
Jim Walsh: Good afternoon everyone. I'm Commissioner Walsh, I'll be acting as our Chairman today and I'd like my fellow Commissioners to introduce themselves and everyone else to follow.

Douglas Kellner: Douglas Kellner

Andrew Spano: Andy Spano

Gregory Peterson: Gregory Peterson

Bob Brehm: Bob Brehm

Kathleen O'Keefe: Kathleen O'Keefe

Brian Quail: Brian Quail

Anna Svizzero: Anna Svizzero

Joe Burn: Joe Burn

Tom Connolly: Tom Connolly

Risa Sugarman: Risa Sugarman

Bill McCann: Bill McCann

Todd Valentine: Todd Valentine

Aimee Allaud: Aimee Allaud, League of Women's Voters of New York State

Bob Warren: Bob Warren, Elections Operations

Female: _____,

Maureen Cahill: Maureen Cahill, State Board of Elections

Shaikh Aman: Shaikh Aman, State Board of Elections

Jim Walsh: Thank you everyone. Our meeting is going to have two sections, many of you have seen this before. The first one is quite short and simple. This is called *The Board of Canvassers* and the purpose is the certification of election results for the November 4, 2014 general election. So we have a motion?

Douglas Kellner: I move that we certify the results as prepared by the Election Operations staff.

Jim Walsh: Second?

Gregory Peterson: Second.

Jim Walsh: All in favor?

[Chorus of ayes]

Opposed? Carried. That concludes the Board of Canvassers Meeting.

Douglas Kellner: Well we have to sign the paperwork which we usually do.

Bob Brehm: So I'll go through first the actual contest numbers, there's a spot for each person to sign, however many in each folder and then formal certificates.

Douglas Kellner: So let's start the process.

Bob Brehm: There are 3 pages, all 3 need signatures.

Douglas Kellner: You only put the top page or all...

Bob Brehm: All 3, all of them. It seems like there's more pages this year.

Ann Svizzero: We added a few districts and just didn't tell anybody. We won't tell you which way they went either.

Andy Spano: It just one page?

Bob Brehm: Correct. There's only 3, just where the pink things are on that one. This one's coming around next you have to sign that one.

(Signing of papers and talking amongst themselves)

Douglas Kellner: Have we done the asterisk before?

Bob Brehm: We haven't had to.

Douglas Kellner: So this is the first time since 1972. I'm just asking. So it hasn't come up before, it's not that...

Anna Svizzero: I don't recall that it has, no. It goes back to '74 but... before the earth's crust cooled. I'm with you. I'm trying to think though.

Todd Valentine: There had been but it's been a while. I can't tell you off the top of my head.

Jim Walsh: Is that it?

Douglas Kellner: All these important Commissioners and a Supreme Court Judge.

Gregory Peterson: My pen ran out of ink.

Bob Brehm: Did it?

Gregory Peterson: No.

Jim Walsh: That concludes our Board of Canavasser's Certification of the election results for November 04, 2014 and I see that we have some new visitors and guests who have joined us today. If you could, would you introduce yourselves please?

Len Lenihan: I'm Len Lenihan the new Commissioner of Erie County

Tom Ferrarese: Tom Ferrarese, Commissioner of Monroe County

Dennis Ward: Dennis Ward, Former Commissioner of Erie County

Norm Greene: Norm Greene, Commissioner of Chautauqua County

Jim Walsh: Thank you all.

Douglas Kellner: Dennis is just elected to the Supreme Court.

Jim Walsh: Congratulations. Okay we will now open our meeting of the regular Board of Commissioner's Meeting. The first item of business is the minutes of November 17, 2014. Move to approve if we have it? Second? All in favor?

[Chorus of ayes]

Opposed? Carried. For unit updates, Executive, Bob Brehm and Todd Valentine

Todd Valentine: Well the last few minutes is what you spent the bulk of what was going on around here was getting the certification together and as you may have noticed that was going down to the wire as far as the one Assembly District as we got very late the end of last week and one of their counties was a little on the late side because of close

elections where there was dispute issues in court. But that all came together so that's worked out well. And we'll hear later about our major projects which we're still continuing on, on our IT front. NYSVoter, the CAPAS FIDAS update and continuing update of our system and I'll let Bob speak to where he was on Friday before the assembly. We did joint testimony and then Bob went down to testify and I stayed up here to hold the fort. So if you want to go off on that?

Bob Brehm: Yeah Friday the assembly, it's the annual public hearing that the Assembly Election Law Committee conducts generally regarding a budget topic so this years public hearing related to the new Compliance Unit. So we did prepare joint testimony and myself, Kathleen O'Keefe and Cheryl Couser attended the hearing, Risa was also in attendance at the hearing and basically the testimony provided the initial snapshot of where we are today with the Compliance Unit just being new. The steps we have been taking to set up the program and also a brief summary of the technology changes of this year's budget in addition to creating the Compliance Unit. Also provided the resources that we have all desperately asked for to upgrade the Candidate Management Financial Reporting software. So we get basically a high-level report as to where we stood with that effort and answered any questions that the members had. Clearly the input that we had from them is that the unit is long overdue and as far as bringing the technology up to speed, those members that either have served as treasurers before, or some of them had kind of mentioned he had been a treasurer before and all of them, of course have their experience that they either hear from constituents or their own treasurers that things we can do to improve the technology. So I think that went over very well. I think it gave us a chance different than usually we are going saying we don't have resources to do something and in this instance we actually have new resources and we're laying out a new program and generally I think some of the other people that testified also had mentioned their own experiences hearing from their treasurers but have also field on that schedule, I didn't realize I was doing it wrong. Or they had questions that our people were able to help walk them through. So I thought the feedback was positive. I certainly think we helped to do a very good presentation on where we are with this program. I did mention that I thought it was a little too early to get a complete snapshot, that perhaps a year from now when they invite us back, we would be in a position at least to look at the trends a little bit more and to see where we're going. But most of it will probably still be in limbo until the new software is in place that we can really get a handle on what our long-term work will be. Because until that's in place, there's still a lot of manual interim steps that staff are really doing a great job managing until the software gets up and running. The software I think we can save until we do the IT section if you want from that perspective. Other than that, I think that kind of covers where we're at. I think we are, we did not add any new staff since our last meeting. We are soon to add new staff. We had approvals to replace the vacant Secretary position in the Council's Unit and that individual will start, I think the start date is January 2nd. So Dawn Hewitt retired and the new person that will be coming is Dawn Roach. So those of us who forget names easily, it will be easy to remember that we still go to Dawn for help.

