Douglas Kellner: Good afternoon everyone, I'm Douglas Kellner Co-Chair of the State Board of Elections and I'm calling the meeting to order. I'll introduce Peter Kosinski the other Co-Chair and Commissioners Greg Peterson and Andy Spano. Our first order of business is to serve as the Board of Canvassers for the State Election returns. We've been provided with the copies of the certified returns. Does everyone agree that we should sign the certifications?

Peter Kosinski: Yes.

Douglas Kellner: Alright so we will proceed to sign the paperwork.

Bob Brehm: We'll start with the statewides. There are multiple copies depending on each.

(Talking amongst themselves - signing the papers)

Douglas Kellner: So, for the US Senate what's the paper flow for that?

Bob Brehm: Someone is going over to the Governor's Office as soon as we get them signed to get the Certificate of Ascertainment as soon as we get that we ship it to the Secretary of the Senate.

Douglas Kellner: We don't file it with the Secretary of the State?

Bob Brehm: She's in the room to add her name to the Certificate of Ascertainment.

John Conklin: Well I'm thinking to myself should we open the Board of Canvasses Meeting?

Bob Brehm: We did that.

Peter Kosinski: We're canvassing right now John.

(Everyone talking amongst themselves – signing papers)

Bob Brehm: We send electronically a copy to the Clerk of the House today and they have a special mail pouch that they provide us for Congress.

(Everyone talking amongst themselves – signing papers)

Douglas Kellner: Alright so that concludes our work as the Board of Canvassers. So now we'll proceed to meet as the Commissioners of the State Board of Elections and first item of business is approval of the minutes of October 25th. Is there a motion?

Andy Spano: So moved.

Peter Kosinski: I have a question about the minutes. I'm looking at the second page and there's three votes; one under Old Business, two under New Business and it says that it was approved, the three commissioners voting yes and Commissioner Spano voting no and then it says 4 yes, 0

no after that. Am I right? So, there's a discrepancy there between the language and then the vote totals.

Douglas Kellner: So, that has to be changed.

Peter Kosinski: So, is it 4 to nothing or is it 3 to 1?

Gregory Peterson: 3 to 1.

Peter Kosinski: Okay so I would just move it with that amendment those numbers be changed.

Cheryl Couser: We might have to double-check. I looked actually it was 4 to nothing, last time around was 4 to 0.

Andy Spano: I don't think I voted against it.

Cheryl Couser: You did not.

Brian Quail: It's 4-0 for sure.

Peter Kosinski: So, it is 4-0. So, the language that says Commissioner Spano voted negative is wrong is that what you're saying? Okay. Well then, we should change that to reflect what really happened.

Douglas Kellner: Okay who's in charge of that to make sure that that happens? So, you have the text of the amendment John?

John Conklin: Yes.

Douglas Kellner: Alright. So, we're I think we all agree to Commissioner Kosinski's amendment. So as amended, those in favor say aye. (Chorus of ayes; 4-0) opposed? Okay thank you for pointing that out Commissioner. So now we'll proceed with the Unit Updates.

Bob Brehm: Somehow from this side of the table to over there this one went missing.

Douglas Kellner: This is the Certificate for the Governor.
Bob Brehm: Well, from a unit report, I think certainly everybody has worked hard all year long; your work on the certification of the results really ties up the work of all the staff over the whole year, county boards, to have the results come in. It's my understanding we may even get the results posted and distributed according to the various Clerk of the Assembly, Senate, the Secretary of State and the Congress before the end of today. Other than that, we certainly have worked hard on a number of other items that are on your agenda including cybersecurity. Usually by the time we get to the unit report for IT we've all given it, but Bill has worked hard. A few additional staff members were happy that his CISO has started yesterday who is the…

Peter Kosinski: I'm sorry what was that? Chief what?

Todd Valentine: Chief Information Security Officer.

Bob Brehm: Is part of the Secure Election Center and it's almost similar to when Bill started. He started and almost on his first day we had the first FBI alert in 2016 that something was hacked and yesterday we got an alert that Schenectady County's computer system was attacked by malware. So, I'm not sure if it's good that we keep bringing on chief IT kind of people and we have some attack that they have to jump right into but it's certainly a case of they get involved really quick in helping us to resolve activities. We've been making great progress with the county boards with the risk assessments that are being undertaken on our behalf. Through Grant Thornton we've done 24 of the counties completed already. It certainly was a little bit of a challenge with Election Day to be on site in the counties the holidays, etc. but we're on track according to the plan to complete the risk assessments by March and to see that those reports, as soon as we have the written reports we can make those available to you but generally there have been no surprises reported to us yet that are really glaring deficiencies and we are working on putting in place procurements that will help us do the mitigation phase which is the next component of what we're going to do.

Peter Kosinski: How many of the Boards have their own IT unit?

Bill Cross: Very few, very few I would say…

Tom Connolly: And I think "Unit" is a very strong word, they may have one person, an IT liaison.

Peter Kosinski: How many even have that do you know what the numbers are?

Tom Connolly: Less than half a dozen.

Peter Kosinski: Have even that, so the vast majority of our Boards have no IT expertise within the Board itself is that a correct statement? They all rely on the county.

Bill Cross: And even those that do rely on the county it's usually this person in that role they're so interfaced at county IT it's not a full IT staff position, it's more of a liaison, almost.

Bob Brehm: So we are working to complete the risk assessments, part of the issue to try and stay ahead of schedule is a web meeting on Monday with all of the IT level workers to help guide them through some of the tools that are made available for them for the County IT and the County Boards to provide important information we will consider as part of the risk assessment. Some of the counties were having you know many questions that were similar so we though instead waiting until we get to each county and answer the same questions, we would try and do a webinar to answer them collectively and try and be more efficient in getting those tools accomplished. So that's scheduled for Monday.

We rolled out the risk assessment was one of the main procurements, intrusion detection services were second. We had a roll out meeting with all the counties in the last week. We've started to get counties responding. It seems to be overwhelmingly popular. It's a requirement that every county has an intrusion detection service to make sure that the election infrastructure is safe. And one of the items that we have to figure out based on the survey questions and the review of that is, is the election infrastructure isolated or is it just part of an overall county network that there's no way to isolate protecting the election? And so far, out of the 22 counties, none of it is isolated. You have to protect it all to protect any of it. So, we certainly continue to work through that.

Our next procurement was the Manage Security Services because the holidays and where we are with that procurement, we plan to do that roll out to the counties in January. So that will have covered the main part of the procurement. It's also one of the reasons why on your agenda you have the request for the resolution to spend more of the federal money based on the procurements of where we see the interest. We will have committed more of the money than you already authorized us to spend so we need your authorization to finish those commitments and also for the anticipated remediation services that we're trying to put in place. We hope that that will, based on the estimates of what it will cost us, will at least get us through July hopefully to the fall, depending on what counties ask for and whether or not it costs more or less than we anticipate. But we didn't want to have to come back every Board meeting to do that and sometimes it might slow us down in some of the progresses.

We've made the annual report to the Federal Government that's required under the HAVA funding program. So, for the 2018 money that the state received that allows us to do Cyber security and for that original money that started to come to us a very long time ago. We still have pockets of money depending on what program it's earmarked to for that old HAVA money. At some point we might want to consider making a recommendation if it's really not being used, there are other demands that I know our IT has in order to make even the security of NYSVoter a little stronger that we might want to consider asking the legislature to reassign it for a different purpose. I'm not sure we're there yet but at least we're thinking of asking.

Peter Kosinski: What's the current purpose?

Bob Brehm: Well it's allocated under the original 2004 enrollment it's allocated to the counties.

Peter Kosinski: So, they would reallocate it to the State is that what you're recommending for the counties that haven't used the money we take it away from them?

Bob Brehm: Well you give them one last warning, but you know part of it is Education & Training since 2010. There's about a million, I don't remember the exact number about a $1.7 million of the $10 million for Education & Training and I believe in the SHOEBOX program…

Peter Kosinski: Can they use it for upgrades of cybersecurity?

Bob Brehm: When they adopted the 2018 plan, they allow any of the previous money to also be used for cybersecurity.

Peter Kosinski: So, counties can be using it for cybersecurity?

Bob Brehm: They can use it on anything that furthers the administration of a federal election so yes.

Peter Kosinski: So, if we identify cybersecurity issues within these counties, they could use this money that they currently got from the federal government for that purpose?

Bob Brehm: They could. So, other than that, I think we've had a number of staff changes. I think we reported to you last board meeting that one of our key IT department staff was leaving us to go to Courts. I have even better news for you now that we were happy to have had him work for us, we were sad to see him go but he's back, that's even better. We're so happy to have Dennis back.

Peter Kosinski: You know I came back too. I totally understand.

Bob Brehm: People leave us, and they just can't stay away.

Bill Cross: It was that bungee cord that we put on his ankle when he went out the door.

