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MARCUS CEDERQVIST
EXECUTIVE DIRECTOR

GEORGE GONZALEZ
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS
ADMINISTRATIVE MANAGER

BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

AGENDA COMMISSIONERS' MEETING TUESDAY, JANUARY 19, 2010 AT 1:30 P.M.

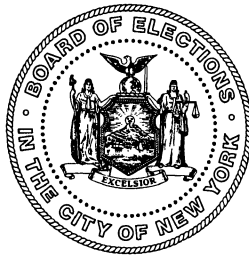
1. Rosanna Rahmouni
 - a) 2010 Poll Site Flow and Generic Procedures
2. Minutes
 - b) 01/05/10
3. Marcus Cederqvist
 - a) HAVA Update
4. Troy Johnson
 - a) Notice to All Candidates
5. John Ward
 - a) Vacancy Report

For Your Information

- HAVA Weekly Report – Week Ending, January 14, 2010
- State Board of Commissioners Meeting, Thursday, January 14, 2010 - Agenda
- REVISED Calendar for Certificate of Nomination – February 9, 2010 Special Election/Member of Assembly 24th Assembly Districts, Queens County
- REVISED Calendar for Independent Nominating Petitions – February 9, 2010 Special Election/Member of Assembly 24th Assembly Districts, Queens County
- New York State Legislative Session Calendar, January – June 2010
- Optical Scan Ballot Decision Handed Down for Chautauqua County

News Items of Interest

- *Daily News*: Council race picks up pace
- *Daily News*: Scrap this junk lawsuit
- *Newsday*: No funds for Hawaii election
- *NY Post*: Obama Voting Block, Diebold suit nears
- *NY Post*: Vote of confidence for ballot scanners
- *NY Times*: Voting System to Finally Join Electronic Age
- www.theepochtimes.com: DeBlasio Releases Outreach Plan for New Voting Machines
- www.publicadvocate.nyc.gov: DeBlasio Releases Comprehensive Outreach Plan to Educate New Yorkers About New Voting Machines



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JOHN J. WARD
FINANCE OFFICER

DATE January 19, 2010
TO: Commissioners

FROM: John Ward
Finance Officer.

RE: Vacancies

					Inc.	New.
1	Assistant General Counsel					\$75,000
2	Valerie Marshall	Adm. Asst.	N.Y.	Dem.	\$42,659	\$40,628
3	Robert Helenius	VMT	Bklyn	Rep.	\$30,088	\$28,655
4	Angela Petit	Clerk.	Bklyn	Rep.	\$29,323	\$27,927
5	Angel Holcomb	Adm. Asst.	Qns.	Dem.	\$42,659	\$40,628
6	Linda Ward	Clerk.	Qns.	Dem.	\$29,323	\$27,927



State of New York
STATE BOARD OF ELECTIONS

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Gregory P. Peterson
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Evelyn J. Aquila
Commissioner

40 STEUBEN STREET
ALBANY, N.Y. 12207
Phone: 518/474-6367 Fax: 518/486-4546
website: www.elections.state.ny.us

Todd D. Valentine
Executive Director
Robert A. Brehm
Executive Director
Kimberly A. Galvin
Special Counsel
Paul M. Collins
Deputy Counsel

January 15, 2010

Honorable Gary L. Sharpe
United States District Court
for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States v. New York State Board of Elections, et al.*
Civil Action No. 06-CV-0263 (GLS)

Dear Judge Sharpe,

We enclose herewith Status Report of the Defendant New York State Board of Elections for the week ending January 14, 2010.

Respectfully submitted,

s/ _____
Kimberly A. Galvin (505011)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

HAVA COMPLIANCE UPDATE
Activities & Progress for the Period of 1/08/10-1/14/10

Following is a detailed report concerning the previous weeks progress in implementing the terms of the Court's Order

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are on schedule with the revised timeline.

Contracting with Voting System Vendors

Status of tasks in this category: on schedule

- OGS is working with NYSBOE and both vendors to finalize their most recent add requests
- OGS and NYSBOE are discussing certain legal issues that have arisen regarding the machine requisitions recently received.
- BOE is reviewing the SysTest invoices for November.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: on schedule

- Overall progress of testing :
 - All counties have chosen a voting system vendor. NYC still need to forward requisitions to OGS for processing and issues with the Nassau County requisitions are being analyzed by OGS and SBOE.

NEW YORK STATE BOARD OF ELECTIONS

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: on schedule

- Acceptance testing continues at Building 3.
- Counties are being surveyed to ensure they have submitted requisitions for the election management software packages that enable implementation.
- SBOE has provided the software upgrades to the county boards of election.

HAVA COMPLAINT PROCESS

NYC HAVA Complaint

NYCBOE responded to the SBOE inquiry. SBOE is formulating a strategy to move forward and has advised the Department of Justice of the City Board's response. A decision regarding what action will be taken will be made early this year.

Comments
FY2



State of New York
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NOTICE

**Board of Commissioners Meeting
Thursday, January 14, 2010, 12:00 p.m.
State Board Offices, 4th Floor
40 Steuben Street
Albany, New York**

I. Minutes of December 15, 2009

II. Unit Updates:

Co-Executive	Robert Brehm and Todd Valentine
Legal:	Kim Galvin
Election Operations:	Anna Svizzero
NVRA/PIO:	John Conklin
Campaign Finance:	Elizabeth Hogan
ITU:	George Stanton

III. Old Business

Discussion on proposed formal opinion regarding the Village of West Hampton Beach
(Todd Valentine and Paul Collins)
Discussion on proposed 2010 Legislation
(Kim Galvin and Paul Collins)

IV. New Business

Discussion of Transition from Lever Voting Machines to Op-scan Systems
Update on progress towards implementing the MOVE (Military and Overseas
Empowerment) Act.
VOTE on Resolution to Extend SAN (Storage Area Network) Service Contracts
(George Stanton)

V. Executive Session

Personnel
Enforcement cases

Preliminary Determinations

CMP08-81
CMP08-63
CMP08-62
CMP07-155
CMP07-48
CMP06-49

**All Board meetings are open to the public. For additional information, contact John Conklin
(518) 474-1953.**

SBOE Meeting

JANUARY 14, 2010

(Standing by.)

(Please stand by for the New York State Board of Elections meeting.).

(Please stand by for the New York State Board of Elections meeting.).

>> DOUGLAS KELLNER: All right?

Good afternoon, everyone.

My name is Douglas Kellner, cochair and I'll ask the Commissioners to introduce themselves.

>> EVELYN AQUILA: Evelyn ac quill La --

It's not ladies first?

>> DOUGLAS KELLNER: Start with our cochair.

>> JIM WALSH: After Evelyn Aquila I'm Jim Walsh.

>>: (Off microphone.)

>>: Paul Collins.

>>: Joe burns.

>>: Anna Svizzero.

>>: Pat cam I don't know.

>>: Liz Hogan.

>>: Bob Brehm.

>>: Bob Warren.

>> DOUGLAS KELLNER: And our guests?

>>: (Off microphone.)

>>: Motors.

>>: Amy on behalf of --

Voters.

>> DOUGLAS KELLNER: Welcome to everyone.

The first item on the agenda is the approval of the minutes of

December 15, 2009.

Motion?

>> JIM WALSH: So moved.

>> DOUGLAS KELLNER: Those in favor say eye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Minutes are adopted.

Unit update?

Start with the executive directors, Bob Brehm and Todd Valentine.

>> TODD VALENTINE: You can go first.

>> BOB BREHM: We continue to work with the pilot review committee of the county election commission Commissioners.

We have been piloting with the committee the use of our new Web conferencing.

We have received very positive comebts.

We are able to cover the actual documents and talk and share notes back and forth.

And they felt it was very convenient not having to travel three, four hours to Albany one way to have a conversation.

So we have had some phone calls.

We had a session on January 7th where we focused on the post election audit, the amendments you made at the last meeting.

You know, the instructions that we put together in our procedures and areas that we could be clearer in what we are looking for in case they didn't understand what we were looking for.

It was a very possession.

We have another session scheduled for January 20 where we look to focus on privacy issues related to the use of the new equipment and the polling site follow-up on some of our observations from both the primary and the general election last year and to offset some of those.

We have a number of sessions planned where we try to get their feedback on the procedures we gave them.

Whether they were clear, whether they were adequate.

The training that they received both from the State board training segs or from their vendors.

Are there any gaps that we can fill before the next, before we launch it statewide?

Those segs are ongoing.

It's a positive.

And we look forward to our next session on the 20th.

We also had a number of meetings to review programs that are out, at least to review what other states are doing to comply with the MOVE act and what other programs might be available.

There were three specific sessions where we reviewed two proposals from vendors that already are working on a product.

And also a discussion with Savr, what we can currently do to make the compliance for 2010 a reality.

And also Todd and I are attending a conference at the end of the month in Washington and prominent on the discussion is, you know, both information from the federal and other states as to what they are doing to comply with the MOVE act.

So we continue to work on that project.

Yesterday we received, we hosted --

I'm not sure that's the right word, a representative of the Social Security Administration showed up, requested to meet with us as part of internal control that they are doing.

The NYS voter ID verification component that we worked through DMS to the Social Security Administration to make sure that it is optimally complying with the help America vote act.

There were a number of questions in the IT and steering committee and a number of us participate the in answering the questions.

They selected the ten states that use the system the most to do

a review to see what were our internal controls, what were their internal controls and was it working.

It was a possession.

I think that covers at a high level some of the items that we worked on.

>> TODD VALENTINE: No, we summarized those and it's also contained in the unit report with more details, if you're looking for that.

>> DOUGLAS KELLNER: All right.

Any questions?

Thank you very much.

So we'll turn to the legal report from Kimberly Galvin.

>> KIM GALVIN: We worked with the election operations -- We participated in a lot of the meetings that Bob just discussed and we continue to support the election operation unit an what we hope is the final choices of the voting systems and nays assault and battery and New York City.

We still continue to work with them to clear up any purchase order issues that they may have or any outstanding contractual issues with OGS, which is, there are considerable amount of them and we are working through them.

We also participated in the county pilot review calls.

We put together what we anticipate to be the first phase of a legislative program which we will discuss later.

I anticipate there will be at least three phases of it.

Our weekly status calls with the Department of Justice and updating them.

>> EVELYN AQUILA: Sorry, I shouldn't interrupt you.

>> KIM GALVIN: That's fine evidence he at the end you'll tell us about the Department of Justice, I'm sorry.

>> KIM GALVIN: No, the Department of Justice was very pleased that both noirks and Nassau county did choose voting systems.

I don't know how they are going to be with regard to the

purchase order issue.

I think that we've resolved a lot of the things with Nassau's purchase order and New York City said they will have their purchase orders to OGS by February 1. All things being equal, think we are right on schedule with respect to that particular -- They seemed very pleased, satisfied with that.

I don't know about pleased.

>> DOUGLAS KELLNER: Kim, are there pending issues with the Nassau county purchase order?

>> KIM GALVIN: There are, as far as I know.

>> DOUGLAS KELLNER: Is there anything nonconfidential that we can discuss?

Kim cirm other than I think we are resolving it.

It is working towards resolution and should be resolved in the very near future.

I think that there's more to say in executive session, but I think that they've worked with OGS and with us and they are going to resubmit in a format that would be responsible.

>> TODD VALENTINE: The county has been working directly with OGS.

It is an OGS purchase order.

>> DOUGLAS KELLNER: In general, the issue is that the new contract with ES&S provided for disposition of the existing Dominion image cast machines that Nassau had already acquired as ballot marking devices.

>> KIM GALVIN: Right.