So that's good that we're making that approach. We did have one from a staff point of view that was assisting us, at last meeting I was so happy to report that all of our technical help is here to help work on our technology projects, but due to a family illness, one of the technical leads that is temporarily helping us on the Candidate Management had to leave us. But we certainly are working to get the replacements to interview to put that technical lead back into that spot. So that from a staffing point of view, we're making progress.

Jim Walsh: Thank you Bob. Todd.

Todd Valentine: You started with me.

Jim Walsh: I did? (All laughing). Okay. I'll read the minutes next month. Council on Compliance, Kim Galvin and Kathleen O'Keefe. Kathleen.

Kathleen O'Keefe: Much of the functioning of our Compliance Unit continued as we mentioned in the last report the 27-day post general was due on December 1st. On December 10th 290 notices were mailed to filers who had not yet filed. Those are our early letters. Copies were mailed to candidates and our compliance reviews are ongoing. We will be providing winding down the campaign seminar webinar series in January and February when it is very desirable for folks that have completed the election cycle and want to close their campaign committee. It's a resource for candidates and committees that we're hoping to help them to do that in an efficient manner.

With respect to Council's Office, just a few little points. The HAVA case has finally been closed so there will be no periodic reports that are continuing to be due. That's big, that's a big deal considering it started in 2006. It's very exciting that we complied and that court has recognized that.

Todd Valentine: For equity purposes that's the portion of the Help America Vote Act in which the Justice Department brought action against us to ensure that we updated our machines and our voter registration system.

Kathleen O'Keefe: And with the closing of that case I think it's been recognized that we have complied. The Hispanic Leadership case is done. We're just waiting for final paperwork. I have one correction with respect to staffing, we have had a new call center staffer start since the last meeting. So we have a full contingent now for our call center. As I mentioned before with the new Compliance Unit taking lots of calls now, there may be an opportunity down the road to rethink how the call center actually operates, but we're not there yet. We're going to take our time, figure out how the flow of calls actually are coming in and maybe we can visit that several months from now. And that's basically it.

Jim Walsh: Thank you. Election Operations, Anna.

Anna Svizzero: Thank you Commissioners. We have obviously prepared the paperwork that you signed. There's a lot of work on the front end of that, it's interesting to watch if you ever have the opportunity to come down. Staff would enjoy seeing you. But we're happy to have those wrapped up. We expect that there will be a couple of amendments because of the late court decisions by the time they balance their blanks and that kind of thing, so you may have an amendment at your next meeting, but that shouldn't be very extensive. We have, through the election cycle provided support for all the county boards in the election prep work, their post audits and whatever they may have needed assistance with. We have a few issues with our co-worker training not knowing, not being as familiar with BMD, that was an outgrowth of the kinds of phone calls that we got election day, the complaints that we have received, that kind of thing. So we'll be working with the county boards that were part of those complaints to make sure that they beef up their training before the next election cycle. We continue to with NYSTEC on our procedures. We're updating the entire county info portals so that once all the procedures are done, right now they're one specific new folder and we'll repopulate that site to make it more user friendly as soon as we're done with the last of those procedures and we can burn them all to a disk or provide you with the login access, whatever you prefer if you're interested in that.

We continue to work with the IT Team and the project managers on the Candidate Management System. We are in receipt of Clear Ballots voting system. Their source code is complete and the test plans are being reviewed by NYSTEC so we expect testing will begin in about 2 to 3 weeks. We'll let you know when we're going to be doing that and also we will post to the website the public aspect of that testing if you're interested in participating in any of that. We did participate in an electric poll book demonstration. They're going to be doing it, I think, statewide in Connecticut in March if any of you are interested in seeing a live demo. We can make those arrangements for you. We have processed the ES&S Change Order which required testing. There is a report and a resolution in your packet to move that issue forward. We have had, Bob Warren has had with John They a very high-level preliminary conversation with ES&S regarding an upgrade they have planned for next year. They're going to be discussing it at the user group meeting at the conference in January and look for buy-in into whatever their proposals are and also listen to suggestions of the county boards that ES&S users might have for the upgrade. If they decide to move forward then they have to provide the request in writing, the impact statement and the other documents that are required in order for you to consider whether or not that upgrade should proceed. So at this point it's really preliminary. We don't know how it's going to be perfected, but certainly the conversation at the conference is going to be very determinative for them and for us.

We are continuing to work with the Comptroller's Office for shoebox reimbursement. Some of the contracts are waiting on the county board end to be perfected and sent back into us. We don't have any outstanding vouchers. They've all been reimbursed to the

best of my knowledge. Joe do you have anything else to add? I thought I had something else but I can't think of it.

Douglas Kellner: I have 2 questions. First, would you tell us what the progress is on the Lever machine report that is due for the legislature?

Anna Svizzero: I am working on a draft. I hope to have it available for circulation in the agency as a draft in the next 2 or 3 days. I've been working on it at home because I can't concentrate at work, there's too much happening here.

Douglas Kellner: And how are we going to meet the consultation requirements?

Anna Svizzero: We entertained and received a number of I guess position papers, white papers, reports comments from the stakeholder groups that were mentioned in the chapter. Also a number of associations primarily located in Nassau County, village associations, Association of School Districts, etc. They seem to have their own cabals in there because there are so many of them located on Long Island. We also go feedback from advocacy groups for the disabled. We had already surveyed our county boards asking for their level of participation whether they were loaning the equipment or not, whether they would in the future. So we've provide that. I don't know that any more consultation is in order, and the copies of all of those are going to be in the report so that people can read them in their entirety without any editorial slant from us in that process. They will be all provided in an appendix.

Douglas Kellner: Great. And then what's happening in terms of putting together the State Board's Legislative package?

