
Douglas Kellner: Alright so I'm told that the web issues have been resolved and I call the meeting to order. My name is Douglas Kellner, I'm the Co-Chair of the Board. We welcome with us for the first time today new Commissioner Andrew Spano and we usually start with the other Commissioners, each of the Commissioners...

Gregory Peterson: I am Gregory Peterson and I too would like to welcome Andy Spano to this illustrious group and one caveat, it will probably take you at least 3 years to learn all the nomenclatures. Actually instead of saying the XYZ if they would explain it, cause I thought they were talking Greek.

Andrew Spano: I thought I was stupid.

Jim Walsh: I'm Jim Walsh. I understand you are not an attorney?

Andrew Spano: No I'm not.

Jim Walsh: Good. Neither am I.

Douglas Kellner: Well thank you Commissioners. We'll have the staff introduce themselves please.

Bob Brehm: Bob Brehm

Bill McCann: Bill McCann

Cheryl Couser: Cheryl Couser

Anna Svizzero: Anna Svizzero

Joe Burns: Joe Burns

Dave Loomis: Dave Loomis

Tom Connolly: Tom Connolly

John Conklin: John Conklin

Paul Collins: Paul Collins

Kim Galvin: Kim Galvin

Todd Valentine: Todd Valentine

John Lento: John Lento, ES&S

Bob Warren: Bob Warren, Election Operations

Clark Gebman: Clark Gebman, Candidate for Governor

Michael Kicinski: Michael Kicinski, Candidate

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

Bill Mahoney: Bill Mahoney, NYPERG

Jessica Alaimo: Jessica Alaimo, Capital NY

Douglas Kellner: Alright and we welcome our guests. The first item of business is approval of the minutes of March 11th. Is there a motion?

Jim Walsh: So moved

Douglas Kellner: Those in favor say aye

[chorus of ayes]

Opposed? Alright the minutes are adopted.

In deference to our guests who may want to speak on the issue, I'm proposing that we take the determinations regarding designations and objections to Federal Petitions and Certificates out of order. Is that okay with the other Commissioners?

Jim Walsh: I'll make a motion regarding that.

Douglas Kellner: Alright. So we have a staff report on the Objections and Challenges. Kim do you want to just summarize it?

Kim Galvin: Actually I think it's Anna.

Douglas Kellner: Alright.

Anna Svizzero: It's an interesting position to be in, but in any event, with all of the other areas that needed attention on so many other levels here over the past month, election ops took the lead in preparing this document. It reflects not only the prima facie reviews that are done as each document comes to the Board. Every document we get is reviewed. It also provides for you a summary of those candidates who are affected by the failure to have an authorization and/or an acceptance file on their behalf when those were required. The summary further explains on page 1 the late objections and specifications so that those were not entertained in the candidate status for each of the persons mentioned was

not affected. And then on page 2 you'll see a summary of the various hearings that were held here over the last several days concerning the petitions. We thought it would be easier to have these in one document. We're interested in your feedback after the meeting if this will work, then we'll do the same thing in July. But Kim and I will be doing it in July. Joe and I did it this time around so if it's a little bit different you'll have to forgive us.

Douglas Kellner: Alright. So we have the written summary that's been presented to the Commissioners. Mr. Kuczinski we have before us the letter that you sent the Commissioners. If you want to speak on the issue we'll give you a minute or two. But each of us has read your letter and we understand the issue you're seeking to raise.

Mr. Kuczinski: Okay. Just a quick question before any statement I make. Did you see the package of material also that I presented during the hearing?

Douglas Kellner: I personally haven't. I don't know if the other Commissioners have but I've reviewed the draft determination and I've reviewed your letter and my personal position is to uphold the staff's report.

Gregory Peterson: As is mine.

Mr. Kuczinski: The election law states that nominating petitions are to be accepted unless other requirements are met by an objector and we saw that first of all an objector, this is per election law.

Douglas Kellner: Well as I say, I think we've read your letter. As I understand the issue is that you're claiming that the specifications were not properly served on you. You're correct that the law and our regulations require service of the specifications but the staff has reviewed the documentation and has come to the conclusion that it complies with our regulations. And therefore...

Mr. Kuczinski: When the certified mail that was sent indicates my son's name Michael J. Kuczinski, Jr. it's very clear that it was not sent to me. That is a fact. Certified mail receipt states one name but the post office had an item that was being sent to another person. Therefore there was no proof in amongst all this there was never any proof of service documented that is through the legal definition and even on the information that the Board of Elections requires that says that a proof of delivery has to be there. There was no signed receipt from the certified mail. Just the fact that it wasn't sent to the candidate overrides everything but again no proof of service by legal definition as shown in the documentation I presented during the hearing was ever given so therefore by election law the Board of Elections should not consider any specifications of objections.

Douglas Kellner: I think we understand your arguments and we appreciate your concerns. Do any of the other Commissioners have any questions they want to raise? Alright. Well thank you Mr. Kuczinski.

Is there anyone else here who wants to speak with respect to any of the proposed determinations? Alright then hearing none, I'll make the motion that we approve the staff report with respect to the petition determinations.

Jim Walsh: I second that motion.

Douglas Kellner: Alright. Those in favor say aye.

(chorus of ayes)

Opposed? And John and you in a position to get this out to the press promptly so people will send you an e-mail if they want the list and Ms. Alamo[sounds like] do you have one already?

Ms. Alaimo: No I don't

Douglas Kellner: Well you came to the meeting so you get the scoop if you want the list right now. Okay. So would you give that to her?

Bob Brehm: The staff also updates based on the work that you have just done to live as soon as they enter the decision it's live posted to the website and we've had a lot of calls based on the hearings.

Douglas Kellner: Well we've acted officially now so it's public. You can have my list if you want.

Alright. So we'll go back to our regular agenda where we now have the unit updates. We'll start with the Co-Executive Directors Robert Brehm and Todd Valentine.

Bob Brehm: It's been an interesting several weeks since we met here last. Most important we have a new Commissioner, we welcome him. I did travel down to meet with him a week ago, it was very nice to be welcomed into his home just to try in a short period of time to bring someone up to prepare them for this day. So, it's nice that you're here and we welcome you and my wife would not think I'm doing her justice to point to your former position as a County Clerk, since she's a Deputy County Clerk. She always pokes me and says, "Well at least somebody will understand what I've been telling you all these years." So I think that's great.

We did get the budgeted adopted. There were some changes to the agency that we've been sharing with you that I think we'll go over under new business so I don't want to

rehash that here and we'll talk a little bit more about that, but simply to say that the entire agency other than keeping the routine work going has been extremely busy to prepare for the changes that are enacted in the budget to fit the federal ballot access and the other work that we do to prepare for a very busy political year. So, that is probably the highlight of the work that we've done. We continue to keep the monthly calls with the County Commissioners that I think is very helpful to keep them in the loop on issues that we think are important to raise with them and as well to answer any questions that they have before they get too old, so we do meet monthly via conference call just to make sure we're covering the agenda items that they want us to and do follow up with them so I think that has been ongoing and we do that monthly, in case any of you ever want to join us, the 4th Thursday of the month.

Other than that, do you have anything else to add to the list?

