

BOARD MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE BUILDING
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 27, 2005
10:45 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. John A. Pérez, CHAIRPERSON

Mr. Stephen Kaufman, Vice CHAIRPERSON

Mr. Tal Finney

STAFF

Mr. John Mott-Smith, Chief, Elections Division

Ms. Jana Lean

Ms. Katherine Montgomery

Mr. Steve Stuart, Staff Counsel

ALSO PRESENT

Mr. Michael Smith, Marin County Registrar

Mr. Steve Weir, Contra Costa County Clerk

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1 PROCEEDINGS

2 CHAIRPERSON PÉREZ: The meeting will come to
3 order. Welcome to the Voting Modernization Board meeting.
4 If you'd please call the roll.

5 MS. MONTGOMERY: John Pérez?

6 CHAIRPERSON PÉREZ: Here.

7 MS. MONTGOMERY: Stephen Kaufman?

8 VICE CHAIRPERSON KAUFMAN: Here.

9 MS. MONTGOMERY: Michael Bustamante?

10 CHAIRPERSON PÉREZ: He will not be attending?

11 MS. MONTGOMERY: Tal Finney?

12 CHAIRPERSON PÉREZ: He is expected shortly, and
13 we'll make due note of his tardiness when he arrives.

14 MS. MONTGOMERY: Carl Guardino?

15 CHAIRPERSON PÉREZ: He was anticipated, but will
16 not be joining us.

17 And Mr. Finney has now arrived.

18 BOARD MEMBER FINNEY: I had to park.

19 BOARD MEMBER FINNEY: Thank, gentlemen. I
20 thought there was an outside chance there was a quorum
21 without me. I guess not.

22 CHAIRPERSON PÉREZ: Okay. Now, that we've
23 established a quorum with Mr. Finney's attendance, the
24 first item before us is for public comment for items not
25 directly on our agenda. I have not seen any cards for

1 this general public comment and it doesn't look like
2 anybody is looking to get recognized.

3 So let's move on to adoption of our June 17th
4 meeting minutes.

5 VICE CHAIRPERSON KAUFMAN: I'll move adoption of
6 the minutes.

7 BOARD MEMBER FINNEY: I'll second.

8 CHAIRPERSON PÉREZ: Okay. Mr. Kaufman moved and
9 Mr. Finney seconds.

10 Any discussion?

11 All in favor signify by saying aye?

12 (Ayes.)

13 CHAIRPERSON PÉREZ: Okay, great.

14 The next item before us is Item 5 project
15 documentation package review and finding ward approval.
16 If you would, Jana, please walk us through Marin County.

17 MS. LEAN: Marin County has come forward with
18 their phase 1 project documentation. Their Voting
19 Modernization Board approved allocation amount is
20 \$1,879,587.19. The staff recommends Phase 1 funding award
21 of \$667,091.21. In their Phase 1 they purchased the
22 AccuVote OS 2000 Optical Scan, 155 units. And the
23 AccuFeed Central Count Ballot Feeders, 4 units.

24 Marin County secured all of their Phase 1 optical
25 scan vote equipment and used it for the first time in

1 their November 1999 UDEL election.

2 This Phase 1 project documentation does not have
3 anything to do with the Voter Verified Paper Audit Trail,
4 as the VVPAT Requirement does not apply to Marin's Phase 1
5 Project Documentation Plan, as the system is a paper-based
6 optical scan system. The Diebold AccuVote OS 2000 units
7 are certified for use in California. And they chose the
8 optical scan technology. And it was used, as I said, for
9 the first time in their 1999 UDEL election. The New
10 optical scan voting equipment delivered timely election
11 results, and the County received positive feedback from
12 voters both for the ease and the casting of the ballots.

13 Marin County developed various presentations and
14 scheduled demonstrations throughout the county on the new
15 optical scan voting equipment. And the county has also
16 enhanced their poll-worker training materials to include
17 equipment-focused hands-on component to the training.

18 While their Phase 1 Project Documentation Plan
19 equipment does not fully address the new State and federal
20 requirements for accessibility, they do plan to include a
21 Phase 2 in the overall plan and attempt to purchase one
22 accessible voting unit for each of the polling places.

23 Marin County does not intend to replace its
24 existing optical scan system during their second phase,
25 but they will -- and the County expects that the majority

1 of the voters will continue to use the optical scan voting
2 equipment during the election process, even with the
3 anticipated placement of the touch screen voting equipment
4 in each of their polling places.

