

**VERBATIM MINUTES
STATE ELECTION BOARD MEETING
200 Washington Street
Suite 450 State Capitol Building
Atlanta, Georgia 30334
Monday December 10, 2007
10:00 a.m.**

(Whereupon, the meeting started at 1:05 p.m.)

Chairperson Handel - "Good morning, everyone. We're going to go ahead and call to order. First a roll call. Just say your name."

Mr. Jeff Israel - "Jeff Israel."

Mr. Tex McIver - "Tex McIver."

Chairperson Handel - "Karen Handel."

Mr. David Worley - "David Worley."

Mr. Randolph Evans - "Randy Evans."

Chairperson Handel - "All right. We have a quorum. The first order of business, if I could have everyone stand we'll have an invocation. Jeff will lead us in that, followed by the Pledge of Allegiance."

(Whereupon, Mr. Israel gave an invocation, followed by the Pledge of Allegiance)

Chairperson Handel - "I'm not sure that there's ever been a situation where Randy has been pledged to, so --. And just for everyone in the audience to know, as we go through the cases that'll be presented later, the process that we'll use, the Inspector General will have approximately 15 minutes to present the case to the Board, then we'll allow time for the respondent. If he or she would like to speak a total of 15 minutes there for individuals who want to speak on behalf of a particular case, one side or the other. And is there anyone here to speak in Public Comment other than a case that's going to be presented later today? No one? The next order of business, then, is to approve our minutes from our September 25th meeting. Colleagues, are there any questions, or changes, or edits that you found with those?"

Mr. Evans - "Move to approve."

Mr. Worley - "Madam Secretary."

Chairperson Handel - "Yes."

Mr. Worley - "Just one typographical error on page 4 of 10, third paragraph down. Mr. Jablonski's name is spelled J-A-B-L-O-N-S-K-I, just for the record."

Chairperson Handel - "Okay. All right. We'll get that changed. Great. Any others? All right. Is there a motion?"

Mr. Evans - "So move."

Mr. Israel - "Second."

Chairperson Handel - "Motion and a second to approve as amended. All in favor, please say aye."

Chairperson Handel - "Any opposed? There is none, the minutes are carried. All right. The next order of business is the Inspector General's report. Ms. LaGrua."

Ms. Shawn LaGrua - "Good morning."

Chairperson Handel - "Good morning."

Ms. LaGrua - "The first case on the calendar this morning is Calhoun County, **Case No. 2006-000019**. The general complaint alleging convenience voting. The complainant is Kathy Rogers, former Director of the Elections Division, here. The respondents are the Calhoun County Superintendent of Elections, the Board of Registrations, the Chief Registrar, and the Chief Deputy Registrar. Mr. Collier is here on behalf of this group this morning."

Chairperson Handel - "All right. We'll give you an opportunity to speak when Ms. LaGrua's finished."

Ms. LaGrua - "The allegations in this case are that the County -- this County has five precincts, and for some time now convenience voting has been allowed. That is voters in one precinct were allowed to vote in a different precinct if it was closer or more convenient for them. It's further alleged that after being notified of the problem, they did not immediately send out new polling precinct cards. And in one particular incidence, the Registrar actually made a finding under 21-2-265, that there was not an appropriate location within one of the precincts, however, in making that finding they then allowed for people in that precinct to vote at two other precincts instead of just one other precinct. Mr. Collier has been in touch with me for a number of months now. I believe that they are stipulating the allegations here. My recommendation would be that either, through this Board or the Attorney General's Office, a Cease and Desist Order be issued directing the County not to engage in convenience voting, issue new cards, ensure that those were appropriately issued and timely, and a fine or any other sanctions as appropriate. As I say, Mr. Collier has been very cooperative, and I know he is here this morning and has indicated his desire to resolve some kind of consent in this matter."

Chairperson Handel - "Okay. Mr. Collier."

Mr. Ed Collier - "Good morning."

Chairperson Handel - "Good morning."

Mr. Collier - "My name is Ed Collier. I'm County Attorney for Calhoun County, and Ms. LaGrua is correct. Surely, as evidence, I'd like to give you mitigation. I'm not here to make excuses, but our Election Superintendents came, the Probate Judge, the Magistrate Judge, and the Elections Superintendent in 2001. It was a very contentious election where she ousted an incumbent and she did not have any training, whatsoever, in elections, did not get any help from the prior Elections Superintendent. Once she realized from the Elections Division that there was a problem concerning convenience voting, she immediately, in fact, I think just a few days before one of the elections she immediately changed. She put an ad on the radio, she put an ad on TV, she posted signs at the precincts to allow -- make sure the voters know. And I just want to preface all these comments just to let you know that there's never been any allegations of voter fraud. There's never been any allegations that someone was disenfranchised. The fact of the matter is, we've gone -- we went from convenience voting to following State Law. So the Elections Superintendent is here, the Registrar is here, we have a Commissioner here. We would like to get it resolved today."

Chairman Eaves - "Any questions? Questions on this one, Randy?"

Mr. Evans - "No questions."

Chairperson Handel - "All right. Do we have a sentiment from the body? I mean, certainly a Cease and Desist clearly --."

Mr. Evans - "I don't see how 222 -- 21-2-228 is an implicated violation. It's just a definition."

Chairperson Handel - "All right."

Mr. Evans - "I mean, I was looking for, Shawn, the precise statute that requires that a voter be limited to voting in the precinct in which they reside."

Ms. LaGrua - "In my reading, Mr. Evans, of 21-2-265, I believe indicates that there's has to be a voting location per precinct, and that cards then have to be issued for that particular precinct. If there is not an appropriate polling place within a particular precinct as I -- you've done this a lot longer than I have, so obviously, I defer -- I've read the statutes that have been cited here pretty closely, and I questioned this, actually, when the report originally came in. But it looks to me like you can find that there's not an appropriately polling place within a particular precinct,
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and in fact, that finding was legitimately, as I understand it, made in this case. The problem is that once it was determined that there was not a legitimate place within the precinct. Two places outside the precinct were identified as voting -- polling places, instead of one. And I don't know that it's delineated -- that there is a place where it says it has to be one. There's nothing I can find that specifically says if you can't find one within the precinct that you couldn't have two, though I think impliedly in the definitions read with 21-2-265, that's the implication that there can only be one polling place per precinct."

Mr. Evans - "Well, I -- if I hear you correctly, what you're saying is that you can cobble together all of these into a point where it appears as though it's clear that the statute requires that an Elector be limited to voting at a designated precinct, or a designated polling place within the precinct in which they reside, absent exigent circumstances that require, or unsuitable polling places that require they vote outside."

Ms. LaGrua - "That's as I understand it."

Mr. Evans - "But -- but I could not find a statute that specifically said that, or that even remotely came close to saying. And the reason I raise that issue is because, I have to tell you, individually, I favor convenience voting. I -- I personally believe we should do everything we can to increase the number of people who are voting, and with the computer technology we have today where, literally, the cards can be read, I personally favor the idea that they should be able to go to the most convenient place and cast your ballot as long as we can prove that it's not fraudulent, and as long as we can verify that you're the person casting the ballot. And so, I'm confronted with this situation where I have the statute, which I personally don't see that there's a direct violation of a statutory provision that we can hang our hat on. That, then, moves me to whether or not we should ask the Legislature to fix this because it would be a housekeeping measure that requires the Legislature to specifically address it. However, given that I actually prefer anything that makes it easier for voters to vote, I don't know if it's something we want to plug, or whether or not it's something that we want to take advantage of or address. But unless Counsel, or unless you could point me to the specific provision, whenever I spent my time trying to get ready I couldn't find one. And I was surprised because I thought there was a provision that says you are limited to voting within your -- you are limited to voting at a precinct within you -- within -- or at a polling place within a precinct of which you live. I thought that was actually in here."

Ms. LaGrua - "I don't know that it's that specific. My reading of 21-2-28 indicates that precinct -- the voting precinct is the geographical area, but there can only --

Electors can only vote at one particular voting precinct which, at least to me, implies that there can't be two precincts in which one voter could...."

Chairperson Handel - "Choose between --."

Ms. LaGrua - "...choose between two to vote."

Mr. Worley - "And I would agree with the Inspector General's interpretation in that language because it says a precinct is an area from which all Electors vote at one polling place."

Chairperson Handel - "I actually agree. I think it's, for me, two separate issues. There's the precinct at which you are designated to vote at. That may or may not, to your point, Randy, be the one in which they quote, live in, it's one they're assigned to. And I don't know that -- there's never been allowable, that I can determine in the law, and in talking with folks with AG's Office, and past practice at the local level, the notion of quote, convenience voting, and we can save for another day's discussion of whether that should or shouldn't be allowed but currently there has not been something. But, for me, the most important point is for the current Superintendent, when the issue was brought to her attention she immediately corrected it and it's corrected now."

Mr. Collier - "It is."

Chairperson Handel - "Okay. And --."

Mr. Collier - "I will tell you this, now. We do have a precinct where there's no polling place. She did, you know, use the provisions of sub-Section E."

Chairperson Handel - "Uh-huh (affirmative)."

Mr. Collier - "She came to the Commission, and it was just cost prohibitive for the Commission to build a building...."

Chairperson Handel - "Sure."

Mr. Collier - "...and went to the church to see if they would be willing to lease out the church on election days, they were not. And I -- just to kind of give you some idea, we had 27 hundred registered voters in the entire County."

Chairperson Handel - "Right."

Mr. Collier - "So I don't want you to think we've got people lined up waiting to vote at some particular voting place."

Chairperson Handel - "Okay. All right. That's helpful. Any other questions? All right. Do we want to try a motion that we just do a move that we send a letter of Cease and

Desist, and also, there is one more question before I do the full motion. Has the individual completed her certification?"

Mr. Collier - "Yes."

Chairperson Handel - "Yes. Okay. Good. Good. So just a letter of concern."

Mr. Stefan Ritter - "Madam Secretary, do you want to say a letter of concern, or would you like a Consent Order?"

Chairperson Handel - "No. I was just going to do it in letter form. It was going to be my motion, a motion to send a letter to -- of concern around the issue and making sure that it's fixed. Is there a second?"

Mr. Worley - "Would -- If I could ask a question...."

Chairperson Handel - "Sure. Sure."

Mr. Worley - "...Madam Secretary. Would the County have any problem with entering into a formal Cease and Desist Order, that this would not be done in the future?"

Mr. Collier - "I don't think so, because in our mind it's a moot point anyway, because we have ceased from that action. I mean, we won't have any problem with that."

Mr. Worley - "Okay. Okay."

Chairperson Handel - "So is it the body's pleasure to make a formal Cease and Desist."

Mr. Worley - "That would be my feeling. I --."

Chairperson Handel - "That's mine. I'll amend my motion that I move that we have a formal Cease and Desist Consent Order with Calhoun County. Is there a second?"

Mr. Worley - "Second."

Chairperson Handel - "All right. Any other questions? All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Chairperson Handel - "Okay. I have one opposed. Thank you. Thank you, and then we'll --."

Ms. LaGrua - "May Mr. Collier be excused, at this point, Madam Chair?"

Chairperson Handel - "Absolutely. And if we can, from the Attorney General's Office, this should be a fairly simple one. If we can get this taken care of straight away so that there won't be any questions going forward for these folks. So thank you very much, we appreciate it. Thank you."

Ms. LaGrua - "Thank you, Mr. Collier. Good to see you."

Chairperson Handel - "All right. Next item."

Ms. LaGrua - "The next case on the Agenda was the Elbert County Case. We received correspondence from Bill Daughtry, the Attorney for the Respondent and for Elbert County, on Friday requesting a continuance that he had just recently become involved. I believe, Madam Chair, after speaking to the AG's Office, granted that continuance so we would expect that to be on the next meeting."

Chairperson Handel - "Okay. And, colleagues, that was just in trying to be consistent with we had done before, as a body, and I didn't feel the need for them to come all the way down. So hopefully that was okay with everyone. All right."

Mr. Evans - "Yeah. I think our -- I think our practice in the past, and Board Member McIver can correct me if I get this wrong, but I think it's you always get one continuance, automatically, that if you ask for it, it's courtesy."

Chairperson Handel - "Exactly. And that's how I proceeded. Great. All right."

Mr. Evans - "After one, then we have --."

Chairperson Handel - "Exactly. Move on. All right. Next item."

Ms. LaGrua - "The next item is Habersham County. **Case No. 2007-000012.** As you -- the Board may recall, this was on the September SEB Meeting, and I'll briefly go back over the allegations. The original allegations arose when we were doing monitoring in Habersham County, we found a number of violations that were outlined at the last meeting. We informed Ann Jarrell, the Habersham County Court Probate Judge, of the violations, and when we -- excuse me. When we went back at the next election, not only were the violations not corrected, they were worse than they had been at our original monitoring. So this was not a situation where we monitored, told them some of the things that could fix, and then they got fixed and we brought it here, this is one where they were informed, specifically, of what the problems were, and when we went back at the next elections cycle the problems were still there and there were more violations than there had originally been. You may recall that Judge Jarrell addressed this body at the September meeting, and the Board asked that we notify the County Commissioners of
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the situation and have them appear, so that's where we are. My original recommendation was, and remains, that the case be referred to the Attorney General's Office, with eyes toward sanction mandating training and then, in light of your discussions with the other officials that are -- should be here this morning, and they are. And I spoke to Ms. Runyon, who is here, the Attorney for the Commission last week, and they're here so at this point I'll leave it to the Board to address those concerns."

Chairperson Handel - "Is there anyone from Habersham County who would like to speak?"

Ms. Runyon - "Good morning."

Chairperson Handel - "Good morning."

Ms. Runyon - "Lawyer Runyon, Habersham County -- one of the Habersham County Attorneys. With me today, I have Jimmy Butterworth, our Chair, Janeann Allison who is our acting County Manager and does double duty as the Clerk, temporarily, and we have our Finance Officer Jason Tinsley, hiding back here."

Chairperson Handel - "Okay."

Ms. Runyon - "Since this is kind of unusual, how would you like -- would you like a statement from me and then an opportunity to speak with them, or --."

Chairperson Handel - "I think -- If my memory serves me, colleagues, I believe that in the course of her remarks to the body, the Judge commented around some sense of wanting more support from the County Commission, which then is what led to, I believe, Board Member Evans asking that perhaps the Boards be notified. So I guess it would be -- what would you like to add to this in terms of --."

Mr. Evans - "I'll -- Since I'm the --."

Ms. Runyon - "I just don't want to waste your time."

Mr. Evans - "No, and listen. We appreciate your being here."

Chairperson Handel - "Absolutely."

Mr. Evans - "I know it takes a lot to get here, and we appreciate that. Actually, I think we had added the County as a Respondent so we could get jurisdiction -- make sure that we had proper jurisdiction. I don't see our summary as reflecting that, but here's where -- here's where our worry is. It looks like we have a problem here. When you look at it, you can't look at these list of violations and not be left with the idea that there's a problem. Our job is twofold. One is to address past problems, and then, second

is to try to make sure that as elections come, especially with the Presidential Elections next year, that we've taken the appropriate steps to fix them. Sometimes what happens is that if we have one person in, like we either have the Elections Superintendent or the Probate, it's like squeezing a balloon. We fix that part, and then it's -- oh, but it was actually this person. And then we get that person in and it's like oh, no. It was actually that person. So one of the procedures that's available to us under the amended statute is to get everybody here so that we can hear, so that everybody's on the same page, what is the solution so that, hopefully, the Attorney General can then help fashion a proposed relief to us to say here's how I can guarantee you that in Habersham County you're not going to have these problems again. Now that won't solve the problem of what's happened in the past. Ms. LaGrua will help us figure out what the appropriate remedies are there, but I will be candid with you and I think Mr. McIver will agree because he's been with me so long on this Board. We focus as much as solving problems in the future as we do dwelling on the past. And that's really why it's helpful to have the County and the Finance people here to say, okay, have they -- Ms. LaGrua, have they been provided a copy of all these violations?"

Ms. LaGrua - "They've been provided a copy of the summary, yes."

Ms. Runyon - "Yes, we have."

Mr. Evans - "So what would be helpful to me, and I speak only for me, is to say here's how we're going to fix these problems in a way that our counsel, here, can take it down and we can figure out if it's an appropriate enforceable way to make sure, and then the Secretary of State's Office can police it to make sure that the voters in Habersham County can feel comfortable that we've done our job and that the elections are safe, secure and they're -- and they have integrity. So that's what would be helpful to me, I can't speak for my colleagues."

Ms. Runyon - "Well, I think we're all working towards the same goal because that's exactly what the County has been trying to do, is try to, not just in the Probate Office, but as well, and all the other constitutional offices provide them with the support they need. In fact, one of their goals if you look on their website, their deemed goals is to strive to manage the County with efficiency, effectiveness, and innovation while funding services responsibly. Because as you know, not only do the Commissioners have to work with all the different departments, all the different constitutional officers to meet their budgets, they also have to be responsible to the citizens of their counties because if they give everybody everything, then the millage rate goes up and the taxes go wild. And I think you all know how that goes. So they really strive to get a nice

balance. And I think, today, if you'll give each of my three Habersham Representatives just a couple of minutes, they will be able to tell you how -- things they have suggested in the past, and give you some insight on how to improve this or how to keep this from happening again."

Mr. Evans - "Well if I could, I'm going to be particularly interested in hearing how we fix a problem where we have express poll units unsupervised because that is a threat to the integrity of the election. I'm going to be particularly interested in how we have adequate training for an oath of Managers to be taken at all of the relevant precincts. I'm going to be interested in making sure to figure out what you need to do to have sufficient resources to post all of the requisite notices. I'm going to be interested in knowing how it is that we have adequate Poll Managers, and the Managers are adequately trained and their they're on time to start a polling. In other words, I appreciate the generalities of we want to balance good government with keeping low taxes, and trust me, there is no more stronger advocate for low taxes than me. But I'm interested in making sure these elections are safe and secure.'

Ms. Runyon - "Absolutely."

Mr. Evans - "And it sounds like what we heard last time. Madam Chair, you tell me if I tet this wrong. What we heard was we don't have the resources to get this done. Is that not -- Did I get that wrong?"

Chairperson Handel - "I went and looked back at minutes and circled what the comment was that there was not enough staff, and nor was the staff that was there adequately trained. So, I mean, from my perspective that's, you know, two different issues. Staff is one issue, but the responsibility for training is not the County Commission. It rests with the Probate Court Judge. Let me also say, as someone who has been in your shoes from the Fulton County side, that it certainly would not be my intention, I know all too well how budget cycles go, particularly when they involve other elected officials and the process that happens when that occurs. And it would not certainly be my intent to be in the middle of all that. What I will say is that I do think that for County Commissioners, generally, that, and I will put myself in that bucket from my time that we need to be a little more in tune around what's happening in the area of elections and we tend not to because it only comes around once a year and we're busy doing everything 365 days a year. So at -- like Board Member Evans, what I'm interested in hearing is that there's going to be a commitment to at least attempt to have a partnership here to help to deal with some of these issues. Again, if there was legitimately a staffing issue, and I can't answer that question that's beyond what we would have before us here, but if there is legitimately a staffing issue, that that be dealt with. And then on the training side, that rests with

you, not with your Commission. That's your responsibility on the training side."

Ms. Runyon - "Mr. --."

Mr. Jimmy Butterworth - "Can I speak, please?"

Mr. Runyon - "Sure."

Mr. Butterworth - "Madam Secretary, members of the Board, my name is Jim Butterworth. I'm the Chairman of the Habersham County Commissioners, and that spirit has been there, and it will be there going forward. That's the message -- that's the reason I'm here today. I'm not here to argue about inner-Habersham County politics. There haven't, necessarily, been that type of issue. We have -- My position is that we have helped. That's the comment that I saw from your previous meeting that I have to take issue with. We have helped. I'll stay in the treetops. I'm not going to get down in the weeds like you referred to, but treetops angle, we had questions about needing imaging software. We hired a software company that came and did a study. We spent \$25 hundred of contingency money. That study was -- basically indicated that we need \$10 thousand worth of software. We -- and we have all of the different paperwork that indicates all this. Then went back and said we'll donate SPLOST money, do whatever effort needs to be. That issue died. There was a question about some personnel -- needing more personnel in the middle of a budget year. Not the beginning. We obligated 10 thousand -- I'm sorry. One thousand 40 hours worth of personnel time to use how the Judge deemed necessary. It was used as full-time and it ran out before the end -- before the end of the budget year. The County Finance Officer, again, is here with me. He was in a meeting with myself, another Commissioner, and the Probate Judge. We said, simply, open-handed what do you need. The answer we got was we need books bound, they have been bound at this point, and we need someone to answer the telephone. That has been supplied so we've done our part. Like Ms. Runyon said, we can't run every office in the County, but we have -- my position is, and the position of our Board is, that we have helped when we have been asked for help. So that's all my comments. I'll take any questions, or I'll go sit back down."

Chairperson Handel - "Thank you."

Mr. Evans - "This is why we bring people in. It's because what I now have before me, is I have a Probate Judge saying I don't have enough resources and I have the Commission Chairman saying they've gotten all the resources they've asked for. And at that moment, I know that I've got a fact issue, something that I'm not going to be able to resolve today. But that's the kind of thing that we have to get information. But what I didn't hear, which I assume from your remarks, is that if our staff, Ms. LaGrua, identifies

for you and communicates directly to you here are the problems that you are going to get them fixed, that's what I need is the commitment."

Mr. Butterworth - "Yes, sir. And actually, I have in my hands a copy of our -- the Agenda from November the 5th. One of the items on our Agenda considering authorized Chairman to sign Election Support Service Contract for the 2008 elections. We approved that, and my best recollection was that was in the neighborhood of \$65 hundred, initially. And we have -- and that was unbudgeted. That was things that we -- that has been a surprise and we allowed for it, and we understand that there will probably be more of that going forward. So yes, sir, going forward we're -- we continue to be here to help."

Ms. Runyon - "If I could make one recommendation from my experience over the years with this County, a lot of the, and again, I'm looking for solutions, not trying to make excuses. But -- and we -- and being a constitutional officer, we, as a County, can't tell the Probate Judge how to run her office, who to hire, how to spend her money, but to, you know, for her to submit her budget as required by the statute. And part of the problems have started because, and again, I'm not throwing blame, is we're not -- the County's not getting a good budget and a good overall picture, not being told what we need to get. I mean, we can't promise that we'll give absolutely everything. We've had outside auditors come in and they said well, we suggest that this department, you know, comes up to speed with computers to do their reports, to do these sort of things. The County makes available funds to do that and it's not completed. So there's some things like that. Automation would be a -- a vast help with this particular -- and the County has funds available and is -- is willing to work with it, but we have to know. We have -- and Jason can speak to you about what type of budgeting information that he was provided."

Mr. Butterworth - "And I think that following comment is within reason. You know, we don't have a bottomless pit available. And I think it's important, too, that we not air our dirty laundry should there be any. Your comment is appreciated going forward. Whatever -- However we can help, we're there to help. So --."

Mr. Evans - "What I -- my hope is that our Inspector General will communicate to all parties involved. We now have all of you before us and we'll say here are the things that we, from the State Election Board, believe are necessary for an accurate and reliable election and that you're going to provide the resources recognizing that it's not an endless amount of money."

Mr. Butterworth - "Absolutely. And I would have been here last time. I was not advised that --."

Mr. Evans - "I know, and that's why we have you here now."

Mr. Butterworth - "We appreciate that."

Ms. Runyon - "And just so you all know, and of course this doesn't change we still have many elections we have to deal with beforehand, but the Board of Commissioners did vote to go forward with an Election Board. Our County Manager contacted Schaeffer and Bridges prior to the last session and it did not make it onto their -- their Agenda. That is in the works and is being planned for in the future. Would you like to speak to any other members of the --."

Chairperson Handel - "Any other questions, colleagues?"

Mr. Evans - "I'm assuming the counsel will, in a course of investigating this, want to speak to the Finance, because he's going to have to sort out, or she's going to have to sort out what did happen with regard to the resourcing issue."

Chairperson Handel - "Well I think, clearly, this is one that will need to go on and refer over to the Attorney General's Office and --."

Mr. Worley - "It seems that the Probate Judge is here."

Chairperson Handel - "Oh. Did you want to speak, as well? Sure, come on up. Thank you."

Mr. Douglas McDonald - "Good morning."

Chairperson Handel - "Good morning."

Mr. McDonald - "My name is Douglas McDonald. I am from Habersham County. I'm an attorney practicing law there in Habersham County for some, nearly 40 years. I'm familiar with the problem. I am here on behalf of the Probate Judge, today, in an effort to try to mitigate the circumstances as best they can be mitigated. She certainly does not want anything to go forward to the Attorney General's Office. The County does not want that. She wants very much to work with you all to try to resolve this problem, and I think you've hit the nail on the head with a hard hammer when you've indicated that the problem is resources and funding. And I've heard all of my life that he who controls the purse strings, controls. And everyone can stand up here and say that she has the responsibility to take staffing and money and do what she can do with it. The County determines how much money she gets. The County Commissioners set the budget. If they set the budget, whatever it is, that's the budget. She doesn't have anymore other than to pull money out of her pocket, which she doesn't have. And as a very dedicated public servant, you know from the record that she has been involved in probate work for 45 years. You know that she has been the Probate Judge Elect since 1993. Your Inspector and Investigator will tell you that she has

cooperated in every respect, not bringing a lawyer down here today until we understood you had summonsed the County Commission, along with their Attorney and she felt that she would like to have someone here who could speak on her behalf. I would like to also tell you that we can't get away from is the fact that she has additional duties other than just election duties. As Probate Judge, she fields 85 percent of the people that come in the courthouse that go to a particular issue to fill the issues of probating wills, guardianship, marriage license, pistol license, voting, all kinds of issues, and she does it by herself with two people. She has the number of staff she has had for the last 25 years and I can tell you that is not true in other County offices. And I'm not here to point fingers at anybody, I'm here to tell you that she does the best job she can with what she has. Please, also, remember that on the day of the election when the election was monitored, her Deputy Election Coordinator resigned, walked off, because of overstress and overworked, and therein lies some of the problems that were monitored that day that you have indicated were quite egregious and very serious. She takes her responsibilities very seriously. You have before you, and I hope you will all read them, numerous, numerous newspaper articles where this issue has gone back into 2005, 2006, 2007, still exists to this day, where various people have been quoted. The Grand Jury has asked that there be some assistance in this office, that some of the responsibilities be removed, that there be an Election Board established and that hasn't been done yet. And we don't know if it's going to be done in 2008, that's yet to be seen. But that would be tremendous relief if that could occur for the Probate Judge's Office. I would like, at this time, to continue to ask you to hear the cries of your Election Superintendent that she needs some help. Whether the State has any money, or staffing, or personnel to help, or not, I don't know. Probably not. I see some of you shaking your head. So there are ways that you can suggest that she get help and that that help be supplied. That's all she is asking you to do is to give her some help. If you have any questions about anything I have said, then I'll be happy to answer or let her do that for you. She's appeared, she's cooperated, I don't know what else we can do at this point."

Chairperson Handel - "All right. If I might. First of all, it is not the State's job and this would definitely fall in my realm, it's not the State's job to provide staffing and funding to the local election's officials. Secondly, again, from this one person's perspective having served in the County Commission role, I'm not, as one member of this SEB, going to get into a spat between one elected official and another elected official. I have been there. I have been at the center of it. I have seen bad behavior, frankly, on both sides of that isle when I worked at Fulton County with some elected officials, and Sally's smiling, absolutely just blatantly disregarding budgetary guidance, et cetera from
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the County Commission and blatantly overspending and then expecting us to come back in and fill the hole. And then going out into the press and crying foul that the evil Commissioners did evil. Then I've seen it on the other side of it where an elected official legitimately needed additional funding and we just simply weren't able to get it done because of the politics of a Board. So I just -- that is not something that, for me, individually, that this body is going to be in the middle of. I do, however, think that there are a number of areas, candidly Judge, that have nothing to do with funding. I mean, making sure that the individuals that -- that the oath of managers was given, that's not a funding issue, that's a process issue and an oversight in terms of the details. So maybe there is some funding issue, I have no idea but that is for you and the Commission to work through. We can, for me anyway, what I'm interested seeing is, and just so you understand the process, this will -- there is no other process other than to refer it to the AG's Office to obtain a Consent Order around what actions need to take place. And for me, it is the end result of needs to occur in terms of fixing the issues. And how they are fixed is not necessarily what I am so concerned with, it is ensuring that these particular things do occur and that Habersham, through your office and in partnership with the County Commission, that the State Election Laws be upheld. So that's, kind of for me, where I'm at. Again, I just don't know how productive it is to keep blaming one group over another and all of that because that doesn't get us anywhere. Anyone else?"

Mr. Evans - "It's important for us to under we have an issue of fact. And the important part is that both of you come forward, you tell us, you know, your perspective. We can see whether there's consensus, there isn't. If there's not consensus then we have to go to a fact finder. The process is that the Attorney General's Office will schedule an Administrative Law Hearing in front of an Administrative Law Judge, absent some consent among all the parties where everybody can agree what happened. So, you know, we've heard two different pieces here. We've heard one which is this largely the product of not enough resources. We've heard from the County that there's plenty of resources and that they've had an open hand. Both of those can't be true. It's not for us, today, to resolve that. Now one procedural issue is that my recollection was that we added the County as a Respondent. If that has not yet happened, then we need to have a motion to make it happen so that we make sure that the notice you send out is jurisdictionally and legally correct. So I would first inquire of our Inspector General whether or not that, in fact, has been done."

Ms. LaGrua - "I don't believe so. I'm looking at the minutes, and I have some recollection of the same, sir, but the minutes reflected that they be notified. And so they were notified about the proceedings here this morning. There was, I believe, another case in which -- that went on

to the AG's Office that were specifically notified for people to be added as Respondents and I'm wondering if we're remembering two different -- because there were two discussions at the last SEB Meeting. I took the minutes and notified them to be here. They have not been added and we can do that, as you say, by motion or however."

Mr. Evans - "It's not significant as to whether our memories are right or not, but that we can correct it quickly. So I will move, first, that the County Habersham be added as a Respondent on this notice of investigation."

Mr. Worley - "I'll second that."

Chairperson Handel - "I just have a question for the Attorney General's Office in terms of the -- oh, sorry. Thank you -- jurisdiction in terms of does this -- can -- what could this body, if anything, mandate a County Commission to do?"

Mr. Ritter - "Let me start with what the authority is generally of the Board. The Board has the authority, a very broad authority, to supervise and coordinate the work of many officials in Georgia including, quote, other officials. It's in 21-2-31, part one. So I think that in terms of personal jurisdiction over which bodies, I think that you can jurisdiction over other officials, including officials from other counties. Being quite candid, I think receiving a Consent Order, which we would seek in this case, might be this ideal but ultimately, if one were to split hairs we might say we'd want the officials from the County rather than the individual County. At this moment I don't think it'll matter. I think you could properly name the County. We then look at 21-2-33.1 which are the administrative enforcement provision of this Board. It doesn't specify in that code section who those administrative enforcement provisions can be taken against, but I take it to mean anybody who can be within the jurisdictions Board, can therefore be subject to its enforcement provisions. And that would include a Cease and Desist Order. And of course, if we go to court, then we have broader authority to seek injunctive relief against a variety of officials. That's a separate section. So bottom line is this. Yes, I think you can name a county and you can name the officials from the county, and you can subject them to your administrative powers. And of course, it has to deal with provisions of the Election Code, but that's presumed and of course, occurring here."

Chairperson Handel - "But -- I guess what I'm trying to understand is, okay, we could do it and make it so that we would ensure there would be a partnership, but we don't have -- what authority would we have around their budgets, et cetera?"

Mr. Ritter - "Well, let me tell you this. I think that
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without researching the question, I think it's doubtful that this Board has the power to order to a Cease and Desist Order, which is obviously negative in this connotation, that a county adopt certain budgetary requirements, but you can fine them and you can issue a Cease and Desist Order and you can issue additional fines for violations of that Cease and Desist Order. Ultimately enforcement of that, in collection, would have to go to Superior Court."

Chairperson Handel - "Got it."

Mr. Ritter - "In other words, when you lack the resources and the authority of Georgia Law to go out and actually cease property, but we can do other things that are then enforceable."

Chairperson Handel - "Got it. Okay. Thank you for that clarification. We've got a motion and a second to add the County Commission as Respondents. Any other questions on this? All right. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That one carries, and just for clarity sake so that you understand these important, at least during the whole process of negotiating a Consent Order, that y'all be a party of it in the spirit of -- of trying to work something out. And so, I hope that you will approach it. I know that you will in that spirit, because I think it will help move things forward if we could do it in that way. All right. And then we will need a second motion, colleagues, to then refer this to move towards a Consent Order. Is there a motion?"

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "Motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that one does carry."

Mr. Ritter - "Will that Cease and Desist Order, in the body's view, be one of, of course, to stop, as a Cease and Desist Order would there be fines, additionally, that we should seek in that Consent Order?"

Chairperson Handel - "I think that might depend somewhat on your determination of facts, but certainly, for me, I'm interested in a Consent Order including corrective actions to make sure that things are where they need to be as we come into a Presidential cycle."

Mr. Ritter - "I understand. One that's primarily remedial."

Chairperson Handel - "Unless my colleagues feel differently."

Mr. Evans - "No. I think that the fact finding is going to be key, here. If you get into the process and you determine -- you determine that there was a political war going on here and the casualty was the integrity of elections, then in that regard, yeah, I'd say a fine. And I'll be adamant about it because there is no point at which public officials should be able to hold hostage the integrity of elections to accomplish some political objective. On the flip side, if you find, in the course of your investigation, that things just fell below the standard and this was a process that accumulated over time and it'd take hours to jumpstart to get it back to compliance, then -- then a Cease and Desist Order with adequate assurances. And again, you know we cannot do specific budgetary impositions, but what we can do, we can set the bar objectively. And if they decide that they're not going to adequately allocate the resources and the fail to meet that bar, we can fine them, we can get injunctive relief for failing to meet the bar."

Mr. Ritter - "Thank you, sir."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Mr. McDonald, not to pile on with Mr. Evans remarks, but we have a Presidential Primary in less than 60 days. I'm sure everybody's brutally aware of that, but General LaGrúa's report, in my judgment, is extraordinarily detailed, and as the Chair has pointed out a lot of this isn't money, it's just doing your job. And I, for one, am very troubled about going into that election with such major, you know, noncompliance that we see with the management and the control with the DREs, un-numbered seals, so on and so forth, that I find that really, really to be troubled. And I'm more focused on February the 5th than I am a lot of fact finding in the past. That's, obviously, our obligation, we've all taken an oath and we'll deliver what it is that we're required to do but February 5th is a critical time. Now I'll close with one thing. In my home county we had -- the Legislature gifted us, at the request of a few, we're Board of Elections and it has not been the answer to our situation, I can tell you. So I wouldn't want anybody dreaming or hiding behind such a -- such a remedy because it -- it, frankly, has not worked in Putnam and I'm sure I irritate some of my local colleagues there, but it's been a source of great frustration and some real challenges where we had a Probate Judge that I thought did a fine job of running elections and for reasons that are no longer important, we don't have that anymore. So be careful. That is not the end to end all ends. So I just would prefer that everybody in Habersham be focused on February 5 and put on a good show, and we have the integrity of our elections. And then the rest of this process will go forward."

Mr. McDonald - "Well I thank you very much for the remarks, and I would just like to say that Ann has done a marvelous job. I think this is the first time you've had her before you. She's never had any contested election sustained in a challenge and she's done a wonderful job. She's devoted 45 years of her life to this and you talk about going and doing your job without money? No public official is required --."

Chairperson Handel - "I'm sorry, but we gave you your opportunity to speak and I really don't want to get into this person's great and these people aren't great, and they're great and this person isn't. That's not really productive."

Mr. McDonald - "Well I'm sure you wouldn't be here today if you weren't getting paid and that's part of my point. Thank you very much, ma'am."

Chairperson Handel - "All right. We have -- I believe we need to vote. Did we vote on that -- yes, we did and we got clarity. Okay. All right. Next item."

Ms. LaGrua - "The next case on the calendar is Lowndes County. That's **Case No. 2007-00001**. It involves the September 18th Special Election. Complainant was Deb Cox who's actually on the Lowndes County Board of Elections and Registrations. The Respondent is Courtney Griner who's an Activity Director at Lakehaven Nursing Home. It's alleged that Ms. Griner was assisting voters within the nursing homes in an improper manner. What we found was that she did, every time Ms. Griner assisted someone in the nursing home, she was signing on both, the applications and the ballots, as assisting. However, on a number of occasions she marked an "X" for voters that either did not use an "X", or could not remember when we interviewed them whether she should have signed for them or not. This case is a little bit difficult in terms of recommendations because, clearly, there's some violations and my original recommendations in this case, after I thought a little bit about it was that it be referred, obviously, to the Attorney General's Office for a Cease and Desist, and that other sanctions appropriate but that Ms. Griner get trained. The problem is, as I thought about it and it seems to be a great idea, there is no training available, that I'm aware, for (inaudible) being involved in the elections process. And without going too far field on this case, I think we're going to have some issues on determining how is this disabled -- what disabled is in that vein, and I guess I give this to the Board on this one, clearly, a Cease and Desist is appropriate. I don't know whether fines are appropriate. She was signing as assisting, so I'm going to defer at this point."

Chairperson Handel - "Colleagues, this is one that when we -
- we pulled up the Code, it definitely was an area where there isn't a real definition on what disabled means. And I
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think that's an area that, and we've asked Wes and Shawn to look at it, and we'll get some assistance from the AG's Office, but that we maybe need to go in and put a little more definition around that so that we can then come out and work with nursing homes. And one thought that we had was since, through our licensing arena, nursing home administrators are licensed through that, that we would have a natural avenue to at least be able to reach out and do some basic education once we get some parameters around that. So regardless of how we decide to proceed with this particular case, that is an area that we're looking at that we're going to come back with some recommendations to you, either as part of the administrative clean up bill that we would add to, or if we could do it by rule, do it that way as well. But -- because I want to make sure that, you know, out in the public that everyone understands what the role and responsibility and the guidelines are for assisting, as well, certainly not in any vein to inhibit the act of assisting, but just to make sure that things are clear. And since that seems to be an area that keeps coming before us. Any other questions on this one?"

Mr. Evans - "Well I think you can -- y'all are going to be very careful on the licensing part of this, because if you have an election training component, or anything to do with the licensing, then you're going to subject --."

Chairperson Handel - "If I might, that's not what I'm suggesting."

Mr. Evans - "If I could finish, please. Thank you. You're going to -- subjective nursing home licensing component to the federal voting rights laws and you have to get the Department of Justice preclearance in connection with nursing home guides -- licensing. So I don't think that's a door you even want to go near. If you go down -- if you go down that hallway it just ends up at a tough place. I do agree that I think we need to figure out this core issue on voting of dealing with nursing home facilities and assisted living facilities in order to facilitate voting while simultaneously making sure everybody knows where the boundaries are. And it may be helpful just to start with a -- something on the website or some kind of checklist or list of dos and don'ts that would be helpful."

Chairperson Handel - "If I might, I'm not suggesting making anything a requirement of licensure, I'm just suggesting that we have the list of all the people that we would need to reach, and that's certainly a list that's available to anyone if we wanted to offer training out to these folks. And -- but the most important thing is since the Code does not define disabled, we've got to -- that's a first things first. We have to get to some definition point there. And so we'll be working on that and getting guidance from the AG's Office. On this particular matter, kind of, I guess what is the group's pleasure which I think certainly we need

to send -- I don't know if we want it to be a Consent Order Cease and Desist, or a letter of concern Cease and Desist. Any thoughts, folks?"

Mr. Evans - "Well I don't want us to confuse disability with competence, which are two very important and distinct issues that we have to comply in the area of election law. Disability is not a disqualifier. In fact, our Code specifically contemplates that we facilitate voting by those who are disabled. Whereas competence is an issue which is undefined, which, as I understand it, the prior Secretary of State used the standard, or maybe McIver and I can remember this because we visited it many times, used the standard of a Superior Court Judge's order of an incompetence as being the standard. And then that was erroneously reported to the Election Assistance Commission and we tried to get that fixed. We were never able to quite get it fixed, which is just an open end. As I understand this case, it relates to disability, but not competence."

Ms. LaGrua - "That's a hard one to determine, Mr. Evans, and the reason I say that is these are people in the nursing homes and on many occasions, and Investigator McBrayer is here and actually talked to these people, oftentimes they couldn't remember whether they had signed or able to sign. On one occasion, the specific violation here that I do think has been sustained was an individual where Ms. Griner said if they couldn't sign the ballot she would mark an "X" for them. In this particular occasion, the patient actually said when we interviewed them, I never use an "X" as my signature where a number of the patients in this case actually did say that they would use an "X" but couldn't remember when Ms. Griner helped them whether they used their "X" or let her assist them."

Mr. Evans - "But memory is not the measure for competence. So I hear you, and we're talking past each other. Competence, in Georgia, is defined very narrowly, currently under the Secretary of State's guidelines. Competence is defined as a Superior Court Judge Order that says you are incompetent. Now that means that if competence is an issue, all you need do is check the Superior Court Order files to see if there's an order of incompetence on any of these people. Disability is a completely different issue. Disability is they physically do not have the capacity to make the mark and they require assistance. So it would seem, maybe I'm missing something here, that this is a disability case because there's no suggestion that any of these folks were declared incompetent by -- by a Superior Court Judge with jurisdiction to do so."

Ms. LaGrua - "I -- I would have to concede that we don't know, though a number of them --."

Mr. Evans - "So then the question is, do we have a violation of the rules dealing with the placing of a mark of someone

who has a disability, but that disability did not, in fact, prevent them from placing a mark."

Ms. LaGrua - "Yes. On at least one occasion."

Mr. Evans - "Do we have the facts for that?"

Ms. LaGrua - "Yes."

Mr. Evans - "And the facts is that a particular person remembers because she always put an "X" and --."

Ms. LaGrua - "She never put an "X", and Ms. Griner marked her ballot with an "X"."

Mr. Evans - "Then that's enough that we bind it over."

Chairperson Handel - "Okay."

Ms. LaGrua - "And that's what I'd suggest."

Chairperson Handel - "Is there a motion?"

Mr. Evans - "So move."

Mr. McIver - "Second."

Chairperson Handel - "Motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Next item."

Ms. LaGrua - "The next item is the City of Walnut Grove. That's **Case No. 2007-000023**. It involved the November 6th, 2007 General Election, the City of Walnut Grove in Walnut County. The Complainant was Ealton Hudgins, a Candidate for Mayor. The alleged Respondent was Laura Henderson, the City Clerk for Elections Superintendent. Essentially, the Mayoral Candidate indicated that the City Clerk had a bias against him and voted -- and voiced that publicly when he came in to qualify. It alleges that she said if he won, she would quit her job. That, in fact, did occur, however, in our investigation what we found was it was in direct response to the candidate asking her would she stay if he won and she no, I would not. So at this point, we suggested this case be closed."

Chairperson Handel - "All right. Any questions?"

Mr. Evans - "So move."

Mr. McIver - "Second."

Chairperson Handel - "Motion and a second, all in favor?"
(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That one is closed. Next item."

Ms. LaGrua - "The next case is **Case 2007-000025**. November 6th, 2007 General Election involving the City of Avondale, DeKalb County, and ForwardAvondale is a political committee. And I'm going to apologize. In the summary that you have, the recommendation is inappropriate and I'll go on to tell you why. The allegations were that ForwardAvondale, a political activist committee did not have proper listing of officers on the signs that they put out. And if you look at 21-2-415, that is exactly what 21-2-415 says, however, in the meantime I talked to Dennis Dunn with the Attorney General's Office and there is precedent out of the Supreme Court, the McIntyre case and an opinion given by the AG's Office that we should not attempt to enforce this law as McIntyre has indicated it's inappropriate. So I would recommend that this case closed as well."

Chairperson Handel - "All right. And this is another area that we need to update the code to be reflective of this recent ruling, and that's on the list, as well, for the administrative cleanup bill. Did you have anything you needed to add Stefan? No?"

Mr. Ritter - "No. I think that Ms. LaGrua summarized very well. I will say that the issue about the enforce ability problems in 21-2-415 have been around for a good long while and it's a good time to clean it up."

Chairperson Handel - "Good. All right. Is there a motion on this one?"

Mr. McIver - "I move."

Chairperson Handel - "All right. A motion to close. Is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "All right. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That is approved. Next item."

Ms. LaGrua - "Next item is City of Riverdale, and just for clarification this is **Case No. 2007-000030**. The Board had a different Riverdale case at the last meeting that was bound over to the AG's Office, just so there's no confusion here. This is a new case involving the September, 2007 advanced voting in the City of Riverdale, Clayton County. The Complainant in this case is actually the Office of the Inspector General, and the Respondent being Stephanie Thomas, the Riverdale City Clerk. Investigator Dyer was

monitoring advanced voting on September 13th and discovered the following during her advanced voting. There was no sample ballot posted, there was no campaigning sign visible, electors were not given absentee ballot applications to complete, the type of ID was not noted on the ballots, they were using the old voter certificate and the voters were using a table with the master list sitting on the table when they were voting. Investigator Dyer made them aware of that and was back monitoring on September 18th and discovered the following. Based on telephone requests from two different couples in Riverdale, Ms. Thomas actually -- they had called in to request absentee ballots. Because they were neighbors of hers, she took the applications and the ballots, personally, to their homes at the same time. Both the applications and the ballots at the same time. We also went on to check the application and the ballots, and many of the applications were missing the proper notations of when they were received, who received them, copies of the rejection letters for absentee ballot applications were not kept and the original ballot box, initially, was a cardboard box which left unsecured, and any of the received ballot envelopes did not have the appropriate markings on them. This case, especially involving the absentee ballots and applications, I think, is egregious enough that it should be referred to the Attorney General's Office for a Cease and Desist, immediately, a mandate for training, fines, and other sanctions as the Board finds appropriate."

Chairperson Handel - "Is there anyone here from Riverdale? Come on. And if a case comes up that you're here for, do raise your hand so I can see everybody. Come on forward, please. I want to try to keep it to 15 minutes for the side, so please don't use the whole 15 minutes so they have an opportunity to speak as well."

Ms. Deana Johnson - "I just wanted to make sure this is on, I have laryngitis."

Chairperson Handel - "It is."

Ms. Johnson - "So please let me know if you can't hear me. My name is Deana Johnson, I'm the City Attorney for the City of Riverdale. There are two main issues that I want to speak to the Board about today. One is that you understand that Ms. Thomas was a brand new clerk September 18th which was a special referendum in Riverdale for redevelopment powers. It was the first election that she had ever done. And second is, I do want to address some issues about training and one advantage of going last is, I guess you get to hear all the cases before. This seems to be something that has been raised in some of the other cases. When Ms. Thomas came on board, obviously, one of the first things I told her, not that she didn't already know, was that she needed to be certified and attend the training from the Secretary of State's Office. As she does with many things, rather than doing the minimum, she actually attended two

trainings. She went to the Georgia Election Officers Association conference in May, and a municipal training in July. She was certified. I was unaware that in that training, which I've now looked at all the materials, it didn't cover or she just did not understand some of the issues. And let me point out the main one I want to talk about today. I'll be happy to go through any of the specific allegations that you want to. In the training, and again, actually in the summary of complaint I received, it did not make clear to someone who is new to Georgia and new to elections that there is no difference between advanced voting and absentee voting. I mean, there's absentee voting in that by mail and in person. So where the first allegations that Ms. LaGrua talked about, which was during September 18th pre-voting they weren't having people fill out absentee ballot forms, she didn't understand until that was raised to her that advanced voting is the same as absentee and you use the same forms. Once that was brought to her attention they corrected that problem."

Mr. Evans - "And again, Board Member McIver can remember this. I don't know how you could attend the VRAG or GEOA conferences and walk away -- Mr. McIver, you and I sat through days of that. I don't how you could walk away and think that absentee and advanced voting -- so my worry is, if I take what you're telling me at face value, I have a much greater problem than if she had never attended. Because if she never attended I would say, well, it is an unusual concept. On the flip side, if you attended those conferences which are -- I will tell you. They're intensive training. These folks take it very seriously, would you -- do you not agree, Tex?"

Mr. McIver - "I sat in a number of those and they're as tough as any CLE I've ever sat through."

Mr. Evans - "Yeah. And so I don't know how you walk -- that's what worries me when I heard your remarks. I don't know how you could have sat through the training and not get -- got these kind of things which is that advanced voting is the same as -- as general election day or election day voting. I don't know how you could not walk away not knowing you're supposed to post a sample ballot. I don't know how you could walk away and not know those things. That worries me here, because it implicates the degree to which -- it implicates the level of which Secretary of State's Office will have to supervise future elections because if the training didn't work, then that means we have to do something more than training."

Ms. Johnson - "Well I think what happened is --."

Chairperson Handel - "If I might add one more thing to that. There's also two different issues, here. There certainly is the certification training which was put into place whatever year that that came around and became a requirement to be

done, and training is something that needs to always be looked at and updated and I will say the VRAG folks and the GEOA folks have been very supportive on that. With all of that said, irrespective of training, it is incumbent upon whoever is given this job to understand the code book. And I guess I'm a little bit disturbed around, sort of, the notion of somebody had the job and they were new and they didn't understand. Well, with all due respect, that's their job to know and understand and not to blame it on other people, et cetera. And is a code complex? Absolutely. I think, I mean, I see a number of election -- I think everyone would admit that it's complex, but to suggest that things weren't done the way they were supposed to be done because somehow the person walked away and didn't understand the training, that's just not going to hold very much weight with me because, in the end, the certification training -- how long has that been in place? Just, maybe, two years, one cycle, I think. So prior to that, again, it's individual responsibility if a person has the job and they receive the job and they take the oath of office to do that and to run an elections, they have a responsibility to know what they're doing, irrespective of training."

Ms. Johnson - "Okay. And if I may, where -- I guess I -- it's too long and where I'm going with that is after we were notified by the Inspector General's Office that they found problems in the September 18th Election, my office got involved with Ms. Thomas to not only do additional training, but really go through some very detailed checklists. We need this, we need this, we need this, and one of the things I would like to point out from the report, is by doing the November 6th General -- Municipal Election, and then there was a December 4th runoff, your investigator did not find any errors and none of these errors were repeated. So that when it was pointed out and we got involved and we got the understanding that needed to be there, the problems were resolved. I would like to go through, just very briefly, some of them because some of them are -- I have a question about Code Sections that were cited, and some of them we concede and some of them are an issue. One that is an issue is the sample ballot being posted because I've actually confirmed that with several of the poll workers, whether the sample ballot was initially posted."

Mr. Evans - "And so what was the answer?"

Ms. Johnson - "Well the answer I got from both, Ms. Thomas and the two poll workers, is there was a sample ballot posted on the room where the absentee voting was taking place, and that what the Investigator brought to their attention, it was a different color than it was supposed to be. It was white and it was supposed to be yellow, not that it didn't exist. The in-person absentee voters, the voter certificate, I think I've already addressed that. You are absolutely correct. She did not know, initially, that they were to be filled out. Once that was brought to her

attention, they were filling it out. The absentee ballots, as far as delivering that to the voters, yes, Ms. Thomas and I spoke with that in great length once it was brought to our attention. I -- will say she was erring on the side of trying to get people who didn't have transportation so close to the election, ballots but I absolutely understand and can see that bringing it to someone's home rather than mailing it is completely inappropriate and not within the statute. That has not been done again, and actually, of those four, just so you know, only two of them mailed back the absentee ballots. The last one I'm not sure that Code Section was supposed to be cited because the SEB rule that's cited doesn't have to do with provisional voting booths or stations, it has to do with electronic voting machines. But in any case, just so you know, Ms. Thomas then worked with the Clayton County Board of Elections and got a provisional voting booth which was utilized during the December runoff. So it's the City's position that these problems have been fixed, that we would certainly want to work with the Board on any issues that you have that still remain, and that, while it's fine to refer it to the Attorney General's Office and we'll work with Mr. Dunn's division on it, because the problem has been fixed a Cease and Desist would be -- all that would be appropriate."

Chairperson Handel - "If you'll state your name and address for the record."

Mr. Ben Davis - "My name is Ben Davis and I live at 3856 Douglas -- excuse me, Pond Road in Douglasville, I was a long resident of Riverdale from 1984 until 1999, and I still have people that live in Riverdale and I own property in Riverdale. None of the aspects to follow up with the attorney has just said, one of the things about Riverdale, and I've attended at least four of the elections, there was never a problem because the clerk that you had, a lady by the name of Sandra Myers, had served in that position like 25, 30 years. Her assistant clerk, Lalette Batiste (phonetic), had also served in there at least 17, 18 years. Ms. Batiste is still there. Ms. Batiste was never consulted about who, what, why, where, when or how. Ms. Batiste has always been the assistant that ran the elections, along with Sandra Myers. In this particular case, one of the aspects is that -- listen, you hire new people, you bring in people, you train them, you do so forth and so on, but I'm a formal training manager. One of the things you always do is you call upon what expertise you have there. I mean, you can go to the Clayton County Board of Elections and so forth and so on, because one of the things that they did was call Sandra Myers to find out information to give to Ms. Thomas. So I think it's highly, highly inappropriate for them to have done this in this particular manner and they had the resources there. They had the resources right there to find out the information. Thank you very much."

Chairperson Handel - "Thank you very much."

Ms. Stefanie Campbell - "Good morning. My name is Stefanie Campbell, and I live in 8182 Valley Bluff, in the City of Riverdale. I guess my initial concern would have been that because I was a candidate on the ballot for this general election I was aware of the inexperience being that Ms. Thomas was new to the job. So my concerns was that someone from the State Board of Elections send out maybe someone to monitor the election. So on the day in question that I voted in the advanced voting, I voted in a cardboard box. And this cardboard box, that I just found out, was the box that the Secretary of State sends out the supplies to the city. I myself, and about -- several others voted in this same cardboard box. And we sat as close as the chairs here. I voted next to an incumbent candidate that was running, another opponent sat next to me, a candidate that was running and the box was falling apart. So one of the other young ladies that was voted asked the poll manager, I'm assuming that's who she was, to get some tape so the two of them could tape the box up because it was falling out. So I, in turn, then started calling the Secretary of State and I also called the Clayton County, Annie Bright, who is the County voter's superintendent and told her that we needed a secure box and she stated to me that she had just gotten off the phone with Ms. Thomas and told Ms. Thomas it would be in her best interest that she get a box over there that was secured, but she could not tell the City how to run their election. So I, in turn, then called the previous city clerk who is only a phone call away from Ms. Thomas and anyone else that is working for the City of Riverdale because she works in Jonesboro, so it's not even a long distance call, it's still a local call. Then clerk told me, the previous clerk, told me that there is a ballot box that Riverdale had made, wooden strong box with a lock and padlock and safe to keep it in. So I totally was dismayed by the, you know, the sloppiness I guess you can say of how the whole election and the security of the votes was being kept because when I asked a poll worker where was that cardboard box being kept, she told me it was being kept in that same room we voted in overnight. And I said, well what about the other people that have the keys to the facility and she said, well, it's safe. But I know for a fact that it was the Mayor and Council's Chambers so that means that the every mayor and council -- the mayor and every council and every department head has a key to that facility because that's where they keep the mail at. And this box was allowed to be voted in for two-and-a-half days before it was changed out. So those were some of my concerns, you know, outside of the fact that this whole case has been bounded over to the State Supreme Court."

Chairperson Handel - "Okay."

Mr. McIver - "Perhaps the City Attorney wants to speak."

Ms. Johnson - "I just, very briefly, obviously you have the list of the allegations that are brought. The box isn't an

issue as a list of the violation so I don't really want to spend a lot of time on that. If you want to hear from the clerk, she is here and certainly can answer any questions. As far as the security of the box, I mean, all of the keys to that room were taken so there was no access to the box after people put votes in there."

Chairperson Handel - "All right. Thank you. Questions, colleagues? Any questions?"

Mr. Evans - "So move to move it over."

Chairperson Handel - "Okay. I have a motion to refer to the Attorney General's Office. Is there a second?"

Mr. Mciver - "Yes."

Chairperson Handel - "Got a vehement second, over here. Motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none so that'll be referred over. All right. Next case, Ms. LaGrua?"

Ms. LaGrua - "I believe that's it. If I could, I'd just like to wish the Board a very safe and happy holiday."

Chairperson Handel - "All right. Wow. We are ahead of schedule so we'll just keep going on, then, to -- Calandra, do you want to move with your report? Great."

Ms. Calandra Almond - "Okay. First case is City of Americus. This involves the Respondent, James Bryant, who was --."

Chairperson Handel - "If I could ask, we had McIntosh, is McIntosh not ready?"

Ms. Almond - "Yes. That should be off for next time. Mr. Bryant was a candidate for mayor in November, 2005 in the City of Americus. He was alleged to assisted six voters with their ballots. He filled in the information on their ballot envelopes and then he took possession of the ballots to mail them. He originally denied all wrongdoing and he sent the case over to OSA, however after the case was referred he indicated he that he wanted to resolve the matter. He admitted to the conduct in question. He wanted to be here today, but he couldn't so he presented a letter to the Board, which is in your binder, explaining his conduct. He pretty much said that he just didn't understand the rules, but after reading them over again he understands that his conduct is now a violation. He signed a Consent Order providing for a \$600 fine, and I would recommend acceptance of the Consent Order because that's within the one hundred dollar per ballot guidelines. Also, all six of the voters who would be witnesses in this matter are pretty

elderly and the hearing would be very burdensome on them, so for those reasons I would acceptance of the Consent Order."

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "Second. Okay. And one question, that includes a formal reprimand and --."

Ms. Almond - "Yes."

Chairperson Handel - "Okay. We have a motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Next case."

Ms. Almond - "The next case is Fannin County. This is - one of the Respondents in this matter is the Fannin County Board of Elections and Registration. During their 2006 election cycle it was alleged that they failed to properly train their workers, failed to validate signatures on their absentee ballot applications. The Board first considered this matter at its' June SEB Meeting, and the attorney for the Board admitted that there were some problems with their training and their processes, and they had indicated that they had taken steps to correct it. They've provided us with a new book that they've compiled that they're going to use from now on to train its poll workers. And so, after the June Meeting, after making those representations, the Board indicated that it would accept a Consent Order providing for a Cease and Desist and that's what I'm presenting here. So I'd recommend accepting an order for Cease and Desist, and it also provides for a reprimand."

Mr. Evans - "So move."

Mr. Israel - "Second."

Chairperson Handel - "It's a motion and a second from Mr. Israel, any other questions? All in favor?"
(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right."

Mr. Evans - "I will note that this is an example of the Board accepting authority over (inaudible) Fannin County Board of Registrars and Elections is supposed to be telling the County Commission as well."

Chairperson Handel - "Okay. Will you pull your microphone down a little bit, Randy?"

Ms. LaGrua - "There's people in the back and apparently they
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can't hear."

Mr. Evans - "Okay."

Chairperson Handel - "Are you all?"

Ms. Lynn Daus - "No. Sitting back here, we just couldn't hear the comments. We're from -- I'm from Fannin County and I just couldn't hear the comments."

Mr. Evans - "No, no. It was -- I just noted that, for the record, that this is a reflection of the Board exercising jurisdiction over an entity which is Fannin County Board of Registrars and Elections. There seemed to have been, earlier, some question about whether or not we had that authority. We've exercised that authority ever since I've been on the Board, and I just wanted to know that we were, again, exercising it in this case."

Ms. Daus - "Not in reference to Fannin County, but in general."

Mr. Evans - "That is correct."

Chairperson Handel - "And then, also, colleagues, there is a full report in your packet that the Attorney General's Office put together that has all of the cases so that you can see a status on all of them and they have assured me that they will have that for us for each meeting unless there's a question so that we could move things along. Next, in your package, we also, just as a matter of information, provided you a list of the contested elections that they're all municipal, we just wanted you to have that as an FYI."

Mr. Evans - "Madam Secretary, the case I get asked about all the time is Chattooga County. And so, even though I know that there may not be information that we can disclose, I think it would be helpful because at least we get an update on the progress."

Ms. LaGrua - "I'd be happy to do that Mr. Evans, and --."

Mr. Evans - "I think I asked for that earlier, as well, but that's okay."

Ms. LaGrua - "You did, Mr. Evans, and we have here the letter that was requested by the Elections Board, Mr. Ritter provided this morning, if I could pass those around. I've also spoken to the prosecutor in the case. They are proceeding timely with their investigation. I hope, at the next meeting, to have some update on exactly where they are. There are some things they are doing to -- from a legal standpoint that they want to look at, but they are proceeding and expected to move this case expeditiously. I was in touch with the prosecutor on Friday and he indicated

and had sent a letter to the AG's Office with his appreciation for the staying of the administrative and proceedings until they can proceed with the criminal proceedings."

Mr. Evans - "My only concern, which I raised last time, is the statute of limitations."

Ms. LaGrua - "They are fully aware and I have weekly contact with that prosecutor. I have no doubt that that will be proceeded on in a timely manner."

Mr. Evans - "No. I'm not worried about their statute of limitations. I'm worried about our statute of limitations, which is -- I've been reminded by several of good friends of the Legislature that a criminal prosecution and the enforcement of election laws are not mutually exclusive. They would expect and hope that it would, at the appropriate time, receive our attention but that we would be cautious to make sure that we did not permit the applicable statute of limitations for any enforcement action by the State Board of Elections to expire. And I just want to make sure that we're sensitive to that since it's been on the minutes, now, three times and I just don't want us to let that slip."