>> DOUGLAS KELLNER: So there are legal issues over exactly how that --

>> KIM GALVIN: Right, what that disposition would entail or what would be an authorized disposition of those.

And I think that Nassau ciewnty has conceded that it and more confusing than it actually was in their minds.

There was never going to be actual transfers of titles and

things.

So they were working towards resolving that in a way that it's palatable.

>> EVELYN AQUILA: I can well understand that.

>> KIM GALVIN: I think OGS said that they've figured out a way to put in their purchase order in conforming with the timeline and getting machines to them that doesn't involve -- There are still those issues, but now they become ancillary to the whole project that we still need to work through.

And the routine, you know, questions from the county boards and the phone calls that we have.

Paul, is there anything else that you want to add to that?

>> PAUL COLLINS: Just the continuing saga of the preclearance submissions and responding to the Department of Justice's inquiry concerning the various submissions.

I think the procedures amendment has not yet been precleared.

Everything else I believe has been and there's one small --

Oh, the street finder legislation hasn't received final preclearance yet.

So ...

>> DOUGLAS KELLNER: I don't anticipate any problem there. (Chuckles.)

>> PAUL COLLINS: No, no.

>> EVELYN AQUILA: Unless they took some streets away that we don't know about.

>> PAUL COLLINS: That's it, really.

>> DOUGLAS KELLNER: All right.

Then we'll turn to elections operations.

Anna Svizzero?

>> ANNA SVIZZERO: Thank you, Commissioners.

We notified the county board of the special session called by the governor to fill the vacancies, the four, Nassau, Suffolk, Queens.

That special election is on February 9.

There are local special elections in Suffolk and Westchester for short, or shortly thereafter to fill county legislative seats result of those persons being elected to different offices in November.

So in the context of letting you know about the special elections, we also let you know that the ballot marking devices are going to be used in the same manner as they were in the November election because clearly even though we certified new systems, these counties have not had a chance to transition to a completely op scan world yet.

We will be working torldz those guidelines for those elections. Status meetings with NYSTEC have resumed.

We have a number of procedures to update based on our own experiences, those from the pilot review committee and as a result of certification.

We also have some procedures that have to be written. So that relationship has resumed and that work has also resumed.

We are reviewing SysTest final invoices.

We expect to be speaking with them perhaps tomorrow, if not tomorrow, then on Tuesday.

And we will be contacting vendor for the additional funds that we need to close out that billing.

Both of the vendors have asked that their test artifacts be sent to labs for federal certification.

We will be doing that as well.

We've created the upgrade packages to the certified versions. Those have been provided to the county boards for the most part.

Our staff has been working on that for about a week.

We do want to thank the Saratoga and Albany county boards.

We wrote procedures for how to perform the upgrade.

Bob Warren and his team did that and we tested them out here. In that we are more familiar with the systems than the county people may be, we want to pilot those procedures and those counties helped us do that.

Once we got their feedback, we made changes that they recommended and have sent those packages out or are sending them out today.

We have EPS packages for the county boards one we confirm that the counties did indeed purchase the election management software. That software comes to the county from us, even though the vendor has to install it.

We will be confirming that the purchase others are in place either from last year, some counties did purchase their EPS last year, or have purchased it since certification.

We have sent packages out already.

Some of the vendors have done installs and are training now so that will be an ongoing process.

We are in the hopefully final steps of an RFP to purchase a permanent asset management system that will help the counties manage their inventory and do so in a manner consistent with the federal requirements for assets that were purchased were federal dollars.

And it will also help us in our oversight.

Because of budget considerations and staffing considerations, the oversight of this process is going to be hard to do in a physical way on each board.

To the extent that we can use this system to perform some of our oversight responsibilities, I think that will be an asset to the State board and certainly to the work that we are trying to do in operationsment.

We have regular work that we do in election operations, surprisingly enough.

We have volter inquiries, we have county board questions

related to the disposition of records, of lever machines, the question of use of the lever machines in other jurisdictions such as towns villages.

We promised the boards we would be speaking on that topic at the January conference.

General guidance.

A number of Commissioners have retired.

So there will be a lot of new Commissioners at the January conference, provided those appointments happen before then.

If not, we'll see them at our own conference at the end of April.

We did participate in the first of the pilot review calls as Kim indicated.

The topic on that one was the audit process.

I I the next topic is privacy booths and voter privacy and those concerns.

We will listen to what the boards have to say on the phone and then try to incorporate those concerns into any new procedures that we have.

And I think that is it for election operations.

Joe, do you have anything else to add?

>> DOUGLAS KELLNER: Anna, I wanted to ask you about the incident that, to review again what happened in the town of tona Wanda council race in Erie County.

The reason I'm asking is, I'm concerned that again there are people who are spreading false information about what actually happened there.

As excuses for keeping the lever machines.

And I think, you know, we've tried to be as transparent as possible in showing where all the problems have existed, but it's very frustrating that when you try to be transparent, then people distort what actually happened.

And with the Internet, then things start spreading around.

So I believe you have spoken with Erie County officials and done a little bit of investigation yourself on this, right?

>> EVELYN AQUILA: May I just ask you to say what the problem was?

>> DOUGLAS KELLNER: Well, let's Anna to explain the whole thing.

>> EVELYN AQUILA: I just want people to not know --

>> ANNA SVIZZERO: The scenario is unfortunate because that sort of misinformation does taint the waters in the world of public perception.

In any event, it was several human errors at the Erie County board that result the in the issue that you are discussing.

There were votes that many claim were transferred from one candidate to another.

And the facts are that the county did its own ballot configuration programming, as more counties are more comfortable calling it.

That ballot configuration, Erie had performed the prior year with ballot marking devices.

In '09 they did their own ballot configuration for the scanners because they did a substantial pilot in the county.

It was the entire county with the exception of the City of Buffalo.

In the creation, there's a bit of a change in how the ballots get configured in the BMD world and in the scanner world at the Erie County board with the system they chose, which is the ES&S and the DS200.

And the multiple appearance of the candidates' name of a canned ballot when they are cross endorsed is handled one way in the BMD and another way in the DS200.

The staff doing the configuration assigned, they are called sequence numbers.

Assigned the same sequence number to two different candidates.

For example if the candidate were on the Democrat and liberal line, their name would appear the first time as sequence number one.

On the other lines that they and, they would still be sequence number one.

So that the system understood if you voted for that candidate twice, they would still get only one vote.

They wouldn't get a vote for every appearance.

In the problem that the programmer, if you will, made in building that ballot, they applied the same sequence number to two different candidates.

The test deck was created.

The test deck was run.

However, the test deck tapes were not validated by staff.

The whole point of a test deck is, you know the outcome.

You mark ballots.

>> DOUGLAS KELLNER: They ran the test but never looked at the results.

>> ANNA SVIZZERO: Exactly.

If they had looked at the results of the test deck, they would have seen that problem in the week to ten days before the election.

They were busy with last minute court cases.

I think they had court cases with decisions rendered Monday night.

One can understand how these things happen.

In any event, I think it's a lesson they won't be forgetting any time soon and we are all advised to learn from that as well.

>> EVELYN AQUILA: It was only one town, not across the whole county.

>> ANNA SVIZZERO: No, it was in a council race in tonawanda.

It was results for three.

When results came in na night, it was clear what happened.

The Commissioners chose to --

The ballots were returned to the Board of Elections.

They made the change in the balance lot configuration and they ran a test dpek, looked at the results and reran those ballots using the corrected ballot configuration.

And the election results were no longer in dispute and no longer in question.

>> DOUGLAS KELLNER: They were never in dispute, right?

>> ANNA SVIZZERO: True, yes.

I choose my words a little more carefully.

>> DOUGLAS KELLNER: So just to summarize this again, you had a vote for three race for the tona shallwanda town council.

>> ANNA SVIZZERO: Right.

>> DOUGLAS KELLNER: And the first and third Republican candidates for that race were both assigned the same sequence number.

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: So that the third Republican candidate, if somebody voted a Republican ticket and voted for all three candidates, the vote would only register twice for the first two because the third candidate had the same sequence number as the first candidate and the machine had basically been configured to tell the machine that that was across endorsement.

>> ANNA SVIZZERO: Exactly on.

>> DOUGLAS KELLNER: And not to count that vote twice.

>> ANNA SVIZZERO: We call them push votes.

You get the vote on the first appearance of the candidate's name.

>> DOUGLAS KELLNER: It did appear in the test deck.

>> ANNA SVIZZERO: On election night they looked at the test deck tapes then and confirmed there was a problem, confirmed what the problem was and made the change in the program.

>> DOUGLAS KELLNER: Everyone agreed on a bipartisan basis

immediately to confirm those ballots.

>> ANNA SVIZZERO: Yes, we discussed this with the Commissioners and to the staff member who did the work.

>> DOUGLAS KELLNER: If the Commissioners will bear with me, I have two comments on this.

Lesson number one, you have to actually look at the test results.

This isn't the only place in the State where they did not look at the test results.

We had all of the problems in the 23rd Congressional district.

>> EVELYN AQUILA: Right.

>> DOUGLAS KELLNER: Also happened because of though counties which had not looked at their test decks.

So the only places where they had problems were the counties that didn't look at the test decks.

And note that they had a problem.

That's lesson number one.

Lesson number two on this is that we had the same problem on lever voting machines in another county.

Actually, there were two different places, but I don't want to --

I name them in my testimony before, when I testified at the state Senate last, and I'm not sure that I remember them now.

So I don't want to give an inaccurate ones.

But there, the same problem occurred where there was an improper cross endorsement strapping on the lever voting machine and they discovered that voters were not being allowed to vote for all of the candidates on a slate.

This was for county --

Well.

And the result was that when they discovered this, they had to shut down the machines.

The problem, however, with the lever machines is that when you

shut down the machines, you can't tell how many votes were lost. But when we had this problem in Tonawanda, they had the paper ballots and they could simply go back and look at the paper ballots and get them.

Also in Tonawanda, even if this had not been transparent when they ran the tape and saw that the third Republican candidate was missing ought these votes, it would have been picked up in the audit because --

Even if it had been a cut sell error, it still would have been found in the audit at least in a town of the size of Tonawanda where you have 87 election stricts.

The odds that no machine --

So the odds are that there would be two or three, at least two or three machines in Tonawanda that would have been audited.

So that's what I think is unfair about some of the criticism, especially the fact that the same error occurred on a lever machine where they couldn't correct it because there's no record on the lever machine.

And so that's the troubling dishonesty of some of the reports I find circulating around.

Anna, I thank you for going into that detail.

>> EVELYN AQUILA: Could I ask Anna one quick thing?

Would it be worthwhile for the next two years to send out a list of reminders to the counties saying: Don't forget to check your test data?

Don't forget to do this?

>> ANNA SVIZZERO: We can do some gentle prodding, e-mail type thing.

>> EVELYN AQUILA: They don't have the people, the number of people they need to do the job.

We all know that.

>> ANNA SVIZZERO: I will say in Erie.

(Overlapping speakers.)

>> EVELYN AQUILA: County boards have very few people. Number two, when you come to the couple of weeks just before the elections, it's tremendously busy with printing, getting the machines ready, court cases where they want people from the Board of Elections testifying and sometimes they are down to one, two people and I think a list of reminders, you know, I got a reminder in my office, I would stick it up on the wall to make sure I remembered it.

I'm just saying --

I leave it in your hands, Anna.

You know best.

>> DOUGLAS KELLNER: Commissioner, I would add that the preelection testing is not openingal.

You have a regulation.

>> EVELYN AQUILA: I know it.

>> DOUGLAS KELLNER: You have a regulationment it's mandatory that they do it.

