

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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September 22, 2011
Start: 1:16 pm
Recess: 3:50 pm

HELD AT: 250 Broadway
Committee Rm, 14th Fl.

B E F O R E:
GALE A. BREWER
Chairperson

COUNCIL MEMBERS:
Peter F. Vallone, Jr.
Lewis A. Fidler
Brad Lander

A P P E A R A N C E S (CONTINUED)

Dawn Sandow
Deputy Executive Director
Board of Elections

Steve H. Richman
General Counsel

Pamela Perkins
Administrative Manager

John Naudus
Director
Electronic Voting Systems

John Ward
Finance Officer
Board of Elections

Steve Ferguson
Director of MIS
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Brian Kavanagh
Assembly Member

Art Chang
Chair
Voter Assistance Advisory Committee

Amy Loprest
Executive Director
New York City Campaign Finance Board

Alex Camarda
Director for Public Policy and Advocacy
Citizens Union

Neal Rosenstein
Government Reform Coordinator
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A P P E A R A N C E S (CONTINUED)

Deanna Bitetti
Associate Director
Common Cause New York

Kate Doran
City Affairs Chair
League of Women Voters of the City of New York

Rima McCoy
Voting Rights Coordinator
Center for Independence of the Disabled New York

Jerry Koenig

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SERGEANT-AT-ARMS: Quiet, please.

CHAIRPERSON BREWER: Good morning, I'm Gale Brewer, City Council Member for the West Side and head of Governmental Operations, and I am here with Seth Grossman, who is Counsel to the Committee, and Tim Matusov, who's the Policy Analyst, and I see John Russell over there. And I also want to thank Council Member Peter Vallone, he is always on time and he's always prepared.

MALE VOICE: What a nerd.

CHAIRPERSON BREWER: What a nerd, yes. Anyway we're here to talk of an oversight on the Board of Elections and so we're conducting this oversight hearing during the--to look at the performance during the primary and special elections held on September 13th, 2011.

This hearing is a follow-up to two prior hearings held by the committee in the fall of 2010 in response to widespread voting problems experienced by voters during the 2010 primary election. I know you're all familiar with those issues.

Today, we will also consider Resolution 671-A, a resolution calling on the New

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2 York State Legislature to pass and the New York
3 State Governor to sign into law legislation that
4 would require paper ballots to be designated in a
5 more user-friendly manner.

6 The pending state legislation
7 supported by Resolution number 671-A would address
8 a major area of concern expressed in an election
9 day exit survey conducted by the Council last year
10 in which many New York City voters complained that
11 the ballot design was confusing. I think the font
12 was the biggest issue, and I know it's complicated
13 to solve.

14 In terms of oversight. The 2010
15 primary election held on September 14, 2010,
16 marked the first election held in New York City
17 using new optical scan voting machines in place of
18 lever voting machines. On the day of the
19 election, many poll sites experienced significant
20 difficulties, including late openings,
21 malfunctioning voting machines, inadequately
22 trained poll workers, a lack of privacy when
23 casting ballots--I think that's been dealt with
24 very effectively--poll site accessibility
25 problems, and other issues.

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2 In response to these events, the
3 Committee held a hearing on October 4th, 2010, to
4 examine the extent and nature of the problems and
5 the Board of Elections plans to address these
6 problems in subsequent elections.

7 In terms of recommendations, at the
8 October 4th hearing, the Committee made several
9 recommendations to the Board of Elections for
10 measuring and improving its election day
11 performance. They include systemic tracking of
12 year on year election day performance,
13 establishment of poll site report cards, posting
14 of sample ballots online--and I look forward to
15 talking about this, sometimes there's good news in
16 life--providing performance indicators in the
17 Mayor's Management Report, and the MMR just came
18 out.

19 In terms of for the 2010 general
20 election, the Council conducted an exit survey of
21 voters on election day about their voting
22 experiences. The results of this survey indicated
23 that voters' experience generally improved during
24 the general election. While it was generally
25 perceived that the Board of Election rectified

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2 many of the problems experienced by voters during
3 the primary election, the Council's exit survey
4 revealed that one major problem remained constant:
5 Voters had difficulty reading the ballot as a
6 result of the ballot's small font size and
7 confusing layout.

8 Concerning this year. On September
9 13, 2011, primary and special elections were held
10 throughout New York City. Today's hearing is an
11 opportunity for the Committee to evaluate the
12 Board of Election's most recent performance in
13 light of the issues that arose during last year's
14 elections. The Committee will inquire as to the
15 status of the Board of Election's efforts to
16 implement the Committee's recommendations.

17 In terms of election day canvas
18 procedures, the Committee will also seek to
19 understand the Board of Elections election day
20 canvas procedures and whether there are procedures
21 in other jurisdictions to speed up this process
22 which could also be adopted by the Board of
23 Elections--and I'm referring, I think, to some of
24 the discussions in the Daily News and the New York
25 Times. For example, Nassau County posts

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2 unofficial results on the night of the election
3 using the voting machine's removable flash drive--
4 which I know you call something else, but I only
5 know to call them flash drives. And you can see
6 up on the screen some of the unofficial results
7 coming from Nassau.

8 As noted in the 2010 elections,
9 many New York City voters complained about the
10 small font size and poor design used on the newly
11 introduced paper ballots--and to the great credit
12 of the staff there are sample ballots up there.

13 State election law. New York
14 City's current ballot format is dictated by New
15 York State Election Law and it is the relic of a
16 time when ballots were designed for use with the
17 older generation of mechanical voting machines.
18 Legislation before the New York State Legislature
19 would amend state law to require that paper
20 ballots be designed in a more user-friendly
21 manner--and Brennan Center for Justice has made
22 some suggestions. And they're up there.

23 Bills introduced by Senator Joel
24 Addabbo and Assembly Member Brian Kavanaugh would
25 amend the law to make ballots more easily readable

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2 by requiring, among other things, that the
3 candidate's name be printed with a minimum font
4 size of 12. Another bill introduced by Assembly
5 Members Kavanagh and Andrew Hevesi, known as the
6 Voter Friendly Ballot Act of 2011--every law seems
7 to have to have a name--would significantly
8 overhaul the current ballot layout by setting
9 forth a series of specifications that would remove
10 unnecessary clutter from the ballot, simplify the
11 ballot instructions, and provide for more
12 consistent ballot design. Everyone should know
13 everything that Brian Kavanagh suggests, I agree
14 with. The resolution--he used to work with me--
15 the resolution urges the New York State
16 Legislature to pass and the Governor to sign into
17 law this legislation that would further the
18 important goal of improving ballot layout and
19 design for New York City voters.

20 I also want to thank Will Kolgrove
21 [phonetic] from my office.

22 And without further ado, we look
23 forward to hearing from the Board of Elections.

24 DAWN SANDOW: Chair Brewer and
25 members of the New York City Council Committee on

1
2 Governmental Operations, first I want to take a
3 moment and thank you, the Chair of this Committee
4 and your colleagues of the New York City Council
5 for convening this public hearing to review the
6 manner in which the primary and special elections
7 held on September 13, 2011, were conducted in the
8 city of New York. For the record, my name is Dawn
9 Sandow and I am the Deputy Executive Director of
10 the Board. Joining me here today are
11 Commissioners from the New York City Board of
12 Elections, President Juan Carlos Polanco,
13 Republican Commissioner, Bronx County. In
14 addition, our Administrative Manager Pamela
15 Perkins and our General Counsel, Steve H. Richman
16 join me at this table.

17 Finally, I want to acknowledge the
18 presence of several additional staff members who
19 are here to help us answer your questions. John
20 Naudus, Director of Electronic Voting Systems;
21 Steven Ferguson, Direction of Management
22 Information Systems; Raphael Savino, Enforcement
23 Counsel; Valerie Vazquez, Director of
24 Communications; Tom Sattie, Ballot Coordinator;
25 Danny Lavelle, Phone Bank Coordinator; John

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2 O'Grady, Chief Voting Machine Technician; Stephen
3 Thompson, Poll Worker Training Coordinator; Rachel
4 Knipel, Coordinator, Language Assistance Program;
5 John Ward, Director of Finance; Troy Johnson,
6 Coordinator of Candidates Record Unit; Nicholas
7 Squicciarini, Facilities Manager; John Luisi,
8 Agency Chief Contracting Officer; Ryan Deahn,
9 Administrative Assistant in the Candidate Records
10 Unit.

11 On September 13th, 2011, the Board
12 conducted Special Elections in the 9th
13 Congressional District and in the 23rd, 27th,
14 54th, and 73rd Assembly Districts. The Board
15 conducted various party primaries for public
16 offices in Queens, Manhattan, and Brooklyn. In
17 addition, primaries for party positions, such as
18 State Committee, District Leader, Judicial
19 Delegates and Alternates, and County Committee
20 were held. No primaries or special elections were
21 held in the Bronx and Staten Island.

22 I would like to report that since
23 the close of the polls, the Board's staff has been
24 engaged in the process of canvassing and
25 recanvassing all of the votes cast in the special

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2 and primary elections, including ballots scanned
3 at the poll sites, as well as affidavit,
4 emergency, absentee, special, and military
5 ballots. That process continues as we speak and
6 we anticipate certifying the results of the
7 September 13th elections at next Tuesday's
8 Commissioners Meeting.

9 I want to take a moment and
10 highlight some of the information relating to the
11 September 13th, 2011, elections: Overseas
12 Ballots, the Board met the deadline for mailing
13 all Military and Special Federal Ballots for the
14 Special Elections; the Board deployed over 40,000
15 pieces of voting equipment to 753 poll sites and
16 assigned 18,218 poll workers to work; the borough
17 call centers received a total of 2,132 calls on
18 election day; the Board's phone bank received a
19 total of 2,563 calls on election day; over 3,000
20 affidavit ballots were cast citywide; to date the
21 Board has received over 10,000 voted absentee
22 ballots citywide.

23 In accordance with Election Law,
24 Manhattan, Brooklyn, and Queens have started the
25 following Post Election tasks: 3 % Audit, reading

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2 of all Portable Memory Devices into the Election
3 Management System, recanvass of election night
4 preliminary results with the results reported on
5 each of the PMDs, review of write-in votes. On
6 September 21st, the canvass of all ballots not
7 scanned at the poll site--affidavit, absentee,
8 military, and special. After the canvass is
9 completed, the staff will begin updating each
10 voter's history for those who voted in the
11 September 13, 2011, elections.

12 In addition, multiple tasks are
13 underway in all voting machine facilities. In
14 accordance with the chair's request, attached to
15 this testimony is the Board's response to the
16 specific questions presented in Chair Brewer's
17 August 22nd letter. After a thorough review of
18 last year's election day operations, including a
19 cooperative evaluation of feedback submitted by
20 outside groups, community organizations, other
21 agencies, and voters, we undertook these steps to
22 prepare better for the 2011 elections. Key
23 highlights of these new changes include: Enhanced
24 Concentration on Voter Privacy. In recognition of
25 the importance of assuring voters of the privacy

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2 of their votes, all privacy booths were placed
3 with the voter's back to the wall where space
4 permitted. In addition, all voters were offered
5 privacy sleeves for their ballots, and all site
6 coordinators received a detailed schematic showing
7 the recommended layout of the poll site.

8 Call Center II Implemented. The
9 Board recognizes that call center procedures are
10 essential to ensure prompt issue resolution on
11 election day. The Board has conducted several
12 mock election exercises during the year to improve
13 the accuracy of entering information and
14 dispatching calls on election day.

15 Implementation of Formalized Survey
16 Guidelines and Training. The Board staff
17 established guidelines on conducting poll site
18 surveys. In addition, BOE staff members,
19 including members of our poll site accessibility
20 unit, attended Surveyors Certification Class and
21 Exams conducted by the State Board of Elections.

22 Inventory Management and Control
23 System. The Board's staff has implemented the
24 first phase of our inventory control system
25 relating to election day supplies and equipment.

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2 This system enables the Board to track delivery of
3 supplies, usage on election day, as well as the
4 return of unused supplies. This system will
5 assist the Board with monitoring costs and cut
6 down on waste.

7 Transportation of Equipment. Last
8 year, the Board of Elections implemented a more
9 comprehensive tracking system to confirm the
10 delivery of poll site voting system equipment.
11 This year, the Board continued with the same
12 comprehensive program to ensure timely delivery of
13 all equipment.

14 Car Service Database and
15 Guidelines. The Board has implemented a new
16 tracking system and procedures to monitor all
17 vouchers for After Hour Car Service usage. Each
18 voucher is tracked according to usage and charges
19 and then matched to the appropriate invoice for
20 accurate payment. This database has helped the
21 Board to ensure proper use of the after hour car
22 service, as well as accurate billing.

23 Key revisions to the Poll Worker
24 Training Plan. The Board's review of the 2010
25 election day operations resulted in an initiative

1
2 to revise the poll worker training plan. The 2011
3 poll worker training plan, available now on the
4 Board's website, includes an emphasis on voter
5 privacy, such as reminding poll workers to provide
6 all voters with privacy sleeves for their ballots
7 and instructing poll workers to position poll site
8 privacy booths so that the voter's back is to a
9 wall while using the privacy booth, where
10 possible.

11 Creation of Train the Trainers

12 Edition of the Poll Worker Training Guide.

13 Recognizing the key role that poll worker trainers
14 play in a successful election day process, this
15 training guide highlights key points and materials
16 trainers use in conducting poll worker training
17 sessions.

18 Conducted Additional Training for

19 Trainers. The City University of New York held a
20 series of workshops that provided Board adjunct
21 trainers with additional training skills. These
22 workshops focused on strengthening the trainer's
23 presentation skills, as well as strategies to
24 manage conflicts and encourage teamwork.