Ms. LaGrua - "I will make sure that that does not happen."

Mr. Evans - "So what is the statute of limitations?"

Ms. LaGrua - "I believe it's two years."

Mr. Ritter - "Well it depends on what violations we're talking about, but I'm not sure it's two years at all. I think we've got considerably longer than that, but I think we need to move deliberately. I will tell you, I've written a letter after talking with Joe Burford from the Prosecuting Attorney's counsel about whether they wanted us to proceed or not. And it was also my recommendation that we do not proceed and I'll make that clear. And that doesn't mean we're not investigating this case at the administrative side, we are. But what we could do at the administrative side is jeopardize the criminal prosecution if we proceed too hastily. For one thing, we have a different set of judges and I think less care is taken with the way that some of these cases are looked at at the administrative side when we go to a body like OSA on a case like this. Also, the powers of subpoena or investigation are greater at the criminal side, and bottom line is I don't want us to do anything that's going to jeopardize the criminal prosecution while maintaining the administrative prosecution. We're certainly well within, even a two-year period of limitations, but we're going to keep that in mind. We're not going to let that lag, and I will tell you all, strictly speaking, I think that someone is right when they say, yes, you can proceed administratively while proceeding criminally. As a practical matter, we would very rarely

have ever recommend that because the two can overlap and damage each other."

Mr. Evans - "Well what would be helpful for me is if you could calculate when you think the statute of limitations will expire so that -- I know how it would work in my law firm, is that we would then put that on a calendar and we would make sure that that date didn't, hopefully, slip by us. I can't say that that's always been the case, but we try to make sure that's the case. If somebody can calculate that and put that down, it would be helpful."

Mr. Ritter - "Would you like a memo on that?"

Mr. Evans - "No. Just come back and tell me."

Mr. Ritter - "I will be happy to do that."

Ms. LaGrua - "We'll do that, and just so you know, Mr. Evans, that is at the very top of my radar in terms of cases that have appeared before this Board and I stay well on top of it."

Mr. Evans - "I'm not worried about that, I'm just worried about the statute of limitations."

Mr. Ritter - "Okay."

Chairperson Handel - "All right. The next item on the Agenda is the Legislative Update, and Deputy Secretary Simms is going to give that."

Deputy Secretary Rob Simms - "Since the Secretary has heard this ad nauseam, I'll go ahead and proceed without her, if that's all right and the pleasure of the Board."

Chairperson Handel - "She asked to momentarily be excused, so I'm chair."

Mr. Evans - "And that's why we have a Vice Chairman."

Deputy Simms - "Well Mr. Vice Chairman and the rest of the Board, my name, for the record, is Rob Simms and I'm the Deputy Secretary, and I want to briefly bring some legislative items to your attention here in December as we prepare for the legislative session that'll begin in January. The first thing I want to bring to your attention -- is there a clicker? Click on this one?"

Ms. Rhonda Brown - "Right."

Mr. McIver - "You've got to move the arrow."

Deputy Simms - "Okay. There we go. Sorry about that. First item I wanted to bring to your attention is Senate Bill 71. This, as you'll recall, is a bill that this Board took a unanimous position of being in favor of last session. And as you can see in the notes, it's going -- it would

limit, by law, the number of days in an election and non-election in which a SPLOST can be held by the local governments. This bill, truth be told, got kind of jammed up in some of the political nature of the end of the last session. There was also some concerns raised by GMA and ACCG as to the law passed in 2007, how it may impact SPLOST issues that were coming down the pike and subsequent SPLOST that had already passed in those funding streams. It's my understanding for all those parties that those concerns are significantly alleviated if it goes into effect for 2008. There doesn't seem to be any further opposition of this bill. Hopefully this will move quickly in the beginning of the session. It's passed out of the Senate, it is on the House calendar for consideration. There didn't seem to be any real opposition in the House, it just kind of got lost days in the last days of the session. There are a couple of other things that, as Michael O'Sullivan from our staff has met with local elections officials over the last several months, and Gary Smith was here from GEOA, as well as some other individual members. There are some ideas that have percolated that I wanted to bring to your attention for this upcoming Session. These have not been drafter into a bill yet, per se. As we move forward with this process we'll not only work with the administrative issues that have been raised today and previous SEB Meetings to get those in a comprehensive bill, but we'll also look forward and start working with individual numbers of the House and Senate on some of these specific -- specific issues. The first item is really one that has become abundantly clear to us, specifically in the Elections Division, and that is to codify into -- into a law, a requirement for the cities and the counties to notify the State Elections Division of an upcoming election, then they seem, kind of, common sensible or a little bit of counterintuitive that, of course, the State Elections Division would become aware or be notified of these types of elections coming forward. That has not been the case in years past, in fact, it's been handled rather peace mill by the Division. In essence, figuring out an election may be held in a jurisdiction by an elections supplies order that has been submitted. We'd like to codify into the law that notification be within 28 days of said election. That would also make sure that we were aware of it, make sure that absentee ballot provisions were adhered to and, of course, all the other relevant and applicable elections law. There is also some -- there's provision in the State Election Code for the certification of municipal, as well as county elections officials. You'll recall that last session there was a cleanup item that this Board supported in which the certification for the County Elections Officials were made, in essence and annually going forward, there had been a date certain in the law. What we need to do going forward this coming Session, is kind of bring some of that similar clarification to the municipal election training requirements and certification requirements that are also in the law. They're in two different Code Sections, or two different sections, so we

have to go back and revisit this one specifically for the municipal training and certification as well. One issue that this Board -- this body is acutely aware of, and it's one of the many things that come before, is the verification and certification guidelines or requirements for absentee ballot. And I think we -- what we're going to look to do and try to bring some clear language and clarity in making sure that the signatures are, in fact, being checked. And that it's my understanding, and certainly Mike could speak to this a little bit more detailed, that some local elections officials has looked at this as almost an either or, or a kind of, sort of, and I think it's important with some of these issues that continue to be brought forward with absentee ballots and verification and the handling of those ballots that we make sure we codify that the application signature, the signature on file with the voter registration card and the ballot signature are confirmed and verified as these ballots are processed and checked. All right, finally, I want to bring your attention or revisit Federal Legislation, which is HR 811, which is commonly referred to as the Holt Bill. And depending on your perspective on this Bill, and this Board has taken a position as being opposed to it, there is no real news to report which, for the State of Georgia and other states, is good news. Their previous promises of floor action in the House, frankly, have not occurred and I think that is in large part for the opposition of many national organizations, as well as individual state organizations, including local elections officials, Secretaries of State, the National Governors Association, the National Association of Secretaries of State, as well as, I think, ten additional organizations signed a letter in opposition of this Bill in the fall. There have been subsequent meetings with Majority Leader Steny Hoyer in the House to try and bring elections officials back into the process, but there has not been anything really subsequent to report, changes in the law, things of that nature. I'll just remind the Board that this legislation would have required Georgia, and six other states, to totally replace our election system by Presidential Election Day of November, 2008. So we've even crossed over into a threshold in which our time to implement it or comply with the law would be less than 11 months from today. You'll notice on the bottom of this slide, in your packet as well, that there's a discussion of a new bill. Congressman Holt has kind of floated out there and this would be, in essence, to take many of the mandates and requirements of his legislation of HR 811 and make them, in some sense, voluntary or, in essence, to provide funding through the Election Assistance Commission and other organizations to provide funding to the states to move away from electronic voting and to some semblance of a paper voting system. The price tag associated, or that's been speculated about with that law is \$500 million. There seems to have been some discussion, and Congressman Holt has indicated his intention to try and seek that funding to start being included in the appropriations bills that are

currently being considered and negotiated in Congress today. Frankly, in light of everything else that's going on in the Congressional Appropriations process right now, I don't know that introducing half-a-billion dollars in new funding is all that practical or is going to occur, but that seems to be where we are today. There -- there have not really been any further Committee Hearings in the House or Senate on HR 811, or Senator Feinstein's legislation, or proposed legislation, so we're basically at a point of status quo. That's all I have for the formal presentation. I'd be happy to answer any questions on the State or Federal legislation that this Board may have."

Mr. Evans - "Well, will you present to us -- I know in years past we've gotten a -- a draft Housekeeping Bill that we could then look at to compare to our notes. Are we going to get a copy?"

Deputy Simms - "Yes, sir. In fact, and thanks for bringing that up and I apologize, I meant to mention that in the email notification that this Board received, I think a little more than a week ago, there was a list of that with the hyperlinks for all the bills that are currently held over in the House and Senate here in Georgia. What we plan on doing, as was the case this past session, is this Board will get weekly updates as far as election legislation that has been introduced and how it's being tracked, so you'll be able to file it that way. And of course, as the legislation is being tracked and introduced, we'll make sure we get those copies to you as well. The Housekeeping Bill, obviously, we'll get that to you guys before the SEB Meeting for certain."

Chairperson Handel - "Okay. One thing -- Let me add one thing on the, not so much on the Holt Bill, but just, generally, the Elections Assistance Commission has meetings this week and part of what they'll be looking at are some of the future guidelines for equipment, et cetera, and we'll be there and I'll see, kind of, how that goes and let you know and drop you an email since we won't probably meet again until January sometime."

Mr. Evans - "The only other thing I would add, just because I need it in the minutes, is that my request for a separate email address for official email has been denied, again, and I just want to make that clear because there will come a moment, only because I've been in litigation long enough, where having those things on the minutes is helpful. And I just wanted the minutes to reflect, and I think McKenna, Long and Aldridge wants the minutes to reflect that we have now -- we have made a second request, formally, that the separate email account be set up and that request has been denied."

Chairperson Handel - "Next is Photo ID Update."

Deputy Simms - "All right. Madam Secretary, members of the State Election Board Meeting - December 10, 2007
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Board, I want to briefly provide you with an update as far as where we are with the Photo ID Outreach and Implementation, specifically, how it impacted or how it was implemented for the November Elections. You'll see here on the slide that for the elections, County municipal elections that were held on November 6th, we had 92 Counties that had a County or Municipal Election and of that 92, 72 of those Counties were conducting their first election under the Photo ID Law. Our outreach targeted and identify about 172 thousand Georgia voters who may not have a photo ID that's been issued by DDS, and you'll recall from the previous State Election Board Meeting in this discussion of our outreach in our program, we touched each of those voters three times through the mail with information via letters, brochures, and reminders. We also had numerous public service announcements that several cable systems throughout the State of Georgia graciously provided air time for us. We also reached out to libraries, community associations, and other groups of interest in these counties. Almost 200 libraries were sent information and had information provided to them, 95 Chambers of Commerce, and almost 10 thousand religious organizations we were able to touch in the runup to the November elections. And what we have here is what I call results, and Mike can speak a little bit more specifically to this if needed. With more than 90 elections, and that includes 90 Counties and upwards of 200 municipalities, the Secretary of State's Office did not receive a single complaint regarding Photo ID. Whether that is anything for the -- on the administration side from the local elections officials, or on the voter's side. I also want to just make a point in saying that in the runup to this election, as well as those in September, Mike McCarthy and his staff in the division, as well as Secretary Handel, herself, conducted conference calls and individual outreach to the local governments as they were administering elections and made sure everybody was on the same page and was able to address the questions prior to Election Day, and not just as a reaction of things that come up on Election Day. As we go forward to February 5th, which is obviously the big -- next big election on our calendar and the first one in 2008, this is also the first election that will be held statewide with a statewide implementation for our program. You'll see on the notes here, that we'll have about 161 thousand voters, and that's an estimate because we'll run the data again closer to the election day, that have not participated in an election and who may not have a DDS issued ID, so they'll run through the same program that we've run in September and November which is that we contacted three times, personally, through the mail, as well as we'll have the supplemental efforts with reaching out to community associations and non-governmental organizations. Cable television providers in the State have also graciously donated some of their time for the running of PSAs. We'll also have similar, pretty comprehensive radio advertising, as we did in September and November, and as I said, this will blanket the State. It will cover the State. For those

who may not have an ID, but whose Counties haven't really had an election, we're going to revisit those voters and they will be reminded via letter and via postcard that if they are planning on voting in February that, in fact, an ID is required and of the things that you need to do, what IDs are allowable under the law, if you need an ID, where to go and things of that nature. And really, that's about it. I'll be happy to entertain any questions from the Board that you may have."

Chairperson Handel - "Okay."

Deputy Simms - "Oh, one, if I may real briefly, one thing I know that is of particular interest to Mr. McIver and has been asked about in the past, we have an update of the voter identification cards that have been issued statewide through the end of November. That number has just crossed the six thousand threshold. You'll see from the spreadsheet that the education and outreach efforts had a real effect on the number of identifications that were issued by the Counties. In fact, in October and November, statewide, there was approximately a thousand identifications issued in each month, which is a real uptake in activity over previous months and over the previous year."

Chairperson Handel - "Okay."

Deputy Simms - "Any questions from the Board?"

Mr. Worley - "I had some questions, Madam Secretary."

Chairperson Handel - "Go ahead."

Mr. Worley - "Rob, the elections that were held November 6th, do you know how many provisional ballots were cast where people didn't have the ID when they went to the polls and had to come back later."

Deputy Simms - "Mike had some of the information on the provisional ballot issue, I'll just say as one general comment that one of the things the Elections Division has been doing is proactively go into the counties and the cities and inquiring about this information. As I mentioned on the legislative report, there is no formal reporting process that the counties and the cities have to report their information back and, as you know, we don't certify those elections results so we don't definitely get it, but we've been aggressively trying to collect some of that information, but as specific to the provisional ballots. Mike, did you want to address that?"

Mr. Mike McCarthy - "Yes, we have -- this is a voluntary reporting system with the municipal elections. We do have responses back from approximately half the counties in which the municipal elections were conducted where the counties actually conducted the municipal election for the municipality, and we also heard back from 24 of the

municipalities, themselves, who conducted their election. so it's a fairly small sampling, yet does give us some information. For the number of persons, the person whose name was not on the registered list of electors, 96 people cast provisional ballots for that purpose. For the voters who had not provided photo identification in the polling place 57 availed themselves of the provisional balloting opportunity. Only two voters cast provisional ballots because it was the first they had -- they were first time voters who had registered by mail. For the voters who had cast ballots because they had extended poll hours because of the Court Order, that involved 46 voters, and 17 had no reasons listed on the ballot themselves."

Mr. Worley - "Of the 57 who cast provisional ballots, how many came back and provided ID within the 48 hours?"

Mr. McCarthy - "We, actually, do not have that information provided, but we have noted from our previous experience that oftentimes when the elections are not close, that the voters do not make the extra trouble to come back in and do that within the 48 hours. Nonetheless, it does it provide them with the information of the need to rectify that before the next election."

Mr. Worley - "Well why didn't you ask for that information?"

Mr. McCarthy - "Because at the time, we had the information brought in, this often predates that resolution. We have this faxed into us. We could follow up and request that."

Mr. Worley - "Well what are they faxing back to you?"

Mr. McCarthy - "We simply asked them for -- because they do gather currently, the reasons for casting provisional balloting, we've given them a form to capture and report that voluntarily."

Mr. Worley - "Right. But why didn't you put on the form how many of these people voted?"

Mr. McCarthy - "We could do that going forward."

Mr. Worley - "Well I would strongly suggest that that would be useful information to have, particularly in a larger election than a County Municipal Election."

Chairperson Handel - "We will attempt to get it, but again, understand we don't -- we can't make the municipals get it. But we will ask it."

Mr. Worley - "I understand you can't make them give it, but they're not going to voluntarily give it if you don't even ask for it on your form."

Chairperson Handel - "We will add it to the form, so --."

Mr. Worley - "If you add it to the form, then you'll have the information, hopefully, if they give it back. The other question that I had was of the 172 thousand people that were contacted, do you know how many of those people actually turned out to vote?"

Mr. McCarthy - "No. On the municipal --."

Mr. Worley - "And there's no way to know that because you don't keep track of municipal voting."

Mr. McCarthy - "That's correct. That's correct."

Mr. Worley - "But for the 172 thousand voters, and the 161 thousand voters, you'll be able to tell whether they voted in the Presidential Primary, or not. Right?"

Mr. McCarthy - "Absolutely. When the voter histories are updated to show who participates in February, you'd be able to -- you'd be able to, in theory, and it should become -- run a data match versus one field versus the other."

Mr. Worley - "And is that something that the Secretary of State's Office plans to do?"

Mr. McCarthy - "To be honest, we haven't discussed as of yet because we're just going through the County and the Cities, but I'm sure we could discuss it. I mean, I think it might be useful information."

Mr. Worley - "I would think it would be very useful information to have. No more questions from me."

Chairperson Handel - "Okay."

Mr. McIver - "Mr. Simms, thank you for a comprehensive report. It's very encouraging. I just have a couple of basic questions, though. Any issues on the issuance of the VICs? We know that there have been no complaints with respect to voting, but how about just the issuing process itself. Georgia voters coming in asking for photo ID and so on."

Deputy Simms - "My understanding, aside from a -- what you would think would be kind of normal routine questions that may come up, we haven't seen anything that would be what I'd call a systemic or a macro problem. I'm not aware of anything on the issuance side either, on issuing these things for September and November."

Mr. McIver - "And to whomever I should address this question, I assume the standard is fairly low. I mean, somebody comes in and they fill out the appropriate form, there's a question about whether or not they're entitled one. They get -- That's exactly what I think the Legislature intended. So they're not turning people away

who there may be some question about whether or not they have a card or entitled to one."

Deputy Simms - "That's correct, and I think the local elections officials, as well as the Elections Division had taken the position of erring on the side of the benefit of the doubt to the voter so that if there is some question that the voter would, in fact, receive the identification."

Chairperson Handel - "In fact, the locals have gotten that specific direction from me, personally, at both the VRAG, and then we discussed it at GEOA and then when I do the conference call with them prior to Election Day, we go over it again and in the end. I think it's a really good time note that on the issuance of the cards and the smoothness with which implementation occurred, actually in the precincts and on Election Day, that credit goes entirely to the local elections officials. I mean, they knew exactly what to do and they're very diligent about everything and they all very much erred on the side of making sure that people had the opportunity to vote versus turning people away, which was precisely what we wanted them to do. And they had prepared follow up for any individual who came in who didn't have a proper ID and needed to vote provisional ballot, they had a specific information piece to hand to that voter directly so they didn't even leave the poll empty-handed because we wanted them to have every opportunity and have every piece of information. And the local officials really and truly did an excellent, excellent job in that area."

Mr. McIver - "Yes. I'm really gratified to see that with all the difficulties we see administering elections with great integrity that photo ID has gone very, very smoothly. We don't see, at least, according to your report no complaints at the time of elections, there don't seem to be any complaints of the time of issuing the cards. I remain -
- continued remained astonished about Richmond County. We've issued almost 11 hundred cards there, and I think that's almost one for every man, woman and child in the County, and we've been told that there is some repeats, I guess."

Chairperson Handel - "There are. We look at that list, Kristen Riley and Mr. Rainwater look at it every month when they do and I traded emails with Lynn Berry the other day and same thing. They now have multiple individuals who have gotten five, six, seven, eight of the cards and I mean, again, it's just -- they want the cards, they can't use them for anything else, they come in, they can only vote for themselves, there's no other way to use them but given their proximity to the social services center it's just become something that -- that those individuals want."

Mr. McIver - "Well I know, in fact, Mr. Evans is the one that told me this, that I guess in certain senior citizen

circles, what I like to call seasoned citizens, Mr. Evans, but instead of senior, but there's a certain cache to this card that just -- the status of having the card and the seal of Georgia and your photograph on it, and so on, and despite the fact that might be slightly expensive for the State, I strongly encourage, Madam Secretary, we continue to do that. If somebody's allegedly lost their card and wants another, I assume we very enthusiastically, but the County would issue those cards and if there's a cache, then we just designed a great card."

Chairperson Handel - "All right."

Mr. McIver - "Those are my only comments and questions."

Chairperson Handel - "All right. Any other questions?"

Mr. Worley - "Well I don't have a question, but just to follow on Mr. McIver's comment. Before we all continue to pat ourselves on the back for how well this process is going, let's keep in mind that to the extent that you're widely publicizing the fact that people need a photo ID to vote and those people don't show up at the polls and therefore, there is no problem, that's not success in my book. Your discouraging people from voting from voting through this whole photo ID process and I think we're only truly going to be able to determine that once we have data from some widespread elections to actually look at the number of people who vote to match those numbers and those persons against the people that we think are likely not to have photo ID so that we can have some empirical evidence that we, and the courts, and the legislature can look at to see the extent to which people have actually been deterred from voting by photo ID."

Deputy Simms - "Well Mr. Worley, there's one point I want to make. In looking at the numbers the 161 thousand or 172 thousand, those include inactive voters as well. So in -- by definition, an inactive voter under the law has not been participating in elections, but we've made the decision and it's the right decision to make sure that if they are still going to -- if an inactive voter chooses to vote in a Presidential Election, or whatever it may be, that they have the opportunity and are made aware of the -- the law's requirements as to what identification they're going to need to have when they vote in person at the polls."

Mr. McIver - "Mr. Worley, I respect your judgment, sir. You and I know we'll never agree on this issue, at all, at least as long as I'm drawing air, but I can tell you that Judge Murphy who enjoined this, or part of all this statute on three separate occasions, in a very erudite decision, 172 pages or so, as I recall, he was very clear and very firm about what his final understanding was. He blessed this program in every respect and there could be no more critical judge than, I think, Judge Murphy in that regard. So I was

very gratified to read his decision, and I noted in one footnote he felt that he'd been deceived by plaintiff's counsel, and that had eventually had come out through testimony from Mr. Simms and others. So it seems to me we have been judged by the harshest of all critics. This program's been blessed and, obviously, from a statistical standpoint is working. And going forward, I agree, I've got a lot of ownership and a lot of pride, but it does seem to me it's working well and in my judgment, this is a wave that will go across our nation that in order to preserve the integrity of voting, we are going to have to have individuals identify themselves. If we have 20 million, what I hear Neal Boortz refer to as illegal immigrants, sometimes I wonder if they're not from Mars or Venus or something. But they're technically undocumented workers and with that many there and certainly wanting to participate in the American dream by voting, that might well be the case. So this is, maybe not the best, but certainly a good solution. And I would pay my highest compliments and his staff, along with your efforts, Madam Secretary, with Mr. -- Deputy Secretary Simms, that this does seem to be working. We have a big challenge in February, as we know, and everyone seems to be focused on that. But we worry the integrity of voting when, in essence, this program seems to be working remarkably well."

Mr. Worley - "Madam Secretary, Mr. McIver, I'd just like to make it clear. You're correct, we are not going to agree on this, but I think we all ought to accept that there's no real way we can tell if this program is working at this point and time. And I'd also like to note, for the record, that you, and other members of the Board, who are now so complimentary of Judge Murphy, you know, damned him time and again. Damned his partisanship and the quality of his previous rulings in this case. So we're a long way from having this matter resolved in the Courts, and we're some time away from being able to tell whether the program is actually working at the ballot box."

Mr. McIver - "Mr. Worley, I never criticized Judge Murphy. As a practicing lawyer, you and I know that's an unwise thing to do."

Mr. Worley - "Mr. McIver, I'd have to state for the record is the reason I was very surprised when you did it. But your comments about Judge Murphy are very clear on the record and the recording."

Chairperson Handel - "All right. Well, again, there are those of us on here, we're not going to go down this issue, so I don't -- we appreciate everyone's comments but I don't know that we're in a place that gets us any further down the road. So we'll be preparing the various types of information that come back at our next meeting after our February 5th election. Let's go ahead and do the update from the Elections Division, and then we'll break for lunch

and Executive Session, and then come back on the rules because I think that might be a little bit of a longer discussion."

Mr. McCarthy - "Madam Chairman, members of the Board, for the record my name is Mike McCarthy. I'm the Director of the Elections Division. We've -- I'm hitting the -- thank you. This is fine. I just wanted to point, again, to reinforce when we spoke a little earlier on the voter identification cards, I just wanted to highlight that the numbers really did jump in October and November, and I do think that's accredited to the outreach program. And again, I'd like to reemphasize the comments that Secretary Handel made a little earlier that we work in very close collaboration with the local election officials and they have very conscientiously carried out this program. And our numbers, I think, certainly reflect that and it's a credit to local registrars who have worked very closely to make this work. Next slide, please. I wanted to point out, again, that occasionally no news is good news, so from my division's perspective we're looking for routine, quiet successes. The process shouldn't be part of the news and the elections process, and again, very much that has been the case. We report, routinely, to you now by email on Election Day and update the status as the day goes forward. And you'll notice those reports were very quiet. We had very routine interaction with their people in the field. We had no unusual equipment malfunctions, we had no unusual administrative issues arise on Election Day. And again, I'd like to point out we had no complaints, we had no indications that voters were having problems with the voter identification law on Election Day. The questions that came in were very routine questions. They were very easily handled and we saw no indication of problems occurring. The registrars are working with our office and they're also working with the police and sheriff's press, but under who helps us support this program, its equipment and the software. We actually got a compliment on our vendors. Someone called us up and said they needed some instructions in operating the machinery working with the software and the transmission, and they called to let us know that they had very quick and effective support and we wanted to share that. That's the type of feedback we've had from the local government. Next slide, please. One of the focus that we are moving towards is Elections for the upcoming year and the training to get local election officials ready to conduct those elections properly and according to the law we have, as I mentioned earlier, completed the certification program for the counties before the end of this year. I believe, as of two weeks ago, we had two counties had one module with the Ethics Commission to finish, we are going to be done. Everyone will have certified staff in their County Offices at the close of this year. We're beginning our discussion and planning operations with VRAG and GEOA to plan this upcoming year's training conferences. We are, very much, drawing on the experiences of the Board and the

Inspector General's Office to focus our training this year into reemphasize places that have shown to be stumbling blocks here before the Board. That will be very much part of what we're doing going forward. In addition, as Secretary Handel has pointed out, we're also looking at more special training this year. I just wanted to point one of them out here. We're talking to three counties who have asked for additional assistance on absentee balloting and use of our voter registration system and the absentee balloting process, and our staff will be supporting them with special training where they'll bring their staff to our office and we'll essentially do a train -- a training or exercise to make sure they're ready to go. And I believe we'll actually be doing this more with some other programs. As we see the need, we'll respond to the need to provide the training. Secretary Handel."

Chairperson Handel - "I think Mr. McIver has a question."

Mr. McIver - "Mr. McCarthy, I'm worried about the term certification. Does this program needs bolstering in some way? I mean, do we -- do they need to take exams. I mean, how do we make sure that people do understand the differences between absentee ballot and advance voting and so on?"

Mr. McCarthy - "There's actually, Madam Chair, Mr. McIver, there's two things that do occur. Through the conferences in the past, there had been a certification program that had to run separate from the conferences, and then there were also the annual conferences that provided a continuing or maintenance credit. Beginning this last year under this administration -- excuse me -- under this administration, we've made efforts to use, at least a portion, of the conference time for certifiable credit. And this year we'll also be looking at weaving these programs together a little further as well. The initial certification program allocates up to 64 hours of training, which is essentially an elections boot camp for the incoming election administrators at the County level. We go through eight different modules to make sure that everyone has the same basic fundamentals in place to conduct the elections. In addition to that initial certification program, there is also an ongoing requirement that every year there's an additional 14 hours of education accumulated by those election officials in the conduct of elections. These conferences will always -- will always provide that additional 14 hours. We're looking for more opportunities to present the certification classes so everyone has multiple opportunities to in the course of the year to acquire and accumulate those credits toward their certification."

Mr. McIver - "But my point being, how do we know they can sit in room and they can listen, or they can play with their blackberries --."

Mr. McCarthy - "The certification program requires an exam for each of the modules. They are tested and scored and you either pass, or don't pass. And that is a matter of record, we maintain those records."

Mr. McIver - "And there's a retesting function as well?"

Mr. McCarthy - "Yes."

Mr. McIver - "Recurrent training."

Mr. McCarthy - "If a person does not pass, they can come again and retest."

Mr. McIver - "With photo ID, I think this predates you, but at the time we had a clinic or a laboratory in each of the VRAG and the GEOA Meetings, and it was a hands on test. You had to successfully do it before we'd let the person out of the chair and so on, so forth. And I recognize there's turnover in personnel as we go forward, but the initial training was a hands on test that had to be successfully completed. You had to produce a VIC card utilizing your own fingers based on the scenario that we set forth for you. So just validated hands-on straight up testing. If the machine didn't produce a card, then we started over again."

Mr. McCarthy - "That's great. Members of the Board, Madam Chairman, you're referring to the lab we typically have at VRAG as part of the hands-on experience where they have the opportunity to actually create a temporary VIC, on-sight, and walk through the process. And this does help ensure that if there is a misunderstanding which, at this point, is -- is very rare that they know how to operate the equipment and execute the process effectively."

Mr. McIver - "Thank you."

Chairperson Handel - "The other thing that I'll just point out quickly is that Ken Van Horne and Nancy Bourne, first from GEOA and Nancy Bourne (phonetic) from VRAG, they have a task force that's put together that's working with Mike and his team around the training. And it's not just elections officials training, but also moving forward with what we did for photo ID for poll worker training, is we prepared the training at the State level and gave it down to the counties so that they could use it, and we're going to look at more things in that way, as well, particularly for aspects of elections that poll workers use, but then also drawing on the on-the-ground input for, and what we see as Mike referenced, of errors that we do need to short up and make sure, too, that we have an ear to the ground on which counties are getting new elections officials throughout the year. For example, we know of a couple already and we will hold special training for them prior to February 5th because we don't want to have any county hanging without being able

to have access to the training. So if we have to bring them in and run a class for one person, that's what we will do because we want to make sure that everybody has the opportunity, at least, to be trained and then they have to meet us, obviously, to understand the training but we will do our part there."

Mr. McIver - "But it just leaps out at me as we go case-to-case, Mr. McCarthy, that it's training. It's just training, and that there always seems to be a gap somebody falls through. They're new, there's been turnover, they forgot, and so on, and so forth. But assuming the motives of the election officials are what we would expect, and it is just training, isn't it?"

Mr. McCarthy - "Members of the Board, Mr. McIver, it is largely a matter of training material support. We've had comments made by members of the Board, and you've watched me writing over in the side of the room. Going forward with 2008, we'll both look backwards and forward with our training preparation. We're looking backwards to see what's worked, what's been effective, and also where the stumbling blocks have remained. Going forward, this is a time when we can ask how can we better address those stumbling blocks such as absentee balloting which are clearly reoccurring problems. And we're looking at supplementing the traditional training conferences and the tradition certification program with special materials, some working groups in which the associations have spoken very favorably and working in collaboration with us to develop some focus groups, and it creates some special materials to supplement what we've done in the past. We look forward to doing that in 2008. And on that note, looking forward to 2008. Next slide, please. We are underway for the Presidential Preference Primary. We've started the preparations of the development materials, and the beginning of the November that process has been moving forward. Polling place materials orders are already being filled. We're walking through to make sure everyone has the materials in place in a timely manner. We have sent out special reminders, official reminders emphasizing the need to be on time with the UOCAVA voters, and what those appropriate dates are. And I'll just conclude with a couple of notes that if you haven't already, you will be seeing more routine information from our office. Just as we've started our routine email communications with you on Election Day for updates, our office is also doing more broadcast routine public announcements, press releases, press office is working in very close collaboration with us. You'll be seeing those materials as do the local election officials, and we're starting official updates. It has a little different look, it's an official statement of action required or policy clarifications when we get those, and you'll see those coming from our office as an official document as a matter of routine communication going forward, as well."

Mr. Evans - "The question I've gotten repeatedly has been what happens when presidential candidates drop out of the race after either Iowa, New Hampshire, or South Carolina?"

Mr. McCarthy - "With regard --."

Mr. Evans - "And asked that their name be removed from the ballot. And I've gotten --."

Mr. McCarthy - "I'd actually have to follow up with you on an answer to that. We can do that."

Mr. Evans - "Okay."

Chairperson Handel - "If you'll just look that one up."

Mr. McCarthy - "Sure. We can do that. We'll get that out to the Board."

Chairperson Handel - "On the weekly updates, one of the reasons that we're going to be doing that is we get lots of calls daily from local election officials asking for clarification around this part of the code, or that part of the code, and rather than just having individuals answer it in person on the phone, we're keeping a log of the questions and writing down the responses so that we can keep a database of the questions for future reference, and also so that there can be consistency and uniformity, because again, our office has a turnover of people. One person might use one type of language, and the next person uses a different verbiage, and can be confusing and we want to make sure there is consistency and uniformity in terms of any clarification that is given out to the County. So I think that would help, and then, also, reminders to the counties, you know, when deadlines are coming up. Not that they're not on top of them, but you know, it's always helpful. I always appreciate getting reminders from my team when I have something due, so if we can work on that too with them. So that's kind of the purpose of doing those out every week for folks. All right."

Mr. McCarthy - "Very good."

Chairperson Handel - "Thank you very much. With that, let's go ahead and break for lunch and also, we do have some litigation to do for Executive Session. I have a motion, is there a second? All in favor?"
(Whereupon, there was a chorus of ayes)

Unidentified Speaker - "I have a couple of suggestions to make on your legislative program."

Chairperson Handel - "Can we talk about that -- I mean, we had public comment --."

Unidentified Speaker - "I understand."

Chairperson Handel - "I will chat with you if you want to set a time. Thank you."

(Whereupon, the meeting broke for lunch and Executive Session at 12:17 p.m. and reconvened at 1:48 p.m.)

Chairperson Handel - "Okay, everyone. I'm going to call us back to order and I need a motion to come out of Executive Session, please."

Mr. McIver - "I move."

Mr. Worley - "Second."

Chairperson Handel - "All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "And there was no action taken in Executive Session. The next item on our Agenda, colleagues, over the past ten months there have been a number of issues raised about areas for rules, et cetera, and I had Wes try to pull it all together and then he also, and he'll go over those to make sure we haven't missed any, and then we can -- those will be circulated and we'll start the process of next year for these."

Mr. Wes Tailor - "Yes. And you have each individual package that have the slides, as well as on the back they're the actual proposed rules languages, as well as a memo for y'all. I know I'm telling you probably what you already know which is the Board initially votes to post the rule as to whether they want to actually go forward with the rule making process. And then, there's a notice that goes out 30 days, at least 30 days before any proposed action. Then those require certain things once the Board, or the Board votes to pass a rule, then it's 20 days and it gets filed with the Secretary of State, and at that point, it becomes an actual rule. So in that regard and based on a number of things that have come up throughout the year, there are few proposed rules. The first one is review of initial decisions. I know this is a little difficult to read up here, but obviously, you have this right in front you. The two main things are the bullet points. This entire paragraph basically just provides that if an initial decision is issued by an ALJ -- thank you, perfect -- more than 30 days before the next SEB Meeting, then the Chairperson may extend the time when the Board reviews that initial decision. And she can issue a decision and allow for the Board to consider that initial decision at its next meeting. Do you want me to take questions after each one?"

Chairperson Handel - "And that's, colleagues, because in the -- currently as it exists, if there's not an action one way or the other by the Board, the -- it becomes automatically
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agreed upon."

Mr. Evans - "I think my confusion is this."

Mr. Taylor - "Yes, sir."

Mr. Evans - "If there are decisions involving contested cases, and then there's rule making, does this distinguish between the two because this seems to be blending the two together."

Mr. Taylor - "This is -- well actually, this is just with respect to initial decision form ALJs and Hearing Officers. After an initial decision has been made after an OSA Hearing. And that's all this in respect to."

Mr. Evans - "So this is a contested case, and my understanding was that in light of the -- what we talked about, this becomes automatically the rule unless there's a hearing, otherwise within the 30 day period."

Mr. Taylor - "Yes, sir."

Mr. Evans - "Is it the solution, if the Board doesn't want that to happen, is to grant a limited referral whereby only the fact finding is decided by the ALJ, but the ultimate application of the law to the facts is reserved to the Board. Is that right?"

Mr. Taylor - "Actually, on this one and are you talking about in a different rule making procedure?"

Mr. Evans - "There's rule making and there are cases."

Mr. Taylor - "Yes, sir. Right."

Mr. Evans - "They're very different procedures."

Mr. Taylor - "Right."

Mr. Evans - "I understand you're talking about cases here. So on a case, as I understand it, that in the event the Board did not want the 30 day limit, which is that it automatically becomes the decision on the case, that the remedy is that the Board grants a limited referral which is a referral that only addresses the determination of fact, or without the application of law for the fact. Is that --."

Mr. Taylor - "And actually, this specific rule is just saying that once an initial decision is reached by an ALJ, there is that 30 day period but it can be extended by the Chairperson. I'm not addressing, I mean --."

Mr. Evans - "No. I understand, for myself, that if you want to avoid the application, the automatic finalization based
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on 30 day, as I understand, it implicates that you do that -
- the referring agency grants a limited referral which is --
."

Mr. Ritter - "I know of no instances of that. That's not to say that there's going to be some that I don't know of, but I don't know of any procedure or procedure act -- to be clear, I think that every referral to OSA is a limited referral. Their only obligation is to find facts in a case. They often find sanctions as well, but the statutes that they're talking about, statutory body, started at 50-13-19, 50-13-20, 50-13-21, make those findings and the sanctions that go with them automatic -- as a practical matter, a practical matter. I would say that the ALJ, however referred over there, will often say this what we think the statute should be. I don't know of a provision from the APA where there's a limited referral that we avoid the -- 30 day time. (Inaudible)."

Mr. Taylor - "I mean, my guess --."

Mr. Evans - "The other option just doesn't --."

Mr. Taylor - "But if you assume, and if the Board decides that it's going to continue with the process that it has in place, currently, then what this would allow is for a mechanism where there doesn't have to be a special meeting called in order to make a decision to put this onto the next regularly scheduled SEB Meeting. This would address that situation."

Chairperson Handel - "Correct. I'm just trying to make sure that something doesn't become automatically in effect without this body's affirmation of it."

Mr. Evans - "Well, I know, but my problem is the phrase sole discretion. And that's why I can't support -- I can't support this, because having been with Secretaries of State who, sometimes, I think, have shared their sentiments, and sometimes I don't. I'm not prepared to grant sole discretion on behalf of the Board to the Chair under any scenario. And that was true with the last Secretary of State, it will be with the current Secretary of State, and so, that's why I can't -- that's why I'm having difficulty, and I was trying to figure out if there was another way to remedy that."

Mr. Taylor - "I'm unaware of one at this point, but --."

Mr. Worley - "Because, I -- Randy, is it your concern that under this rule that it really becomes the Secretary of State's decision whether or not the rule -- the decision is affirmed."

Mr. Evans - "That's exactly right."

Mr. Worley - "Okay."

Chairperson Handel - "Well we can certainly change it because let me tell you what my thinking is on it. What I don't -- my whole issue with the way it is, is if something came in and we didn't have a meeting scheduled, there was no ability to delay it in order to get it before the Board, I don't think -- I can't think of any Consent Orders that come across that shouldn't come before the Board. So if we want to just say all of them, that there is not automatic that we agree that there's no automatic 30 days, we can certainly rewrite it. But that's the thinking, that all of them will be held to be ratified by the body, not just become automatic in 30 days. Stefan, do you have anything to that?"

Mr. Ritter - "Yeah. I would like to actually -- two thoughts, just to give you a little background on this. First of all, the code section in question does permit for extensions on 30 days. The problem that I see this as addressing is not just the arbitrary extension by the Secretary of State. I'm not advocating for this rule or not, but I will tell you that this rule could kick into places that I read it if the initial decision is more than 30 days before the next scheduled meeting so that you don't have to have an emergency meeting."

Chairperson Handel - "Right. Correct."

Mr. Ritter - "Or to allow, potentially, for the procedural extension until the next meeting. And that could be done by the Secretary of State."

Mr. Evans - "I will just tell you, at a minimum, I think that -- I think the decision should be that the Chairman and the representative of the Board of the party, other than the Chairman, has to both agree, and in which case that would be fine, but the idea, I mean, I'm just telling you having been on the receiving end of being in the 3-1, and Mr. Worley, I don't think you should ever have it where the Chair can decide that without consulting the other party because I just think part of this Board's value is that it is mandated by statute to be, you know, the minority party's always deemed to have a representative."

Mr. Worley - "Why couldn't we just write it so that the time is automatically extended it if the hearing officer issues it 30 days before the next Board hearing --."

Chairperson Handel - "Can we do it?"

Mr. Worley - "Or earlier than 30 days --."

Mr. Evans - "I would agree with that."

Chairperson Handel - "Perfect."

Mr. Ritter - "As you're discussing this, if I could make one other comment just for reference for the Board. There's a case out there, and I think this is just a desirable rule, in some form, change sounds great, but just so that you're aware there's a case out there where a board did act after the 30 day period had expired. And the question whether it's subsequent ruling after that 30 day period was valid and the Court held, essentially, yes, it was. In other words, it found the 30 day period to be binding, and it doesn't discuss in this detail, but I can tell you that the effect, as I see it, is that the 30 day period was binding on the person who had challenged the rule. In other words, they've got -- once that 30 day period elapses, then you've got to take it to the Superior Court within 30 days, and if you don't then you're out of luck. But that doesn't the Board can't come forward later, sometime in the future, and still issue a decision and kick off a new 30 day period to appeal. So you could substitute a new decision, a reconsidered decision of the one that was affirmed by authorization of law, later. Just so that you're aware. And I'm pointing this out because I don't want to walk away from this meeting without a record being made that this Board still has some discretion to do that, even passing this rule."

Mr. Evans - "I like Dave's suggestion."

Chairperson Handel - "Yes. That's fine."

Mr. Worley - "Well, I would change it, basically take out the language on the screen so that it reads, now on those occasions when the hearing officer issues an initial decision more than 30 days before the Board's next regularly scheduled meeting, the period of time in which the Board must render a final decision shall be extended until the date of the next regularly scheduled meeting of the Board."

Chairperson Handel - "Great."

Mr. Worley - "And that would basically take out the three lines up there that begin the Board hereby grants authority."

Mr. Evans - "Wes, what did he just say?"

Mr. Taylor - "I think he just is -- you just added in is extended, right?"

Mr. Evans - "Shall be."

Mr. Taylor - "And took out shall be extended. Okay. And I'll get -- yes. Yes, sir. I'll take yours, and at the time -- no, I'll come and get it. And I'm not sure of the proper procedure, if y'all want to take a vote as each individual rule, proposed rule, to oppose to that and we can get that out."

Chairperson Handel - "Do you need a motion?"

Mr. Evans - "I so move as amended by Mr. Worley."

Mr. Worley - "I'll second it."

Chairperson Handel - "Motion and a second to accept as amended. Any questions? All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. That one's fine. Okay."

Mr. Taylor - "The next one comes from, and this is obviously a big slide, you have this in front of you. It's a procedure to petition for the adoption of rules by outside parties, by third parties. This was, and the reason for -- behind this rule, is specifically Chief Justice Sears footnote in her -- in the dissenting opinion in the Charles Wesley case, which was just decided. And in that, Justice Sears made a note that the Board had not adopted such a procedure for petitioning for the adoption of rules and cited Code Section 50-13-3a.2. What I then did after reading that decision, is looked at what other agencies, what other State agencies have done in this regard. And I took from the Department of AG, the Department of Transportation, and the Department of Natural Resources, and this -- and the language before you is the language that those three bodies use."

Chairperson Handel - "Wes, is that this one, or this one?"

Mr. Taylor - "Yes, ma'am. It is that one. Now this next slide is actually a breakdown of the whole rule. This is really just a synopsis of what the whole rule encompasses to try to make it easier in going through."

Chairperson Handel - "Can I do this, because this wasn't circulated to people ahead of time, or was it?"

Mr. Taylor - "I did send it on Friday afternoon, and I apologize for the delay, but it was circulated Friday afternoon."

Chairperson Handel - "All right. I just want to -- if people need to have time to look at this, you can take it with you and digest it, and when we can do it at our next meeting if you would like because it's a lot to kind of go through."

Mr. Taylor - "Okay. Would you like me to hold off on the approval of each of the -- or do you want me to continue."

Mr. Evans - "My general concern when I read it was that we really want to make it easy for people to bring good ideas
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to us."

Mr. Taylor - "Yes, sir."

Mr. Evans - "And I just worry that -- seems kind of rigid, to be honest. To me, a writing, certified, or registered mail, you know, to me, and my feeling was the less the better, because we want anybody who's a voter or a citizen that's got a good idea to give it to us."

Mr. Taylor - "And I think what this rule does, is it makes the -- there's a line break of when can the Board consider, and when must the Board consider rule making procedures. So if somebody, on other words, came up to you on the street and said, hey, I think we need a rule about this and you said, I'll think about it, you'll find and able to bring up a rule making procedure, initiating rule making procedure with the SEB. What this rule does is it defines the line as to when must the SEB engage in rule making procedures. And as I say, this is what's in place in a number of other State agencies and says if you have done -- if you have three copies by registered mail, if you've identified who it is, what the rule is, what the change may be, who's going to be affected and why the SEB ought to do, then at that point, then, it's on the SEB to decide yes, we are going to -- that is a good idea and we are going to engage in the rule making procedures, or no, we don't think that's a good idea and we're not going to do it. But it then just places --."

Mr. Worley - "The Board would be required to vote in it --."

Mr. Taylor - "Correct."

Chairperson Handel - "Stefan."

Mr. Ritter - "I'm sorry. Let me interject. Being quite candid, I discussed such a rule with the prior Secretary of State's Office and I don't think they were disinterested other than they just didn't have it on their Agenda, or radar, to do something, and so Justice Sears mentioned it, but this is -- the absence of such a rule was the problem in our Wesley foundation case, that we did win, but that was based on substantial compliance with the rule rather than compliance and, of course, we'd want to be absolutely right. The initiator procedure's act, 50-13-9, does have provisions for citizens to petition for rules and it requires that agencies have a rule in place for how those petitions are made. It doesn't mean that other petitions can't be made or one kind of another, it just means that those formal petitions have to be acted on in compliance with the statutory requirements. And I think that's Wes is proposing."

Mr. Taylor - "Yes."

Chairperson Handel - "And what's here is consistent with
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what other agencies do as well."

Mr. Taylor - "Yes, ma'am. The one place that I will say that takes a bit from the Charles Wesley foundation rather than other rules, is the 30 days or at the next regularly scheduled meeting given that this body meets usually quarterly, rather than monthly, and given that the Supreme Court said that that 30 day rule is more suggested than it is mandatory, this rule would incorporate that decision and the statute which says 30 days, or at your next regularly scheduled meeting so y'all wouldn't have to call a special meeting in order to begin the rules making process. Any other questions on this?"

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "Second. I have a motion and a second to accept this one. Any questions? All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Next one, Wes."

Mr. Taylor - "The next one is -- this is a clarification of an existing rule, so in fact, this would be a change in an existing rule and I've only taken the one piece of the entirety of the rule because 83-1-6.03 is -- is pretty substantial rule in and of itself. This one particular paragraph, and the only change that is -- that I'm putting forth before the Board is, that no copies of the completed registration application shall be made without the express permission of the applicant. It has been this Board's position, especially in ongoing litigation, currently, that what that means is without the express permission of the applicant. And that that is -- what that rule, in fact, means even though it may not have that language specifically in the rule. So all this would do is actually codify into rule what the Board's position has been in ongoing litigation."

Mr. Ritter - "Madam Chair, just so that -- and I think the Board members are aware of this, but to make it clear --."

Chairperson Handel - "You probably need to speak --."

Mr. Ritter - "I'm sorry. In the Acorn case, which we're litigating in Federal Court in front of Judge Camp, one of the problems in that case is that it's been suggested that while an individual should be able to make copies of their own voter registration applications and, in fact, we would be subject to strict scrutiny with little reason to say well, individuals can't copy their own, I will give someone else permission to go make a photocopy of it and of course, if you can copy it you can give it away. That is one way to

argue political speech, and therefore subject to strict scrutiny. At least, that's what they would say. That should be a nonissue in these cases because that's not what this regulation is really about. As I've read it, it was about preventing unauthorized copying by third persons of voter registration applications, which is precisely the thing to be prevented because that's what leads to identity theft. And so we suggested a modification of the rule to make it explicit and we have already argued that, in our briefs, that that's really what the rule means. And I've sent out some emails and these are now about a year-and-a-half old, at the beginning of this case asking about that interpretation. So that's where this proposed amendment comes from."

Mr. Evans - "There's a typo, it should be has been, b-e-e-n. See it?"

Mr. Tailor - "Doggone it."

Mr. Worley - "I did have a question of Mr. Ritter. When you're talking about third party, who are you talking about?"

Mr. Ritter - "To make copies of these applications?"

Mr. Worley - "Right. I mean, do you meant that --."

Mr. Ritter - "Well, if any -- I think that there are numerous third parties. Right now a number of voter registration groups in other places in the United States, some with permission, some without, make copies of voter registration applications. They do this for a variety of reasons, and they do it without permission. And in fact, we've said why don't you get permission? We don't want to to ask for permission. Why not? Because quite candidly, the permission might be denied. Well, who does it? I will tell you that the groups who do it are the Association for Community Organizations for Reform Now, or ACORN, project vote, there's a group NAACP branches that don't do it but would like to do it in the future, and several other individuals. And I will tell you that as the rule's drafted, you know, they view it as anybody, anywhere can make a copy of anybody's voter registration application without any permission."

Mr. Evans - "So how would the applicant reflect their --."

Mr. Worley - "Their permission."

Mr. Evans - "Right. Is there a box, or how do you capture their permission?"

Mr. Ritter - "Well I think there's a variety of ways that permission could be done. Now the rules doesn't reflect that, but I think that they could initial it or even just having the rule in place that says that they have to ask for

permission is all that --."

Mr. Evans - "Well then I'm wondering, for your case, if I were a lawyer handling these cases if you had a box that says I do, do not grant permission, people check -- virtually everybody's going to check the do not, that would make your case pretty easy in Court when you Commissioner in and say not only -- here I have a box where I just wonder if that should be on the voter application -- voter registration application form."

Mr. Taylor - "I have no objection to that, I think that's fine."

Mr. Worley - "Well I guess -- I have another question. How do you make a copy of the application if it's been sealed?"

Mr. Taylor - "They're sealed afterwards, and they're often sealed in bundles because of the case we litigated regarding bundling, the Shewer (phonetic) case, but no, they're copied beforehand and in fact, often the registrar doesn't have a copy of their registration at all. They fill it out, they give it to the person, they leave, and they assume it's done. And if I could digress for a moment, I could tell you that's another problem and that is when that happens, they often assume, then, that they are registered to vote. At these private voter registration drives, which I will add are legal under the law, you do not have, in many cases, a deputy registrar at the drive, and that means handing some third person, a citizen, another citizen, a copy of your form, an original of your form does not register you. You're not registered until it's received by the registrar, or deputy registrar. So there's a receipt problem."

Mr. Evans - "We tried to adopt a rule, but put a time limit on how long --."

Mr. Ritter - "Exactly. And that's still in place, but it's -- it was extended. Yes, that's correct."

Mr. Evans - "So I so move on this rule, but I would also ask because, I think Madam Secretary, you're the one who gets to promulgate the forms. But it might be a good idea to add a, if we could, add a box to the form that says I do, do not. It would make our litigation strategy real easy."

Chairperson Handel - "Let's take a look in to that because I think it's a tad more complicated than that because their motivated with DDS, and all that, and then I think, also, you've got to have DOJ. So let me get with Stefan, offline, and we'll figure out if there's a way to do that, certainly we'll try to do and come back to y'all. All right. I've got a motion, is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Got a motion and a second."

Mr. Taylor - "Madam Chair, I just want -- the motion is with the change with the -- make it a been instead of be?"

Chairperson Handel - "Well the written one that I have versus --."

Mr. Taylor - "Oh. Yes, ma'am. Thank you. Versus --."

Chairperson Handel - "I don't think -- never mind. Motion and second, all in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Worley - "No."

Chairperson Handel - "We have one no. Okay. And then, did you have one more clarification on the --."

Mr. Taylor - "On this."

Chairperson Handel - "The cameras, yes."

Mr. Taylor - "This came up last meeting, I believe, and I just wanted to provide for the Board what is out there on statutes and rules with respect to cameras in the precincts. And if y'all had any questions or need for adoption for new rules, I'm welcome -- I'm pleased to discuss those. Essentially, what it says is poll watchers can't take in any electronic monitoring equipment or photographic equipment. Electors cannot go into the enclosed space in polling places with camera, however, none of those statutes prohibit the media from reporting on the process and preparation of the DRE units and voting."

Mr. Evans - "Well I think the operative question in that was whether or not the media could record people voting. And the answer is under 21-2-413, if they're a registered voter and they're operating the equipment, the answer is no. And the question is so should we grant a right to a non-Georgia citizen who's not registered to vote here, a greater right if they're a member of the press and we would anyone else."

Mr. Taylor - "Okay. I did notice that, as well, that the statute specifically uses the term elector which is a defined term in the statutes which means you have to have all of the qualifications in order to vote."

Mr. Evans - "If you'll remember the hearing which the question was, it was a member of the press, a Georgia voter, which they were, and so we can't allow them to have greater rights than individual citizens. So the question is whether or not -- and this issue came up in two previous Board meetings, Madam Secretary, as to whether or not we were

going to grant special access to members of the press, and the answer both times was no because you could have the local yocal, blogger or press show up and for purposes of intimidating voters, pretend to be voting photographing the polling area, and the answer was no."

Chairperson Handel - "And then, I think also there was the question of candidates who had the press following them and I think, Mike, when we do -- we need to revise the candidate packet to reflect that a reporter cannot come in and into the polling place, following them up to video tape the vote. And I think that's probably done fairly routinely, right now, and so we just need to get a notification to candidates. And maybe also to both of the political parties, as well, and ask them to distribute it to their local party folks. I think that would be helpful. And we don't need action on that because that's what we have in place already."

Mr. Taylor - "Yes, ma'am. That's what --."

Chairperson Handel - "All right. Is that it?"

Mr. Taylor - "Yes, ma'am."

Chairperson Handel - "And so now we have to move forward with the ones that we accepted, you'll move forward with the notification and public announcement, et cetera."

Mr. Taylor - "Yes, ma'am. And we'll take --."

Mr. Ritter - "Madam Chair, can I just talk another minute?" In addition to that, you know, in the approval process, also the changes in the rules would have to be approved by the Justice Department. In addition, let me mention regarding the Acorn rule, which I'll call the one that (inaudible) which is the photographic. We have a preliminary injunction in place, right now, against that rule so that rule would not be enforced unless that preliminary injunction were to be withdraw, overruled, over heard, overturned, whatever."

Mr. Evans - "Could we submit this proposed rule somehow to Judge Camp, and get him to bless it?"

Mr. Ritter - "We could. Yes."

Mr. Evans - "I just --. Thinking out of the box, for a minute, if we got Camp to bless it --."

Mr. Ritter - "We're going to have consider that possibility. It's not as easy as just submitting...."

Mr. Evans - "No. I know that."

Mr. Ritter - "...it to a judge, but yes, it's a possibility. And you can, in fact, go to court for a

blessing on it rather than going to the Justice Department."

Chairperson Handel - "Sure."

Mr. Evans - "Well like I say, since you already have a pending case."

Mr. Ritter - "Right. Exactly."

Chairperson Handel - "Now let me just make sure I'm clear. So you're talking about on the camera rule --."

Mr. Ritter - "Not on the camera rule, we're talking about the --."

Chairperson Handel - "Oh. The other one. Sorry, sorry. Okay. Never mind. All right. Any other items?"

Mr. Worley - "I -- I just had a couple of things that I wanted to bring to the Board's attention based on calls I've gotten from people. Just concerns from citizens about a couple of things. One, someone called and suggested that because there seemed to be so many problems with the conduct of the municipal elections that the State, legislatively, might want to consider mandating that municipal elections be administered by the counties. So I'm just passing this on."

Chairperson Handel - "It might be the same person that called me too."

Mr. Worley - "The other was that it was suggested that because of this election administrator had difficulty in determining whether someone had passed their certification, they wanted to know whether the Secretary of the State's Office maintained a list of people who had been trained and certified, and whether that was information that was made available to election managers."

Chairperson Handel - "We have that list, now, and yes, that's available, anyone who wants to have it. And then we actually review it closely and we're monitoring when people change out of jobs and come in."

Mr. Worley - "And that was all."

Mr. Evans - "One other topic which, of course, was addressed in Executive Session is, how is it we move the Fulton County matter given the proximity to February 5th, and then subsequent elections. And I think if we're going to take that matter up, if we're going to set a date or say we that we want to have a date, we probably should address that today rather than wait. It would seem to me, that at a minimum, because there's no downside risk, we could set a hearing as promptly as our schedules will accommodate given that we are in holiday season, set a hearing to hear from all the parties and try to crystalize and narrow this issue, because I think the issue that the Secretary has identified,

which I completely agree with her on, is a manner of really serious -- and I will say, Madam Secretary, that I did not appreciate the gravity of the situation when you first brought it up you were adamant and I didn't appreciate it, but I know have a full appreciation of how serious this matter is and how significant it is. I think we need to figure out a way to have a hearing and just get everybody in here and hear what the problem is, try to crystalize it, and then see what the options are. It, may then, require us to go into Executive Session after hearing from everybody, and make sure that we've fully assessed all of our options, but you've convinced me that the way is a bad thing and it will only jeopardize the ability of voters to rely on the integrity of the outcome of elections in Fulton County."

Chairperson Handel - "Uh-huh (affirmative). Why don't we do this. Get everybody's calendars, and I'll have Rhonda circle back with everybody later this afternoon to try to get dates and see the most expeditious dates that will work, and then that'll also give us time to make sure we can book a room, and all of that, and then notify the parties, et cetera. So I'll have her call everyone's office this afternoon."

Mr. Evans - "I think we're, unfortunately, I suspect that'll take a larger part of a day if we permit, because I don't know if we can live with our 15 minute rule. I think we're really going to have to let them -- everybody lay it all out for us."

Chairperson Handel - "All right. Anything else? Is there a motion to adjourn?"

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right, folks. Thank you."

(Whereupon, the meeting adjourned at 2:20 p.m.)

**VERBATIM MINUTES
STATE ELECTION BOARD MEETING
200 Washington Street
Suite 450 State Capitol Building
Atlanta, Georgia 30334
Tuesday, September 25, 2007
1:30 p.m.**

(Whereupon, the meeting started at 1:33 p.m.)

Chairperson Handel - "All right. I'd like to Call the State Election Board Meeting together. We do have a quorum, and the first order of business is going to be -- Can everyone hear me okay?"

(Whereupon, there was a chorus of nos.)

Chairperson Handel - "How about now? Yes? Okay good. The first order of business is we'll do the roll call. I have Jeff Israel. Present Jeff?"

Mr. Jeff Israel - "Yes."

Chairperson Handel - "Okay. Randy Evans."

Randolph Evans - "Present."

Chairperson Handel - "And, obviously, I'm here. Next we'll have an invocation from Mr. Israel, followed by our Pledge of Allegiance. I'd like to ask everyone to please stand."

(Whereupon, the invocation was given by Mr. Jeff Israel followed by the Pledge of Allegiance being recited in unison)

Chairperson Handel - "Hopefully everyone took note in the public Agenda that our first item is going to be Executive Session. It should not take us more than 20 minutes to go and do that, and then we'll be right back to take up the rest of the Agenda. Do I have a motion?"

Mr. Evans - "So move."

Mr. McIver - "Second."

Chairperson Handel - "All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none. And it is on litigation, and we'll be back in about 20 minutes."

(Whereupon, the meeting broke for Executive Session at 1:33 p.m. and reconvened at 2:06 p.m.)

Chairperson Handel - "All right. Can everyone hear me okay? Do I have a motion to reconvene?"

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "All in favor?"
(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none. And for the record, there was no action taken in Executive Session, it was regarding litigation. And the next item on the Agenda is the approval of the minutes."

Mr. Evans - "So move."

Mr. Worley - "Second."

Chairperson Handel - "Motion and a second. Any questions, comments, or changes needed? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none. Before we get to the Inspector General's report, I just want to go over the procedures for how we will deal with the cases that are before the State Elections Board. And I just want everyone to know that this meeting serves as what is, basically, a probable cause inquiry. The Board will only decide today, if it so chooses, whether or not there is enough evidence to refer a particular case on to the Attorney General's office, and at that point it will be the Attorney General's office that will be coordinating the merits of the case. However, what we will do today is allow each side to have 15 minutes to present the case. As part of that, if someone is here to speak on a case, and sometimes there's multiple people, that is not 15 minutes per person on a case, it is total for if it is a case against a particular individual or a county, 15 minutes for that particular side. And, of course, the Inspector General will speak. And please be aware that even though you may present any argument or evidence that you wish during that allotted time, this is still not the time for a respondent to actually argue a respective case, et cetera. So just keep in mind for that. And then, I also noticed -- Rhonda, make sure on our minutes, I missed this -- or on our Agendas that we do have -- Oh, I see. Public Comment. We did Executive Session before we did Public Comment. My error. Is there anyone here for Public Comment who wants to speak on something other than a case that is coming before us via the Inspector General, the Attorney General's office."

Mr. Evans - "Madam Secretary, I agree to that. So I would -- I would move that we adopt a rule for purposes of our proceedings today where each side is limited to 15 minutes. Obviously, if that's not enough time you need, you can always ask for an...."