Bob Brehm: So anyway, I think we're making progress from a staffing point of view, but we have pretty good staffing from the secure election center point of view. We're putting in place our controls for managing the Secure Election Center from a structure, the governance, we'll have that hopefully for you in early January well probably mid-January according to our plan to make sure that it functions and we can explain to the County Boards clearly what services we hope to be able to provide to you to supplement what they're already doing. Our goal is to have that ready for the January conference. So, we're working towards that. Other than that, I don't know if you have anything?

Todd Valentine: No, that covered most of it. The next thing is when one election is over, we start rolling to the next phase, the next big event is the January conference with the Election Commissioners Association. The first week in January we try to schedule an opportunity to go over what issues have arisen out of the last election and what we see coming in the future which is a little unclear at this point, but we'll know better when we get to January.

Douglas Kellner: Alright well thank you. Our next report comes from the Counsels and the Compliance Unit, Kim Galvin and Brian Quail.

Brian Quail: Thank you very much Commissioner. First just a quick overview of where we're at with our litigation posture right now for the agency we are through, obviously, thankfully all the ballot access litigation that occurred in the last year related to who's on and off the ballot and likewise the post-election matters to which we were involved and also all resolved. Presently, we're in the early discovery stage for the Upstate Jobs suit which deals with party contribution limits and their potential application of independent bodies. The De Rosier case pertaining to political apparel. We have a motion-to-dismiss pending and we expect a response by the 18th

and then we'll have an opportunity to reply to them. And in the Common Cause case we've entered into the discovery stage. In the LLC case, the Brennan Center case the defendants or rather the plaintiffs have moved to take an appeal in the Court of Appeals. They previously asked for leave from the Appellate Division and it was denied. In Eason, we're continuing to implement the substance of the settlement but there is a dispute still pending regarding the amount of attorney's fees. In the League of Women Voters case our answer is due on January 28th, obviously we'll be in compliance with that. And in the Moody case, there was an appeal filed by the plaintiff in the Court, a leave for appeal in the Court of Appeals after having lost in the Appellate Division. So that's our case posture.

In terms of where things might be moving into the near future, just to apprise, we're down to 2 out of the original 5 hearing officers, so as Bob says we're one banana peel away from not having a group. We need to have a group in order to randomly select a hearing officer. So, as we move into, by the time we get to the January meeting, hopefully we will have a recommendation to the Commissioners with respect to additional appointments. And also, with respect to contribution limits, every 4 years the Board is called upon to publish by regulation an increase in the contribution limit which essentially adjust the limits, certain limits by the amount of the consumer price index increase over the preceding 4 years. That work needs to be done by February 1 and last time around, just for your edification, the contribution limits went up about 7.1% over the course of the preceding 4 years when they last increased and in the immediate 4-year look back it looks like we're going to be right around 7% again. But until we have an additional CPI figure for December that obviously is subject to potentially slight modification.

The PIDA regulations that were implemented the Paid Internet Digital Advertisement filing requirements I should say and the statute that was adopted as part of the budget is a little metric report there. We have received from the Independent Expenditure Committees a total of 17 committees have filed 109 Paid Internet Digital Ads that the Board has then posted on our website as of a few days ago.

And then at the last Board meeting the Commissioners asked us to undertake a look at the July Periodic…

Peter Kosinski: Before you get to that can we just go back a minute on the previous? So that Digital Ad requirement that was put in, how did that work? I know we kind of cobbled that together to address the statute and have it work for this year.

Kim Galvin: I think it worked pretty well.

Brian Quail: Yes, the IT Department did a great job in scrambling to put up a mechanism by which we could post them and people could find them and look at them and the reviews from the community that looked at them seemed to be very pleased with what we had done and our hope is that in the future the reporting will be even more robust.

Peter Kosinski: Do we know that we got everything that we should have gotten? I mean as far as ads go, did we get all of the independent ads or do we know, or do we have a sense or is there a way to assess that? Or how did that part of it work? Was compliance high, low, do we know?

Brian Quail: I will be honest with you, I don't know what the compliance rate is because the requirement is there that if you engage in this kind of advertising that you have to file these. And I don't know who didn't. I do know what we did to let the regulated community know that they had this requirement, we made sure that we sent a copy of the summary of the statute and a copy of the law itself and the regulations links to our website, we mailed that to all of the Independent Expenditure committees. It's a fairly small universe of entities that are required to do that filing.

Peter Kosinski: How do we police this? I guess that's my question, how do we police compliance with this particular requirement?

Brian Quail: It is very similar to the requirement that campaign committees file their campaign literature in the normal course with their immediate post-election report and to some extent, they are self-identifying that they had campaign literature. It is thinking out loud Commissioner. It would be potentially possible to look at the expenditures that were listed by the Independent Expenditure committees and make a determination based on where they're spending their money. If there is a substantial likelihood that there might be a paid internet digital advertisement behind that and then go and cross reference whether or not there actually one was, whether or not such an ad was actually filed. We have not done that analysis.

Peter Kosinski: Okay.

Brian Quail: You?

Kim Galvin: No.

Brian Quail: So, at the last meeting the Commissioners asked us to take a look at the July Periodic report and analyze based on certain metrics the nature, I'll say of the committees the reports that had failed to have been filed. Because we're dealing with the universe of one filing, I mean for the purposes of this discussion, one report is one committee. So, there were originally 2,500 committees on that list and what we found when we asked the staff to look at it is that of that 2,500, 322 of those 2,500 had not previously filed any report. That's roughly 12.8%, so roughly 13% of those entities had never filed from whatever it is their filing obligation had begun. 2,178 of the 2,500 or roughly 87% had previously filed something. So, in other words, they had made a disclosure and "gone dark" at some point between whenever they last filed and the July Periodic. So, we drilled down a little bit more and discovered that out of the 2,178 that had filed, 156 of those had not previously filed since before 2014. So that's roughly 7.16%. That means that 2,022 of the committees which is 92% actually 93% really when you round up, 93% of the committees that had filed something "went dark" between 2014 and the 2018 July Periodic. And so, we drilled down just a little bit further and said, of the committees that had filed something previously who didn't file the July Periodic, when did we last get something from them? So, for the nonfilers in July of this year, 132 of the 222 committees last gave us something in 2014, one in 2015, roughly 283 in 2016 then it jumps up. So, 736 of the 2,222 committees that had "gone dark" had done something, had given us some kind of a report in 2017 and 588 in 2018. So, it gives you a stepwise sense of at what point the committee simply stopped filing disclosures with us.

Peter Kosinski: So, Brian are you saying that 93% of the committees that didn't file the July 18 report started filing after 14?

Brian Quail: Actually, what I'm saying is that they had filed something with us previously since 2014. So, in other words, they're not so long in legacy of having non-filed that they extend back to being long in the tooth. 93% of them had given us something since 2014. And we took a look at, so we recorded the balances for the committees, quite a few had, relatively a small percentage, but 355 had a zero balance, and I apologize for not having the number that had a negative balance but there were a number of committees that did.

Andy Spano: 355 out of the 2,000?

Brian Quail: Yep 2,022, 2,178 actually and then of all the committees that had a positive balance, we wanted to get a sense of what's the value of money that was based on whenever they last reported whatever their balance was that we don't know the present status of that has "gone dark". And simply adding it all up it's $20,981,076.56. So, it's a substantial sum of money.

Gregory Peterson: So that $21,000,000 is out there maybe out there may not be out there, we just don't know what happened to it. Whether it's been spent, not spent or…

Brian Quail: Right and in as far as that is also concerned, on that as a metric, we've noticed in the hearing officer reports that are made by the Chief Enforcement Counsel through her counsels that she's identified in almost all of those reports and I'll just quote that when she's dealing with nonfilings, she reports that the violations clearly are not de minimis in that willful violations of this provision are punishable as a criminal misdemeanor, and B, this is the relevant portion for this part of the discussion, voters and opposing candidates alike were repeatedly denied the validity to ascertain the manner and means by which the candidate's campaign was/is being financed.

So, in terms of aggregating a total amount of money that we don't know about as a result of the failures-to-file just this one Periodic report, the aggregated sum is that $20 million closer to 21. So, the other thing we were asked to look at I will quickly point out is that the total number of the committees the 2,500 that have a prior outstanding judgment is about 13% and that is probably the last…

Kim Galvin: 69 came into compliance and did file on their own.

Brian Quail: Since the report was sent.

Kim Galvin: Since the report went over.

