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**Douglas Kellner:** Good afternoon everyone. Welcome to our new quarters at 40 North Pearl Street. I am Douglas Kellner and I'll ask the other commissioners to identify themselves.

**Evelyn Aquila:** I am Evelyn Aquila.

**Jim Walsh:** Jim Walsh.

**Gregory Peterson:** Gregory Peterson.

**Douglas Kellner:** And then we'll ask our Board of Elections staff to introduce themselves.

**Anna Svizzero:** Anna Svizzero.

**Kimberly Galvin:** Kimberly Galvin.

**Todd Valentine:** Todd Valentine:

**Robert Brehm:** Bob Brehm.

**Bill McCann:** Bill McCann.

**Joe Burns:** Joe Burns.

**Thomas Connolly:** Tom Connolly.

**John Conklin:** John Conklin.

**Paul Collins:** Paul Collins.

**John Ferri:** John Ferri.

**Bob Warren:** Bob Warren.

**Donna Mullahey:** Donna Mullahey.

**Douglas Kellner:** And we have a guest. Would you like to introduce yourself?

**Jeffrey Cleary:** Jeffrey Cleary.

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**Douglas Kellner:** Mr. Cleary are you here for any organization or one of the candidates?

**Mr. Cleary:** I'm here for the Jennings Campaign.

**Douglas Kellner:** Okay. And that is Liz. Hogan behind us. So, the first item on the agenda is for the Board of Canvassers to certify the results of the March 20<sup>th</sup> Special Election for New York State Assembly. I don't see the paperwork.

**Anna Svizzero:** We have a Senate Special Election that we can't certify yet. It is still in court. We are constantly in contact with the City of New York and they keep advising us that it is still being litigated, and so, we do not have those results for you. But we have the Assembly seats.

**Douglas Kellner:** Thank you. All right, so, the resolution is to certify the election of Shelley Mayer from the 93<sup>rd</sup> Assembly District; Frank K. Skartados from the 100<sup>th</sup> Assembly District; Didi Barrett from the 103<sup>rd</sup> Assembly District; and Michael P. Kearns from the 145<sup>th</sup> Assembly District. Those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? All right, we will sign the paperwork right now. All right, so, that concludes the work of the Board of Canvassers.

We will now turn to the Commissioners of the State Board of Elections. First item on the agenda is the approval of the minutes of February 23, 2012. Is there a motion?

**Jim Walsh:** So moved.

**Evelyn Aquila:** Motion seconded.

**Douglas Kellner:** Those in favor of approving the minutes as prepared say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? All right, the minutes are adopted.

Next is the Unit Reports. We will start with the Executive Director's Bob Brehm and Todd Valentine.

**Bob Brehm:** I think the most obvious to those watching from home and those of us in the room, is we moved. It was quite an experience moving one block away. It started the

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morning after the Presidential Primary with the movers wanting to move a few boxes. That kind of led a little bit more that day than we expected but I think it helped us to kind of get ahead of the Thursday start. But, you know, I think the entire staff did a great job. You know there is always a lot of turmoil with something new in picking up your operation in the middle of the Federal Political Calendar two days after the Presidential Primary. It was always daunting to say the least but I think we are all settling in pretty well. You know, our Tom Jarose has done a great job I think for everybody to make sure that all of the things that were on our set up list was done. And we keep dreaming up, the more he gets done, the more we add to his list that we want to get done. But I think everybody in the Agency did a great job in getting here, getting the hearings conducted, the research on the petitions, receiving the mail in two buildings and it was an awful lot of work.

We knew it was an aggressive schedule when we started meeting on the restack effort. You know, what would work in a political calendar like we have this year and we were very nervous. But, I think for the most part it has worked and it has worked well.

**Douglas Kellner:** What are the annual savings from the move?

**Bob Brehm:** The annual savings are over \$300,000 (three-hundred thousand dollars) for rent. The parking is not 100% settled yet. They say don't worry, it will be provided, so we are still working on that. We have recommended, also as part of the restack, to get out of the leased space in Menands that we have for storage kind of equipment, the voter registration forms. The restack team hasn't quite gotten to that point yet. We believe there is plenty of space in the building, in the basement of this building that is part of the OGS, and we own it. So, we are, you know we put, we've made the claim that we have a better purpose for that space than is currently being used for. But, they were more interested, because of our deadlines on our calendar, to actually move the agency. That was the first order of business. So, you know, that will add, you know, not quite to 350 maybe by the time between parking and that space, so that is our savings. We haven't quite worked out the new expenses that were in this building that we have to pay, for any of the extra activities but it certainly won't be anywhere near that amount. It is usually about less for some of the common, common of expenses.

**Evelyn Aquila:** Well, I congratulate you in such a short time to have gotten so much done. It is really like a miracle. And the staff always surprises me with how effective they can be. Thank you all.

**Douglas Kellner:** Anything else you want to add Todd?

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**Todd Valentine:** Moving and, you know when we are still going forward. You know, the Presidential Primary, I mean, I don't know if Anna is going to comment on that or not when it was quiet. You know, although the numbers haven't been certified yet, so I don't want to steal anything Anna is going to talk about, like I normally would.

But we are now, the reason and the timing seemed poor, you know in our own defense is, which we also have to go through the second half of the Election Year which is the Senate and Assembly filings and the rest of the Party Office Filings which are due right now in July, mid-July, so it was better to go through a little bit of pain now so that we will be well settled at that point, you know, and ready to accept things.

You know, and as we did in the last space we were in, you know, within the first year we realized there were, you know, you think certain things are going to work out the way you envision them on paper, much like this Boardroom table, but they don't always work out in practice. So, you know, and we'll envision a series of changes, you know, Bob and I talk constantly and try to deal with the staff and develop the workflow, how we'll do the filings. You know, we think the construction will be done, so, we think we are going to be in a good position to go through the second half of the year with that election you know, positioned well. So, as far as the staff is concerned and our budget issues, this is going to resolve a big, you know, one of the issues that we have always had with the budget is, you know, the rent has been a big portion of that, and now that being freed from us, that is a big help as far as ministering the agency. So, I think we are in good shape.

And, also, at the same time this is all going on, the state was also shifting to a brand new financial system for reporting expenses and travel vouchers. So, for those who submit travel vouchers, there is a new system. So, we'll have to, if you haven't already been, received the emails or been briefed on that, we are going to have to go over that with you at some point because there is, they are trying to get rid of paper. It is suppose to be paperless.

Transition, I'm not sure how it is going. You know because I don't deal with that on a daily basis but it will impact you guys directly, that's in the travel vouchers. So, the process will be changed slightly. But I still think it will function well. That's what has occupied our time in the last month.

**Evelyn Aquila:** I just want to say, this is my fourth move since I have been on the Board. Fourth location. I'm really not as old as that but.