5 While Marin County's voting system Phase 1 voting
6 systems appears to meet the requirements for reimbursement
7 under Prop 41, it should be noted that any money allocated
8 for this system would reduce the amount of money the
9 county will have to purchase accessible voting equipment
10 during their second phase. And that a Phase 2 project
11 documentation package will need to be submitted once the
12 County begins receiving the Phase 2 accessible voting
13 equipment.

14 Marin county will only be reimbursed for VMB
15 payments once they have submitted detailed invoices for
16 their Phase 1 equipment. Please note that the
17 staff-proposed Phase 1 funding award is based upon
18 allowable reimbursements under Proposition 41.

19 It is our staff recommendation that Marin
20 County's Phase 1 Project Documentation Plan and that we
21 issue a funding award letter in the amount of \$667,091.21.

22 Any questions?

23 CHAIRPERSON PÉREZ: No, but I see that Mr. Smith
24 would like to speak to us, if you would.

25 MR. SMITH: Thank you. First off, Michael Smith,

1 Marin County Registrar. I just want to extend
2 appreciation to Jana Lean, the work of the Secretary's
3 Office and they're working with us in coming forward in
4 reviewing our proposal. We're in agreement, and
5 respectfully request the Board's action to approve the
6 Phase 1 allocation.

7 We will not come back with a Phase 2 until we --
8 pending certification. Once we have that, then we will
9 have our own additional review of the equipment and be
10 back before your board for Phase 2 allocation of funds.

11 Thank you.

12 CHAIRPERSON PÉREZ: Any questions for either Jana
13 or Michael?

14 VICE CHAIRPERSON KAUFMAN: Actually, I don't have
15 any questions at this time.

16 CHAIRPERSON PÉREZ: Nor do I.

17 BOARD MEMBER FINNEY: I don't have any.

18 CHAIRPERSON PÉREZ: Okay. Is there a motion to
19 approve?

20 VICE CHAIRPERSON KAUFMAN: I'll move to approve
21 the staff recommendation for funding for Marin County in
22 the amount of \$667,091.21.

23 BOARD MEMBER FINNEY: I'll second.

24 CHAIRPERSON PÉREZ: Okay Mr. Kaufman moves and
25 Mr. Finney seconds.

1 On the question, if you'd call the roll.

2 MS. MONTGOMERY: John Pérez?

3 CHAIRPERSON PÉREZ: Aye.

4 MS. MONTGOMERY: Stephen Kaufman?

5 VICE CHAIRPERSON KAUFMAN: Aye.

6 MS. MONTGOMERY: Michael Bustamante is not her.

7 Tal Finney?

8 BOARD MEMBER FINNEY: Aye.

9 MS. MONTGOMERY: Carl Guardino is not here.

10 CHAIRPERSON PÉREZ: Very good. Thank you.

11 MR. SMITH: Thank you for your work on this

12 Board.

13 CHAIRPERSON PÉREZ: Thanks.

14 VICE CHAIRPERSON KAUFMAN: Thank you.

15 BOARD MEMBER FINNEY: I appreciate that.

16 CHAIRPERSON PÉREZ: The next item before us is

17 Item 6, Staff Report on related issues. And, Jana, if

18 you'd walk us through this first set of questions

19 regarding HAVA 301 and regarding our \$4,000 cap.

20 MS. LEAN: Sure. I have been asked numerous

21 questions from the county. And one of the questions that

22 keeps coming up is can 301 funds be used as the county's

23 match for their 3 to 1 required match under Prop 41.

24 I'd like to have this discussed by the Board.

25 Your initial requirement or allowable requirement to have

1 HAVA 102 money be used was explicit to 102. There is
2 nothing on the record that says that the Voting
3 Modernization Board has a blanket allowable for HAVA
4 102 -- for HAVA funds to be used as the required match.
5 So that's why we're posing this question to you, can the
6 HAVA 102 funds issued to a county --

7 CHAIRPERSON PÉREZ: 301 funds.

8 MS. LEAN: Sorry. -- HAVA 301 funds issued to
9 the county for the purpose of modernizing the county's
10 voting system be used as a county's 3 to 1 required match
11 under Prop 41?

12 CHAIRPERSON PÉREZ: I'll start this off. And in
13 my thinking about this, I couldn't think of a single
14 reason why we shouldn't allow a broader usage of HAVA
15 monies as a portion of the county's match or actually as
16 the entirety of the county's match if they had that kind
17 of HAVA allocation.