25 Revised Training Schedule. To

1
2 allow for adequate preparation time for election
3 day staff, the Board conducted early training
4 sessions in May for information clerks, door
5 clerks, and interpreters to ensure the Board had
6 adequate time to train all poll workers assigned
7 to work on election day.

8 Poll Worker Recruitment. The Board
9 has been proactively engaging with local community
10 groups and organizations throughout the city to
11 recruit poll workers and interpreter applicants.
12 To date, the Board's effort has resulted in more
13 than 4,000 applicants. The City Board has a long
14 established protocol governing its interaction
15 with those city agencies that play a significant
16 role in the conduct of elections. The Board has
17 maintained effective working relationships with
18 the Police Department, the Department of
19 Education, the Department of Citywide
20 Administrative Services, the Law Department, and
21 the New York City Housing Authority. Prior to an
22 election day, the Board and these entities engage
23 in regular communications to ensure that all
24 essential elements are in place for a successful
25 election. On election day, the Board, through

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2 both the Executive Office and our Borough Chief
3 and Deputies, are in constant communication with
4 the NYPD through the Operations Center at
5 headquarters and each of their Patrol Borough
6 Commands. With respect to Department of
7 Education, DCAS, and NYCHA, we are in continuing
8 contact with their facilities management staff to
9 ensure that the public facilities under their
10 control serving as poll sites would be open for
11 both equipment deliveries prior to September 13,
12 2011, as well as on the day of the Primary and
13 Special Elections. The Board has ensured that all
14 poll sites located in publicly owned facilities
15 are designated by May 1st of each year in the
16 manner prescribed in Section 4-104 of the Election
17 Law.

18 The Law Department has always
19 provided assistance in ensuring that all city
20 agencies are aware of their legal obligations with
21 respect to election day activities. The Mayor's
22 Office and the Chair of this Committee took an
23 active role in assisting the Board in coordinating
24 with other city agencies.

25 Resolution 67-A. Steve, do you

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mind if--

CHAIRPERSON BREWER: Sure.

DAWN SANDOW: --he takes over?

Thank you.

STEVEN RICHMAN: At the Committee's request, the Board has reviewed Council--

CHAIRPERSON BREWER: [Interposing]
You have to introduce yourselves.

STEVEN RICHMAN: Steven H. Richman, I'm the General Counsel for the Board. At the Committee's request, the Board--

SERGEANT-AT-ARMS: Turn on your mic.

STEVEN RICHMAN: Is that better?
Okay. Thank you. At the Committee's request, the Board has reviewed Council Resolution 671-A relating to a more user-friendly ballot design. Attached to the testimony is a copy of the Board's proposed revisions to the State Election Law that was transmitted to the leaders of the State's Executive and Legislative Branches on June 10th of this year. Many of the Board's recommended revisions are similar to the provisions of the proposed Council Resolution. However, there is

1
2 one specific item of concern relating to mandating
3 by statute the specific size of the font--in this
4 case, 12 point. Using the 2010 General Election
5 ballot as our reference, last year's General
6 Election ballot would have consisted of three
7 pages instead of one. The printing costs for the
8 ballots used in the 2010 General Election was
9 already over \$6 million. The Board projects that
10 the printing costs for the same 2010 General
11 Election ballot using a 12-point font would have
12 been over \$18 million, since the ballot would then
13 consist of three pages. It would also take
14 significantly longer and result in additional
15 costs to the Board to test the scanners using the
16 three page ballots prior to their election.
17 Moreover, the time it would take for a voter to
18 cast such a ballot at the scanner would also
19 increase.

20 Do you want to finish?

21 DAWN SANDOW: I'm good.

22 STEVEN RICHMAN: Okay.

23 DAWN SANDOW: The transition to a
24 new voting method has presented numerous
25 challenges for the conduct and administration of

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2 elections in America's largest city. Our
3 experience to date confirms that fact. The City
4 Board is committed to do whatever is possible and
5 practical to mitigate the ongoing concerns and has
6 sought to address them to prevent reoccurrence in
7 future elections. To date, our recommended
8 revisions in the New York State Election Law have
9 not been enacted into law. The Board continues to
10 work with our colleagues at the other County
11 Boards of Elections throughout the state, the
12 State Board, and the Election Law Committees of
13 the New York State Senate and Assembly to change
14 the statutory framework and improve the experience
15 for all our voters and our poll workers. The City
16 Board hopes that you will continue to work
17 cooperatively with the Board to help us all meet
18 the challenges that will occur in the future.

19 Before I conclude I just wanted to
20 take a moment and update you on the filing made by
21 the United States Department of Justice in Federal
22 District Court in Albany Monday evening. The
23 federal government is seeking to change the date
24 for the primary election for non-presidential
25 federal office from the current September date to

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2 one at least 80 days--mid-August--before the
3 November 2012 General Election. The Justice
4 Department notes the inaction by the State of New
5 York to enable compliance with the Military and
6 Overseas Voter Empowerment Act with respect to
7 next year's primary elections for United States
8 Senator and members of Congress. You should be
9 aware that if the federal government is successful
10 and the State of New York takes no action, the
11 City Board could end up with having to conduct
12 three primary elections in 2012--one for President
13 and national convention delegates and alternates
14 in April; one for U.S. Senator and member of
15 Congress in August; and one for state and local
16 public offices and party positions in September.

17 I want to close by re-emphasizing
18 that for the City Board of Elections, protecting
19 the rights of the voters of this city is
20 paramount. I thank you again for your time and
21 for allowing us to come before you on behalf of
22 the Board of Elections in the City of New York
23 today. As always, my colleagues and I are
24 available to answer any questions that you may
25 have.

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2 CHAIRPERSON BREWER: Thank you very
3 much. I want to start with a couple of questions,
4 and I know that Council Member Vallone has
5 questions.

6 I think you mentioned, just talking
7 about election day performance in general, I think
8 you mentioned that in 2011, recently we had 753
9 poll sites open, so I'm just wondering how many
10 did we have in 2010 and maybe what you project for
11 any number of the elections next year.

12 DAWN SANDOW: Okay. How many did
13 we have in 2010?

14 CHAIRPERSON BREWER: Yes, poll
15 sites.

16 DAWN SANDOW: Yeah.

17 PAMELA PERKINS: Council Member,
18 Chair Brewer, in 2010 all of our poll sites were
19 open.

20 CHAIRPERSON BREWER: Okay. And
21 what's the total?

22 DAWN SANDOW: Thirteen hundred and
23 29.

24 PAMELA PERKINS: Thirteen hundred.

25 CHAIRPERSON BREWER: Thirteen

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hundred, they were all open.

[Crosstalk]

DAWN SANDOW: Twenty nine.

PAMELA PERKINS: Thirteen hundred
and 29.

CHAIRPERSON BREWER: Thirteen
hundred and 29, okay.

DAWN SANDOW: Yes.

PAMELA PERKINS: The reason why--
I'm sorry--

CHAIRPERSON BREWER: No, go ahead.

PAMELA PERKINS: --the reason why
this for 2011 the primary, there was some, first
of all, the Bronx and Staten Island had no
elections so no poll sites was open, and then
parts of Manhattan there were no elections, and in
Queens parts of Queens, there was no election.
The borough of Brooklyn is the only borough that
had a borough-wide election and that's why the
number of poll sites differ.

CHAIRPERSON BREWER: No, I agree.
And I had one question about that, actually,
Council Member Lappin asked me. I'm in an area
that had some elections for judges and some places

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2 where the polls were closed because there was no
3 election. People got in the mail that piece of
4 literature, however, so of course they come to my
5 office and Jessica Lappin's office ready to vote
6 because they can't understand not voting. So that
7 piece of literature, I probably didn't read it
8 correctly, but I don't think it said your voting
9 place is not open, so they're confused.

10 PAMELA PERKINS: The piece of
11 literature that you're talking about, I believe,
12 is the information notice--

13 CHAIRPERSON BREWER: Correct.

14 PAMELA PERKINS: --that we're
15 required to send out, as you know--

16 CHAIRPERSON BREWER: Yes.

17 PAMELA PERKINS: --every year by
18 law. When we send it out, we do put a notice on
19 it that says please contact the Board of Elections
20 to find out if you have a primary election--

21 [Crosstalk]

22 CHAIRPERSON BREWER: [Interposing]
23 You know they're not going to do that though.

24 DAWN SANDOW: Or they can check
25 the--

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PAMELA PERKINS: Yeah--

DAWN SANDOW: --website as well.

PAMELA PERKINS: --or they can check the website.

STEVEN RICHMAN: But, Council Member, that's the language required by law, we are required to send that notice out between August 1st and 5th of each year to set forth the date of the primary election and the general election.

CHAIRPERSON BREWER: Okay. I understand that, I'm just simply stating, and we said this before, that a different approach where there isn't a citywide election might take precedence in terms of how you write it. Now I know that Burston Marsteller had something to do with it, I got all that, but I'm making a suggestion that came from one of my colleagues that either it's in bigger writing or there's a change in an off-year to make it clearer the date-- 'cause literally nerdy constituents take that looking for a place to vote and it would just make it clearer and then it makes everyone look better that we're on top of the situation.

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2 STEVEN RICHMAN: Council Member,
3 that may be you want to add to your legislative
4 package as well, because as I said, the language
5 is mandated by statute.

6 CHAIRPERSON BREWER: Okay. All
7 right, how you write it is a different.... Do we
8 know how many people ended up voting in the 2011
9 primary and how does that stack up against the
10 2010 primary, just in terms of numbers? Obviously
11 they are much smaller.

12 STEVEN RICHMAN: Yeah--

13 [Crosstalk]

14 PAMELA PERKINS: We know for the
15 primary election of 2011--

16 DAWN SANDOW: Preliminary.

17 PAMELA PERKINS: --and the special,
18 we have preliminary numbers that show
19 approximately 148,000 people came out to vote,
20 those are preliminary numbers.

21 CHAIRPERSON BREWER: Okay. And for
22 2010?

23 STEVEN RICHMAN: We had over
24 375,000 in the primary.

25 CHAIRPERSON BREWER: All right, and

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2 then just in terms of the 2011 primary and special
3 election operations comparing with the 2010
4 primary day operations, obviously you've listed
5 some of the many things that you've corrected.
6 Did you have voting equipment malfunctions, late
7 poll site openings, even in this smaller number,
8 voter privacy, I think you did a great job on, and
9 poll worker performance, how even in this short
10 time--'cause we haven't had a lot of time to
11 evaluate, I understand that--do you see that there
12 are--either through the calls that you got or
13 through anecdotal or through feedback, how do they
14 stack up, the two of them?

15 DAWN SANDOW: Voter privacy
16 definitely improved, our poll site openings, I
17 believe, we had 15 that opened after six, and it
18 varied on the issues. Some were NYCHA sites, some
19 we had poll workers who just would not open the
20 scanners until a coordinator arrived, but I
21 believe our poll site openings did improve as
22 well. I feel the training, although we did
23 intensify the training and target issues that did
24 occur in 2010, I feel it is going to take some
25 time for these poll workers to get accustomed to

1
2 the new system. There still is panic, I feel, in
3 the morning when opening and we did target opening
4 and we targeted closing. We had general office
5 monitoring teams out to help certain sites, if we
6 seen during the day--because we did implement a
7 new call center, so we did monitor during the day
8 and see where there were certain sites that had
9 issues, we made sure we had general office
10 monitoring team at those sites to help close.

11 Closing seems to be the major issue.

12 CHAIRPERSON BREWER: Yes, it ended
13 up in the Daily News and the New York Times. Let
14 me just talk to you--thanks to Council Member Inez
15 Dickens, who isn't able to be here today, she has
16 a conflict--but at the--this is about scanners.
17 At the Riverbend Housing, which is a site at 2301
18 5th Avenue, she has a photograph here of a ballot
19 that got stuck and jammed, which is one issue, but
20 apparently the ballot is also, more importantly
21 and more challenging, it is a picture of a BMD
22 number, which is what I guess I call the--Ballot
23 Marking Device number and a poll site ID and it
24 was apparently last--somehow ended up being last
25 year's ballot. And the challenge is, what do we

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2 do to make sure that each one of these machines is
3 checked, A, to make sure it doesn't stick, and, B,
4 to make sure that the ballot is correct? Now I
5 will submit this--

6 DAWN SANDOW: [Interposing] If it
7 was last year's ballot, that could be the reason
8 why it jammed and did not accept it because it
9 will not--

10 CHAIRPERSON BREWER: [Interposing]
11 Okay. But we shouldn't have last year's ballots
12 anywhere close--

13 DAWN SANDOW: [Interposing] You're
14 100 % correct.

15 CHAIRPERSON BREWER: --to this
16 year's election, so describe to me how this could
17 have happened and how is it that this wasn't
18 checked, that's my question.

19 DAWN SANDOW: I would have to
20 investigate to see how it did happen, but all
21 supply cards are checked and rechecked. There is
22 a checklist that goes out on the outside of the
23 supply cart--

24 STEVEN RICHMAN: [Interposing] And
25 also every scanner and BMD was tested as required--

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2 -

3 DAWN SANDOW: Yes.

4 STEVEN RICHMAN: --by state law.

5 The most obvious thing is somebody brought a
6 ballot with them 'cause we wouldn't have given
7 them out--

8 [Crosstalk]

9 CHAIRPERSON BREWER: [Interposing]

10 I don't think that Council Member Dickens will
11 think that somebody brought a ballot from last
12 year, I just don't think that's true.

13 STEVEN RICHMAN: Well the new
14 ballots are packaged and sealed and, if that's the
15 case--

16 DAWN SANDOW: [Interposing] They
17 come packaged and sealed.

18 STEVEN RICHMAN: --then there
19 should be hundreds at that poll site.

20 DAWN SANDOW: Yeah, they do come
21 packaged and sealed--

22 CHAIRPERSON BREWER: Okay.

23 DAWN SANDOW: --when they are
24 delivered. But this is something that needs to be
25 investigated and we definitely will look into it,

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2 2301 5th Avenue?