**Kimberly Galvin:** We are a tough crowd, wear and tear.

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**Douglas Kellner:** All right, well thank you. Next we'll turn to Kim Galvin for the Legal Report.

**Kimberly Galvin:** Thank you. We've said mostly all of the things that we have been busy with out in our written report. Obviously the move as well took a toll on our unit in the middle of reviewing all of the papers associated with the petitions. We have been very busy with the petition work and there has been about 12 or 13 lawsuits filed that are associated with the petitions. We expect many of them to drop off or some of them to drop off as a result of today's determinations. We didn't have a scanner ready to scan them but we got one yesterday, so I will send them out around.

In addition, Tom Connolly and I spent a long period of time following up with the 11 re-surveyed counties as was required by Judge Sharp's, one of his many orders. We worked through all of that. Most of the counties were extremely cooperative. I mean, they had all of the right staff, they were very well prepared. Everybody worked together. It was good. So, the end result was we removed the 11 counties, we satisfied the Department of Justice with that. However, we raised questions on 22 other ones from the answers that we received throughout those 11.

So, we have agreed to now undertake the process of going back to, originally there was 33 counties that admitted to sending ballots out late. We resolved 11 in totality the other 22 were being required to send out one question survey which seems easy and do the follow up calls with them. We are starting them, I think the email is going out today and hopefully by the middle of this month we will have that entire 2010 ballot situation resolved with regard to at least the numbers of things. It has been a long time in coming.

Other than that, we have just been busy.

**Douglas Kellner:** Kim, on that issue, one statistic on those reports that particularly concern me was the number of ballots that were not counted. And, has there been, first of all, follow up in clarifying those numbers?

**Kim Galvin:** Are you talking specifically about the ballots that came back late that weren't counted?

**Douglas Kellner:** That's correct.

**Kim Galvin:** Yes, we have gone through like 201 and determined with at least those 11 that none of them, well a very few of them have we determined that were not counted solely because of the reason that they returned late and they were mailed late.

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There are many reasons why certain ballots aren't counted that aren't necessarily being scrutinized by the Department of Justice. You know, for example, they send two ballots in or they didn't fill it out correctly or certain things like that, it was postmarked too late. I mean, there are a variety of reasons.

**Douglas Kellner:** Well, postmarked too late is relevant but...

**Kimberly Galvin:** Postmarked too late is relevant if it was mailed out late.

**Douglas Kellner:** Yeah.

**Kimberly Galvin:** Right. But not, many were just postmarked too late that were mailed perfectly timely in some of the counties. Some of the counties sent their ballots out on time and.....

**Douglas Kellner:** Well, those are the ones that concern me and I would urge us to do follow up to pin down the reasons why ballots that were sent back timely, in other words had proper postmarks from Military Voters, would not have been counted, and to analyze that. The number that had been reported on the initial returns on that struck me as a relatively high number which is why we asked for further follow up.

**Kimberly Galvin:** Are those that were postmarked, returned timely and received late and not counted?

**Todd Valentine:** No, received everything timely but not counted.

**Kimberly Galvin:** Everything received timely but not counted for another reason.

**Douglas Kellner:** I think the number that were actually received late, which means after the extended deadline was very few, it was only, it was less than 5 as I recall, it was just 2 or 3.

**Kimberly Galvin:** I guess I don't, I'm sorry but I guess I don't understand the issue. So, the ballots that were postmarked timely.....

**Douglas Kellner:** There were a couple of hundred, the actual raw number that had been filed in the public report that was filed with the court was a couple of hundred ballots that had been, that were not counted. And it didn't further break down the number in what was publicly filed but the number was large enough that it seemed to me that we should be doing follow up on just what those reasons were and to make sure that those causes are not being repeated.

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**Tom Connolly:** Well, if I can say, I know with the 11 counties that we dealt with, we really did get as much clarity as we could because there were a number of them when they initially reported to us, we had some where they had reported a couple of hundred as the reason for rejecting them was other. So, you know, after talking with DOJ we went back to those counties and you can't say other, we need an actual reason why you would do this.

So, what we are doing now is we are going to be reproducing that effort with these other 22 counties. So, at the end of the day, by mid-month like Kim said, for those 33 counties that had sent out ballots late, there should be no question mark as far as a reason why each of those ballots was not counted. So, I can provide that breakdown for you at that point once we have gotten that information from the counties.

**Douglas Kellner:** I think it would be helpful because I think it is incumbent on us to follow up to make sure that we address the reasons why ballots aren't being counted so that we can correct the issues. Just as, you know, the ultimate result of large numbers of Military Voters not having their ballots counted was the adoption of the Move Act which was a pretty serious remedy to address a problem that certainly had been identified for many years. But, I think we should follow up that if there are still even dozens of Military Voters who aren't having their ballots counted, we should address what those reasons are so that we can correct them so that in the future the ballots will be counted.

**Evelyn Aquila:** Well, I think its well over 600 and those who work for the government and things like that. What was the total?

**Tom Connolly:** The total number of ballots sent out or rejected or which one?

**Evelyn Aquila:** The total that weren't counted that we have known about, that weren't counted.

**Tom Connolly:** Um, I....

**Evelyn Aquila:** It wasn't a big number.

**Doug Kellner:** Well, it was in the hundreds.

**Evelyn Aquila:** Yes, yes it was but considering the, it was too many. If it was one, it was too many don't get me wrong but I'm trying to think that the number was just about 200, am I wrong?

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**Tom Connolly:** No, it was more than that.

**Tom Connolly:** It was more than that.

**Evelyn Aquila:** Yeah, 214? I wrote 214 I don't know why.

**Tom Connolly:** No, I think it was...

**Kimberly Galvin:** But you're right Commissioner, if there is some identifiable reasoning, perhaps we could take some prophylactic measures to correct it.

**Evelyn Aquila:** Yes.

**Douglas Kellner:** All right, well thank you. I just wanted to follow up on that. Is there anything else Paul, did you want to add anything?

**Paul Collins:** Just to advise that yesterday afternoon I received word from the Attorney General's Office that there has been an application to intervene in the favors the Cuomo Case down in the Eastern District. That is the case that resulted in the Federal Court drawing the Congressional lines and the second half, or second and third halves of that case has to do with challenges to the State Assembly and Senate redistricting. And that proposed intervention complaint, we have been named as a defendant, although what it says about us, is we are responsible for administering the election laws, etc. So, we will send it down to the Attorney General and ask him to represent....

**Douglas Kellner:** We are not going to take a position in that litigation and so, therefore, we don't need to.....

**Evelyn Aquila:** Redistricting always has this problem.

**Paul Collins:** None of the Commissioners are named in the lawsuit so there is no Section 17 of the public officers.

**Douglas Kellner:** All right. Okay, thank you Paul. We'll turn to Election Operations, Anna Svizzero.

**Anna Svizzero:** Thank you Commissioner. Our monthly report seems a little slim but we didn't have much time to think so I'm not quite sure why it seems slim.