18 So my predisposition is to be broader in how we
19 allow for HAVA money to be used as the county's match.

20 And with that, I'd enjoy hearing from each of you
21 what you think.

22 VICE CHAIRPERSON KAUFMAN: I agree. I think, you
23 know, our goal all along has been to help facilitate
24 counties purchase of the equipment. The only reason we're
25 limited to the three-quarters is because that's how it was

1 set out, you know, in the measure. But I don't think we
2 should do anything to prohibit counties from moving
3 forward the best they can. And if that means using
4 another source of funds, then as long as they've met their
5 one-quarter, I don't frankly care where it comes from.

6 BOARD MEMBER FINNEY: I don't have a problem
7 either, but I'd like to just make sure that it's okay
8 really. I mean, does our counsel have an opinion on that.

9 STAFF COUNSEL STUART: I have the same opinion
10 looking at it, that I didn't see anything in HAVA or in
11 State law that would prevent it or stop it. That was my
12 conclusion, and I think our staff conclusion after looking
13 at it.

14 VICE CHAIRPERSON KAUFMAN: So the idea of tying
15 it to the 102 funds was that just a Board policy? It
16 wasn't anything that was articulated in the --

17 CHAIRPERSON PÉREZ: It was done as a Board
18 policy. I was Definitely not articulated in the measure.
19 And quite frankly, I don't know how it was that we limited
20 ourselves to 102 in establishing that policy.

21 MS. LEAN: That was the only money available at
22 the time.

23 BOARD MEMBER FINNEY: That's all the money that
24 was there at the time, but one could argue, Mr. Chair,
25 that the same principle that led to our decision there

1 would encourage us allowing the use of the 103 monies, you
2 know.

3 CHAIRPERSON PÉREZ: 301.

4 BOARD MEMBER FINNEY: 301 monies, I mean. Sorry.

5 CHAIRPERSON PÉREZ: Going from 102 to 301, grade
6 skipping.

7 BOARD MEMBER FINNEY: Either way, I mean -- is
8 there a concern from the counties? Does any one of the
9 registrars here want to speak to it?

10 MS. LEAN: I do want something on the record.
11 Santa Cruz County late last night submitted a letter to
12 the Board explaining that they are in support of the use
13 of 301 money as the match. I just wanted to bring that to
14 your attention. It's in your packet. It will be put on
15 our web site so everyone has a chance to review it.

16 CHAIRPERSON PÉREZ: But to your knowledge, is
17 there anybody that you know of that is opposed to this
18 concept of us use allowing for 301 monies to be used?

19 MS. LEAN: Not that I'm aware of, sir.

20 VICE CHAIRPERSON KAUFMAN: And I just note, Mr.
21 Chair, in looking at this letter that it specifically says
22 Santa Cruz County was not eligible for Section 102 funds.

23 BOARD MEMBER FINNEY: This might be their shot at
24 getting to participate in that type of match for the 301
25 monies.

1 CHAIRPERSON PÉREZ: Okay. Then why don't we --

2 MS. LEAN: I would like to just make sure that we
3 have it on the record when you make the motion that the
4 301 money to be used for the county is the money to be
5 used for the purpose of modernizing the voting equipment.
6 The 301 money is a broader allowable expenditure, so we
7 have to make sure that the money that they use as their
8 match is money that they actually use to purchase voting
9 equipment.

10 CHAIRPERSON PÉREZ: So the Chair would entertain
11 a motion to allow for counties to allocate their HAVA 301
12 funds that were used directly for modernization consistent
13 with modernization in the measure to be counted towards
14 their 301 match for modernization.

15 Would somebody like to so move?

16 VICE CHAIRPERSON KAUFMAN: I'll so move.

17 BOARD MEMBER FINNEY: And I'll second.

18 CHAIRPERSON PÉREZ: Okay. Anything else on that?

19 Okay, if you'd call the roll on that, please.

20 MS. MONTGOMERY: John Pérez?

21 CHAIRPERSON PÉREZ: Aye.

22 MS. MONTGOMERY: Stephen Kaufman?

23 VICE CHAIRPERSON KAUFMAN: Aye.

24 MS. MONTGOMERY: Tal Finney?

25 BOARD MEMBER FINNEY: Aye.

1 CHAIRPERSON PÉREZ: Very good.

2 The next issue before us is the discussion of the
3 \$4,000 -- it's written up in the agenda as a \$4,000 cap
4 with respect to DREs. I think it's really more accurately
5 a cap of \$3,000 on the amount that the VMB will put
6 forward towards the purchase of a DRE in assuming the 3 to
7 1, that's how it's popularly referred to as a \$4,000 cap,
8 although it is not a limitation on how much counties can
9 choose to pay for DREs.