Anna Svizzero: We have not been able to meet. We've had a couple of staff people out on illness. We had met internally on our own. We put suggestions together. We're following up on last year's list. That's the extent of my input, clearly Kim, and Kathleen, and Brian and Bill will be driving that aspect of it. But we have met internally just once briefly to get it moving. Usually we aim for January but I don't know whose availability will let us put anything more than that together.

Todd Valentine: Kim is out this morning so.

Douglas Kellner: Alright, well I just want to keep that on the agenda because we should try to get a package together at our January meeting.

Bob Brehm: Unfortunately, we thought it was somewhat jinxed this year because we tried to meet 3 times and every time we met somebody walked in and gave us an order to show cause so we really had to stop the meeting and go answer the order. So we would have been further along if we didn't stop but now that all our court cases are settled and the certification is done, we should be able to get back to it.

Jim Walsh: NVRA/PIO it looks like Tom Connolly it you today.

Tom Connolly: Thank you Commissioner, John is out today. Well the PIO unit has continued to field requests recently regarding election results, turnout and post-election financial disclosure. On the 5th earlier this month, John attended a mandatory meeting for the state agencies regarding the branding initiative which involves kind of having consistent look and feel across all state agencies. There is an 82 page PDF of guidelines that we've gone through and we did put in some requests for seeking some clarification as to the how and when we have to implement some of those changes. I think once we get some of that information and additional resources, we will be discussing internally how to roll out those changes across the different units.

We do continue to work with the IT group on the new FIDAS and CAPAS redesign. I did help with some of the straggler counties that were owed some IT survey responses so hopefully they've gotten a few more of those in. I personally recently attended two conferences; the first one was sponsored by the Voting Information Project which is a partnership between the PEW Charitable Trust and Google. I've been to a couple of these conferences before. This one had people from macros the county from all different states and largely focused on getting election information out to voters in different platforms whether they be through their state websites through social media and so we discussed kind of best practices from a technology standpoint. There was also a board meeting of ERIC at the conclusion of that meeting, ERIC is the Electronic Registration Information Center which was one of the two interstate exchanges for voter data that was discussed in the Presidential Commissions Report. We had prepared a memo on that earlier this year.

The second one was hosted by the Council of State Governments that was on largely military voting and UNCOVA voting that had less attendees. There were a couple of states, a couple of large counties from across the country. The Federal Voting Assistance Program or FVAP and actually they also had representatives from each of the branches of the military which I thought was really helpful because it's going to be here on from their end the challenges that they face and that would not be out in the field or domestically run base. And the things that they do to try to help military voters vote.

Speaking of which, I received the final set of surveys from the November general election from counties regarding the new voter ballots that they received. That information was compiled and sent to the Department of Justice as part of our order from Judge Sharpe. We work with IT and Compliance. I know some of the election commissioners here, there is a conference next month. Part of that conference there will be a campaign finance training seminar which also qualifies for CPE and CLE credit for accountants and lawyers. There's an online registration that is on our website. It is open to the public so anyone who wanted to sign up for that could do so.

And then, lastly, with the certification results as a matter of the gubernatorial results there would likely be a number of change, additional parties for the voter registration form as well but as a changed order, so that's going to require us to make some changes to our forms both our registration form, absentee ballot, agency forms, things like that. So we're looking into redesigning those forms so that we could have a new supply printed and disseminated to the different counties and agencies that need it. I think that would be it.

Jim Walsh: Any questions?

Douglas Kellner: I had 2 little follow ups. Is there any action plan now with respect to the interstate voter registration data bases, either ERIC or what's the other?

Tom Connolly: The Cross State Exchange to CDI. Cross check, sorry. Currently, action plan was internally, no, we've been doing some more, we had discussions. We did go down to New York City and meet with a couple of representatives from PEW to discuss with the New York City board because they were interested in participating in ERIC. As a matter of the board meeting that was held, I knew one of the new developments is that they are looking to and they expect to very shortly integrate national change of address information that database into their processing. I know it was identified in our memo that that could be one potential cost savings because it could replace our need to do the NCOA annual basis that we do now. But beyond that, I think we're still just kind of looking at it and gathering the research and trying to figure out some of the challenges that were posed, mainly financial, but also just additional reporting that we'd have to look and see making sure the counties were doing for us. Because they also made some changes at the board meeting too, actually they didn't vote on it but they were entertaining changes to the reporting that's required. So they were looking at requiring less, some information because they felt that they could derive it from some of the other questions you already have.

Andy Spano: Alright. Tom in short these voter information sites, some components?

Tom Connolly: Oh the voter information project that first conference, there was a couple of different things, largely about data standardization. We talked about the I triple E 1622.2 standard which is a new standard for election night results. That's currently out in the ...

Andy Spano: No, I'm talking about friendly stuff.

Tom Connolly: It was really helpful because we were able to get presentations from different counties and also the social media as to how they're looking to try to reach out to voters in a different way. You know for example, Google on Election Day had a ballot boxes at scoogledoogle. You click on that link it would allow you to find your polling place. That information was drawn directly from information we supplied the Voting

Information Project. They're looking to expand that where they can so that the person can put in their address and not only get their poll site, but also get the information on the candidates they're going to be able to vote for. So we're looking at different ways that we can kind of work to provide that information so that it can be disseminated across platforms that people are using. Obviously there is a lot of traffic to our website on Election Day but there's probably far more traffic on Facebook and Google.

Andy Spano: No issue stuff or anything else like that?

Tom Connolly: I'm working with, there's an agency Turbo Vote down in Brooklyn and they do work for the Voting Information Project largely processing some of the information they get from states and there were some challenges that they identified to me when I was talking to them about some of the data we get from various counties whether it be down in the city with certain apartment numbers or in the way that certain other counties do their street addressing. So, I've asked them, if possible, get like a quality report back to us with feedback so we can see if there's something that the counties could possibly do differently as far as how they're putting the information in so that it gets out to the voters a lot easier. I mean for example, I know I often do, when they publish the information for the poll site lookup on Google, they often ask me to check and I know at least one of my addresses never returns a poll site. So that has to do with the way that Google geo codes addresses and the way that the My Voter Information is in the database. So the more we can kind of do to streamline that so that there's a more standardized set of information so that you can really increase the amount of accuracy that people can find when they're looking for their poll site and/or candidate information.