Todd Valentine: Well that's a lot. We've been very busy with that those changes to the unit that we'll talk about in detail later on and this is the high level of it will keep us busy. I mean, you know and generally the budget you add dollars to it so it's something we're going to have to work out. It's going to be a busy summer, that's an understatement I know.

Douglas Kellner: Any questions? Alright then we'll turn for the legal unit, Kim Galvin.

Kim Galvin: Thank you Commissioner. The only thing I would add to the written report is that as they've stated we've been very busy with the budget change items and we currently have 11 petition actions filed and we anticipate more because as you know if a petition is invalidated the candidate has 3 days to bring a validating action from the time we act. So we're anticipating some more court activity. They range from Albany to Buffalo so we're trying to monitor those and get the documents out as needed. Do you have anything to add?

Paul Collins: Oh yeah, yesterday and that's why it was not in our written report, we got some positive action on the project to try and collect the old, old, old judgments that have been sitting here. We received frankly and the person who really deserves the credit for this is Kathy Roff in Campaign Financing, we received \$18,000 from local 420 which satisfies all of the back judgments against them and more to the point, they filed everything so they're off the delinquent list. I also received yesterday and forwarded it I believe, a letter from Council from local 190 which is an Albany labor union that we've had a number of judgments against and he's making a case that they should be forgiven because they spoke with someone here and so forth, but Cheryl Couser is reviewing that and probably as your next meeting we'll have a recommendation with respect to that. And, also, Kathy has put out the collection procedures on a recent three strikes litigation that is not bearing any fruit as yet.

Douglas Kellner: Well thank you Paul and especially I want to thank you for the very substantial effort you've put into revising the forms and the judgment collection and making that a priority that you've certainly had a major contribution in turning around that part of our operation. Thank you. Anything else?

Alright. Next is Anna Svizzero for Election Operations.

Anna Svizzero: Thank you Commissioner. We have provided our report to you. I would just emphasize a couple of the sections, the certification of the upgrade as submitted by ES&S is on your agenda today. Those changes aren't affecting the EMS, the Election Management System. they don't affect any screens that the voter sees or any of that kind of voter interaction. These changes are going to be realized, and the persons who will benefit the most from them are the technicians in the County Boards, and also the inspectors will be able to expedite sending that memory card to the Board of Elections to get results a little more quickly on election night. So they're more operational things from an administrative perspective and not from a voter interaction perspective.

We also have an engineering change order that was reviewed. That does not require a Board vote. The review was done by our testing lab and it was determined to be diminimus in nature so there is no vote required for that but a copy of that is in your Board packets for your consideration.

We have upgraded a number of our procedures. That's been an ongoing project for us. Joe and I provided those to you on disk because there were too many to e-mail. We've also updated with the assistance of several Commissioners from the Association, the Guide on Operating a Board of Elections. Each of the units did their own section. Those Commissioners reviewed the entire document and have provided their changes. So, that update is done as well and the Boards are going to be provided with those updated components after today's meeting as soon as we get them packaged up because again there are too many to e-mail.

One of the biggest changes in the updated procedures is the Test-Decks process that Boards implement when they are testing voting machines, candidates can participate in that as well. The test protocols now address more of how ballots are marked by voters and the operation of the system on election day, it doesn't continue to retest aspects of the system that we have tested over and over again in certification and in all of the upgrades. So there is a timesavings to County Boards. There is a dollar savings to County Boards because there's less time involved, fewer ballots have to be printed. There is more of a value in the way the test will be conducted moving forward because it eliminates the premarked Test-Decks that Boards were able to purchase and the ballots now are hand marked which better reflects how a ballot is going to be marked on election day and how that system will recognize it rather than a pristine canned test scenario. It's more a real world approach. So, our staff is pretty happy with those changes. We did discuss them

with a few boards as we prepared them and we feel the feedback will be very beneficial to our aspect of it and that the Boards will find benefit as they put them to use.

Other than that, it was a pleasure working on the petition process. It was an experience.

Joe Burns: Well it was something, I don't know about a pleasure but it was something.

Ann Svizzero: Joe and I got much more acquainted than we have over the past few years. A lot of time involved and it's always interesting. It was different doing it without Kim, I do have to say that, no disrespect meant to Joe but it was different and new and we'll see where that goes.

Kim Galvin: I'll be back Anna.

Anna Svizzero: I was lost without you. The Asset Management Training has been done. We have one region left, region 1 and we're going to be scheduling that as soon as we wrap up hearings and a few other of the issues we have on our table like getting those updated procedures out to the Boards. Region 1 is a big region, it's all of Long Island, New York City and then six counties I believe upstate so we're breaking that up into three sections. We'll do Long Island separately from New York City and then separate again from the counties from Westchester on up and we'll be scheduling that hopefully in the next couple of weeks. Do you have anything to add?

Joe Burns: Only to welcome the new Commissioner from the whole Election Operations Unit and we're all looking forward to working with you.

Anna Svizzero: Sorry about that Commissioner.

Kim Galvin: I forgot too.

Douglas Kellner: Alright thank you. Are there any questions?

Then, next is John Conklin for Public Information.

John Conklin: Let me also extend a welcome to

Andrew Spano: I feel welcome by everyone.

John Conklin: You have our written report. A couple of highlights, we've been very busy with the petitions, lots of questions on that, Campaign Finance, the primary in June. We did the ECA call since the last Board Meeting. We've have a couple more meetings on election night reporting for the June primary. We dealt with our foils. We had 54 foils in March. We posted a large number of new things to the website, things connected to the petitions and the objection process. We updated all the voter registration deadlines.

We have placeholders on the website for the Public Financing, Pilot Program, any independent expenditure reporting that now link to the legislation but there'll be more things there as we progress through the things we have to do. We posted the Campaign Finance handbook that's been updated. Their training seminar and their filer update. So, do you have anything to add Tom?

Tom Connolly: No just as you mentioned in our report, we've been focusing a lot on some of the Move Act compliance with the counties because we're coming up in the next few weeks on a lot of very important dates for getting the ballots out for the federal primary. With regard to the Campaign Finance trainings that John just mentioned, we've also been putting out press releases a couple of weeks in advance of each of the dates just to try to get a little bit more of a word out regionally so that more people can take advantage of that training.

And the other thing that we've been working with IT with is preparing the National Change of Address data scrub that we do annually for counties so that they can get mailing discounts on postage for their mailings in August.

So, other than that I think its all I've got.

Bob Brehm: And that's triggered to go on May 1st. or shortly thereafter?

Tom Connolly: The NCOA will be receiving the data next week on May 5th which gives us the 90 days until August 5th which is the late day to send it in the statute.

Bob Brehm: There's two benefits; that one we have to shortly do it in May and also a couple of years ago the US Postal Service changed its requirement for the date of list cleansing so by doing it on the 5th meets our obligation to complete the program but it also provides that timely list cleansing so counties will want to use that fact for their postage discount in sending out the August mail check cards. It had the double benefit of giving them that timing. Otherwise it used to be within 6 months, now it's a shorter window.

Douglas Kellner: Are there any questions? Next is Campaign Finance, William McCann.