10 MS. LEAN: The question has come up is that the
11 line-item -- what line-item expenses should be included in
12 the \$3,000 or \$4,000 cap for DRE equipment. Specifically,
13 what's been asked is the new requirement for the printer
14 that's going to be going on all of the DREs and touch
15 screen units, whether or not that should be included or is
16 included in the \$3,000 cap that the Voting Modernization
17 Board will allow for.

18 Staff would recommend that it not be included in
19 the \$3,000 cap. This was not a requirement. It was not
20 part of a requirement when you set this amount of money,
21 when the VMB was set up, when the allocations were given
22 out. So staff would recommend that that line-item not be
23 included in that \$3,000 cap.

24 CHAIRPERSON PÉREZ: Okay. And I would just like
25 to start by saying that I completely agree with the staff.

1 When we sat here early on and tried to figure out the
2 formulas that we'd use, we really did look to what the
3 price range was for DREs out there and really assumed
4 almost universal transition towards DREs. So we used that
5 in figuring out our formula. And quite frankly we used it
6 to establish a cap, especially to send a message amongst
7 other things, to vendors in terms of what should be
8 expected, especially to the smaller counties, that didn't
9 necessarily have the same purchasing pool and leverage
10 that larger counties did.

11 And, at that time, we didn't have this
12 expectation of a requirement for Voter Verified Paper
13 Audit Trail. We had other expectations with respect to
14 audit ability. And given that that is a later
15 requirement, the came much later than did our \$3,000 cap
16 on our portion of the match, I would like to express my
17 support for having printing expenses separated out from
18 that cap.

19 Mr. Kaufman.

20 VICE CHAIRPERSON KAUFMAN: I agree, Mr. Chair.
21 And just to be clear, that would mean that it would be a
22 reimbursable expense to the County just not subject to
23 the --

24 BOARD MEMBER FINNEY: The cap.

25 VICE CHAIRPERSON KAUFMAN: Right, the \$4,000 cap.

1 CHAIRPERSON PÉREZ: Mr. Finney.

2 BOARD MEMBER FINNEY: Yeah. I'll just second
3 what the Chair said, in going back to how we originally
4 looked at this.

5 CHAIRPERSON PÉREZ: Well, I know that some may
6 want to talk about this issue either specifically or even
7 maybe a little more broadly. I do have a card from Steve
8 Weir from Contra Costa, if you'd like to come forward
9 Steve.

10 MR. WEIR: Thank you, Mr. Chair and gentlemen.
11 Steve Weir W-e-i-r, Contra Costa County Clerk. Let me
12 just take one moment to acknowledge Marin County and that
13 great reputation that they have, both the executive
14 management and staff-wise in the elections business. And
15 they are either both blessed or cursed with having the
16 largest voter turnout in the last Presidential and the
17 highest vote by mail. So it's a very engaged citizenry
18 there. And I know that what you've done today is going to
19 assist them in continuing to give exemplary service
20 throughout the state.

21 Thanks for letting me say that.

22 There is a nuance to the \$4,000 cap on DREs.
23 Many counties, myself included, will migrate, once
24 permitted, to something other than a DRE for their
25 accessible units. I am pursuing the Automark, which we

1 think is somewhere about to be approved in this building
2 and we wait anxiously for that.

3 But once approved, that will come in at much more
4 than the so-called \$4,000, \$3,000 combination. And just
5 the very nature of that unit that would indicate that it's
6 not a DRE. And I would like clarification, Mr. Chairman,
7 if permissible on that point.

8 CHAIRPERSON PÉREZ: Thank you. I absolutely
9 share your assessment that equipment like the Automark is
10 not what we were thinking of when we created the cap. I
11 think it's probably not appropriate for us to discuss --
12 to establish whether or not there's an appropriate cap for
13 an Automark today.

14 I would suggest that given that Contra Costa may
15 not be alone in looking at that kind of technology for its
16 accessible units, that it probably would serve us well to
17 flag that for discussion at a future meeting, but I think
18 we should at least each discuss whether or not we agree
19 with the assessment -- I for one do -- that Automark is
20 not -- does not fall into that same DRE category that
21 we've been talking about up to this point.

