaints, how many complaints has she notified us have been resolved?

Brian Quail: Zero.

Bob Brehm: Well, there's been no notice.

Douglas Kellner: But the statute requires that she notifies the commissioners when she closes a complaint, and the answer is zero. And how many judgments have been obtained this year?

Kim Galvin: I think some, I'm not sure.

Brian Quail: Judgments? I think we're seeing zero there.

Douglas Kellner: Right judgments or fines are zero and judgments that were on the books from prior years that have been recovered, has she reported the recovery of any judgments?

Brian Quail: I don't know what the answer to that is but at least through the Madman group when she deposits money really none. And there has been some activity in...

Kim Galvin: she told us that instead of her giving us that number we should look for our administrative books and figure it out ourselves.

Brian Quail: So, there is a number, but we don't know what it is. And she hasn't reported it.

Douglas Kellner: Okay and in any event that would be from prior years because she hasn't gotten any judgments this year.

Bob Brehm: The last time the agency obtained a judgment, Mr. McCann would know for sure, but I believe we did the January 2014 periodic filing we completed that with a judgment. The July periodic is when the law changed, and we sent out of the 5-day letters, but we did not get a judgment at that time. So, our end of collecting it before this, was for the January 2014 activity.

Brian Quail: And she has collected on some of it I don't know what the number is.

Douglas Kellner: And I forgot to ask, subpoenas that have been requested?

Brian Quail: Zero.

Douglas Kellner: I think I'm finished.

Peter Kosinski: Okay well, I don't know, I don't know what else to say, it's very frustrating to me. I imagine it is to the other commissioners as well that we are unable to get any information out of that unit. That she actually refuses to attend Board Meetings. I just find it unconscionable that she...

Douglas Kellner: It's insubordinate. I wouldn't even be upset about failing to attend the Board Meetings if there were actual productivity coming out of the office. And it just strikes me, I am amazed that the good Government groups are so passive about the fact that there hasn't been a single criminal referral this year, not a single subpoena this year, only 2 out of 2,000 nonfilers have been the subject of enforcement, that nothing is going on for this budget that is almost 5 times the budget that was available to the Board of Elections before the creation of that unit when we were doing more than 1,000 a year.

Bob Brehm: Since I raise budget so often, each of the last years under the 5 years of this program, that division has not spent 1/3 of their allocation. So, consider if it's an agency - what agency of state government has not spent 1/3 of their budget?

Andy Spano: What happens to that third?

Bob Brehm: It goes back into the general fund, and it's lost.

Douglas Kellner: Well better that but the problem is that they're probably doing only 5% of what the legislature thinks that they're paying for and spending 70%. So, it's not even an effective, I mean frankly does anybody really know what any of the people in that office are doing to earn their paychecks?

Peter Kosinski: I don't think we have any idea about what anybody in that office is doing.

Andy Spano: I think we should just make it clear that everything we say, everything we do goes to our legal responsibility for oversight. That's why we do it.

Peter Kosinski: Well, this idea that you're unaccountable to anyone is extremely troubling to me. Everyone is accountable to somebody. She seems to feel she's accountable to nobody. That is very concerning and very worrisome to me. People should be accountable. People in government need to be accountable, they need to be held accountable and she apparently feels she has no need to be held accountable for anything that she does. Very unfortunate. Very worrisome I might add. Okay I'm willing to move on then if everyone else is. we'll move on to old business. Actually, this first piece of old business goes to something very pertinent to her office. This is the Use of Force policy which I know is mandated by the state statute that every office has to have a Use of Force policy. I know that you've been going back and forth with Risa, I guess the staff has that's what I'm told is that correct?

Todd Valentine: That's correct.

Peter Kosinski: With her about trying to resolve the Use of Force. I don't myself completely understand what the issues are. Of course, she's not here to ask, or to discuss it with her; so again, we're stymied in my view to try to resolve this issue because of her failure to come to the meeting yet again, to discuss a matter that's very pertinent to her office. In fact, it's only pertinent to her office, as far as this agency is concerned. So, I don't know where we stand exactly. But I'm happy to discuss it.