But in any event, we do have a couple of issues apart from; excuse me, what appears in your report. One is the report that we provided the Commissioners for information on the



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Bronx over vote matter and, I would ask Bob Warren to give you a brief summary of that report and if you have any questions, Bob and John Ferri, of our unit were in the Bronx with some other staff people working on that issue, so. He can summarize that for you.

**Douglas Kellner:** Bob, why don't you stand over here?

**Bob Warren:** Okay, we went down on February 29<sup>th</sup> to do some research and get the background on what happened, you know, with the system and during the Election. This is a 2010 General Election that after the election was over, it was reported that this unit had reported a high number of over votes, much higher than would ever be anticipated. So, we went down, got some background information from the Bronx and then we went in, earned some media from the election, the 2010 election and we re-scanned ballots that were marked during that election, the exact ballots that were run during the election.

For the first hour and one-half we received, everything was scanning fine, so we were beginning to wonder if, you know, there might have been something else. So, we decided, well, in a poll place you are not going to scan ballot after ballot. You know, some ballots will scan, the machine will sit, other ballots and through the course of the day. So, we thought we would let it sit for awhile. And then we said, well, maybe we should re-create some of the issues that could occur in a poll site which would be lighting maybe and lighting was flashing into it or something. So, we tried, you know, we decided we would go ahead and try that. Well, as we started to try that and scan ballots, we started to get some phantom over votes. So we weren't quite sure at that point, if it was from this lighting that we were trying or what.

So, we went to lunch, we came back from lunch, we continued to scan and we continued to get the phantom over votes. So, at that point, we felt that it had something to do with the machine heating up, that maybe the machine was getting too hot; it was doing something to the scanning. We had the Bronx scan some, let the machine cool down, and re-scanned some ballots the next morning when it was cooled down. They didn't receive the issue. So, we still thought it had something to do with the heating.

On April 4<sup>th</sup> we went back and we had ES&S Engineers attend also. So, they started looking at the machine. They brought a devise that could measure the heat of the unit. We began scanning ballots again. Nothing, you know for the first hour and one-half or so. They were beginning to doubt also. They thought, you know, maybe we were wrong.

But, all of a sudden the issue started happening and they started getting the phantom over votes and the machine seemed to, in appearance it seemed like it had heated up quite a bit. It was at about 138 or 140 degrees on the internal system. So, we weren't quite sure if that was abnormal or not. They said that they had done some prior testing and that the

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unit normally gets 15 degrees Celsius higher than the room temperature. That is pretty much what it was but they were going to go back and do some further tests.

So, as we were scanning the ballots, and they were getting the issue, they had been testing everything out. Everything on the machine appeared fine. So, they decided to re-calibrate the system. So, they re-calibrated the unit. We continued. We took some of the ballots that had produced the over votes and we re-scanned all of those ballots. They all scanned fine.

So, it appears that this unit had gone out of calibrations whether, in the New York City procedures they do have a procedure where they clean and re-calibrate every unit before the election. So, I mean it is possible somebody missed it and it didn't get re-calibrated. But it is also possible that they did their job, the machine was shipped to the poll site and during shipment or even during use that day, it went out of calibration.

Um, you know, we asked the Engineers why didn't it, as soon as the machine started up, you know, report these over votes. And he said, you know, it's most likely that when the machine reached its optimum temperature for operation, you know the 15 degrees Celsius over the room temperature that it just kicked in, the mis-calibration. And it appears that what was happening is the ballot was scanned. The image of the ballot was distorted. So, then when the system, the programming looked at the ballot to analyze it for votes, it was looking, the program was looking where it was suppose to look, but the ballot was distorted so it was picking up some other part of the image that would record a vote when it shouldn't be.

**Evelyn Aquila:** Think back to lever machines.

**Bob Warren:** So, also, we had the Bronx let the machine sit that night and the next day we asked them if they would go ahead and scan another 100 ballots after it had cooled down to make sure that recalibrating it when it was heated up didn't have any effect and it had no effect. So, it appeared that the machine is functioning fine after the calibration.

**Douglas Kellner:** So, are we in a position to release the report?

**Anna Svizzero:** After today's meeting we will be sending it to New York City and will share it with the other ES&S customers as well.

**Bob Warren:** But we did say that the county should also....

**Douglas Kellner:** And with the FEC and the EAC. We have a contact there, Joshua, I can't think of his last name.

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**Bob Warren:** Joshua Franklin.

**Anna Svizzero:** Franklin and we let him know whenever we have issues and what the resolution of them had been.

**Douglas Kellner:** It certainly is a significant finding that, you know, in terms of a problem with the use of the machine that we now have to be aware of.

**Bob Warren:** The county should have a procedure in place where something of an abnormality like, you know, 90 ballots cast and you have 75 over votes out of that, they should look into it a little bit more you know when they see it on the tape. So, you know, get that machine included in the audit, just throw it right in the audit and let it.....

**Douglas Kellner:** Well.....

**Evelyn Aquila:** Well it's hard when the inspector sees that at the end of the night. You have to realize that. That is where the problem first begins.

**Douglas Kellner:** But the voter is getting the over vote notice during the day.

**Anna Svizzero:** That was the issue. If the election had been a little more current, we could have contacted the inspectors.

**Bob Warren:** That is one thing we could never figure out. Because it was recorded, we looked through the log and we had the DSS, you know, cast as is.

**Evelyn Aquila:** And it was recorded? Okay.

**Evelyn Aquila:** That makes it more of a dilemma.

**Bob Warren:** That you can't, who knows?

**Douglas Kellner:** Well, that is an issue we should look at further. I noticed that in the draft of the report, there are affirmative recommendations of what to do to address the problem in the future so I think it will be of interest to get that released as soon as possible.

**Bob Warren:** Okay.

**Douglas Kellner:** And thank you for following up on it.

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**Evelyn Aquila:** Thank you very much.

**Anna Svizzero:** I don't want Bob to go too far. We have another ES&S issue. It is a warranty issue. There are some 1700 machines in New York City and 30 in Rockland that the vendor has identified, and they are trying to be preventative. There is an issue or potential issue with the rollers that capture the ballot and draw it into the scanner that they have found that the rubber that constitutes those rollers is less than optimum. They have researched a couple of solutions. Their solution right now is to make changes in the rollers that they purchase when they build machines. And four of the machines they have identified in a certain lot number. They are going to go out to those, all 5 boroughs in New York and in Rockland for those 30 machines there and replace those rollers for those counties.

