

The New York State Board of Elections experienced an audio issue at the start of their September 6, 2023 meeting. Prior to the beginning of this transcript, the Board opened the meeting and took up the minutes of the August 2nd, 2023. Commissioner Kellner proposed an amendment to the minutes for August 2nd. A motion was made by Commissioner Kellner to add an amendment to the minutes of the August 2, 2023 meeting.

Commissioner Kosinski: Seconded. Is there a motion to approve, amend or discuss or whatever?

Commissioner Kellner: I have an amendment to just include two sentences between the votes on resolution 23-26 and 23-27 to include a paragraph that says: *Commissioner Kellner proposed an alternative to resolution 23-27 which is attached.* The resolution was defeated. And then they can include the resolution.

Commissioner Spano: I'll second it.

Commissioner Kosinski: Okay. So, how are you going to do this? You will just have them insert it....

Commissioner Kellner: It will just be a paragraph...

Commissioner Kosinski: Well, why don't we do it this way, why don't we put it off, have the staff insert it and at the next meeting we'll approve it.

Commissioner Kellner: That's fine too.

Commissioner Kosinski: Alright, then we'll move on. Our next order of business are the ballot access determinations. We have a report from the staff two judicial districts I believe, both delegate petitions that were an issue. One is in the 4th JD and that was an invalid declination that was received by the Board due to incomplete information on the declination itself. And the second one is from the 9th JD where there were specs regarding, I believe, the conduct of the meeting which we have no ability to rule on, that's beyond our authority. So, the recommendation is to continue to have the petition valid and we will not take a position on the validity of the objection. So, those are the two that are enforced today.

Commissioner Kellner: I move the report, but I do have some discussion.

Commissioner Kosinski: Okay.

Commissioner Kellner: I just wanted to say, I question your use of the words, "Beyond our authority".

Commissioner Kosinski: Okay.

Commissioner Kellner: It's beyond the scope of what we usually do, and I carefully read the resolution that was drafted, and I think the resolution is, I guess it's the determination.

Commissioner Kosinski: Right.

Commissioner Kellner: And I think the determination is properly drafted.

Commissioner Kosinski: Okay.

Commissioner Kellner: I apologize for being so picky, but I just don't want to conceive that we don't have authority, it's just that we don't usually do it.

Commissioner Kosinski: You mean your position is that we do have the authority, we're just choosing not to exercise it?

Commissioner Kellner: Yeah, beyond the scope.

Commissioner Kosinski: I'm not sure what the distinction is here you know, to be honest.

Commissioner Kellner: In other words, we could hold a hearing and make a determination, but we don't, and local boards don't either, and I think that's appropriate especially since the court proceedings are de novo anyway.

Commissioner Kosinski: Okay. Well, I'm not sure I agree with your distinction frankly, I think we've always had the position that its beyond our authority, that's beyond the scope of what we do as administerial body, is to look into what happened at a meeting, and whether or not the minutes correctly reflect what happened in the meeting because that would require us taking testimony, and it would require us determining the truthfulness of the people coming before us, and that's just beyond our ability. But again, I don't want to get into any discussion. I think we agree this is not something we're going to rule on.

Commissioner Kellner: Right, and as I said, the draft of the determination is fine.

Commissioner Casale: We're voting on the determination, not what Peter just said, right?

Commissioner Kellner: Exactly.

Commissioner Kosinski: But what I say is very important and so, it's good to discuss things I say because those are important concepts. (Everyone laughing) So, I don't think not having that discussion because I agree what I say means a lot. But anyway, we are ruling on the determination and voting on the determination. So, is there a motion? A second? And unless there's further discussion, all in favor?

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kosinski: Opposed? That's passed. Okay, that done, we'll move onto unit updates. Our first one is the Executives Kristen and Ray Riley.

Ray Riley: Good morning – good afternoon, Commissioner. Co-executive directors worked with staff throughout the agency as well as coordinated with county boards of elections and other state agencies on several issues since the August board meeting. New York State Board of Elections accepted filings of judicial nominations from the 3rd to the 7th as well as 9th and 10th judicial districts. Several of the candidates were nominated across all 4 parties. Filings went smoothly and were reviewed in accordance with SBOE policy. Earlier this month, we attended the Election Commissioners Association of New York, they held their summer conference in Niagara Falls. Commissioners from across the state met to exchange information, receive updated guidance, and provide multijurisdictional support. These twice a year conferences provide both the state and county board of elections a final opportunity to interact in person on a large scale. New York State Board of Elections was in attendance and provided presentations on Election Security, Legal Guidance, Operations, Grants and FOIL requests, as well as holding a seminar to combat this information. Speaking of combating this information, the State Board of Elections was made aware of multiple counties of individuals who reported to be election officials going door to door accusing voters of committing crimes based on an incorrect understanding of the state voter database as BOE takes attempts to both impersonate election officials and intimidate voters seriously. All instances provided to the State Board were referred by us to State and Federal Law Enforcement as we continue to receive reports, we will continue to refer them appropriately. Any member of the public who has been approached in this manner should call their local Board of Elections to report the incident, so that was last week and a week prior. Moving onto space planning. Construction work continues on the 5th floor, space has been cleared of all materials. Demolition is close to complete and build outs to match a new floor plan are ongoing. Biweekly meetings to coordinate between our agency and the four contractors continues. ITS vacated 1st floor swing space and Compliance PCFB, Secure Elections, and IT staff are settled in that space. The additional space identified at the last meeting on the 1st floor has been acquired, and staff have been utilizing it. The 23-24 budget brought the fill level of the agency up to 210 employees. We are now at a critical point, and require additional space in this building or lease space at another location. Our current allotment of space will likely force us to start implementing remote work schedules in order to accommodate the increase in staff. We expect to start this implementation with PCFB and Compliance in the middle of this month. We continue to work with DOB and OGS to determine plans for the agency, either expanding in-house or moving to another location. Current direction would seem to indicate that partner agencies are looking to acquire additional space inside the building for us. We have communicated and continue to communicate the Commissioners' wishes to keep the agency together, which is the wishes of Executive Directors as well. As always, elections follow a complex calendar, and we will ensure operations are not impacted.