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CHAIRPERSON BREWER: 2301 5th

4

Avenue, Riverbend Housing, yes. I will submit

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this and Council Member Dickens is going to submit

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testimony tomorrow, she's not able to be here

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today for the record, and we will share that with

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you. What were some of the nature of the

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complaints that did come into the call center?

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What were some of the--do you have an analysis or

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you haven't had time?

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PAMELA PERKINS: The Board is still

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looking at those complaints, we hadn't had time to

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do a real in-depth analysis. We do know that

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there were some problems, not as many, of course,

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as last year, like we said, like Dawn said, there

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was some late openings for a number of reasons.

18

One of the things that we did do to try to address

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that early--proactively is that we had many teams

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out to sites to make sure that if there was a

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problem with the opening that we had an additional

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team aiding monitoring teams to assist with the

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opening.

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CHAIRPERSON BREWER: 'Cause it does

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seem to me like a lot of complaints for a very

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2 small election, that's why we're asking. So in
3 other words, you don't have a huge number of
4 voters compared to past elections. I don't know
5 what the complaint numbers were like for the
6 general or the primary last year, but obviously
7 many more people voted.

8 STEVEN RICHMAN: Madam Chair, many
9 of the complaints concern people saying that they
10 couldn't vote in the 9th Congressional District
11 Special Election. I was in Brooklyn. Apparently
12 a Russian language radio show told everybody to go
13 out and vote--

14 CHAIRPERSON BREWER: Right, we
15 heard this.

16 STEVEN RICHMAN: --the 9th
17 Congressional District only really begins at the
18 equivalent to the Manhattan Beach Ocean Avenue
19 border. So all throughout Brighton Beach and
20 parts of Coney Island, Bensonhurst, and Gravesend
21 where there were Democratic primaries as well as
22 Republican primaries, people came in and started
23 complaining that they were being denied the right
24 to vote.

25 CHAIRPERSON BREWER: Okay.

1
2 STEVEN RICHMAN: In many cases, we
3 told them to indicate that Congressmen Nadler
4 represented them and he wasn't on the ballot, but
5 it didn't satisfy them, those were a lot of the
6 site calls we had.

7 I think the other concern we had in
8 some cases where you had a primary and the
9 special, since there were two separate elections
10 some voters were confused. And, again, we didn't
11 have a choice, we urged the governor to call the
12 special elections for the general election day,
13 the governor exercised his prerogative and chose
14 for September 13th. And as we knew with the lever
15 machines back in the old 38th Assembly District in
16 Queens, two elections, two separate elections on
17 the same day does create greater problems for poll
18 workers and for voters.

19 CHAIRPERSON BREWER: Okay. Well I
20 think when they do your analysis it'd be
21 interesting to know how many were based on that
22 issue and how many were based on other issues that
23 could be corrected. So I think that would be very
24 helpful.

25 We've been joined by Council Member

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2 Lew Fidler.

3

4 The other question I have is--and
5 then I'll call on my colleagues--but obviously the
6 subject of closing is one that I am tremendously
7 interested in, obviously there's a difference of
8 opinion in some cases. I understand, I think I
9 told you at the last hearing that I personally was
10 at Joan of Arc on 93rd Street for the closing last
11 year and I experienced the Scotch tape running out
12 of paper, thinking I'm in a deli from 1950s
13 experience. So now when I read the Daily News and
14 the New York Times I know what the issues are
15 personally. So my question is, again, much
16 opinion differs, what are we going to do to
17 address this problem? I must admit my bias is to
18 take what I call the flash drive to the Board of
19 Elections and be able to get that information to
20 AP and then, of course, you've got the issue of
21 the Scotch tape, maybe you can leave the scissors
22 at home. How are you going to approach all this?
23 It's a mess, I have to tell you, it's a mess, go
24 ahead.

24

DAWN SANDOW: Since the 2010

25

general election, the Board has worked side-by-

1
2 side with the New York City Police Department to
3 develop improved methods of providing preliminary
4 and unofficial election night results reporting to
5 the press. The BOE and NYPD conducted a real-time
6 exercise to test the procedures and system that
7 will be used in the pilot project during this
8 year's November general election. I would like
9 our manager of our electronic voting system to
10 present to you what we will be piloting in Queens
11 in this coming general election. Mr. John Naudus.

12 CHAIRPERSON BREWER: Go ahead.

13 JOHN NAUDUS: Good afternoon, my
14 name is John Naudus, I'm the Manager of the
15 Electronic Voting Systems Department of the Board
16 of Elections in the City of New York. We're
17 handing out a presentation, I know time is short
18 so I won't go through the presentation page by
19 page, but I'll just give you an idea of what the
20 change that we want to implement as far as
21 election night reporting of results.

22 Currently, as you know, once the
23 inspectors are finished filling out the return of
24 canvass, the return of canvas is turned over to
25 the NYPD, the NYPD brings them back to their

1
2 police precincts where they manually key that into
3 their system, and then they forward those results
4 on to the press. What we're going to pilot in the
5 general election, or I should say parallel test in
6 the general election would be more accurate, is a
7 process where the PMD sticks or what you call the
8 flash drives are removed from the scanners when
9 the polls are closed, after the tapes are printed-
10 -and the first tape is printed, put on the wall
11 for the candidates, the second tape is printed as
12 part of our legally obligated return of canvas
13 process, the third tape will be printed and the
14 stick will be removed from the scanners, they will
15 be put into pouches, the pouches will be put into
16 a bag, sealed at the poll sites, and then sent via
17 the NYPD back to our VMF facility as the first
18 round of the supplies that leave the poll sites.
19 So as soon as the systems are closed, the NYPD
20 will be running those bags back to us. When we
21 get them back to our VMF, or our voting machine
22 facility, we'll have staff there who will take in
23 the bags, check the contents, read the flash
24 drives or the PMDs into the election management
25 system, and then, through the course of the

1
2 process, will turn over the results to the NYPD at
3 certain increments of time through the night,
4 they'll then forward that information on to the
5 press as they've done in the past.

6 Hopefully, with this process once
7 it's implemented fully, it would eliminate all of
8 the manual effort that is involved right now with
9 recording the--taking data entering all of the
10 key--the numbers off the return of canvas, it'll
11 be an electronic transfer from the PMDs to our
12 systems and then electronically transferred to the
13 NYPD, electronically transferred to the press.

14 CHAIRPERSON BREWER: Thank you, and
15 I would be glad to turn this over to my
16 colleagues. But one of the questions I have is,
17 if this is successful in Queens in a somewhat low
18 turnout election in general, or however many
19 primaries and however many times we have to vote
20 next year, would this be citywide? In other
21 words, would I have to sit there with my paper and
22 scissors or are we going to be able to do this
23 citywide?

24 STEVEN RICHMAN: Two different--

25 [Crosstalk]

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CHAIRPERSON BREWER: [Interposing]

Let him finish, Steve, hold on a second. Go ahead.

JOHN NAUDUS: As everyone's aware, voting and the counting of the results is something that we take very seriously. We do not want to rush into putting in a new process that might cause even more harm than the current one, so we're taking a very slow and staggered steady approach to try to get to a goal that will be a better process. And part of that is the plan is one borough in the general election, when we get to the presidential primary we will parallel test it through the whole city, and then, as long as all of that goes well, by next year's primary election, whichever date the legislature decides it will be, we will then be using that as the live results mechanism.

So the only thing I would say is, bear with us, give us a little time on this, we don't want to rush into a process, we're trying to a nice, a staggered approach to make sure that along the way we don't, in a sense, create something that might cause more issues.

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2 CHAIRPERSON BREWER: So some people
3 in Albany think that this system that you're
4 piloting actually goes on in other counties. In
5 other words, what do other counties do?

6 JOHN NAUDUS: With all due respect,
7 all the other counties--

8 CHAIRPERSON BREWER: [Interposing]
9 I know like six people who live in other counties.

10 STEVEN RICHMAN: No--

11 JOHN NAUDUS: But the 11 people who
12 live in Hamilton County is a big difference
13 between the--

14 CHAIRPERSON BREWER: I know.

15 JOHN NAUDUS: --4 1/2 million
16 voters that we have in New York City--

17 CHAIRPERSON BREWER: I understand
18 that.

19 JOHN NAUDUS: --and yes, it works
20 in smaller counties, we want to just make sure it
21 works with the size and complexity of the city
22 before we use it as the actual process of
23 returning the results.

24 STEVEN RICHMAN: And, Madam Chair,
25 there's a different statutory framework for the

1
2 city of New York and how we report and transmit
3 results than the rest of the state. The legisla--

4 CHAIRPERSON BREWER: [Interposing]
5 What's different about it?

6 STEVEN RICHMAN: All right, one is
7 the role of the NYPD by statute. In the rest of
8 the state outside the city of New York and Nassau
9 County, the poll workers take home overnight the
10 voter ballots, the memory sticks, etc. and bring
11 them maybe the next day to the town or village
12 halls, it's particularly there.

13 Here, the system was established by
14 the Legislature--and my best research goes back,
15 it's over 100 years--gave the role to NYPD to
16 secure and protect the integrity of the system.
17 What we do is we turn over all the materials, even
18 the attempt by us to not have the police bring
19 back the blank ballots has not been met with
20 success. The NYPD takes the custody, provides the
21 results to the press, the Board it's statutorily,
22 has no role here to make it available to the
23 press, that is the responsibility of the police
24 commissioner.

25 What we're talking about is trying

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2 to improve the accuracy of the unofficial
3 preliminary returns that the press uses, it does
4 not change the process right now what the
5 inspectors would have to do and what you call
6 cutting the tapes, that requires a change in the
7 statute. The statute in Article 9 Title I is an
8 elaborate and complex procedure designed to ensure
9 the integrity of the system.

10 I think the problem is that it is
11 probably now too complex for the poll workers to
12 do. But for example, they are supposed to remove
13 on election night, if there are more ballots in
14 that--for that election district in the ballot
15 bins, they're supposed to remove the access there,
16 put them in an envelope and then redo the process.
17 If you look at the provisions in Article 9, it was
18 written--I hate to say it--that every poll site's
19 going to have an election lawyer there. We have
20 been fortunate that we have not had a close
21 election.

22 However, Nassau County didn't
23 experience that luck last year with the 7th Senate
24 District and when you look at the process you
25 realize there were problems. In addition, even

1
2 this year, if you look at Newsday, both Nassau and
3 Suffolk, which use a modified system of reading
4 the results, have real problems. In one case
5 there's a court case going on because none of the
6 results got read-in.

7 So I don't think there is a perfect
8 solution, I think what we're trying to do is, A,
9 improve the accuracy of election night reporting.
10 That accuracy may not be--again, you may improve
11 the accuracy, the timeliness may be a little
12 longer because if you read the Newsday stories,
13 Nassau and Suffolk didn't have results 'til 12:01.

14 CHAIRPERSON BREWER: I know, but if
15 you look at the public, it is very challenging to
16 be part of a process that does seem quite
17 antiquated, so I think what we have to have is all
18 best minds figuring out what to do because I can
19 promise you, when you're actually there and you're
20 cutting and you're Scotch taping and you look at
21 this flash drive and you think of technology, it
22 is hard to conceive that that's the situation
23 we're in, I don't care how you describe it. And
24 it takes a long time. We're there 'til 11:30 at
25 night. So something's wrong and we have to fix

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it.

STEVEN RICHMAN: And I think you have different group, the Board is looking at revising Article 9--

CHAIRPERSON BREWER: And we have very different--

STEVEN RICHMAN: --the State Bar Association.

CHAIRPERSON BREWER: -- interpretations, we have different interpretations as to what you have just stated. But Council Member Vallone was here and he had a question.

COUNCIL MEMBER VALLONE: Thank you, Madam Chair. Most of my questions were going to be on closing accounting procedures, but we were just handed this pretty cool proposal. And I would just wish we would have been handed it before today, so that I could've read it and maybe have some questions on it but I will have to read it and then we will have to talk again 'cause I'm sure it will answer my questions or give me some new ones.

So let me ask a few other ones.
First of all, and this is no reflection on the

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2 people sitting there, but I've been coming for
3 almost a year now and seeing the same familiar
4 faces. Can you update us on your search for an
5 Executive Director?

6 [Off mic]

7 PAMELA PERKINS: Currently, the
8 Executive Director position and the authority to
9 fill it is in the purview of the Board of
10 Commissioners. Every week, one of the
11 Commissioners, usually Commissioner Dent, but if
12 not, Commissioner Polanco, asks our personnel
13 director have we received any additional resumes
14 for that position. And right now that's where we
15 are at. The Board staff is not involved in that
16 decision to fill that vacancy and it's totally in
17 the hands of the Commissioners so....

18 COUNCIL MEMBER VALLONE: So they're
19 continuing to ask you for resumes?

20 PAMELA PERKINS: No, ask if we have
21 received--

22 DAWN SANDOW: Received any resumes.

23 PAMELA PERKINS: --any resumes from
24 people who are interested.

25 COUNCIL MEMBER VALLONE: Well I

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hope you gave your resumes too, but you receive other resumes? Okay.

DAWN SANDOW: Yes.

COUNCIL MEMBER VALLONE: So people should be still giving you their resumes if they're interested in this position?

PAMELA PERKINS: They could send them to Dorothy--

[Crosstalk]

DAWN SANDOW: Yeah.

PAMELA PERKINS: --she's the personnel director.

COUNCIL MEMBER VALLONE: Well you were the people most affected by this, have you inquired as to why they have not provided you with an Executive Director in almost a year?