Bill McCann: Thank you Commissioner. We've been working on any number of topics subsequent to the budget, specifically regulation drafting, fringe benefit expenses and public financing which I know is on the agenda for some discussion. Our education outreach and training group in line with that has been preparing training materials as PIO mentioned we have established web links on our Board website for those two topics so we can filter viewers to those things as needed. They're also specifically preparing a webinar for Independent Expenditures Disclosure and Compliance for the end of May. Our training seminars actually begin next week but in line of having something specific

for Independent Expenditures, as we flush out the regulations and the program for compliance, we figured we would gear a specific training for that as we establish the program. So, by putting it at the end of May before the program kicks in, it gave us more time to develop the program and hash out the regulations.

We're also in the process, and the seminars by the way, beginning next week include per Commissioner Kellner, we have CLEs and also this year we point that there is there is also for the first time we've been certified to provide credits for accountants, Certified Public Accountants for their mandatory training, so that component is being implemented this year as well.

Staff is working on analyzing our procedures for the new compliance unit that was created in the budget, and towards some of our new obligations we've created a new committee type which is a type 8 for Independent Expenditure Committees. We're working to update the forms and we're drafting some correspondence that we have to finalize to send out to the current type 9 committees that may or may not be Independent Expenditure Committees so that we can merge that group into their specific category.

We've been working daily very busily with IT, and I know Dave will have some more specifics on it, but there's a huge amount of detail and work that needs to be done for preparing the mechanisms for disclosure of independent expenditures, and for the Public Financing Matching Funds Program. So, that's very detailed and more parochial to Campaign Finance. The conversion for scanning in the unit is complete, changing softwares and so IT is going to be setting up training for the use of that with our staff and towards that we are working with OGS to have an extension of current contract and then we will have a new 5-year contract after we have that process completed.

And then, also, staff in a number of ways has been reviewing the impact of recent decisions from the United States Supreme Court in *McCutcheon*, and also the southern district of Manhattan, and so certainly we'll have to make some determinations as to where we go with regards to that. So with that I'll entertain any questions.

Douglas Kellner: We have your written status complaint log which I appreciate that we are now getting this at our monthly meetings. Can you just go over the cases from 2013 that are still open? In other words, how many are actually open and what are...

Bill McCann: Well right now

Douglas Kellner: ...and what are our needs right now in order to get them resolved?

Bill McCann: Sure, as it stands now between 2013 and 14 I believe there are 56 matters. In fact we had a meeting this morning the need to continue to move the process along so we will be triaging them and then addressing them. But certainly, but that's the number we have now.

Douglas Kellner: So, that's altogether?

Bill McCann: Yes.

Douglas Kellner: So that's the lowest it's been since I've been Commissioner.

Bill McCann: Right. I mean, but we need to address it certainly in line with the changes that are going to happen with the Board, we want to be cognizant of those things, but like I said, we will address those. I fully anticipate that so.

Douglas Kellner: And how many pending investigations do we have open at this point?

Bill McCann: Well as it stands now, we have the one, we have two that I'd be happy to discuss those with more specifics in Executive Session, but we have the two that the Board addressed at its last meeting.

Douglas Kellner: And they're moving forward?

Bill McCann: Yes.

Douglas Kellner: Okay. Alright, thank you I appreciate that report. Are there any other questions for Mr. McCann?

Alright then David Loomis for Information Technology.

Dave Loomis: Thank you Commissioner. I won't go into detail on the projects for new business but 2 projects I want to highlight; one in this current budget passed funding to push forward on our Campaign Finance Redesign Project so on top of the other projects that we'll discuss in new business, we're still trying to move that project forward. We do have approval to bring in some assistance from an outside agency to help us push that forward. So, that's obviously an important project and one that we want to make sure that we keep focus and attention on.

The other project is NYS Voter Refresh Project that we are currently working to get the contract settled with the vendor for that project, and once that starts we'll have that in initiative started and we need to have that done by the middle of next year. So both of those two projects on top of everything else that we talk about in new business today are ones that we have to keep a lot of focus and attention on. So that's all I have unless you have something else, a question.

Douglas Kellner: Are there any other questions?

Kim Galvin: I have one thing before we get to new business. Just anyone within the sound of my voice that has to file a financial disclosure statement, May 15th is the deadline. They changed it this time so they didn't send the e-mail to me to forward to you. You should have all received an e-mail directly from JCOPE. If you've ever filed one before and didn't get the e-mail, please contact me, otherwise you've been warned again. Okay, sorry.

Douglas Kellner: Good. Alright. So we'll turn to old business. First item is a vote on the final adoption of the Amendments to the Regulations to amend part 6210 on the Central Count System to repeal part 6211 the Obsolete Regulations and to amend part 6206 regarding Poll Site Surveys. I think Paul you've been shepherding this. Is there anything that you want to say or...?

Paul Collins: The only nuance is that 6206 on Poll Sites, we actually received public comment on from the Assembly Committee on Elections and the Assembly Committee on Governmental Regulations. And they had a suggestion by way of clarification which we passed around the building, and everybody agreed to, and what you're adopting is slightly different than what we published but it is a nonsubstantial change, and we can go forward and adopt it with that because it's by way of clarification.

Douglas Kellner: Thank you for clarifying that. So is there a motion to

Bob Brehm: There are two resolutions so,

Douglas Kellner: Alright well then let's take them one at a time. So the first resolution is adopting certain amendments to part 6210 and 6211.

Jim Walsh: So moved.

Douglas Kellner: Those in favor say aye.

[chorus of ayes]

Opposed? Alright that regulation is adopted.

Then we have a resolution adopting certain amendments to part 6206. Is there a motion?

Jim Walsh: So moved.

Douglas Kellner: Those in favor say aye

[chorus of ayes]

Opposed? So the regulation is adopted.

Alright. Next item on the agenda is the Certification of the ES&S DS200 Voting System upgrade. There is a written resolution for that which has been submitted. Anna or Mr. Warren do you want to just explain in summary fashion what the upgrades will do?

Anna Svizzero: Go ahead Bob.

Bob Warren: The upgrade will do a few different things. Some of the candidates were having issues with the backup memory sticks coming unseeded in the voting machine so there's going to be a warning screen to give a warning message when it's moved or unseeded so they can then reseed it for whatever county. There's going to be a written summary on the tape when the machine has been zeroed out so that they can check it to know that it's zeroed before it goes out to the poll place. There's a couple of changes that voters won't notice, but it enhances the ability for the machine to accept the ballot and the ballot not get stuck. It had problems, especially now with our changes for the cross endorsements in the over votes when the ballot was returned it would get caught because it wasn't held long enough within the tray or enough of the paper in the tray. So those are probably the highlights of what those changes are. We went through our source code review. We got NYSTEC involved in our functional testing to go through our test cases and our test plans and then we executed those plans and everything tested out accordingly.

Douglas Kellner: And we did have notice of a public test as well right?

Bob Warren: Yes we did do a public test

Douglas Kellner: And these are the same upgrades that were, these include the upgrades requested by the New York City Board of Elections that they were concerned that we would get these approved so that they could use them for the June primary and I take it we have met their proposed schedule?