22 Mr. Kaufman.

23 VICE CHAIRPERSON KAUFMAN: Just so I'm clear, I
24 mean, the Automark being a form of the optical scan
25 system, right?

1 MR. WEIR: Correct.

2 VICE CHAIRPERSON KAUFMAN: I just wanted to make
3 sure I was on the same page there.

4 Yeah, I mean certainly when this Board started,
5 and I was not on the Board when it initially began, these
6 2 gentlemen on either side of me were, I think the focus
7 was solely on the DRE machines, and that's something that
8 wasn't contemplated, but I do agree with the Chair, that I
9 think this should be the subject of a
10 broader discussion.

11 But in awarding, similar to what we just did with
12 Marin county, I mean in making our awards to date
13 regardless of the form of equipment -- I'm posing this to
14 the staff -- they've all been based on a 3 to 1 or -- a
15 3 to 1 match or a 3 quarters funding award by this Board,
16 regardless of whether it was a DRE or any other kind a
17 system.

18 MS. LEAN: That's correct.

19 CHAIRPERSON PÉREZ: Yeah. We, by virtue of the
20 measure, had to limit ourselves to a 3 to 1 match, but I
21 think that because of our almost singular focus on DREs,
22 from a Board perspective early on, I think that we created
23 some confusion about caps in reimbursement on different
24 types of technology and different elements of technology
25 as things have changed. And I think it's absolutely

1 appropriate for us to revisit this more broadly, but at
2 least give first blush response with respect to this kind
3 of a marketing technology that while may incorporate some
4 touch screen, is not a DRE.

5 VICE CHAIRPERSON KAUFMAN: Yeah, and let me just
6 finish up the thought. I guess what essentially is
7 happening what we're finding now is that counties have an
8 allocated pool of money that they can essentially choose
9 from a cafeteria type of plan, if you want, among the
10 various things they can choose to fund within that
11 allocated amount. And counties may go a different
12 direction from a DRE then -- I mean we should come up with
13 some formula or some type of cap that deals with that.

14 MS. LEAN: I would like to make a comment that
15 the Board did address it in September of 2002. It was
16 very specific that the \$3,000 per machine limit was only
17 for DREs and not for an optical scan system, so you do
18 have that on record.

19 CHAIRPERSON PÉREZ: Right. Well, let me ask this
20 Mr. Weir, is that -- is us basically verbally reiterating
21 that position that we took at that September meeting
22 clearly enough for you?

23 MR. WEIR: Yes, absolutely.

24 CHAIRPERSON PÉREZ: Okay, very good.

25 Thank you.

1 Anybody else on this issue?

2 Then I think what we should do is --

3 BOARD MEMBER FINNEY: I just wanted to point out
4 that I agree with Mr. Kaufman that at some point we need
5 to have a broader discussion. I'm open to the idea. I
6 was there with you, Mr. Chairman, when we had this
7 discussion. But I do think for the same reason that we
8 fleshed out the discussion on DRE, we need to flesh out
9 the discussion on optical or other, God knows, potential
10 technologies as they come down the pike. Who knows how
11 long we'll be here.

12 (Laughter.)

13 VICE CHAIRPERSON KAUFMAN: We figured that out
14 getting off the plane this morning, how long we're
15 actually going to be here.

16 BOARD MEMBER FINNEY: It could go on a long time.

17 VICE CHAIRPERSON KAUFMAN: And If may add, I
18 mean, we may want to discuss printers and other things in
19 that context as well. I don't know if it's, you know -- I
20 don't know what the range is there, but I mean that may be
21 something we want to discuss in the same context.

22 CHAIRPERSON PÉREZ: Maybe what we could have is a
23 little bit of a discussion, again, of the patterns of
24 technology that counties are either availing themselves of
25 or seriously looking at availing themselves of and seeing

1 what kind of a price break we see there, and whether or
2 not it makes sense for us to specifically address them
3 with some limitations on our match, in a way similar to
4 the way we did with DREs. Or if there's resistance to
5 that, you know, what other factors do we need to consider.

6 Did we take action on the printer question to
7 your satisfaction?

8 MS. LEAN: (Witness shakes head.)

9 CHAIRPERSON PÉREZ: So why don't we have a
10 clarifying motion with respect to the \$3,000 cap that it's
11 applicable to DREs, but not necessarily the peripherals.