Moving onto OVR and AVR, OVR, there is online reporting, excuse me, pleased to report Online Voter Registration continues to be effectively deployed throughout the state. Since it's inception through the end of August including the standalone New York City system, a total of 3,270 registrations have been submitted statewide. We continue to work closely with county boards, county-based IT, and voter registration vendors to ensure counties can process data. We continue to monitor usage and seek to raise awareness so that more residents access the system. AVR, as mentioned during previous board meetings, we are partnering with New York State ITS to implement AVR and Clearing House, necessary to transform information efficiently between the state, counties, and agencies. SBOE and ITS held our first official kickoff meeting last month. In anticipation, we continue to meet with all applicable AVR agencies. To date we've met with Labor, HAL, NYCHA, Department of Motor Vehicles, Office of Temporary Disability Assistance. We're hopeful that we'll be meeting with SUNY and CUNY shortly. We continue to anticipate a 10-month buildout and a 3-month transition from ITS to the State Board. The timeline currently remains on track based on the recent signing of all that.

Onto PCFB, the integrated software solution which started as a PCFB holding procurement, and will now be utilized by both sides of the house, continues to make its way through the OGS review process. SBOE and PCFB have met and communicated with the Department of Budget, several times in the last week to answer any questions they may have regarding justification for the SBOE election systems acquisition. As stated previously, the PCFB has created manual solutions to handle matching claims and audits as we await the software solution. The website redesign continues. WebNY completed an inventory investigating the website. They held a project kickoff meeting of SBOE staff. Our goal remains to create a more user friendly experience and to arrange information and applications in a more user friendly way. The redesign is ongoing, and we hope to wrap up in time for the Presidential Election 2024, approximately the beginning of the year 2024.

We continue to meet biweekly with DOB, OGS, Enforcement, and the Executive Branch. The co-executive directors and staff continue our monthly conference calls with the Election Commissioner's Association. As we said earlier, we had no call in August because we were all in person in Niagara Falls and we continue to work on training and guidance to provide county boards with resources and tools to carry out their statutory duties.

Looking forward to November - with the conclusion of this meeting, SBOE can send out the certification of the ballot by the September 13th deadline. Counties are required to certify their ballots by the 14th of September, and to issue military ballots no later than the 22nd of September. We stand ready to assist all the county boards as needed. That concludes my section of the report. Kristen, any additional items, or comments?

Kristen Zebrowski Stavisky: No, I would just echo everything you said. The Election Commissioners Association Conference, and we went on the offensive of the impersonation of county officials because we take that very seriously, and I just think people sort of look at us sometimes as, you know, what does bipartisan mean, but 99% of the time, we agree and we're working together and it's very powerful. So, I'm grateful for the staff and for our partnerships.

Commissioner Kellner: Has law enforcement taken any action that's public?

Kristen Zebrowski Stavisky: Not that's public, but we did as we said, we referred it to federal, state, and local officials, and we have department of Homeland Security.

Commissioner Kellner: So, far there has been nothing.

Kristen Zebrowski Stavisky: There's been nothing. I think the details that we have thus far would be very difficult to track down those exact people. But we've also, all the county boards are on alert and trying to get as much information as possible.

Commissioner Kosinski: Okay. Any other questions, or no? Thanks. Then we'll move onto Election Operations Amy Hild and Brendan.

Amy Hild: Thank you Commissioner. In addition to a number of the things that the co-executive directors mentioned that we participated in, we continue to coordinate with other units on communication to our counties to collect required surveys. We prepared the certification for the general election. We've also conducted acceptance testing for 7 counties so far and over 1,100 machines. And we've launched civic roundtable platform, and we have approximately 50 counties currently participating. Brendan?

Brendan Lovullo: I don't have anything to add other than for those counties that are planning on getting machines or anything, and vendors themselves that are listening, please let us know as soon as possible so we can schedule all of that acceptance testing, and make sure that we have people out there.

Commissioner Kosinski: Okay, any questions, comments? No, okay then we'll move onto Counsels Office: Brian, and Kevin.

Kevin Murphy: Thank you Commissioner, I have a similarly brief report. We have a few updates on cases. We have the new Frenzel v. Moore in the western district of New York, that's the federal challenge of the OTB statute. We were served in that a couple of weeks ago. We have formally taken no position in that matter, and we'll keep an eye on that as it progresses. We have been served as a necessary party and taken no position in a pair of ballot access cases relating to judicial nominating conventions; one of which was the determination we just ruled on at the beginning of the meeting. In the Line Warming Case, Brooklyn NAACP v. Kosinski, we are into the discovery phase of that. Depositions have been scheduled in that matter, and will be taking place later this week. We remain awaiting the decision in the Libertarian party v. ...

Commissioner Kellner: On the NAACP, who is being deposed?

Kevin Murphy: Tom Connolly will be deposed tomorrow morning, and then they sought a deposition from the City Board as well, but I'm not aware where that request went.

Brian Quail: And they're still pending who they're going to depose, if they're even going to depose someone from the city, I think it's not been really established.

Kevin Murphy: Libertarian party case the Minor Party ballot access case, they had sought a certiorari at the Supreme Court. We anticipate a review of that petition around the end of this month and presumably a decision on that will be made sometime shortly thereafter. We continue to monitor a number of bills awaiting the Governor's signature.