Brian Quail: And in terms of aggregating the numbers and putting them in context so the 2,500 nonfilers, the 2,022 of those who had some sort of activities since 2014 but have since "gone dark" and 2,178 in total that we don't have anything for, the total number of hearing officer proceedings that have been brought is 23 since they started in 2015, we're presently at 5 for

2018. And what is further interesting in terms of that is if we sort of look at where we're at with these failures-to-file and context of where we anticipated being, back in 2015 at the February 19th meeting, there was an exchange between the Commissioners and the Chief Enforcement Counsel relating to expectations of what would happen in the hearing officer process with failures-to-file. And Commissioner Kellner asks, "What's the schedule for doing that?" And the Chief Enforcement Counsel replies that she doesn't have a date I can tell you and explains "I already have in my computer the template to make the reports, it's not a difficult to make a failure-to-file hearing officer's report, the template is there, I know the cases, they'll be done and then we'll go. I think we'll schedule a certain number of hearing officers, 5 or 6 hearings a day. I don't think it's going to be a problem, I think it's just getting all the working." So, we have not had 5 or 6 a day, we have had 5 or 6 a year. That's my report.

Peter Kosinski: Thank you.

Andy Spano: The drop off going dark is around 200 or something a year then it rises to 700 and 900.

Brian Quail: Yeah, it was roughly 1 something one year and then 2 something them a big jump up to…

Andy Spano: So, it keeps going up?

Brian Quail: Not the number of more going into the dark that's well actually it is the number of more because they did something more recently yes.

Douglas Kellner: I'm speechless, does anyone else have any comments?

Gregory Peterson: I think sadly the numbers speak for themselves, there's a lot to be done here. I don't want to harp back to what used to be or anything, but the bottom line is simple solution had been sue them. Once somebody is going to be sued or is sued, there's a judgment laying out there, they all of a sudden say, "Whoa wait a second, time out, let me get this thing resolved." It seems to me that kind of a step has to be taken to get some of these because these numbers are outrageous. I have no further comment.

Douglas Kellner: Alright we'll proceed with the next report, we'll go to Election Operations, Tom Connolly and Brendan Lovullo

Tom Connolly: Thank you Commissioner obviously since the last Board meeting, we've been very much involved in activities surrounding the general election. We were assisting Boards and their needs in their run up on Election Day. Staff went down to New York City on Election Day. We also worked with obviously IT and County Boards on Election Night for Election Night reporting to make sure that went smoothly. Since then we've collected and aggregated all of the election results from every county. We put them together in a documentation that you, as the Board of Canvassers signed earlier. We've also prepared information for posting on the website for PIO.

Since the last Board meeting, we've also conducted 10 county board visits for assets for asset audits.

As far as voting machines go, the Clear Ballot which has been a modification, we've been working on new test cases for that process. And as for ES&S we are expecting delivery of hardware of their new Express Vote XL system. Right now, the expectation is next week. We also received the SLI review about a de minimis change order. The compact flashcards that were being used in Dominion had been 4 gigabytes but it's harder to find such small capacity nowadays, so we were testing with these in larger cards which are kind of more common now so that's what came through for that.

For Cybersecurity, Tom Wood from my unit, Bill Cross and I, we attended an event a roundtable at NYU last Monday which was attended by a number of election officials from various states to kind of discuss the Cybersecurity of the last election cycle. I also attended 2 sessions in Kentucky at the Counsel of State Government's National Conference on Election Cybersecurity which was hosted by the Secretary of State Grimes. We continue to participate in all the meetings and calls regarding the Board's activities for Cybersecurity. We did receive the after-action report from the Department of Homeland Security which came out of the 6 tabletop exercises that we held over the summertime. Our selection election and staff in my unit have been reviewing their recommendations to kind of determine what our unit might need to do to go forward regarding the rest of those recommendations. We've also been reviewing all of our policies and procedures just as we go forward to see what changes, if any, need to be made. We have drafted some guidance for County Boards on the use of removable media and we've shared that with a number of partners; the Department of Homeland Security, the Election Assistance Commission, and some others just to try to get some feedback to make sure that we're not missing anything before we distribute that to the Boards.

And then a couple miscellaneous things; as was mentioned the conference of the Election Commissioners are coming up in January so we've been in preparation of topics and content. I did reach out to a number of different organizations to invite their participation. We invited the presidents of both NYSLGITDA which is the Local Government IT Director's Association of the State and also NYSAC which is the Association of Counties along with the Department of Homeland Security and the Federal DHS, also DHSES Division of Homeland Security and Emergency Services for the State and also the Election Infrastructure ISAC across the river. This kind of just goes to part of the things we'll be focusing on at the conference is obviously our Cybersecurity efforts and a big part of that is ensuring that the people who are involved in these activities both at the county executive level that would be county IT for the county board that everyone is kind of maintaining a good working relationship with one another.

We continue to process SHOEBOX contracts that we do. And we've been continuing to work with IT on development of the new CAPAS system.

Brendan do you have anything?

Tom Connolly as Brendan Lovullo: I don't think so we're good.

Douglas Kellner: I'm disappointed that your report did not include anything about New York City's continued noncompliance with the 30-minute time limit rule and frankly I think that the Commissioners need to take aggressive action giving New York City explicit instructions in order to bring them into compliance by the 2020 general election. Frankly, they tender excuses that are not legitimate excuses. So, their principle excuse on why they don't have more staffing in order to handle signing in the voters, the first step, well actually the first step is directing them to the proper poll table, but they don't have enough people at the sign-in stage to handle the anticipated crowds. And the city board's answer to this is to say, "Well our poll sites aren't large enough in order to handle additional tables" which is a true statement, but they are not taking the steps necessary to expand their poll sites for the 3 elections in the 4-year cycle where there is substantial voter turnout. And they're continuing insistence to work on one-size-fits-all for staffing of their general elections is just unacceptable. And I would suggest that what the Commissioners need to do is to direct them to provide us with a plan on how they will adequately staff the poll sites for the November 2020 general election by a time certain and that we review that and force them to comply with that plan. We have the authority to direct the county boards of elections to take explicit steps when it's necessary and this is one of those rare cases where we've been raising this issue for more than a decade now and the City does not take the steps necessary to come into compliance. And I raise it now. I can have something more detailed to present to the Commissioners at our next meeting. But I don't think that we should sit back and idly allow New York City to ignore this provision of our regulations.

Peter Kosinski: Haven't we raised this issue with the City Board in the past?

Andy Spano: And asked for a report.

Douglas Kellner: And we've asked for reports and they've given us reports and they have not complied, and their excuse right now is, "Well we can't add additional tables to sign in voters because the poll sites are overcrowded." Well, they need to expand their poll sites. So, for example, the public schools are closed on general election day. So, to say that a public school has inadequate space, we'll they're talking about the cafeteria of the public school has inadequate space, but there are dozens of classrooms that are available if they would reorganize the poll site in order to accommodate the voters that they anticipate turning out for the general election.

Andy Spano: Except that I mean, I have lived my life at schools for a long time, there are security problems that are involved. And you start doing things throughout the entire building with large crowds.

Douglas Kellner: Yes, but I don't want the reason why they don't do it, they have to address those security issues or give us some other alternative on how they are going to staff the polls so that voters don't have to wait more than half an hour in order to vote.

Andy Spano: Would the suggested legislation to expand the district and the number of people that could come to a particular poll site would that help?

Douglas Kellner: Well create even more voters for a particular election district.

Andy Spano: But there are a number of different election districts, it would go faster at the particular table.

Douglas Kellner: Ideally, the proposal just one I mean there's several things in the works that will help do it. I can already anticipate that we will adopt early voting, I am fairly confident that the legislature will adopt early voting prior to the November 2020 general election. And that will somewhat ease the problem, but it is not going to solve the problem with respect to those districts that have had one- and two-hour waits historically.

Peter Kosinski: Do we know which districts these are?

Douglas Kellner: The City does. They've done a study. But as I say they blithely just say, "Well we don't have enough space to add more tables."

Andy Spano: What is, what happens if we ask for a report, they don't give it to us?

Douglas Kellner: Then we should compel the Commissioners to appear in front of us in Albany to explain themselves and we have the power to do that. I don't want to push it that far, I just want them to pay attention to this and to do what they need to do. If I weren't the state Co-chair, I'd bring a lawsuit and the judge would make them do it and indeed that's the power we have too. We can bring a lawsuit to compel them to comply with our directives.

Peter Kosinski: Have we given them directives on what to do?

Douglas Kellner: Not sufficiently explicit.

Peter Kosinski: I'm trying to understand what we've done because Commissioner I know…

Douglas Kellner: We've asked for reports.

Peter Kosinski: I know that you testified in front of the City Council down there and I read the testimony you made and at one point you made some allusion that you've been trying to get us to do something with the City Board of Elections that we, the two Republican Commissioners won't do. I'm trying to understand what that is because I don't recall a specific proposal coming to us that the Republican Commissioners here have objected to. I think we have supported those efforts to get the City Board to respond to our requests for an explanation for why they can't meet this 30-minute rule and I think we have the same concern. So, I don't know what you were speaking of that you wanted us to do that we won't do. We share your concern that the City Board and all the counties should be compliant with the 30 minute rule but, how we enforce it, I don't know if you have a specific proposal, I'm certainly willing to look at it but I don't believe we've ever done that other than ask them for a report which I think we got but then state next steps as to what to do I don't think we've ever really gone that far but I'm certainly, I think we're open to suggestions of what we can do.