12 BOARD MEMBER FINNEY: Sure. Well, the caveat
13 first before I make the motion that we are now agreeing
14 that we're going to have staff flesh out the issue --

15 CHAIRPERSON PÉREZ: Um-hmm.

16 BOARD MEMBER FINNEY: -- the broader issue and
17 we're going to bring it back and discuss it thoroughly,
18 right?

19 CHAIRPERSON PÉREZ: Yes, but I think it's
20 inappropriate for us to retroactively, you know, once --
21 yes. Yes.

22 BOARD MEMBER FINNEY: All right, then I'll make
23 the motion.

24 VICE CHAIRPERSON KAUFMAN: But I think this is
25 independent of that discussion. We're still saying that

1 printers will be treated separately.

2 BOARD MEMBER FINNEY: I understand that, but it
3 still kind of relates a little, right.

4 Okay. That's fine. So for the purpose of where
5 we are right here and right now, I make the motion with
6 respect to the printers as the Chair stated it.

7 CHAIRPERSON PÉREZ: So the motion is a motion to
8 not include printers in the amount that is capped at the
9 \$3,000 per unit for DREs.

10 BOARD MEMBER FINNEY: Right.

11 CHAIRPERSON PÉREZ: But that the printers
12 associated with DREs are an appropriate expenditure not
13 limited to the cap.

14 BOARD MEMBER FINNEY: Right.

15 VICE CHAIRPERSON KAUFMAN: And I will second that
16 motion that Mr. Finney is so well articulated.

17 (Laughter.)

18 BOARD MEMBER FINNEY: When the Chairman is here,
19 I don't even try.

20 (Laughter.)

21 CHAIRPERSON PÉREZ: So anything else on the
22 question?

23 MS. LEAN: Oh, I have one thing. Can you make it
24 really specific to the Voter Verified Paper Audit Trail
25 printers, because there's different kind of printers.

1 CHAIRPERSON PÉREZ: Yes.

2 BOARD MEMBER FINNEY: That's added into the
3 motion.

4 MS. MONTGOMERY: What she said.

5 BOARD MEMBER FINNEY: Yeah, what she said.

6 Now, before you keep going, before we call the
7 question, you mentioned peripherals as well generally.
8 Did you want to keep that in the motion?

9 CHAIRPERSON PÉREZ: I think let's limit to the
10 printers.

11 BOARD MEMBER FINNEY: The printers and
12 specifically VVPAT printers. Okay, fine then that's what
13 the motion will be.

14 CHAIRPERSON PÉREZ: Anybody --

15 BOARD MEMBER FINNEY: And Mr. Kaufman seconded.

16 CHAIRPERSON PÉREZ: Yes. We really do try to pay
17 attention to this.

18 (Laughter.)

19 CHAIRPERSON PÉREZ: Does anybody else want to be
20 heard on this before we act?

21 If not --

22 BOARD MEMBER FINNEY: I don't see any squirming
23 from the registrars.

24 MS. MONTGOMERY: John Pérez?

25 CHAIRPERSON PÉREZ: Aye.

1 MS. MONTGOMERY: Stephen Kaufman?

2 VICE CHAIRPERSON KAUFMAN: Aye.

3 MS. MONTGOMERY: Tal Finney?

4 BOARD MEMBER FINNEY: Aye.

5 CHAIRPERSON PÉREZ: Okay. The next item for us
6 is 6B, adoption of newly proposed 2005 VMB meeting
7 schedule, which is attached.

8 MS. LEAN: I'd suggest you move that to the very
9 end of the meeting if you don't mind.

10 CHAIRPERSON PÉREZ: I'm sorry?

11 MS. LEAN: Can we move that to the end of the
12 meeting.

13 CHAIRPERSON PÉREZ: Sure. We can make that the
14 new Item 8 and then make the old 8 a yeah -- next is 6C
15 update on the status of VMB Conflict of Interest Code.
16 We're all anticipating filling out our form 700s.

17 MS. LEAN: The status so far is it's still at the
18 Office of Administrative Law. It has not yet been filed
19 with the Secretary of State's Office. So perhaps by the
20 next meeting it will be adopted and you will be required
21 to do the 700s. As soon as it is adopted, I will let you
22 know, because there is a 30-day requirement to file it.

23 BOARD MEMBER FINNEY: If I was still running OAL,
24 it would be stuck there forever.

25 CHAIRPERSON PÉREZ: So given that, I just want to

1 draw attention to the fact that this new development is
2 separate and distinct from what had been in our minutes,
3 where it said that we would each have to fill out our form
4 700s immediately after this meeting.