Kevin Murphy: On the Compliance front, we continue to work with our counties on the match program for local offices, that is moving along very well. We have had 2,489 reviews completed since the last Board meeting, and approximately 300 e-mails have been processed through the CF info e-mail account, providing various levels of assistance as requested. That's all I have unless Brian has anything to add.

Brian Quail: I do not.

Commissioner Kosinski: Okay, any questions for Counsel?

Commissioner Kellner: What's the current status of the nonfiler report?

Kevin Murphy: So, we have a draft plan that is being circulated internally regarding guidance deadlines and timelines for publication. We have been circulating that internally. Once that plan has been reviewed by all parties, we intended to circulate that among the Commissioners for review and input.

Commissioner Kellner: So, when do you expect that to happen?

Kevin Murphy: That is a good question. I would say we can presumably have that to discuss prior to the next meeting.

Brian Quail: Yes, the objective is have something in place moving into next year so that with the January periodic, we would have a structure. Are you also asking about the current status of the July periodic in terms of numbers?

Commissioner Kellner: Roughly, yeah. I'm interested in knowing how many nonfilers are out there.

Brian Quail: Right, so as of July 2023 periodic, the original referral 2,944 referrals were made, but as of 9/5...

Commissioner Kellner: And when you say referral, you're talking to Division of Election Enforcement?

Brian Quail: Yes, entities that had not filed as of that point. The division, certainly can speak to exactly what they did, did e-mails and certified letters, I believe as of 9/5/2023, the number of

nonfiling entities had dropped again from 2,944 to now 1,393 being outstanding which is basically 47% of the original delinquencies, and that is in terms of an improvement in terms of the movement from the original number to the current number, as a substantial improvement in a relatively short period of time with the July periodic and we are now in the beginning of September.

Commissioner Kellner: And Brian, just to put that number in context, you said its 1,379 now?

Kevin Murphy: 1,393.

Brian Quail: 1,393.

Commissioner Kellner: 1,393 and how many committees altogether should have filed in July?

Brian Quail: I don't recall the exact number of committees; a number is coming into my head of around 11,000 but I don't remember.

Kevin Murphy: That's the general area, but we can get the exact number for you.

Commissioner Kellner: Well, so it's a little more than 10% that are out of compliance?

Brian Quail: Right, and among that number, it's fair to point out there are a certain number of derelict committees and because of the Enforcement Division's care and diligently following up with certified letters and the e-mails, the information that they gave back to us, and we haven't gotten it from the filing yet, related to things that are undeliverable or bad addresses and things like that are definitely helping us deal with this problem. So, that's the July Periodics. Kevin is referring to I believe the effort to provide the list online.

Kevin Murphy: We can publish the nonfiler list, yes.

Brian Quail: In a more easily ascertainable fashion.

Commissioner Kosinski: Okay, anything else for Counsel? Then we'll move onto Enforcement, Mike Johnson.

Mike Johnson: I'll speak to the nonfilers and the numbers that we have. They're probably off by a little bit in terms of what Brian had said vs. what we have. The numbers that we have shown as far as active filers are concerned, we've got like 12,530 or so. For the July periodic, we sent out 3,087 e-mails that was on the 27th and what we then did was on the 7th of August, we mailed out 2,295 certified letters to the treasurers, and then we mailed out 2,546 candidate letters to the candidates via first class mail on the same day. On the 5th of September, we had a total of 1,387 nonfilers. What we then did to break that down even further, is we looked at out of that total, how many people missed five or more periodic reports? Because for our purposes that was of interest. That's important, because if you've missed those, at least three or more within an election cycle so to speak, I can then turn that into a hearing officer case where now, your

penalty is \$10,000. So, what we've done, is we've looked at that 730 number, and just based on the derelict list that Brian is talking about, there's about 100 of them that need to come off of that. That then leaves you with 630 that fall within that range. Because of what happened with the COVID and how the election cycle got disrupted, what I decided to do, is let's look at, let's take a timeframe from 2020 to 2021, let's see what that looks like. It turns out there we 82 people in 2 committees that made their filing, and drilling down a little bit further, what I was able to find out is based on that number, what does it look like in terms of committees that simply didn't do anything. It turns out, out of that 82, we have 50 committees that basically registered and didn't file anything. No nonactivity reports, no itemized reports, nothing. So, what we're going to do is that list is going to be sent to Brian and Kevin, because my thought was, they can reach out and find out did anything happen? Either their treasurer got sick, or someone passed, I don't know, so before I rope these people into the universe of \$10,000 fine. Let's see if there's a real rational reason as to why they registered, and nothing was filed. After that number, now we've got roughly 23 committees that registered and filed at least 1 report. It was either no activity, itemized report, or one report and have a balance. Those 23 committees we're now focusing on, and we're going to turn those into hearing officer cases where the penalty will be \$10,000 because you've missed at least those five periodic reports. What we're also doing is the individuals who missed one filing are reaching out to the court here, will find out as far as doing a mass judgment is concerned, what's the best way the court wants us to present these particular cases? Do you want them in tranches, do you want them all at once? We don't want to overload the court system. So, we're waiting to find out how they best want us to approach that. What we've seen too, with regard to nonfiler letters that we sent out, quite a few people were confused as to why they got the letters. And it turns out I guess maybe Brian or Kevin can speak to it, but I guess back in October of last year, there was a batch termination where I guess people might have gotten their committees closed, but they were part of a multicandidate committee, and the treasurers didn't take them off. So, there was that issue people didn't understand, well, why did I get the letter? Or they would say something along the lines, "Well I called Compliance, and Compliance said I shouldn't have gotten the letter." Maybe that's the case, but my position is you should reach out to the treasurer of the multicandidate committee and find out a) why didn't they take you off or b) why didn't they make the filing? We've heard from several treasurers of multicandidate committees, one in particular, she wanted from me a letter of apology for sending out letters to each one of the candidates letting them know a filing wasn't made, and she felt that it should only have gone to her. My explanation to her is the statute imposes a responsibility on both of us. I have to let the candidates know a filing wasn't made on your behalf, and you as the treasurer have a responsibility to make the filing. I fulfilled my responsibility, you did not. So, I think that any apology should come from you to the candidates, because you didn't fulfill your responsibility. Once you point this kind of stuff out to candidates, it's incredibly helpful and informative to the candidates, and essentially the statute requires me to let these candidates know, hey the filing wasn't made. So, with what the statute says, and what the Commissioner Casale had suggested letting the candidates know, it's making people aware, and once we deal with the individuals who are now looking at a \$10,000.00 fine, we will reach out to them and say, "Look here is what you are going to be looking at. I will give you X amount of time, you either make that filing," and it will be a very, very short timeframe. "If you do not make it, you will be incurring a penalty of \$10,000.00 because that's what the statute allows for." We submitted to Brian and Kevin proposed regulations for a refined structure in terms of those who