One of my frustrations has been, I've never seen a list of what poll sites are incurring this problem year after year. I keep hearing that there are poll sites in New York City that have a consistent problem of not meeting the 30-minute rule, but I've never seen where those are, so we can analyze, well which poll sites are we talking about and what is happening at those poll sites that are preventing them from meeting this 30-minute rule. That would be helpful to me to see where is this, where does this happen and maybe if we saw that we could understand better why these particular sites are having this problem. Is it too many EDs in a poll site? Is it not sufficient workers? What is it but to me without that information it's very hard to put a specific proposal out to the City Board here's what we think you should do to fix the problem because I don't know exactly what the problem is other than there's long wait lines, but I don't know where and I don't know what's unique about those poll sites?

Andy Spano: I think that we ought to do something. I think if there is a problem down there, I think the comments are well taken and what I suggest is we do the same thing with this that we just did with the failure-to-file, that we ask the staff to put something together to get you those answers and…

Peter Kosinski: Well I think the City Board should have it, I mean I'm assuming…

Andy Spano: Well they'll get it from the City Board.

Peter Kosinski: If the City Board has it, I didn't know that the City Board even had it.

Andy Spano: And bring it here to our next meeting, answer those questions and then we'll take a look at them and make some decisions.

Peter Kosinski: Okay that's fine with me. I would like to see that because I have never seen a report that shows me which poll sites we're actually talking about.

Andy Spano: I don't think, I think the problem exists okay it's just a matter of defining some of these things, taking a look at it and doing something. We ought to do something.

Douglas Kellner: And I think what you should also ask for are the reports that they have received from their outside consultants on this issue so that we can also review those items that they have not followed-up on their outside consultant suggestions.

Andy Spano: Yeah, I know last election the rain and everything else that was going on.

Peter Kosinski: Well I read about them in the paper and I'm not doubting that it happens it's just hard for me to understand the problem or any solution without knowing where and then seeing why these poll sites are having this issue. And is it a consistent issue? Does it happen all the time at specific poll sites? If it does that would give us some indication that they have a chronic problem. Or was it something unique to this election that caused this problem? I don't know. And I think until we see that information, I don't know how we can proceed with anything specific.

Kim Galvin: Well we can get you their testimony too because they've testified under oath quite a bit lately about poll sites and what they were going to do and the lawsuit's they're under. Some of the City Council people indicated they tried to find alternative poll sites they couldn't do it. So, I think it's a more complex issue than giving everybody the…thumb.

Andy Spano: No, I think if we have any power to do something about it, I have no doubt…there's a problem, but that's anecdotal.

Kim Galvin: I think they'd be happy to share it.

Douglas Kellner: Well please get the consultant reports from them which they have not made public. We certainly have a right to see those reports. And, as I say, they're excuses with respect to poll sites in my view are not acceptable because they have not followed through on options that are available to them and simply accept saying that there's inadequate space. And I emphasize that it's particularly unacceptable with respect to the public schools which are closed, that the City does not make an effort to better utilize the space that is available even though it may have to be a completely different plan for the general election held in the 3 years when turnout is substantial which is the presidential year is the greatest turnout.

Kim Galvin: They would have to get cooperation from the schools too because there are, from my discussions with them on this issue, there are huge amounts of breakfast, lunch everyday regardless if school is closed or not. There are sports teams, there's everything in the school buildings that the school just doesn't empty out. Commissioner Spano's indication about safety all those things could be addressed but they are going to need the school's cooperation in that too, I think.

Douglas Kellner: Yes, but the school is required to cooperate by law and the point is that they have to pursue this and just can't throw up their arms and say, "We are doomed to have our voters wait in line for"

Andy Spano: Are any of these lines outside the building?

Bob Brehm: Most of them are outside the building.

Andy Spano: Well that's discouraging people from voting.

Douglas Kellner: Yeah and it was raining.

Andy Spano: But it's also colder around November.

Douglas Kellner: Alright at least there's a consensus that we need to pursue this, and we should have continuing reports on this at each meeting. Alright. Then we'll move to Public Information, John Conklin and Cheryl Couser.

John Conklin: Thank you Commissioner. Obviously like every other unit in the building we've been extremely busy around the general election. We have lots of phone calls, emails, things to

consider. The unit also participated in the monthly ECA calls in October and November. We've been part of all the meetings on the Cybersecurity plans. We processed 76 FOILS in October and 92 in November. Brian mentioned the Eason lawsuit, since the settlement has not been formalized yet, the benchmarks have not kicked in, but we have met all the requirements for 2018.

Peter Kosinski: John, that's the visually impaired lawsuit?

John Conklin: Correct. And we started to work on the requirements for 2019. So far, we've remediated just under 300 documents for the website. The Executive Unit also testified before the Assembly at a public hearing in November. Our unit helped prepare testimony for that as well. With regard to the website, obviously, we posted Election Night results, IT posted Election Night results. The other thing that's been posted is the webcast of the October 25th meeting. For NVRA Mike and Patrick visited Albany and Greene County to do NYSVoter reviews since the last Board meeting. That's all I have. Do you have anything you want to add Cheryl?

Cheryl Couser: The only think I would add, and I don't know if it was in your report Bill is the metrics on SANS training which is the Cyber Hygiene Training that the State Board and all its employees and county board employees taken for Cybersecurity. Of 962 registered, 714 have completed which is roughly 74%.

Douglas Kellner: No other questions, we'll go to Information Technology, Bill Cross.

Bill Cross: Good afternoon Commissioners, what I have left to report at this point, projects for CAPAS FIDAS development continues currently focused on EFS filing portion and most recently internal back office functionality such as ballot access and user authentication piece. And we are planning our next round of outreach to the project workgroups including vendors, the treasurers and the counties during the next couple of months to assemble what those agendas are, as well as assembling some demonstrations including what you requested for the Commissioners. We also continue our efforts to fully staff the project which has been a continuing challenge. We are still trying to fill one key programmer position we are interviewing for now again, as well as add additional consulting help to compensate for the staff, we lost due to retirement. And again, to try to make up some time for the diversion of the efforts into the Paid Internet Ads implementation. Bob mentioned it already, but I am happy to report though that one of our key team people did come back. We were very worried about the hit that would result in the project.

Douglas Kellner: What is the current schedule for implementation?

Bill Cross: The current official date, we have not revised the current official date that I shared previously which was April. We do know though with the staffing issues, the Paid Internet Digital Ads and some of the retrofit work that we've had to do for accessibility that that has pushed that out. We haven't officially updated it, I will, when we solidify a couple of the additional staffing pieces. I won't say it's a huge delay if I had to guess it's in the area of possibly July, but I do need to make that official, we'll plan that out in the terms of the

timeline. We've still got a couple of things that we need to determine and pull together for a timeline though. We also continue with the...

Douglas Kellner: At this point is there a schedule for meeting with the third parties? Meeting with vendors and users?

Bill Cross: We have done several outreaches of the workgroups previously. We're putting together what those agendas currently are for the next ones and we will be working out the schedules for probably January into the beginning of February for each of at least the 3 key groups.

We also continue on development and finished up the implementation of NYSVoter implementation, working with the vendor to test the final disaster recovery procedures for failing over from our main data center to our disaster site. We're going through the test plan and that testing will occur once that plans are finalized and that is the last steps for that project. We are however taking some of the other services that weren't part of that project scope such as our primary website and some things that are not directly tied to NYSVoter to move them onto that new infrastructure and increase performance and security in the process of that move.

MOVE, we are also continuing redevelopment of the in-house MOVE (Military & Overseas Voting) application to replace the outsourced application with efforts continuing.

In terms of security, much of this has already been covered, but I'll run through a shorter version of what I've written down is we've added our new Chief Information Security Officer. He comes to us with significant experience. He is a former Chief Information Security Officer for the Department of Financial Services in the State, he's also authored several Cybersecurity courses at SUNY and is an adjunct professor there, Jeff Baez is his name.

The risk assessment with county boards also continues full throttle, I think Bob indicated 25 done. They are closing in on the halfway mark for site visits by the end of the year at this rate. We are currently working on next steps for the effort so to exploring what procurement opportunities or what we'll need for remediation and mitigation of the findings of that. We're trying to get a jump-start on that procurement so we're ready to start fixing these issues that are identified as soon as we get the outcome of the risk assessments and not wait to procure them. We're also continuing efforts, again as Bob indicated, on intrusion detection and managed security services roll out to the counties. We're working with OGS and vendors to get these services going.

Peter Kosinski: Can I just go back a minute to something you talked about earlier. Once we identify the Cybersecurity issues that the counties have, do we have money is some of this federal or state money that we've been allotted going to be dedicated for the counties to help them address the issues we identify?