We contacted our testing lab and they agreed that it is warranty work. It doesn't reflect the certification at all. It is an issue that they have discovered and that they are being pre-emptive in resolving it. So, we have no issues based on our consultation with SLI to have the vendor go forward and make those upgrades to those units that they have identified.

**Douglas Kellner:** Who is SLI?

**Anna Svizzero:** The testing lab, our certified lab.

**Jim Walsh:** I have a question Anna. When this came up I asked this question of Todd and I have an old fax machine and so it goes back several years ago or several years and it has a roller system on it. And when the roller is in need of maintenance it comes right up on my little screen. It tells me that this needs to be cleaned. Now with all of these technology improvements over the years, can't they have something in this machine that just indicates that the rollers need to be cleaned or disposed of or they have used their useful life?

**Anna Svizzero:** We can certainly talk to them about it. Because the outcome here is when they act up, if you will, there could be ballots jammed and we know what kind of problem that can create in a polling place and we don't want to have that problem. But, we can certainly talk to the vendor. We have regular conference calls with them and ask them if there can be an alert through the maintenance process or the pre-election process that just warns the board that these rollers need either replacing or cleaning. We can make that.....

**Evelyn Aquila:** My son said the same thing.

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**Anna Svizzero:** We can make that part of our next conference call.

**Jim Walsh:** Thank you.

**Evelyn Aquila:** I was asking him what he thought because he is great on all of this electronic stuff. He says you've got to clean them; you've got to take care of it. You probably knew that too didn't you.

**Douglas Kellner:** Anna, you still have the floor.

**Anna Svizzero:** I don't think I need it anymore.

**Douglas Kellner:** Ballot redesign and usability project.

**Anna Svizzero:** I will defer to Joe.

**Joe Burns:** The only thing to add and I think Kim will mention this. There are a couple of bills in the Legislative Packet that have to do with ballot redesign and that is about it.

**Douglas Kellner:** Joe is there a regular process in place now for raising usability issues with the counties?

**Joe Burns:** It is something we communicate with them on. I guess I'm not sure what you mean by regular.

**Douglas Kellner:** Are we getting ballot templates now?

**Joe Burns:** On, yeah.

**Douglas Kellner:** So there is input from your usability group on the ballots that are being used in the Primary's.

**Joe Burns:** It is something we discuss with the counties, no question. Right.

**Douglas Kellner:** All right. That's good.

**Anna Svizzero:** Thank you.

**Douglas Kellner:** All right, thank you Anna and Joe. So, Public Information, John Conklin.

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**John Conklin:** Excuse me. I am a little under the weather today so, um, I think we included just about everything in our print report. Obviously, we are involved in a move like every other unit in the building. So, I'm basically going to let the written reports stand unless you guys have any questions or unless Tom wants to add anything.

**Douglas Kellner:** We're good? Thank you. All right then, Campaign Finance?

**Liz Hogan:** Thank you Commissioner. Pretty much what we have been involved in since the last meeting is in our written report. I have given you the statistics, as I always do, about relative to the different areas of the workload in Campaign Finance and intake and processing so that you are aware of the volume that we are under.

If just, if I could point out two things relative to the report, I want to reiterate that for the non-filing of the January 2012 periodic, we did sue 511 people. There seems to be, many times there seems to be some criticism that we don't enforce relative to these issues but this is how we enforce. We sue these people for not filing and next year when we review this year's non-filers as we always do, we refer hundreds of people to the District Attorney for prosecution. That is the extent to which we can go by statute. I want to reiterate to you that we are doing that.

The other thing that I would like to point out to you is that our seminars, our Campaign Finance Seminars have started. This week, I think the first one was on Tuesday in Ulster. They are today in Dutchess. There will be 19 across the state. For the first year, we are offering in 4 locations CLE credits for attorneys who are attending. And, I know that was Douglas Keller's instigation over the past couple of years and we have gotten the approval for that. So, this is the first year that we were able to do that.

Other than those, those are the highlights. Of course, what everybody has said with the move it has been tough but, you know, attempted throughout this move. I know some filers were inconvenienced. If you hear from people who couldn't get through, we apologize, but, you know, our system was down. We did the best we could and that about covers it unless Bill has something to add.

**Bill McCann:** No, you did okay.

**Douglas Kellner:** And it was really just a short outage. The volume.....

**Liz Hogan:** It was. We were out for like a day and one-half or something on our system, so.

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**Douglas Kellner:** All right. And, of course, we will come back to you and Bill when we discuss The Independent Expenditure Regulations on the regular part of the agenda, Information Technology?

**Todd Valentine:** Dan is out sick today and we didn't get a chance to brief anybody else to come in but the one major project that they continued to do. Well, we have moved yes. There is still a little piece of us left over at the old building which is the data center for the statewide data base, Campaign Finance. That is scheduled to move at the middle of this month. It will be at a remote location up at the State Office Campus so they are busy preparing that site for us.

Right now, all of our systems and I gave them credit as I, you know, when I talked to them personally, but we, we started packing up on Wednesday. We moved on Thursday, started Thursday morning. By Thursday afternoon the phones had all moved over, the computers were operational, printers to a lesser extent as they got located and were hooked up were operational, copiers. So, by the end of the day on Thursday and into Friday, everybody's electronics were hooked up. So, you know, I have to give them the credit for that. We have a bridge temporarily working to our old building. But the next phase is moving that.

No, its, its, they won't say this but, you know, they have some anxiety about that because that center was built in site, it was built in position, it was developed there. We have never moved it before. And it has been there for a number of years. You know, there is always going to be a little bit of a scare when you move a lot of hardware like that. Obviously, we have a professional mover for that.

So, I, you know, they are and right now they are testing the communication system, the protocol between here and there so that they can remotely operate that, so I am not expecting, we are not expecting any problems but obviously we will be down for a short period during Mid-May whether it is probably at least 2 days. You know, one day to pack up to move and then reset up again. That could extend to 3 days if there are any hiccups. But, we are not expecting it. So, but we don't know the exact date yet because they still haven't finished constructing the site over there. So, I don't know if Bob wants to add to that.

**Bob Brehm:** I mean that's why are moving, when we could do this. We looked at the March 20<sup>th</sup> village elections, the special elections, the Presidential Primary, the Federal Primary, you know all of the periods of time where the counties have to print poll books. And that window around printing the poll books where the data base has to be available to them, and this was the period of time where we thought gave us a small window, very small, that we could convert this activity.

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We were given assurances from OFT that they would have been ready to make the move to the data base already and then somewhere along the line they said it would be two weeks later. But, we still can fit that window and not impact any county voter registration poll book printing. So, even if they are down a day that is one thing depending on when. But if it is at that critical period of time for printing poll books, we will just have to delay it. But, we think that we are well on track to get it done and not impact the counties in a way that will, you know, make it impossible for them to do their work.