fail to make a filing. The first day that you miss your filing, it's \$50.00, and then every day after it's \$10.00. And I did not do just business days, because you can file on weekends. So, it will be every day until once you reach \$1,000.00, now I'm going to submit a judgment against you. You know, I've heard someone saying, "Well, I have a grace period." My position to that is, show me in the statute where it says you have a grace period. Show me on the notice that the Board puts out with regard to the schedule for making a filing. Where does it say you have a grace period? I give you a date saying, make your filing by, my position is this, you're already late, so if I file against you to make a hearing officer or file a judgment against you, if you want to say, "Hey there are mitigating factors" I'll be willing to listen. But if I put a date in the letter, and you have not done anything by that date, as far as I'm concerned, now to me you're demonstrating a willful failure to file, and at that point, I don't understand nor will I accept any reason as to why you haven't made your filing.

Commissioner Kellner: Okay. When do you think we'll see the first order to show cause?

Mike Johnson: Once we talk to the court clerk and she provides us with, okay here are the steps that we would like you to do. Because I mean, in the past, and Peter would know, they would do a massive you know...I don't know if the court is going to want that and I will find out from them, tell us how best to proceed. Once we get direction from them, that's when it will, we've already prepared the list of the 23 originals who are going to be looking at the hearing officer matter with regard to more than three filings. Now, we're starting the list of who we're going after with regard to the judgments. So, once we get direction from the court then that process will start as well.

Commissioner Kellner: Okay, I encourage you to follow up on that and not let it go into limbo. But thank you, good report.

Commissioner Kosinski: Anymore questions? I have a question Michael, you gave us the report today on your closed cases, and I got that, there's also quarterly reports that you do, and I don't recall getting one recently. I was wondering where that was.

Michael Johnson: I believe it was in the packet.

Commissioner Kosinski: I didn't get anything today. Is there supposed to be one in my packet today, cause I didn't get anything. You have a quarterly report, right, that you're supposed to do I think for the end of June which I don't think we've gotten.

Michael Johnson: I think it was delayed because there was staffing changes, and so numbers had to be double checked and checked. But if you don't have it in your packet...

Commissioner Kosinski: I don't.

Michael Johnson: I'll make certain you get one.

Commissioner Kosinski: Okay, great. Alright. Anything else? Okay, then we'll move onto NVRA and PIO: Kathleen McGrath and Jennifer.

Kathleen McGrath: Good afternoon, Commissioners. Since our last Board Meeting of August 2nd, the PIO has processed in August 85 FOIL requests were received, 82 of those 85 have been completed, 3 are still in process. And for September numbers just through the first few days 13 FOIL requests were received, 8 of those are completed already and 5 still in process. Today is an exciting day in that we are launching our new FOIL platform GovQA, it launched this morning around 9:30. This is a centralized platform to receive, process, and respond to FOIL requests. Previously we received them via e-mail. This allows for enhanced tracking. Allows us to view the analytics. This will also save the State Board money as Jennifer reported last week, we'll no longer need to be mailing out CD Rom's of data, we will share our files right through the application. We have participated in workshops all summer long to set up our interface for the application, and participate in live training sessions for both admin and power users. Last week there was a recorded training for others to view, and we've communicated with Enforcement to ensure that their website redirects to the updated link. We did a test earlier, and the new platform is working to receive those FOILs.

For the Board's website, we published a number of things since the last meeting including updated statement of identity form lists that have been received, the ballot language for the two statewide ballot proposals, an updated campaign finance filing calendar, updated FOIL page language, the two press releases that the Board has put out in recent weeks, and as Ray Riley mentioned earlier, we continue to work on the complete website refresh. Most recently our PIO staff along with IT has been working with the New York Digital team where they've demonstrated drafts of all of the website pages, and we remain on track for a complete release in January of 2024 of the website as Ray Riley mentioned, in a much more user friendly experience.

Since our last meeting, PIO staff has conducted a virtual NVRA training for WIC that had 104 participants in it. As Jennifer mentioned at last meeting, we have come under contract with a new vendor for Voter Registration forms for 2024, and we did a kickoff meeting with them earlier this summer, but since the last meeting, we did receive our last small order from OGS to fill out our balance of registration forms for 2023. They were delivered mid-August to both county boards and up here at the state board. As I mentioned with those ballot propositions, we have posted them to the state board website, and they have been translated into the required languages. We've been working with language line and received our estimate and sent approval to get the audio recording of those two ballot props in the five languages, and we've been in communication with New York Press Service to get those placed in newspapers throughout the State in the required timeframe. We are awaiting a quote from them currently.