The requirement is clear that they have to look at it.

>> EVELYN AQUILA: There are regulations in life about everything.

If you don't remember it, you don't remember it.

>> DOUGLAS KELLNER: From a legal point of view I would remind candidates in the political party out there that it's probably worth it for them to also look at the test results.

The election law provides that the parties have a right to have an observer paid by the county appear at the testing.

And to confirm the test results.

One of the things we found with the lever machines over the years is that the lever machines often have configuration errors on them.

>> EVELYN AQUILA: Yes.

>> EVELYN AQUILA: You walk in to vote and say this isn't the person running for Congress.

>> DOUGLAS KELLNER: The candidates learned it was in their interest to go before the election to make sure that the machine is properly set up.

Now they have to look at the configuration files for the scanners and to look at the test deck results to make sure that they have been configured properly.

But again, one of the things that I find troubling in some of these articles is, they say they should have --

That the vendor should have programmed the machine in such a way that this human error could not have happened.

And I don't see how you can do that.

We don't have the same candidates in every election.

We don't have the same ballot configuration in every election.

There has to be a human element in the ballot configuration.

>> EVELYN AQUILA: In any machine, there is a human element.

I don't care if it's a tea kettle.

>> DOUGLAS KELLNER: And the fact that they ignore that these same kinds of configuration elements happen in the lever machines.

Another problem that happened in sar society take county, the ballot cards slipped so that it was one candidate off.

People thought they were voting for candidate.

>> EVELYN AQUILA: Joe Blow.

>> DOUGLAS KELLNER: A and they were really voting on the lever for candidate B.

Because the card slipped during the day, they don't know when it slipped, so the results, we don't know.

>> EVELYN AQUILA: We all have war stories.

>> DOUGLAS KELLNER: It didn't affect the results of the election.

So it didn't get much attention, but --

>> ANNA SVIZZERO: It is hard to get county --

>> DOUGLAS KELLNER: The problems that occurred with the lever

machines throughout the State didn't get attention.

>> ANNA SVIZZERO: It is tough to get counties money to, it is good to have eyes different from those who did the ballot configuration.

At Erie they have staff at the warehouse look at the test deck information.

Once they sign off on it it goes up to the executive offices where another team of people reviews it. That's great and an excellent process, but in our smaller boards and boards without sufficient staff, the issue of party reps comes into play.

We always hand them in my county.

When I came to work here, I couldn't believe the number of counties that don't have county reps that come in and are paid to make sure that the counters were at zero and the machines are set up properly.

So any time we can say that and put it in writing to a county board, it theps them when they go to the budget people to get money to have these tasks performed.

>> EVELYN AQUILA: It's up to the parties to get that information.

You may know it at the Board of Elections and I don't know how much you can, you know, broadcast that out, but I mean, somehow the major --

All the parties need to know that they can do that.

Maybe they don't.

Maybe they don't.

Because you know, the people for the most part are volunteers and they may not be sure this is a place where they can be.

I don't know how we advertise that, except here.

If any parties are listening, please find out what you are allowed to do the day of election and the week before the election an two weeks before.

>> DOUGLAS KELLNER: Well, thank you.

>> EVELYN AQUILA: Thank you.

>> DOUGLAS KELLNER: All right.

I think you had finished your report, Anna?

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: So we'll move on to public information.
John Conklin?

>> JOHN CONKLIN: Good afternoon, Commissioners.

I'm not going to go through all the details of the report that
I put in your packets.

Just the first thing which dealt with the media that we used
for the new voting machine PSAs was significant.

Plus we were able to significantly leverage the amount of money
we spent to a ten to 1 magnitude.

I thought that was something noteworthy.

In addition to that we are still working on finalizing the
details for the annual conference in April.

We've posted all the certification materials that were approved
at the December board meeting.

We posted information on the February 9 special elections in
the four Assembly Districts.

As Bob and Todd mentioned and Kim mentioned, we participated in
a number of the meetings concerning the MOVE act.

Lastly, I will add a couple of thing that were not in the
written packet.

We sent out some extension contracts for voter education on
poll worker training money to the counties.

That's due back by January 29thment.

Also quarterly reports were due at the end of December.

There's a few stragglers.

If they could get them in by the end of the month, that would
be helpful.

That's all I have.

Any questions?

>> DOUGLAS KELLNER: Thank you very much, John.

Campaign finance, Elizabeth Hogan?

>> ELIZABETH HOGAN: Thank you, Commissioner.

As I have been reporting to the Commissioners in the past few board meetings, in order to bring to your attention the volume of calls and mail processing, may I tell you that for last year it appears that the increased volume was running approximately ten to 11 percent over the previous year.

At the end of 2009 we had roughly 11,000 registered committees, candidates.

We had received in 200,929,096 individual filings.

The January periodic is due tomorrow.

Our enforcement is proceeding relevant to the January periodic will begin on the 19th.

The education and train can unit, as I reported, continues to work on updating for ease of use for filers the forms that we have.

Handbook informing.

We have made certain small changes at this point to the Web site and we will probably launch into, maybe over the summer a review of the campaign finance Web site overall and hopefully make some updates to that.

And create a more usable tool for filers.

And for people who want information relative to filings.

The training unit is scheduling training sessions for the spring.

You know, considering the fact that we are under some budget constraints for sure, we are trying to do the best we can to minimize what those seminars will cost the agency, but we have a statutory mandate to provide an educational component to the filing perspective and we have to do it.

So we are doing the best we can to consider all of those things in the plan to present the seminars.

Audit staff will soon begin after the filing of the January periodic the timeline for audits to begin this year.

We will be talking about the corporate after the reporting is made.

They will be preparing a timeline.

And probably in, I think in March I think we will be starting that.

I think that's what we did last year as well.

The audit staff is working on responding to requests for information from a number of District Attorneys throughout the state to whom we have referred over-contribution issues.

We've gotten an interesting response from District Attorneys relative to looking at those cases and there's quite a bit of follow-up work to do relative to that.

The, Bill and I had conversations when we were talking about doing the electronic shall file that we have in our office now whereby we use electronically, the tool to look at paperwork that has been filed relative to committees and things like that.

We eliminated a lot of paper.

We did that over the past year.

We are extending that at this point to including our audit information in the electronic file.

We have created a lot of individual reports and paper and just a lot of facts relative to corporations.

We are looking at and committees when we do these audits and we had talked initially about having that in this electronic file as well.

So we're proceeding with doing that.

We have several things, Bill and I, to present to the Commissioners at the election commissioners conference.

We will be working on a presentation for that.

I think potentially more extensive presentation at our own conference in April, but we will do a presentation in January.

That's roughly it in terms of the highlights of what we are working on.

Bill, would you like to add anything to that?

>> BILL McCANN: Just on the data that we are talking about for the audit is really the scanning component that allows ease of access.

It will be a useful tool and cut down, in fact, we got rid of file cabinets with those things.

>> DOUGLAS KELLNER: Any other questions?

(There is no response.)

>> DOUGLAS KELLNER: All right.

So then we will turn to information technology.

George Stanton?

>> GEORGE STANTON: Good afternoon, Commissioners.

I will be pretty brief since I included this information in your packet and a lot of people have talked about things that IT is involved in also.

We did take, even though the, there's a down time during the online holiday period when not a lot gets done.

We took advantage of that fact because NYS voter has been running pretty much nonstop through all of 2007, we took the opportunity to shut the system down for two days, actually, that we actually told the counties we were going to be down for the entire long weekend, but it only took two days.

We were early.

We took the opportunity to defrag all of the raid hard drives.

We're talking terabytes of data.

So it took I think roughly 18 hours just to do a defrag, to defragment the hard drives.

We shrunk the database and these two things together allowed us to gain a lot of extra wasted space on the hard drives that we can use now rather than having to extend our system.

We also took advantage of that down time to install all of the

latest security patches and upgrades to the Windows operating system.

And then we waited a week because we wanted to make sure that everything was going smoothly.

After all of that we did, we didn't want to complicate anything.

We shut down for a short time on January 9 to be able to stall some scwl server upgrades to service patch 3, which is the latest scwl server.

That's the database, of course, that's all of the NYS voter data.

On the NYS voter hardware, software, everything is right up to snuff now, up to date.

So that's a good thing.

We still will need to shut down, probably quarterly to install some service packs, but they will be shorter shut downs rather than an extended shut down.

We are still working with campaign finance on the new filing system software.

We met last month with the audit people and got some of their ideas where I think almost --

I think we're almost completed as far as implementing those.

We implemented some pretty nice things.

The developer, Phil Perry, is ready to show it to us again here probably within the next month --

Within the next week, and hopefully within the next few weeks we can show it to campaign finance again and get their input on that.

The help desk staff is currently busy loading the January periodic filings.

We've implemented at the request of enforcement that, to reject filings that have the wrong PIN in them.

We used to go ahead and load filings that had the wrong PIN

number and audit staff would contact the filers and tell them that they had to correct it and file again.

But starting with the January 15th, we are rejecting those files and they are being notified by campaign finance staff that they have to refile with the correct PIN.

Other than that, we have been involved in the discussions on the MOVE act and met with Social Security yesterday.

And that's about it.

Do you have any questions?

>> DOUGLAS KELLNER: Great.

>> EVELYN AQUILA: Yeah, I do.

George, how many counties now are in the statewide database?

>> GEORGE STANTON: Well, all the counties are in the statewide database and have been for the last two years.

>> EVELYN AQUILA: Maybe I'm not asking that correctly.

>> GEORGE STANTON: If you're asking if New York City is taking advantage of the database to do their voter maintenance, the answer is no.

>> EVELYN AQUILA: That's the question.

Is there any other county taking the same advantage?

>> GEORGE STANTON: Everybody else has been doing it since they came online.

>> EVELYN AQUILA: All right.

Do you see any chance of any kind of reconciliation there with New York City?

>> GEORGE STANTON: I have seen no movement towards any.

>> EVELYN AQUILA: No movement?

Okay.

Thank you, George.

>> DOUGLAS KELLNER: All right.

We will turn to old business.

The first item is discussion on the proposed formal opinion regarding the letter from the clerk of the village of west Hampton

beach.

Paul or Todd?

>> EVELYN AQUILA: West Hampton.

>> PAUL COLLINS: I think we are getting closer.

We have a few open items that we have to resolve mutually.

Todd, I hadn't cleared this with you, but I think we are of one accord that the answer to the first question on what role the village clerk has in adjudicating this, that or the other thing is none.

That part of it.

>> TODD VALENTINE: No, we have been working --

>> PAUL COLLINS: We have been working on it.

Obviously there are new cases that have come down and we have to finish analyzing those cases.

>> DOUGLAS KELLNER: All right.

>> PAUL COLLINS: But we do agree that the clerk is not running the actual challenge process.

>> DOUGLAS KELLNER: You can't make challenges to county registration lists by giving them to the village clerk, okay.

>> PAUL COLLINS: That's right.

>> DOUGLAS KELLNER: Okay.

So we'll put that over and hopefully those discussions will continue.

Kimberly, you have the next item, discussion of the proposal in the legislature for our legislative package.

>> KIM GALVIN: Basically, last year's proposals with the list cleaned up is before you, that removed anything that may have been vetoed or chaptered or if parts were chaptered, we modified the original version and resubmitted it and added four additional items that basically throughout the house were easy to do.

It was easy enough to get together with staff here and draft them up and there were things that were practical thing that we knew would be helpful to the counties, primarily.

That being said, I fully anticipate that at the February meeting there will be at least a draft of what we are going to need for the MOVE act implementation.