Anna Svizzero: I believe we have. They originally said they wanted it in time for training in June and the implementing in November, but being that this has moved along more quickly, they will have that upgrade now. Only New York City and Nassau County have primaries and those are two ES&S customers, so I guess we want to be sure that they can make that change. Does the board have a position on if they can't, if New York City can make the change and Nassau can't or the other way around does it matter? That issue has come up periodically and we do want to be aware of it.

Douglas Kellner: I think that these changes are really diminimus, they don't really affect the perception that the voter will have at the polls so that I don't think that there's any reason we should insist.

Kim Galvin: Just being mindful that it is the first step to varying versions running throughout the state.

Anna Svizzero: Right. We've talked about this issue briefly in the past and we're going to have to get into it later.

Douglas Kellner: But the intention here is that all counties are going to use this by November right?

Anna Svizzero: In the September primary for those counties that have it and then everyone in November.

Douglas Kellner: So it's feasible for all 6 no its 8, I'm sorry, it's New York City and 6 counties is that...

Kim Galvin: Do we know that all counties intend on doing this upgrade?

Anna Svizzero: Yes the two that came to the public session.

Douglas Kellner: Well Kim I'm suggesting we're not giving them the choice that they have to do the upgrade, we'll give them time to do it, but they have to do the upgrade.

Anna Svizzero: 5 counties, 5 boroughs. I understand.

Douglas Kellner: Alright? So, now the issue on timing is not in the resolution. The resolution is just to provide for the certification. So we'll vote on the resolution.

Jim Walsh: Move for approval.

Douglas Kellner: Those in favor say aye.

[chorus of ayes]

Opposed? And then with respect to the timing, I think we're just discussing a sort of Commissioner's consensus that everybody has to upgrade but they can do it on their own reasonable schedule to answer the question you raised.

Kim Galvin: So not necessarily for the September primary or the November general?

Douglas Kellner: Well I think that the November general is an outside date, I can't conceive of a reasonable excuse for not getting it done by November and indeed they should probably get it done by September. But I would think they would want to do it because the system is an improvement right? I mean is there any reason why they would want to stay with the old?

Kim Galvin: In this particular instance there is no reason why they would want to stay with the old.

Bob Warren: I think there is something that benefits every county from a technical standpoint.

Douglas Kellner: Alright. Kim as to the long-term issue, I think we should address it.

Kim Galvin: I agree.

Douglas Kellner: When we get no, when that issue comes up where one county wants to have one system and a different county wants to have another system, then we can analyze it on the merits. After all we have 2 systems now statewide and theoretically, I don't see a problem, if there's a reason. But if there's no reason for a variance between the systems, then the uniformity is better. I mean the reason we have ES&S and Dominion Systems and have 2 approved voting systems in this state partly is for competition and to keep pricing down. Because neither vendor has a strangle hold over a county because the county can always just switch to the other vendor. And that was a conscious decision that was made 10 years ago that we should promote competition in selecting the voting systems. But if there's a reason why there should be 2 versions of the ES&S software, if there's a reason for it then we should consider it. That's my position. So I know I'm not speaking for the whole agency here.

Bob Brehm: Well I think generally this we've been working to follow our change management process and one of the reasons why this went so smoothly; one it wasn't a big change, but two this is the first one that really followed our change management process where it came to us early, it was presented to the Commissioners, you approved making the change and we never promised we'd get to this date but it was the target date. I think with regard to future modifications, the kind of issues that you and Kim are speaking of Commissioner Kellner, I think would be appropriate at that beginning change management that we add that evaluation. What are we changing? And when they present the plan to you for that initial approval, these are the types of things, you know, is it your recommendation that when we get it done that it's the type of change that we're authorizing that we would allow to have multiple versions or not, so that it's part of the thinking before we go down that path. And part of the change management is to confirm with the counties that they understand what's coming and that they know what's coming and do they agree with it? I mean if it's a security or a statutory issue, we can put them on notice then we're doing it and we have no option. But if its, in this case, it was customer driven...

Kim Galvin: And it was given to all of the counties for no cost.

Bob Brehm: That's another benefit. That's another factor. So all of those factors I think if we make sure that in our change management program, we accommodate them at the beginning and we make a full recommendation to the Commissioners that these are the issues we have to decide before we start the project, before we spend the significant amount of time, before we come up with the estimate however much time it will take to get it done, that should be part of our recommendation to you at that initial queue. And even then, if you decide it's mandatory in the general plan, that would be done almost a year before the county would have to roll it out so they would be able to make any recommendations to their budget people, if they are a budget or whatever is in the queue. Theoretically they would have a year if you do it at the initial queuing it up.

Douglas Kellner: Alright. I certainly agree with Bob's comments on that. Alright if there's nothing else on this, we'll move to the next item on the agenda which is the presentation on the Voter Registration List Maintenance report, John or Tom.

John Conklin: The Board asked us to present a report on interstate sharing of voter registration records. There are a couple of systems out there. Tom did a first draft, I provided extensive commentary or revisions, but we've come to an agreed upon report here. I think we've analyzed the two systems and assessed the strengths and weaknesses and we presented it to you.

Douglas Kellner: I thank you because I thought it was an excellent report. It did fairly evaluate the strengths and weaknesses of the systems and seems to be consistent with comments that I've read just in the literature on election administration and from other election officials in other states that I don't think you left anything out, and I think you did properly address the budget issues that may very well drive a decision. So, I turn to the other Commissioners and suggest preliminarily to discuss where we should go from here. I mean, my own view is that New York would benefit by joining both systems. The ERIC system in particular presents some budget issues but not insurmountable. The report also raises issues of just how we would upgrade our own systems in working with the counties to put these to effective use, and also talks about computer capability issues. I don't know if David have you had a chance to go through the report and to see how it would impact you and your operations?

David Loomis: I haven't had a chance to discuss it with John and Tom but I've gone through it.

Andrew Spano: Yeah I read through the report and take a look at bang for the buck and it really didn't seem to be a big bang for the buck to do something like this. I know from personal experience when I cleaned up in New York State, and then you've got all these alternatives that you're sending around and everybody's putting together what value it has, it's a very complicated system, and I think simple is always better. If you want to join something like this for long-term, so as it moves the bugs get taken out of, that's a

different story. But I was not impressed at all. I wasn't impressed with the data, all those particular outcomes didn't seem significant to me. That's just my 2 cents.

Jim Walsh: My feelings are fairly similar in that if we're going to, if we were going to choose one of the two we would choose, in my opinion the lesser cost or the lesser involvement. New things such as this going through a learning curve so you'll be learning something from it and would be learning free of charge or without some of the other joining fees and possible expulsion from the system. I think we'd be better off to go slowly and easily and learn from the process and do it at the least expense.

Gregory Peterson: That was my feeling too. I think we should take a more vassal approach. This is something that is very complex and as I'm looking at it, you know my eyes start bugging out. I go wait a minute, how much are we going to have to pay? What's mandatory? And how do we look as a Board doing something, abiding by somebody else's regulations and somebody else's criteria, we don't meet that so all of a sudden we look like, "Hey we haven't done our job." I don't think, at least for me, the better bite of the apple would be with the Cross Check because number one it's obviously the least expensive, doesn't cost us anything. I think it has a broader approach including more states that we're interested in. The other ERIC may certainly come along that way but I think, let them develop, let them expand to a certain degree where we can analyze what they do instead of them judging us, we judge them. I think we're in a better position and as Commissioner Kellner said before competition is good. So we start off with Cross Check and see if somebody else comes up with a better idea. And I think that is, at least as far as I'm concerned, a better approach or more reasonable approach or our Board to take going forward, and obviously this is certainly not in cement and we can certainly change things and adapt as we go along and we see what works.