Bill Cross: Yes.

Bob Brehm: In the plan we have a good portion of the money and we've asked for an additional $5 million appropriation from the state on top, we had discussed originally with the state it was three 5-year appropriations. So, we've asked for a $5 million appropriation for next year which on top of the money we already have should help us. We've never anticipated we'll have enough to do everything but at least hit the major items that are on the list and to help raise the posture for the county to at least a better more secure level. And I think we still have enough money to do that. Some of it was estimated until we actually got the procurements in place and found out how bad things were. But I think we certainly will have, there is nowhere near enough to do everything.

Peter Kosinski: Fair enough. Now since these counties do not have a separate Board of Elections IT unit, we're going to be addressing problems that the entire county is exposed to, so we would be fixing problems that would cross the county, all the different counties right. So, in essence we'll be helping the counties fix problems that would potentially impact all of their departments?

Bill Cross: Correct, right.

Peter Kosinski: So, this is an added benefit to the counties.

Bill Cross: Absolutely.

Peter Kosinski: And I think we would be helping out with that.

Bill Cross: And I think some of the efforts we're doing in terms of risk assessment is not an easy lift, there's a large effort that goes into that at the county level and involvement and I think that's one of the reasons they have been so accepting of our efforts is they do realize it has a greater benefit than just the Board of Elections.

Peter Kosinski: And there's no other funding mechanism in the state that would allow the counties to access funding to help them? Because it does cross more than Board of Election services it crosses other departments.

Bob Brehm: The difficulty is...

Todd Valentine: There's a grant program that the State Department of Homeland Security has but it's a small amount of money and it's a grant program so…

Peter Kosinski: So, we're the only funding source for these Cybersecurity issues that the counties are facing is that fair to say?

Andy Spano: They have their own money.

Peter Kosinski: I mean from a state level, I'm talking about a state level funding.

Bob Brehm: From a state level the State Department of Homeland Security had a $500,000 grant where they ask counties to give them a proposal. I still haven't heard if they awarded those yet.

They've been overwhelmingly popular. I believe the counties have asked for much more than the $500,000, if you add them up, and I'm told that the Department of Homeland Security is trying to continue that program into the next fiscal year and to grow that amount of money. From our perspective, I know Homeland Security has been a regular partner with ours and we've had discussions with them. When we started, we didn't have any of the metrics to know how many counties were isolated. The kind of information, our effort is a little bit more than a risk assessment. It's a risk assessment in an inventory where all the issues so we can then quantify how to fix them. And we had done the self-assessment kind of quick survey the year before through our NYSTEC partners and that showed there was a problem here that needed to be addressed but so far out of the 25 counties none of them are segmented. You know speak to what is segmented, the voting machines are so called segmented because they're stand alone, they're not part of anything. Everything else that we have to protect is part of mostly a county infrastructure and it's much more complicated to fix when it's part of a whole county infrastructure. It's more expensive to segment it than it is to fix it as part of the whole county infrastructure. So, we're trying to talk to, we have a good team of people that are working with us, we're trying to figure out from that list that they tell you to do, segmenting is one of the top 5, is if we can't segment is it cost effective to just put in more of the county? It's going to cause a fiscal challenge to us, and we have already said to the State partners, "If it's really what we need to do to protect the counties, we might need more money than we've anticipated." We spoke to budget, we spoke to other items at the state level…

Peter Kosinski: We're fixing more than we anticipated arguably right?

Bob Brehm: Right, so we said we hope to at least have an understanding when we submitted the budget how are things going, and so far, it's going you know there aren't big glaring holes in what we expected but this is one that we expected, and we should have all the final reports done before the budget's accomplished. And we might have to go back and explain to the state you know it's hard for us to protect elections when owe stuff to protect the entire infrastructure of the State of New York. And if they want to segment it, it's a lot more money.

Andy Spano: Is there any vulnerability on our part where we interface with them?

Bill Cross: Any connectivity raises those issues but that's part of the risk assessment, they're looking at their entire infrastructure including their connections to us as well as we look at it from this direction. We are, to Bob's point, there is a list of criteria that we're associated with the risk assessment goes against, there's an 88 best practices. We're currently going through the effort working with partners to rank those areas of importance in terms of, so when these assessments are done where do we address them in terms of priority knowing that we can't potentially do everything for everyone, how far do we go down that list and make sure we're handling the most critical items or the ones that are most easily done? Some of the findings that might be identified are relatively simple things in terms of documentation, maintaining inventory, a change that can be made on your network that is simple that would affect the whole county without a future investment, it's guidance that will come out of this risk assessment is one of the key pieces. But where there is an investment required to make changes or provide them assistance in how to make some of these that's what we need to do and that's what I'm putting together now for anticipating next steps of what can we get them for help to actually implement

the findings? And how deep can we go in that process? And they're making good progress. We have not found anything hugely alarming with the exception of segmentation is the bigger lift. And recognizing that we're not going to be able to do that with current funding in the current timeframe, we're addressing the current caps as they exist today and then we're looking as a separate longer term initiative to re-imagine what we can do in terms of the election infrastructure to get at segmenting and get a box around it per se and protect it from the rest of the county and increase our visibility into it to be able to protect it. And that's a longer-term issue in which we've had discussions with several partners on what that may look like.

Andy Spano: If you had your druthers in this world and you had a comprehensive stand-alone system just the 57 counties and us, counties IT departments involved would that be better than what we have now?

Bill Cross: Securing a single system is that what you're referencing as opposed to multiple diverse system?

Andy Spano: Yeah, 57 counties that you had interface with.

Bill Cross: It certainly reduces the, yeah, yeah. I'm trying to say it eloquently. It certainly reduces the attack surface yes.

Tom Connolly: It would reduce the risk also the number of assets that you would have to protect. So, the fewer things you have to worry about obviously the easier it is to…

Andy Spano: Actually, I have a hypothetical question. So has anyone looked in aggregating the amount of money that's being spent right now in the present configuration and how that stands up against creating a single system?

Bob Brehm: Well I think as Mr. Cross mentioned what we're doing immediately but what he said at the end there one of the efforts and it's not the initial but it's part of it, is where do we want the infrastructure to be 5 years from now. That's the effort that he's talking about. What's the cost benefit analysis of either protecting it the way it is or protecting it in some other architecture. So, we're trying to immediately figure out what we need to fix and fix it while we do this analysis and make a recommendation in the future. Where do we want to be 5 years from now? And then we have to come up with a plan how to get there.

Andy Spano: My feeling is that money always comes up. And that we never compute what the aggregate amount of money is being spent right now and whether you get legitimate numbers from the counties is another story but and aggregate that number and I think you'd be surprised about how much money we're talking about here. And because you have another scale in terms of a new computer system, you're decreasing the cost there, so you have to factor that in also.

Bob Brehm: But for the county we would only be taking 1 department off their hands. They really only have 3 employees in most of the small counties now so they're going to still pay what they're paying, so it's just going to shift the responsibility. But certainly, when we went to the legislature in 2016 and spoke, they asked us, "You have separate voting machines maybe we

should have separate everything else." Well that's not easy and it's not cheap to do and it's not fast. When the Governor did his order to his cyber advisory panel to come up and review election infrastructure, they asked us the same question. How do we put a box around the election? Well there's no known way to do it other than we're going to look at, we're talking to some groups about how we can at least do an analysis of a cost benefit and is it cheaper to just protect the whole county, like we're proposing to do try and protect what we can is that cheaper? Is it better? Does it get the job done? Or is it a better model to do something else where you can isolate the election infrastructure and do something. And we don't have that answer and we're not going to have that answer in the near future. We're going to look at it and make those forecasts.

Andy Spano: We're going to look and find the right answer.

Bill Cross: Absolutely and those conversations have already started. I think there's multiple options there. I think if you ask 5 people what that might look like to accomplish what we want to do, here's the restrictions we're working with, here's where we want to get to, you might have 5 different solutions from 5 different people, but we have to weigh it out in terms of costs and the level of effort to achieve it and the timeframes that we have. So, we are embarking on that as a research project and certainly we don't want to leave the current situation as it is. We need to fill those gaps as it is now while we do the process.

Andy Spano: I'm not well versed in all this stuff, but I read an article about the use of blockchain technology and is that part of the discussion that you think you would have in the future?

Bill Cross: It depends, that's a small piece of the technology. I mean it could be part of that discussion. It's not a solution in and of itself. I mean there's several aspects of security from physical to around logical controls, again, many of the times the vulnerabilities we're dealing with are between the chair and the keyboard. It is where a lot of vulnerability and incidents we've had as a result of that. So, you would still have your Board of Elections staff localized, they're still using systems, still have computers and still have, no matter where that system is located. So, I mean it's not just any particular single piece of technology you have to look at it as a whole and connections back to us. A lot of pieces.