Along with Election Ops, we are sending an e-mail to all the counties reminding them to reupload their early voting and election day pole sites for the general election, if they've changed since the primary. We've been in communication with the Federal Voter Assistance program since the last meeting, and per their request, we provided them with updated New York State specific materials for their guide that they provide to military and overseas voters, and we also

sent them our tentative dates for the elections that we'll be holding in New York State next year. As has been mentioned by a few units already, both Jennifer and I attended the ECA conference last month. We did conduct two presentations there: one about grants, list maintenance, FOIL requests and online communications, and another one along with the Secure Election Center Ben Spear about mis and disinformation. The counties really seemed to take an interest in both the online communications, and how to dispel mis and disinformation, and we continue to plan to work with them about social media policies and content creation. We encouraged them to pre-bunk that information and four methods of reacting to bad information once its already out there.

New York Citizens Audit did release, while we were at the conference, their reports regarding the 2022 general election. We are currently drafting and finalizing our initial response to the claims made in this report. As you may recall, the State Board sent a response letter to its earlier report about the 2020 general election back in April. So, we're going to do an initial response dispelling all the claims, and afterwards, the State Board plans to do a deeper dive into their claims in a follow up response.

Commissioner Kosinski: I'm sorry Kathleen, who is that?

Kathleen McGrath: The New York Citizen's Audit Group.

Commissioner Kosinski: And who are they?

Kathleen McGrath: They are a group that believe there to be some problems with the New York Voter database, and have made lengthy misleading and erroneous claims about how people are registered in the New York in NYSVoter, based on data that they have analyzed, but as has been the case with their first report and their follow up, they have not allowed anyone to see the data, and any manipulations that they've done to come up with their conclusions. So, we want to put out information that gives factual information about how NYSVoter operates, how the counties register voters, to dispel any claims that they are making.

Commissioner Kosinski: Got it.

Kathleen McGrath: In terms of public outreach...

Commissioner Kellner: Well, on that subject, I just want to repeat what I said at the conference which is that we should not be working from the assumption that our database is false, but I agree with you that in reading what New York Citizen's Audit wrote, that either they are ignorant of the system or are maliciously twisting data in order to support conclusions that are not warranted. But on the other hand, I don't want to get into a defensive position where we deny that there's ever anything wrong with our database and I hope that there is an ongoing internal audit process to proof our database. And I'm sure Ray Riley has heard lots of stories about problems from New York City.

Ray Riley: I would say that both an initial response and follow up response. The registration process is a human process. So, it involves human process and with bipartisan checks

occasionally, there will be human error that's associated with that, that's what happens when you have people working registration. We acknowledge that, and are responsive to continue to, but it's a human process. I think there is a difference between occasionally people make mistakes, and manipulating data to outline a process which is not based in fact. And I think making that distinction is important, especially in the context that yes, sometimes boards of the city and the counties and the state will occasionally make administrative errors on registration, that's part of the process and that's why we send out confirmation notices, that's why we send out annual information notices and what's currently taking place here. And I think those are two very different and distinct processes that we're talking about.

Commissioner Kellner: I agree with that, and I would also urge informing interested people in the process for correcting errors in the voter role, and there are numerous processes available. In the old days it was the precinct captain who went around and checked, but those days are long gone.

Kristen Zebrowski Stavisky: I would also like to say that to your point about being on the defensive, I believe we are on the offensive now, and we have to be going into a Presidential election because we cannot let mis and disinformation stand, and we have to make sure that people have the faith that they should have in the integrity of our system.

Kathleen McGrath: I completely echo Kristen's point about that. It is a human process, it's not perfect, we're never going to defend perfection, but we want to defend the hard work that election workers at the county and state level are doing to maintain this ever moving database, yes, changing every single day.

Tom Connolly: And I think also to just kind of pile on, is that sometimes it's the matter of categorization of data. So, the data might be indeed what they say it is, but it's not why they say it is. For example, I would classify as both a duplicate and a clone, according to their terms because I have three records in the statewide voter database, one from Nassau County when I lived down there, which has now been purged when I moved to Greene County, and I have a voter record for Greene County which is a different state voter ID than my Nassau County because there was a gap, and also there was the launch of NYSVoter in between that time. And then when I moved to Albany County, I have my own active record which has the same state voter ID as the Greene County, which is what it should, because the state voter ID should move with you as you move from county to county. So, that's where I think they kind of lack a lot of that context. And as far as us being also on the offensive and continually looking at the data and the quality of the data, we've looked at or we have begun exploring other options for adding additional data sources for list maintenance purposes. Right now, we receive death information from the Department of Health, both at the state and the New York City level. That's only for people who die in New York State. If someone dies out of state, we are not receiving that information. We are exploring the possibility of looking at some data sources that would provide some of that information to us. The federal government of the EAC is also looking for states that participate in doing some data scrubbing with Experian because if anyone is going to know where you move, it's probably the credit bureau. So, we're looking at possibly participating in that as well.

Commissioner Kosinski: Let me just ask, when they created this report, they distributed it to us and who else, do you know?

Kathleen McGrath: It's on their website. I'm not sure their entire distribution list, but they communicate it out.

Commissioner Kosinski: So, when you do a report in reaction to this, how do you distribute it then?

Kathleen McGrath: That will be a discussion for this last response letter went out in April prior to my tenure. I'm not sure on all the details of how it went out. However, the co-executives and Commissioners want it to be sent out, we will.

Commissioner Kosinski: Well it just seems that they're sending theirs out, say the media, let's take that example. And the media say, runs the story for example. I don't know if they have.

Ray Riley: They haven't.

Commissioner Kosinski: Okay, but if they send it to the media, it seems to me we need to respond to the same group, so they get outside of the story as well.

Commissioner Kellner: I think more significantly, they've been going to municipal boards asking for resolutions.

Commissioner Kosinski: Oh they have?

Kristen Zebrowski Stavisky: They've been going to town board meetings, and they have a sample resolution on their website.

Commissioner Kosinski: What's that resolution say?