**Tom Connolly:** If I may, since we are on the topic, I would like to take the opportunity if there are any counties watching to remind them that now, if you haven't started already, to start sending over the new district information in the voter registration systems. We are going to be following up internally and checking to make sure that they are providing the new district numbers so that the data base is as up to date as it can be.

**Douglas Kellner:** And what is the deadline for the counties to provide the new district information on the data base.

**Tom Connolly:** I don't know if we actually sent one yet. I think I still need to kind of, we did start putting something in place last week where we will be able to run reports to see which counties are not sending the correct district numbers that they should be. So, I honestly don't have a grasp yet on what that universe is yet. So, once we take a look at that, we will start to be able to reach out to those counties and try to make sure that the.....

**Douglas Kellner:** We are talking about several weeks, not months before they have to have the correct numbers in the data base, right?

**Bob Brehm:** I think most are done. I heard from John Jennings last week when he had called about some question and he said that they had just finished the last of the NTS counties so they had 50 customers. Certainly the ES&S counties, you know, we can follow up in New York City. So, I don't really think it is going to be, I mean we really have to know for sure. But, I think the counties have done an awful lot of work.

One of the main issues that they couldn't make live up until they printed the poll books for the Presidential Primary, is the Presidential Primary was on the old 29 Congressional Districts and then they had, so they had to be able to keep that, those lines in place for the poll books and then they could convert to the new 27.

So, it all depends on their timing, you know, when they converted those, finished the Assembly and Senate work.



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**Douglas Kellner:** Everyone except New York City actually prints their poll books from the State Data Base or are there other counties besides?

**Bob Brehm:** Well, they all have to use our State Data Base because in order to print your poll books you have to audit against the State Data Base to make sure the data is correct. And if the data doesn't match exactly, then they can't appear in the poll book. So, that is why they all have to use, there is that match that they use.

**Douglas Kellner:** Including New York City?

**Bob Brehm:** And they do that now.

**Douglas Kellner:** Okay.

**Bob Brehm:** You know, it's one of the last steps, you know, like New York and I think Suffolk, in all of them, they all put in, do all your work. You can't just go immediately to print from that second because it takes a couple of minutes to make sure that the audit comes to Albany and gets back to your county. So, there is usually, we freeze the, you know, get your work done on Wednesday, make sure all the audits happen. Depending on the size of the, you know, the area. In New York City if they did a whole bunch of changes all at once like redistricting work, it may take, you know, a matter of an hour for those audits to clear. So, if you were doing a changing of redistricting work for all of your records, it is just a matter of timing for that to clear up.

**Douglas Kellner:** It is helpful to explain that. Thank you. All right, that concludes the reports. We have one item on old business which is to review the proposed legislation for 2012. Kim is there anything you want to add?

**Kimberly Galvin:** No sir other than it went out on April 3<sup>rd</sup> as we had indicated that it would with all copies being sent to all of you and to all of the appropriate parties at the legislature.

**Douglas Kellner:** So, if anybody wants that, they can just send us an email and we can forward that to them.

**Kimberly Galvin:** I think we could even post it on the website...

**Bob Brehm:** We posted it last year. I don't know if we posted it again.

**John Conklin:** Yeah, send it to me and we will post it.

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**Bob Brehm:** Okay.

**Douglas Kellner:** All right. And for new business we have the rulings on the designations and objections to petitions for the United States Senate and the House of Representatives. And, do we have a written report?

**Kimberly Galvin:** I believe there are 3.

**Douglas Kellner:** Should we vote on them altogether or do you want to.....

**Kimberly Galvin:** Would you like me to just briefly explain what they are for the people listening.

**Douglas Kellner:** Go ahead. Why don't you summarize it Kim.

**Kimberly Galvin:** I don't know what particular order they are in but there is a hearing summary which obviously shows candidates name and any hearings that were held on their petition and the staff recommendation is in the far right corner.

The second is labeled the Staff Report on Prima Fascia Review basically where advising as to what came in late, whether it is an objection, a petition, a specific objection and other matters that would Prima Fascially invalidate the petition or the document in question.

And the last one is a No Acceptance or Authorization Report. For those listening you need three parts to make a petition in its entirety valid when it is a nonparty member filing the petition. You need the petition itself, an authorization from the party and an acceptance of that line. And so, that report sets out what parts were missing in that process and what districts they were associated with.

**Douglas Kellner:** All Right. Is there any objector or candidate or their representative that wants to be heard by the Commissioners? So, is there a motion to adopt the report as presented?

**Jim Walsh:** So moved.

**Douglas Kellner:** Those in favor of adopting the reports say aye.

**All:** Aye.

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**Douglas Kellner:** Those opposed? So, they are adopted. Next is the proposed Independent Expenditure Regulations. Liz and Bill do you want to tell us, summarize the status right now.

**Liz Hogan:** Well Commissioner, the regulation as it was posted to the state register for public comment is still the version obviously that is before you. The public comment period ended, I think it was April 9<sup>th</sup>. And we received 4 public comments through that posting that we receive public comments from Citizens Union, The Brennan Center for Justice, Common Cause New York and the League of Women Voters of New York.

In sum and substance, and those comments are in your packet as well for you to have reviewed. There are a number of issues that are raised throughout those comments and certainly the Board, you know, through staff Bill and myself will address each of those issues that are raised in these comments at the appropriate time before discussion with you. And having provided you the comments for your own review, the most predominant and certainly the most prominent comment relative to the Draft Regulation is that relative to express advocacy as opposed to issue advocacy. The commenters did not feel that the draft went far enough. They don't feel, they feel it was too limiting. The draft as it was presented and put together by Bill and I reflected what we believe after a review of the case law in New York, the timing of the case law in New York and the application of the policy of the Board relative to express advocacy we believe that the draft reflected that.

There is some area of discussion to be had relative to whether express advocacy in New York really means more than that and Bill and I have looked at case law. We have looked at the Federal Election Commission Regulation and their basis for coming to acceptance of issues like functional equivalent of express advocacy as opposed to being just those bullet words, to meaning more, to being more expansive and to being open to really an interpretation on an individual basis.

We have looked at the Campaign Finance Board. They have a new regulation in New York City based upon the amendment to the City Charter which they then took and went to draft an independent expenditure which that board has adopted.

So, where we are at this point is having presented this material to you Commissioners is a discussion of what your concerns might be or what you would like to discuss relative to those points raised by the commenters.

Bill, do you want to add anything at this point?

**Bill McCann:** No, it's perfect Liz.

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**Douglas Kellner:** I just wanted to say a few things that, I read the comments that had been submitted and I agree with the summary of the comments which is that they all seem to feel that we did not go far enough in defining express advocacy. The statutory mandate was that we do regulations to the fullest extent of the existing law so that the two elements in that are that we do it within existing law and that we do it to the fullest extent. The problem is that, well, I should say, my understanding is that, at this time, everyone is agreed that issue advocacy is not covered by the existing law and that, therefore, a regulation would not address issue advocacy.