Andy Spano: Given these small groups, I've operated in large groups with large IT departments, small groups in the public sector and the levels of competence are like this. And then when you stick 57 of them in, I mean that's a whole other variable.

Bill Cross: Yeah, the counties are definitely all over the place in terms of competence level, maturity level, resources, it's one extreme to the other.

John Conklin: One of the other things I've heard in these discussions is the assessment will be a tool for a local county IT person to go to their local legislator or Board of Supervisors or county executive and say, "These are the vulnerabilities that the state has identified with our system." They could have never afforded their own risk assessment before because they're so small and they didn't have the money for it, but it enables them to ask for additional money at

the local level with a justification for it. They could say, "Well we have these big issues that the state will fix, we have these tiny issues that won't cost any money that we can fix, but there's a few things that if you just increase my budget by 2% or 5% there are things that I can fix, that we can take care of at the local level that we were never able to do before. And here's the reason why I need to do it."

Andy Spano: That would necessitate us staying on top of that forever.

John Conklin: Or if we take over those departments.

Andy Spano: Well my point is when they thought the courts were running amuck, they created OCA and they took over the whole thing.

Gregory Peterson: Did it solve the problem?

Andy Spano: No, I was just talking about the money.

Gregory Peterson: You made it more complicated that's all.

Douglas Kellner: We took voting machines away from the towns and villages and gave that to the counties and that seems to have been a big, big plus.

Bill Cross: I mean the risk assessment effort obviously isn't a one and done, it's a continued effort that needs to continue. This initial one is obviously the (video skipping) certainly not to the level we're doing it, it's not just a typical assessment, we're actually sharing that there's a full asset inventory that they have, system architecture diagrams so they have an idea of really, a lot of these counties really don't have mapped out what their whole infrastructure looks like. They walk away from this with some point in time documentation that they can now carry forward on their own.

Peter Kosinski: How long does it take to do a risk assessment like this?

Bill Cross: Well the current vendor does a lot of prep work with them gathering a lot of documents, some key phone calls before arriving, the analysis of those documents. They're typically on site a day dealing with both IT and county boards running through this assessment tool. And then there is follow up with them in terms of answering any questions and ultimately the preparation of the report. So, it's spread out over several days. The actual on-site engagement has been typically a day they can be able to accomplish it with some follow up afterward.

Andy Spano: I just want to put something on record, I'm only talking about IT I'm not talking about taking over the local government.

Douglas Kellner: What about risk assessments of the vendors who have access to election databases?

Bill Cross: Currently in the scope of this engagement where we actually have talked about larger issues of looking at security with the vendors involved with being a kind of supply chain issues that we typically looked at, we have discussed some of the issues and need to do more so on that.

Bob Brehm: An example was each of the vendors who print your poll book or…

Kim Galvin: That will increase shortly probably with the onset of electronic poll books.

Bob Brehm: Well whatever your third party vendor is, is when you take your data and give it to some other vendor and they are doing a service for you, there really are no security conditions in any of those contracts as to what they're going to do, how is it going to travel, what assurances that they don't do something that they shouldn't do with your data once they finish your project. So, part of what we're looking at from a regulation point of view or best practice, we're not sure what we'll recommend yet, is how much of this do we need to update our regulations and our procedures and our oversight of the counties to give them, these are the items that should be addressed in your contract. We did it ourselves when we had to extend the contract for the voting machine testing lab. We didn't have as many in there that had come up during some of our conversations of supply chain. So, we put some additional requirements into that procurement. I think what we want to look for is what are the best practice recommendations that we can give to the county and then consider whether they need to be in the regulation.

Tom Connolly: I would say on a national level honestly supply chain concerns is all over the place and people will recognize that vendors are a significant or could be a significant risk to election administrators. We discussed it when we were at our NYU roundtable and I will say that I know that the Center for Internet Security which put out the handbook with the 88 controls that we're using as a basis for a risk assessment, mentioned at that meeting that they were also working on a set of best practices for procurement so a template and language that can go with the contracts to make sure that you're covering both the transmission of data so it's being done in a secure manner, but also disposition of data so let's say once a contract has ended that that data gets destroyed and also that there's a notification. Another big one is that if a third-party vendor were to be breached and your data was in their possession and could have been accessed, that they have to notify you in a certain amount of time. So, these are all things that a lot of people are thinking about. So, they are definitely working on best practices. So, we'll certainly work on providing those to the counties.

Douglas Kellner: Thank you.

Bill Cross: I think I'm essentially done. I have 4 more bullets here, but I think they've been talked about already. Oh, I will mention website status. It's pretty much as expected, traffic to the website significantly increased end of October into November. Voter look-up surged over 3.6 million views leading up to Election Day including Election Day. And over half a million visits to the Election Night Reporting website on election night.

Douglas Kellner: Well thank you. So now we'll turn to Enforcement Risa Sugarman.

Risa Sugarman: I have no report Commissioner.

Douglas Kellner: Any questions?

Peter Kosinski: I guess I was just going to ask from the report Brian gave did you have any response to the information he shared with us today about the status of our failure to file committees?

Risa Sugarman: Well since I haven't seen the report and I got a disc yesterday that I haven't had a chance to analyze, no, I don't have any response to it.

Peter Kosinski: So, I'm sorry you got a disc yesterday of the information we were provided?

Risa Sugarman: I don't know I know one part of it is the committees with the zero balance I don't know if there's anything else on that report. I got it less than 24 hours ago. I didn't know that there was going to be a report as to this. I have no idea what the analytics were or the method so without having an opportunity to know that and again, without being given that information with time to review it, I would have no comment.

Peter Kosinski: But you have it now?

Risa Sugarman: I have a disc, I don't know whether the disc has everything Brian spoke about.

Brian Quail: It does it has the whole master list and it has all the breakouts of the list and all the annotations and obviously if there's any questions about what any of the data means, I'd be more than happy to provide that information.

Peter Kosinski: Well I would hope maybe I would like it that you have a chance to look at it then and we could talk about it because I think it's something as you know an ongoing issue certainly from the Commissioners' standpoint about addressing this. I know the staff put this together at our request and I think it provides us with information that's helpful in understanding the status of the failure to file committees and we do know that and I think Brian alluded to it that we've had 23 hearings on committees over the last 3 ½ years and I think we're still wrestling with why the unit is not pursuing the large number of these committees that exist that have not reported. We understand it's $20 million or more of money that's out there in these committees unaccounted for. No reporting, and it's a concern. So, I would ask that you take a look at that and that at the next meeting we have a chance to talk about it in more detail.

Bob Brehm: Just one point, at our last meeting, we had provided the failure-to-file report to Enforcement previously and Ms. Sugarman had commented at the last meeting that she randomly looked at 6 of them or some number of them and you had asked our staff to look at the same report and do some work. So, the report is the same report that was provided many months ago. The fact that our staff actually spent time because you thought it was, Kim offered, and everybody thought it was a good idea and they did it. Certainly, Risa needs a chance to review whatever it is we gave back but it's still a review of the data that could be available, well it's publicly available, but it certainly was available to her the entire time it was available to us to do the review.

Peter Kosinski: Fair enough, I mean I understand that, but apparently your unit has never undertaken any review like this of…

Risa Sugarman: I haven't said that.

Peter Kosinski: Okay well maybe you have and maybe you already have comments you want to make or.

Risa Sugarman: I have no comment Commissioner.

Peter Kosinski: You have no comment?

Risa Sugarman: No, I am not going to comment on something that I haven't seen or reviewed.

Kim Galvin: Could I just make one comment on our staff's behalf. I know that I offered them to do this review and they spent a great deal of time and they did a good job so I'm hoping that any report that Enforcement chooses to give back won't just be attacking our work and finding a hole here or there, but it will be a full analysis of the information like we did. And then if there's a differential or a delta perhaps that could be discussed. But to go in here and say, oh there was 1 here and your number is 12.9% and not 13% I don't think would be productive.

Peter Kosinski: We'll we're talking big numbers.

Kim Galvin: Right.

Peter Kosinski: We're not talking about small numbers where 1 or 2 discrepancies would really make a difference. I mean we're talking, based on the numbers I have here is and this is just addressing the latest report the July report, you're talking almost 2,200 filers that I think are arguably at issue that are relatively new filers that have filed something with us but have not made all of the necessary filings and…

Kim Galvin: Originally, I was, we only finalized this just a couple of days ago but I think the Commissioners have all seen the steps of the analysis that our staff did and the level of detail that they went into so we should probably provide that to Enforcement too just to see the level and every step that each person took on each committee to come up with these numbers and provide the comments and things contained in the original document. Was that on there?

Brian Quail: All of the spreadsheets, the sub sheets, all of the notes. I don't recall whether or not the staff summary of the steps was there and if it's not then we should absolutely provide it.

Andy Spano: I think this is helpful that if you do a similar report just take a look at this because as far as I'm concerned this is just a factual report. I'd like to know if the facts add up that's all. I don't care about anything else.