Chairperson Handel - "Correct."

Mr. Evans - "...extension of that time and the Board and you can decide whether or not they need more information. So I would so move that at this time we make that a procedure of the State Election Board."

Mr. Worley - "Second."

Chairperson Handel - "Motion and a second. Any questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that will be the rough procedure that we will follow for today. All right. With that, we will have our first case. It is State Election Board. Case No. 2006-000034. Greene County. Inspector LaGrua."

Ms. Shawn LaGrua - "Thank you Madam Chair. Green County, this case involves the July 18th, 2006 primary and runoff election. The complainant in this case was Judge LaVerne Ogletree, the Probate Judge, at the time, the head of their elections. The respondents remain at home in the form of Deputy Registrar Richard Jordan, Charlene Jordan, Vivian Evans, and Mike Malone, who is the former Chief Registrar. The allegations are as follows. There are approximately six allegations. The first thing that Mamie Holman, the former Deputy Registrar, leaked information about requests for absentee ballots. We found no information that would make it improper for anyone to ask for absentee ballot information if, in fact, it was done. Vivian Evans was accused of wrongly assisting two elderly voters. Unfortunately, no one will give us any information on who those two elderly voters were. Mamie Holman was accused of not following the SEB rules as it relates to absentee ballots. We were given those specific violations in that regard and our investigation found no violations in that regard. Mamie Holman was alleged to have been campaigning for Valencia Cobb. Ms. Holman actually was reprimanded at the time that that happened by Mike Malone, the former Deputy Registrar, for campaigning for Valencia Cobb. Candidates -- There were allegations that candidates were paying electors money for their votes and that a poll worker assisted an elector at the polls improperly. There was no evidence, that we could find, and no one could substantiate any payment for votes. A voter did get assistance at the polls, but we were able track down the poll worker that assisted. That voter actually asked for assistance. Based on all that, and Ms. Holman is no longer a Registrar, so we would recommend that the case be closed. Now since this investigation, I have found out that Mr. Malone is still on the Board and if the question comes up, there may be some need for training in that regard because there was an allegation that Mr. Malone rejected ballots that came in and did not send out rejection letters. In fact, those rejections were appropriate, but a letter should have been sent to the voter informing them that their ballot had been rejected and the reasons why. So, essentially, at this point, the Inspector General recommends that this case be closed."

Mr. McIver - "I so move."

Mr. Israel - "Second."

Chairperson Handel - "Motion and a second. All in favor?"

Mr. Evans - "Madam Secretary, it seems to me that, in reading the letter of instruction under our Civil Remedies clause, it might fall appropriate as to Mr. Malone because this notification of rejection is in the subject of some litigations."

Ms. LaGrua - "Mr. Evans, I don't disagree and that's why I brought it to the Board's attention that it was subsequent to this investigation that I found out Mr. Malone was still involved in the elections process."

Mr. McIver - "Again, my motion stands. After reading this and hearing the explanation from General LaGrua, it's still my opinion it should be dismissed."

Chairperson Handel - "Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Mr. Worley - "No."

Chairperson Handel - "Three ayes and a no."

Mr. Evans - "Two nos."

Chairman Eaves - "I'm sorry. Two nos. Thank you, Mr. Evans. All right. Next case is SEB Case No. 2006-000035. Sumter County Elections. It's under Tab 3."

Ms. LaGrua - "This case involves the August, 2006 runoff election. The complainants are listed in your materials. The respondents are -- is Sherry Ratliff, the Chief Registrar, and Randy Howard. The allegations are as follows. That the Chief Registrar did not properly explain the absentee ballot process prior to the runoff to the candidates. That Randy Howard, Wright's opponent in the race, stayed in the Court House too long and violated the 150-foot rule, but Ratliff gave Wright faulty information on the voting precinct that a Mr. and Mrs. Robinson were unable to vote by absentee, and that a reporter was in the precinct taking pictures. Our findings indicated that the candidates were, in fact, provided information about the absentee ballot process and actually signed for that information, that Mr. Howard had a valid reason to be in the Courthouse for the time he was there. He was requested by the Registrar to provide a document and was only there during the time that was needed to provide the document to the Registrar and leave. But the candidates were actual maps and signed for the maps in terms of the voting districts. The Robinson's actually went in person to vote because they did not believe their ballots, if they sent them in, would be in in time which is why they did not vote absentee. And finally, we can find nothing improper from our investigation about the media being present as it was in this case. And for those reasons, we will recommend that this case be closed."

Mr. Worley - "I make a motion that we close the case."

Mr. Israel - "Second."

Chairperson Handel - "Motion and a second. Any questions, comments? Okay. Mr. Evans."

Mr. Evans - "Is there an exception where the media can make photographs, but members of the public can't?"

Ms. LaGrua - "Not that I could find and, in fact, I consulted Mr. Ritter on this and could not find anything that said the media could not be present, at least in the rules that I could find. I very possible have missed something, Mr. Evans, but I couldn't find anything."

Mr. Evans - "I think it's -- My question relates to the prohibition that's photographed and maybe it's certain polling places. But my recollection is that we actually considered creating an exception for the media and that was voted down by the Board so that there was no exception. There would be no basis given to prohibition absent us adopting some other rule to permit photographing, because the purpose of prohibiting photographs is to prevent voter intimidation. And specifically, it was voter intimidation aimed at race which -- which we agree, as a Board, have very sensitive to. I think you were on the Board at that time, Dave, do you remember us talking about an exception for photographs for media?"

Mr. Worley - "No. I don't remember that. I do think, though, that while we don't have an exception. I think if we're going to punish reporters for taking pictures in the precinct, then every November, many, many news organizations in this State are going to get punished because they go and they take a picture of Sonny Perdue casting his vote with his wife, or Secretary Handel casting her vote with her husband. I think that's going to be a problem if we start punishing people."

Chairperson Handel - "Let me just make sure I was clear. You're finding was that it was not improper for the media to be there."

Ms. LaGrua - "That I could find and, again, I consulted the assistant with -- I couldn't find --."

Mr. Evans - "It seems to me that ordinary citizens should have much rights as ordinary media to watch what goes on in a polling place. And they have the same rules apply to them that apply to the media. Now I have no -- I have no problem if we want adopt a rule that says that you can apply and get an exemption to say you want to come in and make a photograph, that that should be available to any -- any person. And, obviously, I think County Election Boards have to make reasonable accommodations because you can't afford everybody the opportunity."

Chairperson Handel - "Sure."

Mr. Evans - "But the idea that we have one set of rules for one group and a different set of rules to me, was something that we considered and we decided that that wasn't good policy. And so, you know, we'd -- another solution to what my colleague is talking about is to have a rule that specifically addresses this issue."

Chairperson Handel - "Okay."

Mr. Evans - "I can't imagine, and I remember us having, I think it was the City of

McDonough, but it may have been Clayton County, where we had someone who came in who was before us for using his cell phone to make a photograph in a polling place, and we found a violation. And I think that was this year."

Mr. Worley - "Well I think they had that case involved in State Representative in Fayette County who represented part of Clayton County and part of Fayette County, and going into the polls in Fayette County, along with someone who had a video camera, but the main issue in that case was that they were a candidate and therefore not supposed to be in a poll, other than their own polling precinct, on election day."

Ms. LaGrua - "Right."

Mr. Evans - "I think that's another case, but I think we -- but both of them involved a violation based on photographic equipment inside of a polling place. And my only concern is that we have the same set of rules that apply to everyone."

Mr. Stephan Ritter - "Madam Chair."

Chairperson Handel - "Mr. Ritter."

Mr. Ritter - "Mr. Evans, I may have missed it and it truly wouldn't have been the first time, but I'm not sure which rule you're thinking of."

Chairperson Handel - "Make sure you talk into the microphone...."

Mr. Ritter - "I'm Sorry."

Chairperson Handel - "...because people can't hear you."

Mr. Evans - "We have a rule, and I -- it'll take me a moment, but we have a rule that prohibits photographic equipment inside the polling place, and the specific reason we adopted that rule was that we had many counties where photographic equipment was used as a method of race intimidation which is, if you're an African-American voter and you went into vote, they made a picture of you. And it killed votes. And so we said, you know, we're not going to let photographic equipment in. And that was the purpose of the rule. It was specifically aimed at a specific problem, and all I'm suggesting is, I'm fine with that rule, I voted for that rule. But if -- we have to enforce it and if we're going to have an exception, then we need to say there is a reasonable exception. I would not favor having a reasonable exception for the media because I don't think they should be treated any better than a private citizen that's qualified vote. But we can have reasonable accommodation exceptions. I don't recall it as I sit here. I do remember that being a very passionate hearing, because if you have a target of race intimidation, which is we had people here who would laugh, it's -- it's heartfelt that photographs being made of you and distributed and put in the paper is not exactly conducive to the secrecy of the ballot process."

Mr. Ritter - "No argument with that."

Chairperson Handel - "Go ahead. I'm sorry. Go ahead."

Mr. Ritter - "My only concern is I can -- I don't which rule it is --."

Chairperson Handel - "All right. Let's do this, then. Let's see how the vote goes on closing this case, but regardless of how this particular vote goes, Stephan and Wes, we need to one, pull out this rule. Two, let's look at it and make sure that this body of State Elections Board Members are comfortable with the rule, if we want to make some changes, and, I think, certainly, we probably need to take a look. There might be some other rules we want to address as well, and maybe we can have one session on rule making and take a look at that. Would that be amenable to my colleagues?"

Mr. Worley - "That's fine with me."

Chairperson Handel - "Okay. All right. So we have a motion and a second to close the case for Sumter County. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Chairperson Handel - "Okay. There's one opposed. And Stephan and Wes, you all noted that for addressing."

Mr. Ritter - "Yes."

Chairperson Handel - "All right. The next item is SEB Case No. 2007-000003. City of Buena Vista."

Ms. LaGrua - "Members of the Board, this case involves the City of Buena Vista and Charlene Murray was the complainant, the former Deputy Registrar. Respondent was Norman Royal (phonetic), Elections Superintendent. It did not involve a specific election. Ms. Murray alleged that she was not notified of meetings, was not accurately paid, and that she could not, when necessary, reach the Elections Superintendent. Our findings revealed that Ms. Murray, in fact, agrees that, at best, these are administrative issues, not something that should be before this Board. We have check entries showing that she was paid as she should have been, and while she disputed how many times she had been paid, she could give us no explanation for the actual documentation of her being paid appropriately. And the Mayor's investigation cleared Mr. Royal any wrongdoing as there was no evidence that Ms. Murray was not notified the same as everybody else involved in this election process. Again, on this particular case because of our findings we recommend that this case be closed."

Chairperson Handel - "Okay. Any additional questions?"

Mr. Evans - "Were there minutes?"

Ms. LaGrua - "I'm sorry. Were there --."

Mr. Evans - "Were there minutes of these Board Meetings?"

Ms. LaGrua - "I don't know the answer to that, and I believe, if you give me just a minute --."

Chairperson Handel - "There should be."

Mr. Evans - "Because what I heard -- what I heard here, was no harm, no foul. Yes, didn't send out notice. Yes, held Board meetings all by myself. Yes, no Board minutes. But because I was actually owed the money, it's okay. And I have problems with that. I wouldn't want this Board to meet and not have minutes."

Ms. LaGrua - "I don't know, specifically, whether there were minutes. I do know that she was notified of the meetings the same as everyone else and one of her contentions was that she wasn't notified of the meetings, and therefore couldn't participate. What our investigation found was that she was notified when there were meetings, of the meetings in the same manner of everyone else which was through phone calling."

Mr. Evans - "Well, it's a simple question. Did she have Board meetings by -- was there a single Board Meeting person having a meeting for which there are no minutes?"

Ms. LaGrua - "I believe there were. And, in fact, it appears from what we found out that they -- this jurisdiction would classify activity relating to the business of Elections and Registrations as a meeting."

Mr. Evans - "And I just say that it troubles me that someone can have a meeting by themselves, have no minutes, and then we say that's okay. And so, and maybe, you know, I'm just a little concerned that we don't set a pattern from not doing our job, which is -- it is -- we are the responsibility here. And so, I would move that we -- I don't know. I find this -- I find this troublesome."

Chairperson Handel - "I guess the question I have is for, if indeed, and I agree, Mr. Evans, that if they were meeting and not taking proper minutes, that's a serious problem. But is that in the purview of this body? And I don't know. And if the answer is yes, then I would like to know that."

Mr. Ritter - "There are, facing the allegations here, if they're true, a number of violations of State law. They're misdemeanors, at least. Holding a meeting, which you purport to take official action, which only one person was present, is a violation of the Open Meetings Act. Not taking minutes at that meeting is a violation of the Open Meetings Act, and so on. They're all violations of the Open Meetings Act, and none of them are violations of the Election Code. The Open Meetings Act provides that that has

to be challenged within 90 days, or else the action that was taken on that meeting is unchallengeable. Now that doesn't mean it's not voidable after the fact, but I think it has to be voided that if it's not a sanctionable offense by the State Elections Board, that someone is going to have to challenge that action as being legal. They'd have to go to Court and have that action voided."

Chairperson Handel - "Could we -- could we then do the following, could we, from this body, send some sort of letter of concern around that issue, and then, also, bring this to the attention of the County Commission and the County Attorney, and that County's Ethics Commission is, and I guess it's the Ethics Commission, as well. Would that be a proper --."

Mr. Ritter - "Right. The State Ethics Commission won't have any jurisdiction."

Chairperson Handel - "So it would be to the County Ethics Commission."

Mr. Ritter - "That's right. Now as far as the Open Meetings issues go, they are misdemeanors and we can notify the appropriate prosecuting authority in that County...."

Chairperson Handel - "Okay."

Mr. Ritter - "...but I can tell you that it is extremely rare dealing with these all the time."

Chairperson Handel - "Well, at a minimum, they may not want to take action on it, but at a minimum, if we send a message that this is not proper conduct...."

Mr. Ritter - "Right."

Chairperson Handel - "...of meeting, and their local D.A. is notified, et cetera, that should, I would hope, give them pause and certainly I would expect the former County Commission Chairman Connelly (phonetic) to be in agreement that that is highly inappropriate."

Mr. Ritter - "And, Madam Chair, I will also say, just flat out, that regardless of how the Board votes today on this, the Attorney General's office will send a letter on this...."

Chairperson Handel - "Okay."

Mr. Ritter - "...to the County."

Chairperson Handel - "All right."

Mr. Ritter - "We have no prosecutory authority in this matter, but we will still -- we routinely send letters on these types of cases."

Chairperson Handel - "Okay. Then --."

Mr. Evans - "With all due respect, and I want a colleague who will appreciate, I think 21.25.96, this does provide that it's a misdemeanor. Also outlines that if you fail to perform your duty, it's a misdemeanor. And we have held that to be a violation of 21.2.33.1 sufficient to bind over so that we can issue a Cease and Desist Order. And we've done that on more than one occasion and I remember, specifically, the former Secretary noting that we can't simply turn the blind eye...."

Chairperson Handel - "Right."

Mr. Evans - "...to violations. And that's not noted on the report here, but just saying we -- that there has to be a remedy when local officials don't follow the rules. We are the remedy."

Ms. LaGrua - "I disagree, Mr. Evans, that while I was just looking at the actual SEB violations, and I will inspect these reports going further if I see something that needs to be addressed by any other body, at least in my findings."

Chairperson Handel - "Okay. Let's try this as a motion. That I move that we report it to the Attorney General's office to send a letter, whatever action the AG's office needs to take in terms of a Cease and Desist regarding the failure to comply with State Open Records Act and Open Meetings Rules. And that would issue before the Board is closed. Does that get it, Mr. Evans?"

Mr. Evans - "I don't think we can do it. I don't think we can jump all the to Civil (inaudible). I think we actually have to first refer it over. He, then, has to make findings of fact and conclusions of law, which will then come to us from which we could issue a Cease and Desist Order, but I don't think, leisurely, we can jump all the way to Cease and Desist unless we had the agreement of -- of Ms. Murray."

Chairperson Handel - "I guess what I was getting at, since Stephan has already said that we don't really have jurisdiction on the Open Records part to make a declare to a statement that that's unacceptable, but get it into the hands of the Attorney General's office so that they, then, can have follow-up."

Mr. Ritter - "Let me -- If I could...."

Chairperson Handel - "Yes."

Mr. Ritter - "...say two things. First of all, I'm hearing Mr. Evans saying that he thinks this is a violation 21-2-596, and, you know, that may be a good point. The Board is going to have to decide whether to believe this is a violation of that. That is a broad catchall. Putting that to the side for the moment, as far as the AG's office writing a

letter that we can't -- we're going to write a letter anyway on this. Whether it's formally a Cease and Desist under your rules, or not, doesn't matter. We address the Open Records Act issues under our discretionary authority and of the Meetings Act of the time. So I will tell you, just as a fact, we will do that."

Chairperson Handel - "All right."

Mr. Ritter - "If you want to go forward and find a violation under 596 --."

Chairperson Handel - "Colleagues. Do we have grounds to find a violation under 596, in your opinion, Mr. Ritter? I mean, it is fairly broad."

Mr. Ritter - "I think you do. Yes, I do. So if I mispoke before, I thought I was right. So I'll have to agree with Mr. Evans on that."

Chairperson Handel - "Okay. All right. Well then, I will take my motion back and move that we refer it to the AG under 21-2-596 for failure of public report of an officer to perform duty and we will await to hear back from you if this passes. Is there a second?"

Mr. Evans - "Well, procedural issue, did we tell the respondent that we were going to dismiss or --."

Ms. LaGrua - "No. We did not. We notified all parties that they were a respondent."

Mr. Evans - "I just didn't want have the detrimental reliance, which is they didn't show because the case would be dismissed."

Ms. LaGrua - "No. That was not part of the letter that was obviously on the Agenda, but not in the bar slot."

Mr. Evans - "I second that motion."

Chairperson Handel - "All right. There's a motion and a second. Any other questions or comments?"

Mr. Worley - "I don't agree with Mr. Evans' interpretation of the act because it says any public officer on whom a duty is laid by this chapter, willfully neglects or refuses to perform his or her duty. And that, to me, means that the duty that's described has to be in this chapter and I don't think there's a duty...."

Mr. Evans - "To comply with the law?"

Mr. Worley - "...to comply with the Open Records Act on this chapter. The Open Records Act is not in this chapter, so I don't think it's a -- well, either the Open Records Act or the Open Meetings Act."

Chairperson Handel - "Again, it's clarity -- and you know I have to go with the AG, but -- so you agree? Do you feel comfortable with that? I don't want waste people's time because you've got enough cases on your plate."

Mr. Ritter - "Right. And I'm not sure how serious this violation is in terms of you all being able to do something. If you're going to do beyond a Cease and Desist, I would understand it, being quite pragmatic about it. If you wanted to issue a Cease and Desist order, then I could tell you that the AG's office is getting ready to do the equivalent of that. But putting that to the side, it's a legal matter. I think the obligation to hold the meeting -- the obligation to hold the meeting is not covered by the Open Meetings Act, and what is required at such a meeting governed by the Open Meetings Act. The obligation to hold the meeting is set by the State Election Code, so I think that, having looked back at it, I admit my mistake earlier and --."

Chairperson Handel - "Okay. All right. We have a motion and a second. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Worley - "No."

Chairperson Handel - "We have one descending vote. Next item. Do you have the Agenda? I've lost my Agenda."

Ms. LaGrua - "It should be Spalding County."

Chairperson Handel - "Okay. We need to call a case number, if you would."

Ms. LaGrua - "2006-000041. "

Chairman Eaves - "Here's my Agenda. All right. Go ahead."

Ms. LaGrua - "This case involves the November, 2006 elections in Spalding County. The complainant was Michael Kendall, who was candidate for re-election to the Board of Education. He also subsequently received a request for the same investigation from Spalding County Ops to the Elections and Voter Registration. They sort of piggy-backed onto the original complaint. The respondents in this case are Cynthia Reed Ward and Cora Flowers, both City Commissioners. Gwen Flowers Taylor, a County Commissioner and Joanna Phinazee. Mr. Kendall alleged that these four respondents were engaged in improper absentee ballot practices. This election was actually challenged into Superior Court. The findings of the Superior Court Judge were that there was not sufficient evidence to overturn this election, however, in our findings in -

- in looking at all the documents, the absentee ballot applications, as well as the absentee ballot envelopes and speaking with the four respondents, we found that they had, in fact, improperly handled absentee ballots in this case; and actually picked up -- it's a story we've seen many times before -- had actually assisted with the absentee ballot application process, but then going back and assisted with picking up the absentee ballots that were in the envelopes and mailing them, or delivering them, to the authorities. It's recommended, at this point, that this matter be referred to the Attorney General's office for sanctions, that a Cease and Desist potentially be part of those sanctions, and that there potentially be training mandated for these women before they can participate in the elections process again. There was an admission, and I believe it was by Ms. Flowers Taylor, that she sort of said, I didn't know it was a violation, but that doesn't make it okay if I don't know it's a violation and it's against the law."

Chairperson Handel - "All right. Is there anyone here involved in this case that would like to speak?"

Mr. Mike Kendall - "My name is Mike Kendall. I'm the complainant, and I don't really have anything really to add."

Chairperson Handel - "All right. Thank you. Ma'am, do you have --."

Mr. Evans - "What was his --."

Chairperson Handel - "He -- he is the complainant."

Mr. Evans - "I just didn't get his name."

Chairperson Handel - "Mr. Kendall."

Ms. LaGrua - "Mike Kendall."

Chairperson Handel - "Mr. Kendall. And when you come forward, if you'll state your name and address for the record, please."

Ms. Gwen Flowers Taylor - "My name is Gwen Flowers Taylor. I live at 134 Spalding Street in Griffin, Georgia. I just -- first thing I would like to say is to ask your indulgence in looking over the Superior Court Judge's ruling, which was vaguely mentioned in the paperwork we got with the allegations. And I'm still not really clear as to why it is that someone can assist someone in the application process and then still not be their agent if they ask you to put their ballot in the mailbox. I understand, now, after reading through everything that the election's office has showed us that that, basically, is the understanding of how the ruling was made. I live in a County where there is a -- between seven and nine percent African-American voter turnout, which is a pittance of the number of people who are eligible to vote. It is has been my goal, for more than 20 years, to try and empower African-Americans to be able to vote. One of

the reasons why I assisted -- I have been assisting people is because they have reported to me that they have been intimidated at the polls because they did not have the education and knowledge to be able to maneuver through the balloting process. And so, I really didn't stand to gain anything, politically. I am a political officer, I'm a County Commissioner, but I was not involved in a race. Most of the information that I got, and the others got, was from our elections office, In regards to the allegation that I actually faxed applications in, this is true. I was told by the Elections Office that I could do that. So, I mean, it's not like we went out and created some laws of our own. As I did, as the lady mentioned, I did say ignorance of the law is not, you know, acceptable, but there is, you know -- I'm not saying no harm, no foul. But even the votes that, had they taken the votes out that we had admitted having touched, that would not have changed that election and I think the Judge eloquently states that here. So I would just simply ask, then, I have some copies of those decisions if you would consider that in making your decisions."

Chairperson Handel - "We would be happy to take that into the records."

Ms. Flowers Taylor - "All right. Thank you very much."

Chairperson Handel - "Thank you."

Mr. Evans - "It's just important for you to know that we have certain offenses, and it's important for everybody to know. We have certain offenses that are, what we call, straight liability offenses. Kind of like going through the stop sign, or the stop light. It really doesn't matter if you had a good reason to do it."

Ms. Flowers-Taylor - "Yes."

Mr. Evans - "And we didn't take into account, when we get to the penalty phase, you know, the mitigating circumstances and all the factors, but on the violation piece, especially when it comes to absentee ballots where we've adopted a very aggressive position because we're very sensitive to the comments of Judges and Legislators and others about the incidents of absentee voter fraud, and fraud involving ballots, that we - if there's a violation, then we have to take action on it. I just wanted you to understand that, and everybody understand, so that the word gets out to the community that if you're -- you're handling absentee ballots and you violate the rule, we're going to find a violation, and then the only question is going to be the penalty. And we'll take into account what you're suggesting, which is better training, more information, especially in terms of making sure everybody knows the rules is important. Okay?"

Ms. Flowers-Taylor - "Thank you so much."

Mr. Evans - "You're welcome."

Chairperson Handel - "Thank you very much. And, Mr. Evans, to your point, we are

revamping all of the training regarding absentee ballot handling, particularly internally with the registrars, because, clearly, this has got to be addressed and the volume of complaints in this one area is just unacceptable. And for any counties who are here, I said it at the voter registrars' meeting, I said it at GEOA, and I will say it here. I've been saying it anytime I'm out speaking. Counties, you are on notice that you must follow the letter of the law on these absentee ballots. And we are going to be doing unannounced inspections to watch the counting of absentee ballots. We are -- This is a serious area, and we are going to take it seriously. So, everyone, just be on notice."
Mr. Evans - "So I so move. I move that we refer this over."

Chairperson Handel - "Second."

Mr. Worley - "I'm sorry. Someone had their hand up."

Chairperson Handel - "Oh. I'm sorry. We didn't see you. I'm sorry. Thank you, David. Please state your name and address."

Ms. Kimberly Slaughter - "My name is Kimberly Slaughter. I'm the voter -- the Voter Registration Coordinator for Spalding County, and I would just like to make a brief statement on behalf of all County Registrars. That there are many, many of us who, under a lot of pressure, do our job and do it to the utmost ability that we can. So with that being said, and in regards to this case, we've always made our office open and available to any questions that need to be answered. And it is also on behalf, or the responsibility, of people who handle absentee applications and ballots to make sure that they consult with the office and ask questions that need to be answered, as well. Just wanted to speak on behalf of all voter registrars of Georgia."

Chairperson Handel - "And please know, I know, first hand, how hard you all work. At the same time, we -- we're going to have to do better in this area, and I think everybody agrees with that."

Ms. Slaughter - "Right. On both sides. Thank you."

Chairperson Handel - "Thank you."

Mr. Evans - "Thank you."

Chairperson Handel - "I've got a motion to refer and a second. Any other questions or comment? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That does pass. The next item is Case No. 2007-000004 on Fulton County. And, colleagues, there's also a second case, 2007-000011. It's Tabs 8 and Tabs 12, and I --. Did I skip Chattooga?"

Mr. Worley - "Yes."

Chairperson Handel - "Well let me not skip Chattooga. 2006-000050. Chattooga County. Tab 6. Yes, we definitely don't want to skip Chattooga."

Mr. Worley - "I don't have anything --."

Chairperson Handel - "As long as you don't, because you'll hear why."

Mr. Worley - "Okay."

Ms. LaGrua - "Members of the Board. Madam Chair, members of the Board, at this time I'm going to be asking that you defer all consideration of administrative proceedings before this Board in the Chattooga County matter. This case has been referred for criminal prosecution. The D.A. has recused himself and the Attorney General has appointed a special prosecutor. That special prosecutor has specifically requested that I ask this Board to defer any action on this case until the conclusion of the criminal proceeding."

Mr. Evans - "Who is it?"

Ms. LaGrua - "The prosecuting attorney's counsel."

Mr. Evans - "But who is the lawyer?"

Ms. LaGrua - "Joseph Burford, and David Fowler, and Rick Malone."

Chairperson Handel - "And the prosecuting attorney --."

Ms. LaGrua - "Prosecuting attorney and counsel is -- as appointed as the prosecutor on this case. The persons, as I understand it, any questions would be directed to David Fowler or Rick Malone, who is the Executive Director. I believe, the prosecutor on the case would be Joseph Burford and Gary Bergman, and their request is based on the ominous implications in the discovery process and moving forward on the prosecution in this case, that any administrative actions by this Board be deferred until such time as they can complete their proceedings."

Mr. Evans - "Well my recollection is that our normal practice is that the prosecuting attorney sends us a letter requesting, and that we make that a part of the minutes. "

Chairperson Handel - "We can do that."

Mr. Evans - "In fact, I see other counsel who have been here when we followed this procedure, so that's -- I'll sit for the Board, but I think what we need for our minutes is

we need a request that says that this is a matter that's under, you know, criminal investigation and/or prosecution. We request that you defer all action, and then we act on that request."

Ms. LaGrua - "I -- I think we could provide that. I know that the Attorney General's office is actually the appointing body in this case, and appointed the prosecutor."

Mr. Evans - "I just -- I mean, we can always have -- adopt new procedures. That's just the procedure that we've always had in the past."

Chairperson Handel - "Okay. Hang on a minute. Mr. Ritter, since it came through the Attorney General's office, what specifically are we going need to do here? And I'm happy to send -- we can try to get that later this afternoon because I would like to get the Chattooga matter taken care of today, if at all possible."

Mr. Ritter - "Well, first of all, I don't think you need the letter, formally, to decide that you're going to defer it. You have the discretion to do that. To formalize your minutes, and the basis that Ms. LaGrua sent him, I'm happy to see the letter is provided to the Board."

Chairperson Handel - "Great."

Mr. Ritter - "And you can add that to the minutes and when the minutes are approved next -- next time, you guys can see that letter and approve it."

Mr. Evans - "Great. Subject to receipt of letter, I so move."

Chairperson Handel - "Okay. Second. And I'd like to just add one comment for, I know there's plenty of folks here from Chattooga and this has been a long investigation, and I want to thank the community for your patience and, kind of, the length of time that I'm sure you can appreciate that we wanted to have every due diligence. And I also would like to thank the Chattooga D.A. I believe his name is Buzz Franklin, for his willingness given the serious nature of the issue and -- and everything that was going on, his willingness to recuse, because I think that says volumes about him as an individual. Got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? That is approved. Next item, and between Mr. Ritter and Shawn, you all -- you will take care of making sure we get that letter as soon as possible, circulated to everyone."

Ms. LaGrua - "We will."

Chairperson Handel - "Thank you. All right. The next case is going to be 2006-

000051. Fannin County."

Ms. LaGrua - "Madam Chair, there's somebody --."

Unidentified Speaker - "I would like to ask...."

Chairperson Handel - "...how the Attorney General recused himself. That's another question."

Chairperson Handel - "You'll have to ask him, sir, and it was the District Attorney. Thank you. Go ahead."

Ms. LaGrua - "Next case is Fannin County. Case no. 2006-000051. This case involved the December, 2006 runoff in Fannin County, Blue Ridge, Georgia. As your -- as members may recall, this was actually on the June calendar and both attorneys for Ms. Early and for the Fannin County Board of Registrations and Elections, asked for a continuance at that time because the summaries had not been received as far ahead as they would have liked. You granted that continuance at this time. Briefly, I'll go back over the allegations. There was an allegation that an 18-year old un-deputized clerk was delivering ballots, and it's alleged that numerous absentee ballots were not delivered to the voters. Those findings did not, through our investigation, turn out to be true. We found that the 18-year old was qualified to serve and was, in fact, deputized. The investigation also showed when Investigator McBrayer went, that the ballots that were mailed were returned at an 80 percent rate, which is consistent with the rate at which our absentee ballots usually come back when they're sent out. While these allegations were not substantiated during our investigation, as we were looking over the absentee ballot applications and paperwork, we saw what we found to be other significant violations where Ms. Early -- Lena Early was an elections official that not only took a number of absentee ballot applications to the voters and help them fail them out and mailed without signing as assisting -- and, obviously, taking them out is not a violation, but there are many that she actually, I believe, signed. But not only that, she also went back and dealt with the ballots and picked up the ballots and mailed them. Before it was discovered that proper training was not provided to all the poll workers, despite any acknowledgment by some of the officials that they knew the requirement, but were just not following it. They further admitted that they had not compared the signatures on the applications during the 2006 election cycle with the registration cards, and that they had no intention of doing so. Now there was a question, I believe, Mr. Evans, you raised it at the last meeting. Whether or not there was a per se violation, I believe it's a 381, if they don't compare the application to the registration card. And the answer to that question that I was not able to give you definitively, in June, I can answer now, is that there's no absolute requirement at the application stage, that the application be compared to the voter registration card. Now there is a new requirement that when the ballot envelope comes in, that it be compared to the voter registration card and the absentee ballot application. However, I will tell you that I think that violation is substantiated, in most cases, if there's no comparison between the

application and the voter registration card because what 381, I believe it is, does require is that when that application is received, that there is a specific determination made that that application belongs to an eligible voter. Now I would conceive that in a very, very small community, if the absentee ballot clerk, or the registrar, whoever's comparing, actually knows the person that sent the application in, knows where they live and knows their signature, that I suppose there might be able to be a determination that that's an eligible voter. Other than doing that, I don't know of a way to determine that the voter's eligible from the application, without comparing the data on the voter, the absentee voter application to the voter registration card."

Mr. Evans - "So would a clarification of our rules be appropriate, or would a clarification statute be appropriate requiring a natural comparison?"

Ms. LaGrua - "Madam Chair, I believe --."

Chairperson Handel - "I believe it is statute, and we are looking at that right now, Mr. Evans, to put specificity, I mean, to me, it's pretty common sense that if you have to validate, that's the only way that you can verify and validate. But we are going to lay it out line, by line, by line, that the steps are X, Y and Z. And we'll run that by everybody here."

Mr. Evans - "All right. That's great, because what we -- what we do is over the course of a year we'll hear 17 housekeeping details and we just drop them all in a folder and say, okay, when we get to --."

Ms. LaGrua - "We're on top of this one."

Chairperson Handel - "Yes. All right. Do I have anyone -- I'm sorry."

Ms. LaGrua - "I believe there are people here on this case, Madam Chair."

Chairperson Handel - "Okay."

Ms. Lynn Daus - "Madam Chair, my name is Lynn Daus and I have the great good pleasure of serving as the County Attorney for Fannin County. And we were here last time, and there are two cases involving Fannin County, and it was my understanding that there was, in fact, two separate case numbers. The County Case number being 51, and then it was a separate situation that involved a Board member, Ms. Lena Early, and she was here last time and was here with separate counsel. And Ms. Early's counsel, Mr. Herman Clark, requested that the issues as to Mrs. Early be continued. But there was a Board vote of 4-to-1 that the County's portion, that we would enter into a Consent Order with the County, and as we understood it, counsel for the Board was to contact us as to a Consent Order outlining these procedural things that had happened and would not occur again. And in good faith, we have actually completed a manual as a good faith starting point, but we never heard from anyone from the Board. And I think if the Board will check its minutes, there was a vote of 4-to-1 because the Board that voted in

referring this over to the Attorney General's office, that a Consent Order would be arranged between the County and counsel for the Board. And the members --."

Mr. Evans - "Yeah. I think -- not to be hypotechnical, but I think the procedure is based on the admission, we accept that we then have a violation from which we assess a remedy. The remedy was going to be a Consent Order, and I apologize that you haven't heard from our counsel. You should. And we did, in the minutes, so reflect that we indicated that a Consent Order would be the appropriate remedy. And I think we actually, although it's not reflected here, gave some guidance on what that Consent Order would contain."

Ms. Daus - "And, in good faith, we acted upon it."

Mr. Evans - "Listen. I appreciate it. And so we will, you know, that has been set and we'll just need to get the Consent Order negotiated, documented, and then presented back to us."

Chairperson Handel - "Exactly. Mr. Ritter, will you all make sure of that?"

Mr. Ritter - "Sure. I --."

Mr. Evans - "So thank you for coming, and --."

Chairperson Handel - "And would you be able to let the -- is that a copy for us?"

Ms. Daus - "Yes."

Chairperson Handel - "Are you sure, because, if not, you can get us one later if you would like."

Ms. Daus - "No. We're going to leave it, but no, they say it is. And so I'll put my card in it so Mr. Ritter can get it to me, then I'll hand it to him."

Chairperson Handel - "Perfect."

Ms. Daus - "Thank you so much."

Chairperson Handel - "Thank you, for your diligence."

Mr. Michael Chablanski - "My name is Michael Chablanski, along with Mr. Clark, here, we represent Lena Early. Lena Early is a 73-year old Registrar. She's been a Registrar only for two years. I think Ms. Early's case is indicative of the problems that you all see at all of your meetings, and that you see around the State. And that is the front line for enforcement of these laws, particularly as they go to absentee ballots with your registrars, or with your -- your election officials. And the problem is a good number of them do not have an adequate understanding of what the law requires. If Ms.

Early is guilty of anything, what it is is trying to facilitate to people voting. If you, as we have, talked to everybody who was mentioned in the investigation, everyone indicates that the reason that they either contacted Ms. Early or they asked her to take the actions that she took. Ms. Early had no idea that any of this stuff was illegal. She had never, she clearly had not received adequate training. I can tell you I haven't now sat with her with for several hours and have gone over the election code, and it was clear to me that she was shocked that -- that some of the things she did, the law does not allow you to do. I'm not saying she has admitted her actions from the beginning. Her plea, though, is that she needs to be trained. And not only does she need to be trained, members of that Board and members of all the Boards need to be trained. I appreciate the actions State of Election Board is beginning to take. I, very much, laud you for everything you are trying to do to meet this problem. And I think the length of this calendar, itself, indicates that this truly is a statewide problem. All I'm indicating today, is that you have a lady who thought she was doing something that was totally proper. She was doing something that she thought was her duty as a public official in order to facilitate people voting, and now she's in the position of finding out that those actions were improper. And she would admit that they're improper now that she understands the law. I think that all I'm asking you to do is understand the situation that she is in, that we need to be giving these people adequate information and we need to be giving them resources that they can turn to when they have questions. The problem is Ms. Early never had a question. She never thought that any of this stuff was at all improper. I think if you are beginning a training program, from what I have been able to discover, Fannin County would be a great place to start. Thank you."

Chairperson Handel - "Colleagues, if I might, and just so everyone is clear, the registrars have been trained on how to handle absentee ballots, that what we are doing is putting a heightened emphasis, if you will, because all we can do is lead a horse to water. I can't make anybody drink, and so, candidly, for the -- the mishandling of absentee ballots to be put off on someone else, it is the registrars responsibility to ensure that he or she knows the law. And that is on that side. We offer training, et cetera, and if there are questions or things, then, you know, we are not mind readers. So, you know, I -- I'm going to be in a place where Mr. Evans was earlier, that on absentee ballots, we are going to be setting a very, at least in my mind as one Board member, a very definitive pattern, here, that we are taking the handling of absentee ballots seriously. I don't know why from the previous standpoint, not on this body because these cases were not typically brought forward, they are going to be brought forward and that it will be this body's time to decide. It's not Q and A, so I don't really have a question, it was a statement around --."

Mr. Chablanski - "If I can respond. I don't -- I really -- I --."

Chairperson Handel - "I -- I think we're real clear. Thank you."

Mr. McIver - "Just a point. I would ask Mr. McCarthy, our Division of Elections Director, what is done in a remedial sense. If KSU or your office sponsors training for

registrars and somebody like a Mrs. Early, no disrespect, fails to attend and you, therefore, know she's not trained, what actions, if any, are taken?"

Mr. Michael McCarthy - "Madam Chair, members of the Board, currently, we are looking at the individualized training that we can follow up on. We are also looking at some additional training, which is not scheduled, that would address new Boards and Board members that need training. Most of the past training is focused on individual duties of the registrars, themselves, and supervisors, themselves. We are looking at expanding training, we are looking at providing additional materials, but that is currently in development."

Chairperson Handel - "I think in terms of remedial, as we look through over the courses of redoing the training, people, registrars, or counties that have had violations before this body will be, and it will be my hope, that we would, as part of any Consent Order or action by this body, direct that they must take additional training by some X-period of time. And we're trying to make it as accessible as possible because, obviously, holding a training seminar for one person would be tough. We're in the process of putting a lot of this stuff up online as well, so that they will then be required to do it and then take a test on it. I think that's been part of the problem in the past."

Mr. Worley - "I make a motion that we refer this to the Attorney General's office for further action."

Chairperson Handel - "Second. Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? I'm sorry. Did you have something you want to say?"

Mr. Willard G. Thomas - "I was part of this -- I received a letter as part of this case and I'd certainly like to address it."

Chairperson Handel - "Okay. People, everyone in the audience. If you want to speak on a case, please raise your hand because I don't know if you're just sitting there or if you want to speak. So when a case is called, it would be helpful if you would, as -- as our registrar from Fanning, come forward so that I can see that you want to speak on a case."

Mr. Thomas - "Yes, ma'am. In reference to this case, I sent a letter to the Secretary of State on July the 31st, and included the minutes --."

Chairperson Handel - "I'm sorry. Can you state your name and address?"

Mr. Thomas - "Yes. Willard G. Thomas, Chairman, Democratic Party, Fannin County."

I sent a letter to the Secretary of State, July the 31st, included the minutes of the Board of Elections. The lady in question could not have been a registrar because there was never any Board action taken. In following up on that, I sent another letter to the Secretary of State and I never received anything. I have a copy of both letters here, by the way, if anybody would like a copy of one. I do have them. But in Fannin County, in that election where I would question that 300 absentee ballots, was actually 200 -- 298 absentee ballots was mailed on November the 21st. In looking at the rules for the Board, it says the absentee ballot -- official absentee ballot, should be in election office 45 days prior to the election and mailed within 21 days, if applicable, or within two days of receipt, which -- which is a fair law. However, there was 298 absentee ballots mailed on November the 21st, 353 absentee ballots mailed November the 22nd, four days before a federal holiday, with the election December the 5th. Those things have never been referred to by the investigators. I do have it in the letter I submitted to the Secretary of State. I have it here. There was 236 mailed in two precincts. Now in our County, the 236 they dropped in the regular mail at 4:00 p.m., that means that they go and leave Fanning County, go out to Gainesville, over to Atlanta and back. And they was a big number of those people that did not vote."

Chairperson Handel - "All right."

Mr. Thomas - "Because it was late. It was only 13 days, so there was a four-day holiday, so the committee, one day, (inaudible), they held them all in the office. Now that probably comes down to training, as the Secretary has said, but it was very serious to that election. Those things -- that person who carried them out of there because of looking at your law, you apply the one-to-ten year jail term, or \$100 thousand fine, in some instances. And we allow an 18-year old to carry, probably over 500 in some absentee ballots out to be mailed, which is very serious. If that is, I mean, if the other infractions are serious, then that is serious also."

Chairperson Handel - "All right. Thank you. Thank you."

Mr. Thomas - "So I don't think she ever addressed the charge that I made."

Chairperson Handel - "Ms. LaGrua, was that part of your investigation?"

Ms. LaGrua - "It was, I didn't get the specifics, but we do know --."

Chairperson Handel - "It's in the report?"

Ms. LaGrua - "It's in the report and, in fact, Fannin County received their ballots from the printer on December 21st when they were mailed out."

Mr. Worley - "Where -- where in the report is it?"

Ms. LaGrua - "It's in the summary. It is under summary of investigation, allegation 1."

I'm sorry, allegation 2. And, in fact, Investigator McBrayer, who is here, indicates that there were 18 -- 818 ballots mailed, 659 were returned. And that's the part I addressed, the 80 percent return. I didn't go into the specifics, but they apparently were mailed the day that -- the voter registrars got it from the printer, they went out."

Chairperson Handel - "Okay."

Ms. LaGrua - "And that rate of return is consistent with other absentee ballot returns, statewide."

Chairperson Handel - "Okay. Okay. With that additional comment, I just want to make sure everybody was comfortable with the previous referral and vote. Because everything has been referred over to the Attorney General for review."

Mr. Worley - "Including this allegation."

Chairperson Handel - "Yes. It's all part of the same investigation. Okay? All right. Okay. Thank you. Our next case is 2007-000004. This one is the Fulton County one, it's under Tab 8. And there's a second Fulton County case number 000011, under Tab 12. And I guess if we could take them back-to-back. We need individual actions and individual conversations about them."

Ms. LaGrua - "Members of the Board, if I could, what I'd like to do is split this a little bit and talk about the initial allegation that came in, and then the follow-up, and then address some of the things that Mr. Atkins, the Attorney for Fulton County is here seated in the front row, and he and I have had some discussions. This is case 2007-00004. On April 9th of this year, we received a call from a private citizen indicating that when he and his wife were out, they found a voter registration card on the ground where they were walking -- walking near Atlanta Technical University down on Metropolitan Parkway -- I'm sorry. I keep going back to Stewart Avenue, but Metropolitan Parkway. We received that call late on April 9th. At that time I sent Investigator McBrayer out, first to contact the complainant, and then after speaking to the complainant, to go out to the dumpster where he had seen the boxes of voter registration cards. We did recover those voter registration cards that evening, and the next, from a dumpster on the campus of Atlanta Technical University. Ultimately, we discovered there were approximately 93 thousand voter registration cards and other documents that were recovered by the Secretary of State's office. And obviously, at that point, there are violations involving the keeping of the voter registration cards. Voter registration cards are required to be kept indefinitely, so that sort of starts this investigation. Subsequently, we sent the cards that we've received that we approximated at that time to archives division for scanning and cataloging, because when we recovered the cards, they were in boxes. They were not alphabetized, they were not chronologically ordered. That took a number of months for our archives division to do. In the meantime, while our archives division had the cards and were putting them in some sort of order and scanning them, we did two, what I would call,

independent audits, or brief audits. What we did was, on April 20th, we took 57 random voters from our voter registration list, went to Fulton County and asked them to give us the copy of the voter registration --."

Chairperson Handel - "I'm sorry. I sort of -- Can we keep it with the allegations involving the dumpster, and then let's look at where we're going to go?"

Ms. LaGrua - "Okay."

Chairperson Handel - "I think we really need to have a line in the sand about, and colleagues, if you agree, about what happened and the additional steps we took to look into what the extent of this problem would be. And I -- Because, really, the audit of the 106 cards is, frankly, not particularly relevant to the fact that the upwards of 90-plus thousand cards were in the dumpster to begin with."

Ms. LaGrua - "And what our investigation found in regards to the dumpster was that, at some point a number of years ago, Fulton County ran out of space. They transferred a number of these boxes that were in the Fulton County Board of Registrations to a warehouse. Back in April and the beginning part of this year, they got a new warehouse and they were moving items from the old warehouse to the new warehouse. And the Warehouse Manager instructed temporary workers to get rid of anything that was more than two years old. Now, there, just so you know, ultimately, you see that Ira Turnipseed, who is the Warehouse Manager, is charged both, individually and as part of the Board of Registrations. The reason for some of these charges, individually on his part, was he never looked inside any of these boxes to see what was in there. And on the one hand he says I have a retention schedule, even though that retention schedule has some things that would have had to kept for up to five years. He says, I don't know they're voter registration cards, but I never looked in there to know if they are, so they're voter documents and I can get rid of them after two hears. And that's why he, as the responsible party, at least in part, is named in this. I believe, and I don't want to speak for Mr. Atkins, I'll ask him to correct me at the appropriate time if I'm wrong. I believe there's a stipulation by Fulton County as to the discarding of the boxes into the dumpster, and I'm seeing by his affirmative nod, that that is correct. So that violation is stipulated to --."

Mr. Atkins - "Yes. I'm sorry, Madam Chair."

Chairperson Handel - "Thank you. Thank you."

Ms. LaGrua - "That violation, in terms of the discarding illegally of the voter registration cards, is stipulated to for purposes of this hearing. And I can -- can --."

Chairperson Handel - "What about her allegations in violation? Did you find -- as regard to the cards in the dumpster, at this point. And then --."

Ms. LaGrua - "There was violation of 21-2-213B in that the employees who handled the cards were not deputized. There was an allegation of a violation of 21-2-215H that they failed to maintain and secure completed voter registration cards in their custody and control. 21-2-215H, by failing to maintain the cards in order to retrieve a registration card within a reasonable time in the event the card was needed. Now, I will say, that there is -- while there's a stipulation to not having the cards, there is a question in Mr. Atkins mind to what the reasonable time frame is, legally."

Chairperson Handel - "All right."

Ms. LaGrua - "What reasonable time means. And 21-2-236A, by failing -- failing to retain the voter registration cards of electors' names appear either on the official list, or the list of inactive voters for a period of two years afterwards. O.C.G.A. 21-2-390, by failing to retain the absentee ballot applications for a period of 21 -- 24 months. There were applications that were found that were a shorter time period than the 24 months in this group of things that were found in the dumpster. 21-273, because they failed to retain a voter certificate for the -- at least the 24 months, and then, 21-2-500 by failing to destroy unused ballots. We also found some unused ballots in our recovery that had not been properly destroyed. So that's in terms of what was discarded."

Chairperson Handel - "Approximately how many unused ballots?"

Ms. LaGrua - "Just one."

Chairperson Handel - "And then approximately, on the failing to destroy certificates, do you have a number there?"

Ms. LaGrua - "Steve, do you have a number on that?"

Chairperson Handel - "Roughly, was it ten, was it 500?"

Ms. LaGrua - "It was not 500, it was a smaller number, I believe, than that. The vast majority of what we recovered were voter registration cards."

Chairperson Handel - "Okay. All right. And it was a total of how many of voter registration cards?"

Ms. LaGrua - "Ninety-three thousand-plus."

Chairperson Handel - "All right. Okay."

Mr. Worley - "I have a question. Who was in charge, and was that same person in charge now?"

Ms. LaGrua - "As I understand it, John Sullivan was in charge. April Pye was the

interim Director. John Sullivan is no longer -- has retired and April Pye is still the interim Director. But as I understand it, there was a search for a new director underway."

Chairperson Handel - "Okay. Let's hear from Fulton County and then we can get additional questions on the report and try to take -- determine where we're going to go on this one."

Ms. LaGrua - "And I should just add, there's still stipulations as to all the respondents in the charges we just discussed."

Mr. Atkins - "Good afternoon, members of the Board. Again, my name is Bill Atkins and I'm here on behalf of Fulton County, the former registration elections and, of course, the Board. When I arrived this afternoon I provided, I believe and I hope each of you received the copy of the voluntary remedial plan that --."

Chairperson Handel - "If I might, colleagues, that's on -- that was submitted late this morning."

Mr. Atkins - "The Secretary has --."

Chairperson Handel - "It's on the desk in front of everybody when you put your materials down."

Mr. McIver - "Randy, front page looks like this."

Chairperson Handel - "There's one right here, David. Here, you can have mine because --."

Mr. McIver - "You can borrow mine, if you need to."

Chairperson Handel - "There you go. There you go, Randy."

Mr. Atkins - "If I may, Madam Chair, I will keep my comments short and sweet. First of all, I would like to begin by thanking Ms. LaGrua and your general counsel for meeting with us on Friday. I think it was a very productive meeting. I would also like to advise the Board that as our stipulation here indicates, it is Fulton County's intention and, indeed, has always been its intention to cooperate and work with the State to ensure that in all future elections Fulton County voters are treated exactly as they should be treated, and that we have no problems going forward. And indeed, to date, have not had any problems related to this incident. In addition to the investigation that was taken by the Secretary of State's office, and the GBI, we engaged in a detailed internal investigation, much of which I can say I did, myself. And the conclusions of that internal investigation are contained within our report. I only want to bring up a couple of issues that are of concern that I've raised with Ms. LaGrua, and we're not comfortable that we have an answer yet. One of those is as the actual number of voter

registration cards. As the Secretary's report indicates, the information from -- from your department indicates there were 92 thousand 937 voter registration cards located in these boxes. We received the DVD from Ms. LaGrua's office and have gone through each and every voter registration card on that and engaged, essentially, in exactly the audit you have asked us to do. And we, essentially, completed it long before we received your letter."

Chairperson Handel - "Just one point of clarity. My audit is not of those, it's of your entire voter registration list."

Mr. Atkins - "And Madam Chair, that's precisely what we're doing."

Chairperson Handel - "Okay."

Mr. Atkins - "And began doing shortly after this was first raised."

Chairperson Handel - "Okay."

Mr. Atkins - "For this point, I would simply say that we found 81 thousand 459 voter registration cards on the DVD. The difference is 11 thousand cards. That's no small matter. I've discussed it with Ms. LaGrua and Investigator McBrayer and we're going to do everything we can to figure out where that comes from. That should be simple enough. The best estimation I have thus far, is that when -- when these documents were scanned, some of them were applications and both the front and back of the applications were scanned in. It may simply be that that's the count differential, I don't know. But bottom line is we'll get to the bottom of it. As far as the allegations, themselves, we have stipulated to probable cause, and let's be clear that that is the extent of the stipulation, of course. The scope of the stipulation is it's included in -- directly on page 10 of the document that we've provided to you. The second point that I would raise is simply this. There are allegations against individual employees of Fulton County, including Ira Turnipseed. It would be our position, and our hope, that as part of any final resolution of this matter via Consent Decree for approval -- submitted for approval of the Board, that the individual employees of Fulton County will not be subject to any criminal prosecution both, in our investigation and indeed, as best as we can tell from the investigation conducted by the GBI, there is no indication that any employee of Fulton County had any intent to violate any election law. Now --."

Mr. Evans - "Can we -- can we agree to that?"

Mr. Atkins - "Well, for purposes --."

Mr. Evans - "No, no. I'm just curious because my -- I mean, I'll defer to our counsel, here, but I think we really don't patrol that. The Attorney General does or District Attorneys. We could, obviously, decide not to refer it, but that wouldn't stop them if they decided they thought they were violations. I don't want you to have a misunderstanding as to what we can and can't deliver."

Mr. Atkins - "That is actually correct, Mr. Evans, and it would be our intention and our hope, of course, that through this process we will get some sort of final response. We believe, today, that these charges were referred by the GBI to the Solicitor General of Fulton County. We have heard nothing from the Solicitor and it is our understanding that she does not intend to proceed with the charges. But the two persons -- the individuals were listed and thus, we were referred to the Attorney General to the extent that that is for any sort of criminal proceeding as opposed to some sort of civil. That would be our hope."

Mr. Evans - "Of course, that's a bit of a two-edged sword because in the event the law enforcement officials are saying, this is totally State Election Board matter. Then it will fall almost exclusively to us to decide what the appropriate remedy is."

Mr. Atkins - "I think that's right."

Chairperson Handel - "Uh-huh (affirmative). Yep. All right. Thank you."

Mr. Atkins - "Thank you very much. May I just voice one other quick point with regard, and if this is the wrong time, please let me know. I do, at some point, want to talk about the two items that Ms. LaGrua began to talk about --."

Chairperson Handel - "Yes. Yes. Because I need to brief the Board on that, but we'll deal with this and then we'll come back to that."

Mr. Atkins - "That's fine. Thank you."

Chairperson Handel - "Colleagues, I think, clearly what we had before us is extraordinarily serious and, in fact, in going back and trying to pull together documents, I'm not sure that a case more egregious, in terms of handling of voter materials have been before this body that we were able to determine. And I think we are going to have to take very, very strong action, whether the number, frankly, is 81 thousand 459 cards or 93 thousand cards. This is egregious and it's just -- is it going to be 10 thousand times the 81 thousand more egregious, and I think that we're going to have to look at some very, very serious action here. And my hope would be after we have some conversation that, once we take a vote, probably we'll need to get some guidance to the Attorney General's office around where to go on this one. So questions from folks. Mr. Israel, did you have another question."

Mr. Israel - "No. I'm fine."

Chairperson Handel - "You're fine?"

Mr. Evans - "So Mr. Atkins, if you could, do you have the list of the anticipated statutory violations 215H, 236A, do you have those?"

Mr. Atkins - "Yes, I do, Your Honor."

Mr. Evans - "Could you --."

Mr. Atkins - "Sorry -- just habit, there."

Chairperson Handel - "He liked that, actually."

Mr. Evans - "I've been called so many other things, it's occasionally nice. Could you, because I think given the seriousness of where we are, actually, you know, focusing in on the precise violations is particularly important for us. I know it's important to you, and I know it's important to your clients, and I know it's important to us, so, you know, I mean, although I know that we've got a lot of folks here. I think that would be helpful if you could just say, you know, what your position is on each of these specific. I think what we have is just a list here of violations."

Mr. Atkins - "That's fine, and I can do that."

Chairperson Handel - "Okay."

Mr. Atkins - "That won't be very --."

Chairperson Handel - "Shawn --."

Mr. Evans - "Because we need to get it right."

Chairperson Handel - "Exactly. Does he have the list that's before the Board?"

Mr. Atkins - "Yes."

Ms. LaGrua - "Just because I have the summary."

Chairperson Handel - "Okay. So we're looking at the same, just so we know. So the first one would be violation number one, which is 21-2-213B, which is the failure to deputize."

Mr. Atkins - "Yes. Madam Secretary, if I may, you're right, and it's contained in the report -- it's on page 9 of our report. Simply look at those correctly from Ms. LaGrua's report. There are four violations that I would say relate to directly to voter registration cards. They include the one we just mentioned, 213B. Two violations of 215H, and a violation of 236A. Those relate to voter registration cards. As it relates to those specific violations, the Board and its employees, stipulate to probable cause as to the voter registration cards that were contained within those boxes. The reason, and let me start with the deputize. Obviously, that's a little different, but I don't think there's any

debate and we agree that the employees, two are temporary employees, had not been deputized. That was, again, to be corrected. We can have a discussion after the next stage of this proceeding, as to whether the law requires that everyone who touches a box, as opposed to a card by some deputized, but that's not before the Court, but it's up before us as it is today. As for the other three violations, I simply put, as far as probable cause is concerned, we weren't in control of these voter registration cards once they ended up in the dumpster."

Mr. Evans - "But don't you have a duty to?"

Mr. Atkins - "Yes, we do. And that's precisely why we --."

Mr. Evans - "I'm confused. You're saying we didn't have control so you can't charge us with failing to have to control when your duty is to have control."

Mr. Atkins - "Not at all. We --."

Mr. Evans - "Just on 215H. 215H is what I'm talking about."

Mr. Atkins - "Yes. In -- 215H in both -- there are two allegations, both are failure to maintain and secure and...."

Mr. Evans - "All right. I'm talking on that one first."

Mr. Atkins - "...maintain that a reasonable -- within a reasonable time as to those allegations."

Mr. Evans - "Does Fulton County maintain and secure in their custody and control?"

Mr. Atkins - "Well, sir, for purposes of this hearing, we have stipulated the probable cause as to that allegation and as to the next one."

Mr. Evans - "Okay."

Chairperson Handel - "And if I can just ask a quick question and I don't know if you would answer Mr. Evans or Mr. Ritter. In terms of the violations, the Board does have the leeway to look at this and the contents of per card versus just broadly the -- the broad violation. Because would the violation be -- and I just want to get some clarity in terms of thinking around how -- where I'm going to be in terms of my personal view point for guidance, because failing to maintain and secure a card, it is the same violation if it's ten cards or if it was one card versus 90 thousand cards."

Mr. Ritter - "Right."

Chairperson Handel - "Because I remember this came up before, I thought."

Mr. Ritter - "This issue has actually arisen, not only from this Board before, but also in front of other Boards, notably the Ethics Commission. And in fact, in the past, Mr. Evans and I have been in a contested matter on opposite sides of the issue. I will tell you that I don't think this is communicably resolved anywhere, as to whether you can count the number of violations by the number of cards or simply by the number of acts that lead to it, no matter how many cards were involved."

Chairperson Handel - "Okay. So we -- so either way, at this point, we can, because it's unresolved, we can use that in our thinking."

Mr. Ritter - "I think so."

Chairperson Handel - "Okay. Sorry, Mr. Evans, I just wanted to get clarity for myself."

Mr. Evans - "Well, we actually, this was the subject of amendments to the legislation and 21-2-33.12, we seized a position to add the additional number of votes against whom we can impose the fine. And the statutes specifically provides 5,000 for each violation and each violation is lumped into the discussion of the Board, I believe."

Mr. Ritter - "Right. And I think we're -- I mean, we're trying to decide as how do we count violations."

Mr. Evans - "Right. No, no. But that's --."

Chairperson Handel - "And that's what I was trying to -- Thank you, Mr. Evans."

Mr. Evans - "When you stipulation a violation, it makes our job easy, right?"

Chairperson Handel - "Right. Exactly."

Mr. Evans - "So all the ones you stipulate on, if you'll just say -- because of those, we're fine and the ones that are contested are the ones, I think, we have to zero in on."

Mr. Atkins - "And I guess, perhaps, that's why I'm a little confused, Mr. Evans. It is my understanding that we were coming here today not to stipulate to guilt or innocence, but to stipulate probable cause. And it is our position --."

Mr. Evans - "I think that's -- I think that's right."

Mr. Atkins - "Right. And so what we have done, is we have stipulated to the existence of probable cause as to each individual violation listed in Ms. LaGrua's report on behalf of the Board, and the individual employees, as it relates to the cards contained in these boxes that were found in the two dumpsters. All right. The -- so maybe the simplest

way to get at this, Mr. Evans, is this. There are only two limitations to that stipulation, as I see them. Number one, we're not stipulating to probable cause as to the existing procedures that we had in place prior to this. And that those, themselves, constitute as some sort of a violation of these provisions. The only other limitation as set forth here is, as to the two audits that were performed by the Secretary of State's office to the extent that our response to those audits somehow resulted in an underlying violation. We have not secured the probable cause as to that if, in fact, that's even something that's being watched, which isn't clear to me from the Secretary's report. So I hope that simplifies it."

Mr. Evans - "And you're here on behalf of --."

Chairperson Handel - "Thank you. I was going to ask that."

Mr. Evans - "No. I just -- I didn't know."

Mr. Atkins - "We represent the Fulton County Board of Elections."

Mr. Evans - "And the individuals?"

Mr. Atkins - "Yes. For purposes of this hearing."

Chairperson Handel - "And the individuals."