5 MS. LEAN: That's correct.

6 CHAIRPERSON PÉREZ: So we will fill out our
7 VMB -- I mean, our form 700s within 30 days of their
8 approval.

9 MS. LEAN: Correct. I anticipated that it would
10 be completed by this meeting. It has not been completed
11 yet.

12 BOARD MEMBER FINNEY: And can I throw out
13 something here. I think we might have had this discussion
14 once before, but I want to clarify. The Form 700 as it
15 applies or possibly will apply to the Voting Modernization
16 Board, relates only to those potential conflicts of
17 interest associated with our work here, isn't that
18 correct?

19 STAFF COUNSEL STUART: Correct.

20 MS. LEAN: Correct.

21 BOARD MEMBER FINNEY: So it's not like that full
22 blanket Form 700 --

23 MS. LEAN: Correct.

24 BOARD MEMBER FINNEY: -- that I used to have to
25 live with?

1 Okay.

2 CHAIRPERSON PÉREZ: Some of us are poor and don't
3 have to worry about the details of the 700. It's a very
4 easy form to fill out.

5 BOARD MEMBER FINNEY: Yes, I understand that.

6 Although, I'm surprised with respect to you, Mr.
7 Chair.

8 (Laughter.)

9 CHAIRPERSON PÉREZ: I said some of us.

10 (Laughter.)

11 CHAIRPERSON PÉREZ: Item 7, Interim Status Report
12 on County Voting Modernization Plans.

13 MS. LEAN: In your packets that you have in front
14 of you, all of the counties responded. There's one county
15 who's still pending the official report, but all of them
16 have responded that yes, they do plan to use their Voting
17 Modernization Board allocation. We have about 8 counties
18 who estimate that they will be coming forward in the next
19 month or so; between September and October about 12
20 counties; November through December 8 counties; and a
21 bunch of unknowns, due to there's only one certified
22 system in the state.

23 There are 9 counties who are in their Phase 2
24 approach, so they will come forward. And a lot of those
25 are unknown too. They don't know because of the lack of

1 certified systems.

2 Three counties will either be resubmitting or
3 amending their project documentation plans, because their
4 original system was decertified, so they'll need to come
5 forward again.

6 So with that said, as you were talking earlier
7 about you don't know how much longer you will be around.
8 I anticipate it will be definitely through 2007.

9 (Laughter.)

10 CHAIRPERSON PÉREZ: Two questions.

11 BOARD MEMBER FINNEY: There might be a whole new
12 system.

13 (Laughter.)

14 CHAIRPERSON PÉREZ: And possibly a whole new
15 elected officials to appoint us.

16 BOARD MEMBER FINNEY: Hey, we've been through 3
17 Secretaries of State so far.

18 (Laughter.)

19 CHAIRPERSON PÉREZ: And 2 Governors.

20 BOARD MEMBER FINNEY: And 2 Governors.

21 Rub it in, John.

22 (Laughter.)

23 CHAIRPERSON PÉREZ: Two questions, what was the
24 one county that we haven't heard from?

25 MS. LEAN: We've heard from. We have gotten

1 their official report from.

2 CHAIRPERSON PÉREZ: And which county is that?

3 MS. LEAN: Kings County.

4 CHAIRPERSON PÉREZ: Okay. And second, and we
5 were talking about this earlier, my recollection is that
6 we're all pleasure appointments without reference to a
7 term.

8 BOARD MEMBER FINNEY: Term of years, isn't that
9 correct?

10 MS. LEAN: That's correct.

11 BOARD MEMBER FINNEY: Because it's initiate
12 specific and the initiative did not provide term of years.

13 MS. LEAN: That's correct.

14 CHAIRPERSON PÉREZ: Okay.

15 MS. LEAN: So as long as you want to serve.

16 CHAIRPERSON PÉREZ: As long as we're wanted.

17 (Laughter.)

18 BOARD MEMBER FINNEY: I'm proud to work with the
19 registrars of our state, helping to empower them to
20 empower the voter.

21 VICE CHAIRPERSON KAUFMAN: Before we move on, can
22 I ask one question.

23 CHAIRPERSON PÉREZ: Yes, please.

24 VICE CHAIRPERSON KAUFMAN: I almost hesitate to
25 ask this question, but since we go through this every

1 meeting, any current update on the status of
2 certification?

3 MS. LEAN: No update at this time.

4 (Laughter.)

5 BOARD MEMBER FINNEY: Is that rehearsed?

6 (Laughter.)