Douglas Kellner: Well, my understanding of the reason that the legislature adopted the law requiring agencies to have a Use of Force policy was that the agencies would define what is actually authorized by persons who have a peace officer or police officer status within their agencies. You have the penal law indicates what the rights are of police officers and peace officers but those are very, very broad powers. So, in addressing what

the Board of Elections policy should be, the first question I've asked around is, since this agency was formed in 1974 how many instances have there been where the agency, where an employee of the State Board of Elections has used physical force? And I'm told the answer is none, zero. In 47 years, there has not been a single incident that anybody knows about where a State Board of Elections employee has used physical force. So, then the next question is, well what are the hypothetical instances where a State Board of Elections official would need to use physical force that could not be accommodated by the alternative provision in our authorizing statute that says that the State Police and local police are at our disposal? And indeed, with respect to local police they're required to follow orders of Commissioners of the Elections and indeed the statute says local police are required to follow the instructions of inspectors of elections with respect to their poll sites. So, again, why would any State Board of Elections employee need to use physical force rather than calling for help from the police? And I think the answer is clear, I mean we haven't had to do that in 47 years and right now on the horizon there are no hypothetical scenarios where that would be necessary. Now, if somebody walks through that door and holds out a gun at us are we entitled to use physical force? Well, of course. We are, but that's not because we're State Board employees but because we're citizens of New York who are exercising the rights that anybody has. So, I have been advocating that our Use of Force policy should be that there is no authorized use of physical force by a State Board of Elections employee and that if somebody can come up with scenarios in the future where it may be appropriate, then the Commissioners should review that policy.

Peter Kosinski: Well, I think that really begs the questions of whether we should have a designated peace officer status at this Board. I mean that's always been an issue at the Board. I know years ago, this predates Risa Sugarman certainly, the Investigative Unit there was always a question of whether there was any need to have anybody designated as a peace officer whose status was really to give them the opportunity or the ability to carry a weapon and that's really what the peace officer status grants to an individual if you're going to give them that authority. And I will say the legislature takes this so seriously that every time a locality wants to designate an office as a peace officer, they have to go through the State Legislature to do it because they know what a powerful tool that is. They don't just even delegate that to local jurisdictions to designate peace officers because it is a very powerful tool that is used. But I agree with the Commissioner that I'm unaware of a situation that this Board's ever been in where a staff member who was in the Investigative Unit had the need to exert physical force upon someone based on an investigation they had undertaken. That most of the investigations don't require any sort of on-site interaction anyways. Typically, the on-site interaction is when you're serving something related to a lawsuit that we've commenced but that's done not by this agency but by Process Servers that we hire. So, we're not actually sending out people out into the community to serve documents on people, we're having process servers do that for us. So, it's not our staff that's in that situation. So, the idea that there needs to be a peace officer person carrying a weapon who represents this agency in the context of their duties, I just don't think or belied by the experience of the agency which is we just don't put our employees in that situation. So, I agree that really,

I mean the issue to me is why do we have peace officers designated here at this agency in any capacity whether they're investigators or whatever job they hold.

Douglas Kellner: So, to that end Brian and Todd worked out a draft that I'm prepared to move for adoption that would terminate the designation of any State Board of Elections employees as peace officers.

Brian Quail: Actually, it doesn't quite do that Commissioner.

Douglas Kellner: Well, why don't you read what we're talking about and then you can explain it.

Brian Quail: So the operative be it resolved clauses will be, be it resolved that effective immediately, special investigators at the State Board of Elections shall not be permitted to possess or use any firearm in their capacity as a special investigator for the State Board of Elections, and it's hereby the policy of the State Board of Elections that special investigators shall not be armed, and be it further resolved that notice of the adoption of this resolution shall be provided to the Chief Enforcement Council within 1 day of its adoption. The way the statute works is that by virtue of being special investigator under the Election law under the Criminal Procedure Law they're automatically peace officers. They have that status. But through certain training and meet the quals in order for them to hold that status but they are by virtue of the statute they are automatically a peace officer. Mr. Cartagena did some research and based on provisions of the Criminal Procedure Law it appears however that an agency that has folks that are in the capacity of peace officer can, the employer can say no to guns. So, the insertion here would be that we would still have special investigators, but you would be prohibiting guns.

Peter Kosinski: Fair enough.

Brian Quail: And they would still be peace officers.