STEVEN RICHMAN: Commissioner, it's--I mean, the Commission is you need six votes, Council Member, and when six votes are there I'm sure they will fill the vacancy. It's a majority vote of the board, this is a political process, and I think the staff is responsible for conducting the operations in accordance with law as directed by the Commissioners. This is

1
2 clearly--if you'll excuse the expression--this is
3 above our pay grade.

4 PAMELA PERKINS: Exactly.

5 COUNCIL MEMBER VALLONE: I'm well
6 aware of that, I just wanted to see if you had any
7 position or any advice on how we could solve that
8 problem. Anything?

9 STEVEN RICHMAN: I think you may be
10 able to help too, I think you know the
11 commissioners, you know the county leaders, it's
12 the same process that's used to pick the
13 leadership of any governmental body and--

14 COUNCIL MEMBER VALLONE: Well not
15 quite, but okay.

16 STEVEN RICHMAN: The form, the
17 people making the decisions are the same people.

18 DAWN SANDOW: Can I just--

19 COUNCIL MEMBER VALLONE: Sure.

20 DAWN SANDOW: --you had mentioned
21 before that you were just given the proposal, and
22 I would just like to let everyone know on this
23 committee that our doors are always open and we
24 would appreciate if you have any questions at all,
25 feel free to contact me or Pam and we'd be happy

1
2 to answer any questions that you may have
3 regarding the proposal at any time. This process,
4 this proposal, we did start working with the NYPD
5 back in, I believe it was about February--

6 PAMELA PERKINS: Yeah.

7 DAWN SANDOW: --but everything is a
8 process. As we do move forward, we do need
9 Commissioner approval to move ahead with certain
10 proposals. This proposal was finally approved on
11 Tuesday, this past Tuesday. We had to, you know,
12 periodically update the subcommittee, there is a
13 subcommittee of commissioners that were overseeing
14 the progress of this proposal, which we reported
15 how the mock elections went, staffing, different
16 things. But I just wanted you to know that if you
17 have any questions please feel free to contact us.

18 COUNCIL MEMBER VALLONE: Okay.

19 Thank you.

20 PAMELA PERKINS: And we will come
21 to you.

22 COUNCIL MEMBER VALLONE: Okay. Two
23 last questions. We discussed the late openings
24 and you said that you did better than last time,
25 but last time there was a pretty terrible

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2 miscommunication between yourselves and the
3 Department of Education regarding when you needed
4 the people to be there to open up the schools. And
5 you probably realize it, but after you testified,
6 they pretty much came in and testified exactly the
7 opposite. So it was not hard to do better than
8 last time because of that miscommunication, but
9 there was still 16 polls that didn't open on time.
10 And what was the main reason you found for that
11 happening?

12 DAWN SANDOW: It wasn't 16 poll
13 sites that were not open, it was 16 poll sites
14 where the scanners were not up and running by 6
15 a.m. And a lot of it was poll worker panic with
16 opening. There is a certain code that they have
17 to enter when the polls open, they were entering
18 the wrong code, some of them were entering with
19 caps and it had to be lower caps. But our new
20 call center, which I think was very, very
21 successful this year, it allowed us to resolve a
22 lot of the issues over the phone. When they did
23 call in and they needed the proper code, we had
24 people at the call center there that were able to
25 answer their questions and walk them through it.

1
2 There were some sites where we had
3 poll workers--there was Democrat and Republican,
4 which by law is supposed to be, but there was no
5 coordinator present and they panicked and would
6 not open the scanner.

7 The issues that we did have with
8 the poll workers at certain sites we have our
9 reports, and these polls sites, these poll workers
10 from the poll sites where there were issues, they
11 are going to be called in by poll site.

12 [Crosstalk]

13 COUNCIL MEMBER VALLONE: --separate
14 from the scanner not being working?

15 DAWN SANDOW: Yes.

16 COUNCIL MEMBER VALLONE: Okay.

17 DAWN SANDOW: Yes, because looking
18 at the issues, I felt a lot of them were poll
19 worker issues. So the borough managers have
20 identified the poll sites, the poll workers, the
21 coordinators, if there was a coordinator stationed
22 at that poll site, and they are being called in to
23 the borough offices and executive management will
24 be attending these meetings this year.

25 COUNCIL MEMBER VALLONE: Okay.

1
2 That's good. Last question, then, this was a
3 special election or a few of them, how much does
4 each special election cost taxpayers across your
5 board?

6 DAWN SANDOW: I think it cost--
7 John.

8 [Off mic]

9 DAWN SANDOW: John has that.

10 [Off mic]

11 JOHN WARD: John Ward, Finance
12 Officer, Board of Elections. Councilman, we had
13 four specials for assembly and we had the 9th
14 Congressional which was in two different boroughs.
15 We have not received invoices yet, but based on
16 past experience, the specials probably came to
17 about \$3 million.

18 COUNCIL MEMBER VALLONE: And if we
19 had held those elections on primary day, that
20 would have been extra money we would not have had
21 to spend?

22 STEVEN RICHMAN: General--

23 [Crosstalk]

24 PAMELA PERKINS: [Interposing] You
25 mean general election--

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COUNCIL MEMBER VALLONE:

[Interposing] General election.

PAMELA PERKINS: --Council Member?

[Off mic]

STEVEN RICHMAN: Yes, Council

Member, we would not have required a second set of
scanners, second set of inspectors, second set of
ballot marking devices, or a second set of
ballots. What would have happened--

DAWN SANDOW: [Interposing] And
poll workers as well.

STEVEN RICHMAN: And poll work--
what would have happened is at the bottom of your
general election ballot the special election would
have appeared. And I think the example for that
would have been the special election held--was it
six years ago--that elected Council Member
Gonzalez. It was held on November's general
election, so even though it was a quote
nonpartisan special election, it appeared on the
bottom of the ballots within those selection
districts within the 38th Council District. So
there would have been a savings at that point.
There was some minor savings by doing it on

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2 primary day, rather than general election day not
3 attributable to the board, but to our partners.
4 So that the number of school custodians being
5 there was--being at 4 a.m. they were there for the
6 primary as well. There was only one police
7 officer assigned to the poll site even if you had
8 two poll rooms--one for the special election and
9 one for the primaries. So there may have been
10 some incremental savings there, but the savings to
11 the board was--there really weren't any savings,
12 we still had to pay the trucker extra because it
13 was the extra equipment and you cannot set up a
14 special election and a primary election on the
15 same ballot and you can't use the same scanners
16 because the configuration, it's either a primary
17 mode or a general election mode. We communicated
18 that to the executive chamber, but you saw the
19 results.

20 COUNCIL MEMBER VALLONE: Right, so
21 the special election cost us \$3 million and, had
22 we had the special on the general election day, it
23 still would have cost extra money because of the
24 different ballots involved?

25 STEVEN RICHMAN: No, it would have

1
2 been on the same ballot because you would have--in
3 the general election and the special election all
4 registered voters in that district would vote,
5 there would have only been the need for one
6 ballot, and one set of inspectors, one set of
7 scanners.

8 COUNCIL MEMBER VALLONE: So we
9 would have saved money by doing--

10 [Crosstalk]

11 STEVEN RICHMAN: [Interposing] Yes,
12 we would have.

13 COUNCIL MEMBER VALLONE: --or by
14 having a regular primary.

15 DAWN SANDOW: So in actuality, we
16 had two elections on the same day.

17 PAMELA PERKINS: In some boroughs,
18 like in Brooklyn and in--

19 DAWN SANDOW: Queens.

20 PAMELA PERKINS: --Queens and in
21 Manhattan--

22 STEVEN RICHMAN: In Manhattan,
23 yeah.

24 PAMELA PERKINS: --and even in
25 Manhattan we had two separate elections, a special

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and a primary.

COUNCIL MEMBER VALLONE: Okay. I know that my colleagues have questions. So thank you, Madam Chair, thank you all.

CHAIRPERSON BREWER: We've been joined by--

DAWN SANDOW: Thank you.

CHAIRPERSON BREWER: --Council Member Brad Lander. Council Member Fidler has questions.

COUNCIL MEMBER FIDLER: I'm going to pick up on just that point, I want to preface-- am I on? I want to preface my remarks saying I love you guys, I love you, Brooklyn office, I love my Brooklyn commissioners, but--

SERGEANT-AT-ARMS: No, I'm not picking you up.

COUNCIL MEMBER FIDLER: Should I repeat my love? Am I on now? But the process in the 9th Congressional District was an unmitigated disaster. The results may have been a disaster too, that's another subject for another day, another forum, but I have to tell you it was the least democratic, small D, democratic process that

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2 I can imagine. And Mr. Richman and I had the
3 opportunity to have a brief conversation about
4 this the other night, I do not accept the answer,
5 it does not make any sense in the world. You did
6 not need two sets of inspectors, you did not need
7 two separate rooms. You're in a computer age, for
8 crying out loud, you know.

9 The number of people who are
10 disenfranchised because they didn't know that they
11 needed to go into a second room to sign a second
12 book to vote a second time, all right, has to be
13 monumental. And, you know, we all know, all of us
14 that are students of politics and government, that
15 there is a falloff between the top ticket race and
16 the bottom ticket race, but I'm willing to bet
17 that the falloff in the Democratic primary for
18 civil court judge in Brooklyn in the 9th
19 Congressional District and the 54th Assembly
20 District was monumental.

21 So for example, when I went in to
22 vote at my polling place at P.S. 206, there were
23 EDs that are set up to the right and there are EDS
24 that set up to the left. I walked to the right
25 'cause that's where my table has been since I

1
2 began voting in PS 206, I went to that table and I
3 signed in and I was given the ballot with special
4 election. I said to the inspector can I have the
5 ballot for the Democratic primary, because I knew
6 to ask. All right? They told me that I had to go
7 into the other room after I finish voting in the
8 special election. I don't know how many people
9 weren't told that because they didn't ask.

10 I don't understand why in a
11 computer age, the inspector can't--I mean, you
12 can't hand one person a single ballot, the
13 appropriate ballot. You're a Democrat, this is
14 the ballot for Democrats, all right? It's got the
15 primary on the right, it's got the special
16 election on the left. This is the ballot for
17 Republicans, if it was a Republican primary. This
18 is the ballot for everybody else who's not
19 enrolled in a party primary. I don't understand
20 why scanners can't work that way. And if there's
21 some rule that says you can't do that, that's just
22 stupid, all right?

23 And the fact of the matter is that
24 people who walked into the left, all right, they
25 probably were told when they were handed a ballot

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2 for the civil court primary and said I didn't come
3 out here to vote for civil court, I came out here
4 to vote for Congress. They probably were told
5 that they needed to go to the right and vote in
6 that election. They'll probably have a smaller
7 falloff rate than everybody who walked in to the
8 other side of the building.

9 Tell me how that's, you know,
10 that's democratic. And, quite frankly, you know,
11 the issue of whether or not the governor--thank
12 God, the governor did not agree with your request
13 to put this election over to the general election
14 because, quite frankly, my constituents and I were
15 without a representative in Congress for several
16 months and I don't think it was fair, it would've
17 been fair to ask us to wait another two months to
18 have a representative in Congress. In case you
19 haven't noticed, there's some important decisions
20 being made in Washington, all right, and my
21 district is entitled to be as represented as
22 anybody else.

23 So let's start with that. Why
24 couldn't you put everything on one ballot? Why
25 can't we trust poll workers to hand people the

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right piece of paper?

STEVEN RICHMAN: Council Member,
the voting system's certified by the state of New
York and which we are required to use does not
provide for that functionality to mix a primary
and a general special election. That's the system
that's been certified, that's the system we have
to use.

COUNCIL MEMBER FIDLER: So you
could do it on the old voting machine, but you
can't--

STEVEN RICHMAN: [Interposing] No,
we could not do it. When we did the special
election in the 38th Assembly District following
the conviction of Assemblyman Seminerio, we had
two separate lever machines: One for the primary,
one for the general. Because even under the lever
machines when you had a primary, you had to set
the party primary lever so you could only vote in
those column or columns on the machine for the
party in which you're enrolled in. For the
special--

COUNCIL MEMBER FIDLER: And that's
because the dinosaurs that we were using as voting

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machines couldn't adapt, all right? But can we not adapt a computer to do that?

STEVEN RICHMAN: The system as certified by the State Board does--

COUNCIL MEMBER FIDLER:
[Interposing] That's not the question I just asked.

STEVEN RICHMAN: I don't know, that's something for somebody--

COUNCIL MEMBER FIDLER: You don't know, well do you suspect that a computer--

[Crosstalk]

DAWN SANDOW: [Interposing] Well you know what, it's something that we can find out from the vendor but we've already discussed it.

STEVEN RICHMAN: [Interposing] Council Member, we can get a computer probably that really works, but this is--and the system that we have is what we're limited to.

COUNCIL MEMBER FIDLER: I understand that, I'm going to go to another question that I know is also not your limitation, but the fact of the matter is that if the law is preventing this--it's not, you know, the answer

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2 isn't to say defer democracy for the 9th
3 Congressional District, you don't need a
4 representative in Congress, the answer is to
5 change the law, you know? Don't get stuck on
6 stupid, 'cause that's what this is, all right? We
7 need to go to the state legislature and say, you
8 know what, that doesn't make sense, and maybe it
9 made sense for the old voting machines.

10 How much did it cost you to have a
11 second set of inspectors, all right? What
12 possible reason was there a need for that, other
13 than the fact that you're telling me the law
14 mandated it because you had to have two separate
15 processes. If you had one--if, if, the computer
16 could have handled one ballot, all right, you
17 could've had one set of inspectors, is that
18 correct?