On the other hand, express advocacy is covered by the law and what we need to do is help define what the scope of express advocacy is so that the lawyers have a black and white definition that is useful in giving advice to clients as opposed to gray areas. And, also, for our own enforcement it seems to me that it is difficult for us to enforce in gray areas because we have such a strain on resources as it is. If it is going to be a gray area, then we are unlikely to proceed to enforce just because of the allocation of resources.

So, my suggestion is that Bill and Liz continue to work on reviewing the other regulations but to try to address the definitions in the way that the Brennan Center Memorandum lays out. Because I think the Brennan Center Memorandum does pick up this distinction between express advocacy and issue advocacy in a way that we can work with and would make sense.

**Evelyn Aquila:** I agree with you Doug. You know, I think that people feel like their hands are tied sometimes because of all the rules that we have and I think we have to look these things over every once in awhile. You know, it is 2012 and the Brennan Center is not wrong. Not in all of it but in a lot that it says here and I think we should take a chance to see what is doable and what isn't, if everyone agrees.

**Douglas Kellner:** Do you have any thoughts on this Greg?

**Evelyn Aquila:** I mean what will work, I'm sorry that's what I think.

**Greg Peterson:** Well, I certainly think that, you know, that Liz and Bill can look into it a little bit further because I think there needs to be coordination between the remedy and what presently exists so that we don't wind up with a conflict, and wind up with lawsuits later on. We will have to have something that is defined. If we are going to try to resolve the problem, we should resolve it in a way that hopefully is done rather than put a patchwork in where we wind up with a band-aid and then have a headache later on. So, I think they have certainly made the right analysis at this juncture and I think if we delve into it a little bit more we can come up with some answers.

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**Evelyn Aquila:** I agree with you Greg to some degree because I think so many things have changed just in the last five years that it is important that we keep up with them. And I think somehow we have to do some kind of an analysis and say, how can we get more voters to the poll, how can we make it easier for them? And how can we take away some things that are just obstacles. And I think we have to find those things out. I certainly don't have the good way of saying it, you know. I don't have the legal words or the, you know, but I do, I think that we should always be on the side of the voter and we want to get that voter voting and we want to get the, not have so many rules and laws and things that keep people from wanting to go and vote. And I think we have to look at that from the top to the bottom. And, I don't want to pile this up on any two people in this office. This is such a small office. But I think we have to start looking in that direction and look at the Brennan Center as an enabler for us not someone who we want to push away.

**Greg Peterson:** Well when it comes down to it you don't, what you don't want to do is adjust the gray area. What you want to do is to be able to define it so it is black or white.

**Evelyn Aquila:** Absolutely.

**Greg Peterson:** And that, it's not that easy.

**Evelyn Aquila:** As I said, I don't have the language of the lawyer, so you just had it, yes, I agree.

**Greg Peterson:** It's really common sense.

**Jim Walsh:** I am in agreement also and if we pass something or we make a rule, chance of ever changing it are always very slim and very difficult so let's take our time and do what we all believe in and we have a majority support for.

**Evelyn Aquila:** Well I suppose there is always that feeling of urgency when we have a Presidential Election. You know, that comes with the Presidential Election.

**Douglas Kellner:** All right. So I think that we have a consensus on at least the principles guiding it and I realize the devil is in the details in trying to get language that does give real guidance to the public on this.

**Evelyn Aquila:** I think the counties are glad when they get it from us.

**Douglas Kellner:** This is actually addressed to the election lawyers who have to provide advice to groups that are doing advocacy in terms of whether they are required to make

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disclosures of their expenditures and if they are merely advocating on issues of general public concern, then the disclosure rules do not apply. But if they are advocating in support of the election of candidates or in support of referenda issues that are on the ballot, then they are required to make disclosures. The only issue is where is the boundary between those two definitions? Okay.

**Evelyn Aquila:** But I have to say this Board has always been in favor of the voter.

**Douglas Kellner:** All right. Then, the next is the new regulations to address the new address for the State Board of Elections. And, I realize that this should not be a controversial resolution.

**Jim Walsh:** I'm opposed. (lots of laughter)

**Douglas Kellner:** But I am still interested in a report of what happened to the amendment to the regulations that we adopted, I believe now four years ago, that are still not officially published.

**Bob Brehm:** Well, that's a good question and the day you asked it was the day after all of our Board Minutes were boxed up and sealed. And we discussed with Anna and it really pre-dated Paul.

**Kimberly Galvin:** I didn't work here either.

**Bob Brehm:** Because it was like right when Pat was leaving and in my recollection that it went over as the consensus read because the main issues that you were talking about was when the Legislature changed the statute that we couldn't ask for some of the certifications from the vendors and we adopted it. So, we still haven't unpacked those boxes yet.

So, what we did is this one first and we've all talked about it. I know Todd and Anna and Kim and Paul were going to pull that out. We believe we have actually adopted it but I don't know what happened to the paperwork. So, we will follow up and if we have to submit another set, we will but, we are on it.

**Douglas Kellner:** And I guess I'm sufficiently frustrated now that this should be on our agenda every month until I can go online and see that the Secretary of State says that the text has been changed even though we voted on it years ago.

**Anna Svizzero:** We'll put it on just one agenda.

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**Douglas Kellner:** All right. As to changing the regulations to show our new address at 40 North Pearl Street, those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? The HAVA Complaint Funding Resolution, Liz do you want to just give us a one sentence explanation?

**Liz Hogan:** Right. And I would like to point out that for some reason, the copy that was put in your packet was the resolution from 2010 but there is a resolution for this year and I distributed copies of that to you. Now, basically what this is is the HAVA requires that we employ through retainer a dispute resolution mediation service or arbitration service. And we do so through, through a previously trained group that Bill and I have dealt with. This is the routine annual resolution to be able to pay the retainer from HAVA Funds.

**Douglas Kellner:** And what is the current retainer that we are paying now?

**Liz Hogan:** Ten thousand dollars I believe, isn't it?

**Bob Brehm:** The sum is not to exceed fifteen.

**Liz Hogan:** Right. I believe that we pay ten. We've had to take some money for training purposes up to, that's why it says up to the fifteen. But I think the retainer; if my memory serves me is ten, itself.

**Bill McCann:** Yes, it's ten and an additional five.....

**Liz Hogan:** For training issues and things like that, if we need it.

**Douglas Kellner:** And is that expenditure appropriate in view of the fact that there wasn't a single complaint filed last year?