Douglas Kellner: Okay but because they're still peace officers, then we still need a Use of Force policy and we can adopt this resolution today, I'm prepared to move it and vote for it but we would still need a Use of Force policy and I would urge that the policy that we adopt is that no State Board of Elections employee is authorized to use physical force but if necessary to carry out the duties of the Board of Elections should call upon the State Police or local law enforcement for assistance. But we don't have to vote on that today, we can...

Kim Galvin: We just need to make it clear that it's not unjustified. I mean there could be circumstances that...

Douglas Kellner: This does not affect the rights of everybody as a citizen, but they would have no special status as State Board employees to use physical force that everybody else doesn't have already.

Gregory Peterson: So, you move the...

Douglas Kellner: So, I'm moving this resolution as Mr. Quail read.

Peter Kosinski: Okay is there a second to that motion?

Gregory Peterson: I'll second.

Peter Kosinski: Moved and seconded. Is there any discussion? All in favor?

(Chorus of ayes) opposed? That's carried unanimously. So, you will then Brian you'll notify Risa of this based on the...

Brian Quail: I will deliver it to her office.

Peter Kosinski: Based on the requirement to be notified by tomorrow. And then the Use of Force policy then we are still in discussions as far as what that will actually...

Kim Galvin: We'll have to review and amend it.

Bob Brehm: We'll get comments aside and bring back at your next meeting.

Peter Kosinski: I know this is a statutory requirement and I think we're already past our timeframe, so I don't want to hold this up more than we have to, but I think at the next meeting we definitely need to get this done.

Bob Brehm: I think certainly we understand your directions and we'll draft it appropriately.

Peter Kosinski: Okay fair enough. Then let's move onto another piece of old business the Fair Campaign Code matter that I know has been pending for some time.

Kim Galvin: Still in court.

Peter Kosinski: Still in court so no reason for us to take that up today? Anybody want to take that up today or should we hold that over or should we just dismiss it? What's our position here?

Brian Quail: My recommendation Commissioners we have a strong policy leaving things on old business, but I think that it would be wise to allow it to lapse from old business and we'll bring it back if and when something happens.

Peter Kosinski: It's still in court is that the situation?

Brian Quail: Yes, and it seems very like that the issues that surround the complaint itself will in fact be resolved.

Peter Kosinski: I would hope so. So, I favor we just put this aside and take it off old business. If the staff feels the need to bring it back into business at some point in the future, we'll take it up then. Anybody have anything...

Douglas Kellner: Fine.

Peter Kosinski: Okay so we'll move onto new business unless there's any other old business? No. So new business now we have several regulations that we are considering.

Douglas Kellner: All three of these are just to continue the emergency regulations is there any new text?

Peter Kosinski: I think we'll take them individually. So, let's do the first one the 6210.7 - .10 ballot accountability.

Brian Quail: This is a final adoption of the conforming changes to these regulations that accommodated the issues related to the discontinuation of ballot stubs and that sort of thing. So, these are largely conforming changes.

Peter Kosinski: And this is final adoption? And we have received no comments is that correct?

Brian Quail: No.

Peter Kosinski: No comments at all okay. Is there a motion to adopt?

Andy Spano: So moved.

Peter Kosinski: So moved, a second? Any discussion? All in favor say aye.

(Chorus of ayes) opposed? Then that one is finally adopted.

The next one is 6211 Procedures for early voting.

Brian Quail: Commissioner this is continuing on an emergency basis on the current regulations. We do anticipate that there will be changes and, in all likelihood, sufficient enough to require additional comment period on the final adoption. At this point in time, the experience of the prior election and the ongoing roundtables are being assessed for changes. This will hold in place in current form until those proposed amendments are brought...

Peter Kosinski: So how long will these emergencies stay until we have to act again?

Brian Quail: The longest we can extend is 60 days.

Peter Kosinski: Okay.

Brian Quail: The first extension can be 90 days, but subsequent ones have to be 60 days.

Peter Kosinski: Okay so it's a 60-day extension of those regulations. Is there any...

Douglas Kellner: And we have gotten comments on these regulations from a number of sources? So moved.

Peter Kosinski: So moved, second?

Andy Spano: Second.