And also any additional matters that come out of the continued contact with the counties for the review that relate to things quite honestly that I think Paul and I need the staff, the other staff to show us really what those things are because they are specific to how the ballots are configured or things that need to be cleaned up with regard to the operations function that I personally don't have the ability to do.

So we've already talked about it.

We are, by February you will have the remainder of the program, I think.

>> EVELYN AQUILA: Is that when they have to be --

>> TODD VALENTINE: We have no deadline for that.

>> EVELYN AQUILA: No deadline?

>> DOUGLAS KELLNER: Realistically, this is the time to send them because the legislature is not --

>> EVELYN AQUILA: I agree.

They are starting to --

>> KIM GALVIN: With respect to the MOVE act, we have to speak with a variety of people including the legislative people and the Attorney General's office and, you know, they should be over there sooner than later.

I agree with Commissioner Kellner.

>> DOUGLAS KELLNER: Do you want to vote on this part of package today?

>> EVELYN AQUILA: Think we should?

>> KIM GALVIN: If you took a vote today, we can forward this over with the cover letter to the election chairs and whoever else will be, and indicate in the letter there's additional things coming.

>>: Number one through seven are the carry over from last

year and eight through 13 are new items?

>> EVELYN AQUILA: Yeah.

>> DOUGLAS KELLNER: Okay.

Well, I think we've discussed thn internal lip and there's consensus on this.

Is there is there a motion to approve the package as proposed?

>>: Moved.

>>: Second.

>> DOUGLAS KELLNER: All those in favor say eye aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

(There is no response.)

>> DOUGLAS KELLNER: With respect to the amendment, that's a long project.

The two long projects are the issues relating to poll site personnel in the new age of scanners.

So that I realize that's a complex package to rewrite the way personnel are now assigned by election district and redo it into reassigning them by poll sites.

But in the long run, that's what the county Commissioners keep telling us.

We have to work towards consensus on this and I know it's a big drafting project.

>> EVELYN AQUILA: A big problem.

>> DOUGLAS KELLNER: The other project is to take a bigger look at the absentee ballot article to try to get some consensus because we know that there are half dozen or even a dozen issues where there is not uniform application of or interpretation of the statute by the county boards so that we had this long list of issues that they are not particularly significant on a big policy issue unless you get to an election that is decided by one or two votes as we saw in Chautauqua with a county, the decision of the fourth department yesterday where there is this, there are all

these ambiguities in the absentee ballot statute.

Since they are not applied uniformly around the State, it becomes ripe for litigation.

It's not fair to in my view put that onus on the courts to interpret that, that we should try to get these resolved in advance.

I know it's a very big project to rewrite a whole statute and try to get consensus on every word of it.

>> EVELYN AQUILA: My biggest concern, especially this year election, at the polling site is that we don't have --

Number one, it's hard to get people to want to be inspectors, number one.

Number two, many, many, many of them have no idea about the electronic machines, no matter how much you train them.

And we were in a polling site a couple of years ago and I won't say where it is, and three of the inspectors were over 90 years old.

Very proud of it, this smawlg --

>> GREG PETERSON: The average age, I think, is 88.

(Laughter.)

>> EVELYN AQUILA: It's old.

I asked the directors here on several occasions to speak to the colleges and I think they wrote a letter, but I think we need a face down talk with some of these college folks to encourage the young people by maybe a program we can work out statewide with them that they get some kind of social studies credit by serving as an inspector.

And you know, encouraging young people to do that.

And even as a community, giving them credit for community service.

But we have to do something.

This first election I think on November and I'm generally not a doomsayer, but I think there's going to be a tremendous amount

of problems, as anything anything is when you use new things.
With the age of the inspector, especially in New York City, the
lines are going to be long.

I know they are only supposed to be half an hour long, but I
don't know how that is going to be controllable.

I have deep concerns about the election.

First time using something new is always difficult.

As my dward son reminded me, the only constant is change.

And I think that's good to remember.

But at the same time we want that change to be as smooth as
possible.

>> DOUGLAS KELLNER: Thank you, Commissioner, that segues into
the next item on the agenda, the discussion of the transition
from are lever voting machines to optical scanners.

>> EVELYN AQUILA: I should have waited.

>> DOUGLAS KELLNER: No, that's fine.

You got the opening salvo.

Whose item is this, Todd?

Toted to do well --

>> DOUGLAS KELLNER: Have we already done it?

>> TODD VALENTINE: I think we already covered a lot of it.

What is important and why it's on the agenda is to make sure,
to say publicly that we are engaged in this transition and it will
be a year-long --

Not quite a year long, but pretty much a year-long transition.

We are in the process of, our first focus really has been
obviously, you know, to have the counties purchase the equipment
and as Anna reported to make sure that all the counties have the
management software, that they are trained to operate that, that
the staff, the poll workers are trained to run those devices.

Obviously for the voting public to be educated on the
transition.

And for all of those pieces, there have been programs from

different parts of this agency put into place that address those.

And now slowly we have been moving forward with them.

You know, last year we started with that.

We ran, we developed the voter education component that we

developed our public service announcements that we put out.

We set up a system for the counties to customize that on a local level.

That will continue.

We've engaged in extensive training outreach to the poll

workers and to the counties.

We revamped that to allow for access at all times.

You know, through a Web based program, but as well as providing

hand-on support for training of the EPS software where people,

counties from around the State come for hands on training session

which is essential for that and for the purchase, you know, the

last two major counties have to get their systems purchased and.

Delivered.

There are other smaller counties getting minor deliveries, but

we have in place a process to acceptance test those and get those

deliveries out as soon as possible.

That's just really on the county side.

The other side is what we now have to start reaching out is

alerting other people who won election that is the counties aren't

going to have this system.

They are not going to have the levers anymore.

They are going to have this.

And then you are going to have to decide what you have to do,

but here is what we can do.

Here is what actually happens.

That's the school districts.

Those are the villages that run their own elections.

Their fire districts that run their elections in December.

The towns that run special elections throughout the year.

All of these --

Obviously, we can't reach out to every town, village and school district.

What we intend to do is work through the statewide associations because much like the county boards have their own associations that work through us, all of these groups have their own statewide associations.

Over time we interacted with them and they have been watching us, but now we need to explain to them what this transition means because when the legislature changed the statute to take out the date certain for the levers, they put in this concept of you replace the lever when you are ready to replace the lever.

>> DOUGLAS KELLNER: Well, it says the lever machines --
What is the exact wording --

>>: One the replacement of ...

>> DOUGLAS KELLNER: Well, is it --
No, but what is the operative language?

The lever machine, you can't --

The lever machines are no longer authorized when they are replaced.

>> TODD VALENTINE: That's where the transition idea came up.
When are you ready to replace it?

(Overlapping speakers.)

>> DOUGLAS KELLNER: In view of the Court order, the absolute deadline for replacement is the September primary.

>> JIM WALSH: In time for the September --
Not.

>> BOB BREHM: Not at the September primary.
We need to know a certain number of --

There needs to be a period of time before that that we are all comfortable that they are ready.

They can't wait, we can't learn on primary day.

>> TODD VALENTINE: Right.

>> BOB BREHM: That's why it's important to say in time for.

>> DOUGLAS KELLNER: So if you're having a special election on February 9th and you have not already used the scanners in the pilot project, you would still have the option of continuing to use the levers in the February 9 special election.

>> TODD VALENTINE: Yes.

>> EVELYN AQUILA: Yes.

>> DOUGLAS KELLNER: But if you already transitioned in your county or in that particular jurisdiction to the scanners, then you are not allowed to go back to the levers.

For those elections, right?

Are we all agreed on that?

>> KIM GALVIN: What if it was a partial?

>> EVELYN AQUILA: I didn't think it meant that.

>> KIM GALVIN: Partial pilot.

>> TODD VALENTINE: Depend on.

>> KIM GALVIN: If the portion was optical scan, you cannot go back.

>> DOUGLAS KELLNER: Once you use the optical scan, you have to continue to --

I think that should be our interpretation, that's what we should be telling people.

>> BOB BREHM: There are some counties that participated in the pilot that either had whole county participation or significant part that did not own the EMS.

They were not trained in the use of EMS.

They didn't do the ballot configuration.

However, the regulations changed from the pilot to actual use and requires that the county not contract out for those services.

They do that work themselves. That's another component of are they ready?

They have to actually have the certified version. They have to have training in the use of the certified version.

So I don't think it's a date --

There are a number of steps they have to be comfortable with and each county will get to that point perhaps at a different time than the next county.

There are several counties --

>> DOUGLAS KELLNER: As long as --

>> BOB BREHM: As long as it's in time for September.

>> KIM GALVIN: As always, when you have moving targets dates, it's much more difficult to manage than a bright line for the date.

>> DOUGLAS KELLNER: Go ahead, Paul.

>> PAUL COLLINS: What we need, I'm not suggesting for today, but what we need are milestone dates on a going-forward basis.

>> DOUGLAS KELLNER: Don't we have at least in our agency we have a detailed timeline, right?

>>: For us we do.

>> EVELYN AQUILA: It's difficult --

>> KIM GALVIN: County compliance varies.

>> ANNA SVIZZERO: They are all trained at different dates.

Some of the training is already going out into March.

Their date is going to be different from anyone else's for transitioning because even though they have the EMS, they are not going to get trained for two more months.

>> KIM GALVIN: I'm a fan of bright line.

>> EVELYN AQUILA: Can you be at the county meeting in two weeks?

Are you speakers at the county?

>> BOB BREHM: Yes, yes.

>> EVELYN AQUILA: County conference.

>> BOB BREHM: The State board has a session on the first day for a two-hour period to cover issues that are, that we need to raise with them.

>> EVELYN AQUILA: All of these things have to be brought up

again and reminded again.

>> KIM GALVIN: Oh, yes.

>> PAUL COLLINS: As long as we know this is step-by-step by step process.

We need to have benchmarks in terms of time.

We can't find out on August 28th that county A doesn't have this, doesn't have that and doesn't have this.

We need to know that as we go along.

That's something we have to work at as an agency to, so that we have an obligation to the federal court to report how things are going and we've got to --

I'm not suggesting we are doing that today by any means, but --

>> DOUGLAS KELLNER: I can't say that I've talked to all 58 county boards, but I.

AEncountered any board that doesn't, that I've communicated with that doesn't have that timeline already worked out.

Are we aware of any boards that don't have that timeline?

>> ANNA SVIZZERO: I don't think they are as detailed, some are as detailed as others in this process.

I don't think that anybody is saying no, go away, we are not going to make this transition.

I have not heard those words nor seen evidence of that yet except in a couple of the smaller boards where purchasing the EMS at the prices that it costs is creating a hardship for them because they didn't have a lot of HAVA money to start with. They are already into county money and don't have enough of that either.

I don't know that anyone told us out right that they can't meet these deadlines.

I think in ops and for the purpose of reporting to counsel's office in justice, that we survey these board regularly, as we did

with EMS.

Did you buy it?

Give us a copy of the purchase order so we know it.

We will monitor, Bob Warren is already doing that, staying on top of it with the vendors.

If we come across a county that is lagging and has a substantial reason for it, we will certainly bring that back to the board, but I can't imagine there isn't something we can work out in house with the directors and Joe and I.

>> EVELYN AQUILA: Are all counties going to have them delivered on time, those that just purchased?

What about the delivery dates of the new machines?

Is there such a thing?

>> KIM GALVIN: They are not off schedule.

We have.

>> ANNA SVIZZERO: We have about 700 units now that were acceptance tested, or 800.

>>: And we already delivered.

>> ANNA SVIZZERO: We thrivered out of that 800 units since Christmastime.

>> EVELYN AQUILA: I'm thinking about New York City and Nassau county.