**Liz Hogan:** That, that's a matter of, I guess, this is a statutorily required retainer. The HAVA demands it and that's why we do it. Whether we use their services or not, we still have to have them retained to call upon should we need them.

**Bill McCann:** Right, and just to add a couple of factors to that, one is, it is under Federal Statute and under the State counterpart and then secondarily, it costs a unique, you know, it has to cover the whole state and when we went out and solicited proposals for that initially, there are very few entities that can provide across the state services that we require under the limited time frame of the regulation. So, it is not like you can have, you

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know, but so, we initially did actually a great deal of work to ascertain who might be able to provide these services. And, so, the long and short of it is, it is a statutory requirement and we are in compliance and that's where the expenditure comes in.

**Liz Hogan:** And also should we.....

**Douglas Kellner:** I guess the issue is that there has been one complaint filed in the four years that this has been in place.

**Liz Hogan:** No, no but this only.....

**Bill McCann:** Again, this is only a secondary phase.

**Liz Hogan:** Exactly.

**Bill McCann:** The way the regulation works is that if we have a complaint and it's not resolved within the statutory and regulatory time frame, it automatically gets kicked to arbitration for an alternative dispute resolution processing. So, we have never had an issue that would require it to go to the arbitration.

**Liz Hogan:** And we might never see that.

**Douglas Kellner:** So, so, it's not even one, it is zero.

**Bill McCann:** Yeah.

**Liz Hogan:** That we have never used this arbitration service, that is correct.

**Douglas Kellner:** Yeah, but maybe if we did, was this re-bid?

**Bill McCann:** Well, right...

**Douglas Kellner:** Was this particular fifteen thousand dollar appropriation re-bid or are you just using the existing contract?

**Liz Hogan:** No, the existing contract.

**Douglas Kellner:** If we let everybody know that this system has not been used, do you think we might get bids lower than fifteen thousand?



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**Bill McCann:** Well, first of all, five thousand is not, it's a ten thousand administrative fee. So the five thousand, if we have additional, the five thousand is a set aside because you actually have to pay the arbitrators if you ever get to use them. So, its ten thousand is the administrative fee and the five thousand is the set aside.

**Douglas Kellner:** Right and it strikes me that there are a lot of law firms that might be willing to bid a lot less than that to perform that service...

**Liz Hogan:** But they would have to have the ability to provide it across the state and they would also have had to have been trained which we did. We provided a full days training for every arbitrator that we might use from this particular entity relative to the type of complaints and those kinds of, so it wasn't just, you know, have a law firm on retainer and, there was a lot involved.

**Bill McCann:** If I could also add to that, there was also a disability aspect because of the various aspects of HAVA are relative to polling place access for instance. If someone had made a complaint relative to that and it went to arbitration, we anticipated providing these arbitrations around the state for convenience factor as well because of some of the disability aspects. So, it is actually a limited group of folks who, for instance our current vendor is the New York State Alternative Dispute Resolution Association NYSDRA. They provide these services throughout the state in every county and so they have the ability. Also, I would add that at the time that we went out for this, we had initially anticipated for instance using the American Arbitration Association other ones and it was through the Attorney General's Office and their Lemon Law Program and then speaking with other agencies, that many other state agencies have contracts with NYSDRA to provide these very same services because of the breadth and scope of what they are able to offer.

So, I feel very comfortable that it is a de minimis amount of money relative to being in compliance with the statute and having it available in the case we should have a need.

**Douglas Kellner:** Well, I don't think there is any question we need to vote the resolution because we have to authorize the expenditure of the money. I just raised the question of whether the fees, even though you know you say it is de minimis, the level of work and services that are provided are so small that it strikes me that it is still a larger number than might be appropriate given the history.

**Bill McCann:** Well, there is one factor...

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**Douglas Kellner:** Given the history, that's all. In other words if they are already trained and they are already in place, do we need to continue that much. But, you know, I don't want to make a Federal Case out of spending ten thousand dollars. But, but...

**Todd Valentine:** We can always look to renegotiate the contract at any time so...

**Douglas Kellner:** And I am just suggesting that maybe it is appropriate to do that in view of the, you know, when we put this in place we had no idea...

**Todd Valentine:** No, we didn't have a baseline.

**Douglas Kellner:** Of what was involved, I guess we could always remind the public that that option is still open to the extent that there are disputes there is a process by which they can file complaints and have them addressed.

**Todd Valentine:** Yeah, I don't know what the, I don't know what the time line; I don't know when their contract is up current. I don't know the deadline.

**Douglas Kellner:** But certainly, you know, we have been responsive on an informal basis. So, for example, you know, we do follow up when we get letters from the public complaining about election administration issues and either Anna's Unit follows up on them or it goes to the Enforcement Unit. So, maybe, you know, the informal procedures have led people to feel that they don't need to file formal complaints.

**Liz Hogan:** But actually the informal procedure is the first step in a HAVA complaint as the procedure is written. So, actually that is the appropriate mechanism. I mean should it escalate to the point of needing to file a formal complaint that is a whole other issue but Anna, most of these HAVA issues...

**Douglas Kellner:** We define informal HAVA complaint though as still a process that hasn't been used, right?

**Liz Hogan:** Yes, in terms of, yes.

**Douglas Kellner:** If somebody writes us a letter and says I wasn't able to cast my ballot at this poll site because of access, that is a, that is a preliminary inquiry and Anna would get that and address it.

**Liz Hogan:** That's right.

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**Douglas Kellner:** And I'm suggesting that because we have those procedures that do that, that we don't even get the technical informal complaints, let alone the formal complaints that escalate to arbitration.

**Liz Hogan:** But almost every complaint that, it just so happened that this particular area of the HAVA, you know, created in statute the procedures that have been followed all along between the Boards and this Board relative to dealing with those things because it is a way of taking care of these issues. I mean if Anna calls the Board and says somebody's got a problem with where this is and they fix it, that has always been the way to most effectively deal with those problems, so...

**Bill McCann:** Uncomfortable, we can vote.

**Douglas Kellner:** All right. Those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? All right the resolution is adopted. The last is the order under the Districting Statute that gives the State Board of Elections authority to correct ambiguities or problems with the maps that the Legislature has adopted. So, we have an application that we are calling the matter of correction to the metes and bounds of the Assembly District 96. And, an order has been drafted to modify the statutory metes and bounds for the 96<sup>th</sup> Assembly District which is in Rockland County. Are there any questions or does anybody want to say anything about it?

Okay, those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed, all right then that order is adopted. Next we have the preliminary determination in Campaign and Finance Enforcement CMP12-04 and we have dispositions not requiring preliminary determinations in CMP12 to 18, 17, 11 and 10.