Peter Kosinski: Any discussion? All in favor say aye.

(Chorus of ayes) opposed? That's adopted as well for the next 60 days. The final Reg is the 6200.2 this is the Financial Disclosure Filing Regulation; this is to change the need for a 10-day post primary to a July 15th during the June primary right to accommodate those merge together to only require the July report?

Brian Quail: Yes, and this just puts out the draft.

Peter Kosinski: This is the first round on this one.

Brian Quail: Yes, and it's not being adopted on an emergency basis, we're just putting it out there.

Peter Kosinski: Okay is there any discussion?

Douglas Kellner: The only comment I have or question really, is did you consider flipping it the other way that if you were a primary candidate that you wouldn't have to file a July 15th report but you'd have to file a 10-day report?

Brian Quail: Yes, we did consider that. There was sort of a, it was like a logic game because the statute has a number of different tiers of requirements that whatever scheduling scheme we provide must meet. One of them is that there be a report filed at least once every 6 months. So, what would end up happening if we moved it back from July 15th by 2 weeks, the January period would be more than 6 months out from when that filing would be.

Douglas Kellner: Well, that's the answer.

Peter Kosinski: I mean I have to say I have little or no interest in these post election reports to begin with. I mean once the election is over the idea that I have to do another report afterwards is a little superfluous to me because the election is over. And the whole idea the people what to know how you're spending your money or where your money is coming from is lost, the election is over. So, I'm not bothered at all by eliminating this post primary filing. I think it's a good idea. I think fewer filings in this situation make more sense. We've already got a July 15th requirement.

Douglas Kellner: Let me add one more cynical comment which is that there's really no consequence if you ignore that 10 day filing date because there's just no way either the Board or Enforcement Counsel are going to seek any penalties or sanctions, and now I guess when we do public campaign that could change. Alright.

Peter Kosinski: Is there a motion to adopt this proposed regulation?

Douglas Kellner: So moved.

Peter Kosinski: Publish it. It's been moved and seconded. Any discussion? All in favor say aye.

(Chorus of ayes) opposed? So that is also adopted. So that completes the regulations. We now move onto the HAVA funding expenditure resolution.

Douglas Kellner: Alright Bob explained before.

Peter Kosinski: We're going to put that off?

Douglas Kellner: No, we're going to do this. It went a little bit over the original budget, so we need...

Bob Brehm: Commissioner vote to spend original Help America Vote Act money for allowable expenses both Cybersecurity and NYESS voter to the extent of \$2.3 million not to exceed.

Peter Kosinski: So, this is separate and apart from that Cybersecurity money that we're going to allocate next time? Okay. Is there any discussion?

Douglas Kellner: I move.

Peter Kosinski: There's a motion to adopt is there a second?

Gregory Peterson: Second.

Peter Kosinski: Any discussion? All in favor say aye.

(Chorus of ayes) Alright we have now adopted that, and we have one last one. The resolution regarding hearing officers. There is a resolution to appoint, I believe we're down to one hearing officer right now is that correct?

Bill McCann: No, we have three, this just really takes two that would expire at the end of the month and have them reappointed.

Peter Kosinski: These are expiring then if we don't approve it. I see. So, these are current hearing officers?

Bill McCann: Yes.

Peter Kosinski: So, we would just be reappointing two current hearing officers Amy Kendall and Sherry Miller.

Andy Spano: So, moved.

Peter Kosinski: Second?

Gregory Peterson: Second.

Peter Kosinski: All in favor?

(Chorus of ayes) so that completes that.

Douglas Kellner: Do we have a date for our next meeting?

Bob Brehm: We already selected for January 16th.

Peter Kosinski: Anybody have any issues with that?

Douglas Kellner: That's fine. Alright I would like a motion to go into Executive Session to discuss litigation and personnel matters.

Peter Kosinski: Okay is there anything else to come before the Board before we go into Executive Session in the public session? If not, I would entertain a motion to go into Executive Session for litigation and personnel. The motion has been made. Is there a second?

Gregory Peterson: Second.

Peter Kosinski: All in favor?

(Chorus of ayes) we're going to go into Executive Session I don't anticipate us coming back out of Executive Session, I don't think we'll go back into public session after this so thank you very much and have a nice holiday.