Andy Spano: Any discussion of a site which allows a candidate section where candidates actually do things on it, the same site with some kind of searching and the press can get on?

Tom Connolly: I'm trying to recall.

Andy Spano: So they can aggregate everything.

Tom Connolly: There wasn't a discussion as far as the presentation goes. I do know I had a conversation and I can't quite recall which of the states it was, but they were stating that they did something along those lines as well where they would try to provide that information. I know the Campaign Finance Board does something similar down in New York City as far as they have a whole media studio where they allow candidates to come in and record messages and they provide that out, but I think that's largely city level races.

Douglas Kellner: One more thing. Would you tell us what the plan and the schedule is now for getting the new voter registration forms to collect the 8 political parties?

Tom Connolly: Well I think that I have a draft that I've circulated. Previously I know and according to the board it brought the additional parties in the changed order. I know there's been some discussion about some of the language on the ballot and I know there's also been some discussion voter registration form. Sorry. And also some question with regard to whether or not the 2 new parties might possibly change their name. so obviously we can kind of prepare for what we know now and try to find out if there's any likelihood of that name change happening but I would expect that we'd have the forms for your approval hopefully at the very least by January.

Douglas Kellner: Okay so that's the plan. I certainly agree that it makes sense not to be printing up the forms if one of the parties is going to change names soon. And did my comments go around? And I do think that the instructions with enrollment section should be revised so that they do not favor or point out any particular political party. As opposed to the current instructions which discuss one political party without discussing all the others. Just that the form should be party neutral.

Andy Spano: I have an information question. So when you change your party, let's assume that you are like Stop Common Core, I can now change it to I Hate Abortion? Can I keep changing the topic of my...I mean I understand if...

Bob Brehm: Well in the past that has happened. We have had, where the independent candidate statewide for governor and the year after they obtain ballot status they came back and changed their name to Independent Fusion, Tax Cut Now, I forget how they first got on the ballot, but once they establish constituted status, they did come in. Now the difficulty with Independent Fusion is they changed the name a few times then they went to court and it took a little while. So we kept printing and stickering and trying to keep up with the change to the ballot and then they changed twice and it took into the spring for one, I think it was Independent Fusion, Anna might remember better than I but I was on the stickering end of that at that time. So once we got everything up and ready to go because we thought we were fine, they changed it again. So that's why I think until today is for the first time we'll certify that they've met the 50,000.

Andy Spano: Do you mind if I have the discussion about this a minute? Do you see this as a democratic process or of a pain in the neck? I mean, well you change it once that's fine and then you go to the next election. But if you can keep doing this the way you talked about it, it becomes a little inappropriate I think.

Bob Brehm: Well there was litigation over whether they could in some of those instances and they let them change the name so I...

Andy Spano: I mean why, you talk about it, is it our job just to go along with everything else that happens and then just do all the work, or is it to take things like this if we think there's something a little wacky about them and go to legislature and say, "Hey look, change this."

Douglas Kellner: We can do that. We have legislative proposals that do that.

Jim Walsh: If I may Commissioners, on this point, the drastic move is what I'm trying to follow up on. Let's say the name of the party is X and that party has a million dollars left in its campaign coffers after the election and the people who contribute to that, let's say it's a one cause party. The people who have contributed to that party gave because they wanted to support that cause. Now the party leadership is very disorganized in many cases, decides to change the name of the party to something that's exactly the opposite of what that party stood for. The million dollars that's left does that automatically go to this new party whose in absolute opposition to the philosophy of the first party?

Todd Valentine: Let me jump in here. You're not a party yet. So the only funds would never have been collected by the group, they would have been collected by each of that, just to go back. Anytime a new party is created, it's the result of a petition that was filed for an independent body of statewide candidates. It has a candidate towards governance. Though the statewide candidates formed the nucleus of what will now be the new party so there is nothing before. They now, today popped up because we certify the day of sufficient votes. It's at this point that those 4 people who form the nucleus of the statewide group now get together and organize. There's nothing in the statute that prohibits their naming of the party other than they can't use, there's certain words that they can't use like American, national, there's certain specific limitations or another existing party. They couldn't rename themselves with something that already exists. But, there's nothing that prohibits them from changing organizations.

Andy Spano: This question is relevant as long as you can change your name anytime you want. Is it only one time you can change your name or can you change it anytime?

Todd Valentine: I don't know that there's any limitation in the statute. So the question is relevant.

Kathleen O'Keefe: I've done just a little bit of research on this. There's nothing in the statute that says you can or cannot change your name once you are a statewide party. The litigation that I have looked and at I have not looked at everything that may be out there, really addressed questions like, "Did they organize themselves correctly?" "Did they elect officers correctly?" I don't see anything or at least I haven't come across any statute or case law that actually says once you've received 50,000 votes under one name that you can then now use that 50,000 votes and your statewide status and become a different party. I know that there are cases where that has happened, but I have not come across a case where that direct legal issue has been raised, can you actually change your name. It was much more about the organization of the party. So, part of it may still be an open question.

Jim Walsh: Still my original question, the organization that was formed we're not calling a party, was raising funds to finance the election that they were participating in. I'm assuming the checks were written to the name of that party which stood for, in these cases, a particular philosophy of belief. So my question is just repeating again, "I gave money to this party because they believe in what I believe in. Now someone has changed the name of that party to be exactly the opposite, now I want my money back and I don't want that candidate."

Andy Spano: It went to a campaign committee not to a party right? And then it gets to the party.

Jim Walsh: But still the philosophy...

Douglas Kellner: And if the committee changes philosophies, you sent the money to the committee.

Todd Valentine: Well, it's not as simple as that.

Bill McCann: Well I think the issue in this instance we're dealing with a candidate having multiple authorized committees. It's in the Election Law you're only entitled to the one limit so subject to that, once this other entity as an authorized multi-candidate committee gets funds for it, really gets into the issue of applying those limits to the candidates. It's not to the entity per se, it's to the candidates that that committee's authorized to support. So presuming that the candidates are the same candidates, there's nothing that would prohibit them from changing their "name" from a campaign finance standpoint, it would be an issue of applying the limits. The other thing is once you have an intervening election, now under previous board opinions, those funds flow to the next election for those particular candidates depending on how they're organized for this multi-candidate committee. So I don't know that they would have any obligation frankly to in essence refund money, because that money was raised subject to a previous limit. It would raise an interesting question if you then wanted to go deal with additional candidates as to whether or not those use of funds would be de facto a transfer of some kind after the election, but that would take a real big analysis. But the name change as far as Campaign Finance purposes are concerned, I don't believe there would be a prohibition as to whether or not you'd have a name change for party purposes under some other portion of the statute, that's a different analysis.