Kristen Zebrowski Stavisky: That they're asking for a full end to end audit.

Commissioner Kosinski: Is that what they're requesting, that we do an audit?

Commissioner Casale: What is their stated purpose?

Kristen Zebrowski Stavisky: What is their stated purpose?

Commissioner Spano: To make us look bad.

Kristen Zebrowski Stavisky: I'm not sure.

(everyone talking)

Commissioner Kellner: Well, I don't think we object to an audit, if it's done properly, and knowledge of how our system works, but they're trying to make conclusions that more ineligible people are voting.

Commissioner Kosinski: I understand that, but I'm trying to understand what is going on with this report because...

Commissioner Casale: what type of organization is this? Is it a corporation, is it a nonprofit organization, what are they?

Kristen Zebrowski Stavisky: That's a good question.

Commissioner Casale: They're not government obviously. 51C3 so they have officers and directors, and they file with the federal government?

Kristen Zebrowski Stavisky: They should.

Commissioner Kosinski: Is this a New York based organization that's only looking at New York State or are they doing this to other states?

Ray Riley: This particular organization is New York State.

Commissioner Kosinski: Got it. Well, again, I do agree with the idea that we don't want misinformation out there. I totally agree with that you know, and frankly, I'm not looking to defend a system that isn't perfect either other than to just tell the facts. The facts are the facts, and that should get out there. If this group is disseminating stuff that isn't factual, we definitely need to refute that and we need to be factual in our presentation. But my goal is I don't want to have them distribute it, and us not, and have them get press and us not. It seems to me that if they're going to put it out there into the public realm, we need to do the same, to try to identify where this is going. It's going to town boards, they need to see what we're getting so they know that we aren't just you letting this go, that there is another side of the story, or here's the facts before you act.

Kathleen McGrath: And to Kristen's point, it is on the offensive and that's why we've been taking this so seriously to get it out, and so it doesn't appear on the defensive but rather putting the good information out there.

Kristen Zebrowski Stavisky: Commissioner, the original letter we sent was meant to go to county boards to help them counteract this because they were going in to see county boards as well. It has now become more widespread, and I do agree with you, that we will put it out into all of our media contacts. We can also certainly share it with town boards. Many of them have contacted us.

Commissioner Casale: Is this the letter you're working on now? Might I suggest maybe you send it out to every member of the state legislature?

Kristen Zebrowski Stavisky: Yep.

Commissioner Casale: Maybe whoever else every Mayor, every town supervisor, every county executive, just so they're aware of the situation.

Commissioner Kosinski: Well, you know the public should be aware of how our voting registration system works.

Kristen Zebrowski Stavisky: And certainly nothing is perfect.

Commissioner Kosinski: No no no because you're right, cause most people don't, it's complicated as Tom was identifying in his example, it does get complicated sometimes, exactly how records are kept in the state.

Commissioner Casale: And especially if you move from county to county, not within a county.

Kristen Zebrowski Stavisky: County to county, also prior to NYSVoter, there was not a match system. So, yeah, there's a lot of context.

Commissioner Casale: Bottom line I think people want to hear is this, my understanding is that a couple of days after each election, we get uploaded the names of any person who voted by absentee, in person, early, regular, whatever right, within 3 days. We cross check this.

Commissioner Kellner: But it's not 100%.

(Everyone talking)

Commissioner Casale: Doug, the public has to know that to the best of our ability, we cross check every single person who voted in an election in an attempt to ferrate out anybody who tried to vote twice.

Commissioner Kellner: But see you just said every single person. We don't cross check every single person.

Commissioner Casale: To the best of our ability.

Commissioner Kellner: Okay, I'm giving you a hard time, but I guess it's the absolutism...

Commissioner Casale: There is no absolute; two things are absolute you know; death and taxes and I don't want either one right now.

Commissioner Kosinski: Okay, so what's your expected timeframe on this?

Kathleen McGrath: Jennifer and I have worked on the letter, and it has gone through some rounds of edits so I imagine we will have this initial response to be distributed within the coming weeks, I would say.

Commissioner Kosinski: Would you send both documents, I don't know if I have even the first document, but I would like to see it all.

Kathleen McGrath: We'll make sure you have it for sure.

Ray Riley: I think the goal on the most recent draft is to have it finalized in the next 24 to 48 hours and send out, at least the first draft. In the spirit of ensuring that we're giving everything a deep dive and ensuring we're not making assumption, there will be a secondary more in-depth review of the information to Commissioner Kellner's point, we want to make sure we're not making assumptions and basing our actions on the thought of perfect which you're never going to accomplish in any way. So, that will be a longer process as we attempt to suss out some data, we're a little handicapped, because again, we haven't been provided the data as it was manipulated by the outside organization. So, we have to try to look at stuff the best we can without having what they're using to make their ascertainment, that's going take a little, we're going to work on that.

Commissioner Kellner: And to Commissioner Casale's point, I strongly agree with the concept that we do not tolerate or ignore any claims of double voting or illegal voting. And that indeed people have been prosecuted in New York in those rare cases where that's happened.

Commissioner Casale: And I must say what I've seen late, responses in both the media and elsewhere, the staff did a great job, in addition to the work they have to do every day, they have to spend time countering all these fables. They do a good job.

Brendan Lovullo: Well, I think it's also all the Commissioners on the ground too, because a lot of them have reached out to their respective towns and explained to them what the issue is, and have gotten the town boards to go away from these resolutions that these individuals want to pass without any real understanding of what's going on.

Commissioner Kosinski: Sorry, are you done or?