Douglas Kellner: Alright since there's no report we'll move on. There's also no Old Business. Our first item of New Business is to approve the revisions to the Voter Registration application to conform to the results that we certified earlier today.

Bob Brehm: We're also updating with Executive Order 181 which is pardoned restored to his rights as citizenship that wasn't clearly as a full sentence in the old report. It's more of an issue since that has happened so other than the party changes.

Douglas Kellner: So, there is one substantive small change.

Kim Galvin: There's more than one.

Bob Brehm: In the qualification section and with regard to the organ donor the State Health Department gave us some wording changes in that area so that when we were to print next, they asked us to incorporate. So, we're also incorporating some organ donor recommendations from the Department of Health which we have to put on our application at the same time. So, from the first resolution of the forms…

Douglas Kellner: And then I see you've highlighted gender also.

Bob Brehm: Correct. So, from the first resolution we have 2 forms, the mail registration form and the NVRA form that we provide to executive agencies under the NVRA program and then there's a separate resolution for the affidavit ballot form and that will take care of mostly we do that at the time the parties have changed.

Kim Galvin: And the order.

Bob Brehm: And the order has changed.

Douglas Kellner: Alright. Is there any discussion?

Peter Kosinski: Yeah, I have a question. So, you've got so based on the last election there were two new parties created and two parties that went out of existence as parties, right? So, we have these two new parties and I guess my first question is, do we have an official name of the party as they want it represented going forward on our voter reg forms?

Bob Brehm: We've heard from both of the Libertarians and the SAM party and we explained that this is the issue. The Libertarians made, we don't have any rules field yet, but the libertarians said they weren't planning on changing their name. I wasn't going to talk to the SAM party. Who was that?

Nick Cartagena: I talked to the SAM party and I indicated they should file that rule soon if they wanted…

Bob Brehm: But did they were planning on changing their name?

Nick Cartagena: They did not indicate it either way.

Peter Kosinski: So, I mean as far as printing forms, I just want to be sure that we know what the new party names, I know in the past we've had parties or bodies change their names once they become official parties so what they appeared on the ballot of previous election is not what they want going forward. So, I just don't want us out there printing forms that then have to be changed because one of the parties says, "Oh we don't want to be called that we want to be called this" so now we have all these forms with the wrong name on it. I said the SAM party that stands for it's not their name right they stay for SAM is Save America something.

Bob Brehm: I don't know what it is. I know when they came back and looked at the petition the petition that they didn't give us an acronym, there are no periods in it that is what they said the name of the independent body was.

Peter Kosinski: Was what?

Bob Brehm: S.A.M.

Peter Kosinski: SAM, right.

Kim Galvin: But all their literature and their websites refer to

Todd Valentine: Serve America Movement.

Kim Galvin: America being somewhere in the middle.

Bob Brehm: That's why we reached out as we tend to do. Some say, I don't know, and we've done that in the past. Some have said clearly, they're going to change their name and they've told us.

Peter Kosinski: But America is a term that can't be used for a party in this state.

Bob Brehm: Well that would be a problem if they recommended changing their name.

Peter Kosinski: Well it might be they'll change because they have to...to deal with that issue?

Bob Brehm: Well what would that do if they gave us a name to change it that we won't accept. But right now, we start with what they put on their independent body that's what got 50,000 votes.

Peter Kosinski: So, you would accept SAM that stands for Serve America, I'm sorry, what is it?

Todd Valentine: Serve America Movement.

Peter Kosinski: Serve America Movement, we would accept that as a party emblem or name on our form even though we know it stands for Serve America Movement?

Brian Quail: When we take a look at how the statute works it has the same prohibition on the name for an independent body as it would for a party, and we did accept the SAM going onto the petition and the voters voted for it and you certified the vote totals for that independent body with that name. The statute, there is a fair amount of legislative history behind the statute in terms of not letting words that are actually on the ballot indicate endorsement. So, for example the imprimatur of government in the words that actually appear on the ballot is not conveyed. There isn't anything that I'm aware of that even addressed per se acronym issues and I think that the folks that did the SAM stuff were sensitive to that so while they are in fact everything everyone said is accurate, you look at their website it says Serve America Movement, all accurate, I think they've attempted to put some distance between that and their ballot label because of the issue. And at some point, or another it could be litigated.

Kim Galvin: I don't think anybody's objecting to approving the form…

Brian Quail: No, no, I don't think so either.

Kim Galvin: I think it's just waiting for their documents before we print millions of them that's all.

Peter Kosinski: Yes, yes, that's my concern.

Kim Galvin: That's all.

Peter Kosinski: My concern is we're sitting here today not knowing what they're going to do because the forms have not been…

Todd Valentine: They haven't filed, yet.
Peter Kosinski: ...been delivered to this Board yet and I don't know that it's prudent for us to rule on this today knowing they still haven't filed their official documents and when they do they could give us a different name and there we are with something different than what we approved and isn't it prudent to wait until we get an official notification from these entities, this is the party name we want to use going forward.

Bob Brehm: Well we had that discussion 4 years ago because we recommended there be a deadline to do that. There is no deadline so how long do we wait?

Peter Kosinski: Well I understand that but I'm just saying it's December so there's no obligation to get it in till at least I'm guessing January, sooner would be better I agreed with you.

Brian Quail: The way the statute is worded the party has come into existence, so the question is how much delay the commissioners want there to be when the existence of the party is there, people need to be able to register in it, and when we have a form that reflects that and weighing it against…

Peter Kosinski: I think the other question though Brian is the Commissioners want to know how much risk we are willing to tolerate for printing millions of forms that may change in a month.

Douglas Kellner: Well my suggestion is that we approve the form because that's the legal form now but that we use moderation in printing it.

Brian Quail: We can call to check I mean it certainly makes total prudent sense.

Douglas Kellner: I would agree we shouldn't go print 5 million forms right now.

Peter Kosinski: Well I'm okay with that if people understand that.

Andy Spano: I have a different problem. It's an ongoing problem on the affidavit ballot. Right, when you select your party, my experience is that there has always been confusion with this Independence Party.

Kim Galvin: That's exactly what we're trying to prevent with this…

Andy Spano: And this selection does not help it at all. The confusion always is obviously between Independence and independent. I have had friends who say they're independents dadada and actually registered in the Independence Party. And that's because I think this is confusing when you select it. And rather than saying "I do not wish to enroll in a political party", I wish we would have a comment there that said, "I wish to remain independent and not vote in any party," and put that so that the term independent appears in that line so they look at it and they see a difference between the party and the name. I, I, we could use some other words….

Kim Galvin: Would "blank" help?

Peter Kosinski: No.

Andy Spano: No, people don't understand "blanks".

Peter Kosinski: I see your point.

Andy Spano: Only people in politics use "blanks".

Peter Kosinski: I agree with you that I think the term Independence has been confusing because in this state there is a term of art that you're an independent voter and that's commonly used, and people do conflate the two things; voters I mean. And I agree with you that's an issue whether what you suggest would address it I'm not sure but it's an interesting concept that you raised that we put "independent" in there.

Andy Spano: You're not enrolling but you're selecting "independent" to be "independent" and in no party.

Peter Kosinski: I gotcha. I gotcha. So, the voter can distinguish between "Independence" and "independent".

Andy Spano: So, they can look at that and say, "Oh that is a difference."

Peter Kosinski: Right.

Kim Galvin: What if you put "independent" in like parenthesis next to No Party, "Independent".

Bob Brehm: You don't think this other group is going to sue us? I mean I understand that but…

Kim Galvin: I think the outcome is they may have to change their name.

Andy Spano: If you put it in a sentence, I think that's enough.

Bob Brehm: I don't disagree with that part but that waters gone over the dam a long time ago.

Peter Kosinski: Well not really because the problem is, we know there's voter confusion on this topic. We've heard it, we know it exists and I think if we can do something to try to address that we should. Whether this does it, I'm not sure.

Bob Brehm: Well I think Kim's suggesting Independence change their name I think that water is over the bridge.

Peter Kosinski: Well that may be.

Bob Brehm: But changing the words under this thing I think is within our…

Kim Galvin: To put his "independent" next to "no party".

Douglas Kellner: To put "No party, independent". Or "no party" paren.

Kim Galvin: Yeah.

Andy Spano: Okay, if that works fine. I mean if it's legal, fine.

Peter Kosinski: I see. I don't know I would certainly entertain doing something that does address the issue but that's…I gotcha.

Kim Galvin: Four of my family members are in the Independence party, they got it wrong.

Andy Spano: Just so a person stops.

Peter Kosinski: Fair enough, maybe that's the way to do it. I'm open to that if that's something…

Bob Brehm: Are we recommending amending the form bracket independent?

Kim Galvin: I don't think it's confusing, do you?

Todd Valentine: Well, we have a couple of suggestions, so...

Peter Kosinski: I think we should think about this a little bit.