>> ANNA SVIZZERO: They have to order them first.

If they don't order them until February 1 to do method there is a plan in place.

>> DOUGLAS KELLNER: ES&S has said that.

(Overlapping speakers.)

>> KIM GALVIN: The deals, if they are late in the deliveries.

>> DOUGLAS KELLNER: ES&S is very much aware of the magnitude of the sales they have made.

>> EVELYN AQUILA: An they have them.

>> DOUGLAS KELLNER: They know that now there are commitments for probably more than 6,000 machines between the two counties

and maybe as much as 7500.

So, but they know that.

I think they are geared up to do it.

>> EVELYN AQUILA: Let's hope so.

>> DOUGLAS KELLNER: All right.

Is there anything else on this topic?

(There was no response.)

>> DOUGLAS KELLNER: All right.

I think the transition to the optical scanning is a big project, but what people have not been focusing on is just how significant the effort will have to be under the military and overseas empowerment act that has created significant new mandate on state and county boards of elections.

So --

>> EVELYN AQUILA: Who is in charge of that?

>> DOUGLAS KELLNER: Bob, are you going to do the presentation now?

I think this is going to be a much greater challenge for the State board this year than the transition to the optical scan.

>> BOB BREHM: I think as you heard so far today we are all working on this issue because we all touch it in some way.

>> DOUGLAS KELLNER: Can you summarize what the main are issues are for the state and county boards?

>> BOB BREHM: The major issue is we need to comply with the requirements of the Military and Overseas Empowerment act by the November 2010 general election to allow a prospective military or overseas voter to request an application in some electronic format and in that application they can, once they receive it, they need to identify a way that they want to communicate with the Board of Elections, either traditionally by mail or in less than one electronic format.

We have to select one, at a minimum.

Whether it's e-mail or fax or some other way.

And we have to have the ability if they request electronic to provide that ballot material.

Blank ballot material and instruction material to that overseas military voter.

>> DOUGLAS KELLNER: Specifically when you say ballot material --

>> BOB BREHM: The blank ballot.

>> DOUGLAS KELLNER: Overseas or military voter will have the right to get an electronic transmission of the ballot.

>> BOB BREHM: Of the ballot.

>> DOUGLAS KELLNER: Then the voter would be print out the ballot, print the ballot and mail it back to the county Board of Elections in order to have that counted.

>> BOB BREHM: That is correct.

The MOVE act has a further requirement which is the more, the portion that concerns us the most.

And that is there's a requirement that states mail ballots to military voters not later than 45 --

Send ballots, transmit ballots not later than 45 days before the day of the election unless they apply for a waiver.

New York State would have, I think the date is September 17 or something.

>> KIM GALVIN: Four days from the primary date?

>> BOB BREHM: Is the indicate date that we would have to comply with under that rule.

So New York could apply under, there are three hardships we could apply for under either litigation or a primary and I think the third one --

I can't think of what it is off the top of my head.

We can apply for the waiver and there are deadlines to apply for the waiver to get a timely answer.

In addition to the waiver, we have to provide a detailed plan how New York will guarantee sufficient time for the military and

overseas voter to actually receive their ballot and have it cast, or have a chance to have it counted timely.

So that's the real part of the plan that we are all discussing: How can we put a plan together that will allow us to meet the deadline and the requirement of the MOVE act and also have a reasonable expectation that the applicant will actually receive their ballot timely.

That's why we are looking at a number of ways to perhaps Web based or in a way that we can also meet the New York State procurement requirements to timely meet --

Procuring something that will solve the problem and also are there any statutory issues that we want to look at?

One big one we've discussed that fronts the MOVE act requires compliance for federal office.

I think our general conversation has been it's easier for counties to deal with this requirement if we tie military voters to any election as opposed to just federal office.

You know, why send them in an even year a ballot electronically and in the odd year by mail that we already know they can't receive. That's a statutory issue.

There are a number of them.

That's probably a very broad general one that makes sense that we would --

You know, we've done that with most other implementations at NVRA or HAVA where we try to make it from an administrative point of view a recommendation that we streamline it to make it easier to manage the program.

>> DOUGLAS KELLNER: And technically, it's much more complicated than it sounds to provide a voter an electronic ballot because you have to make sure first of all that the counties have to get every ballot form online, up online.

>> KIM GALVIN: Every style.

>> TODD VALENTINE: Every style that has a military voter.

It's not every ballot.

It's only the ones that you need.

>> DOUGLAS KELLNER: I come from New York City.

I guess I never thought in those terms that there are ballot styles that would have no military or federal vote.

>> TODD VALENTINE: Yeah.

>> DOUGLAS KELLNER: So you have to get the ballot styles uploaded in electronic format and then you have to have a mechanism by which you can have the voter properly identify the correct ballot style and that's where --

>> TODD VALENTINE: And get it to the voter.

>> KIM GALVIN: Get them the right ballot.

>> EVELYN AQUILA: Every voter should have a PIN number, by county.

They should have a PIN number by county so that you know that the person voting is a legal voter.

>> DOUGLAS KELLNER: They are not allowed to vote electronically.

>> EVELYN AQUILA: They don't respond electronically?

I didn't know that.

>> TODD VALENTINE: No, those are definite will you the issues.

We have been meeting with several vendors that started some of this, you know, that recognize --

There's a lot of people obviously interested in it.

>> EVELYN AQUILA: Of course.

>> TODD VALENTINE: Yeah, those are some of the hurdles that we have to overcome.

>> BOB BREHM: And there are other deadlines phased into 2011 dealing with making the fail safe federal write-in ballot easier for them to access which would actually list candidate, the local candidates that they are eligible for.

That's a further phase into the program.

So we have, you know, there are a number of deadlines.

There is also a reporting requirement, a voter --

Military and overseas voter needs to be able to track: Was my application received?

Was my ballot sent to me?

Did the board receive my ballot?

That needs to be a method that they can access so it's generally an Internet type that we are thinking of.

There's an application process up front, there's the ability of the board to make sure that that person gets the correct ballot and there's an ability to track their paperwork throughout that process.

>> DOUGLAS KELLNER: And my understanding is that this has been added as a topic for the election Commissioners conference.

>> BOB BREHM: They are both doing --

>> TODD VALENTINE: Obviously, we have alerted that the bill pass to do our county commissions, they are ultimately the ones that produce the ballot and get it back.

We have to come up with a system somehow that --

And you don't want to make it so hard that it's difficult to use.

You have to work with all the counties that are at different levels.

It has to be streamlined on the voter side, too.

You don't want to make it difficult for the military or overseas voter.

So there's a lot of --

A lot.

>> DOUGLAS KELLNER: As I say, I think this is a lot more complicated now than finishing off the.

(Overlapping speakers.)

>> EVELYN AQUILA: I think every military man would just go online, say Erie County, and his address and he would get the

ballot.

>> DOUGLAS KELLNER: That's a very complicated process to make sure he gets the right ballot.

>> EVELYN AQUILA: Yes.

>> TODD VALENTINE: There is a lot behind the scenes.

>> EVELYN AQUILA: You know, I first I thought just the federal Bonn.

Then I thought he could vowed vote on that and send it back electronically.

>> DOUGLAS KELLNER: No.

There are major security problems.

>> EVELYN AQUILA: I understand, please, I understand now.

>> DOUGLAS KELLNER: There are states that allow it, but there's tremendous criticism.

>> EVELYN AQUILA: I think the State of Washington allows an awful lot of easy voting.

>> TODD VALENTINE: Postal mail.

>> BOB BREHM: How many balance lot styles we used in the general election, I think the number was 2500 or something.

That's in a general election.

How many different ballot styles were used this year?

And that's a primary.

Multiply that by the number of each party that could happen.

>> DOUGLAS KELLNER: In a New York City election in a --

>> BOB BREHM: County committee, that's one more thing a county has to keep track of.

>> DOUGLAS KELLNER: There's that third circuit decision.

(Laughter.)

>> BOB BREHM: That applied to.

(Overlapping speakers.)

>> BOB BREHM: Until we're sued again.

>> DOUGLAS KELLNER: All right.

Let's, so there is, it's reassuring to hear that at least it's

on the radar screen.

Is there a schedule yet for when we are going to have a plan and when we will be submitting a waiver application?

>> BOB BREHM: I don't think we have a finite.

We talked just generally that we wanted to be as prepared as we could before we go to the conference at the end of the month.

And Todd and I are both gobbing and weapon want to see what other states are looking at as far as solutions.

>> EVELYN AQUILA: Great.

>> BOB BREHM: The vendors we have been talking to will all be there.

>> DOUGLAS KELLNER: The good news that I guess we haven't talked about is that this will all be paid for with HAVA funds.

>> BOB BREHM: "All" is to have to say, but MOVE had a requirement that the 2010 HAVA requirement pay, be used for implementation of the MOVE act.

We can use that as an available pot of money.

Once we've exhausted that, should we, we can use any other available HAVA money for that implementation, unless Congress gives us more.

>> DOUGLAS KELLNER: The bottom line is that it is not going to require a new source of state funding.

>> BOB BREHM: In order to cover the local 5 percent.

If it's state money, you need to match a nickel for every dollar we spend to sake the federal money.

We need to make sure from an appropriations point of view we have sufficient funds.

>> EVELYN AQUILA: I think the meeting, the meeting in DC with all the other states will pay for itself in a way.

You will come away with information that will be very helpful and they'll get information from us and we'll get some from them.

We are not trying to solve the problem by ourselves.

>> BOB BREHM: Depending on your February meeting date we

could have perhaps a plan by then.

>> TODD VALENTINE: Hard to say.

(Overlapping speakers.)

>> TODD VALENTINE: We will be a long way towards the plan.

>> DOUGLAS KELLNER: Well, thank you for that report.

The next item on the agenda is the vote on the resolution to extend the storage area network service contracts.

I believe that they were distributed in the packets.

Is there a motion to approve the contract?

>>: So move.

>> EVELYN AQUILA: Does George want to say anything?

>> DOUGLAS KELLNER: Do you need to say anything?

>> GEORGE STANTON: I don't know that I need to.

I don't know that you want me to say anything.

It has been three years since we bought everything.

This is just one piece of the puzzle, but it has been three years since we started building NYS voter.

Now support contracts are running out.

We will start running into these recurring expenses.

We did decide, you know, amongst my staff downstairs that we also had a quote for server maintenance which was, I don't know, 150,000 a year or something.

And we've decided that it's not cost effective to renew that because we've got so much high availability built in.

If one server crashes, another picks up and we can get the parts we need and if I can it on a cost basis rather than spending 150,000 of which we might end up spending 50,000 over the course of --

>> DOUGLAS KELLNER: Well, I know this was the subject of extensive discussions to make sure we got the best costs.

So I think can we vote?

>> EVELYN AQUILA: It says is expires December 31.

Does that mean --

I'm sorry, I'm sorry.

>> DOUGLAS KELLNER: Go ahead, no.

Go ahead.

>> EVELYN AQUILA: Usually you want to talk.

Don't worry about me.

It says it expires --

>> GEORGE STANTON: The quote expired December 31.

I'm pretty sure they'll still take our money.

>> EVELYN AQUILA: You don't expect them to raise it on January 1?

>> GEORGE STANTON: I don't expect them to.

>> GEORGE STANTON: If they do, we are going to have discussions.

>> EVELYN AQUILA: Okay, thank you.

>> DOUGLAS KELLNER: All right?

>> EVELYN AQUILA: Okay, Mr. Chairman.

>> DOUGLAS KELLNER: Those in favor say eye.

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Okay, the resolution is approved.