Kathleen McGrath: I am not, I have a few more things. But it actually dovetails well into the public outreach per traditional media, we did release two press releases since last board meeting, first about national poll worker recruitment day on August 23rd, and then in regards to the impersonation of county board officials on August 30th. Since last meeting, we've responded to inquiries regarding the certification of voting machines that happened at the last board meeting. And to Commissioner Casale's point, in the last week we've responded to dozens of inquiries about the impersonation press release including participating in phone, zoom, and in person interviews, and we continue to monitor coverage of that situation. Various other media inquiries have come in throughout the month, but those are the big ones.

In terms of social media, since we last met, we launched a series called Fun Fact Fridays on our social media that is an educational series to provide voters through our social media accounts factual information. And this all goes to the hopes of dispelling bad information that's out there. Every Friday we're putting up something on our social media that's just a fact about elections and voting. Something simple, very user friendly and we've created a schedule for these releases based on the timeliness of the information. That goes to our Twitter, our Facebook, and our Instagram. Since our last meeting, we've had twelve posts on each of those. Engagement on all three sites is down from the last report that Jennifer gave, in that the last report covered the Primary and now we're in the lull of summer a little bit, but we continue to gain followers and get impressions on all of those, and come up with new ways to engage with voters that way.

Our e-mail service contact has grown to 866 subscribers. It may seem small, but it continues to be organic growth, in fact, just since last meeting on August 2nd, we actually has 24% growth from 700 to 866, so we did send out three blast e-mails since our last meeting; one is about campaign finance and training webinars, and the other two about those press releases. We continue to organically grow our list. And lastly from my end, September is National Voter Registration Month, with September 19th being National Voter Registration Day so we will be utilizing both traditional and social media as well as our e-mail service to communicate the importance of that with New Yorkers. So, I want to pass it over to Jennifer to just give our grants update, and then we'll be all set. Thank you.

Jennifer Wilson: I don't have much to report on the grants. In the last month, we've continue to send out extensions for all of our grants that were extended in the state budget. We had a meeting with the Department of Defense and the Federal Voting Assistance Program regarding our new grant that we received for enhancements for military and overseas ballot programs. We are continuing to work on that, so not really too much to report.

Commissioner Kellner: What's the status of the annual report, due August 2nd?

Kathleen McGrath: The 2020 annual report is actually getting its final proofing from our unit today, actually its ongoing right now. We hope to have that to Ray and Kristen I would say within the next 24 to 48 hours.

Commissioner Kosinski: I guess that begs the question, is that 2020, I guess the 2021, 2022.

Kathleen McGrath: 2021, we have drafts in from a number of units. We don't have it from everyone yet, but we are following up with each of the units with our PIO staff.

Commissioner Kosinski: Anything else? Good. Thank you, and onto ITU and Mike Haber.

Mike Haber: Thank you Commissioner, good afternoon. Well, I'll build off of what's already been reported on many projects that we've been involved in. The Automatic Voter Registration project, we continue to ask the IT staff to engage regularly and meet with the New York State Rapid Development team from ITS. Our IT also continues to meet with business users, internal

SBOE and other agencies, and with ITS on environment build out, requirements definition, and deployment discretion. We, of course, have also been involved in the space expansion and buildout. And particularly, heavily involved in relocating personnel from various locations within the building. And as also the case, as the agency continues to grow in terms of staff, we have been supporting onboarding of new personnel and supporting some increased work from home activities or preparations for them. Related to that, we have also begun deploying and endpoint refresh process, replacing end of life user devices such as laptops and related peripheral equipment. We talked earlier about the website refresh. Progress continues to move along with that as we meet with the ITS webservices group. We still anticipate rollout by the end of this year or early 2024. As we mentioned previously in parallel, we also engaged a third party vendor on improvements to the display of historical information on our site and that also is anticipated to be completed by the end of this year.

Regarding the Public Campaign Finance and agency wide Campaign Finance System Refresh, contractual matters were discussed. We are eager to begin supporting that development. We also very recently hired a new technical lead in ITU who will specifically focus on overseeing the development of that new system. And we worked extensively with external stakeholders such as the New York State Statewide Financial System, who will interface with and provide the PCFB systems. And prior to implementation of that new system, our development team continues to enhance existing CAPAS-FIDAS systems to accommodate new functionality for PCFB.

Commissioner Kellner: What's the timeline for the PCFB system?

Mike Haber: For the new system, the exact timeline will be developed provided in concert with the vendor, when they are fully engaged. We anticipated full deployment within I believe five years before all systems are fully deployed. We're prioritizing, the intention is, obviously this will be discussed more when the specific vendor is onboarded, but the intention is that we will prioritize those items that are needed to support PCFB, and to make sure that they can do their job as the new election cycle begins. If anyone else wants to add anything to that?

Kristen Zebrowski Stavisky: OGS is currently negotiating a contract with the vendor.

Commissioner Kellner: Five years seems like a long time.

Kristen Zebrowski Stavisky: Well, this is for everything. This is for our existing CAPAS-FIDAS program, ballot access, financial filing, public reporting, this is an overhaul of all of our systems. So, hopefully it will be less, but it's not a simple project.

Tom Connolly: Right, like Mike was saying, it depends on once all the paperwork is done, then we actually start engaging with the vendor, we will sit down with them and decide based on when that happens, what we prioritize. So, if we can actually get something done and complete it for PCFB and it makes sense for their calendar, we'll do so. If we're going to miss a certain window, then we might focus on other systems just so we can kind of get work done.

Commissioner Kosinski: So, do you have a sense Michael, when this vendor is going to be brought onboard? Is there any...

Mike Haber: Well, that's less a technical matter than it is a matter of the contract negotiation. So, I don't have any...

Commissioner Kosinski: right, so you guys heard anything from OGS as to when this is going to happen.

Kristen Zebrowski Stavisky: You know I would think, I don't want to give a date, but we just answered a question from OGS last week that would indicate to me that it's drawing to a close, so I'm hopeful.

Commissioner Kosinski: Thank you.