Bob Brehm: It's certainly a time period to do this would be helpful if we wanted to look at legislation so that we don't, I mean one, we have a responsibility to update the forms and the computer systems and the tracking so that the counties can properly registered people. So waiting until January for this to settle would give us time to get all the language translated and that the wording, but certainly if we had to wait until June that would be a hardship or worse, reprint in June. But I don't know because there is no deadline.

Andy Spano: I would suggest when you're looking at this legislative proposals that you think about this and if you want to throw in cross endorsements you can do that too.

Bob Brehm: You know I've made that recommendation a number of years and I'll continue and I hope someday that they would...

Douglas Kellner: I don't think the legislation needs our advice on cross endorsements

Jim Walsh: Thank you a very interesting conversation here. ITU Robert Brehm and Todd Valentine.

Bob Brehm: We have 3 major projects; I'll start with the one we have and haven't talked much about. When we moved from our previous office location to this building, our computer systems that run the office and also where we house the CAPAS FIDAS servers and the NYSVoter servers moved from a space within our office to the state campus in Albany. That is in need of moving again. We thought that that was a nice place, it was available. Nobody thought it would be this short. But the state is now moving its computer network to the new Nano building, CNSE...

Tom Connolly: CNSE, the College of Nanoscale Science and Engineering.

Bob Brehm: There we go which is probably ¼ of a mile from where it is now. So it's the state campus, SUNY Albany and used to be part of SUNY Albany, it's right near the thruway. So they're moving everything into that unit and they are redesigning how things going into that space will be stored. So we are at the process of working with our staff and with the state office of Information Technology Services to figure out, to plan that move. We don't have a date yet to move but we are in the planning stages. So that's a major move because it's also updating the platform that we have everything programmed under.

The Candidate Management and the Financial Management system are also being redesigned. We have been meeting to put what I call closure to the scope of work so that we can get to the next phases which are basically the technical design meetings. There are some open questions that we still have with regard to closing down that scope of work that are also related to this move. Because we're going from what used to be 60 servers that everything has been designed under to a new system and a new platform. So we have tested the platform in our NYSVoter, the one that went first and understand that the platform works. But, now we have to finalize a lot of the, since its new where it's all going, all new at the Nano center, we have to nail down those issues. So Todd and I are meeting with our staff and with our contacts at the General Government Cluster for OITS Information Technology Staff to finish putting together what our understanding of the open issues for security and access for everything going into this new site. Once we get that, it's our goal to have a high level later this week, this Friday with our staff and with

all the input, what are the open issues? And then convert that understanding to a memorandum of understanding in a basically service level agreement between our office and that office as to how everything will be programmed. Once everybody agrees this is the path we're on, we can put the final touches on the design network and let them go to go design it. Our conversation has been, that's very important from a critical path point of view that it not go beyond January. So we will, that's why we focused on getting our house in order so all our questions are written understanding what our requirements need to be with our staff and then go make sure everybody's on the same page. Once everybody is on the same page, then it's just a matter of designing the programming and testing it. So it's kind of all at the same path. Our goal was to start with NYSVoter first because it was something that was newer, it was easier, it started earlier. It started first. We did put together our Project Management Team the test model to test out. Is it possible? Will it work under this platform? And the preliminary test is yes and now we're moving to the next phase. So from an implementation phase, NYSVoter is expected to finish moving towards that platform, testing everything, working with the counties to interface as well as we do now with them, and the testing is expected to finish between now and October. As you know, we would never roll out a change to the NYSVoter System that close to election anyway. But our goal was, that's pretty good from a testing point of view because we will have finished everything in the test environment and then as soon as the election is over to schedule placing it into production. Our only variable that we are waiting a little bit on is when does the presidential primary begin? So we will know that by June at the latest because it will have to be filed. So, that would probably be the only scheduling thing that we would want to look at. But our goal is to roll it out in December of next year knowing this election will be over and that will give us the maximum opportunity to be ready for the presidential should they hold it early February as opposed to later in the season. I haven't heard. I know the Republican plan that I read in the paper highlights but didn't give details yet. But their focus on their national platform is to push a little later and they have implemented some of the encouragement or stick going against going early that was in the last democratic plan so that the earlier you went, the more delegates you could seat and your state would have less of a role at the convention. I have not seen a Democrat draft yet.

Douglas Kellner: And wouldn't it be nice if they could combine the presidential primary and the congressional primary? If they're not going to unify the federal and state primaries at a date between June and August, then maybe they can unify the presidential and congressional primaries.

Todd Valentine: That would be hard because the people that are voting in the primary serve different purposes.

Douglas Kellner: I agree that they serve different purposes but...

Todd Valentine: It would be a logistical task, it's not impossible, it's not illegal, and it's a logistical challenge.

Douglas Kellner: They could have the federal congressional, say they did it in April of May the presidential primary.

Todd Valentine: Yeah, I don't know the dates. That's one of the factors.

Douglas Kellner: Well I just put it on the table. Obviously the legislature is going to do what they want to do and not when it's convenient for us.

Bob Brehm: But just for us, the longer they go then if we run into a little bit of an issue in December we could move it into January. The end of life issues that staff has identified is spring of 2016 for the NYSVoter System. So that's why we think we're on track for getting it done and it's when the election, that really will be our scheduling issues. But we would want to be, just from our general plan, even if they did move it out a little bit we'd want it to be in December just because that would work fine for us.