Mr. Atkins - "For purposes of this hearing. Yes."

Mr. Evans - "And so -- so point of clarification would be, is the -- are the issues relating to existing procedures in the results of the audits, currently before us, are we just now talking about the cards within the boxes? It seemed to me we could deal with the cards within boxes real quick."

Chairperson Handel - "Correct. I believe we're talking about the cards in the boxes."

Mr. Evans - "So I move that we refer that over to the Attorney General."

Chairperson Handel - "Second. Do you need some guidance around -- or do you want to just come back with a proposal?"

Mr. Ritter - "Well I -- I will say this, though. Can I ask, first, just for clarity sake. I want to make sure that Mr. Atkins is authorized to stipulate to probable cause...."

Chairperson Handel - "Exactly."

Mr. Ritter - "...of the individuals here."

Mr. Atkins - "For purposes of these civil violations, yes, I am."

Mr. Ritter - "Okay."

Mr. Evans - "I want to be very careful here because we've -- we've had some issue relating to, you know, whether or not we could have the defacto in position of penalties without the Board's final say. And as I understand it, just based on research that I've had the good fortune of reading, in order to remedy that issue we -- I could clean that up by reserving in my motion that the final penalty will be a matter that to be exclusively held within our jurisdiction and not referred over to an administrative law judge. And specifically, that if we have a stipulation, all that need now happen is that we will set another State Election Board meeting and we will hear evidence on what the appropriate remedies are which include any of the list of any available remedies. Could be civil penalties, cease and desist, that of instruction, public reprimand, et cetera, so that that's all that we'll have. Is that your understanding of how the procedure will work? If we agree these stipulations of violations exist we will defer, or is it your thought that, in fact, there will now be an evidentiary hearing on whether those probable cause violations have, in fact, occurred?"

Mr. Atkins - "Mr. Evans, let me first apologize, because I think if we had gotten -- if I had gotten you materials sooner, you would know the answer to the that question without having to ask it."

Mr. Evans - "And it may be that it would take --."

Mr. Atkins - "It is our -- and it was our intention all long and, indeed, that we made this clear at our meeting on Friday. It is our hope and expectation that we will have this matter back before the Board with some sort of a Consent Order for, I think, your approval. Because I do agree that, ultimately, you have to -- you're the final arbiter of that, as this Board is. As soon as possible and if at all -- if we can make it happen within 30 days, that's what we're going to do. It's our hope and expectation that we can work with the Attorney General's office and with Ms. LaGrua's office in the fashion that we have laid, set forth in the last part of our agreement, certain potential terms of that Consent Decree of what we would recommend. We understand there's going to be a fine involved. Ms. LaGrua's told us what the -- what the expenses, to date, for her investigation are and really, what we wanted to do as much as anything else, was make it very clear to this Board that we have not been sitting around waiting for this hearing. We have been work diligently and immediately to correct these issues. There has been a breakdown in communication and that breakdown, as much as anything else, is reflected of the fact that we, as attorneys, recognize that there was an overlying, even as it is, is a possibility of criminal charges filed against individuals. That makes it very difficult for us, with (inaudible) of the Board and as individual employees, that they should be having unfettered communication with -- where they could be subject to criminal prosecution. So we're past that stage now, and in the meantime, we have done a tremendous amount of work that I think you'll see in that report. It gets us to a place where we can answer the Secretary's concerns and ensure that by November, we're in a position to where we can run a full and fair election."

Mr. Evans - "Okay. So, then, I stand by motion which is to refer this matter over to the Attorney General. Certainly negotiations will then, I expect, happen on the Consent Order, but we will reserve the ultimate responsibility for deciding what the appropriate remedies are. Certainly, the staff's recommendation carries great weight with us, that's been reflected. Not always, but generally speaking. So that's my motion, Madam Secretary."

Chairperson Handel - "Okay. I have a motion and a second. If we can just make sure that the extraordinary expenses that this Agency incurred, it would be my position that needs to be part of this and we should be able to recoup those costs. Secondly, obviously I think all of us want the extraordinarily serious nature of this to be taken into consideration and I hope that the recommendations come in that vain."

Mr. Atkins - "Right. Yes, ma'am. If --."

Mr. Evans - "Yes. I think, specifically, 21-2-33.16 permits us some great latitude in that regard."

Chairperson Handel - "Exactly. Yes. And if we can work on this expeditiously, Mr. Ritter, because there are November elections and I think, colleagues, once we take this vote you will understand my sense of urgency."

Mr. Ritter - "I understand, and we'll make this our number one case."

Chairperson Handel - "Thank you. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Okay. Colleagues, the second, sort of, piece of this is as time sort of went through on the discovery of the cards in the dumpster, we did have the Inspector General, at my request, go out and just do a random sampling of 106 voters to determine which voters had an original voter card, which ones had a scan, and which ones had both. And if you could walk through your - what you found on that."

Ms. LaGrua - "Yes. And I think you should all have in front of you, a chart that has yellow on it. On April 20th, we took 57 names taking from the voter rolls that we had in the Secretary of State's office and went to Fulton County Board of Elections and asked them to find the cards and the scans as soon as possible. Three weeks later, they had found 41 registration cards, which was 72 percent. They found 44 scanned images, which was 77 percent. One of the cards that they could not find was actually, ultimately, determined to be in the dumpster, the cards we had discovered. There were 13 cards that were completely unaccounted for. On May -- And that was after three weeks time. We then went back, and think this goes back to Mr. Atkins' referral to

what's reasonable time. As I understand, the code section is if they used the scanning process to maintain their voter registration cards, they have to have the voter registration cards available in original form to be retrievable in a reasonable amount of time, if necessary. On May 16th, we took another 49 names garnered from our rolls and requested, by 4:30 that same day, copies of the registration cards for the equivalent copies of the scans. They could only find 23 of the registration cards, that being 47 percent. Thirty-six of the scanned images, that being 73 percent. Six of the cards that they could not find were actually accounted for when we did our audit of the cards that were found in the dumpster. Twenty cards were unaccounted for and 13 scans were unaccounted for. If you, sort of, do the math, ultimately, you have about five percent in our audit of 106 total cards that are unaccounted for at this time. We have checked with archives, our numbers on the 93 thousand actually came off the machine and we're fairly accurate that our numbers are correct. We will, obviously, work to see if there's any way to explain why they're showing less, but we have checked with our archives division. They indicate that those are correct. And as you see, on the April 20th to May 11th, 2007, you can sort of see across where we have no originals, no change of address and no voter registration cards. So, obviously, that presents, in the bigger picture, if you take our audit just as it is, four-to-five percent of the 500 thousand-plus voters in Fulton County, you have a much larger number, potentially, that there is an unaccounted for scanned or voter registration card. Out of the total sample of 106, no card, no scan was approximately five percent. No card, but yes, a scan, approximately 34 percent. A card, but no scan, approximately 18 percent. And one clarification, since we're going forward, the number that I provided Mr. Atkins in terms of our investigative cost, was only the cost, specifically, to do the personnel and the scanning. The actual people that had to go through and alphabetize and the cost of that personnel and scanning, was \$19 thousand 624. And obviously, I'll answer any questions."

Chairperson Handel - "Okay. Just make sure that the Attorney General's office has those cost in hand. Colleagues, when the information from the -- the audit was provided in the -- the investigative report that was given to Fulton, and then Ms. LaGrua prepared this chart for us because I thought it put things into a proper perspective so that we could see exactly on the sample group and certainly, Mr. Atkins, I understand that it's a sampling group, but I'm sure you can appreciate that when this is brought to my attention, that it really took the nature of this issue to an entirely new level, if that was even possible given the fact that there were close to 100 thousand voter registration cards in the dumpster. So this information, for me, probably more disturbing than even the dumpster, if that can be said giving how I feel about the dumpster issue. And here is why. Because for every individual that there is no scan in the office, and there's no scan or a card, there is absolutely no capacity for the Fulton County Elections and Registrars' office to verify the validity of an absentee ballot voter, and that is a problem. And colleagues, so just in terms of getting a sense of urgency, that is why we sent an immediate letter, as soon as this was before me, over to the acting Director of Registrations for Fulton County directing them to the extent that I could, in terms of -- of a letter, to do a couple of things. And first and foremost was to conduct a complete audit of the Fulton registration -- Voter Registration list to confirm

which voters they had a card for and which voters they had a scan for and where there were missing cards so that they would consider the extent of the problem and this has got to be done and I cannot stress this. I mean, it really has got to be done as quickly as possible given that there are, you know, municipal elections bearing down on the County in November. Then, secondly, obviously training issues and the storage issues and then, to embark on some initiative to get out to the voters to get their information back on file because, again, the lack of this information prevents verification of absentee ballots. And with all of that, also very obviously through our investigators, we will be having a heightened monitoring situation with Fulton, including having investigators onsite to observe the counting of absentee ballots and to observe what takes place, and the proper validation is taking place. So that's what was communicated over and why I was wanting to take this separately. And Mr. Evans, you heard, sort of in some of this stipulations, some of that. And I guess what I would ask of this body is to perhaps entertain a motion to also urge Fulton County to act expeditiously in compiling this information so that we can get to a place of being able to have some semblance of confidence that the County can conduct about an election."

Mr. Atkins - "Madam Chair, before you make that motion, if I may briefly respond both, to the two audits and then ultimately to the larger question of just exactly how many cards are missing. First of all, with regard to the statistics that have been provided to the Board, I would like to offer this caveat. I think Ms. LaGrua will agree with me, essentially, here that the numbers that she has provided with regard to stats, how many scans we were able to locate. With regard to the first audit on April 20th of '07, Ms. LaGrua's statistic of 77 percent states that we found 44 of 57 scans. Well, that --."

Chairperson Handel - "If I might, the scans are really not relevant. I mean, really in the broad scheme of things, the law is that you've got to have the cards. And while okay, maybe you were missing the scans, the bigger point here is that in 106 voters, there were five that you have nothing for."

Mr. Atkins - "Well, Madam, that's actually not correct. We did have something for and that's why I would like to address the issue, if I may. It's been brought before the Board and I think I have that opportunity. We found 56 of 57 scans. The difference is that as a law -- and whether we did these things before we had the capability to scan for a card, is we scanned signatures. And in those statistics, I think Ms. LaGrua has not included those signatures, although we did have just the signature, not the card scanned. Since then, and that was true to both, to the first and second scan. With regard to the second scan, the second process, we were given a day to respond. We located, in one day, 24 original cards. We were asked to locate a total, I believe, of 49. That should not lead the Board with the missing question that because we only provided 24 cards, that that means we don't have the other ones. We were asked to provide what we could within a day. The (inaudible) is that we have not gone back and looked for this at this point because we were not told to. We were told give us what you've got in a day. Now, since then, what we have done, though, Mr. Evans, just far larger in that issue, is --."

Chairperson Handel - "I'm sorry. Should I ask a clarification?"

Mr. Atkins - "Sure."

Chairperson Handel - "So since April or May when you didn't have a scan, no one even bothered to say, ah ha, this is a problem. Let us at least go and see if maybe there's been a mistake and we do have the card."

Ms. Atkins - "Well, Madam Chair --."

Chairperson Handel - "Hang on. And because we weren't asked to."

Mr. Worley - "Madam Chair."

Mr. Atkins - "That's not what I said, and I apologize and I think you're misinterpreted."

Mr. Worley - "If I could make a point."

Chairperson Handel - "Hang on."

Mr. Worley - "If I can make a point."

Chairperson Handel - "I'm going to recognize you, but let me say one thing. Mr. Atkins, here's the deal. I get to run the meetings, so if one of the Board members wants to say something I'm going to recognize them. And if I need to say something, et cetera, please don't interrupt. We will come back to you when everyone has their say. Mr. Worley."

Mr. Worley - "My question was, this audit was concluded May 11th, but the Secretary of State's office wasn't sent to the Board until September 17th, and why was that?"

Chairperson Handel - "I can answer that. Because we fully expected since Fulton County was on notice of the serious nature of everything, that they were not going to have to be told to meet the responsibilities at the County Elections office. And when they failed to take any sort of action to reconcile the list, or any of those things, then we -- I personally felt that I sort of direct them. And I was trying not to be directive on the thinking that, I mean, they would do what was statutorily required of them. But that was not the case, so I had no choice but to do what was the directive."

Mr. Worley - "So perhaps Mr. Atkins can respond."

Mr. Atkins - "May I respectfully respond, Madam Chair? I don't think that that is actually an accurate representation of what we have, in fact, done. As I said, at the beginning of this meeting, there has been a breakdown in communication. If the Board

will look at page 12 of the document that we have provided, almost immediately the Board engaged in a detailed and exhaustive audit, not just with the scans, but its original boxes. During the course of the conclusions of that scan, to date, are listed here. This includes, as you will note, we focused on two portions. We scanned documents we had in our possession and then afterwards, beginning in July, since we don't have the, whatever it is, 81 thousand or 92 thousand original cards, we used the DVD to find that we had images for those cards. The results of that are located on page 13. We are continuing with this process. I mean, it is our expectation and belief that long before, and without the direction of the Secretary of State, which has always been our fact to have this process completed in October. We have spent countless man-hours, we have employed new staff members, temporary staff members, to do this. We have done a tremendous amount of work. We have asked the Fulton County Board, and they graciously agree to provide us with a new server, because we had difficulties with our servers in August, just in terms of the sheer volume and information. Everything will be transferred over to the new server within a week. We have been doing a tremendous amount of work and I think that through this process, and we fully expect, frankly, that it's part of our work with the Attorney General's office and with Ms. LaGrua, any final Consent Decree would have to include language that assures that through the process of knowing we've got these cards missing in the dumpster, we have engaged in the more detail and owner's work of ensuring if we've got any missing original voter registration cards, we have notified those voters. And it is our plan that those voters are going to be notified and they will be notified in a timely manner, as soon as we've got our final number. So we have done, and been doing, precisely what this Board has expected us to do and what the Secretary directed us to do on September 18th, and that process began almost immediately."

Mr. Evans - "So you've done enough to determine whether or not they have (inaudible) missing images."

Mr. Atkins - "Missing images, or original cards, Mr. Evans, I think the --."

Mr. Evans - "A statement at a time."

Mr. Atkins - "Beginning with images, our expectation is that by the middle of next month we will have an image for every card in our possession. Now, I can tell you that keeping a list of eligible voters, we'll be able to get a hard and true number of any original cards we don't have, whatever that number is. Maybe it's zero, maybe it's one percent, whatever it is."

Mr. Evans - "Do you think there's any realistic possibility that it's zero?"

Mr. Atkins - "I -- I have no clue, Mr. Evans. I have no clue. And I -- No one asked me to speculate as to that."

Mr. Evans - "No, I wouldn't. But it is -- that is why it's so important to us...."

Mr. Atkins - "Absolutely."

Mr. Evans - "...because our job is to assure 100 percent accuracy in elections, to the extent we can. And if you can't assure us, then we have to do things that are designed to assure voters."

Mr. Atkins - "That's why we're doing this."

Mr. Evans - "Let me tell you, I just want you to understand --."

Mr. Atkins - "Absolutely. We want to give you the information you need to accomplish that."

Chairperson Handel - "If I might?"

Mr. Atkins - "Yes."

Chairperson Handel - "Please, if one of the State Elections Board members is speaking, if they have a question for you, I promise they will ask you, but let them finish out their statements before you jump in. That would be really, really helpful."

Mr. Atkins - "Yes, Madam Chair."

Chairperson Handel - "Mr. Evans, did you want to continue?"

Mr. Evans - "So you -- So your expectation is that by October 19th, you will be able to determine how many missing signatures you have?"

Mr. Atkins - "Sir, if I may, in response to your question. It will be our expectation that we will be able to give the Board a hard number of the -- the number of original cards that we do not have in our possession which, of course, is a separate issue than scans. Our expectation is that we'll have all the cards in our possession and the cards that are presently in the Secretary of State's possession, scanned. We'll at least have those images."

Mr. Evans - "So what happens as to the ones you're missing."

Mr. Atkins - "I think there's a procedure for that. We have to contact the voter, initially by mail, and we're going to do that. If we don't receive a response, we have already had a process in place whereby we'll essentially go door-to-door to the last known address of that voter, based on the system, to give them an opportunity to update their information."

Mr. Evans - "And how many days will that take?"

Mr. Atkins - "We don't know that, Mr. Evans, because we don't know what the numbers are. Our hope is that we'll have it completed before the end of this year. That is certainly our strong desire."

Mr. Evans - "Okay."

Mr. McIver - "I have a question."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Mr. Atkins, are you personally satisfied that Fulton County's done enough to meet their obligations in this matter?"

Mr. Atkins - "Mr. McIver, as it relates to our -- our response to this instance, yes, I am. I am. We have worked extremely hard. We have details, I assure you, that we could give you the numbers of the extra employees we hired, we can tell you the hours, we can tell you the dollars. We have not been sitting around. I am very confident that we have been working very hard to ensure that going forward we have no further issues like this. I personally conducted training for the entire staff. We videotaped that training where going forward, every employee who works in this department will watch that videotape. Our retention schedule is on State Law and on down the line. We are doing everything in our power to respond to this very serious matter."

Mr. Evans - "So for --."

Chairperson Handel - "Mr. Evans."

Mr. Evans - "You know, as we define, you know, our job is to define what we do for things that have happened, and then what do we do to make sure they don't happen again. So is what you're suggesting, though, based on what we now have before us -- but what is the magnitude of the problems to the elections that have already been held given the number of missing signatures and original cards?"

Mr. Atkins - "Well in the absence of-- of any challenge, and there has been none, and the absence of any issues that have not been raised with this Board, or with anyone else, it's obviously impossible for me to speculate to that."

Mr. Evans - "My difficulty, and I can't speak for my colleagues, that it's been our job to make sure, you know, voters feel pretty confident about the outcome, even if there's one illegal challenge. And what I hear you saying is that given the number of missing original cards and corresponding information on signatures, that we have really no way to assure Fulton County voters of the accuracy of the elections, given the name and to what's being described here."

Mr. Atkins - "May I respond?"

Mr. Evans - "Yeah. Absolutely. Because it, you know, I'll tell you the reason it's so significant to me, is because if that is an indicator of the -- of the measures that we have to take, if we're casting in doubt, the outcome of elections that have already happened, not legally, but just a confidence is shaken so that Georgia voters and Fulton County voters, especially, have reason to doubt the outcome. The measures we need to take in order to make sure that mishandled elections are free from doubt, are far different than if we were talking about things that didn't really put that at play. Didn't color the question, the integrity of the voting process, itself. So I want you to share with us what your perspective that isn't in terms of how this compares or how this casting doubt the integrity of the elections that have already been handled under these conditions."

Mr. Atkins - "Mr. Evans, if I may respond, let me start by saying we do not believe that this has cast any election in doubt in any way, shape, or form. We have seen absolutely no evidence Fulton suggest that that is the case as opposed to what we have before the Board today, and what we do know is that 81 some-odd-thousand cards were improperly and wrongly disposed of. There is no pattern or policy or desire on the part of the Board to lose or destroy or dispose of voter registration cards. I think that we're going to find in this process, because I've actually been down there doing it, is as follows. You're going to find out that in the sorting processing to scan these cards that was in place prior to this incident, a number of voter registration cards have been mis-sorted. We found, ourselves, that the number, you know, several hundred cards has been went through painstakingly, one after another, and has been listed as address changes, where, in fact, it leads in circumstances like that. That process located original voter registration cards. We expect that through that process, the number is going to continue to dwindle."

Mr. Evans - "But you agree the reason, the very reason you're working so hard to do this is because it's important to the accuracy of elections."

Mr. Atkins - "I don't think anybody has ever argued otherwise, which is why we take this so seriously."

Mr. Evans - "All right. So if it hasn't done before, the accuracy elections must be at play. It must be an issue. I mean, the very -- what I -- I try -- I hear you, basically, trying to argue both sides of the coin, which is to say on the one hand, if you're considering what's happened in the past, it's not significant, it's not that big a deal, don't worry about it, it doesn't cast at play, or at issue, the integrity, the outcome of the elections. But to show you how serious it really is, look how hard they're working and all the staff are doing and, how diligently we're moving. And it would seem to me that the answer is, not to suggest your answer, but I think in your choice, it is important. It's critical. It's critical for the accuracy of elections to have accuracy of information. Fulton County had inaccurate information, incomplete information, insufficient information. You're now correcting that problem. You've presented us with a detailed plan of how you're correcting that problem, but it doesn't -- it doesn't minimize the significance of the problem. Is that fair?"

Mr. Atkins - "Mr. Evans, if I may?"

Mr. Evans - "Uh-huh (affirmative)."

Mr. Atkins - "We -- and I have certainly not tried to come before this Board and minimize anything about these circumstances. Now with that said, I think there is a difference in standards in Georgia voters and Fulton County voters. We're talking about original voter registration cards, we're not talking about having inaccurate information. In the event that there is an absentee ballot and we don't have a signature and we don't have scanned image of a card, which is the first place we go to cross-reference our absentee ballots. And in the event of a challenge or in the event of a request, we have to produce original voter registration cards. That's what the statute requires. That is what we have been charged with not providing. That is what we came here to respond to. That is an entirely separate issue from having no information or inaccurate information about who is allowed to vote in Fulton County. That, as best I can tell, has not come before the Board today and isn't included in these allegations."

Mr. Evans - "So what is the purpose granting the right to see the card? If somebody comes forward and asks you to produce the original card, what's the purpose of having that?"

Mr. Atkins - "The purpose of having that is so they can cross-reference that card and make sure that what is supposed to go, could go. Now --."

Mr. Evans - "I know, but why would we do that?"

Mr. Atkins - "For the accuracy of elections. Nobody has ever argued with that, Mr. Evans, and that's why we're here."

Mr. McIver - "I want to ask a question."

Chairperson Handel - "I'm sorry, Mr. McIver."

Mr. McIver - "Mr. Atkins, with respect to the letter of September 17, last week, actually, from Secretary of State Handel to your interim Director, is there any doubt about the expectations out of the Secretary of State or State Election Board?"

Mr. Atkins - "Not at all. And we thoroughly expect to work with the Secretary of State on that and, in fact, discuss it on Friday. In fact, on Friday one of the things we hope to do is to have the investigator come out to our office as soon as possible to assess what we've already accomplished and to us in making sure that we meet the Secretary's expectations. We've got a very good working relationship with Ms. LaGrua's investigator and we'll continue to do so."

Chairperson Handel - "Mr. Ritter. I'm sorry."

Mr. Ritter - "Not wanting to add to the situation, but I just want to be clear in response to Mr. Evans' question where our flank from the Attorney General's office side, we stand, of course, there's the enforcement aspect that we've already considered, that the Board's already considered and the penalties that are associated with that. There's also a going forward issue in future elections that are an issue. We understand there are challenges to the elections based on this, and the concern would be about future challenges, as well as general voter confidence in the election results. I can tell you that there is a legal obligation on behalf of everybody who is a registrar in Georgia, to check the signatures. That is required when you have an absentee ballot, and it's also required for recall petitions. Those of interest have to be checked. Having the signatures available is not just a nicety, it's important. If those signatures cannot, in theory, be checked and that number of signatures is such that it would overcome an election, then you would have a very serious problem and it's Fulton County's problem in defending in those local elections. I'm sure Mr. Atkins must be aware of that. But we have to think about that going forward and I want to make it clear. I was one of the defense counselors in the Howard Mead case, which was the case involving someone who ran for the Court of Appeals. And one county, just one county in Georgia, had some ballots that had his name misprinted. Not all of them, a very few. But the election was close in the primary, so close, that minor misprinting his name was found by the Supreme Court of Georgia to throw the election in the jout (phonetic) and we had to hold an entire other election. So it's obvious that before November, this problem has to be remedied in the sense of having signatures so that there is no question that that would arise in the future. And I need to make that clear because if that doubt remains out there, then those elections could be challenged."

Mr. Evans - "So Mr. Atkins, would you agree?"

Chairperson Handel - "I'm sorry. Mr. Worley was next."

Mr. Evans - "Oh. I'm sorry."

Mr. Worley - "I just wanted to hear from Mr. McBrayer or Ms. LaGrua about how cooperative Fulton County has been or whether they have been fully cooperative in this whole process."

Ms. LaGrua - "Our first meeting with Mr. Atkins and the entire Board was Friday of last week, and since that time they have expressed a desire to resolve this, move it to a Consent Order, and move things forward. Prior to that, we had some difficulties, as Mr. Atkins did. From his perspective, one of the difficulties was his idea of criminal charges, but I should just be clear that the summary that you all have here today, was provided two days before the last State Election Board meeting. And in fact, that was the basis for the continuance to today, so they've had the numbers from the audit since before the June State Election Board Meeting. And in fact, it had the CD since, I

believe, July 2nd that had all these scanned images of the cards that were recovered from the dumpster. Mr. Atkins has moved in the last few days, and we've received -- I have not had a chance, candidly, to review the whole proposal. I didn't get it til shortly before you all did today so I can't tell you whether or where things are on that, and they did request Investigator McBrayer to come out and as soon as we have an opportunity after today to do that, obviously we'll send him out to see which of these procedures are in place and in what manners. And we'll have the opportunity. Investigator McBrayer has worked very diligently to keep up with Fulton County since this has happened, as you'll see as we move forward today with another case. And the GBI was very gracious in assisting us with this investigation because of the magnitude of it."

Mr. Evans - "So, Mr. Atkins, do you have the September 17th letter? The September 17th letter we have here?"

Mr. Atkins - "Yes, I do."

Mr. Evans - "So on the one, two, three -- third paragraph, if we made it an order of the Board, would you agree to a Consent Order that you are directed to conduct a reconciliation and that you shall produce the report of the reconciliation and it will be a transmitted and electronic format, no later than 5:00 on October 19."

Mr. Atkins - "Mr. Evans, if I may? Before I respond to that I would appreciate the opportunity to speak with both, my Board and my staff to ensure that I'm not going to commit them to something that they can't do."

Mr. Evans - "Are they here."

Mr. Atkins - "My Director -- my interim Director is present."

Mr. Evans - "Why don't -- I would suggest we let you have the opportunity because, you know, I'm not going to speak for my colleagues, but this is serious enough that I think we're going to have to take some kind of action to assure cooperation to get this done. And what I want, is I don't want -- I don't have an order that is unrealistic and can't be done. I want to take advantage of the fact that you are being helpful and cooperative and that you share the same goal we do, which is accuracy in the election, and that it's feasible. And so -- but I also would not want us to adjourn today and not have addressed this in a real way that says, okay, we're -- if your concern is genuine and real, which I believe that it is, you've done a great job here representing your client and you've answered all of our questions and I appreciate that. If that concern and cooperation is genuine and real, let's put it in an order and then we all live with it. Is that -- so if you could do that unless, I mean, I've referred to the colleagues, but I think that's -- because if we could take that paragraph and put it in an order or if you think there is a tweaking or modification needs to be made, but, you know, when we have the integrity of elections at issue, we just have to move much more directly."

Mr. Atkins - "That's fine."

Mr. Evans - "Okay."

Chairperson Handel - "Mr. Evans, if I might, if what is detailed in the correspondence that we got late this morning is accurate and true, then they ought to be able to give us some sort of reconciliation today."

Mr. Atkins - "I think we have, to some degree."

Chairperson Handel - "No. When I say reconciliation, literally, I am talking about voter, by voter, by voter in that list. Do you have a card? Yes, no. Do you have a scan? Yes, no. Because attached to that letter was a format which we were asking that you use. And so, if, indeed, you've done all this you should, at least, for the voters that you have here, you should be able to tell us that information readily."

Mr. Atkins - "Madam Chair, I'm just going to be honest with you. I'm a lawyer, I have absolutely no idea of how their system works, so if it's -- if we are able to push that out today, we'll do so. And I'll find that out for you."

Mr. Evans - "Well I just wanted to say --."

Chairperson Handel - "If I could Ms. Pye -- well, sir, if you haven't seen what the computer generated, I don't know how you did the report. Ms. Pye, can you come up and this is, I mean, again -- Ms. Pye. Do you want her to speak, or no? It's up to you because you're the counsel. Hey April, hang in there."

Ms. April Pye - "With respect to the reconciliation, the -- we are at the stage of completing the scanning of all the cards that we have. As Mr. Atkins mentioned, we had a server issue which is corrected and we will complete that scanning, I would say, by the end of next week. And then, what we have to do is reconcile that with our active and inactive voter registration file and that should tell us -- we should be able to give you numbers of how many cards, if we have any, are missing."

Chairperson Handel - "Okay. So the October 19th date, which is doable?"

Ms. Pye - "Yes."

Chairperson Handel - "Okay. Thank you."

Ms. Pye - "Uh-huh (affirmative)."

Chairperson Handel - "All right."

Mr. Evans - "Well I never want to interfere with an attorney's ability to represent his

client. And so, if you want to take a moment and talk to your client and then tell us whether or not you can agree to that paragraph. In a Consent Order for the -- accepted as a Consent, my inclination is that if you come back and say, no, we can't, then -- then my guess is that we're just going to adopt that order, but I can't speak for how my other colleagues...."

Chairperson Handel - "Yep."

Mr. Evans - "...are going to vote. But we have to have definitiveness and finiteness because it would, you know, if I were a Fulton County voter I'd be worried. I'd be genuinely concerned about what we've heard today."

Chairperson Handel - "Absolutely."

Mr. Evans - "And so I think that in my mind, as a State Elections Board member, I'm worried. And I would say that we need to be -- If you could agree to that paragraph or that, beginning with Fulton is directed, come back and share with us and let us know."

Chairperson Handel - "Mr. Worley. Because what we can do, we can table this and then take up another case."

Mr. Atkins - "Mr. Evans, I would just point out that I don't have a corner of my Board present here, so -- but I can certainly speak with Ms. Pye...."

Mr. Evans - "Okay."

Mr. Atkins - "...on the orders that you are present."

Chairperson Handel - "All right."

Mr. Evans - "What I'm interested in, confirm it's feasible. If you want to come back and say, listen, I don't have my client here so I can't agree to anything, then that's fine. Then that's just something that we'll take into consideration."

Mr. Atkins - "Thank you very much."

Mr. Evans - "Thank you."

Chairperson Handel - "Mr. Worley, did you have something you wanted to add?"

Mr. Worley - "I just -- I just had a question of Mr. Ritter on this. I mean, this idea of ordering them to do what's in this paragraph. I mean, where are we, procedurally, with all of this. We sent on the case to the Attorney General's office."

Mr. Ritter - "Again, we've got two issues. We can sit on the case which is the real issue

involving what is already occurred. What, as I understand the Secretary of State is looking for is a reconciliation and we're looking forward as to -- involving issues before. This isn't, now, to punish a violation of the code, per se, or whether one could be found out of it, but rather to make sure that Fulton County is in compliance or is going to be in compliance in the future. So I think this is a perspective rather than a retroactive issue that you're talking about right now. And let me add to this, it hasn't been addressed. I think that, you know, I'm not trying to split hairs over whether the Board, or the Secretary of State as Chair of the Board, have the authority to issue that order. I think that certainly that the Secretary of State was appropriate in issuing that letter and that the Board is entirely appropriate in ratifying that if it wishes to do so."

Mr. Evans - "I want us to act as one voice...."

Chairperson Handel - "Yes."

Mr. Evans - "...and that's why --."

Chairperson Handel - "Which is why I brought this forward and ask the same of the Board."

Mr. Evans - "And just to -- for my colleagues and to answer his inquiry, we will be operating under 21-2-33.1A, which is direct in compliance prohibiting threaten commission, conduct constituting the violation, and it then gives us the, you know, the ability to fashion remedies, and that's why we would be directing. But just check to see if this is feasible. I don't -- I'm never in favor of adopting something which I know is going to be a violation the moment we adopt it. But if it is, then we can move forward and then we'll have a nice clear white line by which we can measure."

Chairperson Handel - "All right. I'll move we table this for the time being."

Mr. Evans - "Second."

Chairperson Handel - "Motion and a second. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "None opposed. Okay. And that motion did extend to the third violation -- case for Fulton County, as well, so we'll hold that one until they return. Next case 2007-000005. Randolph County."

Ms. LaGrua - "Madam Chair, if I could, there are three cases on this calendar, theoretically, addressing Randolph County. And if I could give a brief overview, it might make it easier for us to go forward on these."

Chairperson Handel - "Would you just state the case number."

Ms. LaGrua - "Yes, ma'am. That would be Case No. 2005, 2007 -- 617 and 2007-000006. And if I could, these cases were on the SEB June Calendar, and I can give you the tabs on those as well. That's Tab 9, 14 and 17 in your binders. If I could go back to what happened at the last Board Meeting in terms of these cases, it might make it a little bit easier for us to proceed at this point. At the June SEB Meeting, in regards to 2007-05, Mr. Evans made a motion to close the case against Lorraine Curry and Winona Johnson, which left open -- and I don't -- which left open an allegation against Sandra Thompson, who was the Randolph County Election Superintendent. And so if we could start with that one, it may make it a little bit easier to go forward with 2005. And in that case, the allegations were that Sandra Thompson, the Randolph County Board of Education, unlawfully attempted to remove Mr. Johnson's name from the ballot and that they violated their by signing a nominating petition. Are we on --."

Chairperson Handel - "Yes. We're waiting for you."

Ms. LaGrua - "Okay. I'm sorry. In that case, the allegations, as I indicated, there was a motion made to close the case against Lorraine Curry and Winona Johnson and, in fact, at that time Sandra Thompson had just taken over in that. On those allegations, Ms. Johnson revealed in an interview that he was running for re-election and was an independent in District 5. He submitted his nomination petition to the then Election Superintendent and Probate Judge, Ms. Jackson, however he filled out his petition notarizes stipulated. In August, the Randolph County Board of Elections was formed and Ms. Thompson was appointed. She accepted her duties in December and she requested Judge Jackson, all notices in the petition. It was at this time Mr. Coleman received the documents. The County Attorney, and I believe Mr. Coleman is probably here, I've spoken with him. It was at this time they realized that the documents were not notarized. They contacted our office and was told that they did not believe Mr. Johnson to be a qualified candidate. His petition was not notarized. He advised that he notified Ms. Thompson of his findings and the Board held a special meeting to discuss the issue. Ms. Thompson advised -- the Board voted to schedule a meeting to give him the opportunity to explain. He said it was not for the purposes of removing him from the ballot and then, therefore, there was not a code violation at that point. And that 2005, or 2005, with Ms. Curry and Ms. Johnson, O.C.G.A. 2 -- 21-2-214B, there may have been a violation in that they signed the petition for Mr. Curry in this case, and that he did not have, Mr. Curry did not have the person or persons circulating the petition sign the petition, they circulated. And he swore to a notary that he signed each page. So in regards to Mr. Curry, which was the remaining open case on this thing, I believe there would be sufficient evidence to refer it to the Attorney General's office as 2005 for those petition violations."

Chairperson Handel - "All right."

Ms. LaGrua - "And in terms of 2000 --."

Chairperson Handel - "Do you need us to take you to these separately?"

Ms. LaGrua - "I think we can. That's probably appropriate."

Chairperson Handel - "Is there a motion on this particular item or any questions on this one?"

Mr. Worley - "Is there anyone to speak?"

Chairperson Handel - "Does anyone want to speak on this issue?"

Mr. Maurice King - "Yes. I would."

Chairperson Handel - "Okay. How many other people want to speak on this, because if that's the case, let's just do all three so that we don't -- I don't want have 45 minutes of comment for all of these. So quickly do a quick overview and then I'll come to of the next to then, since we have people."

Mr. King - "I'm actually the attorney for Mr. Johnson and Mr. --."

Chairperson Handel - "Okay. Do the other two involve the same individuals?"

Ms. LaGrua - "One involves Mr. Cook."

Chairperson Handel - "Okay."

Ms. LaGrua - "2006, ladies and gentlemen, was one that you all asked if the Attorney General's office, I believe, have a report. We've had a number of things filed in regard to this one on whether or not notice was given for a hearing. And if I could, to defer to Ms. Almond, at this point, for her to address this issue."

Ms. Calandra Almond - "Yes. We reviewed the brief submitted by Mr. Coleman and we concur that the arguments that he made in his brief -- this case is referred over for potential violations under O.C.G.A. 21-2-228, but it appears that O.C.G.A. 21-2-226 actually is the applicable statute that deals with changes relating to voters precinct polling place and district, and that statute is clear that a card should be issued to the voter when a change is made in a polling place, and there's no provisions made for a hearing made in that (inaudible) at all. So we concur with the opinions in Mr. Coleman's brief."

Chairperson Handel - "Okay."

Mr. Evans - "Well is that something that needs to get fixed?"

Ms. Almond - "The what -- what --."

Mr. Evans - "Legislatively, is that something that needs to get fixed?"

Ms. Almond - "Yes. Yes."

Mr. Evans - "Okay. So I'm assuming that goes in our housekeeping folder..."

Ms. Almond - "Yes."

Mr. Evans - "...to say another thing."

Ms. Almond - "Yes."

Mr. King - "I was actually going to address -- I don't agree with her termination that this code section applies."

Chairperson Handel - "Well I'm going to let you speak in a moment."

Mr. Evans - "Although I would always tell you never argue with a win. It's the best advice I ever got from a friend."

Chairperson Handel - "Exactly. I agree with that, too. It's kind like when you've made the sale, take it and run."

Mr. King - "I don't think he was the winner."

Mr. Evans - "I believe I've got --."

Chairperson Handel - "Ms. LaGrua, anything else?"

Ms. LaGrua - "No, ma'am."

Chairperson Handel - "That's it. Okay. Come on up, sir."

Ms. LaGrua - "You're talking on that one. I'm sorry, we have 17 to do."

Chairperson Handel - "Go ahead."

Mr. King - "May I please the Board? My name's Maurice King, I'm the attorney for Mr. Johnson, and I guess since Ms. LaGrua went first with that case, I will address that case first. With regard to Mr. Johnson, if you understand the code section, at the time he handed his nominate petition, if anything was wrong with it, the law says that it was supposed to be rejected then. It was not rejected and he was placed on the ballot. Once his name was placed on the ballot, according to the law, it is sufficient. Our position, here's what happened, is that the Board of Elections wanted to help the white candidate,

Mr. Johnson, was running against. Mr. Johnson was the black man, Mr. Curry is a white man. The Board of Elections looked at the petition and they said it was something wrong with Mr. Johnson's petition, although if they had of made that Mr. Curry's petition, they would have said something was wrong with his. But our position is they were not going to look at Mr. Curry's petition because that's their candidate. That's the candidate they wanted to win. And so that the Board understands, our problem with most of these Randolph County cases, is that white election officials are using their discretion to choose candidates they want. In these cases, they were white candidates. Now if the Board wants to say that's okay, then that's okay. But when black election officials start using election laws to make sure black people get elected, then don't say it's wrong then. In this case, we actually argued before the Supreme Court, and we actually won our argument before the Supreme Court in a (inaudible) not too long ago. And basically, the issue was once his name had been placed on the ballot, that was it. The only reason they were having the hearing was to attempt to take his name off the ballot. Before the hearing, I had to file a writ of prohibition with the Superior Court Judge who said that they could not have it here. But what I want you all to understand is what they are going to do is to use the election ball to deny Mr. Johnson that allow his candidate to go forward, and I don't see how you can find that's not a violation when it's clear that's the purpose they were using the law for. And like I say, if it's okay for white election officials down in south Georgia to use their discretion to deny black candidates to run for office, when black election officials start doing it, don't say it's wrong."

Mr. Evans - "Well the narrow issue that is before us is 214C...."

Mr. King - "Right."

Mr. Evans - "...which has to do with signing the nominating petition."

Mr. King - "Right."

Mr. Evans - "Okay. We've actually had that 214C before us."

Mr. King - "Right."

Mr. Evans - "And the narrow -- the narrow question that we've always zeroed in on...."

Mr. King - "Uh-huh (affirmative)."

Mr. Evans - "...is this phrase. While conducting the duties of such persons office. And so the narrow issue is, that when -- when they signed the nominating petition where they -- which hat were they wearing because we concluded that you can actually take your election hat off and say I'm just asking as a voter to either -- I think we had one, didn't we, where they chaired the campaign. We have another where they were involved in it, and here we have nominating petition. And not to tell you what -- what I think your argument would be, but I think, you know, an argument that we've addressed before is,

hey, there is no prohibition when they're not acting in their capacity for them to sign a nominating petition. Is that what you're saying?"

Mr. King - "That there is no prohibition."

Mr. Evans - "That -- against them signing a nominating petition, as long as they don't do it in their official capacity. That is what I would be arguing if I were you, but I'm not you, so --."

Mr. King - "I -- I guess my argument would be that it would kind of hard to impartially discharge your duties as an election official if you have already chosen sides. And by signing the petition, you've chosen sides. That was my argument."

Mr. Evans - "Well, it's an argument for a violation. It looks like, to me, you had a pretty good argument while there was no violation because, remember, for example, here we have people serve on the Board who are candidates for Office. And we don't recuse them, we don't require them to step down. They get to continue to serve on the Board. And so it would seem that if you could actually be a candidate, you might be able to also sign a nominating petition without violating the code."

Mr. King - "But -- But has the Board ruled on that?"

Mr. Evans - "Yes. And that's how we vote, which means that we would find no violation of your clients. If, in fact, the evidence was, they weren't acting in their capacity."

Mr. King - "Okay. Well did you -- did you vote and during the investigation did you discover where and when they signed the petition?"

Mr. Evans - "No. I'm just asking you. I'm just trying to get to -- so do we know what capacity they signed the petition in?"

Mr. King - "But it seems to me, before the Board would make a decision that they did not violate the code section, it would be incumbent upon the Board, acting fairly and impartially, to determine where they were when they signed it."

Mr. Evans - "So you believe they did violate the code?"

Mr. King - "You know, I think they violated the code. I think when they decided that they were going to have a hearing, it was for the sole purpose of kicking Mr. Johnson out of the election."

Mr. Evans - "But you agree that the dispositive issue is which hat they were wearing when they signed the nominating petition?"

Mr. King - "Well, I take the position that they should not have signed the nominating petition if they were going to actually work the election. I mean, it's -- and, you know Atlanta's a lot larger than Randolph County, Georgia, but -- and Randolph County, Georgia, you know, they choose who they want to win the election."

Chairperson Handel - "Thank you. That's not before us and you have no proof of that, and I get uncomfortable with people making broad statements. That's your belief, and that's fine. Anything else for this person, because we've got one other case that we need to -- Any other questions? All right. Thank you."

Mr. King - "Okay. I thought I had another case to address."

Chairperson Handel - "She hasn't told it to us, yet, sir."

Mr. Evans - "Sir, we're going to take them one at a time. So let her --."

Chairperson Handel - "Yes. She'll come back. I'll bring you back up. Don't worry, I will."

Ms. LaGrua - "And I apologize to the Board. 17 has two parts. We -- we heard part of it last time and, in fact, you requested an order directing -- and Tommy Coleman's here. Is Mr. Coleman here."

Mr. Tommy Coleman - "Yes."

Ms. LaGrua - "Mr. Coleman's here. You, at the last -- Well, let me make this simple and tell you what the allegations were, first...."

Chairperson Handel - "Please make it simple."

Ms. LaGrua - "...and then I'll tell you what y'all asked for the last time. This was a two-part case. The original complaint in from Bobby Jenkins, the Superintendent of the School, against Carol Ray, the Randolph County Registrar. The allegations were involving March, 2006, special elections. The allegations alleges racial discrimination and on all the allegations are on the basis of race. They allege the absentee ballot applications were erroneously rejected, and it alleged that phone calls were only made on a few of the problem ballots. When we did our investigation, we found that Carol Ray, the respondent, made phone calls on three address problems with absolutely no explanation as to why she did not call the other people that had address problems. And there were three absentee ballot applications improperly rejected because the voters were disabled, should have been allowed to have their ballots mailed to a different address. It is unclear if she had not criteria for the phone calling. There is no question that at least three voters, in that particular instance, were denied -- they were rejected -- denied their absentee ballots and they were all disabled. At that point, Mr. Coleman, I believe, stipulated that those specific allegations and at that time, the Board directed -- and Mr.

Evans, you moved to issue a Cease and Desist order and a reprimand, and Mr. Worley seconded the motion. The motion passed unanimously. I have a proposed copy of that Consent Order that I provided to Mr. Coleman, and if we could hold on that a minute. During that investigation we discovered when we went out to investigate the allegations that were brought to us, we discovered numerous other violations in looking at the absentee ballots, the applications and the comparison of the cards. And what we found, I originally asked this case be referred for further investigation because of what we had found. What we found were, in looking through the absentee ballot applications and the absentee ballot envelopes, we noticed huge similarities on the envelopes of the applications, as well as absentee ballot envelopes. In terms of the absentee ballot applications, which I'm not contending there's a problem -- it was sort of what we call a clue. All of the envelopes were addressed with the same printed label and the same hand-written address. So we took those applications, went further and started comparing those to the absentee ballot envelopes and what we found were a number of envelopes that appeared to have writing similar to other envelopes and not appropriately signed. What those involved was a respondent by the name of Nettie Bell Sheppard, Valerie Coleman, and Sheila Flowers. And when we interviewed them, we found that they had routinely gone out, not only helped the voters with the application process, but gone back out, assisted them with filling out their ballots and filling out the oath on the envelope. Did not sign as assisting, and it listed one instance, Nettie Bell Sheppard, one of the individuals we talked to. He doesn't know who he voted for. She just filled it out and took the ballot. So in terms of those three, we would ask that those findings with -- in regards to Nettie Bell Sheppard, Valerie Coleman, and Sheila Flowers be referred to the Attorney General's office, and Madam Chair, if I could. The Consent Order with Mr. Coleman, as it relates to Carol Ray, says that it is further ordered -- it is ordered that respondent agrees to cease and desist from rejecting proper absentee ballots as it relates to disabled voters. It is further ordered that this contender order shall serve as a public - public reprimand, which is, I believe, the motion of Mr. Evans at the last SEB Meeting."

Chairperson Handel - "Do you have copies of this for everyone?"

Ms. LaGrua - "I'm sorry. I just brought the original order. I can get copies made. So that is the 2000-17 case, both parts. The original allegations that are addressed in the Consent Order."

Chairperson Handel - "Did you -- and then I'll come there. I'm sorry. I couldn't see back there."

Unidentified Speaker - "Okay. There is one issue I want to clean up. That was a issue that you discussed with Randolph County where I heard Ms. Almond say that y'all -- she was going to join in the argument of Mr. Coleman. Now, did we go -- did we address that case? That was Henry Cook's case and whether or not they violated the law by removing him from District 5 to District 4 without noticing an opportunity to be heard."

Ms. LaGrua - "That was the one Ms. Almond addressed in terms of whether notice was given."

Unidentified Speaker - "Okay. Well, --."

Chairperson Handel - "They've just been presented."

Ms. LaGrua - "Right."

Unidentified Speaker - "Okay. Okay. Well I'd like to respond to Mr. Coleman's brief if you all are going to give me an opportunity before you make a decision."

Chairperson Handel - "You have about five more minutes, so go ahead."

Mr. King - "To respond to Mr. Coleman's brief? Okay. If you look at the applicable code section, and that's 226, it says 226A. It shall be the duty of the County Board of Registrars to determine the eligibility of each person applying to register to vote in such county. Now that code section does not apply to Mr. Cook because Mr. Cook has been a registered voter in Randolph County, Georgia since 1994. And I think I've -- I sent you all, basically, deposition testimony where each of the registrars basically admitted that that did not apply to Mr. Cook. So they couldn't remove Mr. Cook under that District, under that code section. Also, with regard to that issue, I -- gave all of you a copy of a document, and I think it has about 25 pages to it. And I think the first page -- well, it has 29 pages. The first page, basically --. Okay. And also with regard to the codes that Mr. Coleman cited, that case is basically been overruled by a case called Cambron, et al (phonetic), Canal Insurance Company, and that case is found at 246 Georgia 147. And that's a 1980 case. And I think if you look at the case what you will see is that -- and the Coleman -- the case Mr. Coleman cited you all, the person who they are saying did not have notice of the judgment is the person who actually filed the case. So he knew an action was going on. In our case, Mr. Cook did not know anything about an action going on. And also, I think if you look at the law, now, the law says if you don't know about a judgment, as soon as you find out about a judgment, what you do is you file a motion to set aside the judgment. And once you file a motion to set aside the judgment, then you still get the 30 days to appeal that judgment. So even though the Attorney General's office might agree with the case that Mr. Coleman cited, the proposition of the law for which he cited it is not applicable. And I think if you Shepardize the case, you'll see, basically, that holding in that case has been overruled. And we take the position that since the Justice Department concluded in 2005 -- 2002, that Mr. Cook was a -- a resident of District 5, we had a hearing in front of a Superior Court Judge who concluded that Mr. Cook was a resident of District 5. That decision was affirmed by the Supreme Court of Georgia. In 2006, it made no sense for the registrar's office to go back and remove him without any notice. And the thing that I -- I gave y'all first is basically a false writing. The reason I gave you the false writing is because if you look at the minutes dated January 30th, 2000, which is page 4 of my document. If you look at the minutes, you will see that the minutes say that the meeting was advertised. I think,

by the Board's own admission, you have concluded that the minutes were not advertised so that's, at least, what you call a false writing under Georgia Law, and I don't understand how it cannot be a violation of that. Also, if you look at official Code Georgia 21-2-212D, you will see that the Board of Registrars shall meet each month on a day. So the Board of Registrars has to meet, and if the Board of Registrars has to meet, then that means the Georgia Open Meeting Acts applies and the Georgia Open Records Acts apply."

Chairperson Handel - "Anything else."

Unidentified Speaker - "A little more time."

Chairperson Handel - "How much more is a little more? This is -- I mean, with all due respect, colleagues, this is my fifth SEB Meeting and we have heard the exact same testimony every single time. So if you have something new to add, please do."

Unidentified Speaker - "Okay. Thank you."

Chairperson Handel - "But I hope that it will be new."

Unidentified Speaker - "This is my first time coming."

Chairperson Handel - "I know, but we've heard the same information from people before you."

Unidentified Speaker - "And I just -- and I'll just tell the Board, I'm somewhat disturbed at the fact that all the stuff we've brought before you, I've seen three cases. One case that may have been referred to the Attorney General's office. And my understanding is the three people that you have referred in all these cases to the Attorney General's office, happen to be three black women. Now --."

Chairperson Handel - "Sir, with all due respect, that's because the rest of the cases still are pending before the body."

Unidentified Speaker - "Well there's a Consent Order with --."

Chairperson Handel - "I'm not going to debate it with you. Please, just --."

Unidentified Speaker - "And another thing I wanted to tell you, you all are talking about notice. It is clear that if you are a registrar under Georgia Law, you're subject to the Open Meetings Act. If you're subject to the Open Meetings Act under Georgia Law, then you have to post an Agenda. Now that wasn't done here. And I don't -- and I would hope that the Board would listen to the argument, so even if you say they didn't have to give Mr. Cook notice, that code section didn't apply because he was not registering to vote. But the Open Meetings Act say you have to post an agenda about 14 days prior to

the meeting. And you all probably know, now, why they didn't post a notice to the meeting. It's because they knew if they posted a notice to the meeting, Mr. Cook would have been there. And that's all I have."

Chairperson Handel - "All right. Thank you. Is there anyone else on this case?"

Mr. Tommy Coleman - "I just want to say...."

Chairperson Handel - "Okay."

Mr. Tommy Coleman - "...I'm Tommy Coleman, Putnam County Attorney. I concur with what Ms. LaGrua said, what the Attorney General said. I think you'll find the Open Records Act -- Open Meetings Act, rather, section 50-14-1, it's paragraph D, deals with the calling of special meetings. It requires only posting 24 hours in advance at the location of the meeting, which in this case was a court house. And a verbal or written notice given to the newspaper. Those things were done and the meeting was called appropriately under the Open Meetings Act. I think there has been -- we discussed that the last time. We agree with the Consent Order and are prepared to go forward with every decision that the Board's made this far. Thanks very much."

Chairperson Handel - "Thank you."

Mr. Evans - "You have reviewed and agree to the form that is being circulated?"

Mr. Coleman - "I have. We had a discussion of whether we need these to sit, or not, because it was a Cease and Desist Order, and we have been expecting that in the mail."

Mr. Evans - "No. That's fine."

Mr. Coleman - "But that's fine. We certainly agree with what you wrote."

Chairperson Handel - "All right. Anyone else? Okay. Anything else? Questions, colleagues? Okay. We have the first case number. Ms. LaGrua, will you give the case number so we can make a motion there."

Ms. LaGrua - "Which is 05, which involves the circulation of the petition."

Chairperson Handel - "And your recommendation is?"

Ms. LaGrua - "That those three -- those violations involving Mr. Curry be referred to the Attorney General's office."

Chairperson Handel - "Okay. Any questions or comments on that particular item?"

Mr. Evans - "We've addressed that before. We have to have in our fact section, you

know, basically an admission or indication that they were acting in their official capacity because we've been pretty consistent on 214C. That absent -- some indication that they're using your official capacity. We won't even prevent candidates from serving on Boards, which is fine."

Ms. LaGrua - "And I would agree. And there is no specific indication of that, and they've indicated that one of the women doesn't remember when she signed it, whether she was at work, or not. And they only work as an as needed basis. I would agree, Mr. Evans, that you have been consistent on that."

Mr. Evans - "So I move to close this one."

Chairperson Handel - "Got a motion to close, is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Motion and a second. Mr. Worley."

Mr. Worley - "Yes. I guess I'm a little confused here, and it sounded, to me, like you were -- you were indicating that Ms. Curry and Ms. Johnson didn't violate the law, but that Mr. Curry did."

Ms. LaGrua - "Actually, no. I wasn't -- I apologize if I said that. I didn't mean to. I indicated that at the last meeting, Mr. Evans made a motion that would close the case against those two for no violation."

Mr. Worley - "Against Mr. Curry, or Ms. -- the two women?"

Ms. LaGrua - "Ms. Curry -- or Ms. Curry and Ms. Johnson."

Mr. Worley - "Okay. Well what about, I mean, there was four that I have in front of me, 2007-05, there was the facts indicating William Curry violated O.C.G.A. 21-2-17D, that he did not have a person or persons circulating petitions signed -- Is that what we're talking about, or is that?"

Mr. Evans - "No. We're on 05-T7. It's under Tab 9."

Mr. Worley - "That's not the one that I'm on."

Chairperson Handel - "Yes. You're looking at 9."

Mr. Evans - "Did you look at the last page?"

Mr. Worley - "I'm looking --."

Ms. LaGrua - "William Scott Curry was the first one who circulated the petition, and that's a separate person from Lorraine Curry. The motion was made at the last meeting that as to Lorraine Curry and Winona Johnson, and the -- that it be closed."

Mr. Worley - "I'm looking under 413C --."

Chairperson Handel - "Turn -- turn the page over -- back here."

Mr. Evans - "I move to close that one."

Chairperson Handel - "We're dealing with this one right here."

Mr. Worley - "All right."

Mr. Evans - "214C."

Mr. McIver - "Are we ready to vote?"

Chairperson Handel - "All right. There's a motion and a second. All in favor, please say aye."

Mr. Worley - "Can we have some discussion?"

Chairperson Handel - "Oh, yes. I'm sorry. I thought you were finished."

Mr. Worley - "That's okay. I -- I happen to agree with Mr. King that they should have recused themselves from working in the election after they had signed the nominating petition. And so I would refer it to the Attorney General."

Mr. Evans - "Of course, last year when we moved to recuse the Secretary of State, you voted no."

Chairperson Handel - "Not this one."

Mr. Evans - "Not this one. Even though she was acceded on the ballot."

Mr. Worley - "I think this is a different situation."

Chairperson Handel - "All right. We have a motion and a second. Any other discussion? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Worley - "No."

Chairperson Handel - "There's one. Okay. Then we have the allegation."

Ms. LaGrua - "06 was the case in which Calandra Almond was addressing the Open Meeting and the Notice."

Chairperson Handel - "Which is the Consent Order?"

Ms. LaGrua - "No. That's the next one. That's the last one."

Chairperson Handel - "Sorry. Okay. Which tab are we going to now? Won't we have to deal with allegation two underneath Tab No. 9."

Mr. Evans - "Yes. We have to do the voting."

Mr. Evans - "170D and 565."

Chairperson Handel - "Correct. Is there a motion on those?"

Mr. Evans - "I move that we refer them over."

Mr. Israel - "I second that."

Chairperson Handel - "Motion and a second. Any discussion? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Is that all of them under 9? I thought there was one more. All right. The second tab."

Mr. McIver - "Fourteen."

Chairperson Handel - "Fourteen. Do we have a motion regarding, and I guess it might be simpler to take these by the individuals since there is a laundry list involving various individuals."

Ms. LaGrua - "Those involve two. Those involve -- correct. The first one being the Consent Order with Carol Rays and 17."

Chairperson Handel - "Correct."

Mr. Evans - "So I move we accept the Consent Order."

Chairperson Handel - "There's a motion, is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Motion and a second. Any discussion? No discussion. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, the motion is granted. Okay."

Ms. LaGrua - "And then the other part of 17 are the allegations involving Nettie Bell Sheppard, Valerie Coleman and Sheila Flowers."

Chairperson Handel - "Okay. But they are under tab 14?"

Ms. LaGrua - "Correct."

Chairperson Handel - "So in regards to Ms. Sheppard."

Mr. McIver - "I would move we refer it over."

Mr. Evans - "Second."

Chairperson Handel - "There's a motion and a second. Any discussion."

Mr. Worley - "I'm sorry, Madam Chair."

Chairperson Handel - "That's okay. Tab 14."

Mr. Worley - "Not in my book that I can --."

Chairperson Handel - "Yeah."

Mr. McIver - "Third page, David."

Mr. Worley - "I don't see the name Nettie Bell Sheppard. I mean, I don't see anything about that in my report."

Ms. LaGrua - "There should have been. There's two reports in that regard."

Chairperson Handel - "Next page."

Mr. Worley - "Is there anyone here to speak for this?"

Chairperson Handel - "I don't think so. Is Ms. Sheppard here or any of these individuals here? How about Ms. Flowers? Ms. Coleman? All right. All right. I've got a motion and a second to refer. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That's approved. The next involves Ms. Sheila Flower and we have a motion there. Any move we refer?"

Mr. McIver - "Second."

Chairperson Handel - "Motion and a second. Any discussion? They're basically the same violations. All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. The next one involves Valerie Coleman."

Mr. McIver - "I move to refer."

Chairperson Handel - "Is there a second?"

Mr. Evans - "Second."

Chairperson Handel - "Motion and a second. Any discussion? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Those are referred. All right. Colleagues, is anyone interested in a five minute restroom break?"

Mr. Evans - "Yes. That would be great, although I would note -- I would note, just because --."

Chairperson Handel - "I know I am."

Mr. Evans - "Just before the break, and just before my other colleague, here, Mr. Ritter, asked, it's 21-2-413, which says, no elector shall use photographic or other electronic monitor or recording devices, or cellular telephones while such electors within an enclosed space in a polling place. Of course, the code then previously says, only electors can be in the enclosed space. I just wanted it clear that statute (inaudible)

(Whereupon the meeting broke at 4:40 p.m. for a break and reconvened at 4:55 p.m.)

Chairperson Handel - "Okay. We are back in session, if I need a formal motion. Do I need a formal motion? I don't need a formal motion to come back in? Mr. Ritter, do you think we missed one on the Randolph County?"

Mr. Ritter - "I wasn't sure that you got 06, which is the one involving the Henry Cook changed precinct. And that's the one that had the question about whether they were required to have a hearing. I think that was tab 17."

Chairperson Handel - "17."

Ms. LaGrua - "That's correct. And that was the one I asked to defer to Ms. Almond because the Board, at the last meeting, asked for legal direction from the Attorney General's office."

Chairperson Handel - "Okay. So there was two issues under that. There was a Carol Ray Consent Order, and then a separate issue under that?"

Ms. LaGrua - "Carol Ray was under 17 with Nettie Bell Sheppard and the Consent Order for her."

Mr. Evans - "Maybe 14."

Chairperson Handel - "No. Hang on. I'm under the tabs...."

Ms. LaGrua - "I'm sorry."

Chairperson Handel - "...but I'm looking at the cases right now. 2007-000006. And Carol Ray is involved in this one. The complainant is Henry Cook."

Ms. LaGrua - "Correct, but the allegation was moving of districts and that was where the Board asked for legal guidance from the Attorney General's office, I believe."

Chairperson Handel - "Okay."

Ms. Almond - "It's my recommendation that Mr. Cook was not entitled to a hearing on that issue."

Chairperson Handel - "He was not entitled."

Ms. Almond - "Not entitled."

Chairperson Handel - "So there is no violation."

Ms. Almond - "No violation. No."

Chairperson Handel - "Okay. And so your recommendation is that you found no violation."

Ms. Almond - "Right. And that's for that issue."

Chairperson Handel - "And at this -- your recommendation is that this be closed?"

Ms. Almond - "Right."

Chairperson Handel - "Okay. Is there a motion?"

Mr. Evans - "So moved."

Mr. McIver - "Second."

Mr. Worley - "Before we get to that, could -- I mean, could we have some explanation as to why there was no violation?"

Ms. Almond - "Yes. I think I have Mr. King. He is --."

Chairperson Handel - "Could you pull your microphone down for me."