Mike Haber: I'll just mention conference attendance. Obviously, we were in attendance as were many others at the ECA meeting in Niagara Falls, a couple of weeks ago. Later this month, our Chief Information Security Officer Ben Spear and I will be joining the Elections IT directors and staff from across the nation at the National Association of Secretaries of State meeting. It's called a Tech Talk Meeting. So, it's all the various CIO's, CISO's and other technical folks.

Speaking of security, we are finalizing processing of the county submissions from our annual Cybersecurity Regulation Compliance check. It was due on August 1st. 54 counties have submitted, and we are in regular contact with the remaining counties on their progress. We've achieved near goal compliance from most counties, outstanding in two policy areas, which the state board previously notified counties to work through as a part of a workshop series later this year. Those policy areas are data classification, and continuity of operations delay. Completion of the compliance review, in the beginning of our Cybersecurity reassessments beginning in the next week. Working with NYSTEC the Secure Election Center has developed a framework for validating compliance with the regulation apart from the annual attestations. We are going to actually go to the counties follow up and check, see what they are doing what they attested we're doing. That is a follow up to the original risk assessment that was conducted back in 2019. The first two pilot counties have completed their initial review and are now in the process of submitting supporting artifacts. We will begin outreach to the remaining county boards to schedule their initial reviews for a period that works best for them and their IT teams. Those complete initial reviews by end of the year and finalize the artifact review in the first half of 2024.

Two weeks ago, State Board released a mandatory Cybersecurity awareness training for the county boards and state board staff. The training is quite comprehensive and covers a range of topics. Going forward in future years, the training will include a testing out option. To date, just over 200 users out of approximately 900 have accessed their portal and 165 have completed the training.

And lastly, over the next month, Ben Spear will be traveling around the state with the State Division of Homeland Security and Emergency Services to inform county emergency managers and sheriffs about the support election officials will need in applying to the Federal Homeland Security Grant Program or mandatory election security funds. We will also be engaging with national partners, as mentioned before at the Tech Talk for the National Association for the Secretary's of State. And we'll be attending the New York State Local Government IT Director's Association fall conference which is the association for county IT directors. That's all I have.

Commissioner Kosinski: Any questions? Okay, thank you. Well, that completes the unit updates for today. So, we will move onto old business which I have none. Nobody else has any either. Commissioner Kosinski: So, then I'll move onto new business, and we have something under new business and that's Election Security as a discussion item.

Ray Riley: I would say that the topics we were going to discuss got covered during the unit reports in terms of both combating the misinformation as well as the ongoing issue with people impersonating election administrators. I feel that we can...

Commissioner Kosinski: Is it fair to say you have nothing more to add?

Kristen Zebrowski Stavisky: I would just add that we're working with the Department of Homeland Security and CISA and they have offered to the counties de-escalation training for pole workers or Train the Trainer of de-escalation training. So, we're taking all of the steps that we can to ensure that everyone is safe and secure in every election but notably as we're going into the presidential year.

Commissioner Kosinski: That's all we have under new business. And now we have Executive Session if needed. Is it needed? I'm not hearing any need for that. Alright, that will bring us to the end of the meeting, unless there's something else someone wants to bring up, I would entertain...

Commissioner Kellner: Do you want to talk about our next meeting?

Commissioner Kosinski: We could if you'd like, that should be any idea here, next meeting?

Kristen Zebrowski Stavisky: I'm not sure that we'll need anything before the beginning of December. So, if we get a few days the beginning of December, we can either discuss them now or we could do what we've done.

Commissioner Casale: What's the final date for December?

Kristen Zebrowski Stavisky: December 15th

Brendan Lovullo: So, we can collect dates and then circle back with you guys.

Commissioner Kosinski: If you need a meeting between now and then, of course let us know. A little off topic, is there any expectation of a need for a meeting of the PCFB in the near future?

Kristen Zebrowski Stavisky: The last I heard, no. They didn't need...

Commissioner Kosinski: So they don't want to meet either. Not that you know of?

Kristen Zebrowski Stavisky: I think the beginning of December is when they would need a meeting as well, but certainly we were...

Commissioner Kellner: It might be the week before, the last week of November, if the Governor signs the bill.

Kristen Zebrowski Stavisky: Yeah, that could change the date.

Commissioner Kellner: I don't think the bill has gone out yet.

Commissioner Casale: No election bills have gone to the Governor yet.

Kristen Zebrowski Stavisky: Right.

Commissioner Casale: But that bill requires, is there a 90 day...

Kristen Zebrowski Stavisky: yes.

Commissioner Casale: So this is September already, October, November, December, yeah let us know when she signs it.

Kristen Zebrowski Stavisky: We'll certainly circle back, Cheryl and Carl...

Commissioner Kosinski: So, there is no immediate need...

Commissioner Kellner: I see your point that even if she signs it today, it wouldn't go into effect until after...

Commissioner Casale: the first part of December otherwise...

Commissioner Kellner: yeah, the bill provides for payments to begin December 1st.

Commissioner Casale: Right, but we're past that window already. So, the question is does she sign it that way or, well, we'll see.

Commissioner Kellner: We don't know whether she's going to sign it.

Commissioner Casale: There's implementation, we need the mercy.

Commissioner Kosinski: Well, I think it might be best if we just leave it, and if the staff feels there's a need for a meeting, you'll let us know and we'll try to schedule something.

Commissioner Casale: Why don't you two get together and get some proposed dates in December and let us know.

Kristen Zebrowski Stavisky: Sure, will do.

Commissioner Kosinski: Okay, and I will entertain a motion to adjourn. Second? All in favor?

Commissioner Spano: Aye.

Commissioner Casale: Aye.

Commissioner Kellner: Aye.

Commissioner Kosinski: Aye.

Commissioner Kosinski: Thank you very much.