19 STEVEN RICHMAN: Correct.

20 COUNCIL MEMBER FIDLER: So I think
21 the message here is, you, you, the guys who are on
22 the front line who actually have to implement this
23 process need to tell the folks in Albany what's
24 wrong with their law that's preventing you from
25 doing something that would have saved you probably

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2 \$2 million, all right. And at the same time, been
3 more small D democratic, because I am just dying
4 to get the ED by ED results in the civil court
5 primary in Brooklyn, find out how many Democrats
6 cast their vote in the 9th Congressional District
7 in Brooklyn in those EDs and see what the falloff
8 was and compare it to any other typical election.
9 I am sure it's going to be tripled, quadrupled,
10 quintupled the ordinary falloff and I think that
11 is a travesty.

12 And if I were a candidate in that
13 civil court primary in Brooklyn, I would be very,
14 very upset by it. I mean, you put your life on
15 the line, you ask voters to take an election
16 seriously and then you basically hide the election
17 from people. You have to go into a separate room,
18 a separate place, it makes no sense.

19 So now we go to the other point,
20 which is actually the subject of the resolution
21 that I sponsored that is on the table here, and I
22 would love to know what the position of the Board
23 of Elections is on that. So after last year's
24 election, Commissioner Polanco was good enough to
25 come down to my Democratic club to talk to my

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2 inspectors and to voters to find out what the
3 problems were with the new system. And I
4 recognize it's a new system and we're going to
5 learn and we're, you know, the inspectors going to
6 get better, the Board's going to get better, the
7 voters are going to get better as we adjust to it
8 as normal. But the universal complaint, the one
9 that everybody had was the size of the type of the
10 names, all right? This is almost a comedy, all
11 right?

12 I went into vote, and of course,
13 the cardboard box was facing away from the window
14 so it was shielding me from the natural sunlight.
15 I had a light that I wouldn't even call a
16 flashlight inside the cardboard box that barely
17 illuminated the paper.

18 PAMELA PERKINS: Oh, the privacy
19 booth--

20 [Crosstalk]

21 COUNCIL MEMBER FIDLER: The privacy
22 booth.

23 PAMELA PERKINS: I didn't know what
24 you was talking about--

25 [Crosstalk]

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2 COUNCIL MEMBER FIDLER: Keeping it
3 private from sun, keeping it private from the
4 vision of the voter.

5 DAWN SANDOW: Yeah, they're not
6 cardboard--

7 PAMELA PERKINS: They're metal.

8 COUNCIL MEMBER FIDLER: So--

9 DAWN SANDOW: --they're metal.

10 COUNCIL MEMBER FIDLER: --then I'm
11 handed a magnifying strip, right? And so I got to
12 take that magnifying strip and I have to take off
13 my glasses to read, right? I had to take my
14 magnifying strip and put it over these two
15 infinitesimally small names on this big piece of
16 paper, all right? But then to mark the right
17 ballot, I've got to remove the magnifying glass
18 and hope I've remembered the right name and the
19 right dot. It's nuts.

20 Now I understand from Commissioner
21 Polanco that it's state law that prescribes the
22 size of the print on the ballot--

23 PAMELA PERKINS: That is correct.

24 COUNCIL MEMBER FIDLER: --and that
25 is also nuts, all right? And so this resolution

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2 calls upon the state legislature to change the law
3 so that the Board of Elections can print, when
4 they have space, larger type so people could
5 actually see who they're voting for and fill in
6 the right dot. What's your position on that?

7 PAMELA PERKINS: It's in well--

8 STEVEN RICHMAN: Council Member, we
9 read it in the statement, we also included our
10 proposal. The only problem we have--

11 COUNCIL MEMBER FIDLER:

12 [Interposing] I apologize for being late, I was--

13 [Crosstalk]

14 STEVEN RICHMAN: --the only problem
15 we have with that is if we mandate a 12 point
16 size, last year's ballot becomes three pages, and
17 it would triple the cost of printing the ballot
18 from \$6 million approximately to 18 million.

19 We have other proposal in there
20 with everything else we agree with to have the
21 largest possible size, but those are the problems
22 that will require in the city of New York a three-
23 page ballot for last year's general election when
24 you had governor--all the state wide offices,
25 member of Congress, two U.S. Senate seats,

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2 assorted judges, and then finally towards the
3 bottom, and these [off mic] I guess it would be
4 page three, state Senate and state Assembly.

5 COUNCIL MEMBER FIDLER: Would you
6 agree that on a ballot that has ample space, you
7 should be able to print the names in a larger type
8 size?

9 STEVEN RICHMAN: And yes, and our
10 proposal says this is the largest practical size,
11 but it may change that because next year, 2012,
12 with a presidential election, a U.S. Senate seat,
13 Congress, Senate, Assembly, I don't even know how
14 many judges yet, we're going to have a long ballot
15 as well.

16 And it also takes longer, if it's a
17 three-page ballot to test the machines, set them
18 up, and even for the voters to insert them,
19 because, again, the voter may only decide to vote,
20 as you said, for the top of the ticket and only
21 put in the top sheet.

22 I think, but we have communicated
23 that to the legislature on June 10th of last year.
24 And most of the other elements--

25 DAWN SANDOW: This year.

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2 STEVEN RICHMAN: --in your reso--
3 this year, I should say--

4 DAWN SANDOW: We all went up.

5 STEVEN RICHMAN: --and we also,
6 with the exception of mandating a minimum font
7 size but with a number, as opposed to saying the
8 largest possible, which is our proposal, we're in
9 agreement.

10 COUNCIL MEMBER FIDLER: And what's
11 the status of that request to the Legislature? I
12 understand that Assemblyman Kavanagh has a new
13 bill that may accommodate that--

14 CHAIRPERSON BREWER: [Interposing]
15 The Assemblyman is here, so he's going to be
16 testifying.

17 [Crosstalk]

18 STEVEN RICHMAN: The bills cited in
19 your resolution still require a minimum of 12-
20 point type, so that's the concern we have.

21 COUNCIL MEMBER FIDLER: Well you
22 want the flexibility to make it even smaller?

23 DAWN SANDOW: No.

24 STEVEN RICHMAN: Yes. Well no--

25 DAWN SANDOW: No.

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STEVEN RICHMAN: --well yeah--

DAWN SANDOW: No.

STEVEN RICHMAN: --it may not be bigger than last year--

[Crosstalk]

COUNCIL MEMBER FIDLER: We go back to the stuck on stupid remark? I mean, come on, Steve, I mean--

[Crosstalk]

DAWN SANDOW: Excuse me, hey, hold on a minute, with all due--

COUNCIL MEMBER FIDLER: --you can't make it smaller, you can't--

[Crosstalk]

DAWN SANDOW: --with all due respect, I have to differ with you on one thing, you basically sat there and said to us that we're on the front line, and we are on the front line, and we have been fighting. We went up to Albany on May 10th with our commissioners, our staff, we met with as many state legislators as we could have to discuss the issues, but we should not be the only ones on the front line, that should be--

COUNCIL MEMBER FIDLER:

1 [Interposing] Well that's why I had this
2 resolution here--
3

4 DAWN SANDOW: Right--

5 COUNCIL MEMBER FIDLER: --okay? I
6 mean--

7 [Crosstalk]

8 DAWN SANDOW: --but it should not
9 only be our voices, it should be the voices of the
10 people, it should be the voices of the people on
11 this committee working with us together to try to
12 achieve it.

13 COUNCIL MEMBER FIDLER: And that is
14 why we're having this hearing, that's why I
15 sponsored the resolution, and I'll throw it right
16 back at my friend Mr. Richman, who said we all,
17 you know, have relationships with our county party
18 leaders and something tells me that every one of
19 the commissioners has one of those relationships
20 as well, and they ought to be talking to their
21 county party leaders. This is the conduct of
22 political affairs and it is truly the number of
23 people who came out of the voting booth and
24 complained to me both last year and this year that
25 the size of the type makes me really question

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whether or not--

[Crosstalk]

DAWN SANDOW: [Interposing] We recognize that--

COUNCIL MEMBER FIDLER: --and I'm not arguing with you here, I'm arguing for you here.

DAWN SANDOW: Thank you, we appreciate that.

COUNCIL MEMBER FIDLER: --and I think we need to have one voice on this--

[Crosstalk]

DAWN SANDOW: [Interposing] Yes, most definitely.

COUNCIL MEMBER FIDLER: --it can't be smaller no matter how many pages it is, it can't be smaller. People can't see.

DAWN SANDOW: No. We actually did have a group this year, a ballot design group--

PAMELA PERKINS: A working group.

DAWN SANDOW: Yes, and we did bring in good government groups, we tried to adjust the ballot--

PAMELA PERKINS: The layout.

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DAWN SANDOW: --the layout, yes.

CHAIRPERSON BREWER: So I think we're going to continue and I look forward to passage of the resolution of Council Member Fidler. We won't be voting today because we have to have a hearing on it, but we look forward.

PAMELA PERKINS: Councilwoman, may I just say one thing to--one of the things we can continue to do is lobby our legislators in Albany. First we have to talk with our commissioners to come up--to continue to change our legislative package to address this issue, as well as other issues.

Also, there's another thing we could do, we can meet with our vendor to talk about modifications to the firmware and the software to accommodate what we need in terms of how the scanner accept a ballot.

Also, we have to have a conversation with the State Board of Elections because the State Board of Elections is the body that certified the software and the firmware to our system. But these are the things that we can do, we can have these discussions. Some of the

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things we have done like--

DAWN SANDOW: Yes.

PAMELA PERKINS: --we have looked at--we have modifications now that are being reviewed by the state on how our system can work better for the voters of the city of New York. So we are doing some things, we're not just sitting on our hands and getting frustrated but we are--

DAWN SANDOW: [Interposing] And they did address the ballot issue this year as well, the commissioners, and we did try to, within our limits of the law--

CHAIRPERSON BREWER: [Interposing] So we'll change the law and--

DAWN SANDOW: Yes.

CHAIRPERSON BREWER: --next year we'll have larger print.

DAWN SANDOW: That would be great.

[Off mic]

CHAIRPERSON BREWER: Council Member Lander.

COUNCIL MEMBER LANDER: Thank you very much, Chair Brewer, thank you to the members of the Committee. Thanks to Council Member Fidler

1
2 for introducing this resolution and Assemblyman
3 Kavanagh for the bill.

4 Sometimes we ask technical
5 questions and the lawyers have to come up, and
6 this is the first time I'm going to ask for the
7 designer to, you know, to come up. But I'm not
8 sure, I guess I'd like to understand a little
9 better whether 12-point type would really require
10 a three-page ballot and what design assumptions
11 you used to get there.

12 And I guess I'll point you to, in
13 our packet, you know, we have the sample ballot
14 from the 2010 elections that you guys presented
15 and we have the recommended ballot design from the
16 Brennan Center. You know, I can read--even at
17 this much reduced type, I can read every name on
18 the Brennan Center ballot and I can't read one
19 word on the actual ballot. They oriented it
20 differently, there is much less white space on
21 theirs and so--

22 DAWN SANDOW: [Interposing] We
23 don't have it so--

24 [Crosstalk]

25 COUNCIL MEMBER LANDER: Well I'll

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be glad to give them to you rather than--

[Crosstalk]

DAWN SANDOW: [Interposing] Great,
thank you--

PAMELA PERKINS: Yeah, we'd like to
look at it because I can't--

[Crosstalk]

CHAIRPERSON BREWER: They were up
on the PowerPoint earlier--

COUNCIL MEMBER LANDER: --provided
these to you--

CHAIRPERSON BREWER: --thanks to
the staff.

COUNCIL MEMBER LANDER: --but so
just--

DAWN SANDOW: [Interposing] Is the
other four languages on there as well?

COUNCIL MEMBER LANDER: You can't
read every word of either of these, they're
reduced to a--

PAMELA PERKINS: Okay.

COUNCIL MEMBER LANDER: --but I
think--

MALE VOICE: Brennan Center is the

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English only.

FEMALE VOICE: But ours have--
remember ours have--

COUNCIL MEMBER LANDER:
[Interposing] You have to come up to the mic.

PAMELA PERKINS: And I think--

CHAIRPERSON BREWER: [Interposing]
I think what we need to do on all of this is we
need a further conversation. I mean, I think
you're absolutely right and we need to make sure
that this font is correct and large.

COUNCIL MEMBER LANDER: And I just
would urge, I mean, it's good to know you've got a
ballot design working group--

DAWN SANDOW: Yes.

COUNCIL MEMBER LANDER: --and are
working to improve this, but you know, I think--
anyway, and we weren't asked to look at the ballot
individually each year and maybe there is some
room that doesn't give--that continues to be an
incentive to make sure we're getting it just as
good as we possibly can, keep it at 12-point or as
large as it can possibly be. So I don't know how
we write that into law, but it--

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2 DAWN SANDOW: [Interposing] I think
3 it's more flexible trying to have the law flexible
4 to meet our needs. I mean, if you look at the
5 ballot this year the--

6 CHAIRPERSON BREWER: [Interposing]
7 Use the mic, Dawn.

8 PAMELA PERKINS: We have the--
9 [background noise]

10 PAMELA PERKINS: --it's right here.

11 DAWN SANDOW: We did, I don't know
12 if you have the--

13 [Crosstalk]

14 COUNCIL MEMBER LANDER: I saw it,
15 yes.

16 DAWN SANDOW: Yes.

17 PAMELA PERKINS: Yeah.

18 DAWN SANDOW: But it's more so
19 having the law flexible. If you look at the
20 candidates this year and the amount as opposed to
21 what's going to be in 2012, we should not pin
22 ourselves down to a specific font size.

23 COUNCIL MEMBER LANDER: I mean,
24 with all due respect, I think we are thoughtful as
25 legislators about not over-legislating but it is

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2 easier when the administrative agencies have
3 delivered products to us in the past that show
4 that flexibility will be met with quality and when
5 it's not then we have to reach further in
6 legislation and micromanage administrative
7 agencies more than we would want to.