Does anybody want an executive session to discuss the preliminary determinations?

Or can we vote on the six items here?

We have we have personnel?

>> DOUGLAS KELLNER: We are still going to do that.

Vote on what we can.

All right.

So we have six preliminary determinations that are on the agenda.

CMP08-81, 08-63, 62, 155, 07-fraipt and 06-49.

Those in favor of the reports as proposed by the enforcement staff say eye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Those preliminary determinations are adopted.

I suggest before we make the motion for executive session we talk about the date of the next meeting.

I saw Commissioner Walsh had his calendar out before.

>> JIM WALSH: The week of the 14th?

>> DOUGLAS KELLNER: That's good for me.

>> EVELYN AQUILA: Let me see the back of the book, please?

Sorry, but --

>> DOUGLAS KELLNER: Be sure you're looking at 2010.

>> EVELYN AQUILA: You really think I'm an idiot?

>> DOUGLAS KELLNER: M's sorry, I've done it the other way.

>> KIM GALVIN: The week of the 14th and the 15th is a holiday.

>> JIM WALSH: Fifteenth is a holiday.

>> TODD VALENTINE: Fifteenth is a holiday, president's day.

>> EVELYN AQUILA: Seventeenth is no good for me.

Wednesdays, I hate weans.

I have an obligation on weans.

16th, 18th?

19th?

>> DOUGLAS KELLNER: Thursday, the 18th we will tentatively agree.

>> EVELYN AQUILA: Thursday the 18th?

Everybody is in agreement?

Thank you very much.

>> DOUGLAS KELLNER: I have a motion that we go into executive session to hear a very short report from the enforcement staff on the pending vervetions and then to take up a personnel matter. And I don't believe for the public that we will be coming back, although it's possible that we will just do a personnel action.

Those in favor say aye?

(All members responded "aye.")

>> DOUGLAS KELLNER: Opposed?

Okay, thank you.

(The meeting adjourned at 12:20 p.m. CST.).

(Standing by for possible continuation of the New York State Board of Elections meeting.).

REVISED
CALENDAR FOR
CERTIFICATE OF NOMINATION
FEBRUARY 9, 2010 SPECIAL ELECTION
MEMBER OF ASSEMBLY

24th ASSEMBLY DISTRICTS, QUEENS COUNTY

 Date of Proclamation.....January 5, 2010
 Last day to file Certificate of Nomination.....9:00 AM–Midnight, January 15, 2010

FOR CERTIFICATES FILED ON:

General Objections

Must Be Received By:*

Tuesday, January 5	Friday, January 8
Wednesday, January 6	Monday, January 11
Thursday, January 7	Monday, January 11
Friday, January 8.....	Monday, January 11
Monday, January 11	Thursday, January 14
Tuesday, January 12	Friday, January 15
Wednesday, January 13	Tuesday, January 19
Thursday, January 14	Tuesday, January 19
Friday, January 15	Tuesday, January 19

General Objections Filed On:

Specifications Must be Received By:*

Friday, January 8	Thursday, January 14
Monday, January 11	Tuesday, January 19
Thursday, January 14.....	Wednesday, January 20
Friday, January 15	Thursday, January 21
Tuesday, January 19.....	Monday, January 25

Last day to file Certificate of Acceptance or Declination of NominationJanuary 19

Last day to authorize nomination.....January 19

Last day to fill vacancy caused by declination of nomination.....,.....January 19

Last day to authorize substitution.....January 25

Last day to institute court proceedings regarding Certificate of Nomination.....10 days after
 filing of Certificate

Last day to submit proof of service of Specifications.....The day after Specifications are filed

Board of Elections hearings on Certificate of Nominations at Executive Office, 42 Broadway, 6th Floor Hearing Room– FRIDAY, JANUARY 29, 2010 @ 1:30 PM & continuing on MONDAY, FEBRUARY 1, 2010, IF NECESSARY. (Call BOE on or after January 25, 2010 for detailed schedule).

*Board of Elections is open for filing from 9 AM to 5 PM. The Board of Elections will remain open until Midnight only if a specified filing date for objection(s)/ specification(s)/certificate(s) is the last day to file said objection(s)/ specification(s)/certificate(s).

For information, call the Board of Elections at 212-487-5300.

REVISED
CALENDAR FOR
INDEPENDENT NOMINATING PETITIONS
FEBRUARY 9, 2010 SPECIAL ELECTION
MEMBER OF ASSEMBLY
24th ASSEMBLY DISTRICT, QUEENS COUNTY

 Date of Proclamation & First Day to circulate Petitions.....January 5, 2010
 Last day to file petitions9 a.m. – Midnight, January 19, 2010

FOR PETITIONS FILED ON:

**General Objections Must
Be Received By:***

Tuesday, January 5	Friday, January 8
Wednesday, January 6	Monday, January 11
Thursday, January 7	Monday, January 11
Friday, January 8	Monday, January 11
Monday, January 11.....	Thursday, January 14
Tuesday, January 12.....	Friday, January 15
Wednesday, January 13	Tuesday, January 19
Thursday, January 14.....	Tuesday, January 19
Friday, January 15.....	Tuesday, January 19
Tuesday, January 19.....	Friday, January 22

General Objections Filed On:

**Specifications Must be
Received By:***

Friday, January 8.....	Thursday, January 14
Monday, January 11.....	Tuesday, January 19
Thursday, January 14	Wednesday, January 20
Friday, January 15.....	Thursday, January 21
Tuesday, January 19	Monday, January 25
Friday, January 22.....	Thursday, January 28

Last day to file Certificate of Acceptance or Declination of NominationJanuary 19

Last day to fill vacancy caused by Declination of Nomination.....January 21

Last day to institute court proceedings with regard to independent nominating petitions.....
February 2, 2010 or (3) three business days after hearing where petition is invalidated.

Last day to submit proof of service of Specifications..... The day after specifications are filed.

Board of Elections hearings on Independent Nominating Petitions at Executive Office,
 42 Broadway, 6th Floor Hearing Room– **FRIDAY, JANUARY 29, 2010 @ 1:30 PM & continuing
 on MONDAY, FEBRUARY 1, 2010, IF NECESSARY. (Call BOE on or after January 25, 2010
 for detailed schedule).**

*Board of Elections is open for filing from 9 AM to 5 PM. The Board of Elections will remain open until Midnight only if a specified filing date for objection(s)/ specification(s)/certificate(s) is the last day to file said objection(s)/ specification(s)/certificate(s).

For information, call the Board of Elections at 212-487-5300.

*Com. 14
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John L. Sampson
Majority
Conference Leader
of the Senate

New York State Legislative Session Calendar

January — June 2010



Sheldon Silver
Speaker of
the Assembly

The New York State Legislative Session Calendar establishes a schedule for the 2010 Legislative Session and provides dates important to the legislative process. The Session Calendar is intended to afford Members flexibility in conducting legislative business in Albany and planning activities within their home districts. The Session Calendar will foster orderly and timely consideration of legislation. Unforeseen events may require modification of the Session Calendar.

JANUARY						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY						
S	M	T	W	T	F	S
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH						
S	M	T	W	T	F	S
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28	29	30	31			

APRIL						
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MAY						
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE						
S	M	T	W	T	F	S
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

- January 6 2010 Legislative Session convenes with Governor's State-of-the-State Address
- January 11 Start of sessions
- January 18 Martin Luther King, Jr. Day

- February 15 Presidents' Day
- April 1 Beginning of new Fiscal Year
- May 31 Memorial Day observed

Indicates session day

Com mtg
FYI

Steven H. Richman

From: Green, Norman P. [GreenN@co.chautauqua.ny.us]
Sent: Wednesday, January 13, 2010 8:59 AM
To: Northrup, Michael J
Subject: RE: OPTICAL SCAN BALLOT DECISION HANDED DOWN FOR CHAUTAUQUA COUNTY

BALLOT ONE: Voter cast ballot and left, but ballot was rejected due to extraneous marks. Ballot fell to the floor without the voter being aware that this happened. Inspectors did not chase down the voter and have them come back. BALLOT TWO: Voter cast ballot and when it was rejected for extraneous marks, she refused to do another ballot and said that was the only ballot she was going to fill out. BOTH BALLOTS WERE PLACED IN THE UNSCANNED BALLOT ENVELOPE AND RETURNED IN THE SEALED BALLOT BAG AT THE END OF THE VOTING PERIOD.

-----Original Message-----

From: Northrup, Michael J [mailto:Michael.Northrup@co.ontario.ny.us]
Sent: Wednesday, January 13, 2010 8:46 AM
To: Green, Norman P.
Subject: RE: OPTICAL SCAN BALLOT DECISION HANDED DOWN FOR CHAUTAUQUA COUNTY

How were the op-scan ballots "abandoned"?

-----Original Message-----

From: Green, Norman P. [mailto:GreenN@co.chautauqua.ny.us]
Sent: Wednesday, January 13, 2010 7:40 AM
Subject: OPTICAL SCAN BALLOT DECISION HANDED DOWN FOR CHAUTAUQUA COUNTY

Greetings Fellow Election Professionals

As you may know, Chautauqua County was a full roll out pilot county for optical scan ballot voting this past November. The Board of Elections has certified winners in 24 of 25 legislature seats and there currently is a 12-12 split due to on going optical scan ballot issues and normal affidavit and absentee challenges.

Yesterday, January 12, the NYS supreme Court Appellate Division Fourth Department Handed down its decision relating to the twenty fifth and deciding seat that is of interest to all of us in New York. I provide the link for those who are interested in thinking about the issues we face in this new age of elections: <http://courts.state.ny.us/ad4/Court/Decisions/2010/01-12-10/0001.1.pdf>

JAMESTOWN POST-JOURNAL
JANUARY 13, 2009

ROCHESTER - Despite the fact that the Republican candidate for Legislative District 7 regained his lead Tuesday, a winner in the election race still cannot be declared.

A week and a day after hearing from the four attorneys involved in the case, the Supreme Court Appellate Division Fourth Department in Rochester issued its verdict - a decision which largely favored Republican candidate Robert Stewart.

In its decision, the appellate court reversed several of the rulings made by County Court Judge James Dillon in December. As a result, Stewart regained his three-vote lead over Democratic incumbent candidate Leon Beightol, making the totals 545 to 542, respectively. Dillon's decision had tied the two candidates at 543 votes each.

The two Republican attorneys involved in the case seemed satisfied with the court's ruling when reached for comment early Tuesday evening. Fredonia Mayor Michael Sullivan is representing Stewart while Andrew Goodell is representing Republican Election Commissioner Brian Abram.

The Democrats, however, intend to continue on.

Preparing the appropriate papers Tuesday evening, Chuck DeAngelo, attorney for Beightol, said he was "heartened" by portions of the decision - adding that the case is "not over yet." Michael Cerrie is the attorney for Democratic Election Commissioner Norman P. Green.

Continuing means appealing the decision of the appellate court in Rochester to the state Court of Appeals, described by DeAngelo as the highest court in New York.

"I think that there's plenty of room open for debate and it's still a close call as to how this election's going to come out," DeAngelo said. "I'm excited by the prospect of developing the law in this area, and we intend to pursue it to the nth degree."

Legislative District 7 is comprised of the towns of Cherry Creek, Ellington and Poland as well as a portion of the town of Charlotte.

With the County Legislature currently divided between 12 Republicans and a total of 12 Democrats and Democratic-leaning legislators, the race is expected to determine which party will hold control in 2010. The Republicans lost majority in the legislature to the Democrats in 1997.