7 CHAIRPERSON PÉREZ: Was that generally speaking
8 or -- I mean, there was a discussion, and I wasn't he at
9 the last meeting, but under public comments Alfie Charles
10 from Sequoia was talking about a condition placed on
11 certification that should have been done within 30 days.
12 Do we know if that one has been completed? That one has
13 not. Okay, I just wanted to make sure since I wasn't
14 here.

15 VICE CHAIRPERSON KAUFMAN: I'm sure it will show
16 up on August 31st, I think, it's going to be. It will
17 still be 30 days away.

18 CHAIRPERSON PÉREZ: Just like our form 700s.

19 (Laughter.)

20 VICE CHAIRPERSON KAUFMAN: There's two parallel
21 tracks running here.

22 MS. LEAN: But the good news is, even though
23 you've been around for 3 years, we might finally actually
24 get a conflict of interest code adopted by your next
25 meeting.

1 CHAIRPERSON PÉREZ: After --

2 VICE CHAIRPERSON KAUFMAN: As soon as we file our
3 leaving office statement.

4 BOARD MEMBER FINNEY: A position with no term of
5 years, no conflict of interest code, and no Form 700.

6 (Laughter.)

7 CHAIRPERSON PÉREZ: Okay. As the only
8 non-attorney on the Board.

9 (Laughter.)

10 CHAIRPERSON PÉREZ: Okay. Anything else before
11 we go into adoption of our meeting schedule?

12 So before us we have some changed dates, August
13 31st, September 23rd --

14 MS. LEAN: In the afternoon.

15 CHAIRPERSON PÉREZ: -- in the afternoon.

16 BOARD MEMBER FINNEY: Are these all 1:30s or I
17 mean 10:30s. I mean --

18 CHAIRPERSON PÉREZ: No, August 31st, 10:30;
19 September 23rd, 2 p.m.; October 21st, 10:30; November
20 16th, 10:30; and December 21st, 10:30.

21 MS. LEAN: These were modified since I sent you
22 the packages. I apologize for that. I did have a
23 discussion with the Chair, so we did move some of the
24 dates around. If we could get an agreement at least on
25 the August one. And if you could let me know, I could

1 post these to our web site so we have enough notice to all
2 the counties on when the next ones will be.

3 CHAIRPERSON PÉREZ: Is August 31st okay with both
4 of you?

5 VICE CHAIRPERSON KAUFMAN: Yeah, I checked.

6 BOARD MEMBER FINNEY: I'm fine with that and with
7 the September 1 too I think. Those 2 I could do.

8 CHAIRPERSON PÉREZ: So let's lock in the August
9 31st and the September 23rd. Let's attempt, at our next
10 meeting, to lock in October 21st and November 16.

11 BOARD MEMBER FINNEY: I have to change October.

12 CHAIRPERSON PÉREZ: You have to change October?

13 BOARD MEMBER FINNEY: Yeah.

14 CHAIRPERSON PÉREZ: Okay. So if you could get
15 back to Jana about your October availabilities.

16 MS. LEAN: That would be great, because Michael
17 Bustamante will not be able to be available at all during
18 October.

19 CHAIRPERSON PÉREZ: And at the end of October,
20 I'm out of the country.

21 VICE CHAIRPERSON KAUFMAN: And I suspect as we
22 get later in the year and we have more people who need to
23 submit by the January deadline, it's going to get harder
24 and harder to start moving dates.

25 CHAIRPERSON PÉREZ: Yeah. So we really need

1 to -- each of us get to Jana our good and bad dates for
2 October, November, December. But right now let's move
3 approval on the August 31st and September 23rd dates.

4 VICE CHAIRPERSON KAUFMAN: I'll move approval.

5 BOARD MEMBER FINNEY: Second.

6 CHAIRPERSON PÉREZ: All in favor?

7 (Ayes.)

8 CHAIRPERSON PÉREZ: Okay. Do you have anything
9 else for us, Jana?

10 MS. LEAN: Then I guess the next meeting, as we
11 always do, we talk about the next meeting, will be August
12 31st at 10:30.

13 CHAIRPERSON PÉREZ: Very good. Is there any --
14 are there any other public comments before we adjourn?

15 Then we are adjourned.

16 Thank you all.

17 (Thereupon the California Secretary of State's
18 Office, Voting Modernization Board meeting
19 adjourned at 11:15 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Secretary of State's, Voting Modernization Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 1st day of August, 2005.

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22 JAMES F. PETERS, CSR, RPR
23 Certified Shorthand Reporter
24 License No. 10063
25