Ms. Almond - "Yes. The issue was not whether Mr. Cook was eligible to vote, it was where he was supposed to vote and that is covered by O.C.G.A. 21-2-226. And the statute is, you know, pretty clear, but when the boundaries of a precinct are changed, all the voters shall be sent a new card prior to the next primary election and there's not provision for a hearing or any further notice. Just receiving the registration card is enough notice when you're just changing someone's precinct."

Mr. Ritter - "Let me add to that. Mr. King spoke about his at length and that was what some of his comments related to. And I would just add, their concern is that Mr. Cook get a due process hearing before his precinct is changed. That's not the law. If it were the law, the election process would stop in it's track because people move all the time and they get new precinct cards issued to them. But he certainly has a right to challenge that, after the fact, if he thinks it's wrong. And he also said he's litigated this in Federal Court and he's won, and that's fine. And if that's the case, and I don't know anything about those cases. If he had Federal rulings that that's -- Mr. Cook is entitled to be in a certain precinct, then he needs to go to Court if they're in contempt of those of rulings, and have the Court address that in contempt. But that's not what this Board can do. It's not a violation in the Attorney General's office's view, so there's not to be a due process hearing before someone's precinct is changed."

Chairperson Handel - "All right. Any other questions? We already -- do you want to hear more, we had public comment on this."

Mr. Worley - "Well, I would like to hear what Mr. Cook has to say."

Chairperson Handel - "Colleagues, I will go with the consensus of the Board. We did allow 15 minutes already on this topic. Is there anything new that you would like to

hear?"

Mr. Evans - "Well if it's legal argument. At least, I can't speak -- I pretty well understand the argument and I've read the materials. To me, it's a section in their housekeeping legislation. If we want to require a hearing, then the legislation has to be changed to require a hearing, but currently, as I read the statute, I agree. I don't think it's that -- I just don't see it as being that close a call. That's just me."

Chairperson Handel - "I mean, sir, if you have nothing new to add, I mean, we're just going to have to agree to disagree with the Attorney General's recommendation. But I don't see going -- spending more time debating -- If you want to stand up -- debating on legal merit because we've got --."

Unidentified Speaker - "I don't want debate a legal matter, but y'all don't understand the facts of the case."

Chairperson Handel - "Okay. Then --."

Unidentified Speaker - "Can I just --."

Chairperson Handel - "Two minutes."

Unidentified Speaker - "Okay. Apparently, you all are under the assumption that Mr. Cook's voting district, or something, changed in 2006. It didn't change. He was placed in that district in 2002, and nothing happened until they changed him in 2006. So he didn't move, they moved him. That's the whole difference. Everything was the same since the Justice Department precleared the map in 2002. Nothing changed, he didn't move. And you all are saying he changed precincts. Mr. Cook did not change precincts. They changed it."

Chairperson Handel - "Okay. And I just want to make sure I'm clear. Counties have every legal right to change precincts whenever they want, and there's no legal obligation to hold a hearing over a precinct change."

Mr. Ritter - "Right. And that's when --."

Chairperson Handel - "Exactly. That's what I meant. I'm in a hearing with --."

Mr. Ritter - "(Inaudible)" Not only do they have to hold the official procedure, but get preclearance."

Chairperson Handel - "Okay. All right. We have a motion to close. Any other discussion? All in favor, please say aye."
(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That item is closed. With that,

colleagues, I'd like to -- I guess we need a motion to bring back off the table the Fulton County matter. I move."

Mr. Evans - "So move."

Chairperson Handel - "Second."

Mr. McIver - "Second."

Chairperson Handel - "All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. Any opposed? Okay. And, real quick before we start. I just want to also remind my colleagues that we have an additional Fulton County item with even more violations of elections code, and I think, just bear that in mind that this is broader than just this issue. Mr. Atkins. I think where we left off was whether not you would be able to agree to a Consent Order if you felt that it would be amenable or practical to agree to the paragraph in the letter that I sent to the County last week."

Mr. Atkins - "And, Madam Chair, addressing that issue only at this point and time, I've discussed that with Ms. Pye and we believe that we can comply with the Secretary's request. I do wish, if I may, to explain one thing so this Board fully understands my concern on this subject. We know -- I know, as a lawyer, that my staff has personally touched the 325 thousand-some-odd voter registration cards that are stored in the main office. The original cards. I know that because we rescanned them. We only had signatures for those in the last four months. We had approximately 250 thousand cards that are presently stored at the warehouse, excluding, of course, the ones that are in the possession of the SOS. Those were sent to the warehouse because they were scanned. The logical conclusion is that we then have an original if we have a scan. I can't be 100 percent certain about it unless I know that my staff has touched every single one of those. The only way we accomplish that is to rescan them, which is what we're going to do. That way, when we do a reconciliation report of the scanned images, we will know that everything we've scanned, we have an original for it because we've touched it in the last three months. That way, I can come to this Board and tell them directly that when you asked me if we had the rest for the original registration cards, that I am giving you the very best up-to-date accurate information I have. That was my limitation in responding in the first place. We're simply going to make people work overtime to accomplish that. All right. That's all I have. Thank you."

Chairperson Handel - "All right."

Mr. Evans - "I move that we make an order of the Board with provisions as follows. I'm just reading from the letter. Fulton is directed to conduct a reconciliation of its official list of electors, and its list of any active electors in contemplation. Fulton shall produce

a report of its reconciliation using the attached spreadsheet format, which we would make a part of the minutes, which is the spreadsheet format that's attached to this document. The report must be transmitted in an electronic format to the attention of the Secretary of State at wtaylor@sos.ga.gov, no later than 5:00 p.m., October 19, 2007."

Chairperson Handel - "All right. I have a motion, is there a second?"

Mr. McIver - "Second."

Chairperson Handel - "Motion and a second. Any other discussion? I really do have -- no, no. I'll sit on it. I'll wait to the next item. Any other comments? All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed, there being none, that is carried. All right. Our next case is 2007-0008. Hart County. It is under Tab No. 10, colleagues."

Ms. LaGrua - "Did you want to consider the other Fulton Case, or wait until we got to that on the Agenda?"

Chairperson Handel - "Is it going to be quick, or are we --."

Ms. LaGrua - "I understand, I'm ready to move onto Hart County."

Chairperson Handel - "Let's just go, because these guys have been waiting."

Ms. LaGrua - "Hart County is 2007-000008. The complainant was Ricky Carter, a candidate. The respondent is Bob Smith, the Probate Court Judge and the Election Superintendent, the Board of Registrars and those people, individually. The allegations were that a voter was issued the wrong ballot style, and that a voter was given the wrong ballot for the district. The investigation revealed that the registrar had used the wrong voter access card, and as soon as it was corrected on that allegation, it was corrected. On the second allegation about giving the wrong ballot, the elector registered prior to 1976. In 1989, the County was split into five voting districts. This particular voter lived on the line and was mistakenly placed in the wrong district. The voters then instructed, and will file the paperwork to change it. The concern that I have in this case, and the reason that I'm either recommending that the Board issue another instruction, or a letter of reprimand, or refer it to the Attorney General's offices, I think we need to take some steps to ensure that -- and this voter has voted since the 1989 splitting of the districts and have not been corrected, but the County make efforts to go back and ensure that all those people that may have been on that line between the districts are actually receiving the proper voter precinct card. And so, my recommendation would be either to refer it to the Attorney General's office for some kind of order, or for this Board to give direction for an order of some kind to be negotiated or issued."

Chairperson Handel - "Okay."

Mr. Walter Gordon - "Madam Secretary, I'm Walter Gordon. I'm the County Attorney in Hart County, and I'm here on behalf of the Election Superintendent and the Board of Registrars. This should be fairly simple and quick, certainly compared to the other matters that you've been wrestling with all afternoon. We're asking that you dismiss this case. At worst, this is a deminimous (phonetic) violation of the code section at its very worst. And I don't, with all due respect to the counsel, I don't believe that there can be a sharing of willfulness or intentionality on the part of the Board of Registrars. I have looked at the facts too, and I do differ with counsel on the facts. The voter in question -- and first off, it was a candidate that filed a complaint, not a voter. Second off, the voter who registered in 1976 voted in a number of elections until Hart County was districted, which was late 1989. Now since that time, according to the Secretary of State records, which I've examined, we all were in elections that that voter has voted in and non-district elections. She's voted in the primary, she's voted in the general elections, but in the elections in which District 4 was at issue, she hasn't voted at any of them. Again, the County was districted in 1989. She had an opportunity to vote in 1990, which would have corrected the error pretty quickly. This has to do with a rural route address. This lady's address was Route 2. And Route 2 in Hart County is a pretty long route before we had everything readdressed. And she did not vote in 1990, she did not vote in 1994, she voted for a SPLOST election and on the district election. She did not vote in '98, she did not vote in 2002. She did vote in 2006, and that's when the error was uncovered. And she's been, since that time, she has been placed in the right district. I might point out, that her husband who lives in the same house is in the same boat. His first district vote was in 1998, and he filed a change of address card and fixed it. But with all due respect, although the lady has a good voting record in general elections, she -- this is simply -- this is the first time that she ever voted in the District 4 election. It's one vote, one time, and unless there is some showing that there is -- that this is part of some larger pattern, I can't imagine why this wouldn't be dismissed."

Mr. Worley - "So it's your position that this is just an error. A one-time error, and that's there's no practice that needs to be corrected."

Mr. Gordon - "That's correct. You know, we've taken a great deal of pride in having ship-shape elections in Hart County. As far as I know, we have never had a complaint. I think there was one Ethics complaint about 20 years ago with one of the -- that somebody brought some sausage biscuits to the poll workers, the candidates."

Mr. McIver - "Can you give us your name, please?"

Mr. Gordon - "My name is Walter Gordon."

Chairperson Handel - "All right. One point that I want to make is willfulness and intention really is typically not so much an issue. I mean, that's not something -- if there

was willful, then that takes it to a new level. But not being willful doesn't take away from whether or not something occurred or didn't occur. I mean, colleagues, I would be comfortable since -- to my knowledge we had not seen a pattern, so I'll try a motion that if we can send a letter from the Board to the Registrar's office with a reprimand instructing that they must keep up with all of this going forward. Well, first is there a referral because I don't see a referral, particularly here, unless I'm missing something."

Mr. Worley - "Well I don't see a referral here and under the circumstances, I don't really see that a reprimand would be in order."

Chairperson Handel - "I think some -- I guess what I'm getting at, is some sort of written communication acknowledging that this was indeed not following the procedure and that reiterating that the procedures must be followed. Even though it was not intentional, that's -- that's where it's not --."

Mr. Worley - "Perhaps we could, if Hart County could send us a letter saying that this was unintentional, that it will not happen again, they've taken whatever steps there are to -- and have them take any steps that --."

Mr. Gordon - "May I, Madam Chairman? We've undergone a -- we have begun a manual review of all cards, and I understand that we are 70 percent complete with that review, and at that point, we can then use a software tool, which I believe you call Auto -- Auto District. Auto Precinct."

Chairperson Handel - "Again, I'm not going to -- I believe that it's our responsibility we should be sending something to the counties. And it can be something as simple as, you know, we acknowledge that this was not intentional, nevertheless, the following did occur and that the County must -- and I think that your 70 percent of the way is great, but it needs to be 100 percent of the way there. Do you have an election set for November? Do you have municipal elections in November? No."

Unidentified Speaker - "Yes. Yes."

Mr. Gordon - "We have them in the City Hall, but that's not this District."

Chairperson Handel - "Okay. As long as it's not the District, then direct notice would be need to be completed by the end of the year so that you come into the Presidential cycle completely clean."

Unidentified Speaker - "(Inaudible)."

Chairperson Handel - "Okay. It is. That's good to know. Perfect. Thank you. So that's -- that's my motion, colleagues. Just a letter to them on -- about the issue."

Mr. Israel - "Second."

Chairperson Handel - "All right. There's a motion and a second."

Mr. Evans - "I don't find no harm, no foul. So the fact that she didn't vote in other elections doesn't carry any weight for me. We've got to make sure these things are right. And I don't -- I don't buy that it has to be willful. I think a pattern, or even a -- even if we have negligence, I think it's a strict liability offense that you either do or don't comply with the rules. On the flip side, I'm a little bit concerned about this idea of a rural route -- having grown up on a rural route, that if you get it one off, I mean, it's, you know, once somebody sends their change of address card, it could easily be remedied, that we're going to come down with both feet on you. So I think, I mean, if I hear you correctly, what you're saying is just send a letter of instruction that says please complete the process to ensure that you're in 100 percent compliance by the end of the year. I think you'd be fine with that, I think we'd be fine with that."

Chairperson Handel - "That's -- that's all I'm saying."

Mr. Gordon - "Certainly, and I'm not familiar with the process, Madam Chairman, I'm familiar with the State Bar's disciplinary process. To that extent, we would be happy to accept a letter of instruction, but not a letter of reprimand."

Chairperson Handel - "I think my motion was letter of instruction."

Mr. Israel - "That was it."

Chairperson Handel - "All right. Have a motion and a second. Mr. Worley."

Mr. Worley - "I could accept that, and I just, I mean, just to clarify something. You weren't -- in this no harm, no foul, you weren't saying that it was okay because she didn't vote in every other election, you were just explaining that's why this had not come to the Board's attention previously."

Mr. Gordon - "That's why it hasn't ever surfaced before."

Mr. Worley - "All right."

Chairperson Handel - "Okay. All right. Ready to vote? All in favor, please aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none, that will be the action. Thank y'all."

Mr. Gordon - "Thank you, Madam. May I please be excused?"

Chairperson Handel - "Yes. Next item is Case No. 2007-000009. Byronville City Special Elections. It's Tab No. 11."

Ms. LaGrua - "Correct. The complainant in this was an elector. The respondent was the City Clerk. The allegations are as follows. The Mayor, or candidate, was ineligible to run due to a federal tax lien. The City Council candidate was ineligible to run due to a State Tax lien. The City -- another City Council candidate was ineligible to run due to arrest warrants. Mr. Brad was not allowed to qualify due to qualifications not being published. And Victor Clark was not allowed to vote absentee. Our findings are the following. The challenge to Kenneth Lester, which was the ineligible Federal Tax lien, found that was not timely filed and he had entered into a payment agreement. The challenge to the City Council, who was allegedly ineligible to vote -- ineligible to run due to a State Tax Lien is that that challenge was not timely filed. In terms of the candidate who was ineligible to run due to arrest warrants, a check of that individuals GCIC showed no criminal convictions in that regard. In terms of the not being allowed to qualify due to qualifications not being published, our investigation found that it was determined the qualification dates were timely published in the County's legal organ, however, it was found that Victor Clark was not allowed to vote absentee. And the reason, apparently, he was not allowed to vote absentee is that the Registrar understood she had to mail out an absentee ballot and that he couldn't vote absentee in person. Based on that, it's recommended that the last allegation involving Richard Clark being not allowed to vote an absentee ballot, either it be referred to the Attorney General's office for sanctions, or that this Board direct sanctions be negotiated in terms of training and those kinds of things in relation to the way that the City Clerk and absentee balloting."

Chairperson Handel - "All right. Is there anyone here to speak on this? Yes. If you all want to come up and state your name and address for the record for us."

Ms. Tony Sawyer - "Madam Chair, members of the Board. My name is Tony Sawyer. I am the City Attorney for the town of Byronville. My office is located at 311 West Central Avenue in Fitzgerald, Georgia 31750. And on behalf of the town, we do acknowledge that a violation occurred with that particular incident with Mr. Clark. We sincerely apologize for that. At the time, the administration had a change. The former City Clerk abandoned her job, the Mayor resigned, we had a Councilman resign, and they appointed a new City Clerk. She had not had the opportunity to have training prior to that election. She has since had training, and since has resigned, herself. But I can assure, on behalf of the town, that pursuant to the next election, we will make sure that everyone is adequately trained. We happen to the that into consideration."

Mr. Evans - "So you agree to a -- an order that a Cease and Desist Order that says don't violate the rule, and it required by a timetable to be set by the Secretary of State."

Ms. Sawyer - "Yes, sir."

Mr. Evans - "That's how I move."

Chairperson Handel - "Second. Mr. McIver."

Mr. McIver - "Somebody help me, and perhaps Mr. Ritter. I distinguish between arrest warrants and criminal convictions. What is it that the code provides that would make a candidate ineligible."

Mr. Ritter - "Well they have to be convicted. An arrest is not enough. It's not enough to validate someone from -- from --."

Mr. McIver - "All right. So, then, General LaGrua, with her GCIC scan, concluded no criminal convictions...."

Chairperson Handel - "Correct."

Mr. McIver - "...therefore there wouldn't be a violation of the code."

Mr. Ritter - "I keep telling them the file it differently."

Chairperson Handel - "Yes. Any other questions on this one. All right. I have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none. Thank you."

Ms. Sawyer - "May I --."

Chairperson Handel - "Yes. And everyone, as soon as your last case is done, you may -- don't feel like you have to hang around to continue to watch all the proceedings, though. All right. The next case is 2007-000011, and this is, again, Fulton County."

Ms. LaGrua - "This is a separate case that also is a follow up to the previous case."

Chairperson Handel - "Tab No. 12."

Ms. LaGrua - "I'm sorry. Tab No. 12. I'm sorry. And I can't present this case completely in a void from the earlier case, because we made sure, after the problems in the earlier case and the fact that we had not had any order, Consent Order, or any negotiations regarding Fulton County after the dumpster problem. I sent Investigator McBrayer out during advanced voting June 12th and 13th of 2007, to monitor Fulton County's Elections work, which were Chattahoochee Hills, I believe. During his spot visit, he found the following violations. No provisional ballot station was set up, no provisional voting materials were even on hand. There was no provisional voting booth, there were no optical scan documents posted, there were no cards of instructions posted, and there was no voters with disability kit attached to the voting unit. During advanced

voting, in spite of the knowledge that we had the issue with the ballots from the April incident with the dumpster, and our ongoing investigation, these are the violations we found clearly in this regard. I recommend that this case be referred to the Attorney General's office for the appropriate disposition, whatever the Board thinks that might be."

Chairperson Handel - "All right. Colleagues."

Mr. Atkins - "You might ask if they have a --."

Chairperson Handel - "Oh. I'm sorry. Go ahead. I'm sorry."

Mr. Atkins - "We'll make this brief. With regard to these allegations as to the way things looked on June 12th when Investigator McBrayer first arrived, we conceive that these specific violations that are listed here did exist. Those violations were corrected the very same day, and all the appropriate things were put in place as listed here. I would note that I failed to see the direct connection here. These are violations that address, specifically, the signage, by and large, at this location. In any event, we have taken the following remedial steps instantly. We established a checklist for the procedure. The person who was in charge of this particular facility, Lorraine Vernon, was a new manager. She thought she was in compliance, she was wrong. We corrected the mistake. We put a new checklist together, provided it to her, provided to everyone else, and we provided a two-step checking process where now both, our registration manager, our chief, registration chief, and then, our director go out and review each one of these facilities ahead of time to make sure their fully in compliance. So that's where we are, and we certainly would welcome having these issues addressed as part of the Consent Order that we've already agreed to entertain and discuss with Mr. Ritter and Ms. LaGrua, subject to the first case."

Mr. Evans - "So I move to have it refer."

Chairperson Handel - "Second."

Mr. Worley - "Second."

Chairperson Handel - "Got a second from Mr. Worley. Any questions or a discussion? All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Thank you. Next item is 2007-000012. Habersham County."

Ms. LaGrua - "Correct. This case, the complainant is actually our office, which I think you will some of moving forward a little bit unusual from the past, from what I'm seen."

It involves the June 19th, 2007, July 17th elections. We sent, as the Board's aware, monitors out to check different sites that were having elections during that time. One of our investigators was monitoring the June 19th elections and noted the following violations. Both of Managers and Clerks was not given at four precincts, the voter with disability of unit was available, but not set up at five precincts. Proper poll identification was not provided to five of the precincts. There were only two poll officers present at one of the precincts, and sample ballots were not posted at one of the precincts. Our investigator communicated that to the Habersham County Probate Court Judge, and let her know what the problems were. Investigator McBrayer went back out to monitor and follow up on the July 17 elections and found the following violations, yet again, and they're even more numerous, three express hall units were unsupervised on the third floor of the Court House and unsecured. Two poll -- there were only two poll officers at two of the precincts. The oath of the Managers was not given at one precinct. Proper identification was not provided at ten precincts, poll managers were late reporting at two precincts, provisional balloting was not properly set up at all. No poll officer training was provided and the DIVO Rep was left alone at the GEM server for more than an hour on election day. Apparently, the election superintendent did not attend any of the required GEM training. I've spoken to Judge Jarrell, who has indicated to me that she has communicated to the County she doesn't have the manpower or the funding to do it properly. Respectfully, I'm not sure that's the concern of our investigators, it may be the concern of this Board. But with the numerous violations that happened, not only the first time we were out, but again, when we followed up with monitoring on the runoff election, I would ask that this case be referred to the Attorney General's office with an eye towards, not only sanctions, but mandated training for anyone who deals with elections in Habersham County."

Chairperson Handel - "All right. Is there anyone here from Habersham? Come on up. And then if you'll tell us name and address for the record."

Ms. Ann Adams Jarrell - "My name is Ann Adams Jarrell. I live at 457 New Liberty Road. Habersham County, Clarkesville, Georgia. I'm a Probate Judge in Habersham County, and also Election Superintendent. I've worked in the Office of Probate Judge and done elections since 1964. This is the first time I've ever had anything like this happen."

Chairperson Handel - "All right."

Mr. McIver - "Well I have some questions."

Chairperson Handel - "Do you have an explanation for why it did happen, then?"

Ms. Jarrell - "As I told the investigator, our County has grown from 2,000 up from 29 thousand, approximately to 41 thousand. We don't have the staff in the office to do either of the jobs well and competently, that we do, because there are -- one is equal or is as important as the other. We can't close the door. My Chief Clerk was also the

Elections Manager, if you will. She went out and set up all the 14 different precincts that we have, left two of us in the office. When the investigator election day -- we're on the third floor of the County Courthouse and we take all the polls, express polls down to the basement because our poll officers are older folks, like most people's are in the world, and they can't get them down from the third floor. So with three women, and two of them gone back to get the boxes that are sent, along with those express polls, there was nobody in the hall."

Chairperson Handel - "Have you, I mean, if you feel like you don't have adequate resources, et cetera, have you so briefed your Board of Commissioners?"

Ms. Jarrell - "For the last four years. I've applied only three."

Mr. McIver - "Maybe I can help you get that."

Mr. Evans - "Yes, Mr. McIver."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "I was about to say I'll be glad to go to Habersham County and help her on election day. That's how strongly I feel about it. And I know in our County, we can script deputies and anybody else we can get a hold of to make sure that people get things done, but what is more troubling to me is that somebody, like myself, who's gone through the GEOC training -- not that I needed to, but I wanted to know what it was about...."

Chairperson Handel - "Right."

Mr. McIver - "...but did not know so. Can you explain to me why you don't take the time to undergo the training?"

Ms. Jarrell - "It's not that. Somebody has to be in the Probate Court. That's ahead all of us, except for one class, and I just couldn't get -- we have another lawyer --."

Mr. McIver - "Mr. McCarthy. Go ahead. I'm sorry."

Ms. Jarrell - "I'm sorry. I'm sorry. This has been more for the Clerk that quit and the election worker that quit election day. She's been there for seven years and she's a whole lot more, I'm embarrassed to say I'm not real computer literate. And I think that she would be on top of it, and she was. I do go for the training for the Georgia Elections training, and I do know how to carry out everything other than a lot of the DRA equipment. But I'm not totally in the dark about that, but no, I have not had that training."

Mr. McIver - "Now some of this falls on you, doesn't it, Ms. Jarrell?"

Ms. Jarrell - "Yes, it does. It certainly does."

Mr. McIver - "This isn't like the dog ate my homework. I mean, this is your responsibility. You take taxpayer dollars. You're paid for this job, and you take those dollars and you spend them. But you're not providing for the responsibilities that you have."

Ms. Jarrell - "I don't take those taxpayer dollars and spend them, and it doesn't cost anything if I don't go for the training. Is that what you were --."

Mr. McIver - "No. It's that you were accepting your salary for this job and you're not fulfilling your responsibilities. That's what jumps out on this page, to me. This isn't so much the County, and others, but you have responsibilities to comply with and you're paid to comply with those responsibilities and you're not doing it."

Ms. Jarrell - "Right."

Mr. McIver - "And Mr. McCarthy, how easy it for her, going forward, to obtain the training that she needs? Can this be done online, can it be done by correspondence? Can we send somebody -- what can we do to help poor old disabled Habersham County?"

Mr. McCarthy - "Members of the Board, Madam Chairman, we do have GEOC training scheduled for this coming month on October 17th, 18th and 19th, which will help remedy this. There are also additional classes would be available through KSU to address particular needs with the operation and use of the voting equipment."

Ms. McIver - "Is it likely Ms. Jarrell's aware -- does she know these dates?"

Mr. McCarthy - "The dates have been publicized."

Chairperson Handel - "Are you signed up?"

Ms. Jarrell - "Yes."

Chairperson Handel - "Okay."

Ms. Jarrell - "You know, if I may say so, I'm not taking elections lightly. I'm not taking the training lightly. I didn't start doing this yesterday. I've been holding elections since 1964. We started with paper ballots, went through the shoot voting machines, survived all that, and we haven't -- we've had challenges fall within the County, but this is the first time any horror like this has happened. And, to me, it is a horror. I'm not proud of it."

Chairperson Handel - "Uh-huh (affirmative). All right."

Ms. Jarrell - "But I'm not getting any younger, so maybe I'm not any faster."

Chairperson Handel - "Any other questions, colleagues? I guess I concur with Mr. McIver. I think, you know, this is very serious situation, and certainly, I very much appreciate the budgetary constraints, as well, but, again, that's also, I think, something that, you know, frankly, if really and truly it was getting to a critical situation and you, even remotely anticipated that something like this was going to happen, you know, letting somebody else know might have been helpful because we maybe could have done this ahead of time, so -- but I guess what I would like to do is --."

Ms. Jarrell - "May I say something? I have newspaper articles where I have been to the Board of Commissioners and asked for help."

Mr. Evans - "The person they may -- having dealt with this before, Mr. McIver and I have, you know, I almost wonder whether or not we need to think about -- at some point we've done this before, which is we've made the County Commissioners respondents and come to appear before us."

Mr. McIver - "That's exactly right."

Mr. Evans - "And so, I just, you know, I --."

Chairperson Handel - "Let me ask, do we have any Habersham County Commissioners here today? No. Okay. Just checking."

Chairperson Handel - "And, you know, if I might add, you know, I actually remained stunned that County Commissioners do not show up for this when their County elections individual has a violation. I mean, I can assure you if I ever knew Fulton County had a violation, I would be here. And just so that the Board knows, when the notices go out, we are copying -- if there's a Board -- a Board of Registrations or Elections, we are copying the Chairman on the notice, and we are copying the Chairman and the County Commission."

Mr. Evans - "Well my only comment here on this particular file, is that they -- it felt we're hearing that it's a resource issue, in addition to a training issue. But it's a resource issue, which is, here are the newspaper articles, and it would be great if you put those in our minutes."

Chairperson Handel - "I'll be glad to."

Mr. Evans - "Because, you know, the appropriate remedy, then, is for us to table this particular issue so that a respondent can be added and notice can be sent so that the next time we hear this, we get -- because the last thing I want is for the Board of Commissioners to show up at the next meeting, and you're not here, and they say, oh, no,

no, it's -- so what we want is everybody here."

Ms. Jarrell - "Also, if I may add, we've had three sitting Grand Juries in the last year-and-a-half, and I attended them. I've had Grand Juries presentiments, too, where they've recommended that we have that."

Mr. Evans - "Well I don't want the Grand Jury here, not do I want to go to hear from any other Grand Jury. Dave, you could go in my place."

Chairperson Handel - "I will say, though, as a former County Commissioner, there is always two sides to the story, so please know that I'm going to be interested in hearing the other side."

Mr. Evans - "So I would move to table so the additional respondent could be added."

Mr. Israel - "And I would second that."

Chairperson Handel - "Could I offer -- I don't know if you'll accept a friendly amendment, but as part of this motion that, I don't know if we can just put in an urging that you attend and fulfill the training requirements that are coming up."

Ms. Jarrell - "I'm planning to. I'm going to."

Chairperson Handel - "Okay. All right."

Mr. McIver - "I second the amendment."

Chairperson Handel - "All right. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. Thank you for being here, and we'll see you next time. All right. Our next item is 2005-000060. City of Hampton. And it is under Tab 15, colleagues."

Ms. LaGrua - "Correct. This is a little unusual, which is why all you have is two letters. I received a letter from Scott Mayfield earlier this year referencing an earlier case where the State Election Board had asked that a letter of instruction be sent to a Ms. Haynes, that you had found in violation of the City of Hampton. The response from Mr. Mayfield says she's gone, does that suffice? I believe there's supposed to be somebody here from Henry County, the City of Hampton."

Chairperson Handel - "Is there anyone here? Yes, ma'am. Come on up."

Ms. LaGrua - "She just left. Oh, there is."

Chairperson Handel - "No. Come on up."

Ms. LaGrua - "And the reason I say it is one of my questions to Mr. Mayfield was, since she's gone, are the new people getting the training that the old people had not gotten that this Board issued the letter of instruction. I think she has a response to that, if I could ask her...."

Chairperson Handel - "Come on up."

Ms. LaGrua - "...to give that -- her response."

Mr. Evans - "Well our evidence is saying that they contracted with the County to do it all."

Ms. LaGrua - "That's what --."

Chairperson Handel - "Tell everybody your name."

Ms. Janet Shellnut - "Janet Shellnut, Director of Elections for Henry County. I guess I was kind of being nosey this morning and I was looking at the Agenda, and I called Hampton and said, why are y'all in the Agenda. And they didn't know anything about it. And I said, well I'll let you know if they're going to come get you, because you're on the Agenda. And about 30 minutes later I got a call from Scott Mayfield asking me to let them know that we have contracted to do their elections."

Chairperson Handel - "Okay."

Ms. Shellnut - "And I've gotten all my certification --."

Chairperson Handel - "Yes. I know you're certified. I've seen you in action."

Ms. Shellnut - "I'll -- I'll -- I'm not doing one city, but all three of them."

Chairperson Handel - "Okay. You're doing all of them."

Mr. Evans - "So I would move that we would accept that as compliance, which is the subcontract out. Listen, I'd be happy if every City contracted through a qualified...."

Chairperson Handel - "Isn't that the truth."

Mr. Evans - "...well-trained County."

Chairperson Handel - "Second. Any other questions?"

Ms. LaGrua - "Can I just get a clarification? Does that mean we're going to close it or do we need to issue something? I'm not sure exactly what policy --."

Mr. Evans - "No. All that'll happen is it'll reflect on the minutes that it reflects in compliance with the previously agreed to order."

Chairperson Handel - "Okay. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. That one passes. Thank you."

Mr. McIver - "I have one item I'd like to bring up."

Chairperson Handel - "Sure."

Mr. McIver - "My beloved City of Eatonton asked the County of Putnam to run their elections for them, and then won't pay them for it. So a contract would be very helpful."

Chairperson Handel - "Make sure you get paid back there, now. All right. Our next item is 2006-000039. And this City of Riverdale. It's item -- Tab No. 17."

Ms. LaGrua - "Correct. This involves a recall petition circulated to recall Mayor Phaedra Graham."

Chairperson Handel - "I'm sorry. It's Tab 16, colleagues. I told you wrong."

Ms. LaGrua - "During that investigation, what we found is the following. And there a number of respondents in this case. Mr. -- The complainants were Stephanie Campbell and Sharon (inaudible). The respondents are Michelle Bruce, Barbara Williams, LeRoy Jones and Evelyn Dixon. Mr. Herrington, who is a witness in the case, advised that when he returned his signed petition, he was asked to help circulate a petition for recall to Michelle Bruce. There were blank signature lines on some of the pages. He told Ms. -- Mr. Bruce -- or Ms. -- Mr. Bruce, I believe. It's Michelle. Ms. Bruce, that his petition had not been notarized. She indicated she would take care of it. Ms. Bruce further advised our investigator that she did not participate in circulating the petition, but there was a number of people that advised Michelle Bruce, and her mother, visited their homes requesting them to sign the application for the recall petition. Evelyn Dixon admitted she took possession of the applications. Had a coworker that was a notary, notarized the petitions without the signatory being present. Ms. Reeves advised that Ms. Williams was actually in the car while Ms. Bruce went inside and talked to Mr. Herrington regarding the petition. Carol Reeves advised that even though she knew her signature was to be notarized, she signed her name as it circulated several pages, when told to do so by Ms. Bruce. There are a number of violations here. Tewanna Smith, potentially, is

in violation of O.C.G.A. 45-17-8, which is not an elections code violation, but in that she failed to confirm the identity of the document signer when she notarized it. The other two violations are Ms. Williams, in that she circulated the application petition and did not sign an affidavit, and Ms. Williams and Ms. Bruce, in that they circulated the application recall petition and did not sign with an affidavit. Based on all that, the recommendations to this Board are two-fold. It is recommended that cases involving Michelle Bruce and Ms. Williams be referred to the Attorney General's office for appropriate action. And it's recommended that Ms. Smith's case be referred to the Clayton County Solicitor General's office for appropriate action. I -- I don't know that we have -- that the Board has jurisdiction over the actual notary issues that are present in this case, and that Ms. Smith may have violated by notarizing this petition without the signatory being present. So the recommendation is sort of two-fold with the two people involved in the recall petition, Ms. Bruce and Ms. Williams be referred to the AG's office and the other case be referred to the Solicitor's office."

Mr. McIver - "May I address a question, Ms. Chairperson?"

Chairperson Handel - "Yes."

Mr. McIver - "Would the catchall feature capture this violation of 45-17-8E?"

Mr. Evans - "I don't think so. I don't think -- I think we decided, before, you and I talked about this where we can't be title 45 violations. We've actually had this before. It was the under oath one."

Mr. McIver - "I just didn't know if anything changed since those discussions, that's all. So we clearly will be beyond the scope of our part."

Mr. Evans - "That's right. That's how you and I heard it before."

Mr. McIver - "Yes. Absolutely is. No reason to think otherwise, though, Mr. Ritter?"

Mr. Ritter - "No. Not at all. Mr. Worley asked a good question, before, and I'll just say this. Here you're talking about a recall petition and the notarization of that recall petition. That recall petition would be under Chapter 4, so it's not under this chapter to start with. So it's not going to fall under the catchall provision just from the get-go. So I don't think you have that all and I don't think you've got title 45."

Mr. McIver - "Okay."

Chairperson Handel - "All right. And -- well what about the other two? The Bruce and Williams violations?"

Mr. McIver - "I move to refer as recommended by Attorney General."

Chairperson Handel - "There's a motion and a second."

Mr. Evans - "We have somebody here --."

Chairperson Handel - "I'm sorry. I'm sorry. I didn't see you. I'm sorry. I'm so sorry. Again, if I could ask folks if there's an item you want to speak on, please come on and stand up so I can see you and I won't miss you."

Ms. Michelle Bruce - "I apologize, Madam Chair, and Honorable Board. my name is Michelle Bruce in this case. I -- My mom is elderly and she cannot be here. She's not been well. Diabetic. First all, this is the first time I've ever been before this Board. This is our support. Of our Council Members we have we have brought up since 2004 (inaudible) violations, I've gotten the documentation, I've got the evidence in this notebook. Campaign to get started form has been filled out correctly."

Chairperson Handel - "If I can stop you on that, though, those things don't come before us anymore and I can't do --."

Ms. Bruce - "(Inaudible)."

Chairperson Handel - "I appreciate your concern."

Ms. Bruce - "Oh, okay. Well I believe in strong ethics and I believe that the ethics -- the State should have a strong ethics on all of it's -- I said, I will support that. In this case, we have Clayton County, for instance, I've been elected in office. I'm controversial anyway, because, and this has been a personal attack for me and my mom, for one council member and a man that put all these people in office in Clayton County. His wife is the D.A. There's a lot of conflicts of interest and everything from every level. And hiring their friends, I'm sure their friends get paid, all that crap. These, and there's evidence here to support it. I have written both parties, the Secretary of State, State Attorney General's office from '05 to the present. Have not responded back from nobody. And Council member Wallace had the same concerns -- from nobody. Just a weapon, nobody. Eldrin Bell, he knows all about the staff. And I'm controversial because I'm the only elected official in the United States that is a hermaphrodite, and they think it's a gay issue and I'm gay bashed, which is not a symmetrical issue. These people that made these charges are Lee Scott, Jill Scott Clemmons (phonetic). There's evidence of that. I can't remember what happened four years ago, of course, I keep good documents of what we have been through. Second off, if I was involved in a recall of the Mayor of Riverdale to begin with. We have a Code of Ethics, we also have an impeachment clause in the City charter. Any citizen or any official can use that as an option before a recall. I think these are erroneous charges against me and my mother. I have also referred to -- made complaints about this since I have not heard no response from either office to the U.S. Attorney General. At least, I have not heard back from them as of yet, and I do have that documentation as well."

Mr. Evans - "So did you circulate the application -- the recall petition?"

Ms. Bruce - "Sir, I do not even recall even having anything to do with that back then because my regular job, I'm a car repossessor in Birmingham, and at that time I was keeping at my job. Also, Mr. Herrington, who's been well active in our community with the community, we want our community to be very active, and Mr. Herrington is different, as well as a council member. I have the minutes right here where I tried to get who made the complaints. It's under investigation. They -- Secretary of State's and Attorney General, obviously I could not get that because they was under investigation. But being here, Mr. Scott, which is a good friend of Mr. Herrington, stated the fact on City limits, which I have right here, that a council member, and besides me, the other council members are doing unethical things, and we was trying to pass our ethics orders to revise it so we would be a City of ethics of GMA."

Mr. Evans - "So what happens for us, though, is if we have one set of folks who say you did participate, and you say you didn't participate, we're not -- we're not sitting -- let me just finish. We're not sitting as fact finders, so all we do is then we say, okay, we need to get the facts all sorted out for us by an administrative law judge who then can come back and say, all right. We heard from the complainant, we heard from the respondent, and here's how the facts stack up. And so, I hear you, the very fact we have two different versions of the facts. One saying you did participate, one saying you didn't very much means -- crosses the threshold for what we have to do to figure out, okay, how do we just get to the what the right answer is."

Ms. Bruce - "I want to also point out, when somebody makes an allegations and this right here, that names them first without having any kind of handwritten analysis done from the get-go, and coming and making allegations to this Board to the State that has no proof of that to begin with, that's why I'm saying this is an erroneous charge and that we have placed -- we have placed, you know, our City Charter for impeachment, why would I get involved when all I got to do is fill out the duty impeachment process, or just like any citizens arrest."

Mr. Evans - "See, a judge needs to hear all this from you."

Chairperson Handel - "Exactly."

Mr. Evans - "We need them to hear that so they'll hear the full side of what you're now sharing with us, because we don't really, today, have, you know, you can see how full our Agenda is. We don't have --."

Ms. Bruce - "I mean, I'll sit through and I'm willing to, you know, going through all this right here because this is a lot of evidence."

Mr. Worley - "I have a question."

Chairperson Handel - "Mr. Worley."

Mr. Worley - "This recall election that these allegations were made in connection with. When -- when did that occur?"

Ms. Bruce - "2004, to my knowledge, and to my knowledge that this is the first -- this was the first of 100 signatures, when they had to go through -- to my knowledge, they have to go through another process of -- of some of the other signatures that took three or four months after that. And this recall petition did not go through at all."

Mr. Evans - "So based on that, Madam Chair, I would move that we refer so all of this can be sorted out so that you can tell them -- give them all this information."

Chairperson Handel - "Yes. I thought -- but for a second, I didn't hear."

Mr. McIver - "I had made that motion earlier."

Mr. Evans - "Oh, I'm sorry. Second."

Chairperson Handel - "Motion and a second. Any other discussion? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? Okay. There is none. Thank you."

Mr. Evans - "And if you get those other information you think we should look at --."

Ms. Bruce - "I do, and I think that this body or the State Attorney General's office, or the Secretary of State's office where this Board designate become, I'll be glad to share this information because of all this information I got from Open Records Request. And it's also is the (inaudible) of some elected officials that's pressing these charges. It is also appears on lines of many on campaign disclosures."

Mr. Evans - "You need to get all that to the appropriate people."

Ms. Bruce - "Thank you."

Mr. Ritter - "I'll walk out and --."

Chairperson Handel - "Okay. Thank you. All right. Now we move to cases coming in from the Attorney General's office. We have case 2005-000032. City of Fitzgerald, and it's under Tab 18, colleagues, and there is a proposed Consent Order with -- with that Tab."

Ms. Almond - "Yes. This case involves allegations that occurred during the November, 2005 and December, 2005 elections in the City of Fitzgerald. The three respondents -- I'll take up the first two respondents first. Respondent Henry D. Tyson, the Election Superintendent for the City. There's Linda Rineair, who's Elections Registrar for the City. They're both alleged to have violated O.C.G.A. 21-2-24 -- 224E when they failed to check the accuracy of the electors' list that was to be delivered to the County Board of Registrars, and to identify the means of any voters who weren't qualified to vote, and then in the November, 2005 election, because they didn't fulfill their duties. One voter voted he was not a resident of the third respondent Charles C. Hall. In addition, the other -- 12 other electors who were supposed to be registered to vote in the County, but were registered in the City. The Board sent it to us in December for an Administrative Hearing. Now the respondents -- the son is Tyson, admitted to the conduct and admitted they violated the code, and they signed the Consent Order providing for a Cease and Desist Order. I recommend that you accept that Consent Order through the consistence of what the Board has done for similar violations. And I can go ahead and address --."

Chairperson Handel - "No. We should probably take this one. Any questions on this particular --."

Mr. Evans - "Would you mind taking a training?"

Chairperson Handel - "That's what I was wondering."

Mr. Evans - "That is the only file that I've looked at and I didn't think it (inaudible) but I do think Cease and Desist, but I also thought training."

Ms. Almond - "Okay. So I could add a training."

Mr. Evans - "Is there somebody here from --."

Mr. Gil Brady - "Yes, Your Honor. Excuse me."

Mr. Evans - "Do you --."

Chairperson Handel - "You called him Your Honor, again. See, he likes that."

Mr. Brady - "My name is Gil Brady, I'm from the Attorney's office of Fitzgerald. We were here back in December of last year. Mr. Tyson is with me here today. We basically went through the voter list and just missed a few, is what happened. I mean, it was a nonintentional violation. They did actually review the list, and we just, apparently, missed, I believe it was 12 names on there who were -- should have been in the County, they were in the City. I think there are a couple that live right on the line and there was a question about that. And then, one individual, Mr. Hall, Mr. Hall is here. He voted -- he -- I think this Board found that he was a resident of Atlanta,

although he worked in Atlanta for a number of years, I don't want to speak for Mr. Hall, but I know he's lived in Atlanta for a number years in this general area. He's never voted anywhere else in another election and he thought that he had maintained his residence in the City of Fitzgerald and that was just an oversight. But these folks have been to the appropriate training. I think they've been to all the training required of the --

Mr. Evans - "Would you have any objections if we added having completed the required training?"

Mr. Brady - "No, sir."

Mr. Evans - "Normally, it's just that in normal hearing boards we have those three pieces."

Chairperson Handel - "Absolutely. All right. So is that a motion to accept with that change."

Mr. Evans - "Yes."

Chairperson Handel - "Second. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? All right. And the next one."

Ms. Almond - "The voter who actually voted outside of his residence. He's admitted it to the conduct and he signed a Consent Order of the like for a hundred dollar fine."

Chairperson Handel - "Was this Mr. Hall? Did you want to speak, Mr. Hall, or are you okay with everything?"

Mr. Charles Hall - "(Inaudible)."

Chairperson Handel - "Okay. All right. Is there a motion on this one?"

Mr. Evans - "I move that we accept the Consent Order as is --."

Chairperson Handel - "All right. Second. Any other --."

Mr. McIver - "I have a question."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Does anybody recall, is a hundred dollars consistent with this violation?"

Mr. Evans - "A hundred is, but normally we have a reprimand."

Chairperson Handel - "Yes."

Mr. McIver - "That was my next question, it was moving away from that -- having a reprimand on that."

Mr. Worley - "As well as I recall from the last meeting, it didn't seem to be any indication that Mr. Hall had acted intentionally, and I think it was his belief that he was still legitimately a resident of Fitzgerald and able to vote in the elections."

Mr. McIver - "All right."

Ms. Almond - "Yes. That's correct."

Mr. McIver - "I'm fine with that. I'm filing a motion this gets moved."

Chairperson Handel - "And you're registered where you're supposed to be registered now."

Mr. Hall - "Yes."

Chairperson Handel - "Okay. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Chairperson Handel - "I have one no. All right. Thank you. Next item. Thank y'all. 2005-000073, which is Heard County."

Ms. Almond - "And this involves allegations in connection with November, 2005 elections for the County. Respondent, Robert Daniel is a registered violator (inaudible) various code violations when he submitted an affidavit in connection with his notice of candidacy for County Commissioner. He's also stated that he was out in Heard County when he actually moved -- had moved to Troupe County a month before. The Board was referred this to our office for Administrative Hearing. The respondent has admitted to the conduct and he's agreed to a \$200 fine."

Chairperson Handel - "All right. Is Mr. Daniel here? All right. I just want to make sure that I understand this. So -- and, for consistency sake, I mean, \$200, candidly

seems awfully low to me, for someone who...."

Mr. McIver - "No recourse."

Chairperson Handel - "...fraudulently concluded a document. I mean, I think about what would happen in other areas of purview for the Secretary of State's Office if someone filled out a document and just blatantly lied on it. I mean, that goes to whether someone registers to vote and blatantly lies of where they live, or blatantly lies where there are licenses boards, so I'm not going to be able to support this."

Mr. McIver - "I'd like to issue a reprimand."

Mr. Evans - "It's been our consistent policy. It has to have a reprimand in it because we took the position about a year -- year-and-a-half ago that we were going to elevate these offenses. If you remember, I forget the specifics, I mean, we had another member. We didn't apply to him, but said let it be in the minutes from henceforth."

Mr. McIver - "I wish Mr. Ritter were here to hear this, but that's off on the recall."

Chairperson Handel - "We can grab him, maybe, and ask him to come in. I guess, colleagues, I appreciate wanting to raise the bar previously, and I think that's a good intention, but I, frankly, think that given the volume of violations that we get before us ongoing here, that we need to raise the bar a little bit more. And an individual blatantly trying to run for office in a jurisdiction where they don't live --."

Mr. Evans - "Oh, no. I'm not disagreeing with you. I --."

Chairperson Handel - "Yeah. I mean, oh, yes. No. I just think this is pretty severe to me. I'm having trouble understanding."

Mr. Worley - "Madam Secretary, if I recall, and I don't think you were on the Board when we first considered this, but this was a very egregious violation."

Chairperson Handel - "It was very --."

Mr. Worley - "And it was, I mean, it was no question that this was a violation and --."

Mr. McIver - "And we talked about a thousand dollars."

Mr. Worley - "I mean, we can only take it very seriously."

Chairperson Handel - "I mean, I will. I'm not going to be able to support \$200. This is Mr. Daniels case, Mr. Ritter."

Mr. Ritter - "Okay."

Chairperson Handel - "Is there going to be -- Do I hear a motion on this Consent Order? There isn't one. So I think we've heard some --."

Mr. Evans - "So you need to go back and you just need to say to him, you know, I can't -- I mean, if you want a sense of direction, I think we talked about a thousand dollars and a public reprimand."

Ms. Almond - "Okay. A thousand dollars and a reprimand. Okay."

Mr. McIver - "Then what about Cease and Desist?"

Ms. Almond - "Right. Yes."

Mr. McIver - "And then if he ever does it again, it'll be --."

Chairperson Handel - "Let's just say about that one for now. All right. The next one is 2006-000008. City of Greenville."

Ms. Almond - "Yes. This respondent is Robert Worley. He's the Assistant City Clerk for the City of Greenville. These allegations occurred during the March, 2006 Municipal Elections in the Greenville. He's accused of, in fact, of assisting two elderly voters with absentee ballots, assisting -- taking possession of their ballots, and assisting them with their absentee ballot applications. He did this at the voter's request, assisting with the ballots, applications, and then personally delivering the ballots to City Hall for the voters. At the September, 2006 meeting the Board referred this case to our office to negotiate a Consent Order, and Mr. Moreland has signed a Consent Order for a hundred dollar fine and then a Cease and Desist. So I'd recommend --."

Chairperson Handel - "Is Mr. Moreland here? Okay. I don't know if I have that chart, but on absentee ballot violations, were we -- I thought we were going to do per violation. And again, this was probably negotiated prior to my being here, but I thought --."

Mr. Evans - "It was a hundred per violation and a public reprimand, accompanied by a Cease and Desist."

Ms. Almond - "Okay. So that'll be \$200 to leave here."

Chairperson Handel - "So that's all one?"

Ms. Almond - "Would that be for --."

Mr. Worley - "Are we talking about 2 -- a hundred dollars per each violation of a separate act, or each voter that's been assisted improperly with an absentee ballot?"

Ms. Almond - "I think --."

Mr. Evans - "My recollection was -- I don't know what we addressed that -- what we had said before was it's a hundred dollars per ballot. If you want to touch an absentee ballot, illegally, it's going to cost a hundred dollars per ballot. And these other -- these other issues kind of got rolled in. But that's kind of what we set as the bench. Because when (inaudible) clear, if you touch 52 ballots, which we had, that's an expensive touch."

Ms. Almond - "Okay."

Chairperson Handel - "You found that 21-2-381 and -- was not a violation."

Ms. Almond - "Right."

Chairperson Handel - "Okay. So it is the two -- two absentee ballots with three violations per ballot. Is that what you're saying?"

Ms. Almond - "Two. Yes, two violations per ballot. So --."

Chairperson Handel - "So it was two voters that he assisted, so, I mean, I think a minimum it has to be per voter who is assisted."

Ms. Almond - "Okay."

Chairperson Handel - "That's just my sense, so we'll sense comes next."

Ms. Almond - "So it's \$100 per ballot and per person assisted."

Mr. Evans - "The way we phased it before, was every ballot is a hundred bucks. So -- we didn't (inaudible) which is to say. And then you had three violations per ballot. We just really, so that everybody knows what the price tag is, if you're going to mess around with absentee ballots, it's going to be an expensive proposition."

Ms. Almond - "Okay."

Mr. Evans - "So before the --- you know, my sense is it be \$200."

Chairperson Handel - "That's my sense."

Ms. Almond - "Okay."

Chairperson Handel - "All right. Next item is 2006-000038. Marion County."

Ms. Almond - "This is also a case involving handling of absentee balloting. There are

three respondents, and they're accused of assisting unpopular system voters with their absentee ballots and taking them off the possession of them. One respondent, respondent Thomas, assisted at least 13 voters with their ballots by -- they're filling out the backs of the ballot envelope, and she actually took possession of the ballots of 17 voters, violation of the code. Respondent Brown assisted 13 voters with their ballots, and mailed off the ballots for seven voters in violation of code. And respondent Graham assisted six voters with their ballots, and mailed off ballots for four voters in violation of the code. The respondents in this matter have admitted the conduct in question and they wanted to negotiate a Consent Order at this time. Their admissions are -- they should be in the tab, the agreement they're willing to admit to. Instead of suggesting the sanctions, I thought it might be better for the Board to just let them come before you and see if they if could work out something, if possible."

Chairperson Handel - "All right. Let's start with -- it was Ms. Thomas. Did you want to address the body. And then, do we have Ms. Brown and Ms. Graham. Okay. Why don't y'all come up front and then we can -- did you want to say anything to the Board?"

Ms. Gladys Thomas - "Nothing, except --."

Chairperson Handel - "Why don't you come up so we can hear you in the microphone, please."

Ms. Thomas - "My name is Gladys Thomas, and I, you know what happened when something the absentee ballot envelope. That's something that I had did before, but the Board didn't tell us I was doing something wrong. When I got the application, it was the same thing with the other envelopes. And then, they never said anything that we were wrong 're saying we were wrong that we was doing. But I didn't do nothing wrong. You know, not intentionally. And the one was mail, most of those my kids and grandchildren, and great-grandchildren."

Chairperson Handel - "Okay. Nonetheless, it was in violation."

Ms. Thomas - "I mean, I know it was wrong. I mean, I know it's wrong, now, but while I was doing it --."

Chairperson Handel - "Okay. How about Ms. Brown. Did you want to say something."

Ms. Marie Brown - "My name is Marie Brown, I'm from Marion County, and after talking with Mr. McBrayer when he came to me with the allegations, I explained to him that I did -- I did do the ballots, write on the ballots on the ballot envelope. But I also, I never circled in the little, you know, but now there is some that were, I think maybe three, that I did do the circle there, the ballot for them. And I wrote my name, but I assisted these people. One was my church member who had a stroke, one was a cousin in the nursing home, and I signed my name to those that I did assist them. And my thinking was, and I, you know, just as I'm sitting here today listening, and I guess it makes a lot of sense. But my thinking was, if I didn't circle in the little ballot, you

know, the...."

Chairperson Handel - "The vote."

Ms. Brown - "...the vote, the writing on the envelope was not assisting because that -- because that -- because what happened to some of these people, they would call me and say there was an amendment at that time and it was quite extensive. They were calling and saying what does this mean? And I'd say, do it the best, I don't know what all of them mean, but do it the best you know how, sign it, put it in the white envelope, seal it and make sure you sign your name on it and send it in. But there were some that I did do and signed my name to them."

Chairperson Handel - "Okay. All right."

Ms. Brown - "But I assisted. And, you know, after to Mr. McBrayer and I explained all of that to him and, you know, he was nice and said well, you know, anything you do with a ballot is considered assisting. So, I, you know, if that's the case, and I told him, I said, well, then, I'm guilty because I did do that and I did take some and they would ask me would you drop this at the post office for me. And I did do that. So, you know, but I'm at the mercy of the Board and I, you know, I just -- I would wish you all would just consider that it was never intention to do anything illegal."

Chairperson Handel - "Okay. How about Ms. Graham. Thank you."

Ms. Deborah Brown - "Good evening. My name is Deborah Brown, and like I said, never knew that I assisted because I always assist my parents, and I always have done those and signed my name, but just one or two people asked me, they said, what do I do with this envelope. And so, I -- they said, I don't know what to do with it and I just filled it back out for them and that was it. And like I say, I didn't even know that was a violation because I assist my parents and I do sign my name to them. I sign my name to my parents and my brother who is disabled. But other people just came to ask me, they say, what do I do with this envelope. And so I did it for them. Also, mailing it, a couple of them asked me, they said, how much does it cost to mail it. I said I don't really know because I'm just about to turn my parents in. So I took it to the post office and the man weighed it and he said, well -- because some of them came back. Some people didn't put enough stamps on it, so some of them returned back to them. So I just took them and had the guy, he weighed them, and he told us all it was 60 cents. So I say 60, lady cost you 50 now. So he put them on the thing and weighed them, but -- you know, I didn't know I wasn't supposed to do that either."

Chairperson Handel - "All right. Colleagues?"

Mr. Ralph Brown - "Excuse me."

Chairperson Handel - "Yes."

Mr. Brown - "Can I speak on their behalf, also?"

Chairperson Handel - "Sure."

Mr. Brown - "My name is Ralph Brown. I'm the Mayor of Buena Vista."

Chairperson Handel - "Sure. Please come on up."

Mr. Brown - "I just want to say, coming from the standpoint of a municipality and as the Mayor of the City of Buena Vista, I've been knowing the ladies all my life. You know, outstanding citizens, has never been in trouble with the law. They've called my office on numerous occasions scared to death. They're meaning of -- I understand you said a hundred dollars per violation. You're looking at two senior citizens who are on fixed incomes, where a hundred dollars per violation is extremely stiff. You know, I'm just hoping that you really offer some consideration. They've never been in trouble with the law. They've always done anything to promote voter registration, (inaudible) and I would think it would be a tragedy if we don't something to try to help them out at this particular time, and I'm just asking you to consider those facts, please."

Chairperson Handel - "All right. Thank you."

Mr. McIver - "Madam Chair."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Consistent with His Honor's remarks, I would also ask that we remember these folks have taken, not only time from their day, but the expense to come all the way up here to Atlanta and sat patiently through this meeting. And I'm particularly impressed with their honesty. They've come forward, and it's through their admissions that we really know these facts."

Chairperson Handel - "Exactly."

Mr. McIver - "And so, I would be inclined to -- to support the most minimum of sanctions in this regard. I know in going forward it won't happen again."

Chairperson Handel - "I agree. I mean, you've heard us talk all day long about being serious about absentee ballots. Obviously, we want to be mindful that there are elections officials who, frankly, I have a very high expectation that elections officials and elected officials, such as you, Mr. Mayor, and I'm sure that you do know precisely what the rules and procedures are. There is, you know, some latitude, I think, for individual citizens and I'm certainly very mindful of the fact that you have fixed incomes and I think that, obviously, it doesn't make any sense to try to get blood from a turnip, as they say. My dad always told me, and so, we're not going to sit here and try to affix a fine

that is going to have an extraordinarily undue burden on any of you. And, like Mr. McIver, I am always persuaded when individuals have the courage and heart to stand up and say, hey, I made a mistake, messed up. I'm accepting accountability and responsibility and that's what the three of you did. I didn't -- Does this Consent Order have any monetary fine in it?"

Ms. Almond - "I didn't include it."

Chairperson Handel - "Oh. You didn't do one. I hope you can understand that I have to offer some -- put some amount on the table and know that we will work out. I will be, in this instance for these individuals, colleagues, a hundred dollars per individual, unless you think that we need to go higher. I want to be consistent, but I also want to be mindful of ability to pay. And I think we should always take that into consideration."

Mr. Worley - "I can support that."

Chairperson Handel - "All right. That would be my motion and the Consent Order would be Cease and Desist, won't do it anymore."

Mr. McIver - "I'd add a reprimand."

Chairperson Handel - "And we have to have a reprimand, but I know you understand that. And then a one hundred dollar fine for each of you."

Mr. Worley - "I would second it."

Chairperson Handel - "Mr. Evans, did you want to add anything. All right. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Chairperson Handel - "Okay. We have one opposed. All right. All right. Next item. 2004-00046. Atkinson County Commission."

Ms. Almond - "I think there's one more. McIntosh County."

Chairperson Handel - "Oh, there is. I'm sorry. I missed one."

Mr. McIver - "Twenty-two."

Chairperson Handel - "Oh, I missed twenty-two."

Mr. McIver - "You just want to go home."

Chairperson Handel - "I do want to go home. I'm trying to get through the Agenda.. This is 2006-00049. McIntosh County."

Ms. Almond - "This case involves respondent Eleanor Gail, the Election Supervisor for McIntosh County Board of Elections. She's alleged to have violated OCGA 21-2-562 when she assisted a voter with her absentee ballot application. What Ms. Gail did, was she signed that she was assisting, but indicating that she was the sister of the elector and she was actually the elector's second cousin by marriage. Ms. Gail has signed a Consent Order providing a \$400 fine for these -- this violation."

Chairperson Handel - "All right. And it was one ballot?"

Ms. Almond - "Yeah. Just one."

Chairperson Handel - "And does it have a reprimand in it?"

Ms. Almond - "I'd have to look at it."

Chairperson Handel - "I mean, this really needs to have the reprimand because this is an election supervisor -- bless you -- who candidly -- Is Ms. Gail here? Come on up. And you don't have to speak if you don't want to, but I wanted to give you the opportunity."

Ms. Eleanor Gail - "I gave you an affidavit stating that I was over stressed, overworked. Ms. Taylor, that being my cousin, left me a note stating that she wanted to apply for an absentee ballot. I did apply for her absentee ballot and she voted her own ballot. I just applied for the application for her."

Chairperson Handel - "All right."

Ms. Gail - "I said that I was her sister. We grew up together. We live right next door to each other. We're like sisters, and she always signs everything sis, and I do too. I realize I made a mistake and --."

Chairperson Handel - "All right."

Mr. McIver - "Your real relationship to the elector is what?"

Ms. Gail - "We're cousins."

Mr. McIver - "In some counties, sisters and cousins are about the same."

Chairperson Handel - "Would it change your agreement to the Consent Order if we also had a reprimand in there?"

Ms. Gail - "No, ma'am."

Chairperson Handel - "Okay. And again, this is one ballot. Is there a motion, colleagues?"

Mr. McIver - "The fact that a reprimand will be added, I'll move that we'll accept a Consent Order with the addition that a reprimand be added."

Chairperson Handel - "All right. Is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "I got a second from Mr. Israel. Any questions or comments. And I have one question for you. Have you concluded all your required training?"

Ms. Gail - "Yes, ma'am. I'm certified."

Chairperson Handel - "You're going to do a refresher on absentee ballots?"

Ms. Gail - "Yes, ma'am."

Chairperson Handel - "Okay."

Mr. Evans - "False statements trouble me."

Chairperson Handel - "I know."

Mr. Evans - "Especially for people that we have in positions -- it's just very troubling."

Chairperson Handel - "All right. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Mr. Worley - "No."

Chairperson Handel - "I've got two nos. All right. Next item. Thank you. Go ahead."

Ms. Almond - "The next item. The Atkinson --."

Chairperson Handel - "It's 2004-000046. Tab 23."