Dave Loomis: There will be some costs involved in this.

Dave Loomis: There will be costs involved because what I think we also want to look at is how do we deliver the results of this to the counties? And we already have a way we deliver duplicate checks and death and felons in NYSvoter so we don't want to add another process if possible to how the county has to do their work. So we need to look at that and figure out the best way to design that.

Douglas Kellner: Right and the goal would be to sort of integrate it with the NCOA updates if we were...

Dave Loomis: Yeah but those are a separate process right now too so that would be another way to look at it.

Douglas Kellner: And then I know that Mike Ryan the Executive Director of the New York City Board, he is also looking at this and has sort of pushed us that was part of the motivation to ask for this report. So my suggestion is that we put the report up on the

website and start gathering additional comments from people on it to the extent that we have time, you've already done an initial work up of the budget numbers, but Dave, I think you know if you could just take a little bit of time to just look at it and pin down what you would have to do. I'm not suggesting that this become interrupt other priority things that you're working on, but to the extent that the budget office would ask us what you would have to do to implement this or if the legislative committees were asking us to report on this, and the idea is I think you wrote a pretty good report so that we should post it and see what people say about it.

Anna Svizzero: There are county board costs to that too. The mailings, etc. are mailings that the county boards are not aware of at the moment and would need to plan for so, for those of them listening and maybe we can make that point on our next conference call with them that they need to look at this and look at their own fiscal impact.

Douglas Kellner: Of course, if they're eliminating people from the rolls, eliminating dead wood and duplicates from the rolls that reduces cost too.

Anna Svizzero: True, I have no argument with that, I'm just saying all of these mailings that are required and you have to validate that you've actually done them to stay in the program, county boards need to know that because they'd have to have the money to do those additional mailings even if they're on a postcard size, it's still going to cost some boards with a lot of cleanup to do, more money than they are thinking about right now. But they should be prepared to comment if we're posting this.

Douglas Kellner: I'm pleased that we're moving ahead and at least looking at the issue because the President's Commission on Election Administration recommended that election officials throughout the country take a look at the system. The New York City Department of Investigation report affirmatively urged us to join these systems which prompted the New York City Board to start it's review of this and so at least we're taking a serious look at this and again, I think it's a good report and we should make it available and see what other people have to say about it. And whether the legislature and the Governor's Budget Office think it's worth spending money to do this.

Alright well thank you. Alright the next, there is a resolution to adopt the formal opinion of the Board to clarify election law 17-110 to withdraw opinion #9 of 1983 to clarify our opinion that, I guess I'll just read the last 2 paragraphs.

As no one could question that a police officer in uniform is displaying official authority it is axiomatic that an endorsement of a political candidate by an officer or chief in uniform is a violation of election law 17-110 subdivision 1. The use of the uniform as a prop adds the weight of the police office to the endorsement and accomplishes the very evil which election law 17-110(1) would avoid. The effectiveness of such endorsement is not an issue as the statute prohibits the attempt to influence the citizenry. To the extent that 1983 opinion 9 references a need to determine the facts surrounding the endorsement is

given and whether or not it was given in such a way as to intimidate or coerce a voter on a case-by-case basis as relates to appearances in uniform, a clear rule is hereby enunciated by the Board. A police officer may not endorse a political candidate either verbally or by his or her appearance at a campaign event while in uniform or similarly may not deliberately or knowingly appear in any political communication as so defined in election law section 14-106 while in uniform.

So is there a motion?

Jim Walsh: So moved.

Douglas Kellner: Those in favor say aye.

[chorus of ayes]

Opposed? Alright the resolution is adopted and I want to thank Paul for doing the initial drafting, Kim for your efforts in working on the revisions on this. And I understand Paul mentioned to me today a second issue...

Paul Collins: Additional

Gregory Peterson: He always has

Douglas Kellner: Go ahead Paul take a minute just to...

Paul Collins: I pride myself that most of my legal career was in the private sector.

Gregory Peterson: Commissioner Spano you may want to know that when I first came on the Board I carefully observed Paul as he would slowly exit the room and every time he would say, "I have one more thing" we nicknamed him Colombo, he's always got one more thing.

Paul Collins: And that one more thing quite candidly is if Joe Bagofdonuts is the Sheriff of Whowho County, and he's running for reelection, can he appear in his uniform? He's the Sheriff. And before you answer that, the next question is Johnny Dotes is the Chief of Police in a small town in Whowho County can he appear in his Chief of Police Uniform in his campaign?

Douglas Kellner: Now my suggestion, I think it's a fair question to ask, and my suggestion is that the rule ought to be the same as it is for judges wearing robes. Which is that an incumbent judge is allowed to put the judicial robes in his picture when he's running for election. So that a police officer, even if he's running for Sheriff or a Sheriff running for reelection can wear his uniform in his own literature.

Bob Brehm: Even if they're running for a different office other than Sheriff? So that if they are running for the Assembly or Mayor or...

Douglas Kellner: Well you asked a third question.

Paul Collins: No he really hasn't because the judicial rule only applies to running for judicial candidates. And the answer to his question is, no they can't.

Douglas Kellner: If you want to leave a further legacy before you leave, Kim is shaking her head...

Kim Galvin: No fine, legacies are good.

Douglas Kellner: If you want, I don't think this is a pressing issue because I'm not aware that anybody's asked about it. But if you want to write up an additional advisory opinion on that subject and work with Kim to present it to the Commissioners.

Jim Walsh: Just one question for my own personal clarification. Were you suggesting that if a Chief of Police were to run for Sheriff that he could appear that he or she could appear in their campaign dressed as a Chief of Police running for Sheriff?

Paul Collins: I'm suggesting that he could not.

Jim Walsh: Okay, okay. I'll go with that.

Kim Galvin: But if the Sheriff was running for Sheriff he could.

Jim Walsh: In a Sheriff's uniform right.

Bill McCann: But we've also had the issue where someone who's a deputy may be challenging an incumbent Sheriff and we would have the same issue. We've had that question so I...

Paul Collins: And the answer Bill would be the same the Deputy cannot wear his. He's not the Sheriff or she's not the Sheriff.

Douglas Kellner: But that's not the judicial right? I mean a judge running even if he's running a Civil Court judge is running for Supreme Court can be photographed in his robe.

Andrew Spano: That's two elected officials. The other one doesn't have two elected officials.

Douglas Kellner: Well let's talk about it.

Paul Collins: You see Commissioner Peterson these questions are fine. You know they're fine.

Gregory Peterson: On my 3-hour drive home that's all I will be thinking about.

Douglas Kellner: Alright. My apologies for distracting everybody here but thank you Paul.

So new business, alright this is a million dollar question here. So who wants to, alright the agenda item is Discussion on Changes from Budget, Compliance Unit Matching Funds, Pilot Program, Independent Expenditure Reports, Enforcement Unit. And then to discuss the new regulations on disclosure of independent expenditures and the Public Financing Pilot Program.