The other issue that we have is the Candidate Management and the Financial Management System. The estimate so far is to be done sometime in the end of summer 2016. But if we were a little bit further along in the testing design, nailing things down, I would be a little bit more comfortable saying that's a firm date, it's a project date. So, certainly we would have to be a little further along to figure out when we'd roll it out. With that many treasurers, it's very difficult since all of them would be changing how they report, but its hard to roll that out in the middle of a very busy election cycle because we have to support and train them. So, from a planning point of view, we have to get a little farther along. Hopefully by September we'll be very comfortable at the outset of the deadline and then start planning, because that's a major rolling out. We have to train 9,000 people, treasurers and candidates. It's up to 14,000 people that you still have an obligation to file, but on a new platform and in a new way. So the rolling of that went out still is targeted to sometime after the end of the 2016 cycle. If we can do anything earlier, certainly we will, but we don't want to over promise and under deliver. We want it to be the other way around.

Moving all of the state IT information is somewhat nerve racking because of the end of life issues. What we have at the state campus, you know the CAPAS FIDAS is so old, it's not supported. So how do we intra move it? So we have a number of issues. Nobody is saying we have to be out of that building, but we're the only ones left in the building. But I have to say we've had great cooperation from people. There's nobody pushing us out the door either.

Douglas Kellner: Physically, how much space does it take up?

Bob Brehm: You know that would be, I've never been there.

Douglas Kellner: I mean is it, it's not half the size of this room probably?

Tom Connolly: I don't know if the cage is even that big. It's certainly not as deep but I remember when we first looked at the space it was probably roughly...

Douglas Kellner: So, it needs electricity and it needs...

Tom Connolly: Air conditioning and trunk line.

Todd Valentine: Well that's over simplifying. We would not have the infrastructure to operate it in this building on this floor.

Douglas Kellner: No, I mean leaving it just where it is until 2016.

Todd Valentine: Oh, we may. That's one of our, that's our analysis is the initial conversation is they are still, well there was a ribbon cutting for the College of Nanoscale Sciences Data Center. There was actually nothing in there, the building was done but the data center itself was not constructed. So they're developing that at the same time we are saying we have certain needs for our data for the primaries, for what we need. So if they can meet that, that's fine. Our needs are what our needs are, and we're flexible on how they get met whether it's at Nanoscale, if that means we stay in building 8 in the future until they can construct what we need, then we're open to that. We're not closing any doors.

Douglas Kellner: And is there a backup site for our data?

Todd Valentine: There is a disaster recovery center right now located in Westchester County which has to be a minimum under the statute of 25 miles away and we would also be, in addition to our data center are also going to be upgrading the Disaster Recovery Center.

Douglas Kellner: And the Disaster Recovery covers the Campaign Finance as well as NYSVoter? I mean I remember we set it up for NYSVoter, I'm just asking because...

Todd Valentine: There is a Disaster Recovery Plan but that doesn't have a 25 mile radius requirement so that's actually backed up in a different manner which we are also going to upgrade. I mean just not to go into basics, we just basically do a tape drive and do a backup and store the tapes off-site for that information. NYSVoter has a statutory requirement. So we'd like them all to come together, that's exactly what we'd like to do but that's, we're not debating is we can't understate the magnitude of this project on the staff. I mean if resources were budgeted for it and we're working in conjunction with the Office for Internal Technology Services on this but these are going to take a couple of years. We start, by the time the budget was passed, we started getting our contracts

implemented, we were a couple of months behind after the budget passed that put a square in the election cycle. We still moved forward as best we could with some of the technology stuff all through the fall and now the staff is starting to focus this, as Bob said they had a meeting last week where we have a Steering Committee for the CAPAS and FIDAS as well as NYSVoter side and our own staff. We also have to bring in outside end users to give us input on that. I mean we'd be crazy not to. We're not going to go down that path. And that's true for NYSVoter and for the CAPAS system. So these will, you'll be hearing about these for the next couple of years.

Bob Brehm: The Disaster Recovery site is most likely going to move from Westchester since the state is also building the facility in Utica. So most of the disaster recovery will be planned to go to Utica also. And it's platform is similar to the Nanoscale platform. So, as Todd said, our goal was since we have a better funded since we had NYSVoter money to set that site up, is to take advantage of redesigning everything and really have a fail over system from a continuity of services and programs, it would make sense to have more up-to-date that Albany can fail over to Utica, I think they're both a Nanoscale building. So, we're down that path. I think our staff has been busy supporting the general issues of the agency as they always are. But these are 3 major projects that you will hear a lot about.

Jim Walsh: Todd do you have anything else to report?

Todd Valentine: Oh and well we're not live but the county seat is. We'll update because there will be some impact on the counties. We plan on doing a briefing for them at the January conference. Some of them have known about it but we do plan on bringing them an update in January.

Jim Walsh: Enforcement, Risa.

Risa Sugarman: Thank you Commissioners. The Enforcement Unit is also working with CAPAS and FIDAS to provide the Enforcement Unit needs for both of the new websites. I have one of my staff members going to all the meetings and we discuss what we need and provide it to those working groups and to each of the meetings. As Bob said, I attended the Public Hearing just to listen and see what the feelings of the members of the Assembly were in terms of the Compliance Unit and they seemed to, by their questions, were interested in a relationship between the Compliance Unit and Enforcement. They were interested in questions that they posed to Bob as well as questions that they posed to Mike Ryan who is the Executive Director of the New York City Campaign Finance. They were talking about the referrals and how those systems worked. So it seems to be important to the members of the Assembly the relationship between the counties and the county boards and the Enforcement Unit. That will be part of what I'm doing at the presentation of the January meeting at the Hilton. So it was interesting to see that they were interested in that relationship between the county and the city boards and the Enforcement Unit.

As we discussed last time the Compliance letters that go out or used to go out from the Compliance Unit, we've been working with IT and with the Compliance Unit to get those letters where the treasurers and the candidates have not complied with the filings, we got our first list of names of those committees and candidates of those who have not complied at all with their filings. I think that there are approximately 800 plus names. Kathleen I think...

Kathleen O'Keefe: I think it was a little more than 500, originally about 1,900 and then down to about 500 after the early letters went out.

Risa Sugarman: I'm not sure I thought it was more but maybe, and that list came over and we've been working with the IT to set up the process so that those letters can be put into the computer system so that they can just go out through the letter to the treasurer to the candidate and then a cover letter to the candidate so that that will be done within I think the 30 days after the candidates don't comply, and then we'll give them 15 days from the date of the letter to comply with my letter. So that process is in. It's already in, we're looking at it to make sure all the letters are done and then it can go into production. So that was done. I'm looking for one more auditor and I think that I will be at full staff. And that's it.