Ms. Almond - "Okay. This is a case that's gone to the ALJ. It was to determine whether the respondent, Jerry Metts, violated election code. He was accused of three major violations. Unlawfully assisting voters with their ballots, unlawfully possessing them, also a violation of O.C.G.A. 21-2-561 involving false registration and O.C.G.A. 21-2-562, fraudulent entries. That was in connection with his activities in registering voters - voters that he knew would not -- not citizens. Took place May 15th through 16th. The ALJ entered a decision on September 6, 2007. They also concluded that the respondent, with 16 violations of the code, that was improper assisted three voters with their ballots. We also found out the respondent illegally possessed nine ballots. They also found no violation of O.C.G.A. 21-2-561 since respondents owned registration activities, the fact that his own voting status was not an issue. In that Statute 561, it's dealing with people who are registering themselves as an elector. So they also found no violation of that code section. And finally, on O.C.G.A. 21-2-562, the ALJ found that the respondent improperly encouraged or assisted four individuals in registering to vote knowing that they were not citizens and found out he violated the code -- four violations of that code section. For the violations, the ALJ recommended that the respondent be sanctioned \$5 thousand per violation, plus investigative cost for a total of \$80 thousand. Specified that there be a public reprimand, training as specified by the Board, investigative cost. In making this recommendation, the ALJ found that the respondent intentionally violated the code to gain advantage and that this conduct was a direct threat to voters elected -- electoral assistant."

Mr. McIver - "Madam Chair, I've got a question."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Is this case properly before us. Don't they still have an appeal, right?"

Ms. Almond - "Yes, those rights -- the Board has until October 6, 2007 to act on this case to reject or modify it. If the Board takes no action, then the decision will go into effect by operation of law. The -- the -- and regarding the appeal rights, the respondent doesn't, technically, have a right to review before the Board. Once the Board issues a final decision, we hear from the respondent then, the -- their remedy would be to go to Superior Court and file a petition for judicial review. So at this time, that they'll decide whether you want to take further action on this case, and if you do, you probably want to extend the time for doing that. There's --."

Mr. Worley - "I'm sorry to interrupt. If we do nothing, then when -- when does he have to file a notice of appeal?"

Ms. Almond - "It would be within 30 days of the date that he was -- to do nothing, it would become final on October 6, 2007 and that they would have 30 days from that

date."

Mr. Worley - "So if we do something, then he'd have another 30 days and then, so the quickest way to get this in front of a Superior Court Judge is for us to do nothing."

Chairperson Handel - "Microphone please."

Mr. Ritter - "Yes. I'm sorry. I wish this issue was completely, without any doubt -- with very little doubt. First of all, if this Board, today, decides to adopt the ALJ decision and the Chair issues a new order so saying, as soon as the Chair signs off on that order, his appeal rights will start his 30 day period to file that appeal in Superior Court will start."

Mr. Evans - "I'm hoping it doesn't start until November."

Mr. Ritter - "Until November 6th."

Mr. Evans - "But --."

Mr. Ritter - "He'll have until November 5th if the file was appealed -- if you do nothing. If you file -- and this is the one thing that I will just say. The plaintiff -- or the respondent's counsel in this case, has contended that the former code section that applied to ALJ appeals, which is 50-13-17, applies rather than 50-13-41. 50-13-17, in our view, and we deal with these cases all the time, was superceded by 41 in cases that go to OSA. 41 does not provide for application for review in front of an agency. 17 does. And, a theory, is that under 17 you could delay your time for appeal by filing an application. Certainly, if this Board issues an order, that's moot. But he might claim I'm going to file an application and try to delay that, and then we could fight over whether he's out of time, or not. I think we would win on that. I would recommend you adopt it and that moots the whole thing."

Mr. Evans - "The cleanest, most effective way, is we move to ratify. And I just want to put in the minutes that I have reviewed the record, which is here, and some of this is just shocking. You know, it's just shocking. Please state your name. Rafino Torres (phonetic). Where do you live? Pearson. Are you an American citizen? No. Do you know Gary Metz? I don't know him, he's come to my house. How many times has he come to your house? About two or three. What did he tell you when he first came by your house? He was promoting himself for votes and I'm not sure. And what did you tell him when he asked you to vote for him? I couldn't vote. Why did you tell him you couldn't vote? Because I'm not an American citizen. And then he goes on to describe how he gets a ballot. The ballot gets mailed to the candidate, and then when next testifies, he refuses to accept responsibility and basically says none of this happened. You know, we talked earlier about the worst cases you ever seen. In my opinion, this is the worst case that we've seen because you have a systematic and, you know, I just want to -- I just want to make sure because I do expect that there may be a judicial challenge."

I just want to put here for purposes, just over in here, that there is special significance of page 135 of the transcript, page 144, page 156, page 181 and page 208. And finally, which is the most incredible of all, is page 445, where he is confronted with the testimony of witness-after-witness, and basically, denies that any of it happened. And here's what he says. He says, and with a third allegation against you, did you register people to vote that were not U.S. Citizens. You're denying you did any of that. I never registered anybody. Well that's why we're standing testimony of occupants. And so, for purposes of our review of an ALJ, I just wanted the record to reflect that there has been a review by the Board of the record, that there are compelling evidence in the record to support the ALJ's order, and so I would move that we ratify it."

Chairperson Handel - "Second. I've got a motion and a second. I just want to be clear for the individuals. There is an appeal before an ALJ. The next possible step would be before a Superior Court Judge."

Ms. Almond - "Right. Right. You don't offer him a new hearing."

Chairperson Handel - "Okay. All right. I just want to make sure of that, though."

Mr. Ritter - "The Superior Court sits as the Court of Appeal."

Chairperson Handel - "Right."

Mr. Ritter - "The order does not actually come from the ALJ. It comes from this Board. And this Board is simply in -- in the status right now of deliberating on the order. This is not a contested hearing."

Chairperson Handel - "Right. I understand. And, colleagues, I know we have some folks from Atkinson County here. I will defer to you if you want to hear from any of them. Who's here from Atkinson County? Did you want to --."

Mr. Frank Sutton - "My name is Frank Sutton and I've been before you before. I want to thank you for you persevering with us in Atkinson County in three years, and I urge you to go ahead and both take something, AJCs."

Chairperson Handel - "Anyone else from Atkinson? All right. We have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none. All right."

Mr. Ritter - "Madam Chair."

Chairperson Handel - "Yes."

Mr. Ritter - "Ms. Almond tried this case entirely by herself. This is a very hotly contested case, and I just want the Board to know how extremely hard she worked in bringing out the result of this case."

Mr. Evans - "And revealing the testimony and cross-examinations, it was -- it was very good. My only question was, do we have a sum certain, because I think Dave here, made it the issue which is, is it -- so what is the total amount of this -- this penalty?"

Ms. Almond - "It's \$80 thousand for the actual fine, but the ALJ actually added investigative cost and that --."

Mr. Evans - "Which is what?"

Chairperson Handel - "Do we need to tally those for you?"

Mr. Evans - "We need -- we need -- that has to -- I think we need --."

Chairperson Handel - "Absolutely. We need to do that, and if I need to do a second motion, I will. I -- do we have the ability to roll in time from --."

Mr. Ritter - "Yes. I think so, and if you would tally that up that I think that you would -- your staff would draft an order adopting the ALJ decision to say it's adopted with the amount -- total amount of fine, X-amount. Break it down, and sign that and then they can appeal that."

Chairperson Handel - "Okay. All right. Did you want to add anything else?"

Mr. Sutton - "(Inaudible)."

Chairperson Handel - "Thank you."

Mr. McIver - "Well I have a question. I understand you're a graduate of the University of Texas of the North. Something called Harvard, is that right?"

Ms. Almond - "Yes."

Mr. McIver - "I assume it was the good training you received in the AG's office that made you able to try this case so well, and not that other --."

Ms. Almond - "Yes."

Mr. Ritter - "From the AG's offices, I don't have a complaint."

Chairperson Handel - "Nor does Harvard."

Mr. Ritter - "Madam Secretary, I have you know it's --."

Chairperson Handel - "I know. I have to confess. I have been -- I have been to the Harvard/Yale contest, and when they came onto the field I said to my soon-to-be-husband, is that all that they're made of."

Mr. McIver - "No scholarship there."

Chairperson Handel - "Good job, Calandra. Our next item is 2006-00000032 which is the City of Dawson. No, I'm sorry. We're on 54. I keep -- I really just want to head us out. 2005-000054. City of Milledgeville."

Ms. Almond - "This is another case that's been for a hearing and that we have a mutual decision on. Respondents are Richard Mullins, City Councilman in Milledgeville and Dirk Simmons who was Assistant on this campaign. There are five sets of code violations that's been broken. He's got unlawful assisting with ballots, unlawfully possessing ballots, interfering with voters in violation of O.C.G.A. 21-2-568. Intimidating electors in violation with O.C.G.A. 21-2-567, and violation of O.C.G.A. 21-2-570, giving money in exchange for votes. It's alleged that Richard Mullins gave a voter five dollars in exchange for his absentee ballot. This case has gone before a hearing. The ALJ issued a decision on August -- August 6th. They have taken forth a -- respondent Mullins committed three violations of the code and that respondent Simmons committed eight violations. Specifically, the ALJ concluded that Robert Mullins unlawfully assisted one voter, unlawfully took possession of one ballot, and gave one voter five dollars in exchange for his vote. The ALJ concluded that the other respondent, respondent Simmons assisted one voter with his absentee ballot. Unlawfully possessed the ballots of three voters and interfered with three voters by voting their ballots in violation of O.C.G.A. 21-2-568. For these violations, ALJ recommended a sanction of \$25 hundred per violation for its investigative cost, that's a total of \$75 hundred for respondent Mullins and \$20 thousand for respondent Simmons. The ALJ's opinion in sanctions, while supportive of evidence, is supporting that in the records for upholding the sanction, there's no particular problem with that. This -- this case, since the ALJ entered the initial decision on August 6th, 2007, and the Board is taking an action 30 days. It became final by operation of law on September 5th, 2007. Even though the Board declined to review the decision, the respondents have filed application for agency to review pursuant to O.C.G.A. 50-13-17, and Stephan just explained that's the older statute, even though don't actually have a right to review by this agency."

Chairperson Handel - "Okay. So what they have is an ability to file with the Superior Court...."

Ms. Almond - "Right."

Chairperson Handel - "...by October 5th."

Ms. Almond - "Right. Right."

Chairperson Handel - "And colleagues, this is a case that we did email around to determine if we needed to do a special call, and it was -- seemed that everyone was fine to just let this one become.--."

Mr. Evans - "To be technically accurate, in case there's ever an Open Records Act request for my emails involving my -- my precise answer was, in reliance on express reliance on advice of counsel."

Chairperson Handel - "That's exactly correct. Who knows what a lot of us said. And colleagues, that's one area that from -- at a future meeting that we'll bring forward a proposed rule, just to tighten that up and make sure we have proactive process on that area. All right."

Mr. McIver - "I do have a question."

Chairperson Handel - "Yes."

Mr. McIver - "The fines appear to be per violation. Has there been a determination of the investigative cost?"

Ms. Almond - "There hasn't been a determination of the investigative cost."

Mr. McIver - "But that'll be an add-on. We have an understanding on that."

Ms. Almond - "Right. Yes."

Chairperson Handel - "Make sure that gets done. Okay."

Mr. McIver - "And the way this is worded, it appears it's included."

Chairperson Handel - "Okay."

Ms. Almond - "Right. And that's not included."

Mr. Evans - "I have a question. Did you try this case as well?"

Ms. Almond - "Yes."

Mr. Evans - "And was Mr. Mullins or Simmons represented?"

Ms. Almond - "Yes. They were very well represented. They each had counsel and --."

Mr. Evans - "Well I just noticed that the petition for review is done pro se, so I wondered."

Ms. Almond - "Yes. They actually have counsel. I think they just were -- the actual application that they turned it before."

Mr. Evans - "So is the safer course for us to ratify?"

Mr. Ritter - "Yes."

Mr. Evans - "That's what I thought. I move to ratify the decision."

Chairperson Handel - "Is there a second?"

Mr. Worley - "Second."

Chairperson Handel - "Motion and a second. Any other comment of question. Do we have anyone here to speak on this before we vote? Did anyone want to speak on this one? Okay. All in favor?"

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Okay. None. Okay, that one's concluded."

Mr. Ritter - "Madam Chair."

Chairperson Handel - "Yes."

Mr. Ritter - "So that we're clear and that where each side we'll include the cost?"

Chairperson Handel - "Yes. And we will make sure of that. And that is for investigative cost and from the Attorney General's office, too. All right. The next item is 2006-000032. City of Dawson. Tab 25. We are coming down to the end, y'all."

Ms. Almond - "Yeah. And this involves allegations about whether various officials of the City of Dawson violated the election code in connection with -- within the 2004, 2005, 2006 elections. The respondents include Barneycott (phonetic), the City Manager, Sherry Howard, who is the City Clerk, and Pat Wells, she is the election superintendent. The City has alleged they violated two statutes. One is O.C.G.A. 20-2-224, alleged to be able to check the accuracy of the elector's list and, you know, failed to identify writing to the Board of Registrars, people who were not qualified to vote. And they've also were alleged to have violated O.C.G.A. 21-2-226C by failing to provide the map to the County showing the municipal boundaries in -- voting district boundaries to the Board of Registrars in the time they were supposed to. The Attorney for the City of Dawson is actually here today, and he acknowledges that the City violated O.C.G.A. 21-2-224, but

he makes the note that the individuals that are named as respondents were not the ones who were actually responsible for -- for, you know, checking the accuracy of the elector's list under the code section. And he's saying that -- that the responsibility properly lies with the Mayor or the City Council. So for that violation, that would be helpful to hear from the City Attorney to determine if there are any other respondents that should be added."

Chairperson Handel - "So you're saying this is going to need a little more investigation?"

Ms. Almond - "Yeah, or just hearing from the...."

Chairperson Handel - "Okay. All right."

Ms. Almond - "...Attorney of --."

Chairperson Handel - "All right. Come on back up. We made sure you had one at the beginning and one last so we could keep you here all day."

Unidentified Speaker - "I can charge my clients for it. It's great. We just feel like, with the regard to this particular count, that the City is in violation. They don't have a true Registrar to code 21-2-212C requires, and they have a Chief Registrar. And the code imposes a duty on the governing authority and the Chief Registrar. City Manager is not the governing authority. As a matter of fact, they do have a Registrars. Their charter provides for that, they appointed him in '91. The code -- the minutes specifically relieved Mr. Barneycott, who was then Utilities Director, and removes him from the list of Registrars. So the City Manager has no responsibility with that. Somehow, the City Clerk got named as the respondent. City Clerk doesn't have any responsibility. When they adopted the election officer of each of these years, she was named as the absentee ballot clerk, alone. So she doesn't have any responsibility. But I think you all know what the duties of the elections superintendent are and they're quite separate from the Registrar. They have to just deal with the list that they're given, pretty much, and it's the Registrar's duty. The City did violate because they didn't properly appoint a Chief Registrar. And Mr. Barneycott, they had an informal system. Mr. Barneycott, along with the County of Chairman, or the Director of Elections Superintendent get in the car and ride around. That's what they did and that's how they actually discovered these voters in the wrong place. But there was no writing and there's no Chief Registrar, and so we certainly admit that that was a violation of code. Should I address -- could I go ahead and address the --."

Ms. Almond - "Yes. And there's also a similar situation with the other code violation regarding the map, the time it was investigated. There is conflicting evidence about whether the map had actually been delivered, or not. But now the map has been located and it appears that it was -- it had been delivered by the City. So it looks like the County was the one that dropped the ball and violated the Statute."

Unidentified Speaker - "The then City Attorney signed an affidavit we delivered to the Attorney General that said that he personally took it over, that to the best of his -- he had all these people ancient and they're all retired, but to the best of his recollection, he hand delivered it. And he alleges the superintendent arrived on the job in 2005, so she found it in a cabinet. Doesn't know how it got there. Mr. Barneycott observed it on the wall when he was over there to volunteer, really trying to assist with the corrections on the list."

Chairperson Handel - "Can I ask you a question? So if there were going to be City elections and there was no one appointed to do what needed to be done for the elections, who was doing the elector?"

Unidentified Speaker - "There were Registrars. There were Registrars, there's no Chief --."

Chairperson Handel - "Wait. No, you said -- Well, that's my point and I'm a little uncomfortable with the splitting of the hairs and the, I mean, the bottom line is that we have some issues here and certainly, as the City Manager, did you let anybody know that they didn't have the proper people appointed?"

Unidentified Speaker - "Excuse me. We do tell them to forward it to election superintendent or the City employee that is appointed by the governing body and is a salaried person to operate the capacity during elections."

Chairperson Handel - "Okay. I guess I'm a little bit confused because I heard you say there wasn't anybody appointed in the position and so, therefore there's nobody to name other than the City. Did I miss that?"

Unidentified Speaker - "Georgia code specifically says there'll be a Chief Registrar. You shall appoint a Chief Registrar. It's got to be the City did not --."

Chairperson Handel - "Right. Correct. Right. And I'm asking as a City Manager, did you so advise the City Council that they needed to make an appointment."

Unidentified Speaker - "Of a Chief Registrar?"

Chairperson Handel - "Uh-huh (affirmative)."

Unidentified Speaker - "No. I did not."

Chairperson Handel - "Well I can tell you, if I was at Fulton County and we weren't doing something and my County Manager didn't come forward proactively to advise the Board of a big hole, that would be a problem. So -- I don't know if that's an issue for this body, but -- I mean, that's just kind of --."

Mr. Worley - "It was technically no Chief Registrar, even though there were Registrars and an election superintendent?"

Chairperson Handel - "Yes. That's what I'm hearing."

Unidentified Speaker - "Completely separate from, there's no Chief Registrar. I had a charter provision that provides, unlike a lot of cities, frankly, unlike most cities, that provide for the appointment of the full Registrar. They did that. Barney was, in fact, a Registrar before 1991 and they removed him and appointed some others. Those people have still voiced the City and served. With the function of Election Superintendent and then this (inaudible) is not to registered voters, the registrar has completely separate functions. It was the duty of the Mayor and the Council according to their charter. The governing authority, which is what's provided for in the code and the governing authority of a municipality is the Mayor and Council, not the City."

Chairperson Handel - "Is anybody here from the Mayor, who is the City Council."

Unidentified Speaker - "I represent the City, and there's another Councilman here."

Chairperson Handel - "Hold on. Say that again."

Unidentified Speaker - "I represent the Mayor and Council. I'm the City Attorney."

Mr. McIver - "Why in the world would you avoid all this trouble by just asking Terrell County to run the election?"

Unidentified Speaker - "We did. You know, I heard y'all's discussion about that, but in rural Georgia, more often than not, there's no agreement for counties to conduct municipal elections. I represent a large number of cities. I can think of, while you're doing that, two of the, Sylvester and (inaudible) 20 cities that I represent that have been able to reach that kind of agreement."

Chairperson Handel - "Since you represent the City and the Mayor, do you come forward with some proposal for them?"

Unidentified Speaker - "Yes, I did. I presented it for them so they can appoint a Chief - a Chief Registrar and a Board of additional Registrars if they wanted to."

Mr. McIver - "Mr. City Manager, I'll put that to you. Wouldn't it be cheaper and more efficient to have the County running the Board instead of having all these permanent employees?"

Unidentified Speaker - "Absolutely. And I have agreed to the County, a few years back, on two different occasions and has to change the Commission Board. And would they take up the City of Atlanta, the City would be here if they need additional poll workers that would be needed to run a municipal election. And we're not asking for any

thing to be done free. And if each table each time, I've been to the election superintendent for the County on two different occasions and spoke with the -- I would love to turn it over, too. God knows, I'd love to turn it over."

Mr. McIver - "You may take a position on that."

Unidentified Speaker - "The relationship between cities and counties is testy. When I happened to be President of the City Attorney section GMA, and we -- the relationship between cities and counties is strained, at best."

Chairperson Handel - "On some things, now. Got to defend the County a little bit."

Unidentified Speaker - "Well you have a strained relationship on one thing, it sometimes affects others. We had the City and perhaps, Fulton County on behalf of the City because they weren't picking up dogs. And the County lost, and I think that's probably colored their relationship. It was contract renewal time."

Chairperson Handel - "All right. Calandra, do you have a recommendation for how we should proceed? Because, I mean, what is here is serious and, I mean, I think there has to be some accountability and I'm uncomfortable, sort of, it's not me, it's them. It's them, not me kind of thing and I would like some guidance on what we can do to instill accountability."

Ms. Almond - "You could keep the original respondents on and add some other respondents. I've gotten one paper here and we can do some additional investigation."

Chairperson Handel - "Okay. And who do you recommend need to be added as respondents here?"

Ms. Almond - "It's either Mayor, the City Council -- Are we addressing the map yet?"

Chairperson Handel - "No. I feel that the map issue is pretty much resolved."

Ms. Almond - "I'd say the Mayor and the City Council."

Chairperson Handel - "And that's your recommendation?"

Ms. Almond - "Yes."

Unidentified Speaker - "We're not denying responsibility, we're just saying the code says the governing authority and not these individuals."

Chairperson Handel - "Right. That's why we're going to add it and then you can, hopefully, work out a Consent Order on this. Per the recommendation of the Attorney General's office, I move that we recommend that we add, as respondents to this case, the Mayor and City Council for the City of Dawson. I move. I think I said --."

Mr. Worley - "I would second that."

Chairperson Handel - "All right. There's a motion and a second. Any other questions or comments?"

Mr. Evans - "What is the section where you're talking about that it's limited to the governing authority?"

Unidentified Speaker - "21-2-224D. County Board of Registrars shall deliver to the Chief Registrar municipality on a basis that's equally fund by the County Board of Registrars and the governing (inaudible) a copy of a list of elections from this form here and that Registrar shall on the list and --."

Ms. Almond - "And just so I'm clear on the other issue with the map."

Chairperson Handel - "The map."

Ms. Almond - "Were you suggesting that that issue was resolved?"

Chairperson Handel - "I thought you said they ended up -- well maybe I just misunderstood, it's been a long day. Do we need add respondents to that?"

Ms. Almond - "Yes."

Chairperson Handel - "Just give us some direct guidance and we will come --."

Ms. Almond - "Yes. I would recommend that we add the County officials, don't have their titles right now, for the County Registrar and yes, the County Registrar because they didn't deliver -- the map was delivered and they had --."

Chairperson Handel - "And I'll amend my motion to add, as well, the County Registrar."

Ms. Almond - "Right."

Chairperson Handel - "This is secondary, accept the amendment?"

Mr. McIver - "I second the amendment."

Chairperson Handel - "Got a motion and a second. Any other questions or comments. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. Evans - "No."

Chairperson Handel - "Okay. All right. Thank you. All right. The next item is going to be a legislative update and Deputy Secretary Sims is going to give that followed by the photo outreach update."

Chairperson Handel - "I guess he's doing outreach. He was on."

Unidentified Speaker - "He turned off his microphone."

Chairperson Handel - "I know. You turned off your microphone."

Mr. Sims - "It's on. It's blinking."

Chairperson Handel - "No, it's not. It's not red. No, it's on my side. You did a hard -- No. All right. There you go."

Mr. Sims - "Madam Secretary, members of the Board, I'll have as brief of a briefing as you would like or explain as much as you like, but on the Federal Legislative Front, HR 811, still is a bad bill. In fact, it's probably gotten worse since our last State Election Board Meeting. Some changes were made in legislation as a quote, unquote compromise with the House leadership to change the language in the Bill so that only five or six states would be required to comply with the mandates for verified paper audit trail for the 2008 Elections. Georgia would be one of them, as would be Louisiana and Maryland. All three utilize the same DA touch screen systems. The real problem or concern with the State of Georgia is that we would be required to comply with the 2008 mandate, and there is a second additional mandate, in essence, for the rest of the Country that Georgia would then have to comply with, as well as the other states, by 2010 or 2012. So that Bill is still being discussed."

Chairperson Handel - "Just for clarity, that would mean if this Bill were to pass, purchasing one set of machines to meet '08 and another set of machines to purchase the future."

Mr. Sims - "Potentially, yes. Unless Georgia would be able to procure machines to comply with the Photo-out mandates and requirements within the next calendar year and that everything would be okay going forward, and that's a big question. There is a debate among many of the states who whether or not any of the current existing systems in use today would comply with the second set of mandates underway. just within the past week or so, 12 national organizations, including Washington Governor's Association, National Secretary's of State, NCSA, Council of State Governments, Conference of US Malls, and others, signed a joint letter to Speaker Valencia and Majority Leader Hoyle expressing their opposition having the (inaudible) come forward to the Rule's Committee and in forwarding the leadership to, in essence, take a step back

to allow states and Secretaries of State and elections officials to participate in making some changes in the language. That Bill, as a result of that, they have pulled back from the floor schedule, consideration of that Bill and there is some discussions now with the leadership in trying to maneuver it through some of these issues. We do not get from the national folks, there's not an expectation this Bill would even be considered in the next couple of weeks just because there appears to be a lack of votes in the House of Representatives to pass the Bill as it's currently written."

Mr. McIver - "The pending -- may I?"

Chairperson Handel - "Yeah. Go ahead."

Mr. McIver - "It's pending floor vote, and it's cleared all it's committees."

Mr. Sims - "Technically, it's come out of the House and Administration Committee and is in rules. There is the ability on the Rules Committee to consider a Rules Committee amendment, which is where these types of changes will occur. There was some consideration as it was coming to Rules that the sponsors of the Board would bring it forward under an enclosed rule, which would restrict any ability to make amendments from the floor. As an election to that, the Rules Committee received 20 or 30 amendments proposed on the Rules Committee since they were not able to get on the House Floor and that kind of rule stayed down and kind of dumbed up the process, for a the lack of better word there."

Mr. McIver - "Is Georgia Congressman John Linder still on the Rules Committee?"

Mr. Sims - "I'm sorry."

Mr. McIver - "Georgia Congressman John Linder still on the Rules Committee?"

Mr. Sims - "Yes. And Congressman Tom Price has offered amendments -- submitted amendments to the Rules Committee, as well in trying to address some of these issues. There is a -- several Congressman from Kansas -- coming from Kansas and some other states have circulated their colleagues that would have specifically moved out the time constraints from the legislation. There's also concern among the states over what would happen or what would be the safety net for the states should Congress not appropriate the funding to comply with the law. There is a real question about whether or not the funding for this type of legislation would make it through the appropriations process and stay in the appropriations where it's concerned, all the politics going on right now with all the appropriations matters in Congress. And that is one of the things that the National (inaudible) Association and NCSA, particular, had them harping on which would be should the Bill pass as it is written today. Without the corresponding appropriations funding it could be unfunded mandates in the states, or ultimately, a couple of billion dollars. Real briefly, there was a committee hearing in the Senate Rules Committee in which Senator Chambliss is a member, chaired by Senator Feinstein,

to deal with more generally with the issues of election and verified paper audit trail and these type of mandates and potential for legislation. Senator Feinstein said explicitly during the Committee Hearing, that she thought the 2008 deadline was completely untenable and that in her mind, no legislation could be passed in Congress this year that would have that timeline. There was also some testimony from Doug Lewis from the Election Senate in Houston, Texas. Judy Markowitz, the immediate House President of National Association of Secretaries of State and some others that really seem to have shed some light for the Committee members as to what these applied for requirements that would actually mean for the States. On the same legislative front, I would say the State Legislature is out of session. Over the next several weeks, our office will be meeting with the General -- the Georgia Election Officials Associations, Legislative Committees, Local Elections Officials on some issues that may be brought forward and they may want to see addressed some housekeeping issues. I know one, in particular, that was mentioned today that would need to be considered. So really, hopefully, by the next Board meeting we'll have an idea of what may be presented in the Legislative Session in January. Additionally, we'll provide to the Board an update as to what legislation is pending to be carried over to the next calendar year. There's one Bill, in particular, that this Board had heard -- was briefed on in March, and that was Senate Bill 71, which was Senator Williams' Bill to move all SPLOST elections to four times during the year. That Bill did not make it. It was passed in the Senate, in fact, this was included on three Bills that passed out of the Senate, but none of those were able to pass out of the House. So if that Bill is still considered to be alive, and up for consideration in the House, I expect that will be debatable and probably see some movement on it in this coming year. That's about it for legislative agenda. I can answer any further questions or move to a very brief overview?"

Mr. McIver - "Are we preparing a list for our housekeeping legislation for 2008 session?"

Mr. Sims - "Yes. And I hope to have that -- maybe some parameters for that by the next Board meeting so that we can be able to move forward with what needs to be introduced in January."

Mr. McIver - "All right."

Chairperson Handel - "Because it's quite a number, right?"

Mr. McIver - "Yes. Should be."

Mr. Sims - "All right. I think the next item on the Agenda is kind of a brief overview of what the Photo ID education and outreach program. I'll be very brief. I think there's only three sides."

Mr. McCarthy - "(Inaudible)."

Mr. Sims - "This one. Okay. All right. As you all are aware, there are 22 counties that had elections on September. There is a listing of them. These are the counties in which we concentrated our education and outreach efforts. Within the 22 counties, they represented approximately 1.1 million voters. That includes active and inactive voters. For all our outreach and education efforts, we targeted both, inactive, and active voters, as you all are aware, an inactive voter would still be allowed to show -- appear in person at the polls and vote on election day. So we wanted to make sure that even the inactive voters who may not have voted in the past few years, were aware of the photo identification requirements. We did a match with DDS and to work with the State Election Board and Commission a year ago, running a DDS ID match with the 22 counties, and we came up with about 85 thousand registered voters who, in one form or another, did not -- may not have had photo or driver services issued ID. The last number of those are probably of particular interest to this Board. From approximately August 2nd, which was our formal announcement of the rural law to be in effect for the September elections through the end of last week, there were 661 voter identification cards issued, which represents probably a three-fold increase over what the monthly averages were for typical voter identification cards issued in the local governments."

Chairperson Handel - "Was that statewide, or just the 22 counties?"

Mr. Sims - "That is statewide...."

Chairperson Handel - "Statewide. Okay."

Mr. Sims - "...but we did have a concentration in some of those counties that they're having an election on September 18th. As I say, we -- we are education and outreach program included direct voter contact with mailings to about 85 thousand voter universe, including a letter, a general pamphlet, as well as a reminder postcard. I think some of the material has been provided to the Board."

Mr. McCarthy - "We brought some."

Chairperson Handel - "And we brought some, as well."

Mr. Sims - "We also, for that same universe, we put in an automated phone call which was, essentially, a reminder about 10 days from the election to reinforce what we were doing through the mail. We also did a pretty extensive radio advertising campaign utilizing the clear channel network of radio stations which includes Georgia News Network, the Atlanta Braves radio network, as well. We also produced some public service announcements which were distributed to local radio stations in those 22 counties and media markets. In addition to that, those activities that we paid for, there's -- whether we'll call it earned media, which amounted to 60 print and television media stories that were run in about that 6-week period between the time of the Georgia Supreme Court's ruling and announcement that the law would be in effect to the actual election day. We were also able to play some pop-up pieces in some of the local,

particularly, weekly newspapers that were in those 22 county areas. A couple of other things I wanted to touch on, we reached out to utility companies in Georgia and asked for their assistance in contacting their customers. Some of them agreed to, and you may have received a SCANA gas bill that said there was a reminder message on the top of it that this law is in effect, and directing them to our website and 1-800 number with any questions. Georgia Power, Comcast Cable, the Georgia Cable Television Association, as well as some of the other gas marketers are -- have agreed to continue with these types of efforts as we move to the November and then February 4th Presidential Preference Primaries. One important part I want to touch on, but Mike can maybe touch on a little bit more in his presentation is, we made a required and direct effort to do federal ID specific training for local elections officials so that they would be able to handle anything that may come up in the in-person early voting, as well as the in-person voting on Election Day. That included the development of frequently asked questions, all kinds of collateral materials and things of that nature. I think that was pretty successful. Mike will talk a little bit more specifically about what the feedback was like and the types of questions and interaction that our office had. That's really it for my part of the presentation on Federal ID and I'd be happy to answer any questions you might have."

Chairperson Handel - "Questions, colleagues?"

Mr. McIver - "I've got a question, I'll make it to the Chair. I am one that remains troubled with Richmond County has twice the VICs of Fulton. And I've brought it up before, but at some point, I trust, we're going to do some sort of analysis --."

Chairperson Handel - "We already have."

Mr. McIver - "Have we?"

Chairperson Handel - "Yes. And I thought that was discussed at our previous meeting. Every single one -- what had happened is that there were duplicate VICs issued, primarily because individuals were coming back saying that they lost their VICs and what Ms. Bailey reported to us, was that their offices, and Mike, if I'm not correct, jump in, their offices are located directly across from a -- a homeless center and also a place where individuals can come to get various benefits, et cetera. And there has been some sort of cache to have one, even though they don't need to have one. And then, also, anecdotally, when we were at the Voter Registrar's Meeting, several Registrars mentioned to me that various entities in the County or the City were willing to accept the VIC as an ID and, of course, we know that the VIC is for voting purposes only, however, how a bank chooses to accept it as proper ID with the bank, I think that's really for the bank and we were -- there's no rule that precludes a second or a third or a fourth distribution of the VIC, and we felt that, you know, at this point and time with where we were, that we wanted to make sure that we were in the posture of issuing VICs, even if the person said they lost them. And Ms. Bailey was able to tie back all of the numbers adequately and Mr. Rainwater assisted in that."

Mr. McIver - "Well I remember that, but -- so the answer, though, is it continues?"

Chairperson Handel - "Uh-huh (affirmative)."

Mr. McIver - "If somebody comes back five and six, and seven, and eight times, I'm sorry, I forgot it, I need another one, we're continuing to issue them."

Chairperson Handel - "Yes. That is, there is nothing in State Law to preclude that and again, we did not want to, given that this was a -- the first time that we were going to be implementing it. Certainly, my instructions directly to the Registrars was to continue issuing them because I did not think that coming into an election we wanted to be in a posture of not issuing when someone showed up appropriately to get one."

Mr. Sims - "Can I say one other thing, and then I should have mentioned from the outside, all the collateral materials and everything that was done for this program, was done in-house by our staff. And, I think it's worth pointing out that Vicki Gavalas, who is seated behind you, and Stephanie Claxton, in our office --."

Chairperson Handel - "Who's here as well."

Mr. Sims - "And Mike McCarthy, obviously, from Elections, and myself, did all this internally. I know there were some questions in the past about consulting with us on numbers and all this, but we did this all in-house. And I think considering the time constraints and everything else, it's a real credit to their work. This program was rolled in the time it was with the amount of money it was, and in large part, as successful as it was."

Chairperson Handel - "Any other questions. All right. Thanks, Mike."

Mr. Mike McCarthy - "Madam Chair, members of the Board, it's good to be at the anchor position today. I want to just do a segway from Mr. Sims presentation to a brief summary of the presentation we just concluded in our local elections. And one is, we did some additional outreach and training where we focused, primarily, on two areas with these particular counties. We did focus on voter ID, and we also focused on a provisional balloting process. And we emphasize that -- well, actually, I think look a little bit in terms of what kind of results occurred. The main thing we did, as many of you are aware, is this is a fairly smaller time, it's relatively small, compared to many of the elections that take place. But this year we have expanded many of our modular activities, and you'll see this reporting in the quest of election days. We did continue phone banks, the elections division and KSU. We also did the field monitoring, both before and during election day, and we also have some post election data, some of which has come in and more of which continues to come in. Even though this was a relatively small election and our roles were ultimately modest, we were staffed, on-deck at 5:30 in the morning and stayed on deck until approximately 10:30 at night with the inclusion of the elections."

Chairperson Handel - "Mike, can I make one comment on monitoring? Colleagues, one of the -- the what you will, I think, continue to see going forward are various issues being brought forward based on the monitoring. What we discovered in the past was that, by and large, when it came to monitoring a county tended to be given the date, time and precinct that we were intended to come and monitor so, of course, that got a great day of focus. And when we're doing the monitoring, it's completely unannounced because, obviously, we want to -- want to make sure that the highest standards are being held across the Board. And even though it might seem like we're getting a lot in a grand scheme of a number of precincts, by and large, most are doing a good job, but it's important to those that aren't up to standard that we bring those forward to you. So you'll continue to see that coming out of the monitoring."

Mr. Evans - "My only worry there, is the degree which they start to proceed, the Secretary's of State's office and adversaries as close to teammates, systematically have random checks which then result in probable cause findings. Then, pretty soon, every time they see you show up, they're going to think to themselves, this is not a teammate, this is somebody who can charge me. It'll no different than when the IRS shows up or when CBS shows up. Which is -- I just -- that's my only caution, because I, you know, just seen it before where suddenly the ability for a seamless communication suddenly becomes much more adversarial in that regard."

Chairperson Handel - "Well we haven't really experienced any adversarial response back on any of it. Again, like I said, most of the counties who --."

Mr. Evans - "We've got Habersham County."

Chairperson Handel - "Well --."

Mr. Evans - "I'm going to tell you, that will be a ripple."

Chairperson Handel - "Well, I mean, I think in working with Gary Smith from the organization and the locals, they're all very well aware of, certainly, my mind-set and it's not -- there's no surprise, we are going to be more communicative and do conference calls and, you know, we gave everybody heads up and I think that, you know, the only way to, at some point, know that we have absolute accountability is we have to be out looking around and, I mean, you defeat the purpose if you do heads up and tell everybody, hey, we're coming at X-time. So we'll, I mean, again, work hard not to get adversarial, but that's how we try to work closely with the locals and let them know what is going to be coming down the road from a broad perspective. I don't think it's not -- there's been no punches pulled about anything on either side, do we agree, that be pretty open back to us."

Unidentified Speaker - "Those of who have been here, say the last six hours, seven hours, certainly have some concern about the issues, probably five years ago, four years

ago, and these were taken out and now what we're getting here it's been every County or City is an issue. And it does bother us. I think we've hit on it today, we've had problems with the County Commission. You can, as a body, bring something there on that by getting --."

Chairperson Handel - "Well we're not going to have a big funding conversation, but, again, I've made it abundantly clear, and I will tell the Board, that the counties have a responsibility and it is the County Elections office's responsibility to build a relationship with your Board of Commissioners. And I'm active still with the ACCG, and I let them know that this needs to be on their radar screen. But we do hear from County folks, oh, I don't want to deal with my County Commission and we, you know, that's a problem. It's a two-way street and I don't think that, for the most part, broadly, the folks who are out there really wanting to do the job -- good job, you know, anybody is adversarial because they know that we're working really hard to bring the training up to where it needs to be. And, you know, I think everybody wants to be held accountable."

Mr. Evans - "I don't know, I really try to pay the right amount of taxes, and I sure never feel good when the IRS shows up."

Chairperson Handel - "Well, unfortunately, that's part of my job."

Mr. McCarthy - "Madam Chairman, members of the Board, I might those comment those -- it's also good to be the H&R Block, and always -- actually two roles. And we've worked hard in conjunction with the AG's office to ensure that we are moving forward and we're developing two symmetrical roles and we're developing those roles. We talked a little bit at the last meeting, and also this meeting, about how we've adjusted and are continuing to adjust our monitoring program and we're starting to see some of the results of that monitoring program. But we're also increasing our outreach and our close quarter coaching. One of the first -- this is probably the first time we've had an election, and before the election, Secretary Handel and her senior staff and election's team, had a conference call that when issued, is all 22 counties involved. And it was a very fruitful and productive conversation. It went approximately 30 minutes. And we know it was useful because a particular question on one of the forms was asked three times, and we answered it three times and so we know certain outreach efforts are useful. We also did additional quick reminder broadcasting them broadcast faxes. We did three rounds of this, this time, as well. So in addition to the major programs where we've worked through the summer on the training with the associations, in addition to our current program that we're revising and typing up some of the GSE to certification program, we're also working to expand the high-touch close quarters things such as the conference calls and the quick reminder, very timely responses that we -- when we recognize we're getting several questions on the issue, we tell everybody, we're getting several questions on this issue and here's the answer. Because the symmetry is there, the symmetry is expected and we're working on that. Some of the things we will see from the monitoring, I'll just move forward kind of, fairly quickly -- I'm just -- there we go. The good news is, when we're on proactive, we can actually have fairly quiet election

days, and this was -- this was a quiet election day from an administrative perspective. Our division received no complaint calls. Not one complaint call on administrative issues on the elections that just occurred. Most of the inquiries we did take, we had a fairly high level of email and phone call inquiries that actually concerned upcoming elections. People heard things going on on the radio, they heard things going on the media; they thought elections, ah, I have elections questions about things coming up this winter and this coming year. We actually did get a large number of calls. KSU only had 23 consultations in the course of the day. These included things like, in one instance, someone walked into the express podium and it knocked it over. They needed to know how to reboot it. Again, there were fairly perfunctory calls and fairly low level. So I think this speaks well to the high-touch components we also introduced because people were fairly well prepared and things went fairly smoothly. We didn't know a few things, and we always the more we look, the more were. One of the things we did in conjunction with the IG's unit is, we actually looked at early voting this time, and I believe this is the first time that our Secretary of State's office has actually done monitoring other than just on election day. And the first time we do something, we often learn things that we'll take actions to make sure people do better on in the future. We did learn, especially in the early part of the early voting when people were setting up, that many locations did not have their signs, posters and materials ready. This is going to be an area we're going to focus on going forward with reminders and trainings. We learned that many did not have provisional ballots right at hand, as they should. We also learned that some did not have their disability voting materials ready to go, not as soon absentee and early voting begins. In that instance, they didn't have a locked ballot box available. So when we do show up and we do expand our monitoring program, we learn things, but this comes back to the H&R Block side of the analogy that also teaches us the things that we can be proactive and focus on going forward. And the good news is, on Election Day, it was very uneventful. It was an uneventful Election Day."

Mr. McIver - "Mike, I would like for you to expand on that, please. But, perhaps you're getting there, but as -- as the grandfather of photo ID, I want to know if there were any complaints or issues with regard to photo ID. Now if you're going to cover that --."

Mr. McCarthy - "Actually, let me jump ahead. On complaints, we did not have one complaint on any issue in our office by phone or email on this Election Day. We did not have one administrative complaint. Period. None. Am I on?"

Chairperson Handel - "No. You just turned it all off. There you go. No, wait."

Mr. Sims - "On that note, one thing we did see in response to our outreach efforts, particularly the letters, the direct components which reached the voters. The most feedback we received in our office was from citizens who said they had a drivers license. We didn't receive any complaints going in to Election Day from citizens complaining about the law. We had some interaction with -- and this being the front office, in particular, about questions of whether I need to go and things of that nature. But the overwhelming majority of the responses we received were from citizens who,

the way the match was set up, actually had a drivers license or an ID issued by DDS or some cases, a passport where they aren't in possession of a drivers license. And just wanted to make sure that we knew about it so that they wouldn't keep getting our mail, basically."

Mr. McCarthy - "We do have, because this is a municipal election, a small number of cities that are still getting information to us. This is going to continue to come in the next few days. Our regular reports will be coming in. We did not certify these elections, as we do our larger elections, so again, at the end of the process, our role is relatively small. But I did want to touch on, and I'm having trouble getting this to advance. Can you advance me back there? Oops, wrong direction."

Chairperson Handel - "There you go."

Mr. McCarthy - "I did just want to come back and include in the symmetry with some of the issues we're talking on the voter ID, because when we approached the preparation for this election, part of our model was that the reminders are be prepared to address voter ID and provisional balloting went hand-in-hand. And what we didn't find and we actually telephoned poll to get this information here available today, we had 118 total provisional ballots submitted in these 22 counties. Of those, 85 were in Fulton County, so we had a lot of concentration. 104 was because the voter was not on the voter list or in the express hall, and only eight -- only eight were for lack of photo ID and five were for all the other reasons. So this was not -- it was not a major issue. It was dealt with as a matter of routine on Election Day, and we feel confident, going forward as the upcoming election expands to approximately 90 counties, that the lessons that we've learned in this go round with outreach both, to the voters and to the local election officials, we can replicate and have another successful round of elections in November. Any questions?"

Chairperson Handel - "All right. Questions? All right. Is there any other business? Thank you, Mike."

Mr. McCarthy - "Thank you."

Chairperson Handel - "Good work."

Ms. LaGrua - "Madam Chair, if I could just give to the members of the Board, the status of our cases. Because that update --."

Chairperson Handel - "What's being passed around is the status of other cases pending --."

Ms. LaGrua - "In our office and the Attorney General's office."

Mr. Evans - "Is there a statute of limitations on Chattooga?"

Ms. LaGrua - "There may be a statute on some of the violations. It may be misdemeanors."

Mr. Evans - "No. Statutes on our ability to impose civil penalties. We've deferred action. I would not want to defer actions beyond the point at which the statute of limitations expires."

Ms. LaGrua - "I don't believe so. I will confirm that and check and have an update at the next meeting. And I know it would not --."

Chairperson Handel - "No. Why don't you wait. This --."

Mr. Evans - "No. I have to have it yet."

Chairperson Handel - "Yeah. Just coordinate."

Mr. Ritter - "That's an issue for us, and we'll look at that. I will tell Mr. Evans that there is no formal statute of limitations in the election code. There is a 20-year statute of limitations, generally, that governs state-type actions, and should that even kick in, I'd be shocked, of course. But, you know, there's always the possibility that someone could contend that or whatever, is going to prevent action. You know, we could address that if we have to. But, certainly, we'll be mindful of that."

Chairperson Handel - "All right. Anything else? All right. The Chair will entertain a motion to adjourn."

Mr. McIver - "I so move."

Chairperson Handel - "Second. All in favor."

(Whereupon, there was a chorus of ayes)

(Whereupon, the meeting adjourned at 7:18 p.m.)

VERBATIM MINUTES
STATE ELECTION BOARD MEETING

200 Washington Street

Suite 450 State Capitol Building

Atlanta, Georgia 30334

Thursday, June 21, 2007

1:00 p.m.

(Whereupon, the meeting started at 1:05 p.m.)

Chairperson Handel - "We do have a quorum now, so I'm going to call the meeting to order and first order of business is to do the roll call. Mr. Evans."

Mr. Randolph Evans - "Present."

Chairperson Handel - "Mr. Israel."

Mr. Jeff Israel - "Present."

Chairperson Handel - "And Karen Handel so three does make a quorum. If I could ask everyone to please stand. We're going to have an invocation first from Mr. Israel followed by our Pledge of Allegiance which we'll do to this wonderful -- there it is. Okay. Great. Go ahead, Jeff."

(Whereupon, the invocation was given by Mr. Jeff Israel followed by the Pledge of Allegiance being recited in unison)

Chairperson Handel - "Just a couple of announcements before we get started. We have a number of speaker of cards. Many of you are here to speak regarding a specific investigative matter that's going to come later. Is anyone here to speak on a subject other than an investigation?"

(Whereupon, a number of people raised their hands)

Chairperson Handel - "You are. Okay. If I can have you come on up and everyone will have two minutes if it's not related to an investigation, and then when I call the investigation we'll catch up with everybody who wants to speak on those. Okay? And if you'll, please, state your name and address for the record. Thank you."

Ms. Helen Butler - "Good afternoon. My name is Helen Butler. I'm Executive Director of the Coalition for the People's Agenda. My address is 100 Auburn Avenue, Suite 102, Atlanta, Georgia. And I just want to speak on behalf of our coalition which is made up of representatives from all of the civil rights, human rights, labor, environmental peace and justice organizations throughout the State and the southeast. And we're convened by Dr. Joseph Lawry (phonetic). And our mission, of course, is to improve the quality of governance. In that vain, voting rights and civic participation is the threat of all of our activities. So today I want to speak on a couple of electoral issues. One being voter education with regards to the advent of Super Tuesday and the impact it will have on the purge process. I know Secretary Handel, you've said that you believe in open government and that you believe in voter education, and we applaud you for that effort. And we certainly think that since Super Tuesday is coming up that will change the primary election date, the purge process should incorporate a lot of voter education. In fact, going

to the public to let them be notified of when they will be purged, the actual day, using media that not just only goes to clear channel, but to all channels that will meet the entire population of the State of Georgia. They need to know about the impact because a lot of people on Tuesday, primary day, will come up and try to vote when, in fact, they may have been purged and some may have been purged incorrectly. Second, in terms of election integrity and voting rights, we want you to support HR 811 whereby it provides for paper verified trail receipt. It gives confidence to the voter that they have actually voted and we do applaud that effort nationally and want you to support it on a local level. By converse, the State has already opposed the Real ID Act, and we applaud the State for doing that because we feel that that the ID, photo ID is really not necessary. It's unconstitutional, according to the State, in terms of the requirements of becoming a voter to be eligible to vote. So we definitely want to implore the Election Board to adhere to that. Real ID, the State has requested that they actually not be imposed with the Real ID Act until further things can be resolved and I believe there are better methods of doing that. Even if you have to just know a person on Election Day --."

Chairperson Handel - "You're now through with your two minutes, so if I can get you to --."

Ms. Butler - "I will."

Chairperson Handel - "Thank you. Two minutes. It's past two minutes."

Ms. Butler - "Well, I will close to say that we ask that you do not impose the photo ID requirements, and I will provide you, further, a statement regarding why. Thank you."

Chairperson Handel - "Great. Thank you so much. All right, anyone else on general public comment non-case related?"

Ms. Donna Price - "My name is Donna Price. I represent Georgians through Verified Voting. I'm also a member of Vote Trust USA, an advisory committee which is an organization which is -- forms a coalition of election integrity groups throughout the nation. About 40 groups. I'm here today to -- in support of HR 811. I understand that there is a petition, or was a petition by the Georgia Election Officials Association in regard to 811, and one of the options that was not mentioned in that petition was optical scan. And what I have done is I've brought some cost sheets with data taken from the Secretary of State's office -- former Secretary of State, it was done last summer -- with cost breakdowns showing that optical scan voting systems are significantly less expensive to buy and maintain than touch screen voting systems. Also, the National Institute for Standards in Technology, in December of 2006, issued a report saying that our paperless voting systems like we have are -- I'll say -- I'll read the exact quote.

In practical terms the DRE dependent approach cannot be made secure or highly reliable. Experience in testing software in systems has shown that testing to high degrees of security and reliability is from a practical perspective, not possible. Requiring software independent voting systems involuntary voting system guidelines 2007 effectively leaves only voter verified paper based approaches. So there are tremendous problems. I think election officials have seen the tremendous problems with the TSx paper trail and so we - we would highly recommend optical scan voting system...."

Chairperson Handel - "All right. Thank you."

Ms. Butler - "...with manual audits. Thank you for your time."

Chairperson Handel - "Thank you very much. Has -- Are you non-case related?"

Ms. Susan Somack (phonetic) - "Yes."

Chairperson Handel - "Okay. Come on up. If I can -- if there's anyone else who wants to speak in public comment, I think it was announced before, please submit your card so that we have the info so that we don't keep coming -- so I know how many we have and we can move forward."

Ms. Somack - "Susan Somack and my address is 941 Blue Ridge Avenue, Northeast Atlanta, 30306. I'm speaking as a citizen and somebody who has participated in election protection activities in the past and oversees election monitoring and supervision. I just would encourage this body to consider making some changes to the Code to allow for neutral election monitors to be able to get closer than 150 feet to the election activities that are taking place with appropriate rules to maintain a non-partisan nature of their activities. It is an international standard that poll monitors are allowed around the world, and that I would encourage the State of Georgia to allow -- to make some amendments for that purpose."

Chairperson Handel - "All right. Thank you very much. All right. With that we'll go to our next item which is approving the minutes and before we get to those I just, colleagues, want to let you know that we've made several changes in the minutes. The previous minutes from the past tended to just be specifically the motion without any summary of what the discussion was so that if someone had a copy of the written minutes, they really wouldn't know what the tenor of the discussion was, and so we've changed that. In addition to that, we have brought on board a transcriptionist so that we can make sure that we've got the verbatim minutes for reference as we go forward. Because many times we need that for, especially for some of the cases that we're involved in, and that's -- is it Parillo, Donna Parillo?"

Court Reporter - "Yes. It's Parillo."

Chairperson Handel - "Great. Thank you very much for being here. So we'll be able to have a little more detail for everyone and then as we go forward, if we have a case that has been before the Body before, we'll be able to pull that for you and have that background from the minutes in your packets as we consider them. All right. So we have a number of minutes to take and I think I'll start with March 13th. Any other changes to that one?"

Mr. Evans - "Actually, Madam Chair, I just move we adopt the minutes of May -- March 13th, March 22nd, May 23rd and June 13th."

Mr. Israel - "Second."

Chairperson Handel - "Okay. Motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is passed. Our next item is the Inspector General's Report with a number of cases. Shawn."

Ms. Shawn LaGrua - "Thank you, Madam Chair. And if you will all bear with me a little bit this afternoon, we have a number of presentations during my report today. I will try and be as brief as possible without not giving you the information that you need. Really, the first case that's on the Agenda is the White County complaint. This complaint came in in June of last year. It was from a Theresa Stancil (phonetic), alleging that the Sky Mountain Estates Homeowners -- I'm getting -- are you all okay, I'm getting a --."

Chairperson Handel - "Feedback?"

Ms. LaGrua - "I'm getting some feedback."

Chairperson Handel - "Uh-huh (affirmative). I think it's fine."

Ms. LaGrua - "Okay. Sky Mountain Estate Homeowners Association that was acting as an independent committee to make expenditures opposing the election of an individual in that circuit, there was a cited in Ethics and Government Act. We have spoken to Rick Thompson with the Ethics Department of the State of Georgia. They have an open complaint. In this regard, this appears to be more appropriately addressed by the Ethics Commission and I would recommend closure of this case at this time."

Chairperson Handel - "Okay. And have we referred things over to Mr. Thompson? Have --."

Ms. LaGrua - "They already had it open and we've spoken to him...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...and we've notified the complainant of the status of that case and that it is open in the Ethics Commission."

Chairperson Handel - "Okay. Any questions?"

Mr. Evans - "Move we close."

Mr. Israel - "Second."

Chairperson Handel - "Got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. That passes unanimously. Next item."

Ms. LaGrua - "Thank you. The next item on the Agenda, Madam, is Gwinnett County. As the Board may recall, at the March 13th, 2007, SEB meeting there was a complaint before the Board involving the election in Gwinnett County alleged the Board had tampered with and/or modified the Diebold Election System. We investigated the case and in the -- at the March 13th meeting recommended that that case be closed as there were no violations found. However, the Board then directed us to request a hash be run by Ray Cobb and the people at KSU to actually check the numbers on that case. That was done, the numbers are clean, the numbers are clear. There are no irregularities and at this point we would recommend that this case be closed based on those findings."

Chairperson Handel - "Okay. Any questions?"

Mr. Evans - "Is there -- is there any reason we can't put the rehash, or the documentation generated in connection with the rehash, into the record?"

Ms. LaGrua - "May I defer to Mr. Cobb on that question?"

Mr. Evans - "Sure."

Ms. LaGrua - "I believe Mr. Cobb from KSU is here, if I could, Mr. Evans."

Chairperson Handel - "Absolutely."

Mr. Ray Cobb - "It's -- It's just a file that prints out that says no discrepancies found --."

Chairperson Handel - "Okay."

Mr. Evans - "If you could -- if you can give us the documents that says no discrepancy found...."

Chairperson Handel - "Sure."

Mr. Evans - "...subject to that being added to the minutes just so that someone doing research...."

Chairperson Handel - "Absolutely."

Mr. Evans - "...finds it. I would move we close this file."

Chairperson Handel - "Second. I've got a motion and second. All in favor?"

(Whereupon, there was a chorus of ayes)

Unidentified Speaker - "Excuse -- I was invited to address the meeting...."

Mr. Evans - "I thought you asked for anybody else?"

Chairperson Handel - "I did."

Unidentified Speaker - "...and I would like to exercise --."

Chairperson Handel - "Two minutes. Come on up. We heard him last time. And everyone, when the case is called, if you want to speak on a case, if you'll stand up when the case is called so I'll see. That'll help me a lot and then I'll make sure I don't miss anyone."

Unidentified Speaker - "We speak from here?"

Chairperson Handel - "Uh-huh (affirmative)."

Unidentified Speaker - "I understand, folks, that we're dealing essentially from a closed system with a ROM operating system which is a closed BIOSed system. Now if you don't know what BIOSed means, essentially it's a chip just like the chips on a regular motherboard, which I brought in just to give you an idea of what they resemble and just like the cards that are put in there. Those, themselves, consist of ROM chips which can be flashed and changed at any time along with the instructions. Once those are cleared out, you have no record. Numbers don't mean too much, and with the papers that I gave you I honestly, with the five minutes I was given to address the Board previously -- if you notice on the board, mostly these are ROM chips. These are instruction chips. They tell this computer, just like the ones who's using in the voting machines, how to operate everything that comes in, everything that goes out. Any calculations can be modified and this was not strictly against Gwinnett County, although I will say that Gwinnett County cannot strictly separate the Elections Office from the County, in as much as every check that I wrote out to

the Elections Office was written out to the Gwinnett County Commissioners. Just to rebut some comments that were made after I was allowed to address this Board. However, even leaving paper trail that says, hey you've got all these people that voted as a number is not going to satisfy and give you a complete and accurate account of who voted for who. Myself, and a number of people in the County, have experienced certain irregularities with these voting machines with them coming up, and you go back to review and some of the names that you had put in have been changed. So you go back and change them and you take for granted that the machines are going to transmit and be accepted in a tabulating office at the county where they are received and understand with the input and output you're transmitting over open lines, so that any point in between there, they can be modified...."

Chairperson Handel - "All right. Thank you."

Unidentified Speaker - "...so it's not a closed system and it is open to fraud and...."

Chairperson Handel - "Thank you very much."

Unidentified Speaker - "...every person in this State
...."

Chairperson Handel - "Thank you."

Unidentified Speaker - "...reserves a right to know their vote is being counted as cast."

Chairperson Handel - "Thank you very much. Okay. We have a motion to approve the closure with the spreading on the minutes of the report from KSU as a part of the record, and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is approved. Real quick before we go to the next one, just to go over again, kind of, what this part of our State Elections Board Meetings are that what Ms. LaGrua is doing is really just presenting the report from the investigative team. This is, in essence, and then we will determine, as a Body, based on that evidence if there's any probable cause to move forward to an official hearing. So we're not really taking formal evidence from the parties on this at this hearing today -- at this meeting today. Should the SEB determine probable cause in moving forward there will, of course, be an opportunity for every party to go through the formal process of presenting evidence. So I just want everyone to keep that in mind as we go through and again, individuals who have public comment about a case two minutes, and if it's an individual who is the subject of the

complaint, then we'll allow probably up to fifteen minutes. Would that be amenable to my colleagues?"

(All nodding up and down)

Chairperson Handel - "Great. And if we can let the record show that Mr. McIver is here as well. Welcome. All right. Ms. LaGrua, the next one."

Ms. LaGrua - "Thank you, Madam Chair."

Mr. Evans - "Too bad the record can't reflect his tie."

Chairperson Handel - "Oh, I could make a little --."

Mr. McIver - "Mr. Evans, that tie is a gift from wife. You and I are going to be in trouble."

Chairperson Handel - "It's very colorful. Go ahead, Shawn."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is the Bartow County case. This is not the same Bartow County case that the Board heard on the March 13th SEB Meeting, this is a subsequent investigation that was conducted, just in case - for clarification purposes. This involved the November, 2006, General Election. We received a complaint, and I believe it came in through the front office from a Tammy Valmice (phonetic), that was concerned that the precincts had failed to post the DRE results on the doors of the polling places, and also was concerned that the results for the question, in the special election at that time, obtained by the complainant did not match the official statement of the votes cast. Investigator McBrayer went out to investigate this. He interviewed the different parties involved and, in fact, was able to verify through the Board of Elections and Registration that the DREs were, in fact, posted and, in fact, Bartow County does a very good job of including in their lesson plan the requirements of posting the DRE results. Further, an examination of the records and interviews with the poll workers, as well as looking at the record shows that the returns were completed in accordance with the applicable law. And based on that we would recommend closure of this case at this time."

Chairperson Handel - "Okay. Anyone on this case? Okay."

Mr. Evans - "So -- so what was the explanation for the difference between what the complainant said they received and what was, in fact, posted?"

Ms. LaGrua - "I think the complainant was there earlier in the evening and alleged that the results that she had tabulated were different from the official results that were finally posted. The official results were verified by Investigator McBrayer, and I'd be happy to let Mr. McBrayer address some of that if you'd like to have him answer that

in more detail."

Mr. Evans - "Steve, do you remember what -- do you remember what the answer was?"

Mr. Steve McBrayer - "Tammy Valmice, the complainant in this case, reviewed the DRE results tapes while she was at the polling place. They don't accumulate at that polling place where she was at, so she reviewed each of the DRE tapes and she may have miscalculated the -- the question that was on the ballot. And -- but I did review all of the DRE results tapes and they are accurate."

Chairperson Handel - "Okay. All right. Are there any other questions? All right. Do we have a motion?"

Mr. Evans - "I so move."

Mr. Israel - "Second."

Chairperson Handel - "I have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none that case is closed. Next item."