I guess maybe I just want to begin by saying that we really have a tight timetable for getting the draft of the, well for adopting emergency regulations on the Public Financing Pilot Program and I personally am strongly in favor of having regulations in place in time, and meet the statutory deadline that was set for us. And personally I would like to start circulating the drafts that have already been worked up publicly so that so that the public has a chance to comment on the draft regulations in a meaningful manner, which means getting them out say at least a week or 2 weeks before the date that we vote on them. Getting a draft, it doesn't necessarily mean the final version of what we vote on because I realize there's a lot of time pressure and we already have drafts. So at least several different people asked me not to distribute the draft yet and I haven't. But I'd like to start passing it around because we've got more eyes looking at it may improve things. Especially since the lawyers who have experience with the New York City Campaign Finance Board are very opinionated upon certain facets of New York City Campaign Finance Board administration and it's my view that one of the reasons our agency was selected to run the pilot program was because among some of the decision makers who negotiated that package, they believe that we will be more responsive to the needs of candidates in administering the program and I'd like to at least show that we are capable and committed to doing good administration of the program.

Bob Brehm: Commissioner I know that is a goal that we are working towards, I'm not quite sure that we're ready yet but I think our goal is to try and get them out 10 days to a week before, which one of the issues after I got is when the next meeting would be so we know what that deadline is and we have been spending time to make sure that what we're proposing is not contrary to the statute because we do have competing ways of doing things in New York City, especially the City Campaign Finance Board that has a different set of criteria than we do, so just to make sure that we're not doing something outside that. So our goal is to move in that direction. I don't think we're ready yet with the version, but I hope we will be very soon.

Douglas Kellner: Well I'm sort of setting my own personal deadline of say next Friday is when I'm going to post a version which may just be the Kellner proposal then, because I want to be able to get the election law committees of the City Bar and the New York County lawyers and the Brooklyn lawyers to be able to comment on these as well as some of the good government groups that have been very much involved in pushing the program.

Bob Brehm: I wrote that down, Friday.

Douglas Kellner: Yeah, I mean that's when, so it's my intention to post something, well at least to distribute something myself next week but I would hope that I can do that with everyone's blessing.

Kim Galvin: Well we've had very meaningful and extensive conversations on both. I don't think anybody's dragging their feet and I think that ours, you know, we agreed that a week to 10 days before the next Board Meeting we would post them and we're working towards that goal.

Douglas Kellner: Good.

Kim Galvin: If you feel that next Friday is sooner and you post the Kellner version, well so be it, we'll comment on it.

Bob Brehm: I think what the calendar...

Douglas Kellner: Well it sounds like then we're on the same page.

Kim Galvin: Oh yeah, I mean, I don't think anybody thinks that anybody has been slacking off on this, we've been working very hard on it. We try to get consensus everywhere.

Douglas Kellner: Good. It's just that people are telling me don't circulate what we have so far and I would like to do that and I'm honoring your request.

Bob Brehm: Well I said we're not ready yet and I'm still of that opinion. I haven't changed that opinion yet. But I think we can get there shortly.

Douglas Kellner: Okay.

Paul Collins: Commissioner Kellner irrespective of the date at which something is circulated, I heard you mention the New York City and this and that, please include the State Bar Election Law Committee okay?

Douglas Kellner: Good I'm happy to do that.

Bob Brehm: Who is the Chair this year? Is it still Goldfeder?

Paul Collins: Yes it is.

Douglas Kellner: Well Jerry's definitely on that list so he would get that. And he's one of the opinionated people.

Paul Collins: No

Douglas Kellner: We may get helpful comments, you know, people who say, "Well look at that and look at this" and cover that because they're the people who actually have experience and I daresay there's nobody in this room whose dealt with public finance filings.

Bob Brehm: There may be someone.

Douglas Kellner: Who?

Bob Brehm: Our guest

Douglas Kellner: Oh Bill. Maybe.

Kim Galvin: Are you talking about both or just the poll financing? My opinion is the same on both. We're doing our very best internally and we can do both but is this...

Douglas Kellner: Well they're both important. The public financing actually has, well they both have real deadlines.

Kim Galvin: Yeah. Well public financing even less so than the independent expenditure ones, it's a little later that it could kick in, but I agree the sooner the better.

Douglas Kellner: Basically we have to adopt the emergency regulations by May 27th in order to publish them right? So...

Paul Collins: They're not effective until such time as they're published in the state registry and Cheryl you have the dates right?

Cheryl Couser: Right the issue date if it was done by May 27th would be June 11th for publishing.

Douglas Kellner: And that basically works. And if we miss the May 27th date, what's the next date?

Cheryl Couser: The next deadline would be to have it to Department of State by June 3rd for June 18th issue date.

Douglas Kellner: Alright. Is it okay to talk now about our next meeting date and what's proposed?

Kim Galvin: May 26th. Just kidding.

Jim Walsh: I will go with the majority although I'm, in the minority.

Todd Valentine: We were looking at May 22nd I believe.

Douglas Kellner: It's a Thursday? Is that okay with you Commissioner? Pardon?

Bill Brehm: That's the date of the state convention.

Andrew Spano: If we meet where we're meeting.

Douglas Kellner: We'd be here. Were you planning to go to the State Convention?

Andrew Spano: No I'm not.

Gregory Peterson: I'm not either.

Douglas Kellner: You're not going to our convention. Alright May 22. Here. Which means Bob and I can't go to the State Convention.

Bob Brehm: Or if I go I have to be back here by noon.

Douglas Kellner: Are you going to fly? Now, alright May 22nd. I think it's also probably worth unless the Executive Directors don't want to discuss it now, just to discuss what we're talking about in terms of the budget issues and the staffing issues.

Bob Brehm: I think from the general conversation, the statute changes, the agency requires that we have a compliance unit with certain mandatory tasks. We also will have a...

Douglas Kellner: Well to be more specific, it essentially divides what is now our Enforcement Unit, divides functions of those units into a Compliance Unit which reports to the Co-Executive Directors and the Commissioners, and an independent Enforcement Unit that is independent, that's appointed by the Governor with the approval of the Assembly and the Senate.

Bob Brehm: With certain communications that require the authorization of the Commissioners or a majority vote and the ability of that individual to break a tie in case you split or fail to take action within a certain period of time. So basically, at a high level, it does divide the work. So we've been moving in that direction of thinking that so we have a Compliance Unit and an Enforcement Unit. We also have 2 new responsibilities in addition to dividing up who does what for our traditional work and the new one is the Matching Funds Pilot Program for the raise for Comptroller. So we are working within that parameter. And also, well first of all with that Matching Fund Program, it sunsets this year. So it's a program that will begin and end within this fiscal year, and calendar year which is different for us. So, that's requiring a certain amount of energy to have that program up and running. Independent Expenditures is a permanent change to the statute that will require reports to be made to us with more detail than we are used to and in more frequency than even Independent Expenditure reports are made under the City Campaign Finance rules. Those are still done periodically, ours are done more than that. So, we have been very busy with everybody on staff to look at prioritizing. What do we have to do in order to meet the deadlines by way of regulation, coming up with plans? Who's going to do what? Having conversations with the people that negotiated the bills which is the executive chambers. What are some of the questions we have with the bill? As far as giving them a staffing plan – we believe that there is a sufficient amount of money that we've identified...