Douglas Kellner: We should circulate it to see.

Peter Kosinski: We should think about it.

John Conklin: This current construct was an attempt 3 years ago to address this very issue.

Peter Kosinski: Which construct John?

John Conklin: The way the setup is now where there's a box that says, "No party".

Peter Kosinski: Gotcha.

Douglas Kellner: And it was an improvement John, but I think Commissioner Spano has raised an interesting point…

Peter Kosinski: I do too.

Douglas Kellner: ...and several editorials after we changed the form…

John Conklin: It's an ongoing problem…

Douglas Kellner: ...has urged us to do what Commissioner Spano is proposing.

Andy Spano: There's another juxtaposition here by putting everyone up front they check "independence" before they even get to that sentence at the end. So, they've already checked "independence" before they're even looking at, because it's not set in the same place as the others.

John Conklin: So, we're giving a preferential position to blanks?

Andy Spano: Well that's another thing put it at the top, but I still think…

Douglas Kellner: But using the word "independent" with "no party" is…

Andy Spano: Right at the top.

Peter Kosinski: I think that does something, I'm not sure exactly what it does. What do you think?

Gregory Peterson: If you put "no party" first, some people don't want a party. They check that off before they go to parties.

Andy Spano: That's another way to do it.

Peter Kosinski: Well, that's true. I don't know I think we should think about this.

Gregory Peterson: That way you avoid any lawsuits or anything else.

Peter Kosinski: But I do think if we can come up with some way of restructuring this to make it clearer to the voter what we're doing would be helpful. I think right now it's confused people.

John Conklin: So, do we want to table this resolution?

Andy Spano: People don't read it, then they'll come down they'll see "Independence" and then they'll get confused. That's why...

Gregory Peterson: Except is says party right down there….

Kim Galvin: Yeah, but nobody reads it.

Gregory Peterson: In the past, you're absolutely right…

Kim Galvin: Then they show up at your door for a signature and they get all aggravated.

Andy Spano: You live in Hempstead, they give you a town instead of Hempstead...

Peter Kosinski: By the way this isn't just an affidavit problem, it's…

John Conklin: You're changing it on everything.

Peter Kosinski: We do the same change if we do it. Well I would suggest we look at that.

Andy Spano: I didn't mean to hold this up.

Peter Kosinski: No, no that's fair.

Andy Spano: I just think we should take care of that problem. Everyone recognizes it as a problem.

Todd Valentine: So, we'd like to table the resolution for…

Andy Spano: What does that do? We're no meeting until…

Douglas Kellner: It means January 24th….

Todd Valentine: Yes, that's within time, we've done that before...

Peter Kosinski: I would rather do it right and do it a little later than rush it through and regret what we've done.

Andy Spano: And we may hear from the other party.

Peter Kosinski: I think we have an opportunity to do something here we should take it.

Gregory Peterson: That's true too, we may hear from SAM, or Ralph.

Douglas Kellner: In the interim though if county boards are going to print forms, they should use the…

Andy Spano: They can use the old ones.

Kim Galvin: No, because that has 2 parties that don't exist anymore.

Todd Valentine: They have the opportunity to enroll in those parties, it's the other options.

Kim Galvin: That's even more confusing.

Todd Valentine: No, but in the interim they have the ability, the new members have…

Andy Spano: Tell them to copy these on their copy machine. Copy a few on a copy machine.

Brian Quail: Would there be a possibility for approving it for online publication only until the 24th then people will be registering their parties and then…

Kim Galvin: Right and then they can print it out.

Cheryl Couser: Right, otherwise people can register using this….

Douglas Kellner: I think we can approve this form on an interim basis so that it can be posted online…

Peter Kosinski: Well I don't want to hold up everything. I mean I'd be willing to put something out just, so people have a chance to enroll. I don't want to hold that up.

Andy Spano: Do it online and they can print it out.

Bob Brehm: Well we could translate them because the only thing we'd make a small change maybe because we have English / Spanish on our website, if we put, I would hope they'd be the same. So, we can go out and get Spanish language.

Kim Galvin: Who knows what SAM is in Spanish? M/F is wrong?

Douglas Kellner: It's still SAM.

Bob Brehm: But, I'm worried about the other word changes you'll make later that would be a small amendment but if we put the English one up get the Spanish, post that when it comes in.

Douglas Kellner: You could also ask them what they want for their Spanish translation.

Bob Brehm: SAM?

Kim Galvin: Sam I am?

Andy Spano: It's what's going to be on the ballot, no?

Todd Valentine: Dr. Seuss?

Kim Galvin: Well no taxes went to Reform. They could be anything.

Peter Kosinski: Yeah, they could change.

Kim Galvin: But then you could move all the SAMs over.

Bob Brehm: So, we should send a letter to SAM saying we need your answer.

Peter Kosinski: Well we'd like to get that blocked down one way or the other. And I think in the interim you should look at doing what Commissioner Spano suggested.

Bob Brehm: We'll get some ideas together for you and share them in the meantime.

Peter Kosinski: Alternatives would be good.

Bob Brehm: At the meeting on the 24th so maybe you could look at them, see what you like better.

Douglas Kellner: Alright so we're approving the form on an interim basis for online posting, we're not going to print the form and the staff is going to continue to review the issues that we've just talked about. Alright, everybody agrees with that?

Peter Kosinski: Yes.

Andy Spano: Yes.

Gregory Peterson: Yes.

John Conklin: So that's 4 - nothing?

Cheryl Couser: And that includes the translation into Spanish for online?

Todd Valentine: If it's posted in Spanish.

Peter Kosinski: Well I think we should, we should have it available to everybody.

Kim Galvin: We don't need these resolutions then?

Todd Valentine: Not until January.

Kim Galvin: Okay.

Douglas Kellner: Next is our legislative packet for 2019.

Kim Galvin: Which addresses this issue by the way, which one of our problems from last year was that new parties have to get us their information.

Peter Kosinski: By the way on that, why did you say February? Why not January?

Kim Galvin: Cause everyone is on, I'm not going to say that out loud. I think just give them a little time to meet after, whatever, but...you can say January.

Peter Kosinski: I don't know why they can't get us something in January myself or even by the end of the year frankly.

Kim Galvin: Well basically this is just last years' program. We know, those of us that have thought about it that these do not include any of the major changes that we're all anticipating so we took last years' that we had all agreed on and put them back out because there's a lot of good ideas in there.

Bob Brehm: Our bill isn't really moving as fast as other bills. The bill that's moved and made it to 3rd reading is "no name change" by the same sponsor Assemblywoman Galef put in the "deadline bill" they had moved the "banning changing a name". So "no name change" is Assembly Bill 2364 made it to 3rd reading in the Assembly, the Senate bill 4597 by Mr. Valeski the bill which was ours was Assembly bill 7404.

Peter Kosinski: You mean under that bill if you appear…

Kim Galvin: What you are you stay as….

Peter Kosinski: Whatever name you use for an independent body….

Kim Galvin: Stop Common Core would have stayed Stop Common Core.

Bob Brehm: Think carefully before you type your petition. Just so you know what's moving along.

Douglas Kellner: Any further discussion on the legislative packet? So those in favor say aye. (Chorus of ayes; 4-0) Opposed? Alright so that's adopted. And, of course, I just want to say for the record that we anticipate a number of major changes that the legislature will be pushing that I support, and I understand from at least staff discussion that there was no bipartisan consensus on them.

Kim Galvin: Devil's in the details, Commissioner.

Douglas Kellner: Okay, well I strongly support as project #1 combining the primaries and getting that bill which passed the Assembly last year adopted very early. Why? Because we also support early voting and if we're going to do early voting for 2019 it's not really feasible unless the primary is changed. And if they change to a June primary, the election calendar really begins with the first step on February, well February 1st the municipal clerks have to notify the boards of elective offices.

Bob Brehm: And the enrollment numbers would have to be run.

Douglas Kellner: So, I'm hopeful that the legislature will act on that right away and there are a number of reforms that we've been talking about, so I won't belabor this meeting, but I look forward to a very productive year from the legislature on election law reform issues. Alright, next item is the resolution for Cybersecurity spending. We've already talked about it a little bit. Does anybody want to have any further discussion?

Gregory Peterson: I move the resolution.

Douglas Kellner: Alright it's moved and seconded. Those in favor say aye. (Chorus of ayes; 4-0) Opposed? So, the resolution is adopted. We have talked about scheduling our next meeting. I think January 24th was discussed.

Peter Kosinski: Yes, is that okay?

Douglas Kellner: Is there any need for Executive Session?

Gregory Peterson: Just before we go, I want to thank the staff, all the Commissioners appreciate the tremendous amount of work you put in that report, it was quite an effort. I won't way it was perfect but pretty damn close and we do appreciate your efforts on that on our behalf. It clarifies a lot of things and we want to thank you.

Douglas Kellner: Alright, so we're adjourned.

END.