Ms. LaGrua - "Members of the Board, you may recall that on the March 13th SEB Meeting, there -- the case involving the City of Eatonton, Putnam County, was actually on the calendar at that point, and just to refresh for the record, the complainant was Mary Mason, former Putnam County Election Supervisor. The allegations at that time were that Alma Stokes had delivered -- Alma Stokes was a Councilwoman, had delivered absentee ballot applications to City Hall. She had admitted that she distributed them and returned them to City Hall. It was alleged, also, that she delivered an absentee ballot to the home of Wanda Harris. There was -- an issue had come up during the election as to where Ms. Harris should vote. When it was determined, apparently in violation, Ms. Abrams delivered a ballot to her home. It was also alleged that Gary Culp and his step-daughter, Ashae Mahome (phonetic) were involved in the absentee ballot application process and absentee ballot envelope process in violation of the law. I requested at the SEB Meeting in March that you refer that part of the investigation back to my office for further investigation because I thought additional questions needed to be asked. My recollection is that -- that the Stokes and Abrams case may have been referred on to the AG's office at that time. If it was not, that'll be part of my recommendation today. Mr. Culp -- I actually traveled, personally, with Investigator Dyer to Eatonton to follow up on this investigation. Mr. Culp was re-interviewed by myself and Investigator Dyer and during

that interview, among other things, Mr. Culp emphatically denied that he ever touched any absentee ballot or ballot envelope, even just to pick them up and mail them. He also said when assisting on applications, he admitted he knew he was to sign as assisting, but failed to do so on numerous occasions when he did that. After speaking to Mr. Culp, we traveled to the Office of the Board of Registrations and Elections to review the absentee ballot applications, the envelopes they came in, as well as the absentee ballot envelopes themselves. In doing so, one of the things that was discovered that a number, probably upwards of 50-plus envelopes that the application -- that the absentee ballot applications were mailed in appeared to be written by the same individual. There also appeared to be some similar writing on some of the absentee ballot envelopes that were not consistent with the signatures on the applications versus the ballots. We took a sampling of those and went out and spoke to a number of electors, all indicating that Gary Culp had been to see them, that assisted in the application process and, in fact, had been back and picked up the ballots. I know Mr. Parham said that Culp -- Mr. Culp had told him who to vote for and took his ballot with him when he left. David and Annie Ruth Humphries indicated that Mr. Culp brought them the application, had them sign it, took the envelope, had the envelope -- one of the envelopes that we identified as having similar writing, had that with him, came back when the absentee ballot was arrived, helped them fill out the ballot, took their ballots after telling them who to vote for. And another individual also identified the envelope. Approximately, as I said, 74 envelopes contained absentee ballot applications appearing to have been filled out by the same individual and had the same writing as the envelopes containing the applications of the Humphries and Mr. Farley. My recommendation in this case is I would recommend not only that these individuals be referred to the AG's office for further procedures as appropriate, but I -- and I've already briefly spoken to the District Attorney's assistant in that circuit. I believe it should be referred to the DA for consideration of felony false statement charges under O.C.G.A. 16-10-20."

Chairman Eaves - "One question I have on the absentee ballot applications that appeared to have the same handwriting --."

Ms. LaGrua - "Correct."

Chairperson Handel - "How many?"

Ms. LaGrua - "Approximately 74...."

Chairperson Handel - "Wow."

Ms. LaGrua - "...that I counted and have the names for. And just so, if I could briefly follow up on that, Madam Chair, that, in and of itself, is not necessarily a violation but

what we are trying to do from my division of your office at this time is, that's an indication to us of who we need to talk to when there's so many that are done by the same person. And that's where we have started to focus some of our investigations."

Chairperson Handel - "Right."

Mr. McIver - "Madam Chair, could we determine if anybody's here to be heard in this case?"

Chairperson Handel - "Is there anyone here? Yes, I usually -- I will ask before -- when Shawn is done. Anyone else...."

Mr. McIver - "Well, this is --."

Chairperson Handel - "...that wants to speak on this? Come on up."

Mr. McIver - "Well, the reason I asked is this is my home County and there could be an issue about recusal."

Chairperson Handel - "Sure."

Mr. McIver - "And I wanted to just put that to whomever might be here on behalf of either side. I'm willing to recuse myself if that's the request. I'm -- I'm in the county, I am not in the city. The City of Eatonton, as may know, is the county seat for Putnam County. I don't know any of these individuals and I'm not a resident of the City, although, the County. But if anybody thinks it's appropriate, I'll be glad to recuse myself."

Chairperson Handel - "Calandra, I don't --."

Ms. Calandra Almond - "I don't think that just living in the County would be, you know, would require you to recuse yourself unless you have some sort of personal interest and you know some of the parties or have some sort of other personal interest. I don't think just living there would be a basis."

Mr. McIver - "Well, I agree with that. I mean, it's just -- I want to -- if anybody had an objection...."

Chairperson Handel - "Sure."

Mr. McIver - "...to my participating in the case I'd be glad to stand out."

Chairperson Handel - "Okay. All right. Are you a subject of the complaint or do you want to speak about subject. Okay."

Ms. Sarah Abrams - "I was just here because I received the letter to come."

Chairperson Handel - "Okay. All right. Can you state your name for --."

Ms. Abrams - "My name is Sarah Abrams."

Chairperson Handel - "Okay."

Ms. Abrams - "And I serve as Elections Superintendent for the City of Eatonton."

Chairperson Handel - "Okay. Did you have anything to add?"

Ms. Abrams - "No."

Chairperson Handel - "No. Okay."

Mr. McIver - "Thank you."

Chairperson Handel - "Thank you for being here. I appreciate it. Does anyone else? Okay. Thank you."

Mr. Evans - "Madam, I believe we have -- Madam Chair, I believe we have sufficient information to refer this to the --."

Chairperson Handel - "I just want to make sure that -- are you coming -- did you want to speak on this case, sir?"

Mr. Gary Culp - "I'm Gary Culp."

Chairperson Handel - "Okay. Mr. Culp. Mr. Culp. You need to come on up to the microphone, please, and state your name and address for the record. And since you're the subject of the complaint, we'll give a little more latitude than two minutes. Go ahead."

Mr. Culp - "My name is Gary Culp of Eatonton, Georgia. On these -- I heard what the complaints were on me, but a lot of these things that they said is not on me. I had -- I had --."

Chairperson Handel - "Mr. Culp, I'm going to stop you for one second and let Ms. LaGrua make one comment from a legal perspective for you."

Ms. LaGrua - "I -- I don't know what the motion of the Board will be, but part of my recommendation was that this potentially be referred to the District Attorney's office for criminal implications. Based on that, I think Mr. Culp should be aware that anything he says is being recorded, is being said publicly and can, and could be, and probably would be used against him in any criminal -- criminal

prosecution so I'd like to just...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...let him know that before he...."

Chairperson Handel - "Thank you."

Ms. LaGrua - "...makes any statements here this morning."

Chairperson Handel - "Okay. Are you aware? Are you --."

Mr. Culp - "Okay. So she said it's going to be --."

Chairperson Handel - "It's going to be -- I don't know, it will depend on the vote of the Board. I think just what you should know is whatever is said in that microphone...."

Mr. Culp - "Okay."

Chairperson Handel - "...is on the record and would be available to anyone who may or may not choose to pursue the case further."

Mr. Culp - "Right."

Chairperson Handel - "Okay."

Mr. Culp - "I was just here to represent myself."

Chairperson Handel - "Okay."

Mr. Culp - "Okay."

Chairperson Handel - "All right."

Mr. Culp - "So I'll just --."

Chairperson Handel - "Okay. All right. All right, colleagues, anything else?"

Mr. Evans - "Madam Chair, I believe we have sufficient information to refer this matter to an Administrative Procedure Act here and in front of an Administrative Law Judge, so I would so move."

Chairperson Handel - "I'll second. Any questions or comments?"

Mr. McIver - "Well, are we then going to address the question having to do with the recommendation of General LaGrua about referring it to the DA?"

Mr. Evans - "I think so. I was just separating so that one doesn't cloud the other."

Mr. McIver - "Okay."

Chairperson Handel - "Okay. We have a motion and a second to refer on to the Attorney General's office, and the questions on that motion. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none, that is approved. Is there a further motion?"

Mr. Evans - "I'd be interested in hearing my colleagues comments given that we've addressed this referral issue before a couple of times."

Chairperson Handel - "Referral to a district attorney, you mean?"

Mr. Evans - "Yes. And it's a pretty sensitive matter. Obviously, we give great deference to getting the findings of our Administrative Law Judge or fact findings so that we are pretty well grounded. On the flip side of that is that we've -- we've, on prior occasions, concluded that that is ultimately a decision that will be up to the District Attorney and at best, we're just providing information for them to take a look at. There's an -- a tension that is then created between the investigation, which is then conducted by the District Attorney and the impact it might have on our ability to gather facts and information in order to enable us to address policy. Which is, we're -- we're equally interested as this Board. I know the Chair is equally interested in making sure that we don't just address past wrongs, but we prevent future wrongs by adopting policies and procedures. So I hesitate, slightly, in terms of actually making the referral given the impact it will have on the issue. But I think the facts here are so serious. The allegations, if true, are so -- so undermine the confidence and integrity and intellectual process, that not with -- after balancing those interests, considering the interest as it would impact public policy against the interest if unaddressed, this kind of behavior threatens the electoral process and to lose voters all across the State. I -- I have to come down in favor of saying that I think I make a motion that we refer this over to the appropriate law enforcement official for their investigation in a timely way."

Chairperson Handel - "I'll second for discussion. Any questions or comments around the motion? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none and I'm

guessing Mr. Worley abstained from this one and if you'll let the record show that Mr. Worley has joined, as well. That motion is approved, and the next case is Lamar County. Who's here to speak on Lamar County, just so I can see everybody?"

(Whereupon, there was a few hands raised)

Chairman Eaves - "Okay. Sir, you -- oh, okay. One, two. Okay. Thank you. All right. Go ahead, Shawn."

Ms. LaGrua - "Thank you, Madam Chair. The Lamar County case involves the July, 2006 Primary Election. The complainant in this case was Ann Turner, the Lamar County School Board, and Richard McCreary, Candidate and Chairman of Lamar County Board of Commissioners. The allegation -- there are a number of allegations in this case and I'll try and move through them slowly and address them as I go. It's alleged that the voter list contained hundreds of errors in birth dates and registration dates. It's also alleged that some electors were not allowed to vote, that absentee ballots were unsecured, that Bobby Burdette, the Chief Registrar failed to verify signatures on absentee ballots. It is also alleged that voters from outside the County were allowed vote. It's further alleged that Bobby Burdette personally delivered bundled absentee ballot applications to the office and that Mr. Barrett (phonetic), George Barrett, Eldridge Harris (phonetic) and Frank Belcher -- I'm sorry, Fletcher(phonetic) unlawfully assisted voters in their applications and ballots. What the findings was, and Investigator McBrayer conducted this investigation. A new database was installed in Lamar County and the Board failed to update the data, find new current data. What brought this to someone's attention was that a number of the birth dates showed an inordinate number of electors to be a hundred years old or more that were still voting, and that sort of, what prompted the beginning of some of this. And they just hadn't updated the database and that has since been fixed. No electors were turned away, however, the Board did fail to manually enter a couple of electors as voting, which did not give them their vote counted. But they didn't get the statewide credit for voting in that particular election. There was no evidence at all that the absentee ballots were not secured as required by law. It -- the investigation, however, did show that the Board failed to verify applications with voter registration cards as required. They would compare the actual ballot envelope with the application, but the application had not been compared with the registration card, therefore effectively not validating the absentee ballot envelope. The Board did allow two voters who moved to vote. There was nothing to show if they had moved in a time fashion or permanently, as related to the election. Candidly, to the Board, it would appear to me that further inquiries should have been made with the elections officials realizing this wasn't a

situation where the elections officials didn't know the individuals and found out after the fact that they might have moved. These were individuals that they were at least familiar with and had some indication that there was a move involved. And because there was no paperwork indicating a change of address or a move, they didn't do anything to verify it. They allowed them to vote. There's no evidence to substantiate that Bobby Burdette acted inappropriately as implied to the ballot applications, however, both George Barrett, Eldridge Harris and Frank Fletcher, all admitted to assisting voters and filling out and mailing absentee ballot applications, then going to their homes, picking up the absentee ballot envelopes, helping them filling them out and mailing the absentee ballots. That's getting to be, as you'll see as we go through a number of these cases, a huge issue in the area of absentee ballot voting and it appears that there is some calculated effort in a number of these cases to do this in a way to obviously influence the outcome of the election. Based on all of that, I recommend that the case against the Board of Registrars, as well as Mr. Burdette, Mr. Harris and Frank Fletcher, individually, be referred to the AG's office for further proceedings."

Chairperson Handel - "All right. The individuals here to speak for this, why don't you all come on up. If you'll state your name and address, as well, for the record."

Mr. Scott Mayfield - "Hello. My name is Scott Mayfield. I'm no relation to the milkman, unfortunately. I know at least one of you all is thinking that. I'm with the firm of Smith, Welch and Brittain. Our firm is proud to represent Lamar County. With me today, from right to left in the second row is Judge Katherine Martin, a Probate Judge and Superintendent of Elections. Next to her is Mrs. Bobbie Burnette, our Chief Registrar. Then Ms. Lynette Wilson, Ms. Anne Cadle (phonetic) and Ms. Anita Reid. They are the registrars. They're all named in this investigative report and they're all here today. I heard your caveat, at the beginning about this not being an evidentiary hearing, and I'll try to go through my portion with as much brevity as she did. We only got this letter --."

Chairperson Handel - "As long as it's 15 minutes or less we're in good shape."

Mr. Mayfield - "I can do it in 15 minutes."

Chairperson Handel - "Perfect."

Mr. Mayfield - "We only got this summary of investigation Tuesday, although we got the initial letter from Director McBrayer -- McCarthy, I'm sorry, that it was coming in his letter May 25th. So we've only had really one full day to look this over. There are a few things which I think stand out and which certainly bear pointing out to the Board. With regard to allegation number one, it is true that there

are cards out there with wrong birth dates and wrong registration dates. It's my understanding that when the 1995 computer system first went online that a lot of default dates were put in. 1/1/1900 for date of birth and 11/11/1911 for date of registration. They're working to fix these. Fixing these requires manually pulling the actual registration cards in some circumstances. Getting the information, if the information is available, forwarding it to the elections division. If the information is not available it requires going forward tracking these people down getting that information. I don't think the report show that there are any adverse effects from this other than many people insulted by saying my, you don't look 100. Allegation two, which was the most serious allegation, was that people being disenfranchised and turned away from the poll, but if you read the first sentence of the report from allegation two, that is clearly not the case."

Mr. Evans - "Do you -- do you view 220d and 228a to be strict liability offenses, or do you believe that there's a (inaudible) into requirement?"

Mr. Mayfield - "Don't they -- there's one statute in here that uses the word willful and I think it's a caveat 21-2-596."

Mr. Evans - "I think, specifically, that if you put -- that if you've got it there it's 21-2-220d."

Mr. Mayfield - "220d?"

Mr. Evans - "Yes. And then 21-2-228a is the -- is the citations that are associated with allegation one."

Mr. Mayfield - "I'm no criminal lawyer, but I'm not aware of too many offenses in criminal ought to be in strict liability, and I think you have to show some level of mens rea and some level of intent."

Mr. Evans - "Unless you go through a traffic light."

Mr. Mayfield - "That's right. And there are some exceptions to that. Humans make errors."

Mr. Evans - "Right."

Mr. Mayfield - "Machines make errors."

Mr. Evans - "Well, if it's a strict liability offense, would you agree that we -- that we have evidence of a violation and that we would have to refer that over for administrative law?"

Mr. Mayfield - "I cannot dispute with you that there are people in Lamar County showing up with birth dates of 1900

and registration dates of 1911."

Mr. Evans - "Okay."

Mr. Mayfield - "Does that answer your question, Mr. Evans?"

Mr. Evans - "No, it does. Thank you. And if you need, you know, and we've -- we've taken this position before. If you need more time, if you think that you haven't had sufficient time to prepare, we can always make a motion or ask us to consider a motion for a continuance to give you time to address any of these issues you think might be helpful to us because our goal is to get to the right answer."

Mr. Mayfield - "Well, that's -- that's thoughtful and I think we're prepared to go forward."

Mr. Evans - "Okay."

Mr. Mayfield - "We've been involved in this, our firm has, from the initial charges, and the lawsuits that have been involved. Although the actual report is new to us, the investigation by my firm has been going on for some time. I feel confident up here today addressing...."

Mr. Evans - "Uh-huh (affirmative)."

Mr. Mayfield - "...Madam Secretary and the Board on it. Allegation two, if we're talking strict liability, that I suppose there was an error made. My understanding is two people came to vote, both of their votes were counted, but somehow the manual recording of their name did not match the electronic credit for their vote being sent to the State. Again, particularly Mr. Evans, that happened, there is no evidence, and my people tell me both of those were counted, which I think was the ultimate concern with allegation number two were that voter's votes were not being counted. Allegation three requires no response. Allegation four has me particularly concerned. The very top of page four accuses the County of not complying with O.C.G.A. Section 21-2-38b in that signatures on absentee ballot applications were not compared to the signatures on voter registration cards. I read, and I reread that statute and I do not see that requirement in that code section. I will agree that O.C.G.A. Section 21-2-386a-1-b requires a comparison between the signature on the ballot oath envelope with a signature on the application. In this report it says that that was not done. That is incorrect, it was done. I don't know what other evidence there is, but the letter written by Mrs. Burnette to Mr. McBrayer states -- I don't know if you have a copy of the whole packet or the just the report, but she says in here this office has never verified the signatures on the absentee ballot application against the registration cards, which I contend, is not required. However, this office has always verified the signature on the absentee

ballot application against the oath of the envelope. So again, I will -- I will stipulate that that the fact contained on the top of page four, in allegation four, has signatures on the ballot application were not compared to the voter registration card, that was not done. I don't think the statute requires it. With regard to the third paragraph, I submit to you that was done. Allegation five and six --."

Mr. Evans - "You're saying that -- that Lamar County registrars, in fact, did compare the signatures on the absentee ballot oath envelopes with what?"

Mr. Mayfield - "Absentee ballot application. Not the voter registration card."

Mr. Evans - "In your -- not to make your argument for you, but I assume, then, that you're saying that there could not be a 596 violation of neglecting or refusing to perform official duty if, in fact, you have concluded that the predicate duty either didn't exist or cause 381b doesn't require that, or, in fact, the duty was performed under 386a-1."

Mr. Mayfield - "Yes, sir. The first paragraph I submit 381b does not say what this allegation says it says. And the third paragraph on that page says that the County did not do it, I say we did. What am I basing that on? Well, my interview with the people with me, and the April 5th, 2007 response letter sent by Ms. Burnette to Mr. Steve McBrayer."

Mr. Evans - "And so, if we -- if we end up with a fact dispute --."

Mr. Mayfield - "If you end up with a fact dispute...."

Mr. Evans - "Then we have to --."

Mr. Mayfield - "...then that's the only resolution is to submit it to a fact finder, which I know you all are not sitting as a fact finder today."

Mr. Evans - "That's correct."

Mr. Mayfield - "But I think the interpretation of that statute -- there's no fact question there, and I assume you all aren't sitting in a judge capacity, but I think if you're sitting here to define probable cause, you'd have to have a working knowledge of the statute we're accused of violating so I think you all could clearly interpret the 381b, the 386 ultimate fact question. You know, I'll agree to that."

Mr. Evans - "All right."

Mr. Mayfield - "Allegation five requires no response."

Allegation six requires no response. Allegation seven, I do not represent George Barrett, Eldridge Harris, or Frank Fletcher. They are not members of the Board of Registrars. Anything they did or they did not do was unauthorized by the County, was not ratified for the County. I'm not here one way or another to comment on allegation seven. I hope, if you find the remaining six allegations do not have merit to submit to further investigation, you would find a way to sever allegation seven against each individually and forego the County."

Chairperson Handel - "All right."

Mr. Mayfield - "Let me sum up on a comment Mr. Evans had. He said the goal of this is to not merely dwell on the past, but to move forward in the future. And the County has realized that with growing technology and with the growing population, this is no longer a part-time job. And it has been a part-time job for many, many years and our probate judge, I believe, has been shouting for help since 2002 and the County, the City of Barnesville, the City of Milner finally realized that help was needed and I have here the legislation signed by Secretary Handel approving what is rather ominously titled House Bill 666 creating the Lamar County, City of Milner, City of Barnesville Board of Elections. It's by signed by the Governor, approved by the General Assembly, and will go into effect January of next year. The parties involved are already investigating their appointees to that Board. They're already looking to hire a full-time superintendent, so very shortly all of the duties of these ladies here will be transferred to this full-time Board of Elections which I think all of us will agree is a good decision. I would hate to see this new Board or this new superintendent take over with this specter of investigation and administrative hearings hanging over their head. If you've ever done any local government work in small counties, sometimes it's hard enough to fill authorities and committees as it is, much less with this Sword of Damocles hanging over their head. I'm here to answer any questions. I know that was probably more evidence than you wanted to hear."

Chairperson Handel - "All right."

Mr. McIver - "Madam Chair."

Chairperson Handel - "Yes, Mr. McIver."

Mr. McIver - "Mr. Mayfield."

Mr. Mayfield - "Yes, sir."

Mr. McIver - "Scotty Mayfield is a client of mine and he wishes he was thin as you are."

(Whereupon, there was laughter in the audience)

Mr. McIver - "Not much doubt about mistaken who would be who."

Mr. Mayfield - "I think he went to Mercer, if I'm not --."

Mr. McIver - "Yes, he did."

Mr. Mayfield - "And I went to Mercer and I sure get a lot of phone calls from people wanting donations, but I just tell them that's not me. I'd love to donate, but --."

Mr. McIver - "He's in Athens, Tennessee, which is a right pretty part of the world as well. I want to make sure, then I'll ask you my question, that you appreciate our concern. Many of us on the Board believe that absentee voting may soon account for 30 percent of all votes cast. So it's a great area of concern to us."

Mr. Mayfield - "Yes, sir."

Mr. McIver - "Since it's a burgeoning area of voting. While at the same time, I think General LaGrua would agree, it's probably the most problems we have. They're associated with absentee ballots as opposed to those cast across the DREs and so on. So you'll find our interest here to be particularly keen, so with that my question. What would your recommendation be if you were seated on the Board here? What is it that you would recommend we do?"

Mr. Mayfield - "I'd find allegations two and seven the most serious. Allegation two, that some electors were turned away from the poll. I think we all agree that an election should be run constitutionally, run legally, and run with as little problem as possible. Me, personally, I separate a technical problem with registration applications from just a citizen being denied his constitutional right to vote. I can think of nothing more trampling to the constitution that. That was not found. It says that allegation two, specifically, no one was disenfranchised. I don't see anywhere in here where any of these results resulted in someone being denied the right to vote. I find allegation seven to be serious. I do not represent those people. If I had a vote, I would refer allegation seven for future investigation and close the rest of the file."

Mr. McIver - "All right."

Mr. Mayfield - "I see absentee ballot problems here, I don't see any problems arising to fraud. I think the defects in the birth date, the address, again, apparently did not lead or deny the right to vote. I don't see the defects in the signatures denying the right to vote. Allegation seven, whether anyone influenced the vote one way or another, I think it's serious and bears further investigation. I would

sever that from the County, though, because they're not employees or their actions weren't ratified."

Mr. McIver - "Thank you. Thank you, Madam Chair."

Chairperson Handel - "Thank you. If I might, I actually, for me in my role, see this a little bit differently than you. My job is about more than just whether or not fraud was committed and whether or not a person was intentionally or unintentionally not allowed to vote. I also have a responsibility to make sure that the State Elections Code is followed and that's equally important, I think, in terms of how we decide here. Now certainly, for me and I don't think this body, none of us want the new Board of Registrations and Elections going forward to have anything hanging over their heads. With that said, there are some things here that, frankly, I would like to see. I'm not saying that this has to go to an administrative law judge. In most cases some sort of an agreement is worked out and that could be worked out and brought back to us. Something that would put a specific timeline and a deadline on when this registration list needs to be completely gone through and updated and, I mean, that has got to be done. I got the impression from you, from your remarks, that it was in the process of being done and it needs to be done by a date certain prior to coming into next elections. And on these other issues it's not really a case of -- of willfulness. If the law isn't followed, the law isn't followed and we have rules and procedures in place and as Mr. McIver pointed out, absentee ballot problems are rampant and, you know, frankly the counties we -- I anyway, in my role, am going to be very firm on counties having their feet held to the fire in terms of following the absentee ballot rules because of what Mr. McIver said of the extremely significant, extreme significant increase in the percentage of voters voting absentee ballot. So again, I'm not in the place where I believe that a voter didn't get to vote. I don't know if I have enough evidence for that, but I do think for this one member that there's cause to send this over to the AG's office to work something out to them be brought to us is where my mind set would be."

Mr. Mayfield - "I agree with the law being followed, obviously -- I'm sorry."

Chairperson Handel - "That's okay. Any other questions or comments? Mr. -- David, anything?"

Mr. Worley - "No. I agree with the Secretary. I think we should send it over --."

Chairperson Handel - "Mr. Evans."

Mr. Evans - "Just checking one thing to make sure that I'm right on this. The -- the statutory provisions that we are

looking at are statutory provisions that impose duties on various individuals including the Board of Registrars. What we don't have in our proposal here is the provision that -- that designates what the remedy is for having violated -- in other words, there's a provision -- there's a provision that says, for example, let me just use this for illustration, 220d, 228b -- 228b is a good example, says this what the Board of Registrars shall do. Now there is a related provision that says and here's what happens if you don't perform your duties. We don't have that. We probably need that in order for us to -- to -- to effectively address the remedy on this. But it would -- it would appear to me that -- that we have enough fact issues that we're going to have to have, you know, a fact finder help us. I agree with you, you know, and I've looked at probably not as many times as you have. I don't see 21-2-381b and maybe I'm just missing the reading of it. But I -- that should be in there. That may be -- that's something that someone should undertake as part of our legislative package that if there's a hole in the law --."

Mr. Mayfield - "It's -- it's coming out in the SB 194, which has recently been adopted."

Mr. Evans - "Right."

Mr. Mayfield - "It's going to be in the new one."

Mr. Evans - "Right. And I think we -- I think we addressed it, but the fact that we've included it in the new one and didn't have -- suggest that we didn't have it in the old one. So I would -- I would -- my inclination would be to refer allegation one, allegation two, and allegation four with the exception of the 381b and the 596, and then allegation seven over. I don't know if we've gotten to the point where --."

Chairperson Handel - "Sure. You can do a motion. Is that your motion?"

Mr. Evans - "Okay. Yes. I would -- let me just say, my opinion has consistently been on the Board that these are strict liability offenses and that the willfulness and neglect of the official not performing their duties goes to the remedy that we should adopt. If we have an official who has no bad motive or intent, this was simply either not knowing -- not knowing the rule or a failure or negligent omission, we take that into account and say here's how we train you in the future and make sure you know the rules. If we have somebody who is engaged in willful conduct then we have to address that accordingly. But because these are strict liability offenses, which is there is literally zero tolerance for compliance with the integrity rules associated with ballots. It compels, at least compels to file -- to make the motion to allegation --."

Chairperson Handel - "Will -- will you hold the motion because I just remembered we had one more speaker."

Mr. Evans - "Absolutely."

Chairperson Handel - "But finish up your --."

Mr. Evans - "No, no, no. It just -- I'll hold the motion, but my -- I already said what the motion will be."

Chairperson Handel - "Right. Okay. Thank you. Next speaker, please."

Mr. Richard McCreary - "Thank you, Ms. Secretary."

Chairperson Handel - "You're welcome."

Mr. McCreary - "I'm Richard McCreary. I live at 170 Bush Road, Barnesville, Georgia. I was the candidate that was disenfranchised by the electric system in Lamar County, and this is similar to the Eatonton case where there have been many issues with absentee ballots. And I'm not an attorney, as you see the County has brought their attorney and I've spent countless of thousands of dollars on legal representation to the -- a point where my case is never -- the facts of my case has never been able to be heard. It was dismissed by technicalities. The County spent three times more money on me making sure the facts in this case have not been heard and it's rather surprising to me that they brought their own County Attorney up here this time to try to smooth things over and make things look nice and pretty in Lamar County, which it's not. This is been going on for years in this County, and my complaint -- I commend Ms. -- the Board for allowing me to speak, and Mr. McBrayer for all the obstacles that he had to overcome in Lamar County to try to get resolution to this issue in Lamar County. And I commend him for his hard work and I commend you for performing this investigation that he handled. In my complaint there are several things and I preface my complaint with the fact that I was a candidate and the election superintendent is a -- related to the Chief Registrar in Lamar County and also to the candidate who was my opponent. The superintendent of elections is the sister of the candidate and the sister-in-law of the Chief Registrar. So, you know, blood is rather thick in our County and it's been that way for years. And I contend, in my complaint to Mr. McBrayer, the proof is locked up in the Superior Court in the absentee ballots. Whether it be knowingly, or not, I have had people that are willing to testify in court or here or at any hearing that you wish to say, and I don't know how much evidence I should allow out at this point and time til we move forward, but they're willing to testify to the fact that certain individuals came there requesting money for postage to take care of the absentee ballots in Lamar County. My election, I only lost

by eight votes, so you can see how everything in the County that has occurred over several years, there have been many, many close elections in Lamar County and it always comes to whether you win or lose through the absentee ballot system in our community. And that's rather disturbing to me, and that's disenfranchised a lot of people in our County. If you will notice, probably throughout the State Lamar County has one of the lowest voter turnouts because knowing how it's been, the good ole boys and the good ole ways in the community being a small town. You don't -- you know, you're not going to get anywhere because they've got their way of doing it and I'm not going waste my time voting. And it's unfortunate that that has occurred in some of the small communities around the State, especially in our County because that, by just -- by -- I also have proof that two people voted outside Lamar County. I took proof, undeniable proof, to the registrar and her statement to me was well, that's okay. They've lived here a long time in this community and they care about Lamar County. And -- plus my husband said it was okay. Her husband was the candidate so -- does that say enough for you? That's all I really have."

Mr. Evans - "Thank you."

Mr. McCreary - "Does anybody have any questions for me? I have tons of evidence locked up at home and Steve -- I sent Steve, Mr. McBrayer, my complaint with some of the evidence attached. Should I share that with them, Steve? Would you all like a copy of my initial complaint at this point and time, or --."

Chairperson Handel - "Yes. We'll go ahead and take and then when we refer the whole package over, it'll -- everything will go. All right."

Mr. Evans - "So Madam Secretary, I move that we refer this over for fact finding on potential violations of 220d as to the -- as to the Lamar County Board of Registrars 220d, 222a, 386a-1-b, 596. And then as to what Mr. Barrett, Mr. Harris, Mr. Fletcher that we refer it over for a fact finding determination, 381a-1-b, 381a, 385b, 409a, 385 and 574."

Chairperson Handel - "Okay. One Second. Ms. LaGrua, does that include the -- the specific code reference for the signature verification requirements. I want to make sure we have the right --."

Ms. LaGrua - "Madam, I think you have to read 381b in connection with --."

Chairperson Handel - "Okay. You said 381."

Mr. Evans - "No. I left -- I left it out because I don't -- I don't see it, but I think there's enough other information here."

Chairperson Handel - "Okay."

Mr. Evans - "Obviously, if in the context of the -- the fact finding determination there are other violations --."

Chairperson Handel - "They find something -- perfect. Perfect."

Mr. Evans - "And then that issue will be addressed."

Chairperson Handel - "Okay."

Mr. Evans - "My hope is -- my hope is, candidly, that working with the Attorney General's office and working with our folks, that the facts will not largely remain in dispute as to the Board of Registrars. They'll be able to agree to the procedures and other civil remedies that will address the situation to our satisfaction. And that we'll be able to move forward in a pretty prompt way. Typically that's done by Consent Order."

Chairperson Handel - "Yes."

Mr. Mayfield - "Does your motion include 596? You told me when I was --."

Mr. Evans - "No. I said that I understood your argument to be that if we concluded that there was no 381b or no 386, then we didn't have a predicate for 596. However, since there's a fact dispute as to the 386a-1 violation and I'm referring it, then I have to also refer 596. Now that just means that that's something that you'll have to take up. If it turns out the evidence is as you indicate, which is that, in fact, a comparison occurred and there is no 386a-1 violation, then you would be right. There would be no 596 and these minutes should reflect that. That the predicate for a 596 is a 386 violation."

Mr. Mayfield - "I thought that the use of the term willfully neglects in 596 would go against your strict liability argument which is what I thought 596 --."

Mr. Evans - "I agree if -- if it's -- if your responsibility is limited solely to strict liability, you're right, there would be no 596. However, there's a fact dispute. We have facts from one side saying the comparison did not occur and we, in fact, believe more happened. We have you telling us facts, which I recognize that you've done a great job of representing your client in getting all this information together saying, no, in fact, the comparison did occur. We need a fact finder to tell us which one."

Mr. Mayfield - "Okay."

Mr. Evans - "But I will -- but I will stand by the position that if it comes back to us and it turns out you're right and there is no 386 violation, then I agree with you there cannot be a 596 violation."

Mr. Mayfield - "Okay."

Chairperson Handel - "Okay."

Mr. Mayfield - "Thank you."

Chairperson Handel - "All right. Okay. A motion and a second. Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that one is approved, and Calandra, you have what you need to go forward to work with them to hopefully get in agreement."

Ms. Almond - (Nodding up and down)

Chairperson Handel - "Super. All right."

Mr. Evans - "I did want to say...."

Chairperson Handel - "Yes"

Mr. Evans - "...if I could. Mr. Mayfield, I do want to say the Board appreciates your hard work...."

Chairperson Handel - "Uh-huh (affirmative)."

Mr. Evans - "...in putting this together. It really does make a difference whenever we can narrow the issues down and you were very prepared and did a great job and I appreciate that. It was -- it enabled us to at least address one of the issues, and I think we'll be able to address more."

Mr. Mayfield - "You and I have never met, but I see you every year in the Recent Development Seminar. So if you're doing it again, I'm sure I'll see you sometime in November or December when it comes up."

Mr. Evans - "All right. Well thank you for your good work."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is the Fannin County case. This is a December, 2006 General Election run-off case. Fannin County, Blue Ridge, Georgia. The complainant in this case was the Fannin Democratic -- Fannin County Democratic Party, respondents being the Fanning County Board of Registrations Election and Elections and their members. Some of them individually, as well as in their official capacity. The initial allegation

that came in, members, is that it was alleged that an 18-year old un-deputized clerk was delivering absentee ballots to the post office. And it was further alleged that numerous absentee ballots were not delivered to the voters. As we began our investigation, what we discovered was there was an 18-year old that was delivering ballots to the post office, but she was qualified to serve and she was deputized. So there was no basis for that allegation. Secondly, the investigation shows that the absentee ballots actually were mailed and, in fact, there was an 80 percent return rate from the absentee ballots in fairly large numbers, which would indicate that the ballots did go out as they should have. Unfortunately, and this may be new to the Board, at least from what I've seen in the brief time dealing with investigations, in the past it has appeared that when we get an allegation, we go out, we investigate the allegation and that's the end of our investigation. Regardless of what we see when we're out there, we come back and we don't go further. I hope it's a good thing that as we're moving forward, that's not going to be the case coming from this division. When we were out investigating these initial allegations, what we recognized were, again, there were large numbers of absentee ballot applications bearing the same or similar handwriting on them. What we then did was take the absentee ballot applications and look at the absentee ballot envelopes to see if we found the same issue. And again, we found the same issue on the absentee ballot envelopes. What we found was that the portions of the absentee ballot envelopes filled out that were not the actual signature of the elector, but the information on the back, the address and the name of the elector seemed to be different handwriting than the signature. And much of the handwriting, not the signature on the absentee ballot envelopes, was similar to the handwriting on the absentee ballot applications that again, were not similar to the signatures on the absentee ballot applications. And what we found were, that this writing appeared to be or consistent with the writing of Lena Early, a seasoned election official. What we did then was take the names on the absentee ballot applications and envelopes that seemed to have some, I don't know if discrepancy is the word, but there were too many with all the same writing on them. And we went and talked to those electors. And what we found was that Lena Early had taken out the absentee ballot applications to voters, helped them fill them out, had them sign them, did not sign as assisting, mailed them and then went back to these electors or voter's locations and assisted them with actually filling out their ballots on numerous occasions. And if not filling out their ballots, helping them with the envelopes and taking those absentee ballot envelopes and mailing them. This happened in fairly large numbers. As I recall, approximately between 70 and 90 ballots were involved. And we, in fact, interviewed Ms. Early and she admitted to this procedure. She admitted that she had done it and, in fact, her memory was remarkably

clear. She remembered the specifics of many of the voters and where she had gone and whose house and where they had sat and who was with them. And many, while a number of voters were disabled or illiterate, large numbers were not disabled or illiterate and she did not sign as assisting as required by the statute. Further, as we investigated the envelopes and we were in the registrar's office, it was discovered that proper training was not provided to the poll workers, despite an acknowledgment by Ms. DuVal that she knew the requirement, but had just not followed it. And it was further admitted that they did not compare signatures on the absentee ballot applications with the registration cards and, in fact, they had no intention of doing so in the future."

Chairperson Handel - "Can I just -- so, actually said not going to do it?"

Ms. LaGrua - "Yes."

Chairperson Handel - "Okay. I'm going to stop you right there unless there's another really big point in there."

Ms. LaGrua - "That's it."

Chairperson Handel - "All right."

Ms. LaGrua - "Just that I recommend, obviously, that this case be referred to the Attorney General's office for further procedures."

Chairperson Handel - "Okay."

Ms. LaGrua - "And proceedings."

Chairperson Handel - "Okay. Anyone here to speak on Fannin County, come on forward. Are you a complainant or --."

Mr. Willard G. Thomas - "No. I'm Willard G. Thomas, Chairman of Democratic Party of Fannin County."

Chairperson Handel - "Okay."

Mr. Thomas - "In Fannin County we did exactly what Governor Sonny Perdue did. We mailed out absentee ballot applications. He did it and they was completely filled out. The only thing the person had to do was sign that absentee ballot application and send it back in. However, we was also doing some telephone calling and we found out from many people that we called, that they had not received an absentee ballot, even though they had mailed a request. Then we found out that 300 of them had been hand carried by the 18-year old who -- that issue has never been addressed. We don't think she was legally hired, therefore she couldn't be legally registrar. I have two people here who are appointed to the Board from Fannin County and there was

never a meeting held to hire this girl or to certify her as a registrar. We took the 300 applications and started looking at them and doing the telephone calling and I was one of them. And I finally received mine about two days before the election and I hand carried it to the election office along with my wife's. My wife is a diabetic. She's blind, legally blind and when I took them up there they said they could take hers, but the couldn't take mine. I had to hand deliver mine to the post office, have it stamped and mailed back to the supervisor of elections. I had to go from the supervisor of elections office, to the post office. In Blue Ridge, if you drop it in the regular mail it goes to Gainesville, then to Atlanta. It is a long process and I heard somebody say they want to correct future problems. Well, in Fannin County our system was to take the absentee ballots to the post office, have it stamped -- I mean, the Board of Registration would have it stamped, therefore it would be mailed back to the Board of Elections. In this case with 300 of them, that was not done. Those went out and when we started calling I found quite a few people, yes, they did get them back. But we started calling and the people filled out an absentee ballot and did get it back in time to vote. Not all of them. Our two candidates, if all 300 absentee ballots would have come back in and really I feel that if all democratic absentee ballots, if those 300 would have come back in, our one candidate lost by about 40 votes. The other candidate got 46 percent of the votes. So it could have made a big difference. The gentlemen said they wanted to identify past wrongs and correct them for the future. Well if they do that they're going to have to have some method to where those are mailed and if they drop them in the regular mail and they go through three or four post offices to get back two weeks later, the person after the election finds out -- and we didn't put the no reason absentee ballot in there, but I heard one gentlemen say he thinks about 30 percent would be -- end up be voting and I think as a result of that no reason absentee, you're going to see more and more people vote absentee. In my, as Democratic Party, I would like everybody in Fannin County who's a democrat to vote no reason absentee. I will state that for the record. No reason absentee. It makes sense, I don't have to haul them to the poll, I don't have to stand in line, and I can verify it. Think about that. I can verify the voter. I can't do it on the machines because on the day of election we did have some people turned away. They didn't have a voter ID. They was turned away from the polls in Fannin County. They were Democrats. They were turned away from the polls in Fannin County and I still don't understand why they didn't take my absentee ballot at the supervisor Board of Elections, but took my wife's and I had to go the post office then have the lady handstamp it, drop it in there and mail it back. I'm in the supervisor -- I mean, the Board of Elections. This is my case."

Chairperson Handel - "Sir, we set a rule at the beginning.

You have up to 15 minutes and there's two minutes left, so --."

Mr. Thomas - "Okay. Well, that's very good."

Chairperson Handel - "Okay."

Mr. Thomas - "Because we did have some things occur in Fannin County. We always have. I can tell you that my brother is well aware of what happened in Fannin County cause he was a vote buyer for the Republican Party. He served four or five years in jail. There's still nine sealed, I mean, nine sealed indictments there that's never been opened. They're federal indictments, they should be. I think he would be willing to testify today to some of the things that went on. But it is serious. The absentee ballots are serious. They need some attention and I appreciate the Board's concern for this, but in Fannin County we're going to do exactly what the Governor did. We're going to mail them out to no reason absentees and ask people to send them back."

Chairperson Handel - "All right. Thank you. Is there anyone else to speak? Come on up."

Ms. Lynn Daus - "Madam Chair, my name is Lynn Daus and I'm the County Attorney for Fannin County. And I with me four members of the Fannin County Board of Elections. The fifth member could not be here today. We have Mr. Morris Queen (phonetic) and Ms. Lena Early her, sitting on the front row. And then we have Ms. Evelyn Waters Tanner who is our floor chairman, Mrs. Janna DuVal who is a Board member. And we have Ms. Mary Ann Conner who is a Board employee. First of all, as to the summary that was presented to us, we didn't get until Tuesday afternoon either. We didn't get it until we made repeated phone calls, so again --."

Mr. Evans - "Would you like a continuance?"

Ms. Daus - "No. No. I'm just stating the procedure for the record. And the -- I am only addressing the recommendations for the issues that contain the words The Fannin County Board of Registrations and Elections because under the heading, Potential Violations, there are a series of violations that appear to address Ms. Lena Early individually. Ms. Early is here, both in her capacity as a Board member, but Ms. Lena Early has separate council, Mr. Herman Clark, who is here and would be speaking on her behalf, individually, and I want to make sure that none of my words are misconstrued. As to the statements, there seems to be five, and the first one addresses the fact that says that the Fannin County Board of Registration and Elections failed to provide adequate training to all poll workers before the first election in the 2006 election cycle. It is the position of the Board of Elections that

there were, in fact, 13 members that were not trained during that election cycle. Two of which had served for over four decades. They are twins, their names are Mary and Martha, and their jobs are to hand out the little stickers at the end. And they have done the same thing for about four decades and they did not come in for individual training. The other 11 were fill-in people that had to be called in when we had --."

Mr. Evans - "I'm sorry. Give me those numbers again."

Ms. Daus - "There was 13 total."

Mr. Evans - "Uh-huh (affirmative)."

Ms. Daus - "Two were the elderly ladies that have worked for over four decades."

Mr. Evans - "Okay."

Ms. Daus - "The other -- the others were individuals -- the other 11 were individuals that came into fill-in because we didn't have people show up."

Mr. Evans - "All right."

Ms. Daus - "The Board of Elections --."

Mr. Evans - "But you -- you understand our predicament...."

Ms. Daus - "Yes."

Mr. Evans - "...in terms of -- which is someone trained on lever machines four decades. So length of service is always an important consideration for us, however, the reason we have all gotten so -- and I think Mr. McIver has been leading the charge in this attending that (inaudible) Conference and the GEOA Conference to participate to make sure that training on the latest issues is just key for us."

Ms. Daus - "And there was no one that worked on any of the machines, that even the people that came in and worked last minute did things like check off IDs."

Mr. Evans - "Uh-huh (affirmative)."

Ms. Daus - "Or check, you know, the voter -- fill out the little voter slips."

Mr. Evans - "Right."

Ms. Daus - "And --."

Mr. Evans - "So we had 11 fill-ins and they -- and they did what?"

Ms. Daus - "Like, where you would come in and I would say my name is Sherry Lynn Dillard Daus and my date of birth is 4/2/63 and they would mark you off as having, you know...."

Mr. Evans - "Okay."

Ms. Daus - "...having been there."

Mr. Evans - "Okay. Have they been trained?"

Ms. Daus - "Some of them were people that have served in the past. I would just have to defer to my Board as to whether or not --."

Mr. Evans - "I just wondered if they were trained on Photo ID and on the requirements of...."

Ms. Daus - "Yes. Yes."

Mr. Evans - "...exactly what the latest is --."

Ms. Daus - "Yes. And there was a Poll -- there was a Manager in each and every poll that had had all the required training."

Mr. Evans - "Okay. So --."

Ms. Daus - "And --."

Mr. Evans - "And we have -- I'm sorry."

Ms. Daus - "Go ahead."

Mr. Evans - "Do we have an allegation on Poll Managers?"

Ms. Daus - "No. No, I was just addressing your -- how the oversight would -- would have been handled and we have instituted, after our discussion with Mrs. LaGrua and the investigator, a training manual that we will be using going forward."

Mr. Evans - "Would you agree -- would you be agreeable to putting that training manual into a Consent Order?"

Ms. Daus - "Yes, sir."

Mr. Evans - "Okay. Great."

Ms. Daus - "How we're going to deal with the -- with the last minute issues of people that just simply don't show up and trying to find somebody at six o'clock in the morning will be an ongoing problem for all of us. The second allegation is that the Board of Registrations and Election violated by permitting untrained poll workers to serve in

the 2006 election cycle, and I believe there's an A and a B to the Code Section, but the answer is the same. The next allegation is the -- the gentlemen from Lamar County left, but I liked it. That there is no requirement to match up the eligibility as to an absentee applicant by validating the application signature on the absentee ballot application. As to the -- by failing to -- moving on the fourth one, the Fannin County Board of Registrations and Elections may have violated O.C.G.A. 21-2-386a-1-b by failing to validate an absentee ballot by comparing the signature on the absentee ballot oath with an un-validated signature on the absentee ballot application. First and foremost, the statement was previously made that Ms. Janna DuVal, a member of the Board of Elections said that that had never be done and that it would not be done. Mrs. DuVal is here and prepared to state, although we understand you're not a fact finding body. But since is on the record and could be used further, that no such statement was made by her. The Board of Elections and Fannin County, the Chairman of the Board of Elections, Mrs. Evelyn Waters Tanner, has served on that Board. We're a very political cap and we tend to rotate one year the Chairman is a Republican and one year the Chairman is a Democrat. It's decided in a gentlemen's agreement. Mrs. Tanner has represented the Republican Party since 1987 and is currently serving as the Chairperson. We are a small-ruled --."

Unidentified Speaker - "(Inaudible)."

Ms. Daus - "Certainly. We are small-ruled County and the - most of the vast majority of the people that vote absentee do so on a consistent basis. Our cards have not been updated and the signature cards from somebody 20 years ago who now has Parkinsons, is not going to match. Again, we have started the process of updating our cards. And finally, the third allegation is that we failed to reject three absentee ballot applications which were not signed by the elector. We will admit to that. That was human error. They constituted less than four-millionths of one percent of the total number of applications -- ballots sent out and since only one of those was returned it constitutes less than one-millionth of the total number of absentee ballots, and human error is going to happen no matter how much we agree that we're not going to do that."

Chairperson Handel - "All right. Who else wants to speak on this one? Come on up."

Mr. Evans - "Ms. -- Ms. Daus. Thank you. That was very good. It was very helpful."

Mr. Herman Clark - "Members of the Board and Ms. Handel, my name is Herman Clark. I'm with the firm of Clark and Clark in Ellijay, Georgia which is Gilmer County, not Fannin County. And Ms. Handel, we appreciate you coming to the

beautiful north Georgia mountain this last week...."

Chairperson Handel - "Thank you."

Mr. Clark - "...and speaking to some of our folks up there."

Chairperson Handel - "Thank you."

Mr. Clark - "I -- I represent, and I'm in somewhat of an awkward position because in don't know, as Mr. Mayfield said earlier, a whole lot about election law, as much as you Mr. Evans and some of the other members of this Board may. And some of the allegations against my client tend to be criminal in nature, and we only got these things -- I saw it for the first time on Tuesday afternoon."

Mr. Evans - "Would you like a continuance?"

Mr. Clark - "As far as she is concerned, I want to make a few general comments and probably, we may --."

Chairperson Handel - "But, I mean, we would need to -- if you want a continuance we can do that, but we're --."

Mr. Clark - "Right."

Chairperson Handel - "I mean, we're not going to sort of --."

Mr. Clark - "Do both."

Chairman Eaves - "Sort of hear everything today and then have a continuance, and then hear it all again at our next meeting, so --."

Mr. Clark - "Well, as far as she is concerned and as far as -- and I may want to get some help in election law areas, especially if she's facing charges that give rise to a number of them that appear to be misdemeanors and to at least one of them, that appears to be a felony charge here, and I --."

Chairperson Handel - "So you'd like a continuance?"

Mr. Clark - "I think we should have a continuance on her behalf."

Chairperson Handel - "That's fine. Okay. Then we'll have a continuance on --."

Mr. Evans - "I make a motion that we grant the request...."

Mr. Clark - "Very good."

Mr. Evans - "...of a motion for continuance as to Ms."

Early."

Chairperson Handel - "Early."

Mr. Worley - "I'll second that."

Chairperson Handel - "Okay. We have a motion and second for Ms. Early."

Mr. Clark - "Thank you very much."

Chairperson Handel - "All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, Ms. Early's is continued and we'll bring that up at our next meeting which we'll make sure you know exactly when that is as soon as we set it. And that leaves the Fannin County, specific Fannin County Board of Registrations and Elections component which the County Attorney indicated that she did not need a continuance at this point, so --."

Mr. Evans - "Madam Chair, as I understood it there were three categories, and Ms. Daus, are you still here?"

Ms. Daus - "Yes, sir."

Mr. Evans - "I'm sorry. Okay. Just make sure these three categories right. One category is training."

Ms. Daus - "Yes, sir."

Mr. Evans - "Which you indicated that you were prepared to accept a Decree or Consent Order that imposed the training requirements that you have reached. Have you reached that with our office with the --."

Ms. Daus - "When the investigator was -- when we met when the investigator was in Fannin County, we went over the things and he was there for part of them and subsequent to we came up with some general things that we knew we needed to do so that if nothing else, we would have a checklist."

Mr. Evans - "But you're agreeable to a Decree that imposes training requirements."

Ms. Daus - "Yes, sir."

Mr. Evans - "Okay. And the second one is that we have an admission on the 386a1 which is the rejecting the three absent -- so we don't need to have an evidentiary hearing on that piece because we have -- you've admitted that the only question, really, is the remedy. We'll have to take that up. I know that one of my colleagues has -- has expressed

significantly and I -- I share that which is that one vote is too many because of the margin in cases. Then in the one that we appear to a fact issue on -- and then you adopt the 381b, which is that's not in the Code, the comparison."

Ms. Daus - "Correct. But if it is we will certainly start do that."

Mr. Evans - "Right."

Ms. Daus - "And I understand it's going to be in the new version of the code."

Mr. Evans - "Right. So the one that we have left for a fact determination is comparing the signature on an absentee ballot, oath envelope with signature on the absentee ballot application. And on that narrow issue, is there just a disagreement? You say you did it and they said they didn't; or what?"

Ms. Daus - "No. We are actually saying that we did not do it in all cases. What we took exception to was the statement that we would not be doing it in the future because we're actually undertaking to make sure that we have cards that wouldn't want closely to (inaudible), for example, a voter that our current minimum is 75, card's been on record since he's 18. He has Parkinsons now, the signatures couldn't possibly match."

Mr. Evans - "So, and obviously you recognize we'll decide he'll probably -- what you're going to do in the future."

Ms. Daus - "Right."

Mr. Evans - "So what I have then, Madam Chair, is I have an admitted violation of 386a1b and a 386a1c admission. And then I have an agreement to a Consent Decree. So what I -- I would suggest is given that, I think our staff could probably present to us these admissions and then we can decide the remedy which is we won't have a fact -- we won't put you through the expense of a fact finding because we have an admitted violation of these two -- we have admitted two violations and we have training. I'm just going to put training over here. We need to decide what the remedy is for the two violations and what the training should be."

Ms. Daus - "Yes."

Mr. Evans - "Is that the -- do we all agree on that?"

Ms. Daus - "Yes, sir."

Mr. Evans - "So -- So I would move that we accept the two admitted violations. That we set this down for a remedy hearing at our next hearing whereby the staff presents us

with a, presumably a Consent Decree, but if it doesn't, if you can't agree on the remedy, then what you'll give us is - here are the admitted violations. You now need to decide training, and what it is for these two violations. Is that --."

Ms. Daus - "Yes, sir. Yes, sir."

Mr. Evans - "Okay. I think everybody's agreeable with that, so that would be my motion."

Chairperson Handel - "Got a motion, is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Got a motion and a second. Any -- I'm going to be real honest. I have a little angst about it, only because we continued the other case. And I'll know that we, since we haven't heard anything from the other side, it would seem to me that all of these should be handled together because they're intertwined and I understand that you represent the Board and you represent the individual, but I -- I mean, I'd kind of like to understand the totality of this better from where I sit because -- and I'm going to have to get some clarity on this absentee ballot issue because it is my read of the law that you do, indeed, have a requirement to verify the signature on the absentee ballot. And the new law, hang on, the new law lays it out, I think, in a much clearer, more succinct manner, but just because the new law is clearer it doesn't take away the responsibility from the previous law. And if you have to -- if your requirement is to verify the absentee ballot voter, how do you do that unless you check the signature. You don't just look it at and say, ah ha, that's Joe Blow. You have to have something to compare it to. So I have a little uncertainty around that, again, sort of breaking these apart since I think this is a totality of -- of a matter."

Mr. McIver - "Madam Chair, I agree with Mr. Evans, but for a different reason. This case will be coming back to us and certainly if anything we hear from Mr Clark with respect to Ms. Early could certainly influence that and we'd have a chance to correct it at that time. I would favor the motion as it's proposed. Certainly it saves Fannin County a fair amount of money in that regard, and that's what's appealing to me having been in a position like this, saving money is a premium these days. So I would support the motion knowing that we can always correct it."

Chairperson Handel - "Are there any other comments? All right. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "I'm opposed. That passes 4 to 1. Next item, please."

Ms. Daus - "Excuse me."

Mr. Evans - "Yes. Yes, you are and thank you."

Chairperson Handel - "Thank you."

Mr. Evans - "Ms. Daus, thank you for your presentation, and Mr. Clark, always."

Mr. Clark - "Thank you."

Ms. LaGrua - "I should let the Board know that both, Mr. Clark and Ms. Daus were very cooperative with our office on occasions when I met with both parties and were very forthcoming and made this investigation much easier for the Secretary of State's office, and I appreciate that."

Mr. Evans - "It makes -- it makes it easier for all of us when really good lawyers are brought in."

Chairperson Handel - "Thank you."

Ms. LaGrua - "The next calendar is the Fulton --."

Chairperson Handel - "Can -- Can we take a five minute restroom break?"

Ms. LaGrua - "That would be wonderful."

Chairperson Handel - "Super. So can I get a motion to take a break?"

Mr. Worley - "Motion to recess."

Chairperson Handel - "Second."

(Whereupon, there was a chorus of ayes)

(Whereupon, a break was taken at 2:40 p.m. and the meeting resumed at 2:51 p.m.)

Chairperson Handel - "All right. We're going to go ahead and come back to order. And Shawn --."

Unidentified Speaker - "I would like to compliment the Secretary of State's office on the binder that we have now. It's so organized --."

Chairperson Handel - "Kristen and Rhonda and Shawn and everybody, thank you."

Unidentified Speaker - "I'd like to thank you for all the

excellent work you do all year. It makes it easier for me (inaudible)."

Chairperson Handel - "All right. Go ahead."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is Fulton County case. This doesn't involve a specific election cycle. Actually, it involves an allegation that our office received on April 9th of this year. We got a phone call into the Elections Division that a citizen had seen some ballots in a dumpster. That was, I believe I recall, a Monday. We immediately followed up. Investigator McBrayer spoke to the individual, traveled to the area which was the Atlanta Technical School, called me about 5:15 and said I can't fit these in my Crown Vic. We then traveled with an SUV, as well as the Crown Vic out. Recovered approximately 75 thousand voter registration cards in a dumpster on the Atlanta Technical College. That, obviously, instigated an investigation and I'll try to move through this fairly quickly. What we found out was that those registration cards for 2002 through 2004 had been dumped in a dumpster down at the Atlanta Technical College at the direction -- the warehouse manager for Fulton County directed that the cards be destroyed, not that they be taken to Atlanta Tech. There were two temporary workers that were supposed to throw these in the dumpster. They decided that they saw it when they were getting an application at Atlanta Technical College. We then followed up with the Board of Elections and Registrations. There was no -- there were no specific instructions about how these were to be destroyed. The cards contained, specifically, social security numbers and in some of the older cards, maiden names of the female voters whose name appeared. Ira Turnipseed, the Director of the warehouse had indicated at a number of meetings of the Board of Elections and Registrations that he was going to be destroying documents that were older than 2004 and never received from John Sullivan or Shawn Kelly, any directions to the contrary. As we investigated after we got those voter registration cards, Investigator McBrayer, on April 20th, traveled to the Board of Elections and Registrations with 57 randomly selected registered voters to see if Fulton County could give us the scanned image. They had started scanning the voter registration cards, allegedly, from 2002 to 2004, and then their scanner broke down and they picked back up in 2006, as I recall. We asked for 57 randomly selected registered voters for the original registration card and the scanned image. Approximately two-and-a-half to three weeks later we started getting some results. They located 41 of 57 of the registration cards. Ms. April Pye, the acting Director now, believes 11 may be the cards from the dumpster. So 11 of the cards, and I'll get to the status of those cards in just a minute, if, in fact, they're in the 75 thousand, would have been gone forever had we not found them. In many others, she thought of those 16 cards they could not find may have been in there and mis-sorted.

They were able to locate 44 of 57 scanned images. Twelve were before through 2001 before scanning, so over 20 percent of the request we made was unavailable to be verified by the Fulton County Board of Elections and Registrations. At approximately 9:30 a.m. on May 16th, Investigator McBrayer took another 49 randomly selected registered voters to the Board of Elections and Registrations and asked for the registration cards and scanned images as quickly as possible. And, specifically, by the end of the day as their -- if they're not kept at the site, they're supposed to be retrievable in a reasonable amount of time during an election or during the absentee process so that they can be compared. By two hours later, they had only 36 of 49 scanned images. Eleven were prior to 2001. There was no image at all for two voters from 2002 and 2003. Two voters had neither card or image. That's approximately five percent. By 4:30 they could only produce 23 of the 49 registration cards. Following up, we -- approximately two months ago, sent the 75 thousand cards to the archive warehouse to be processed, scanned and cataloged. They have just been completed. We have received back -- it took approximately 10 people that two-month time period and an approximate cost of \$20 thousand to catalog those cards. Further, on June 12th, Investigator McBrayer and Investigator Conway, who I don't believe the Board's met before, Bobby Conway with our office, traveled to Fulton County during the absentee advance voting process. They found that there was no provisional ballot set up or provisional ballot voting machines on hand. There were no optical scan instructions posted, no card of instructions posted. When they examined the absentee ballot process, they found that 14 absentee ballots had been requested and issued back out 14 applications and then 14 ballots issued backed out. They received nine back. A requested scanned image of the registration cards or signatures for the 14 applicants, they could not provide anything for two of the applicants and they issued those two without any verification. Approximately 14 percent were clearly not verified and were -- don't really know on the others because we weren't there when the process occurred. I would like to, before I give my recommendation, specifically thank the archives division of our office that came and stepped up to the plate to help us process this. It was an arduous process, and also the Georgia Bureau of Investigation, which immediately stepped in within about 24 hours of this incident happening and assisted us with our investigation. Unfortunately, Ms. Verasci (phonetic) and Ms. Lange and Mr. Johnston are not available today, they're on a homicide investigation, I believe, from East Point but otherwise would have been here. It's my recommendation that all of the allegations and investigations be turned over to the AG's office in this case. You do not have specifics and we will provide that at the next meeting when we finish the investigation on the current election after we verify everything from Tuesday. We will have a subsequent report

on those specific violations, but I wanted to update you on what we knew at this point."

Chairperson Handel - "Is anyone here from Fulton County who wants to make a statement? And you were here, I don't know if you were earlier, but you'll have up to 15 minutes. This isn't an evidentiary, it's -- or probable cause."

Mr. Lee Parks - "Thank you, Ms. Chair."

Chairperson Handel - "Thank you. And if you'll state your name and record for us."

Mr. Parks - "My name is Lee Parks, I'm the Attorney for the Fulton County Board of Registrations and Elections, and we have here today four of the Board members. Frank Strickland, Sam Westmoreland, Cynthia Williams and the Chair, Juanita (phonetic). We also have the Executive Director, April Pye in attendance. We had received the report on Tuesday. Obviously, I think as the -- Shawn said, we do not have any report on the stuff about the elections...."

Chairperson Handel - "Right."

Mr. Parks - "...so we can't respond to that today."

Chairperson Handel - "Do you need a continuance, then?"