Rather than create "a real mess" in Mayville, County Legislator James Caflisch, R-French Creek, said Tuesday that the legislature will "exhaust all appeals" before swearing either candidate in for 2010. That, of course, could mean the District 7 seat will be empty come Wednesday, Jan. 27, when the legislature holds its first regular business meeting of the year.

The two attorneys representing the candidates are retained at their expense. Those representing Green and Abram will, presumably, be paid for by the county. The total cost of the attorneys is not yet known as they have not billed the county and the case is continuing.

Fact Box

The Appellate Court's Ruling

Reversed County Court Judge James Dillon's decision on the two unscanned ballots in a 5-0 vote. Dillon had ruled that the ballots were abandoned and therefore should not be counted. The appellate court unanimously overruled Dillon, calling for the two votes - both for Stewart - to be counted.

Reversed Dillon's decision on an affidavit vote cast in the town of Ellington in a 4-1 vote. Dillon had ruled that the voter was eligible to vote from a family home in Chautauqua County. The appellate court ruled that the voter, who voted for Beightol, did not reside in the county at the time of the general election.

Upheld Dillon's decision that two absentee votes for Stewart should be counted. The appellate court

split 3-2 in its decision on the absentee votes.

Unanimously upheld Dillon's decision that the vote of a convicted felon should remain counted in the vote totals. When convicted, a person's name is purged from the voter rolls. Then, after having served their time, convicted felons can again register to vote. On Election Day, the District 7 voter in question had filled out an affidavit vote. The voter, however, had not re-registered to vote since being purged from the rolls. A note was made on the affidavit vote. However, when opening and reviewing absentee and affidavit votes, no objection was raised by either Democrats or Republicans to the vote being counted. In the course of both court hearings, it was said that the Board of Elections should have noticed the note and not counted the vote. That, however, did not happen. In his ruling, Dillon explained that a vote which has been counted with no objection cannot be uncounted. The appellate court upheld his decision in a 5-0 vote. The felon voter's vote was cast for Beightol.

Your Borough

46 Monday, January 18, 2010

Council race picks up pace

BY ERIN DURKIN
DAILY NEWS WRITER

BOROUGH PARK Councilman Simcha Felder hasn't officially resigned his 44th District seat to become deputy city controller, but the field of would-be successors is already growing crowded.

Two candidates began stockpiling campaign war chests to run for the Borough Park seat last year, before the extension of term limits allowed the incumbent Democrat to seek reelection. A third candidate says he'll self-finance his campaign.

But the "800-pound gorilla in the race," as one Democratic strategist put it, could be a former

Candidates are vying for Simcha Felder's Borough Park seat

councilman who held the seat for 19 years and may be looking to make a political comeback.

Noach Dear, who was term-limited out of office in 2001 and is now a Civil Court judge, is said to be mulling a bid. Dear's Council term was marred by scandal. But since becoming a judge, he's gained some acclaim for cracking down on suits by debt collectors.

Observers say Dear, who would have to resign from the bench to run, will only take the risk if he's confident he can win.

Quickest out of the gate was David Greenfield, executive vice

In a twist, Dear, Greenfield and Lazar currently all live outside the boundaries of the 44th district. They'd have to move back into the district by Election Day.

Moishe Oiring, a Wall Street banker and former aide to Borough President Marty Markowitz, also plans to run for the seat, and said he'll stress the residency issue in his self-financed campaign.

"Everybody talks about things they want to do to the community, but no one actually lives in the community," Oiring said.

Ezra Friedlander, who runs a public relations firm, also said he's considering running.

All the candidates so far come from the Orthodox Jewish section of the district. Former Brooklyn Councilman Ken Fisher, a longtime local political observer, said a dark horse could arise from elsewhere in the area, which also includes Midwood and Bensonhurst.

"Somebody else might decide to jump into the race if the notion is that the Jewish vote is going to be split," Fisher said.

A special election won't be scheduled until Felder's resignation takes effect Jan. 31, but is expected some time in March.

Scrap this junk lawsuit



ETROL LOUIS

The nationwide campaign to attack, discredit and defund left-leaning political groups arrives in New York City this week when a trial over obscure, technical issues of campaign law begins on Staten Island.

A gaggle of Republican political operatives and their lawyer, former Deputy Mayor Randy Mastro, have sued the campaign of newly elected Councilwoman Debi Rose and the Working Families Party, charging violations of campaign law.

The controversy centers on WFP's unorthodox decision to create a for-profit subsidiary, Data and Field Services, that contracts with party candidates to perform canvassing, petition-gathering and other campaign duties.

According to Mastro, the longtime consigliere of Rudy Giuliani, the arrangement allows WFP to secretly subsidize candidates beyond legal limits by charging them below-market prices for services.

"The illegality of this scheme is obvious," says Mastro's petition. "This scam has made a mockery of our elections laws." In reality, the legal issues are anything but clear. It takes a lot of research to determine whether, for instance, the amount charged by WFP's subsidiary for voter lists or street campaigners is below "fair market value" compared with what other companies charge.

have never heard of any campaign identifying voters by means of a door-to-door canvass operation," he swears under oath, claiming that Rose must have spent more than \$38,000 on her field campaign rather than the \$19,000 paid to DFS.

To claim no knowledge of how canvassing works proves Menges is either clueless about basic politics or willing to say anything to besmirch the WFP. Rose's lawyers should have a ball cross-examining Menges about that bit of foolishness.

Mastro's main lawsuit makes equally flimsy claims, alleging that "Rose's victory in the primary race came as a complete shock" that was only possible with illegal help from the WFP.

In reality, as I and other political writers have documented, Rose has run frequently for the Council seat. In 2001, she lost by 170 votes to Michael McMahon, a former rival who is now the area's congressman. Last year, she lost a special election to Kenneth Mitchell, McMahon's former aide, by only 341 votes before winning seven months later.

"This lawsuit is about politics, pure and simple," says McMahon. "Debi Rose ran and won, and is the first African-American to represent Staten Island in history. Now

attorney Mastro is trying to taint her victory." There's even more to the lawsuit than McMahon suggests.

The attack on WFP is an extension of a national campaign to cripple groups like ACORN and politically active labor unions like the Service Employees International Union.

These and other progressive groups have registered millions of new voters, unionized workplaces and pushed successful campaigns for living wage laws and other liberal measures.

That makes them Enemy No. 1 to conservatives.

The WFP, hunkered down in defensive mode, has hired former Chief Judge Judith Kaye to examine its structure and issue a report.

The group also has retained Michele Hirshman, formerly the top lawyer under ex-Attorney General Eliot Spitzer, to defend against a federal probe of the party.

The WFP will very likely prevail in court. But if liberal candidates and funders shun the group for fear of being hauled into court, the damage from Mastro's junk lawsuit will be done.

elouis@nydailynews.com

Partisan politics is the purpose of the trial

Comm mty -
File 2

No funds for Hawaii election

BY MARK NIESSE
The Associated Press

HONOLULU — Cash-strapped Hawaii can't afford to pay for an election to replace a representative who is planning to step down next month to run for governor, potentially leaving 600,000 urban Honolulu residents without representation in Washington.

Budget cuts have left the state Office of Elections with about \$5,000 to last until July, with a special election costing nearly \$1 million, interim Chief Elections officer Scott Nago said.

Until the state finds money or this fall's regularly scheduled elections occur, one of Hawaii's two seats in the House of Representatives will remain vacant.

"Democracy depends on representation of the people," Jean Aoki, legislative liaison for the Hawaii chapter of the League of Women Voters. "I can't imagine the citizens of our state not wanting representation in the highest body in the land to make laws. It's just unthinkable."

Elections officials are hoping to hold a vote-by-mail special election May 1 if they can get the \$925,000 it would cost. An elec-

tion with walk-in voting would cost \$1.2 million.

Whoever wins would become the favorite to take on the job after November's general election. Rep. Neil Abercrombie, a Democrat, announced last week he will resign Feb. 28 so he can dedicate his time to the gubernatorial race. His term was set to expire in January 2011.

The elections office faces a series of additional hurdles. It is considering consolidating nearly 30 percent of the state's 339 precincts next year with adjacent precincts, and it has to obtain new voting machines be-

cause of a ruling that the state overpaid on its prior contract.

Some state legislators have suggested saving money by delaying the special election until the regularly scheduled primary election in September. Putting off the election for that long may run up against federal laws and the U.S. Constitution, Attorney General Mark Bennett said.

The U.S. Election Assistance Commission hasn't issued an opinion on whether federal money could be used, but it may be allowed under a law to upgrade voting systems, said spokeswoman Sarah Litton.

NEWSDAY, SUNDAY, JANUARY 10, 2010

OBAMA VOTING BLOCK

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FYI

Diebold suit nears

EXCLUSIVE

By JOSH KOSMAN

The Department of Justice is expected to file a lawsuit at month's end to block the already-completed merger of the nation's two largest voting-machine makers, including one that will service the city. The Post has learned.

According to a person close to the situation, the Justice Department's lawsuit, if successful, would effectively undo the merger of Diebold's Premier Elections Solutions with Election Systems & Software, a \$5 million deal completed in September.

The Post last month reported that antitrust officials at the Justice Department were examining the ES&S-Diebold marriage because the deal would give ES&S up to 75 percent of the voting-machine market, which has triggered worry among voting-rights activists and rivals who argue the deal gives ES&S too much power and little incentive to improve its products.

So far, in addition to the Justice Department, 14 states have opened investigations into the tie-up. Sen. Chuck Schumer (D-NY) has indicated he wants to hold hearings as well.

ES&S last week won a \$70 million contract to supply New York City with between 5,000 and 7,000 electronic touch-screen voting machines.

ES&S also landed a contract with Nassau County.

A city Board of Elections source said the contract involves ES&S machines only and does not include its recently acquired Diebold products, which suggests an unwinding of the deal would not likely affect that contract.

"We were aware there was a DOJ review but were looking at buying models they presented to us two years ago [well before the Diebold purchase]. I can't see how this in any way impacts us," the source said.

ES&S, Diebold and the Justice Department did not return calls seeking comment.

Before winning the local contracts, Nebraska-based ES&S had nearly 50 percent of the US market, with Diebold second with about 25 percent. No other voting machine maker has greater than a 10 percent share.

This would mark the first suit to block a merger in the Obama administration's Justice Department, according to the person close to the situation.

The administration has been warning corporate America that it would take a harder look at mergers for antitrust implications.

The Justice Department is reviewing planned mergers of concert promotion companies Live Nation and Ticketmaster, as well as the \$37 billion tie-up between NBC Universal and Comcast.

josh.kosman@nypost.com

Community
FYI

Vote of confidence for ballot scanners

By MAGGIE HABERMAN

THE pen is mightier than the lever.

That's what I learned when I gave the new Election Systems & Software DS200 voting machine a test run, after the city Board of Elections chose it over a rival model to replace the city's antiquated lever machines.

The experience was cool — but about as satisfying as filling out forms at the Department of Motor Vehicles.

The machines are bringing voting in the city into the 21st century — or even just the 20th century — after decades of lever pulling.



Helayne Seidman

The sleek, touch-screen system has a huge display screen and lets voters feed in paper ballots that look like standardized tests. I was flooded with memo-

ries of the SAT.

A scanner in the machine reads the votes but saves the paper ballot.

High tech? Sure, but why couldn't the machines give

some kind of proof I voted? At least the DMV hands out receipts.

The paper-ballot design looks a lot like the display on the old lever machines, but it took me a second to get oriented.

When the machine gave me the "go" sign, I pressed a green "cast ballot" icon. I fed a mock ballot in with two hands. The screen read, "Ballot scanning, please wait."

Five seconds later, I heard my paper ballot fall into the locked collection area under the machine.