Douglas Kellner: Who is staffing plan?

Bob Brehm: To the Executive Chamber and to the Division of Budget. They have requested that we provide a staffing plan to them based on the adopted budget and the responsibility that we believe we have or we review and have. How can we get this work done with the number of people we have? And we've clearly identified that we need additional persons to help with the compliance review, the clerical work of doing the compliance review, notices and the increased training. We continue to answer questions that have come to us from the Division of Budget as to provide whatever detail we need so they've identified, provide more information so they can evaluate the proposal that we've given them. And we have responded to all the questions that I believe we've received to date. And we're still making our own plans internally assuming the plan that we submitted is approved for all of the types of things, technology, where do they sit, are we even ready to hook a telephone, a computer? The logistics of bringing new people in the building. We are continuing to work with staff on programs and policies as far as how would we update the procedures to do the tasks that we see that we now have so that we're ready and we're also reviewing all of the forms with the IT department also. What are the new requirement, what are the data elements that we're not currently collecting and when do we need to collect them? Whether it be periodically. Whether it be with a campaign finance report. Is it weekly? Is it 48 hours? So that we have of the requirements and the specific data sets that are missing and then where will we collect them and how will we collect them?

Jim Walsh: Excuse me, will all new employees be located in this building and all of their files and...

Kim Galvin: Well they haven't authorized us to hire any yet.

Jim Walsh: Is it a plan, I mean we're talking about planning. Are you planning being here or do we know?

Bob Brehm: We believe we can accommodate people on this floor. We have some wiring or phones and computers to hook up in time for that to work, but I believe we have the space to put them on this floor.

Jim Walsh: Just out of curiosity how much space is available in this building? Any other space or is this it?

Bob Brehm: You know I don't...

Paul Collins: It's my understanding that there isn't any more space available.

Bob Brehm: There were a few floors. Well there's a nice building about a block away that they... but for us we feel we can fit the people on the floor that we currently have based on the plan that we submitted.

Jim Walsh: With all new files and furniture and so forth and so on.

Kim Galvin: I mean I may be adding a negative element to this discussion, how unusual, but all of our conversations with budget, and I've been involved with most or many of them, I don't think they have a full understanding of the number of filings and what it actually takes to do the in depth review that they're requiring and the cyclical nature of the recurrence of these things. And we've tried to impart to them the necessity. Because once we issue a letter of deficiency to the treasurer and the candidate, they only have 30 days to amend that filing and clean it up before it is turned over to the Enforcement Council. So it's not like you send a letter and off it goes and that's the end of that particular case. Then there's the phone calls, the eyes on the paper, the handholding that is sometimes required because as Bill as stated and many have stated, for years the treasurers are your brother, your sister, your uncle, your aunt, they're not necessarily, you know professional treasurers. So the number of filings, the time in which we do it, the cyclical nature that has to occur and the recurrence of the phone calls and follow up within certain periods of time and it seems to me that at least the conversations we've had so far, some members of the Department of Budget are unwilling to understand the situation.

Bob Brehm: I think we're very happy, I think we're very happy that after, I've only been here since 2006, others have been here longer, but since I've been here we have

been asking for money to upgrade CAPAS which is the Candidate Management and FIDAS the Financial Management system. And finally there's money to do that in this budget so we're happy that has taken place. And our own estimate was an 18-month period of time once we had all the people in place to implement that. That 18 months can't really start today because we have this emergency program to get up and running by June so I really can't put people on the long-term fix until I at least get the interim patch in place. So, most of the IT people are really working night and day with everybody to meet the deadlines that we've identified for the immediate patch to get us through this year alone. And then as soon as we're comfortable that we're meeting those deadlines and that we don't have any other support that they have to help us make sure that these programs succeed this year is the long-term is to sit down and make sure that we can accommodate the technological changes that we've all hoped for that will make administering these programs that much better. Some people are looking for those savings in people time I guess that the computer modernization will help us to remove some of that people time. I can't argue with some of that. I don't think we disagree with some of that, but I think to the extent they think it will eliminate the need for any bodies with eyes on the page, I think is not... We've looked at these, we know these items that in some instances its just simply missing data and others it's the data they've given us is incorrect data and that still requires a certain amount of looking at. And we keep reminding people that in the contrary, prior to 2006 when we had only state filers here, the even year was the very busy year and the odd year was where we caught up on our work. Now since 2006 we have local filers, we'll have around 23,000 reports not counting amendments that will come to us this year on average and somewhere around 30,000 next year because that's where there are so many more local candidates and they make more mistakes than anybody because their treasurers are new. They're new every year.

Kim Galvin: And we have 4 auditors.

Bob Brehm: They're new candidates. They come, they mostly lose and...

Douglas Kellner: 4 Auditors for 30,000 reports.

Bob Brehm: So, we've identified the work we need. We think its work will continue. It may modify when the new program is up and running, but we still think it is an estimate that we've looked to a target that we think maybe with a little bit of help in the building although from June on we know, the operation unit is full at ballot access and supporting the counties to run the elections this year.

Kim Galvin: We usually pull from the other unit to help with specs checking.

Bob Brehm: Right because spec checking is such a short window in order to get that done, we take every person in the building to do that in July and August when we have all these new programs and all of this review that needs to happen. So, if anything I think

we've not asked for more than we think we need, but I don't think we've asked for less than we need either. That we've at least identified what we need and we're open...

Douglas Kellner: But the bottom line is at this point we haven't gotten any response.

Bob Brehm: Monday we had a call where we learned that the last set of questions we answered apparently wasn't satisfactory but we learned that on Monday. But I still don't know what is being asked of us to answer and we are more than willing to answer everything and provide as much detail as possible to make the case. Because I think the case is we want to succeed, we want to do this right...

Kim Galvin: I think there is one line that sums it up and I probably shouldn't say this, but I think it's important that the Commissioners and anybody listening says, when the person from Budget asked, "Well why do you need these people? What are the requirements?" and Bob went to reference the bill we were told, "Don't read the bill to us, we won't understand it and it doesn't matter." So that is the attitude that we're dealing with when we try to explain the justification for the plan that we put forth.

Bob Brehm: Right because the question was, "Why not send the notice out by e-mail?" And well that's okay. The statute specifically says certified mail. So we designed our response to you based on the statute certified mail.

Kim Galvin: Or, "Why can't you bring in a S.W.A.T. team from Worker's Comp to work at night?" Well that would be good but all the calls and all the filings and all the back and forth occurs from 9 to 5, could they work from 9 to 5? No. Are they trained? Do they have any idea? No. Well they really wouldn't be much good to us then.

Bob Brehm: And the S.W.A.T. team wouldn't be able to go home at the earliest until sometime in mid 2016, and...

Kim Galvin: Which they acknowledge that there will...

Bob Brehm: Most of the S.W.A.T. team would still have to stay after 2016 because the work is going to continue.

Gregory Peterson: Is this a group of people that normally are conditioned by virtue of their status to say no?