8 So I will leave that to the
9 Assemblyman and to his colleagues in Albany, but
10 that's where we are and that's why I think we're
11 at this level, this is micromanaging legislation
12 to be sure, but we wouldn't be doing it if we
13 hadn't reached the conclusion that, without
14 micromanaging legislation, we're not going to get
15 fair elections.

16 So my other question relates to a
17 resolution that we're not talking about today, but
18 I have Resolution 606 that calls on the Board of
19 Elections to provide annual reporting in the
20 Mayor's Management Report on a range of
21 information about how you're doing, some of which
22 you gave us today and it's great that we have it
23 here, but it seems to me that we would all be
24 better served if you would provide a regular
25 public information to the Mayor's office in the

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2 Mayor's Management Report, so we could all, and
3 all the people of the city, could see how we're
4 doing and that would hopefully show that we're
5 improving over time. You wouldn't need to wait
6 for the resolution to do that, I'm confident if
7 you sent them the information, they'd be delighted
8 to publish it in the Mayor's Management Report,
9 your Charter obligations notwithstanding. So
10 would you do it?

11 DAWN SANDOW: Well--

12 PAMELA PERKINS: Well what we are
13 doing is we have an annual report that provides a
14 lot of the information that it's in the Mayor's
15 Management Report. And we provide that annual
16 report to all elected officials, I'm sure you got
17 it, as well as the city agencies as well, and it's
18 on our website.

19 The issue of this agency reporting
20 to the Mayor's office in terms of their reports is
21 within the purview of the commissioners and at
22 this point, the commissioners have not seen--they
23 have not expressed the need or the will for the
24 Board to do that.

25 COUNCIL MEMBER LANDER: Have they

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discussed it and decided it's a bad idea?

PAMELA PERKINS: It has been
discussed--

DAWN SANDOW: [Interposing] It's
something that comes up--

PAMELA PERKINS: --many times.

DAWN SANDOW: --maybe two or three
times for a vote--

[Crosstalk]

PAMELA PERKINS: Many times.

STEVEN RICHMAN: Steve Richman, the
General Counsel. Under the election law we're
independent of the City of New York Executive
Branch and the Commissioners believe that all the
data is available, we are making it available, but
it would be an impermissible infringement on the
independence of the Board to submit it² to the
Mayor. And that's the position of the
Commissioners.

COUNCIL MEMBER LANDER: The
Commissioner's position is that providing
information into the Mayor's Management Report
would compromise the independence of the Board.

STEVEN RICHMAN: Because we've

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2 already provided it under the Election Law in the
3 annual report, which is supposed to be transmitted
4 to the Council and not to the Mayor. The
5 Legislature made a conscious decision to exclude
6 the Mayor from a relationship with the Board of
7 Elections except for the budget.

8 COUNCIL MEMBER LANDER: Okay. I
9 mean, I appreciate that there's decision-making
10 and there is reporting, that is a report where a
11 broad set of people go to look every year for year
12 on year information, that's how we figure out how
13 the city is doing. So I will renew my efforts to
14 move our resolution so that you can have the
15 opinion of the legislative body that we'd be
16 delighted to see it in the Mayor's Management
17 Report and that we wouldn't see it as an
18 infringement on our power for you to do more to
19 provide the information to us and to the rest of
20 the citizens of the city.

21 DAWN SANDOW: Do we send our
22 annual--

23 [Crosstalk]

24 COUNCIL MEMBER LANDER: Thank you
25 very much, Madam Chair.

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2 CHAIRPERSON BREWER: Thank you very
3 much. I just want to pick up on that point, we're
4 all sitting here--I hate to tell you the bad news--
5 -with iPads. And if it's here on your website,
6 the information, it's not clear. At the very
7 least, it might be clear to you, but for those of
8 us who are trying to be helpful, it's not clear
9 that this information is available on your
10 website. So one of the suggestions would be, if
11 you want to keep it on your website and not in the
12 MMR, the MMR could say go to X in the Board of
13 Elections. But no matter what you tell us, we're
14 pretty good at using the iPad and looking at
15 sites, it's not clear.

16 To be honest with you, your annual
17 report, it's beautiful, 'cause Valerie did it, but
18 it is not enough information. So we need that in
19 order to get out of the New York Times editorial
20 board, out of the Daily News articles, it's a
21 simple request.

22 I want to just mention that the
23 Brennan Center indicated to us that the ballot
24 that they have produced which could be read is
25 also Spanish. Just that's what they are giving us

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as information.

I have a couple other questions.

The issue of the next year's primary, what date is it going to be? Do you think how are you going to handle the change of dates, etc.? If there is one.

STEVEN RICHMAN: As of now, right now the state law still requires the primary to be on the second Tuesday following the--the Tuesday following the second Monday in September. The federal court action brought by the Department of Justice on Monday night seeks to move only the primaries for Congress and U.S. Senate to at least 80 days before the election. Our board is on record, along with the New York State Association of Election Commissioners, asking to move the entire primary to the last Tuesday in June. We believe that, together with moving the election calendar to commence the petition process in February, would provide enough time now to meet the requirements both of the testing of the new system and the Military and Overseas Voter Empowerment Act, which was enacted in 2010.

The legislature for the special

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2 elections and for the presidential primary now
3 requires that military ballots, even for state
4 office such as the state assembly, go out 45 days
5 before in conformance with the MOVE Act.

6 Currently for the regular primary
7 election, such as the judges civil court, state
8 law still says 32 days, which wouldn't be
9 acceptable and you could result with two potential
10 dates--one in August, one in September, if Judge
11 Sharp acts on the Justice Department request,
12 because the federal government is limited, they
13 can only intervene with respect to federal
14 elections. They could not intervene and seek to
15 move the date for the primary for state senate,
16 state assembly, district leader, judicial
17 delegates, that's up to the legislature.

18 We've communicated that to the
19 legislature, we are waiting for their response and
20 I assume that they are going to be aware of the
21 Judge Sharp setting a hearing for October 20th.

22 CHAIRPERSON BREWER: Okay. Thank
23 you. Question of online sample ballots, it's been
24 a pleasure to work with your IT staff and with the
25 staff of the Department of Information Technology

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2 and Telecommunications, known as DoITT, so I
3 wanted to get an update for the public--maybe more
4 than for me 'cause I think I'm aware of it--as to
5 the status the Department of Justice input and
6 when you think we will have sample ballots and
7 tell a little bit about your hard work and DoITT's
8 hard work on this issue.

9 PAMELA PERKINS: Well, Council
10 Member, with your support we were able to work
11 with DoITT and we met with them on several
12 occasions, and the sample ballot on the Web is
13 ready to go. On April 30th, we presented the plan
14 to the commissioners, it was approved.

15 STEVEN RICHMAN: August 30th.

16 PAMELA PERKINS: I'm sorry, August
17 30th. The plan--

18 DAWN SANDOW: [Interposing] The
19 proposal was presented.

20 PAMELA PERKINS: --the proposal was
21 presented to--

22 [Crosstalk]

23 PAMELA PERKINS: --our
24 commissioners, they approved it, and that same day
25 we mailed to the Department of Justice our request

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2 and for pre-clearance and we're waiting, and we
3 are hopeful that we will have pre-clearance in
4 time for the November election.

5 CHAIRPERSON BREWER: Do you want to
6 add anything?

7 DAWN SANDOW: I'd just like to
8 introduce Steve Ferguson.

9 STEVE FERGUSON: Steve Ferguson,
10 director of MIS. Yes, thanks to--

11 DAWN SANDOW: Did a great job.

12 STEVE FERGUSON: --thanks to Chair
13 Brewer and the folks at DoITT we do have a sample
14 ballot that will be available on the website.
15 Once it's pre-cleared by the Justice Department,
16 it will be part of our post-site locator function.
17 If the public is not aware, it's the poll site
18 locator and it will be connected with that on the
19 same page.

20 DAWN SANDOW: And enlarge the
21 ballot.

22 STEVE FERGUSON: The ballot can be--
23 -it comes in a PDF, it can be magnified, it can be
24 rotated, it--

25 STEVEN RICHMAN: Cannot be

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submitted.

[Crosstalk]

STEVEN FERGUSON: It is in such a fashion, presented in such a fashion that it will not be able to be scanned and we did demonstrate it at that August 30th. But if anybody, you know, has any questions about it, please contact me, but we're hopeful that it's going to be pre-cleared and we'll be able to implement it in the general election.

CHAIRPERSON BREWER: Okay. We're all pushing for that, that's a unifying voice.

DAWN SANDOW: I think it's great that the ballot can be magnified and the font can be enlarged, people can take a look at their ballots before they get to the polls site, they can print it out as well.

CHAIRPERSON BREWER: [Interposing]
But they can use it though, let's be clear--

DAWN SANDOW: [Interposing] They cannot use it--

PAMELA PERKINS: No.

DAWN SANDOW: --there's no tracking on the side, it cannot go into the scanner.

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2 STEVE FERGUSON: And maybe for some
3 of your questions, Councilman Fidler, it would
4 also have--the people would know when they went to
5 a site if they had looked it up which ballots
6 should be there.

7 CHAIRPERSON BREWER: I think they
8 still--

9 STEVE FERGUSON: And it might have
10 helped in that--

11 COUNCIL MEMBER FIDLER:
12 [Interposing] With all due respect, they shouldn't
13 have to study before they go to vote--

14 CHAIRPERSON BREWER: Yeah, I agree--
15 -

16 [Crosstalk]

17 COUNCIL MEMBER FIDLER: --as to how
18 many ballots they need to ask for.

19 STEVE FERGUSON: No, I wasn't
20 saying that, they would just be able to--

21 [Crosstalk]

22 CHAIRPERSON BREWER: [Interposing]
23 Yeah, I mean, I think a lot of people don't--they
24 just go to the site, they only look up in advance
25 if they are super concerned. I do think that,

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2 Council Member Fidler, when you get there, you
3 should be able to figure it out easily and not
4 have....

5 I have another tech question, do
6 you support establishing procedures so poll worker
7 applicants can apply online on the Board of
8 Election's website? Or maybe you do that already,
9 but it's not clear if you do. In other words, if
10 you want to be a poll worker can you apply online?

11 STEVE FERGUSON: We are
12 investigating, I mean, it's technically feasible
13 and we're investigating doing that. We are
14 planning on doing it in some steps. One is to be
15 able to get--

16 CHAIRPERSON BREWER: [Interposing]
17 You got to talk into the mic.

18 STEVE FERGUSON: Yeah. One is to
19 be able to, when a voter indicates on the voter
20 card that they want to be a poll worker to
21 automatically generate something for that one,
22 that's a step in that direction.

23 And then yes, to have--

24 CHAIRPERSON BREWER: [Interposing]
25 Do you have any sense of the timing on that? Next

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year sometime? 'Cause we have--

STEVE FERGUSON: Yes.

CHAIRPERSON BREWER: --a lot--

STEVE FERGUSON: Yes.

CHAIRPERSON BREWER: You need DoITT
to help you with this?

STEVE FERGUSON: Perhaps--

CHAIRPERSON BREWER: Okay.

STEVE FERGUSON: --but we--yeah.

CHAIRPERSON BREWER: Done, we'll do
it quickly.

STEVE FERGUSON: Yeah, I would need
to, you know, go before the commissioners, but,
yes.

CHAIRPERSON BREWER: Well the
commissioners say yes when DoITT says yes, that's
my impression. I think--are there any other
questions you have? No? Okay. Thank you all
very much. I know there's a lot of work to be
done, but we appreciate your being here today and
I think the opening, the closing, the special and
the primary and, of course, next year with all
this concerns, I want to make sure that Council
Member Dickens' is looked at and investigated

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specifically--

PAMELA PERKINS: Yes.

CHAIRPERSON BREWER: --and I did get one very rumored report, I don't know if it's true and I want you to also just double check, that in some of the closed sites, which, of course, were opened because they were often schools, it was a school day, somebody indicated that machines were delivered there, that obviously were to a closed site. I will give you the location later, I just want to make sure that didn't happen to the best of your knowledge anywhere in the system.

PAMELA PERKINS: Not that we know of--

[Crosstalk]

DAWN SANDOW: [Interposing] To the best of our knowledge, no. We did have a lot of issues though with the principals moving our-- which was another reason why there were scanners open late--moving our equipment into the cafeteria when it was in the auditorium or vice versa, but the Board has already addressed these issues, we met this week with upper management of the

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Department of Education to address the issues.

Also, we addressed the issue that April 24th is also state testing for the children in school so--

STEVEN RICHMAN: And it's the presidential primary.

DAWN SANDOW: Yes, and a presidential primary, so we are already addressing these issues.

CHAIRPERSON BREWER: Oy vey.

PAMELA PERKINS: Exactly.

CHAIRPERSON BREWER: Just one last thing, the borough call centers, according to your testimony, received a total of a little over 2,000 calls on election day and then it says the Board phone bank received a little over 2,500. Is that overlap or are those separate calls?

DAWN SANDOW: Those are separate calls, a lot of the calls into the phone bank are, am I registered to vote, where do I go vote, the--

STEVEN RICHMAN: [Off mic] voters.

DAWN SANDOW: For the voters, yes.

CHAIRPERSON BREWER: And that's before the election is what you're saying.

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[Crosstalk]

DAWN SANDOW: No, it's on election day.

PAMELA PERKINS: --election day, correct.

DAWN SANDOW: That's on election day.

CHAIRPERSON BREWER: Okay.

DAWN SANDOW: Our call centers are totally separates, that's incident calls, issues, all--

CHAIRPERSON BREWER: Okay. So the borough call centers are from the actual poll workers or from--

PAMELA PERKINS: Yes.

CHAIRPERSON BREWER: --the public?

STEVEN RICHMAN: No.