**Liz Hogan:** I think that we need an Executive Session to discuss...

**Douglas Kellner:** It's just one of them that we needed to discuss, or?

**Liz Hogan:** Yes.

**Susan:** Do you want me to leave?

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**Douglas Kellner:** So, yes Susan but, let me just, so which one is it that we are setting aside?

**Liz:** The preliminary determination, the non-firing are able to be dealt with.

**Douglas Kellner:** Okay, so we are, the motion is to adopt 10, 11, 17 and 18. All right those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? All right, we'll, before we do a, thank you Susan.

**Sue Cohen:** There was a comment I wanted to make at another time.

**Douglas Kellner:** Go ahead but 30 seconds.

**Sue Cohen:** I have a complaint issue that you brought up with the subject matter. I have about 75 testimonials over 4 years of complaints from voters and a lot of them wanted to do HAVA complaints but they find the process unbelievably difficult and that is why you see so few. That doesn't mean everybody is happy with accessibility in New York, it is because the process is very cumbersome. We even have a staff person trying to help and it was difficult. I would be happy to talk at another time about the testimonials and the challenges people had, but there are complaints that could be issues but they just couldn't and I don't think it is fair.

**Douglas Kellner:** Well Sue, not that we want to encourage people to file, but I am really troubled by a characterization as being complicated because it's really not complicated that...

**Anna Svizzero:** Thank you Commissioner. I was hoping that somebody would speak up.

**Douglas Kellner:** Even a non-lawyer should be able to read this and just follow the simple instructions as to how to do it.

**Sue Cohen:** Well, I believe, I just was not the one so it is hearsay, so I can't speak to these, but there was a lady who does this, who read it and when I brought up bringing a complaint, she said it is far more difficult, you might as well just not bother. That is the response that I got.

**Douglas Kellner:** I suggest that you look at the reg yourself then and...

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**Sue Cohen:** I will.

**Douglas Kellner:** I mean if you really think it is complicated, then let us know and we can talk about it but, but, I just can't imagine a simpler process. I wouldn't know how to simplify it.

**Anna Svizzero:** May I. It starts with a phone call to us and it can start with a letter. It doesn't start with a formal complaint. It is a contact. And we respond to every piece of mail that we get, we respond to every phone call that we get.

**Liz Hogan:** I would like to say Commissioner that no one has ever called the Enforcement Unit for assistance on this and not gotten a response from us.

**Anna Svizzero:** Nor have they called my unit and I would vouch for Mr. Conklin's Unit.

**Sue Cohen:** Well, I am happy to show the testimonials that I have collected. I would be happy to talk with you. But I will review the regs again to see what is complicated about it. But you understand when you are talking about individuals with disabilities, which is the group that I represent and that's not all the people who maybe have a complaint, some are intimidated by the process.

**Liz Hogan:** But that is why there is a provision that the counties are required to assist those people as are we. And if we got a call from someone, we would assist them. But we never get...

**Anna Svizzero:** We have people who call on behalf of clients that had issues and we have resolved them so I find that very hard to believe myself.

**Sue Cohen:** Okay, as long as it's going to be resolved but, what I, as I said you know some of these testimonials...

**Douglas Kellner:** All right, we heard you and you know if you have any comments on...

**Sue Cohen:** What is the reg, can you give me the statute so that I can read it?

**Liz Hogan:** 6216.

**Sue Cohen:** 6216 and that is what?

**Liz Hogan:** 6216 is the Help America Vote Act Administrative Complaint Procedure.

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**Sue Cohen:** Okay, I will look it up. I'll do a little analysis

**Evelyn Aquila:** Sure and call here and talk to ....

**Sue Cohen:** I'll do analysis of it and see where it was complicated. We thank you for your time.

**Kimberly Galvin:** Douglas Kellner could I just add one more thing in a public setting. For all of you that have to file your Financial disclosure Forms, we've had, we've had some glitches with the technology and their computer system. It should be remedied. The last email I sent told you to go to the website, request a password, you should be ready to go by now.

**Douglas Kellner:** You're talking about the Senior Staff and the Commissioners.

**Kimberly Galvin:** I am, those that are required to file. And I would strongly urge you to file by the 15<sup>th</sup> even though there has been a problem in the uploading at that end.

**Douglas Kellner:** May 15<sup>th</sup> is the deadline.

**Kimberly Galvin:** May 15<sup>th</sup>. Thank you.

**Bob Brehm:** May 15<sup>th</sup> is the deadline.

**Evelyn Aquila:** I think I have a scratch off on mine and then...

**Kimberly Galvin:** Well, you're all set and I have it right here. May 15<sup>th</sup>...

**Evelyn Aquila:** I had to scratch out on mine because I did it 1,2, 3. She mailed it to, I have two addresses, she mailed it to my, where I wasn't for two weeks and then I went and picked it up and I was answering it while we were driving in the car, so...

**Liz Hogan:** Are you saying that it is your understanding that it is still May 15<sup>th</sup>? The email that came yesterday said that there was an extension to June 2<sup>nd</sup>.

**Kimberly Galvin:** I didn't get that one. Still you know, it is clearer if you can get it done by the 15<sup>th</sup>. Once you log on and last year's pops up, unless there are significant changes, it is a very easy process.

**Liz Hogan:** Right but I think they did give us a couple of weeks.

*Board of Commissioners Meeting  
05/03/2012*

*Male, Female*

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**Kimberly Galvin:** Okay, I didn't get that one.

**Douglas Kellner:** You know, one other thing with email is that everybody still is carrying the old 40 Steuben Street Address.

**Bob Brehm:** I've been putting it on all my...

**Douglas Kellner:** The staff to change the signatures on their emails.

**Evelyn Aquila:** Well, I do go on the computer now but I don't send back answers. Every morning I'm on, I look up everything...

**Douglas Kellner:** All right.

**Liz Hogan:** Commissioner did we vote to go into Executive Session?

**Douglas Kellner:** Not yet, we are getting close though. Meeting date, I suggest that we do either May 8<sup>th</sup> or the Tuesday before that.

**Bob Brehm:** June you're talking about.

**Douglas Kellner:** I'm sorry, no so it's June 5<sup>th</sup> or June 12<sup>th</sup>.

**Evelyn Aquila:** Either one is fine with me.

**Douglas Kellner:** So, we are talking about June 5<sup>th</sup> as our next meeting date. If there is nothing else we'll take a motion to go into Executive Session.

**Evelyn Aquila:** June 5<sup>th</sup> please not the 8<sup>th</sup>, I think I have a graduation on the 8<sup>th</sup> okay.

**Jim Walsh:** June 5<sup>th</sup>.

**Douglas Kellner:** June 5<sup>th</sup>. All right so the motion before us is to go into Executive Session to discuss the preliminary determination 12-04. Those in favor say aye.

**All:** Aye.

**Douglas Kellner:** Opposed? All right so we will close out the Public Session and go into Executive Session.