The screen read: "Thank you for voting. Your ballot has been counted."

For the sake of future voting, I really hope so.

maggie.haberman@nypost.com

New York Post, Monday, January 11, 2010



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January 6, 2010

Voting System to Finally Join Electronic Age

By **DAVID W. CHEN**

The voting machine levers are officially history.

After years of delays and fierce lobbying, the New York City Board of Elections on Tuesday selected Elections Systems and Software, an Omaha company, to provide new electronic voting machines in time for the September primary.

Voters will now be required to fill out a paper ballot with ovals, similar to an SAT exam, before feeding it into a faxlike scanner. Then, voters are required to answer questions on a computer touch screen to ensure that the selections they made are the ones they intended. The paper ballots will then be retained as backup hard copies, in the event of any disputes or recounts.

The change means that New York City will finally be in compliance with the federal Help America Vote Act of 2002. That law was passed to avoid a repeat of the Florida debacle of 2000, which was marred by disputed ballots; it also will make it easier for disabled people to vote.

The city had been one of the last municipalities, in the last state, to select an electronic system. New York State was so slow, in fact, that the Justice Department sued the state in 2006 and threatened to take away federal money set aside for any costs associated with the transition to new technology.

But facing a new state deadline of Jan. 14 to settle on a company to provide a system, the city's 10 election commissioners — with one Democrat and one Republican per borough — chose Election Systems and Software, the dominant company in the United States, by 6-1 over Dominion Voting of Toronto. Two commissioners abstained, and one commissioner was absent.

The two companies had lobbied fiercely for the contract, valued at \$50 million or more, to provide 5,000 to 7,000 machines in the city. Election Systems won partly because its machines were easier to read and to use, especially for immigrants and the disabled, said Judith D. Stupp, a Republican commissioner from Queens.

But some government watchdogs expressed concerns about how the board would spend its \$6.7 million budget to educate voters about the new technology. Bill de Blasio, the city's new public advocate, urged the board during a City Hall news conference Tuesday to submit monthly progress reports "to make sure that all New Yorkers know how to vote."

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De Blasio Releases Outreach Plan for New Voting Machines

By Helena Zhu
Epoch Times Staff



Public Advocate Bill de Blasio proposes a new community outreach plan to familiarize New Yorkers with new optical scan voting machines. (Aloysio Santos/The Epoch Times)

NEW YORK—After seeing low turnouts at the Board of Election’s (BOE) recent new voting machine demonstrations, newly inaugurated Public Advocate Bill de Blasio proposed on Tuesday a community outreach plan to familiarize New Yorkers with the optical scan voting machines.

His Voter Information Plan (VIP) includes 10 recommendations that are said to be designed to minimize voter confusion and risk of disenfranchising of the city’s most vulnerable voters—undereducated, non-English speaking, disabled, and elderly New Yorkers.

The BOE recently held demonstrations in all five boroughs to teach New

Yorkers how to use optical scan voting machines, yet few voters turned up. A demonstration held on Dec. 17 in Staten Island attracted fewer than two dozen of the borough’s roughly 270,000 registered voters.

“In order to ensure that New Yorkers vote we need to make sure that all New Yorkers know how to vote,” said de Blasio in a press release. “With elections only nine months away, public forums attended by a dozen people are simply not enough.”

As the optical scan voting machines will be adopted in the 2010 federal and state elections for the first time in New York, de Blasio calls on BOE to include VIP recommendations in their \$6.7 million budget for educating voters.

In de Blasio’s VIP plan, he proposed BOE to include a voting machine demonstration on its Web site to allow voters to simulate voting day experience, distribute a graphic mailing to all households with registered voters with educational materials, use social network sites such as Facebook and Twitter to connect with younger voters, allow voters to subscribe to receive text messages with information about voting machine demonstrations, and other means to reach out to voters.

The transition from lever voting machines to a new computerized system follows a 2002 federal mandate under the Help America Vote Act for all states to install new and fully accessible electronic voting systems. Upon obtaining a waiver from implementing the new equipment in the 2004 and 2006 elections, New York is one of the last cities in the nation that have not switched to new electoral equipment.

“As we move to adopt a modern system for casting and counting votes, it is critical that we give voters every opportunity to understand the new machines and to have confidence in the system,” said Assemblyman Brian Kavanagh, chair of the State Assembly’s Subcommittee on Election Day Operations.

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Bill de Blasio
 PUBLIC ADVOCATE FOR THE CITY OF NEW YORK
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January 5,

2010
 Contact:
 Maibe Gonzalez Fuentes, 212-669-4691

DE BLASIO RELEASES COMPREHENSIVE OUTREACH PLAN TO EDUCATE NEW YORKERS ABOUT NEW VOTING MACHINES

Urges Board of Elections to Adopt New Voter Information Plan to Prevent Confusion in Fall Elections

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Sign up for Emails

New York City —Public Advocate Bill de Blasio today released the Voter Information Plan (VIP), a comprehensive community outreach proposal to ensure that New Yorkers learn how to use new optical scan voting machines that will be used for the first time in the 2010 federal and state elections. The plan includes ten recommendations designed to minimize voter confusion and risks of disenfranchising the city’s most vulnerable voters -- particularly undereducated, non-English speaking, disabled, and elderly New Yorkers.

At a press conference with elected leaders, advocates, and good government groups, Public Advocate de Blasio called on the Board of Elections in the City of New York (BOE) to include VIP recommendations in their \$6.7 million budget for educating voters, present a full educational plan in the next 30 days, and submit progress reports on a monthly basis that documents informational activities and specifies the number of voters reached.

“In order to ensure that New Yorkers vote we need to make sure that all New Yorkers know how to vote,” said Public Advocate Bill de Blasio. “With elections only nine months away, public forums attended by a dozen people are simply not enough. Our democracy needs to be more inclusive, especially in a city as diverse as New York.”

The BOE recently held borough-based demonstrations to educate New Yorkers on how to use optical scan voting machines, but only a handful of people attended the events. In Staten Island, for example, a demonstration held December 17th attracted fewer than two dozen people of the borough’s roughly 270,000 registered voters.

Today’s announcement took place before the BOE’s weekly meeting where commissioners were expected to discuss and possibly approve a new optical scan voting machine. The BOE has until January 14, 2010 to approve a new voting machine.

The transition to a new computerized system follows a 2002 federal mandate under the Help America Vote Act for all states to replace their lever voting machines or other antiquated technology with new, fully accessible electronic voting systems. After obtaining a waiver from implementing the new equipment in the 2004 and 2006 elections, New York City is one of the last municipalities in the country that has not switched to new electoral equipment.

The Voter Information Plan outlined by de Blasio includes the following recommendations:

- Work with advocates from the disabled, immigrant and elderly communities to craft an outreach plan to ensure their needs are met.
- Test educational materials prior to distribution to ensure that materials effectively convey the information to all target populations.
- Include a voting machine demonstration on the BOE’s website that allows voters to simulate voting

day experience.

- Distribute a graphic mailing to all households with registered voters with educational materials and directions to access the online tutorial.
- Design a multilingual advertising campaign, which should include advertisements in bus shelters, train and ferry stations, and community and ethnic media.
- Place public service announcements about the new machines and local voting machine demonstrations on public access channels, and partner with local news networks to broadcast Public Service Announcements.
- Use social networking sites, such as Facebook and Twitter, to connect to younger voters who can pass on voting machine and demonstration information to their networks.
- Consider allowing voters to subscribe to receive text messages with information about voting machine demonstrations.
- Produce and distribute -- to libraries, high schools, senior centers, etc. -- a DVD with a tutorial on how to use the new voting system and train volunteers to conduct educational workshops.
- Translate all written informational materials into at least the five languages required by the Federal Voting Rights Act and State Law (English, Spanish, Korean, Chinese and Russian) and consider including translations into the languages of sizable foreign born voters.

"We want all eligible voters in our democracy to take part in the election process, including the elderly, non-English speakers, the disabled, and those who are hesitant using new technology. A sweeping education outreach to such voters will ensure that all voters are made aware of how to use, and become comfortable with, the new electronic machines," said Senator Joe Addabbo Jr, Chair of the Senate Elections Committee. "As part of that education campaign, we also need to find out their cost-per-unit, plus the cost of training poll workers, who have been with us for a very long time using the old lever voting booths, to operate these new machines."

"As we move to adopt a modern system for casting and counting votes, it is critical that we give voters every opportunity to understand the new machines and to have confidence in the system," said Assemblymember Brian Kavanagh, Chair of the State Assembly's Subcommittee on Election Day Operations. "This past Election Day, my staff and I visited poll sites in ten counties to the North that piloted machines like the ones New York City will now use. We found that the experience of voters varied widely, in part depending on the level of preparation and public outreach by election officials in advance of the election. I applaud Public Advocate de Blasio for putting together a great set of suggestions for maximizing effective outreach here in the city."

"New voting machines are intended to improve access at the polls and reduce error, but those goals won't be realized without educating the voters about the machines," said Council Member Garodnick. "The Board of Elections needs to engage New Yorkers to ensure that we have a truly representative democracy that leaves no one out."

"As New York City switches to new voting machines this year, it is crucial for the city to make every possible effort to facilitate access to the ballot. That's why I'm honored to stand here today as Public Advocate Bill de Blasio announces his Voter Information Plan," said Executive Director for the New York Immigration Coalition, Chung-Wha Hong. "With immigrants making up nearly half of all first-time voters in the City--a major force in the expansion of the city's electorate--and the large portion of the city's population still learning English, voter information outreach must be done in the major languages spoken throughout the city to ensure voter access and to support the growing civic engagement of immigrant communities."

Dick Dadey, executive director of Citizens Union, said, "Public education is going to be a key component of New York City's successful transition to a new voting system. The new system will make major changes in how New Yorkers vote which is why the public education effort needs to be well thought out, tested, proactive and collaborative. Public Advocate de Blasio's proposal highlights how important it is that the BOE work with elected officials, community-based organizations, and good government groups to execute a wide spread education effort that can reach a maximum audience."

"After decades using lever voting machines, New Yorkers are being asked to switch in less than a year to an optical scan system. Voters need and deserve help or turnout will continue to decline," said NYPIRG Senior Attorney Gene Russianoff.

"Engaging disability focused organizations early in the process and demonstrating a commitment to accessibility makes it possible for organizations to assist the NYC BOE with outreach to the disability community," said Center for Independence of the Disabled's Voting Rights Coordinator, Rima McCoy. "It is also the best way to develop plans to reach people with visual impairments who cannot read print newspapers and do not have computers or the internet."

"Common Cause/NY has long advocated for better information to be provided to voters," said Susan Lerner, Executive Director of Common Cause/NY. "With the moneys provided by the Help America Vote Act, and adequate planning which would include following the suggestions for sensible outreach and education made today by the Public Advocate, the Board could help insure a smooth transition to the new voting machines."

"With an entirely new method of voting awaiting voters in the 2010 elections, it is imperative that we join forces to assure that the new system is understood by all communities and constituencies," said Adrienne Kivelson, Elections Specialist of the New York City League of Women Voters. "The League looks forward to working with Public Advocate Bill de Blasio and the Board of Elections in a coordinated effort to help voters understand how to use the system and make sure that it remains transparent and verifiable."

"In 2010 New York voters will switch from pulling a lever to marking a paper ballot. It is vital that education efforts reach out to the diverse language, age and electronic-literate populations in the City. The Public Advocate's office is well positioned to aid in this effort," said Ruth E. Acker, President of Women's City Club of New York. "The Women's City Club applauds Bill de Blasio's offer to partner with the City Board of Elections on a public education campaign to introduce New Yorkers to a new way to vote."

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