Jim Walsh: Any questions?

Douglas Kellner: I just want to say I'm glad that you're moving the process forward. It's very much behind what it was prior to the set up of the new Enforcement Unit so that for the July non-filers, typically we would already have the court proceedings started by now that those court proceedings would be started September or October and

(Video froze and no sound)

...by October is more likely when it would typically be started and we're still at the stage where you haven't even sent out the required notice before you can start the court proceedings and I'm just concerned that we're getting backlogged on that part of the system that was sort of on auto pilot before we set up the Enforcement Unit and it is now developing a backlog.

Risa Sugarman: Well I think there are two things that are coming into play; I think that you have more because of the Compliance Unit and the work that they're doing. I think you have a lot more of the campaigns, the committees and the treasurers that are working with Compliance, that are coming into compliance. So I think that if you look

Douglas Kellner: Well that's a good thing that you've got 500 who haven't filed reports that were required to file in July and nothing's happened yet.

Risa Sugarman: But I think if you looked at the numbers before, I think those numbers would be a lot better as you say, they would be a lot better. And I think that when you're looking at what we're going to be able to do when we send out those numbers, those compliance people who are going to come into compliance are going to increase as well because after, quite frankly Commissioner, after those letters and the lawsuits went out, you got compliance. But when the judgments were done, the judgments were done and nothing was done after that. So all you got, we might be delaying it a little but we're getting more compliance. So, you might have done a lot because it was just a rote thing to do but all you did by that if you didn't get the final compliance after the lawsuit was filed is just had judgments sitting in the file cabinet with nothing being done. So, what we're doing is we're going to be doing more compliance because people are going to get the second letter, they come into compliance and we're going to try to start working on getting judgments being paid as well.

Douglas Kellner: Well good. Let's see what happens.

Risa Sugarman: We're going to try.

Andy Spano: Risa, what happened to all those judgments that were in the file cabinet?

Risa Sugarman: Well they're now in boxes and we're working on getting them. We have to have a process in place. We want to get the present work done now and then when we start getting that process that we can go forward, then we're going to start doing some collections on those.

Andy Spano: Do you have any idea what the numbers were on those?

Risa Sugarman: Well there's a cubby full of boxes. There are a lot of them. But we do have the incentive because we now have in the statute the money that we collect goes to Enforcement so we do have that incentive to collect on.

Bob Brehm: I think they created in the chapter I think it was in the Independent Expenditure section or Public Finance Section, I forget which of those two sections that the judgment money is going to a dedicated fund so that's different. That had not been..

Andy Spano: Would that be subtracted from next year's allocation?

Bob Brehm: They don't say that yet but they say...

Risa Sugarman: I'm not counting that they won't do that.

Jim Walsh: Thank you Risa. We just finished our unit reports and I'd like to pause for a moment. Commissioner Kellner pointed something out to me when we were going around the room introducing everyone, that Dennis Ward was elected Supreme Court

Judge. I want to congratulate you and I'm sure on behalf of everybody in this room and around this table and say to you, you and your partner were two of the best commissioners in the State of New York in my opinion. You people came and appeared to us many times. You knew your subject, you know your business. You argued as well as any judge on one side and then you turned to the other side. You were very, very good and I think the legal system, the judicial system is getting a very good man, very qualified person. We wish you the very, very best sir. Would you like to say anything? You've dealt with everybody in this room, if you'd like to make any remarks at this moment your welcome to.

Dennis Ward: Well it's been a privilege to be part of the system. I mean almost 10 years for Erie County, both at the Erie County level and interacting with everyone here. I know everybody around the table, except for Risa. I haven't met Risa yet but I will afterward and it's been a privilege and I always felt that there was always a sympathetic and interested ear at the State Board both through the Commissioners and all the staff and I've appreciated it. So I want to thank you for all that time and I look forward to a new career but I'll be around in the shadows here. But I won't be issuing any Order to Show Cause.

Jim Walsh: And this is a longer term right? Thank you, again, our best wishes. Old business. Vote on a resolution of appointing members of the Division of Election Law Enforcement as Special Investigators. Risa would you like to make any comments on that?

Risa Sugarman: Well we've discussed it at two prior meetings so I would just...

Jim Walsh: All in favor?

[Chorus of ayes]
Opposed? Carried.

Risa Sugarman: Okay thank you.

Jim Walsh: Item 4 under new business vote on a resolution for ES&S End of Life replacement part. Explain what end of life is here before we get anybody...Anna.

Anna Svizzero: Some of the suppliers and providers of different system components. These systems were purchased in 2009 and have been used pretty regularly since particularly in those counties that were part of the pilot projects. So some of the parts that you would normally purchase which aren't software driven, they're just not available anymore from the same supplier or the same providers. In this particular case we're talking about an internal battery and in their submission for this change, it was determined by the labs that it needed to be tested to make sure that this battery didn't disinfect something else when it was added to the system as a replacement part. The

testing was part of their national certification by the EAC. It was reviewed by our lab as that independent review and we did functional testing here and the staff recommends that it be approved.

Jim Walsh: Do I have a motion?

Gregory Peterson: So moved.

Jim Walsh: Second?

Andy Spano: Second.

Jim Walsh: All in favor?

[Chorus of ayes]

Opposed? Passed. Thank you Anna.

Vote on a resolution regarding the Ballot Handling Configuration. Anna what have you got?

Anna Svizzero: This is the result of the conversation that was begun by Commissioner Peterson at the last meeting concerning the notices to voters and in particular that some boards seem to be recording under votes to voters which creates a cue in a sense of, I'm not sure what you call it exactly because it's your right to under vote. It's your right to vote however you please and if it says that you're to vote for any 2 or any 3 and you choose to vote for 1 or 2 that's your prerogative and it shouldn't mean that there's a warning or an advisory or an error message or anything like that. So we added that message to the other advice that's been provided to boards over the past few years concerning settings that the system vendors provide as optional however that the state has taken a position on that need to be set in a specific setting always without any discretion on the board to reverse that. So this is the result of that conversation.