CHAIRPERSON BREWER: Poll workers.

STEVEN RICHMAN: The poll worker--

[Crosstalk]

DAWN SANDOW: Poll workers, public, voters, board staff.

CHAIRPERSON BREWER: Okay. The reason I ask is if you add up these two numbers,

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they come up to a lot, like almost 5,000 as a--

PAMELA PERKINS: I'm sorry?

[Crosstalk]

CHAIRPERSON BREWER: Okay. If you add up these two numbers, it's a lot more, it's a lot of phone calls. Now some of it, according to Steve, is that they are attributable to the confusion in Congressional 9, right?

[Crosstalk]

CHAIRPERSON BREWER: But still this is a large number and you're going to tell us later on how much are attributable to nine and how much are attributable to more general questions.

STEVEN RICHMAN: And how many were just the routine, where do I go to vote--

[Crosstalk]

DAWN SANDOW: Yeah.

CHAIRPERSON BREWER: [Interposing]
I understand--

STEVEN RICHMAN: --election.

CHAIRPERSON BREWER: --we need to know that because every single one of them needs to be addressed so you don't end up with them next year, nine being a separate situation, okay.

1
2 Thank you very much and we look forward to working
3 with you.

4 DAWN SANDOW: Thank you.

5 PAMELA PERKINS: Thank you.

6 CHAIRPERSON BREWER: Our next panel
7 is Assembly Member Brian Kavanagh.

8 DAWN SANDOW: Okay.

9 [Off mic]

10 DAWN SANDOW: Good, good luck.

11 [Off mic]

12 BRIAN KAVANAGH: Terrific, thanks.

13 CHAIRPERSON BREWER: Assembly
14 Member, go ahead.

15 BRIAN KAVANAGH: Okay. Thank you,
16 my name is Brian Kavanagh, I represent the 74th
17 Assembly District on the East Side of Manhattan in
18 the State Assembly and I chair the Assembly
19 Subcommittee on Election Day Operations and Voter
20 Disenfranchisement, which more or less deals with
21 the range of election operations issues that
22 you're addressing today..

23 I'd like to thank the chair,
24 Council Member Brewer, and the members of the
25 Committee for your leadership in many areas

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2 related to making government more efficient and
3 more effective for the public, and particularly
4 for your leadership on the question of how we can
5 make one of the most basic aspects of our
6 democratic system operate more smoothly and with
7 greater fairness: Our elections. And thanks for
8 the opportunity to testify today and for
9 considering two of the bills I've introduced in
10 the Assembly as part of Resolution 671-A,
11 sponsored by Council Member Fidler.

12 Although my subcommittee covers a
13 wide range of issues that fall within the subject
14 matter of today's oversight hearing, I will focus
15 my testimony mostly on the two bills referenced in
16 the Council resolution, relating to the usability
17 of ballots. I would like to mention that I expect
18 to co-chair hearings later this fall, with
19 Assembly Election Committee Chair Mike Cusick, to
20 consider on a statewide perspective many of the
21 issues you're considering today with regard to
22 election operations. Although I'll focus my
23 testimony on the ballot design bills, I'm happy to
24 discuss any other aspects of election operations
25 that the Committee would like to discuss today.

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2 So the two bills referenced in the
3 resolution, A4696A and A7492A, the latter of which
4 is commonly known as the Voter Friendly Ballot
5 Act, and the rest of your proposed resolution deal
6 with one of the most common concerns we've heard
7 from voters and election administrators. My staff
8 and I have surveyed voters on Election Day on site
9 at polling places across the state--I woke up a
10 couple elections ago in Fulton County at 5 o'clock
11 in the morning to make my way from county to
12 county--and complaints about ballots themselves
13 are frequent and ubiquitous.

14 The State Board of Elections and
15 the Statewide Election Commissioners Association--
16 that's the people who run the elections in every
17 part of the state--have acknowledged a need for
18 change in legislation and regulations in this area
19 to bring about better ballot design.

20 And the City Board, I won't express
21 my love and affection for the City Board in the
22 unique way that Council Member Fidler did, but as
23 you've already heard this afternoon, they've also
24 acknowledged that there are concerns that need to
25 be addressed in this area.

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2 And of course this Committee and
3 the Council have played an important role in
4 highlighting this issue. Finding, for example, in
5 your 2010 voter survey that difficulty reading and
6 using the ballot was one of the most common
7 complaints following the 2010 election cycle, with
8 voters citing ballot design and font size as
9 particular concerns and more than 30 % of
10 respondents saying that the ballot was confusing
11 or difficult to read. The League of Women Voters
12 sort of replicated that effort statewide and found
13 about 20 % of voters said they really had trouble
14 using the ballot.

15 So we have issues with our ballots.
16 What needs to be done? The first step is to
17 recognize that difficult to use ballots are not an
18 inevitable results of moving from lever machines
19 to paper and optical scanners. We can improve
20 ballot design, just as we can better design tax
21 forms, public service announcements, and other
22 essential tools the general public is supposed to
23 be able to use freely to communicate with their
24 government.

25 Second, we have to recognize that

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2 many of the problems come from adherence by local
3 boards of elections to laws and regulations that
4 may have been sensible when they were written, but
5 have not kept up with the times and no longer make
6 sense, if they ever did.

7 So the first of the two bills on
8 this subject I've introduced is A4696A with
9 Senator Joe Addabbo of Queens, who is of course a
10 former member of the Council, would do three
11 things: It would eliminate the requirement that
12 names of candidates are printed in all caps, which
13 is somewhat counter-intuitively harder for people
14 to read a page of all cap things rather normal
15 capitalization. It would require a reasonable
16 font size--it specifies 12-point--it would require
17 the State Board of Elections and the local boards
18 of larger jurisdictions, including New York City,
19 to have staff trained in ballot design.

20 The second bill is significantly
21 broader and it's commonly known as the Voter
22 Friendly Ballot Act, it represents some of the
23 best thinking available on how to create an
24 effective, voter-friendly ballot. It would make
25 ballots easier for voters to read and easier for

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2 machines to accurately scan, and has been drafted
3 with the input from many of the groups you're
4 receiving written and oral testimony from today,
5 including the Brennan Center, the League of Women
6 Voters, the Citizens Union, NYPIRG, Design for
7 Democracy, the Usability Professionals
8 Association, which is a group I learned about in
9 this process, and the Election Commissioners
10 Association from around the state.

11 In addition to dealing with the
12 issues covered in the bill, in 4696A, the narrower
13 bill, the Voter Friendly Ballot Act would provide
14 for easier to read and more succinct instructions.
15 And this is the important thing, there is a very
16 large amount of text that is the instructions that
17 is required to be on the bill. So for example,
18 instruction number eight, says, quote--I'm going
19 to quote it just to give you a sense--If you tear
20 or deface or wrongly mark this ballot, return it
21 and obtain another. Do not attempt to correct
22 mistakes on the ballot by making erasures or cross
23 outs. Erasures or cross outs may invalidate all
24 or part of your ballot. Prior to submitting your
25 ballot, if you make a mistake in completing the

1 ballot or wish to change your ballot choices, you
2 may obtain and complete a new ballot. You have a
3 right to a replacement ballot upon return of the
4 original ballot. Now Council Member Lander before
5 was talking about micromanaging through
6 legislation, those words are printed into the
7 state law and must be on every ballot, along with
8 seven other instructions of similar length and
9 complexity. We think those 85 words can be
10 replaced with: If you make a mistake, or want to
11 change your vote, ask for a new ballot. So
12 instructions are an important aspect of this.

14 The Act would also address issues
15 related to readability and clutter on the current
16 ballots by concentrating on layout, font, and
17 format of the ballots. It would encourage print
18 on ballots to be uniform in size and font. A lot
19 of studies have shown that if there are small
20 words and big words and medium-sized words all
21 over the place, it's just hard for people to scan
22 and find the things they need. And as the other
23 bill I mentioned, it would also eliminate the
24 mandatory all caps, which is in the current state
25 law and is counter-productive.

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2 It would remove the requirement--
3 there is currently a requirement in state law of a
4 pointing index finger with a closed fist on every
5 line, which takes up significant space and we're
6 not sure why people thought that was useful when
7 that mandate was put in place, but doesn't seem
8 very useful now.

9 It would eliminate a requirement of
10 party emblems. This is also a relic with the
11 symbols of the past parties. Now perhaps if the
12 symbols that were mandated were the donkey and the
13 elephant, this might be useful, but in my
14 experience, even elected officials are surprised
15 to learn that the official in New York for the
16 Democratic party on the ballot is--anybody?

17 COUNCIL MEMBER FIDLER: Star.

18 BRIAN KAVANAGH: It's a star, it's
19 a 5-point star. The Republicans get an eagle.
20 There are very few voters that associate these
21 with the parties. I think perhaps the only symbol
22 that the general public might recognize at this
23 point is the marijuana leaf, which is the symbol
24 of the Anti-Prohibition Party. But again, this
25 doesn't serve much purpose and takes up a lot of

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space.

The bill takes a somewhat more nuanced approach to some of the other issues of design, and I know you've got some written testimony from the Brennan Center that lays this out, and they've done extraordinary work in this area. The goal is encourage best practices, require the state board to produce ballot templates that guide local officials that meet all the legal requirements. Again, streamline those requirements and prevent them from being counter-productive.

And we think, you know, all of this together will go a long way toward streamlining and improving the voter experience. And, again, citizens have a right to expect that we'll do everything we can to make voting convenient and accessible--that means a far more reliable system that we have, in a variety of ways that you're covering today and certainly means a ballot that people can actually read. I'm confident that with your help and support we can get these things done in Albany.

And thanks again for considering

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2 these bills in the context of your resolution and
3 for the opportunity to speak with you today, and I
4 look forward to working with all of you on these
5 issues here and in the State Capitol. And I'm
6 happy, if anybody has any questions, to take them.

7 CHAIRPERSON BREWER: Thank you very
8 much, Assembly Member Kavanagh. One question, of
9 course, is if your great ideas, which they are--
10 caps, symbols, directions--are simplified, as you
11 suggest, I assume that that would give us enough
12 space to have languages and candidates and we
13 wouldn't have to spend, as the Board of Elections
14 suggested, somewhere close to \$18 million for
15 three pages, are you in agreement with that?

16 BRIAN KAVANAGH: The ballot sample
17 that I assume that you're looking at that you
18 mentioned is from the Brennan Center, I assume is
19 a sample of how a ballot could be if this law were
20 implemented. And so, as I mentioned, I mean, as
21 much as the City Board, you know, we have our
22 differences sometimes, but they are implementing a
23 very antiquated law when they design a ballot, so
24 a lot of it is getting that stuff off there and
25 making the ballot more streamlined.

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2 We do have a particular issue in
3 New York with languages. If you have to do a
4 ballot in multiple languages it's challenging so
5 one option is to have different ballots, different
6 languages, which requires--it's logistically more
7 complicated and requires different kind of
8 printing. But there is--it is a little bit more
9 complicated in New York. We are confident that
10 you can get a--and I don't believe personally it
11 would take three pages. You may, in some races
12 with lots of--in some jurisdictions with lots and
13 lots of races, in order to have names of
14 candidates that people can actually read, you may
15 have to go to two pages. And if that's what's
16 necessary for people to be able to read the names
17 of the people they're voting for, I think that's
18 what we do.

19 The bill does not--the Voter
20 Friendly Ballot Act, which is, I mean, it's much
21 more sophisticated and much more thorough than the
22 other bill, it does not specify a minimum font
23 type, it does not say no matter what everything
24 has to be in 12-point because we do want the State
25 Board and the local Boards to have some

1 flexibility to design something that we can read.
2 And there are issues like how much you use large
3 font versus how much you have space between
4 things, how much are you shading, how you place
5 things is an important aspect of designing
6 something that people can actually use.
7

8 I am open to the possibility of
9 just saying--the other bill says it's got to be
10 12-point and we don't care how you achieve that--I
11 am open to the possibility that we should have a
12 minimum font size in the Voter Friendly Ballot
13 Act, but it doesn't at this point.

14 CHAIRPERSON BREWER: And the other
15 question is the timing, obviously, there are
16 several elections next year, do you have any sense
17 of the timing of passage? Although I know that's
18 hard to predict.

19 BRIAN KAVANAGH: It's hard to
20 predict. We pushed very hard for this to get a
21 serious hearing in Albany this past spring. The
22 State Board has now engaged in a process of
23 reviewing this bill and the usability issue,
24 they've hired some usability professionals and
25 they're doing a study of this. I am hoping this

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2 is a first-up on the agenda item. Obviously, in
3 Albany, unlike perhaps some--one House legislative
4 bodies in New York City, we do need both parties
5 to move something like this, so we need to work
6 with our Republican colleagues in the Senate. You
7 know, again, we've had some productive
8 conversations with them, but we are trying to
9 figure out how to, you know, how to make sure that
10 they don't think that this is some kind of a, you
11 know, an effort to shift the elections in favor of
12 one party or the other. I think this is one area,
13 like the notion that everybody should be able to
14 read the ballot is an area we probably all be able
15 to agree on.

16 CHAIRPERSON BREWER: Council Member
17 Fidler.

18 COUNCIL MEMBER FIDLER: Thank you,
19 Assembly Kavanagh, and I would strongly urge you
20 to include a minimum font size in the Act. Nobody
21 should on a whim even think it's plausible to have
22 print smaller than the print that we have right
23 now.

24 Would you consider it reasonable to
25 take the instructions off the ballot entirely and

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2 mandate that a separate sheet be handed to a
3 voter? There's no particular reason to be
4 scanning in the instructions that every voter
5 gets, is there?

6 BRIAN KAVANAGH: It's a fair point,
7 I would certainly consider it. I think the idea
8 is--the idea of the current thing is you have a
9 single document saying make sure everybody
10 actually gets it, but you really streamline them.
11 And like that thing I mentioned that goes from 85
12 words to 16 words.