Kim Galvin: Yes.

Andrew Spano: This happens with every budget though.

Gregory Peterson: I'm sure Commissioner Spano and I certainly as a former public official, it would come to a time I'd say, "Hey wait a second, time out." When the boss

tells you that it goes a little bit of a different way. So perhaps somebody above these people should be told and let's get this thing going in the right direction.

Andrew Spano: There has to be some verification in that area.

Gregory Peterson: And if you're watching people by the way, you've got to get going because we have a responsibility and it's not fair to put the own ness on us, you're not giving us what we need to get the job done and nobody's being a pig about setting this thing up but we want to beef things up? No. We're complying with what's required and now you're standing in our way. I don't understand that. Now for the first time as Bob said, we actually have the money to do it. Not more than, not less than but the money to do it so come on.

Bob Brehm: I think that covers it.

Douglas Kellner: Bill Mahoney you came I think to observe that part of the discussion. Is there anything you want to add?

Bill Mahoney: No I was mostly here for the public financing rate but I'm sure I'll follow up on that in the near future thank you.

Douglas Kellner: Alright and Aimee do you have anything?

Aimee Allaud: No

Douglas Kellner: Alright, then we'll move to the last item on the agenda. I don't think we need an Executive Session for the preliminary determinations but there is one of those that I wanted to discuss without naming names. It's 1330 and the issue here is that it's a small campaign and a small committee. The treasurer had reported on the report \$3800 and change as an unenumerated contributions. The opposition complained that that number should have been itemized and a spot check found that there was at least one, well we say at least because we have no idea what the other \$3600 contributed whether they were in fact under \$100. But we do know that at least one was for \$200 and should have been itemized.

The staff report said we're going to send them a letter, tell them they have to itemize their filings and close it. I for one am not comfortable with that disposition. One is that yes it's a relatively small committee, but from my experience in filling out these forms, you can't possibly over look the fact that the form specifically asks you to itemize everything that's over \$99 and for you to write in unitemized and then actually have a \$200 contribution, that to me is wrong. And so that it shouldn't go unnoticed and simply say, "Ah fix it" and not even have an admonition in it.

I think with the new Enforcement Unit that they may have more resources than we have now to follow up on this, but I would propose at the very least that the sanction be a public admonition so that all the facts are disclosed about this, alright. So that's what I'm proposing. Although I'll tell you my initial reaction was go back to the committee, get the deposit slips and find out whether there were other unitemized and indeed consider referring it out for prosecution even though its only a \$200 contribution.

Bill McCann: If I could address it, just a couple of factors I think are critical here. As the Commissioner mentioned, it is a very small campaign. Staff did a reverse look up on the committee to see if there might be other indications of unitemized contributions and this was the only one. Also, the law does allow for the grouping of unitemized contributions, meaning aggregate contributions from a contributor that are less than \$100. So this is not unusual at all. And also the audit review found that this committee in fact did make itemized reports on other filing peers that have all sorts of itemization of contributions of varying amounts. So, in looking at the totality of it, the staff recommendation was that we send them a letter to say, "We did this review. We got a complaint. It appears that this one contribution we found as a result of our review. You need to amend your report to certainly reflect that contribution, and then secondarily if there are any other issues." Because again our goal, and Commissioner Kellner has supported this goal, is to get compliance and so under the totality of the circumstances we felt that was appropriate. Also, it's not unusual for when a committee makes their reports, the committee in question that gave the contribution reported on their report reflecting that they made the contribution. But again, we don't know necessarily the facts and circumstances as to when the contribution was received. It could be for an event that took place subsequent thereto. So, again, we certainly don't want to dismiss that circumstance, but we felt that upon the totality of the circumstances A, it is not unusual for a small local committee to have or frankly any kind of committee to have unitemized contributions. The law specifically allows that. Secondarily, that the reverse audit showed that this was an aberration compared to all the other reports, it was just the one that had been reported that they didn't disclose. And we felt that by sending them a letter to ask them to address that specifically as to why it didn't occur and also then to make their amendments as appropriate, we felt that that was appropriate.

So you're concerned about an admonition, we can certainly modify those documents to provide for an admonition on that. So I wouldn't have an issue with that but I just thought it was important for you...

Andrew Spano: Where did this \$200 come from?

Bill McCann: It came from another political committee so it was disclosed by that political committee.

Douglas Kellner: Well Bill if at this point we don't even know that that \$200 was in fact required to be reported during this cycle. Cause you suggested that maybe they were

overlapping cycles, and if in fact we don't know that, then it's not appropriate to do an admonition yet. We need to have factual information on that. But I'm really troubled by your characterization of the unitemized. We don't know whether or not, all we did is we know from doing your reverse look up that there was another committee that transferred \$200 that should have been itemized on a report if not this report. We have no knowledge whether or not the other \$3600 should have been itemized or not.

Bill McCann: Well I would say the one point though, and this is critical, when looking at the totality of their reports and other reports that they filed, those reports in fact had a lot of itemization. So I don't believe that...

Douglas Kellner: But that suggests then that they were getting contributions of \$100 or more and that on this particular report they took an untruthful or criminal shortcut. Look I don't know. I don't know because it hasn't been investigated but to just close it and the letter asking them to correct it only went out last Thursday. So they have not corrected it. They have not responded. I certainly want to give them due process that if in fact, well...

Gregory Peterson: What would you suggest Commissioner Kellner? Seriously.

Douglas Kellner: Well I was suggesting the letter of admonition, but if Bill is telling me that even that may be unfounded then it's not right to do a public admonition if there's no, if we don't know yet for a fact that that's the case. So maybe we need to keep the case open and wait for their response and then evaluate this in a month?

Bill McCann: Certainly we could table that, we could table that sure.

Douglas Kellner: Is that alright? Alright I'm sorry.

Gregory Peterson: No if nothing then we'll go ahead with this. There's no point in...

Douglas Kellner: Thank you and I'm apologizing because this is really a small matter. But it's just...

Gregory Peterson: But it sends a message too so...

Douglas Kellner: Right. I...

Jim Walsh: I'll move to table CMP-30.

Douglas Kellner: So, we'll move to confirm the staff reports on the other 6. Those in favor say aye.

[chorus of ayes]

Opposed? Kim did you want an Executive Session to discuss a personnel matter?

Kim Galvin: No

Douglas Kellner: Okay then we don't need an Executive Session. We've already agreed that May 22nd is our next meeting and...

Gregory Peterson: I'd like to welcome Commissioner Spano.

Douglas Kellner: This I think has been our longest meeting this year.

Everyone talking

Bob Brehm: While we still have people's attention on the website, today is the deadline for the counties to report to the State Board of Elections their ability

Todd Valentine: Initial Preparedness

Bob Brehm: Initial Preparedness to transmit their military and overseas ballots by next Saturday.

Douglas Kellner: And the consequences of not meeting that deadline are actually pretty serious.

Bob Brehm: Well we have a report due to the court and the Department of Justice by the end of today so noncompliance with reporting requirement will be reported to the Justice Department in Court today and then there are further reports that they've actually transmitted timely which will be in about another 10 days, a week from Monday is the next report.

Douglas Kellner: Thank you. Alright we stand adjourned.