Gregory Peterson: I'd like to thank you Anna for that expeditious handling of that.

Anna Svizzero: You're quite welcome.

Gregory Peterson: It gets them on the right road.

Douglas Kellner: And I think its great that we're clarifying an issue that sets uniform state policy so that all of the boards will be dealing with the issue in the same way.

Jim Walsh: Would anyone care to move that? Second? All in favor?

[Chorus of ayes]

Opposed? Carried.

Anna Svizzero: Thank you.

Jim Walsh: Discussion now I don't want to bring this out of left field but Brian I'm told that you can handle this but if you can't then I didn't warn you in advance. So Brian Quail please.

Brian Quail: The changes that the legislature made at the end of June this year with regard to the Independent Enforcement Unit had a number of elements. And the agency has been moving forward on a number of different fronts to fully implement that process. And one of the elements of section §3-104 is a Hearing Officer process. There is a criminal component in the statute in terms of how referrals are handled there in that process the board has it's own experience with. And with respect to the investigatory part, again that part has been moving forward but what §3-104 also does in the civil end of things is it has inserted a hearing officer component whereby in order for the Chief Enforcement Council to bring a proceeding and/or settle a matter, the matter is presented to a hearing officer and the statute is very clear about the elements that was presented to the hearing officer and how the matter is dealt with. And so as a practical matter, the agency has been moving forward with the various bureaucratic measures that are necessary in order to be in apposition to be able to make appointments in the financing and that sort of thing. And so what I'd like to do now is just give a very brief overview of the elements that the agency needs to grapple with in terms of actually establishing the process.

According to §3-104(5) Hearing Officer Process that we put in place has to comply with Article 3 of the State Administrator Procedure Act. And the State Administrator Procedure Act in return requires that we have rules for the actual process of having hearings. So one of the things that the agency is working on and will have to formally grapple with is the adoption of rules for the process. It goes without saying that obviously the Commissioners will need to make appointments and hereto the statute gives a fairly unique and very specific prescription which is that the Board by majority vote will place individuals on a list of eligible perspective appointees as hearing officers and then through a random process to any particular case that the Chief Enforcement Council brings forward, it will be a random process that will actually make the assignment off the approved perspective list. So there's some rules and some procedure that have to be developed around that process.

Another piece of governing law which is not apparent either in this section or in the State Administrative Procedure Act is Executive Order 131 from 1989 which basically requires the agency to file an adjudicatory, Administrative Adjudicatory Plan that sets forth how the various different procedural safeguards and due process will be managed. And so in a nutshell, that is sort of the process that sort of needs to move forward. And in the interim, the agency does have various options in terms of how to manage these cases.

One of them is that the Chief Enforcement Council is able to, in the absence of an approved list submit essentially the report that would have gone to the Hearing Officer, simply prepare the report and then act in accordance with that report's suggestions. And, if there are certain elements of implementing this that will be complicated, there could be other interim, like the alternate plan could involve interim measures to get us to a final place. If there are any questions about the process or how it has to unfold I'm sure Risa or other Council would be happy to entertain those. But, I think it's important to just express to the Commissioners that there obviously is an agency understanding that this part needs to be put in place, and that the agency is working to do it.

Jim Walsh: Questions?

Bob Brehm: I think just in regard to where the Hearing Officer posting, Todd and I met with Risa with our routine meeting to identify what Hearing Officer duties we thought needed to be filled. There's an existing state job description for 3 different levels of Hearing Officer Services so we discussed the basic Hearing Officer and also Risa had shared with us her thoughts on the minimum job qualifications, but also there were some ideas of preferred job qualifications. Because any attorney who has been admitted to practice law in New York State with more than 2 years of service could be a Hearing Officer. So is there anything else? And I believe Risa had 2 that she settled on that she thought would be helpful and we agreed with her and one was SAPA and the _____ to follow SAPA and the other was criminal procedure.

Risa Sugarman: Evidence and CPL.

Bob Brehm: So, Thursday Todd and I met with our administrative person, Tom Jarose to take that information, confirm it with Civil Service and then start the process to post the titles so that we can get perspective individuals. It's an ongoing recruitment. It's not a one time get on the list. Because we assume at some point that people, I mean it's a new program for all of us, so the simple questions we know. How much work will I have? How often will I meet? Those are the ones can't answer. I think we know how much they'll get paid and kind of issues. But since it's a new program we'll have to play it by ear. We'll put people on the list and as work develops Risa can either tell us that its working or its not working, we need more people on the list. If she has a lot of cases during seasons, we may need more people to be on the list. So, we are moving forward with the posting so that we can have individuals respond. We'll have to interview them and then make a recommendation to you of the actual names on the list which we hope, I met with on Thursday and I wasn't here Friday so I haven't had a chance to find out what we heard back from civil service yet but I'm hopeful that we would have posted them long before your next meeting and are much further along to actually making a list available to you. But that's what I knew up till Thursday coming in here. So I think we're making progress on the actual names.

Jim Walsh: Any questions? Thank you. Our next item is the next meeting. Has this been agreed upon this next meeting date by everyone? January 12, 2016? 15. So anyway the next meeting will be January 12, 2015 and will take place at the site of the conference.

Todd Valentine: It will be here before the conference.

Jim Walsh: Oh I misinterpreted. That's why I ask so many questions.

Bob Brehm: Well the conference is at the Hilton which is the adjoining building so we won't have to go too far.

Jim Walsh: Right, okay. Alright. If there's no further business...

Gregory Peterson: I'd just like to compliment the staff today. I just thought that in listening to all of the answers to very complicated questions and very complicated procedures that it's a shame that this isn't on our current website because I thought everybody did a fantastic job and the answers that were given were not only complete and I don't mean this as derogatory, lengthy, but you completely answered our questions and I just again, it's nice to know and would be nicer to see on the outside that the people will be happier at the state board, really a top notch, top flight crew, and I just compliment you.

Jim Walsh: Agreed. I believe we have a need for Executive Session. Would someone like to move that we go to Executive Sessions?

Douglas Kellner: For enforcement cases?

Jim Walsh: For enforcement cases. Thank you all. Good luck Judge.