Mr. Parks - "Well, obviously on that -- I -- are you --."

Chairperson Handel - "No, for today. No. No. No. Not that. For what's before us today."

Mr. Parks - "We do, because if this issue. Approximately three weeks into the investigation, we requested access to the documents. We made an offer to create a manipulable database at our expense so that we could share it here, have it in this room, have it in an ALJ room, have it in Attorney General. And we were refused access to those documents and our many contacts with -- Inspector General's office told us that the lack of manpower precluded them from doing it and they wouldn't let us have it. It's impossible to assess these charges without having access to the documents. We're not saying -- we're saying that if we have access to the documents and we can manipulate them so that we're not actually searching, you know, scanned images that are static, we can very quickly get to a situation where at least the facts of these charges are going to be able to be debated coherently in front of you. But at this point we haven't had access to the information. So what we had asked for in the conscious of a continuance, not a continuance in the abstract, is a continuance so that, and I don't know. It may be that there is a manipulable database being created here with all this time. But if it isn't, it's worthless."

What we need is something, because we can't go through them -- this many documents one at a time when we're looking for something that was, they say, randomly selected 57 cards or 57 signatures, to be able to match that up. So we're willing to --."

Mr. Evans - "So your interest, just to be sure to understand...."

Chairperson Handel - "Yes."

Mr. Evans - "...so your interest is as to the magnitude of the problem, but you agree that there's at least one ballot that was not secured or registration application that was not secured. You can't even agree on one?"

Mr. Parks - "Yes. No, I'm not disputing that. I'm saying that if you wanted to go through the nine charges, we can't begin to do that because we don't have an access to the documents that they have had -- they rely upon and make those charges. If we -- if you want to approach it just on is there some basis...."

Mr. Evans - "Right."

Mr. Parks - "...to even make one charge that that's the basis for the referral as opposed to what I've seen before, trying to see because there's a number of these charges that don't even set forth a cause of action or a claim. There is a matter of law not referable."

Mr. Evans - "Well, let's do this."

Mr. Parks - "But I don't want to get into that until I see the documents."

Mr. Evans - "Just maybe highlight for us which ones you think the data would make a difference on in terms of us."

Chairperson Handel - "Mr. Evans, if I might before he does that, can we hear from Ms. LaGrua again on actually where the data is and the reason that the actual cards, themselves, were not turned over since, obviously, if this were to go forward that's evidence. So I -- I'm sure you can appreciate we cannot give you the cards."

Mr. Parks - "We wanted just access to create a database."

Chairperson Handel - "Go ahead. Would you explain what you all have done?"

Ms. LaGrua - "Yes. We've actually had that done. We've had to hire outside workers to do that. The reason they weren't turned over and Fulton County was not given access is this is potentially a criminal violation and this evidence in a

criminal case. And there's no logical way for us to supervise somebody else coming in and dealing with 75 thousand voter registration cards. Furthermore, as I'd point out to the Board, the fact of the matter is Fulton County got rid of this stuff. That doesn't change the allegation. The fact that we recovered it might have saved them from committing this had they had it back is sort of like un-throwing the baby in the water."

Chairperson Handel - "Right."

Ms. LaGrua - "I mean, the cards were sent to be destroyed and by the luck of a concerned citizen we've recovered what Fulton County got rid of and would not have been able to use to verify the request for voter input."

Mr. Worley - "But that doesn't change the fact that there is evidence there and they ought to be able to access it to defend these charges if -- if they can. I mean, if someone from our defense --."

Chairperson Handel - "And I think what Shawn is saying is that we did go through and expend the monies to do it because, clearly, you would want it in a controlled environment, catalog all the cards. And that's been done and they'll be given that. I guess what I heard was cataloging the cards has nothing to do -- it might have something to do with some of the other allegations, but it certainly doesn't have anything to do with the allegations that the cards were thrown away in the first place. Kind of, sort of two separate things. And when will they be ready to give to them?"

Ms. LaGrua - "We've just received the data from the archives and our IT Division is going over it to make sure it's in a format that --."

Chairperson Handel - "Can be sorted."

Ms. LaGrua - "Can be sorted and can't be altered."

Chairperson Handel - "All right."

Mr. McIver - "Madam Chair, isn't there enough, and perhaps this is Mr. Evans' point, isn't there enough here for us to simply move this forward? And do we really need Mr. Parks to come back and comment further when we know we're looking at some fairly clear violations? I assume it's not disputed that these things were in the dumpster -- all the rest of them, so --."

Mr. Parks - "No. Because --."

Mr. McIver - "That, in and of itself, would --."

Mr. Evans - "I agree. Because what I'm trying to understand is this we have two -- we have two different things that we have to do. One of the things we have to do is do we have enough evidence to buoy that the violation has occurred? You know, and typically what we hear are the statute doesn't ban that, there's a legal reason, something, you know or there's an admission which takes it away. And then separately there's an evidentiary hearing where, I think Mr. Parks, your position is that if in order to defend and I need the evidence because if there's a trial on the evidence then I should have access to the evidence."

Mr. Parks - "It's more than that. I think that if -- if there's a default here in going through -- they've chosen to make nine charges. It's grossly overcharged. I think one of the -- one of the obligations this Board has is to parse through that. I think that we can do that and I think we can down to a much more finite coherent situation or we can go debate that with the Attorney General. I think it's a policy issue, it's certainly not my call. With the -- to get the investigative report 48 hours before the hearing, to not have access to the documents and asked to be respond to serious charges which the Inspector General says man-brought criminal charges, I'd like to have the documents and have a coherent opportunity to present our case to this Board. And I don't think I've had that."

Chairperson Handel - "Again, this is not the place where you would quote, present your case. And this --."

Mr. Parks - "It would be on probable cause."

Chairperson Handel - "Hang on. No, it's really not. I mean, I hear from AG's office that we look at the report and, I mean, we don't quote, take evidence, if you will. Certainly if this -- if this body chooses to refer it on, then -- and there's a hearing versus trying to have a Consent Order or whatever, I think that there would be much broader access on the evidence, et cetera --."

Mr. Parks - "Madam --."

Chairperson Handel - "Hang on. For -- for me, I cannot more vehemently disagree with you that there is anything grossly overcharged here. As a -- I mean, this is, in my short time here, the most serious thing that this body has come across. And let's just forget about put the voter part of it aside and the fact that somebody's registration with their social security number and potentially their maiden name as well, which would give them full access to the person's life, was sitting in a dumpster. I mean, it's just extraordinarily egregious, and I don't think that anyone here has the desire to be overly aggressive on this. We just want to be appropriately aggressive so that we can make sure that everything is really gotten under control as we come into a

much bigger election cycle than what was had to be faced on June 19th. Mr. Worley."

Mr. Worley - "Thank you, Madam Secretary. Mr. Parks, when did you get this investigative report?"

Mr. Parks - "Tuesday. Middy."

Mr. Worley - "And today is Thursday, so you haven't had 48 hours yet, really, to deal with it. Madam Secretary, I -- I think just as a matter of fundamental fairness when we have had other people today...."

Chairperson Handel - "Uh-huh (affirmative)."

Mr. Worley - "...and our policy in the past has essentially been that if someone wants a continuance, and particularly in circumstances like this where they've just gotten the investigative report, that the fair thing to do is to give them a continuance. I mean, there's not any -- any allegation that, you know, there's going to be some immediate irreparable harm to the voters of Fulton County if we wait to bind this over to the Attorney General's office. And I just think the fair thing to do is to give Fulton County an opportunity to look through the database, which apparently is just now been received and more than 48 hours to respond at a probable cause hearing."

Mr. McIver - "Madam Chair."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Any chance that if we -- if we agree with Mr. Worley that this case should be -- that we should grant them an extension, is there any chance at the February '05 election, which I think will be our next statewide election, will be impacted by, perhaps a delay in this matter?"

Chairperson Handel - "I -- I mean, it will depend, I mean, certainly I don't think that we could delay beyond, say, you know, our September meeting that we would have here in Atlanta because we, I mean, I think that from -- we will see, but clearly some significant remedial action is going to need to take place in the Fulton County Elections Office. I mean, that's just abundantly clear. All, you know, regardless of what happens. Mr. Worley, the reason that I asked up front did they want a continuance, because I want to be fair about all of it."

Mr. Worley - "Sure. I understand."

Chairperson Handel - "So I, candidly, even though I think just the dumpster issue in and of itself is enough to refer, I don't have a problem with a continuance until our September meeting. Just in the interest of fairness and

making sure that we have a level playing field for every individual or county that comes before us."

Mr. Worley - "Then I would make a motion that we continue this matter until our September meeting."

Chairperson Handel - "Okay. Motion. I'll second. Any other comment or questions? But again, I'll say that, colleagues, I think will have to make our decision in September and need to have some very expeditious action in order to be prepared coming to the next election."

Mr. Evans - "Well, in that regard, I mean, I would recommend, you know, because what will happen is once we make a decision one way or the other as to whether or not we think there's a potential violation, the Attorney General has to issue a notice which is the equivalent of a complaint, and they have to set forth the specific violations. Because I think it's so critical that we get that exactly right given the possibility of legal challenges and appeals down the road, you know, I would -- I would suggest that we grant the continuance for two purposes. One purpose is to allow you an -- a reasonable opportunity to get whatever information you think is appropriate. And second, so that the AG can go ahead and prepare for us, in the event their going -- the decision is, in fact, made and so that we will not have any additional delay, what the specific charge will be so that on the day that we decide one way or another, should we decide to find a potential violation that we can charge that day and move forward that day."

Mr. Parks - "My concern about that is only that you've effectively referred it. That it's prejudged. I --."

Mr. Evans - "I haven't. I -- I look through here, but --."

Mr. Parks - "I think we'll have input that we'll be back. We're not -- we're not here to be defensive, we're here to be proactive and helpful. We wouldn't be asking the continuance if we didn't think, with access to these documents, we can provide information which is not going to delay the process, but move the process along because we'll come to closure on factual issues. We're going -- we're going to move this as fast as possible. I don't want any of the Board members thinking that this request is for delay. It's not. It's so that we can be more interactive with the process. Proactive with the process. But I would -- I would hope that we would not have the Attorney General drawing up the papers before we've had the probable cause hearing."

Mr. Evans - "Well, I think that they can bring, just as they provide us with a report here, which you disagree with, they can bring us information to expedite the process, and I will

be, you know, candid with you. We -- I, personally, think the Board will be hard-pressed to find that thousands of documents of this nature in a dumpster are business as usual and acceptable and that no violations have occurred."

Mr. Parks - "I understand."

Mr. Evans - "However, you may can -- you may succeed. I've been surprised before. I may be surprised again. I think Georgia voters would be surprised. But I want you to have that opportunity, and want you to have all the information, but I also want, as the Secretary wants, we don't want delay here. We want to move it forward. So I -- I will support the motion."

Chairperson Handel - "Okay. I have a motion and a second."

Mr. Israel - "Second."

Chairperson Handel - "Any other questions? Did you want --."

Mr. Israel - "Second."

Chairperson Handel - "Okay. Motion and a second. All in favor, say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. McIver - "Me. I oppose."

Chairperson Handel - "All right. Everyone's clear what needs to happen?"

(Whereupon, there was a chorus of affirmatives)

Chairperson Handel - "All right. Thank you. Calandra, you --."

Ms. Almond - "Yes."

Chairperson Handel - "All right. Next."

Ms. LaGrua - "Next case on the calendar, Madam Chair, is the Randolph County case. There are three different cases involving Randolph County. One of the cases was before this body in March of this year. It was referred back to us for further investigation and I won't go into -- briefly, those allegations came from Bobby Jenkins against respondent, Carol Ray, alleging racial discrimination on the rejection of valid applications. You may recall that Investigator Dyer addressed this Board and specifically went through all the applications that were rejected and denied and gave you

specific reasons and the count on that. Since then there was another -- there have been two other investigations and if I could address those sort of in reverse order starting with 2007-0006. This case involved the November, 2006 General Election. The complainant was Henry Cook, Commissioner of the School Board. Respondents were Carol Ray, Lorraine Curry, and Winona Johnson, the Chief Registrar and two Deputy Registrars in Randolph County. Allegations related to --."

Chairperson Handel - "I'm sorry. It's the last report under 12. You're going in the opposite order."

Ms. LaGrua - "And I apologize. And let me explain from a timeline. This alleg -- this complaint actually came in and was misplaced under the former director and eventually I found it and requested...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...that it be investigated. The allegations related to a dispute regarding District 4 and District 5, which has been the subject of an ongoing DOJ investigation. It alleged that Mr. Cook was changed from District 5 to District 4 and was not given an opportunity to appeal that decision. In looking at it, it was found that, in fact, the proper notice was not posted in the papers. We had -- Investigator Dyer actually retrieved the papers, which the Board of Elect -- the Registrars Office said -- had posted the notice of the special called meeting announcing that they would consider Mr. Cook's change from District 5 to District 4. It was not posted, he was not allowed an opportunity to be heard and in that regard, along with the other cases in -- regarding this County, it's my recommendation that that case be referred to the AG's office. The follow up investigation, which is 2006-0005 was the case, when you all heard the case in March 13th of this year, I asked that it be referred back for some further investigation. I traveled to Randolph County with Investigator Conway, who's here today. What had happened in the March 19th, I believe, spring election, we had been down monitoring and Investigator McBrayer saw some irregularities he thought in the absentee ballot process, so we immediately traveled down to Randolph County to follow up. Investigator McBrayer and I retrieved from the Registrar's office, the registrar had actually kept the absentee ballot application envelopes that the applications had come in and again, there appeared to be similar writing on all of the envelopes. They either had the same pre-done label or similar handwriting. And let me back up a minute. I don't believe the Code as it is right now, specifically says that the absentee ballot application has to be compared to the registration card, however, what the law says is that when an absentee ballot application is received, you can only mail an absentee ballot to an eligible voter. Unless it's

in person, the only way I know of to determine that you have an eligible voter that's requested an absentee ballot on a mailed in application is to verify that that voter is registered in that county to vote, which is where you're hearing the allegation that the application is not compared to the ballot if it's a mailed in application with the ballot being sent. There's no other way, that I'm aware of, to determine that the person who mailed the application -- the absentee ballot application is an eligible voter without comparing it to make sure that that voter is a registered voter in that county. What we found when we went out was that there were three women, Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers, that were in a calculated group and effort going out with absentee ballot applications, assisting voters in filling out the applications, putting the -- taking those applications, putting them in the envelopes and mailing them. And, in fact, Sheila Flowers was the individual that was preparing the envelopes and stamping the envelopes to mail the absentee ballot applications to the post office. And, in fact, on one occasion the post office received a huge packet of the absentee ballot applications that had been mailed as a bundle. We then took the ballot, the absentee ballot envelopes and went back to those same individuals and asked them. We interviewed approximately 30-some voters that we could locate in Cuthbert and they indicated that Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers, with Nettie Bell Shepherd being the most moving of the three, had come out and assisted with the absentee ballot, actually helping them fill it out and actually taking the ballot envelopes and mailing them. And, in fact, on at least one occasion I talked to a voter who indicated that Ms. Nettie Bell Shepherd had filled out his ballot. He had no idea who he had voted for and she took the ballot and left his location. Again, it's my recommendation, in this particular case, that they be referred to the AG's office, and if necessary, I can try and fill in any gaps. There's -- this case has a long history of investigation."

Chairperson Handel - "But there's three separate complaints; is that right?"

Ms. LaGrua - "Correct. There was the original complaint that this body heard September -- I'm sorry, March of this year which is this 17. That's correct. And I --."

Chairperson Handel - "Which we sent back for more investigation."

Ms. LaGrua - "Correct. As it related to the -- the absentee ballot and the timeline. And --."

Chairperson Handel - "What I'm trying to get to is whether or not we should be taking each of these individually or all together as one. I just want to make sure that anybody who wants to speak on --."

Ms. LaGrua - "Probably separately because you different respondents in the different cases."

Chairperson Handel - "Who's here to speak on the -- you need to just call each case so I can -- and not lump them. It's one -- so I can...."

Ms. LaGrua - "I'm sorry. Okay."

Chairperson Handel - "...make sure everybody has their say."

Ms. LaGrua - "In 0017 --."

Chairperson Handel - "Which is the one that we sent back."

Ms. LaGrua - "You heard on March 13th. Correct. The respondent is Carol Ray and it was alleged that...."

Chairperson Handel - "The complainant is Bobby Jenkins; is that right?"

Ms. LaGrua - "Correct."

Chairperson Handel - "Okay. Is there anyone here to speak on this particular matter? Okay. And you are?"

Mr. Bobby Jenkins - "Bobby Jenkins."

Chairperson Handel - "Okay. Come on up. And I'm going to require that you keep it two 15 minutes or less, please."

Mr. Jenkins - "I'll just take two."

Chairperson Handel - "Is there anyone else here for this one?"

Unidentified Speaker - "(inaudible)."

Chairperson Handel - "Okay. He's the complainant because I --."

Mr. Jenkins - "I was the complainant in this particular one, and just very briefly, I think the fact that we have several and that there are potential violations in each of those, speaks to the fact of what I brought to you all in March. That there are people, local officials, who are using their office to disenfranchise black voters. And we just hope this Board would take a strong stance against that and issue out appropriate, but decisive punishment. We have a County and some of the officials are here, and they've spent over a quarter-of-a-million dollars to try to get Mr. Cook, who's Representative Chairman of the School Board, out of his Office. Part of this district moving and all of that,

that's part of, we think, a concerted effort to do that. So we just would plead with this Board to take decisive action to make sure that these kinds of activities do not occur and regardless who is on the Board of Registrars that they follow the laws as they are printed. And that's all I have."

Chairperson Handel - "All right. Thank you."

Mr. Tommy Coleman - "My name is Tommy Coleman. I represent Randolph County."

Chairperson Handel - "And so you're also here representing Ms. Ray?"

Mr. Coleman - "Well, yes, ma'am. I represent the Board of Elections and also the Board of Registrars."

Chairperson Handel - "Okay."

Mr. Coleman - "I want to announce, however, that Ms. Ray, Ms. Johnson, Ms. Curry, are no longer members of the Board of Registrars. They resigned and --."

Chairperson Handel - "Okay."

Mr. Coleman - "As a matter of fact, I doubt seriously we have a Board of Registrars at this moment. There was another that also resigned for other reasons. And so, the Judge of Superior Court is dealing with that right now."

Chairperson Handel - "All right."

Mr. Coleman - "Hopefully, they'll be...."

Chairperson Handel - "Okay."

Mr. Coleman - "...appointed shortly. As I pointed out or said to the Board at the last time you considered this matter, with regard to 2006-0017, we completely agree with the report of the Secretary of State's office. Our own investigation of that one found that they were three disabled voters who were not mailed a ballot because their address had changed. And that, of course, is violation of statute. When Ms. Ray was the chief registrar, I had a discussion with her about that. She acknowledged that she, in fact, had done so, and, of course, committed not do it again. But I guess that's moot; isn't it?"

Chairperson Handel - "Yes."

Mr. Coleman - "So I'll be prepared to speak on the others as well."

Chairperson Handel - "All right."

Mr. Coleman - "When and at the appropriate time."

Chairperson Handel - "Okay. All right. So this is case number 17."

Mr. Evans - "So we have, basically, on allegation two an admitted violation?"

Chairperson Handel - "Yes."

Mr. Evans - "381-a-1."

Chairperson Handel - "The challenge with this one is that all of the individuals who were involved are now gone, but I think, certainly, some sort of direction for a new Board coming in around all of these -- I mean, unless was there anything willful, Ms. LaGrua, on the part of Ms. Ray?"

Ms. LaGrua - "I can't comment on that."

Chairperson Handel - "Okay."

Ms. LaGrua - "It's clearly neglect, if not willful. I should point out that the first complaint in this we did not address as that had been taken up with the Department of Justice, just for clarification...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...because it's been so long. As you're looking through the file --."

Chairperson Handel - "Okay. This first one is still with DOJ?"

Ms. LaGrua - "It -- it's -- it's been handled by DOJ, and that'll come up in one of the other...."

Chairperson Handel - "Got it. All right."

Ms. LaGrua - "...cases."

Chairperson Handel - "All right. Colleagues, I would think at minimum we would want to have something in the form of a Consent Order or a letter --."

Mr. Evans - "I would move that we issue a Cease and Desist Order with a Public Reprimand."

Chairperson Handel - "Okay. Is there a second?"

Mr. Worley - "I'll second that."

Chairperson Handel - "Got a motion and a second. Any other

questions on this item, colleagues? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. That's the action for number 17. Calandra, you got that?"

Ms. Almond - "Yes."

Chairperson Handel - "Okay. All right."

Mr. Evans - "(Inaudible)."

Chairperson Handel - "Pardon me? Yes. I just wanted --."

Mr. Evans - "The issue we have filed on behalf of the Board --."

Chairperson Handel - "Yes. Yes. All right. The second one is number --."

Ms. LaGrua - "06."

Chairperson Handel - "Okay. We'll do 06 before 05."

Ms. LaGrua - "06. This is -- this letter involved an allegation regarding the dispute between District 4 and -- excuse me -- District 5. As the Board may recall, Mr. Cook was changed from one District to the other which was the subject of the DOJ investigation. It is alleged that Mr. Cook was changed from District 5 to District 4 after the DOJ put him in District 5, and was not given an opportunity when there was a special called meeting of the regi -- the Board in Randolph County to hear that decision. In fact, he was not given adequate notice and it is -- it was improper and, in fact, the DOJ, after Randolph County appealed this ruling the DOJ said no, he's in District 5. So I would ask that Ms. Ray, Ms. Curry, and Ms. Johnson again, be referred to the AG's office. It is, in my mind, after looking at the totality of these case, in my professional opinion, this was a willful violation."

Chairperson Handel - "All right. Did you want to speak on this item?"

Mr. Coleman - "Sure. Madam Chair, this is a much more complicated issue than it's been presented. The DOJ didn't say he was in District 5, they -- they didn't pre-clear the method about which he was assigned. There is been, from the first presentation before a Superior Court Judge sitting as a Probate Judge, that Judge found that Mr. Cook lived a hundred yards out of District 5 in District 4. Nonetheless, he found that his domicile was in District 5. There was -- has been a number of legal proceedings around this. The

suit's in Superior Court, pending action in Federal District Court. The -- it was an action to require the County to pre-clear the movement of a candidate, excuse me, of an elector from one district to the other which was kind of a common practice among counties and registrars. We did that, we filed the pre-clearance, appealed the pre-clearance. In the meantime, that was a contempt to suit file against the County, which the County prevailed on. In the order, the Court did, in fact, find that -- or says in the order. I'd be happy to read the language to you, if you like, that when the General Assembly designed these districts they bifurcated for a -- he owns about six acres and they put a line right down the center. The Court said that his dwelling house was in District 4, even though he lived in District 5. If the Board would be kind enough to look at 21-2-228, you'll see that the Board of Registrars is not strained by any other actions in making a determination as to whether a person is qualified to vote. The Board of Elections is not a part to any of the matters that were -- that were litigated in 2002. And only after they made this decision, did this litigation begin. Now that's not to say that the Board is completely faultless. They did a poor job, as did a number of other people in 2002 with regard to this matter. There was really a perfect storm of incompetence, political intrigue, political power, bad lawyering and bad judgment so that one man ended up living in one district and representing another and remains so. But that's how it was pre-cleared and the matter is now -- he's now in District 5. He, all this time, ran for reelection in District 5 and won, and I think the Secretary of State's recommendation is inappropriate. I would say that -- that the presentation was much different from the report that was sent out. I don't want to argue the Open Records -- Open Meetings Law rather, but the Act that was cited requiring a hearing for the placement of an elector in a particular district, applies to the removal of an elector from the voting list, not to his placement within a City District or Congressional District or what have you. So I would beg the Board to read that very carefully. In the idea of the ad -- the Open Meetings Law does not require, although people believe that it does, does not require replacement of an ad for a meeting. When you conduct a meeting of a public body, such as this one, the only thing you're required to do is contact a legal organ, the county in which you are located, place a notice on the front door. So whether Ms. Ray represented she put an ad in the paper, or not, I'm not sure, I don't know, it's not relevant because that's not required for a regular meeting of the Board of Elections, the County Commissioner, any public body in Randolph County, or any other county in Georgia, absent some sort of local -- local act. So we believe that -- that they complied with the law when they held the meeting. It would not require to call a hearing, we don't do that in any future proceeding."

Mr. Henry Cook - "Madam Chair, my name is Henry Cook. I'm the Chairman of the Board of Education in Randolph County. I didn't come here to criticize anybody, but I've been on the Board of Education, this year it's 14 years. Mr. Coleman is the attorney. I never seen a man lie so much in all my days when it comes down to lying. Mr. Evan Simmons is also Chairman of the County Commissioner, which has come to our attention --."

Chairperson Handel - "Can we try not to have name calling. It's really -- thank you."

Mr. Cook - "Okay. Well, I --."

Chairperson Handel - "Thank you."

Mr. Cook - "And I just wanted to say that because I don't have a problem calling a spade a spade. But being here, the information that he has provided to you is false. This issue was presented back in 2002. The Justice Department cleared this issue back in 2002 where my residence involved. They came to my residence on several occasions trying to falsify information where my residence -- I am in District 5. It was proven when I first ran for the Board of Education 14 years ago. It was proven back in 2002 and we just saw it as a money making scheme. I make \$69.26 a month being on the Board of Education. Now why would anybody, or any municipality or county would spend \$250 thousand to remove a man from a position like that? Why? I ask you to look at this carefully. Judge the merit of this case and any question you may have, I'm sure the Justice Department can provide you with all the information. It was about 13 people that came down during the March 20th Election. They interviewed the attorney, they interviewed the County Commissioner's Chair, they interviewed other members that was connected with the County. The response that (inaudible) indicated to myself and the superintendent was that I just never seen anybody lie so much and didn't have any facts. The facts are there. I actually just reviewed the facts and any information that you need, we'll be more than happy to provide it to you. Don't allow these people to tell you information that's not true because everything that he just told you is not true. Thank you."

Mr. Worley - "Mr. Cook, before you go, I just wanted to focus, if I might, Madam Secretary?"

Chairperson Handel - "Please."

Mr. Worley - "Just focus on the charge that's in the case that's in front of us which is the 006 case."

Chairperson Handel - "Right."

Mr. Worley - "And it says that the Randolph County Board of Registrars violated O.C.G.A. 21-2-228d, and that they failed

to give three days written notification to you, of the hearing to determine your right to remain on the list of voters. Is that what they did?"

Mr. Cook - "That's exactly what they did. And not only with that, they had four or five sets of minutes in reference to this hearing and nobody will claim ownership to them."

Mr. Worley - "Okay. And it also says that Ms. Ray, Ms. Johnson and Ms. Curry violated 21-2-228f and that they didn't give you the opportunity to appeal their decision."

Mr. Cook - "And that was by design. That was intentional. They had no -- there was just no way they was going to give me the opportunity to do that."

Mr. Worley - "Okay."

Mr. Cook - "Anyone else?"

Chairperson Handel - "Thank you."

Mr. Cook - "Thank you."

Mr. Worley - "If Mr. Coleman wanted to respond to those...."

Chairperson Handel - "Absolutely."

Mr. Worley - "...just those two specific --."

Mr. Coleman - "Right. There was no motion to remove Mr. Cook from the list of electors."

Mr. Worley - "Okay."

Mr. Coleman - "Consequently, he didn't deserve a hearing or didn't have a right to hearing --."

Mr. Worley - "Okay."

Chairperson Handel - "All right. Ms. LaGrua, this entire matter, though, the one that's in front of us now. Department of Justice has resolved everything and I just wonder if, since we have the first Cease and Desist letter that's going to go out if we just broadly encompass following all the rules and procedures as part of that. I don't know with the three individuals gone, what additional sanction would be there."

Mr. Evans - "Well, I think that -- what I'm trying to sort through is, it doesn't sound like we have a fact dispute. But is there any dispute that he didn't get a hearing and the only real issue is whether, under the statute, he was or wasn't entitled to a hearing."

Ms. LaGrua - "I think -- I think that's correct."

Mr. Evans - "So, what -- what is the law on that? What -- was he or was he not entitled to the hearing? Three days notice on a hearing."

Chairperson Handel - "Which, I guess, rests with whether or not there was a motion to remove?"

Ms. LaGrua - "I'm not going to pretend, obviously, at this juncture, to be an expert in elections law. And I may not understand, but as I read 228, removing him from one to the other is removing him from that part of the list. Now I may be in error in that. If I'm in error --."

Mr. Evans - "Well the most important thing, though, is we've got to get it right."

Chairperson Handel - "Exactly."

Ms. LaGrua - "Correct."

Mr. Evans - "And so, I would suggest that we get -- we need to get a legal answer and, you know --."

Ms. LaGrua - "That's fine."

Mr. Evans - "Mr. Cook, if you want to submit a -- a letter brief on that...."

Mr. Cook - "That would be fine."

Mr. Evans - "...that would be fine. I would -- I would suggest that we ask our (inaudible) colleagues, over at the Attorney General's office to give us some guidance on that. But it does seem to me, that it's a legal question as opposed to a fact question. So I would move that we table it to the next -- to the September meeting with the only issue being for us to decide this legal issue. Because it would seem that if -- if he's entitled to a hearing, we have a violation. We have to decide the right remedy. If he's not entitled to a hearing, then he's not entitled to hearing."

Chairperson Handel - "Okay. With the question being whether or not moving from one district list to another district list, Calandra, if that constitutes removal from the list."

Mr. Evans - "Exactly. That is exactly --."

Chairperson Handel - "Okay. Is that your motion?"

Mr. Evans - "That is my motion."

Chairperson Handel - "I'll second that. Any other -- did you want to add?"

Mr. Cook - "Yes. If these people will not listen to what the Justice Department has told them, they're not going to listen to what you put in writing."

Chairperson Handel - "Okay. Thank you. All right."

Mr. Worley - "Well, in that case, Mr. Cook, why did you bother to file a complaint?"

Mr. Cook - "Well, I was hoping to get some results."

Mr. Worley - "Okay. But all we can is, you know, tell the Board of Registrars to do something."

Chairperson Handel - "Exactly. Did you want to add anything?"

Mr. Coleman - "Mr. Chairman -- Madam Chairman, rather. I did a little survey of other people in the election business --."

Chairperson Handel - "Okay. We can just -- we have a motion and a second. Yes, because --."

Mr. Evans - "If you'll just put it in your letter brief, that'll be great."

Chairperson Handel - "Exactly. I mean, we opened it up and each side gets 15 minutes and we're just -- we're not going to have a back and forth, back and forth. That is not the purpose of this. We've got a motion and a second to look at that narrow legal question. If my colleagues do not have any other questions -- all right. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? None. So that's what we're going to do. All right. Thank you. Next item. We're -- let us get the answer to that and then we can have, really -- all right. What's the third one in this?"

Ms. LaGrua - "The third one is the follow up investigation conducted down in Cuthbert."

Chairperson Handel - "Which number is this?"

Ms. LaGrua - "This is 05. 2006-0005."

Chairperson Handel - "Okay."

Ms. LaGrua - "This involves respondents Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers. This --."

Chairperson Handel - "And are they on the Board of

Registrations?"

Ms. LaGrua - "No."

Chairperson Handel - "No."

Ms. LaGrua - "These are private citizens."

Chairperson Handel - "Private citizens. Are any of the these three individuals here? Okay. Go ahead."

Ms. LaGrua - "These are the three individuals that on a -- on a very routine basis went out, took the applications, assisted in the application process, mailed the applications, then went back and most critically assisted in filling out ballots and taking the ballots with them to be mailed without signing as assisting, and in many cases, the voters were not illiterate or disabled. And in the case of Nettie Bell Shepherd on at least one occasion, actually voted the ballot without the elector knowing who she voted for him, and taking that ballot and mailing it. And I would recommend that those three individuals be referred to the AG's office...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...for those violations."

Chairperson Handel - "Okay. All right. The -- where's Nettie Bell Shepherd, because on that complaint it has Sandra Thompson, Lorraine Curry and Winona Johnson, unless I'm looking at the wrong one."

Mr. Evans - "You're right."

Chairperson Handel - "Am I on the wrong one?"

Mr. Evans - "No, you're right."

Mr. Worley - "No, you're right."

Mr. Evans - "It's Thompson, Curry and Johnson."

Ms. LaGrua - "I'm sorry. The one that has 05, and there may be a mis-number on one. It says Robert Conway, Investigator."

Chairperson Handel - "I don't know that we...."

Mr. Evans - "No."

Chairperson Handel - "...have what you have Shawn."

Ms. LaGrua - "I apologize. I thought they were provided and that I had reviewed these. I apologize if you don't have

that one."

Chairperson Handel - "All right."

Ms. LaGrua - "You should have it."

Chairperson Handel - "I guess what -- and, colleagues -- here, I've got a sheet on it, but I don't see that one at all in here. I've got two of the same."

Ms. LaGrua - "Then that's my oversight and I apologize."

Chairperson Handel - "Let's do this because what I'm concerned about when the three individuals who are the subject of this -- have we heard anything from them?"

Ms. LaGrua - "We have not, but I did verify that they were notified. But I'm happy since we're -- if at the Board's pleasure, since we are tabling the legal issue...."

Chairperson Handel - "All right."

Ms. LaGrua - "...on the previous, I'd be happy to re-present this and make sure that you have the information. I apologize for that."

Chairperson Handel - "Let's table that, because I don't --."

Mr. Evans - "That's fine. I so move."

Chairperson Handel - "Second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. None opposed. That's it for Randolph, right?"

Ms. LaGrua - "Correct."

Mr. Coleman - "No, ma'am. This complaint here deals with Ms. Curry and Ms. Johnson that has to do with their conduct on the Board of Registrars, which is what was sent to us. Which we received, like everybody else, on Tuesday afternoon. It had to do with the signing of a nominating petition by the members of the Board of Registrars."

Mr. Evans - "That's 2007-0005."

Mr. McIver - "That's our 05 case."

Chairperson Handel - "That's the 05 case."

Ms. LaGrua - "I have that, I'm sorry."

Chairperson Handel - "All right. All right. That's fine. All right. Shawn."

Mr. Coleman - "Remember, they are no longer members --."

Chairperson Handel - "That's fine. I understand."

Mr. Coleman - "Okay."

Chairperson Handel - "This is a continued -- this is the one that we sent back."

Ms. LaGrua - "This is the one we sent back. The other allegation in that, I'm sorry, was that Ms. Thompson and Ms. Curry and Ms. Jones -- Johnson, while they were registrars in the office, signed a petition for someone to be on the ballot. In the case of -- all were part-time and all the investigation indicated that they had signed this petition at their home. I think we're hearing a fact question on whether they were acting in their official capacity when they signed the petition. I think in a small county that becomes a very close call. I candidly don't know the answer. I think that's a legal question and an interpretation of -- that a registrar or something acting in their official capacity cannot campaign -- support...."

Chairperson Handel - "Uh-huh (affirmative)."

Ms. LaGrua - "...a candidate and I'll be honest, I'm not sure when it's a part-time position where that line is drawn. I think clearly had they signed the petition in the registrars office...."

Chairperson Handel - "Right."

Ms. LaGrua - "...on duty that you'd have a violation. I don't know where that line is and I think that may be, to some degree, while a legal decision, a policy decision of the Board on where you want us to go with these. This is not the first time I've encountered this. It's not on this calendar, but this question has arisen and Ms. Dyer, Investigator Dyer and I have discussed it of where that line is."

Chairperson Handel - "Okay. So the issue is we have part-time individuals who are engaged in a campaign, but signed a document being a part of the campaign in their official capacity."

Ms. LaGrua - "No. They did not sign in their official capacity."

Chairperson Handel - "They did not. Okay."

Ms. LaGrua - "The question is sort of where their official

capacity ends."

Chairperson Handel - "All right. Colleagues, where those of you have been here, have we had something like this before?"

Mr. Evans - "Not that I recall."

Chairperson Handel - "All right. I need a determination on that one, as well."

Mr. Coleman - "I would invite the State Board to -- to consider this in light of their own conduct. My guess is that you're all here because you have been in government and politics before. The plain language of the statute says that no member of a Board of Registrars, and it lists several different kinds of Boards of Registrars. While conducting the duties of such persons office shall engage in any political activity on behalf of the candidate, political party or body or question including, but not limited to, distributing campaign literature, engaging in communication that advocates a citizen, a particular candidate, office over a political part of your body in wearing gadgets, buttons or clothing with partisan messages. I would submit to you that first you need to decide whether signing a nominating petition arises to the level that they say trying to regulate the statute. And secondly, it seems illogical to think that this statute would apply to someone at night in their own home when someone comes to the door asking them to ask a nominating petition. It seems to me that's a severe limit on a person's right to participate in government. The other one, Ms. Curry, the investigation is incomplete about where that occurred and what time it says in the afternoon. Well what afternoon? Where? But if she had signed in the office, that would be one question. But I don't think that's what happened. The other thing I'd like to point out that Curry that was a candidate or something, it would be -- please consider it in that light, as well."

Chairperson Handel - "All right."

Mr. Coleman - "So I think it seems illogical that a statute would apply in this instance."

Chairperson Handel - "Mr. Evans."

Mr. Evans - "We've never had this narrow issue come up with regard before, but we did have, if you recall, and I can't remember the city, but where we had a Mayor who was a candidate who was also on the election Board and we interpreted that specific phrase that you've, you know, what you've zeroed in on which is well in the performance of their duties, and they close -- we moved to close the case. So I would just note that in the interest of precedent, that that's the precedent we've taken before in terms of limiting the application of that statute."

Chairperson Handel - "All right. Is there a motion?"

Mr. Evans - "I so move."

Mr. Israel - "Second."

Chairperson Handel - "I've got a motion and a second."

Mr. Worley - "I -- I --."

Chairperson Handel - "Mr. Worley."

Mr. Worley - "Before we vote, I -- I take it Mr. Coleman is here in his capacity as County Attorney representing Ms. Curry and Ms. Johnson, but not Mr. Curry who's also been charged."

Mr. Coleman - "That is correct. I was unaware of that until I received --."

Mr. Worley - "Is anybody here with Mr. Curry or anyone on his behalf here? Because -- he -- the charges against him are of a different kind and character."

Chairperson Handel - "Right."

Mr. Evan Simmons - "In the absence of Mr. Curry, is there anyone to speak that has to act as County Commissioner, could I do so?"

Chairperson Handel - "Sure. Sure. Come on up."

Mr. Simmons - "My intention to speak before you today was to simply to thank this Board from the bottom of -- with utmost sincerity. I've been an election observer on two columns. I run a whole observation team in Africa for up to four months. I've had the privilege of getting to see people to have a right to vote for the very first time. When I returned home to my home, I'm appalled. You know, when we speak here of absentee voting and what it's doing to these counties and the investigations, all of these charges that you are hearing today are a backlash."

Chairperson Handel - "I'm sorry. I don't mean to cut you off, but did you have something to say based on Mr. Curry? We've a long day ahead of us, so if you have something specific on Mr. Curry."

Mr. Simmons - "Mr. Curry is a young candidate that was interested in participating in the political process. It was his very first time. He's a very nice young man and let me assure you that there was no wrongful intention on his part. If this is part of a process we need to correct, we will be glad to agree into any type of consent not to undertake any practice of that again. I think his attorney

would say that if he were here."

Mr. McIver - "What is your name, sir?"

Mr. Simmons - "Evan Simmons. I'm Chairman of the County Commission."

Mr. McIver - "Thank you."

Chairperson Handel - "Mr. Curry, did he win or lose the election?"

Mr. Simmons - "He lost."

Chairperson Handel - "Okay. My -- maybe we could consider a Cease and Desist to Mr. Curry as well for anything future as part of this or we can table that and give him an opportunity to be here one more time and if he's not here, then take action."

Mr. McIver - "That's fine."

Chairperson Handel - "So whatever is the Board's pleasure."

Mr. Worley - "I would rather table it and give him an opportunity...."

Chairperson Handel - "Okay. All right."

Mr. Worley - "...to speak. But I would move that the charge against Ms. Curry and Ms. Johnson be dismissed."

Chairperson Handel - "I think we already had a motion."

Mr. Worley - "Okay. I'm sorry."

Chairperson Handel - "Would you be willing to amend your motion...."

Mr. Evans - "Yes."

Chairperson Handel - "...to deal with both of the issues? Or we can take the first one and do a second one on Mr. Curry."

Mr. Worley - "We can put it all in one motion. That's fine."

Chairperson Handel - "Okay. Go ahead."

Mr. Evans - "Yes. So -- I move that we close the file as to Ms. Curry and Ms. Johnson and that we table as to Mr. William Curry."

Chairperson Handel - "Okay. I think, Mr. Worley, you were the seconder...."

Mr. Worley - "I second, yes."

Chairperson Handel - "...so your fine. Okay. Motion and a second. Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Next item."

Ms. LaGrua - "The next item is the status report on the Chattooga County investigation."

Chairperson Handel - "Right."

Ms. LaGrua - "Madam Chair, I just wanted to let the Board know that, obviously, this division takes that -- those allegations that were received in a complaint in the Chattooga County matter very seriously. That's an ongoing investigation and as soon as I am able, I will have a full report to this Board."

Chairperson Handel - "All right."

Ms. LaGrua - "The next item is on the Agenda is the DeKalb County monitoring update. If -- if members will recall, and if I could, Mr. McIver, if you could pass those over for me."

Mr. McIver - "Sure."

Ms. LaGrua - "Thank you so much."

Mr. McIver - "This is more current than the one we have."

Ms. LaGrua - "This is -- This a new, and I'll explain. At our last meeting, Mr. Evans had reviewed the schedule for inspection of the DeKalb County Board of Elections and Registrations storage of DRE and express poll units. Expressed some concerns about the layout of the actual monitoring. Mr. Evans, I have since spoken to Mr. Cobb with KSU. I've amended this proposal to change the June, 2008 to May, 2008 and added language leaving the rest of the dates the same, but with language that says said monitoring will occur as late in the identified month as is practical without interfering with the preparation of the machines for the upcoming election cycle. In conferring with Mr. Cobb, and I'd like to defer if you have questions specifically to him, if I might. There are some concerns in changing this to the month before the election because of the time frame needed to seal the machines and move the machines. So I have -- what I have tried to do is change the language to identify -- to address the concerns that you expressed at

the last meeting without also getting into compromising the preparation of the machines for the election. Further, I have added the security procedural changes that you've requested that DeKalb submitted at the special called meeting and are attached to the new memo and the changes on the new memo are in bold."

Mr. Evans - "Now the only other changes I would have is on the second page where you have the results of the inspections will be reported on a quarterly basis, it's just that the results of the inspections will be reported to the State Elections Board once they're available."

Ms. LaGrua - "That's fine."

Mr. Evans - "Really, we shouldn't wait until the next Board meeting."

Ms. LaGrua - "I will do that -- if that's the direction of the Board, I'll make that change."

Chairperson Handel - "And Shawn, did you mention to me the other day that DeKalb has already --."

Ms. LaGrua - Nodding up and down

Chairperson Handel - "Great."

Ms. LaGrua - "Two other minor matters, if I could, and I'll finish my rather lengthy report. I have received on yesterday, notification that DeKalb County has, in fact, sent us the \$15 thousand check, the fine, so that has been taken care of. And you do not have an updated case status at this meeting because it's so close to the last one there were no real changes except for the cases we heard at the last meeting. When -- at the conclusion of this meeting, I'll get that prepared and get it to you so you keep an updated list. I'm going to defer at the Chair's -- if the Chair approves and the Board approves, the update on the June 19th monitoring to Mr. McCarthy's report."

Chairperson Handel - "Perfect."

Ms. LaGrua - "I don't think we need to do both."

Chairperson Handel - "Okay. Perfect. All right."

Ms. LaGrua - "Thank you so much for you attention and for having me."

Chairperson Handel - "Thank you very much. Good job. All right. Let's see. Attorney General's office. Do you have --."

Ms. Almond - "Yes."

Chairperson Handel - "And we have been such significant clients of the Attorney General's office in the past couple of months, that Calandra is our additional support for us here. So thanks for being here and for your help. And I think that will also be some additional support to help us get through quicker, some of the cases that we've had."

Ms. Almond - "Well, case no. 2005-67. This involves respondent Karen Slater. Ms. Slater has admitted to assisting six of her family members in obtaining their absentee ballots for the 2005 Municipal Election in the City of Commerce. Her son was a candidate for Mayor. What she did was she completed the applications for her family members and then she signed the applications for her family members and this was a violation of O.C.G.A. 21-2-381, as well as 21-2-562. This matter is considered at the Board's September 13th, 2006 meeting, and at that time was referred to our office. There's no recommended disposition indicated at that time, however, Ms. Slater has agreed to Cease and Desist from further violating the Code. She's also agreed to a \$100 fine. I recommend that you recommend that -- this Consent Order because the violations here appear to be, really, very minor. There's no dispute that her family members requested that she obtain absentee ballots for them and they knew that she was going to be filling out the ballots and signing for her. She's not going to do it again and, you know, she was just trying to be helpful. She wasn't trying to violate the law. So I would recommend that you would accept the Consent Order."

Chairperson Handel - "Okay. Any questions on the consent order. Mr. McIver."

Mr. McIver - "Yes. I have a question of member Worley. Now that Mr. Evans has left, I assume Mr. Worley's the senior member of our Board. And I would ask, is this fine consistent with how we've handled matters like this in the past?"

Mr. Worley - "I believe it is."

Mr. McIver - "Thank you."

Chairperson Handel - "And colleagues, on the matter of fines, as we -- since previously there really wasn't a database kept and a case management tracking system kept and we've all had the conversation around consistency and we are doing that going forward so that we will have some ability to go back from a retrospective standpoint to maintain consistency as we get these. So we will have that as we build that over the course of the next four years because, for me, that's really important information. All right. Do we have a motion?"

Mr. Worley - "I would make a motion that we accept this

Consent Order."

Mr. McIver - "Second."

Chairperson Handel - "Got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Thank you. Did you have any other items?"

Ms. Almond - "There are no major developments in any other pending litigations, so...."

Chairperson Handel - "All right."

Ms. Almond - "Unless you have a question, that's it."

Chairperson Handel - "Okay. All right. Legislative."

Mr. Rob Simms - "Madam Secretary and members of the Board, for the record I'm Rob Simms. I'm Deputy Secretary of State and I'm going to give a very, very brief update on HR 811 which is the Congressional Bill that you, as the Board, was briefed at our May 23rd meeting. You'll recall that at that time the discussion focused around some pending action and the possibility that the Bill would pass out of the House. In about the past four weeks since that Bill has been considered and talked about, there's been no official action in the House of Representatives. Just for your information, within the past week to 10 day there was a meeting of a, kind of a committee that is looking at Federal Election Reform. It's a committee of stakeholder's interest for its academics (phonetic). Congressman Rush Holt was there for part of the presentation and he said on the record that his hope and expectation, or at least his hope, was that the Bill would pass this summer, toward the end of the summer, in Congress which would put even further along the timeline for the subsequent 2008 elections. I'll briefly remind the Board that this legislation for Georgia's case would require a complete change in the voting election system. The DREs would not be -- would not be allowed to be utilized in any federal election starting with the November, 2008 election cycle. Practically speaking for this -- for this Board and for the State of Georgia, this would mean that the -- the 2008 election cycle would start with our current election system and our current machines and policies and procedures in place. And the Elections Division, the State Elections Board as the policy makers, would have to implement and move forward with the implementation and rollout of the completely new system at the same time. As you all are aware, the 2008 cycle of the Presidential Election Year is by far the largest elections that this State has on every election cycle and that would -- that is significant

problems. One other thing I'll bring to your attention is that there is included in the language of the legislation, there is a request for \$600 million or so in federal funding to help states with the implementation of the law. You'll recall, especially those who have been on the Board for a considerable amount of time that the HAVA funding that was discussed and starting in 2002 was in three phases. Phase 3 of HAVA has still yet to be appropriated. The total of those about \$800 million. Our approximate share of that third phase of funding would be about 18 or \$19 million. So we've got all these different kind of dynamics at play. An appropriations committee and the House added \$300 million in federal funding for election reform. Not necessarily directed for HR 811, but kind of in the debate that has been ongoing. And as you all are aware, the appropriations bills in Congress have become quite controversial and all 11 or 12 are in still some form of passage in the House. So that's roughly my brief update...."

Chairperson Handel - "Okay."

Mr. Simms - "...update on HR 811. I'm happy to answer any questions regarding it."

Chairperson Handel - "All right. Any questions or comments from my colleagues?"

Mr. Israel - "I make a motion we oppose HR 811."

Chairperson Handel - "Second."

Unidentified Speaker - "I would like to --."

Chairperson Handel - "There's no public comment on this. Thank you. You missed public comment time; sorry. And just for the record, if I can state, you know, for me, I support a voter verifiable paper audit trail. This Bill, however, is untenable in the timeline because, let's be practical. Number one, I don't have a lucky bucket with \$80 million in it that is going to magically appear. Even if we wanted to do this, it's -- it's just simply impractical. So I'm going to support the motion."

Mr. Worley - "What form would that opposition take. At the last meeting there was a, I guess, a question of sending a letter to the Congressional Delegation informing him -- informing them of our position."

Chairperson Handel - "Uh-huh (affirmative). We can do that. Absolutely. And it'll -- I mean, I'll be happy to share the letter with everyone as well. All right. I've got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, the motion passes. All right. Our next item is Elections Recap. And I do want to -- come on up, Mike. I want to commend the Elections staff and also the investigative team and Mike will go through it, but the command center was open with KSU. We had the command center here, we had an extraordinary team of monitors that went out with particular focus over the Tenth Congressional District and getting all of that information on an hourly basis was just extremely helpful to us to make sure if there was anything that was even slightly amiss in a county, there was just a complete rapid response and Tex was out as well. And so, I mean, from where I sit I wish turnout had been higher than it was, but with that said I think it was -- everything went very well and very smooth. So congrats to the Elections team."

Mr. Michael McCarthy - "Thank you. On behalf of the whole team, I'd like to say thank you very much. We did some things the same. We did some things different and I'd like to highlight a little of each as we move forward and review what just occurred with the January 19th elections. I'm Mike McCarthy, I'm the Director of the Elections Division at the Secretary of State's office. I'd like to just touch briefly on the poll monitor because this is one of the things which we did draw on lessons from the past and we modified some things to make this program even more effective going forward into the future. On the special election that just occurred, we deployed 22 poll monitors out to these election sites. What is part of past practice is that we did go. What is part of new practice is that we didn't announce where we were deploying poll monitors to in advance. So for the first time, we actually put teams out into the field. We worked very collaboratively with the Inspector General's office and our division office to arrange to have these inspectors in the field and visit over 300 sites on election day. They traveled with materials that were similar to, but updated from the past materials. We were gathering background information on both, things they observed that could be better, but also good practices that we want to borrow and replicate elsewhere. And we're looking forward to compiling those reports and being able to share that information in the future. We also did a very thorough monitoring program, as the Secretary mentioned. Throughout the course of the day we were in radio contact and phone contact with these sites. We had contact with our technical support team at KSU, our staff here, the Elections Division. And we had central receipt points for all of our teams that were connected by radio. We got processes updates throughout the day of things that were going right. And it's good to know things are going right. And we were continually updated in the course of the day. What I do want to highlight is the monitoring programming in a few instances where things did occur help facilitate very quick, very quick response to the things that did occur so we could be right on top on behalf of the voters to correct anything

that did appear to becoming an issue and I'll touch on a couple of examples right at the close of our presentation. With -- with regards to the results, the results that are posted on our website and are being discussed in the media, these are preliminary results with the 10th and 24th District. We'll be gathering additional absentee voting results during the course, well, through Friday. These will be additional ballots that are overseas military voters who are sending in materials that are in the process in being received and tabulated. We have, for the turnout in the 10th and 24th Districts, at this point, we have 55 thousand 225 voters who voted in the 10th Congressional District race. We had 18 thousand 481 as of election night who voted in the 24th State District race. The apparent winners, at this point, for the 24th is Mr. Jackson, who won 63 percent of the vote. And for the 10th District, again, the unofficial results at this point, indicate Mr. Whitehead received 44 percent of the votes, and because this is not more than 50 percent of the votes, a run-off will be held on July 17th. Mr. Ward is the apparent second highest vote getter with 20.7 percent of the vote. Mr. Barlow, the third highest vote getter with 20.3 percent of the vote. This is a separation of only 187 votes as of election night, and because there is less than a one percent difference, the third highest vote getter does have the option of making a request for a recount. A couple of things I do want to highlight which occurred on election day that I think are good examples of being ready and be able to make a quick and effective response or show enough about them with a handout, you'll note that Columbia County, we had an instance where the server, the equipment that was used that evening failed earlier in the process. It was tested and in the process of testing it indicated it needed to be replaced. We had both, staff and equipment immediately ready for deployment. They were out into the field. Another thing that needed to be replaced was dealt with well in advance of that equipment being used. Electricity went off in Greene County in one polling place. We were asked if this was unusual and actually, if you listen to election results in the nation, someplace in somewhere the electricity goes off and we always train to this. This is a good example where staff were trained, generators were ready to bring in, the voting equipment was on battery, everything worked the way people were trained to address the contingencies. Columbia County had an instance in one case where there was a report that one of their DREs needed to be taken offline from the polling place. It was immediately recognized, the need was addressed and no further action needed to be taken. Fourth instance was more of a person type item. One particular polling place in Heard County, there was a report that some of the voters were uncomfortable of the religious music being played at a polling place. It was immediately brought to the attention of the polling place officials that they should stop doing that and that was the conclusion of the matter. So I'd like to just raise these and present these

as different types of things that can arise. We know this, we plan for it, we train to it and I'd like to congratulate everyone who is involved with it. It provided for a clean election on June 19th."

Chairperson Handel - "Super. Thank you."

Mr. McCarthy - "I'm ready for any questions that --."

Chairperson Handel - "Thank you very much. And colleagues, one thing that we will do is make sure that after elections that you get a report like this that talks about what went right, but also, what problems or issues occurred. Because I think, you know, we ought to be honest about those sides of that. Mr. McIver."

Mr. McIver - "Greene County spelled with an E. Folks from Greene might be sensitive to that."

Mr. McCarthy - "I will certainly -- certainly address that. I'm working on my accent."

Mr. McIver - "To your point, Madam Chair, I was out and was at Richmond County for the vote count. And I would really like, if they were here, would like to commend them. That's one of the smoothest operations I've seen. It was almost symphonic. People knew exactly what to do, how to --."

Chairperson Handel - "That's our Lynn Bailey. You got to love her."

Mr. McIver - "It's just -- It was just -- it was symphonic."

Chairperson Handel - "Yes. She's great."

Mr. McIver - "So I complimented everybody I could find and I want to do it here on the record, as well."

Chairperson Handel - "Yes. She's terrific. Super. Anything else? Thank you all very much."

Mr. McCarthy - "Thank you."

Chairperson Handel - "Okay. The next item -- actually, both of the next items A and B, deal with Photo ID Cards and if you want to touch on the distribution report and then I'll come back around on the Contract Renewal item."

Mr. McIver - "I'll be glad to. We have a new report that I have over the net, which is not part of the notebook. However, the numbers haven't changed significantly. We have at present, 2,796 cards have been issued. They continued to be issued on a monthly basis, even in this past month of May. I can - to comment on my continuing concern, we have

one County, the one I just complimented, Richmond County, has issued almost twice the number of cards that Fulton County has issued. As we all know, Fulton is a substantially larger county, more populous. I -- I have looked into that in my recent visit to Richmond County this week and it appears that the Registrar's office is across the way from a couple of homeless shelters and these individuals need photo IDs to cash their public checks. And it appears that they are -- are coming across to the Registrar's office and obtaining photo IDs, which they promptly lose and then need them for the next month so as to cash their checks. And there are individuals there who have received more than six cards, just because they're not particularly good at hanging onto them. So, what I think this highlights, Madam Chair, is certainly we should discuss and announce publicly. But we might, certainly, want to consider an audit at some point...."

Chairperson Handel - "Okay."

Mr. McIver - "...of the issuance of some of these cards. But it is troubling to me that Richmond County has issued as many cards as they have compared to much, much larger counties, so I want to make sure that doesn't become a factor in an important election like we may have on February the 5th."

Chairperson Handel - "Yes. That's a good point and as we've discussed, we are going to ensure that the numbers are reconciled between the reports that come up from the counties and the reports that come from Mr. Rainwater, as well, and do some as we get into the preparation mode for voter ID, which at this point we'll move forward as soon as legally possible. So we are mindful of that and that'll be part of what we do in terms of facts and -- and data gathering there. The second item is the Police and Sheriff's press, Inc., and colleagues, that has to do with -- it's kind of an interesting company name that doesn't really reflect what it's -- the actual -- the company that actually has the machinery that issues the photo ID cards and what we need to do is -- the contract does expire and what we need to do is move to be able to renew the contract and some components of the contract. And with some of those components being the extended warranty, a service to locate any lost of the laptop computers that might be lost, encryption, software, as well as annual training and I -- I thought I handed out, but I'll do it one more time because I have enough copies. I have a specific motion that details everything and the reason this needs to be done via the Board is, as you know, the original contract was via the Board. The second thing has to do with the performance bond for the contract. And the vendor originally had a performance bond for all of the equipment, et cetera, and if you read the contract I think that we can probably lift the performance bond so that it's not that burden on the vendor

because we have all the performance guarantees that we need already inherent in the contract. So now that the equipment's moving on to warranty, I don't think we need that performance bond. So that's a motion and it's a long motion. So whoever makes it, if they could please read it so we make sure we have exactly right so we can move forward exactly properly."

Mr. McIver - "Now does this cover the performance bond, as well?"

Chairperson Handel - "You would need to add that and say that we'd be willing to -- and that the vendor may drop the performance bond."

Mr. McIver - "Well let me make the motion and then, perhaps, we'll have some discussion. But by way of background, I was designated by the State Election Board last year to be the point person for the Board on the purchase of the photo ID system, and led that team. I think I've already commented, that was 244.1 hours of my time last year and it was a very detailed process trying to comply with the State's procurement regulations, which I think we did in a successful way. The winner of that bid was the Police and Sheriff's Press, Inc. owned by Mr. Frank Rayford, who's in the office today if we need to hear from him. I cannot speak more highly about how his team performed. As a vendor to the State, they over performed, in my judgment, particularly with the training aspects at the conferences last year. And also, in terms of supporting the various counties, many, many of whom sought retraining and additional help and reorientation of the equipment and so on. So I am delighted with the service of the -- of the vendor in that particular case. And with that as background, then would like to make this motion which -- all right. I'll add the performance bond as well. But, I would move, then, with that as a background that in accordance with Paragraph 2.1.12 in Exhibits C, E and J of the Turnkey Photo Identification System Contract and that number is 47800-005-0000000149, dated May 2, 2006. And this option year number one of the contract, we elect to make the following additional purchases. 1) Extended system warranty for a period of 12 months in the amount of \$13,515. 2) Service to locate lost or stolen laptop computers and related encryption software program for a period of 12 months in the amount of \$6,145.35. and 3) Annual training in the amount of \$60. per person, not to exceed \$30 thousand. And also, additionally, that the portion of this contract which deals with the performance bond, that that portion of the agreement be eliminated entirely and there be no bond requirement, whatsoever, on the vendor going forward from this point. And did you want me to cover this as well?"

Chairperson Handel - "Yes. So that we can actually work

with the vendor."

Mr. McIver - "All right. And then we would designate the Secretary of State as the Chairman of the SEB as the Administrator of the Contract heretofore, it's been the SEB. We were the -- we were the purchaser and I'm certainly delighted to indicate this as well, since you have the staff for it. And that would be my motion."

Chairperson Handel - "If you would also add that last sentence."

Mr. McIver - "Oh. Pardon me. And then the pending -- the transfer of appropriate funds."

Chairperson Handel - "Is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Okay. I've got a motion and a second. Any questions or comments."

Mr. Worley - I --."

Chairperson Handel - "Mr. Worley."

Mr. Worley - "I have a comment."

Chairperson Handel - "Sure."

Mr. Worley - "I'm going to vote for the motion because I -- I think it's a good thing that we have some provision to provide IDs for people, but I -- it doesn't change my opinion, which I still have, that this system in the counties is no where near sufficient to provide the number of IDs that are necessary to people who will be denied the right to vote if the photo ID system continues in effect."

Chairperson Handel - "All right. A motion and a second. And -- let me just comment further on that, sort of what we're doing from a staffing standpoint, given the ruling from the Georgia Supreme Court. We are putting together a detailed education and outreach effort because certainly, I view that I have an extraordinarily high responsibility to do everything I can to educate and get IDs in the hands of those who need them. So we are working on that and should have something shortly. I don't know if we'll have another meeting, but certainly we will make sure that the plan is distributed out to everyone and you'll have an opportunity to comment and things of that nature to make sure we're doing as much as we can."

Mr. Worley - "Madam Secretary, it's my understanding that there were funds provided by the legislature in the most recent budget."

Chairperson Handel - Yes. \$500 thousand. Yes. \$500 thousand. Okay. All right. We have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is approved. Any other items, colleagues? There being none, I will entertain a motion to adjourn."

Mr. Worley - "I move that we adjourn."

Mr. Israel - "Second."

Chairperson Handel - "All right. Thank you very much."

(Whereupon, the meeting adjourned at 4:20 p.m.)