13 The other thing I didn't mention is
14 it would permit the use of pictures. I mean,
15 trying to describe in words what somebody has to
16 do to take a pencil and fill in the oval and fill
17 in the whole oval and make sure you get it right
18 or having a little picture with a pencil that has
19 a filled in oval and another little picture that
20 doesn't have a filled in oval, and then trying to
21 translate the words that you described it into
22 Chinese and, you know, Spanish, and everything
23 else is like.... So we think that the
24 instructions dominate the ballots and they're
25 also, I mean, they'll be like separate

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2 instructions for the resolution and, you know, in
3 some cases they're just back to back and it's just
4 like this huge block of text. We think we can
5 really make that text a pretty small part of the
6 ballot. Whether it's better for the voter to say
7 here's your other piece of paper. I would
8 certainly consider it and--

9 COUNCIL MEMBER FIDLER:

10 [Interposing] Well I would think that, you know,
11 if you streamlined the instructions into, you
12 know, simple, plain language statements and gave
13 it to them on a separate piece of paper, it might
14 actually call attention to something that's kind
15 of white noise on the ballot now.

16 BRIAN KAVANAGH: It's a good point,
17 we'll consider that.

18 COUNCIL MEMBER FIDLER: And along
19 those lines, whether or not you consider
20 permitting as appropriate when there are
21 resolutions or amendments or various valid
22 questions, you know, that require text that are
23 often ignored by voters because they also appear
24 to be white noise on the ballot, you know, off to
25 the side of the machine, whatever, when they're on

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2 the machines, whether you could ask that they be
3 put on a separate piece of paper so that the names
4 could be readable when we have lots of names to be
5 read, and that voters might actually, you know--
6 the separate ballot for propositions and whatnot
7 might actually call attention to their existence.
8 Could that be something that you would look in
9 your legislation?

10 BRIAN KAVANAGH: It could, I would
11 say that in order to gain space with that, you
12 would have to better use both sides of the ballot
13 and you probably know we've had some significant
14 wrangling often among people who have significant
15 say in how our party operations operate about
16 whether you can have the elections for certain
17 races on one side and flip the other side. So in
18 the typical New York City ballot when there's a
19 resolution, all of the races are on one side and
20 the resolution is on the other. I will say it's
21 often in this small box--you got a big page and a
22 little small box of text for the whole resolution.
23 If they're going to use the second side, I don't
24 know why they can't, you know, print it in large
25 letters.

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2 But the real goal would be--and,
3 again, it's the same question we're going to a
4 second page is going to the other side more
5 efficiently. You obviously you don't want to
6 have, you know, some candidates for Assembly on
7 one side of the page and some candidates for
8 there, but you certainly could have Congress on
9 one side and state assembly on the other, and, you
10 know, judges, and all that.

11 If you could use both sides more
12 efficiently, that would also be an opportunity to
13 expand size. As it's currently--since we're
14 currently trying to cram all the candidates onto
15 one side on these ballots, changing the resolution
16 issue actually wouldn't help us with size on that.
17 It may, you're right, it may--the falloff for
18 voting on that on resolutions is pretty high.

19 I had some jurisdictions where the
20 election people running the site thought that it
21 was impermissible for them to tell people that
22 they can turn over their ballot 'cause there's a
23 resolution on the back, they thought that was an
24 unfair impingement on the right of voters to
25 decide how to vote and others were insisting on

1
2 that. So it is important if we're going to do
3 resolutions to find ways to bring attention to
4 them. And I'll consider the possibility of
5 putting that on a separate page.

6 COUNCIL MEMBER FIDLER: Thank you.

7 BRIAN KAVANAGH: Sure.

8 CHAIRPERSON BREWER: Thank you very
9 much for your eloquent testimony but we expect no
10 less.

11 BRIAN KAVANAGH: Thank you.

12 CHAIRPERSON BREWER: Board of
13 Elections should listen to Assembly Member
14 Kavanagh, he has great ideas. Next is Art Chang,
15 who is the chair of the VAAC, but it's not called
16 VAAC anymore, but it's sort of like VAAC--Voter
17 Assistance Advisory Committee.

18 [Off mic]

19 MALE VOICE: She didn't sign a
20 card--

21 [Off mic]

22 CHAIRPERSON BREWER: Okay. He's
23 joined by the Executive Director of the Campaign
24 Finance Board who did not a sign a slip of paper.

25 AMY LOPREST: Oh, I'm sorry.

2 CHAIRPERSON BREWER: That's okay,
3 you're going to have to though.

4 AMY LOPREST: Okay. I'll do it
5 afterwards--

6 [Crosstalk]

7 CHAIRPERSON BREWER: Afterwards is
8 fine. Go right ahead, whomever would like to
9 begin.

10 ART CHANG: Terrific. Good
11 afternoon, Chairwoman Brewer and Council Members,
12 I am Art Chang, Chair of the Voter Assistance
13 Advisory Committee. With me today is Amy Loprest,
14 Executive Director of the New York City Campaign
15 Finance Board. Thank you for the opportunity to
16 testify before you today.

17 As you may know, the Voter
18 Assistance Advisory Committee was created by an
19 amendment to the City Charter last November. I
20 also serve as a member of the Campaign Finance
21 Board. I thought it might be helpful for me to
22 tell you a little about myself to help provide
23 context for the comments I will offer shortly on
24 the ballot and the voting process.

25 I formed my company, Tipping Point

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2 Partners, in 2005 to bring together technologists,
3 entrepreneurs, and investors to create and grow
4 Internet and mobile startups that can provide the
5 tools to transform the nature of work in, and the
6 way people relate to large enterprises, including
7 government. But you don't have to be a
8 professional to recognize the tremendous potential
9 of technology as a vehicle for change.

10 I'm not here to repeat the
11 excellent testimony of Assemblyman Kavanagh or the
12 specific and excellent work of the Brennan Center,
13 but to raise more fundamental questions about
14 voting technology, which is the interface between
15 the people and the democratic process.

16 In the last 15 years we've
17 witnessed a revolution in the way people access,
18 receive, and share information. Technology has
19 fundamentally transformed American life, making it
20 easy to connect with old friends, share opinions
21 with strangers, and simplify and streamline our
22 lives from shopping to banking to filing our
23 taxes--all electronically. No institution touches
24 our daily lives as much as city government, yet
25 the ease and accessibility of these tools has yet

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2 to transform the way citizens connect with their
3 representatives and leaders at the local level--or
4 for that matter at any level. Now is the
5 opportunity for government to apply the people-
6 focused principals of web 2.0 technology widely
7 available in the consumer sphere today to give New
8 Yorkers the great technology we deserve.

9 Technology is not a solution, it's
10 a vehicle to this end. Ballot design, for
11 example, is a critical aspect of improving the
12 voting process, but it must be supported by a
13 system that accurately and effectively it records
14 our votes. If votes are cast electronically, we
15 should not have to count paper ballots. Imagine a
16 system that enabled us to count electronic votes
17 as they are cast and report results to the public
18 more quickly. This would be a great step forward,
19 increasing efficiency and transparency in the
20 voting process.

21 While I understand that this issue
22 is largely out of the purview of the City Council
23 and the City's Board of Elections, I'd be remiss
24 not to take this opportunity to publicly comment
25 that the city deserves a voting system that offers

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2 its citizens the same ease and accessibility that
3 they may find elsewhere in their everyday lives.
4 The potential to apply simple technology to
5 invigorate and inspire more citizens to register
6 to vote and to participate in local elections is
7 great and sorely needed. We must leverage our
8 city's technology expertise to explore new ways to
9 simplify and streamline the most fundamental
10 elements of voting starting with voter
11 registration to the casting votes to the counting
12 ballots. We, as a community, must pressure the
13 state to allow for the flexibility to easily
14 incorporate new tools and technologies that will
15 drive these improvements. We hope the state finds
16 a way to enable the Board of Elections to make the
17 ballot clear and legible and further urge the
18 Council to continue the conversation about how to
19 employ widely accepted and adopted technology to
20 our voting process.

21 Thank you again for the opportunity
22 to testify about the proposed resolution. I'm
23 happy to answer any questions you may have and I
24 look forward to continuing this conversation in
25 the future. Thank you.

2 CHAIRPERSON BREWER: Thank you. Go
3 ahead.

4 AMY LOPREST: You know, I have
5 given you my written testimony, so I know you're
6 running long so I'll be brief. I just want to
7 introduce first two people who work on our staff
8 on the voter assistance activities: Shauna
9 Denkensohn, who is our Director of Operations and
10 Budget, and Onida Coward Mayers, who I'm sure
11 you're aware of, is our Director of Voter
12 Assistance. Thank you for the opportunity to
13 testify.

14 The Campaign Finance Board and the
15 Voter Assistance Advisory Committee strongly
16 support changes to state law that allow the Board
17 of Elections more flexibility in designing the
18 paper ballot to be more easily read and understood
19 by voters. We support the Council's resolution
20 calling on the New York State Legislature to
21 require paper ballots to be designed in a more
22 user-friendly manner.

23 We received public comment on the
24 difficulty in reading the new paper ballots both
25 at the December 2010 final hearing of the Voter

1 Assistance Commission and the new Voter Assistance
2 Advisory Committee's public meetings earlier this
3 year. The ability for citizens to read the
4 ballot, understand how to mark their vote, and
5 have confidence that they did so correctly is
6 crucial to the healthy functioning of our
7 democracy. A ballot designed with the user in
8 mind is essential so everyone can have confidence
9 that the ballot accurately reflects the intent of
10 the voter. We appreciate the Council's support
11 for the provision that requires the BOE to retain
12 a design professional and offer a further
13 suggestion: The public should be engaged in the
14 redesign process to ensure a variety of viewpoints
15 are considered and the most accessible ballot is
16 designed.

17
18 That said, ballot redesign
19 represents only part of the challenge. Lack of
20 information about the process and perceived
21 inefficiencies are two important aspects that we
22 hope the Council and the BOE will address.

23 Lack of easily available
24 information about the voting process and the
25 candidates running may keep some New Yorkers from

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2 voting. We are pleased that the City Board of
3 Elections unanimously passed a motion in November
4 2010 to post sample ballots on their website prior
5 to the election--and are happy to hear that that
6 process is moving forward. This will help voters
7 become more familiar with the still-new voting
8 system, as well as learn more about what contests
9 they will vote for when they go to the polls.
10 Once at the polls, it would be helpful to have a
11 poster sized sample of the ballot available.

12 In addition, the system is still
13 new to many voters, many of whom will vote for the
14 first time with the new ballots in the upcoming
15 presidential elections. Therefore, continued
16 efforts to train the public on how to use the
17 system, similar to what was done in 2010, would be
18 helpful. We look forward to working with the BOE
19 to enhance each other's voter education efforts in
20 future elections.

21 Any changes to make the ballot less
22 confusing should also employ technology to assist
23 the user in finding and accessing ballot
24 information. Available technology should be used
25 to make information about ballot status available

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2 to New Yorkers as early as possible. In addition,
3 we strongly urge the BOE to consider any
4 technological advances that would ease the
5 perceived burden of the entire process, from
6 registering to updating registration information
7 to voting.

8 The rest of my testimony is just a
9 recap of our outreach efforts and I'll let that be
10 on the written record.

11 CHAIRPERSON BREWER: Thank you very
12 much, it's great to see Art Chang in your rolls
13 and I know that we sat together on a lot of
14 technology panels, so I really appreciate it.

15 ART CHANG: Thank you.

16 CHAIRPERSON BREWER: I think your
17 hair got gray 'cause it must be CFB that did it
18 'cause you didn't use to have so much gray hair,
19 but neither did I.

20 My question is, on the tech front,
21 'cause of your amazing expertise, you talked about
22 real-time voting. Is that something that is
23 reality, could that be reality in some way, shape
24 or form? We can't even figure out how to get the
25 memory stick situation resolved--flash drive. So

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how are we going to do real time? Go ahead.

ART CHANG: I think the great analog is the security system that, I mean, we trade trillions of dollars of securities all electronically today, where every single certificate for every piece of equity, debt, convertible note, derivative, and other security is tracked down to the individual security without the use of paper in near-real time and actually in real-time. And as a result of that process and the technology, that's been actually in place for over a decade.

We have the ability to actually see those results in real time and actually trillions of dollars of money are exchanged completely electronically. So why we can't have that in the voting process, which seems to be such a relatively simple process by comparison, really escapes me.

CHAIRPERSON BREWER: Okay. And then secondly, something that didn't come up, we're always trying to do online registration and we are challenged by the signature issue. Is that something that's come up at--I call it VAAC?

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Whatever it's called. Is that something that--

ART CHANG: It has.

CHAIRPERSON BREWER: So how are we going to deal with that issue? I know this is all state, but how are we going to deal with the--it would make a lot of sense, it seems to me, to have online registration.

ART CHANG: Absolute, absolutely.

CHAIRPERSON BREWER: So what are we doing about that?

ART CHANG: Again, it's not in our control, it's up to the state--

CHAIRPERSON BREWER: [Interposing] I know, but we can have--

ART CHANG: --and we--

CHAIRPERSON BREWER: --bully pulpit and--

ART CHANG: That's right, that's right, we have a responsibility to do everything we can to make the registration process simpler. There are numerous methodologies for capturing electronic signatures in the home, at a voting place, and elsewhere that that should be implemented. There's no reason for it not to be.

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2 CHAIRPERSON BREWER: So you'll give
3 us suggestions as to how to suggest to the state
4 to do that.

5 ART CHANG: Absolutely.

6 CHAIRPERSON BREWER: Okay. And
7 then the other question I have is just in terms of
8 how you are suggesting to the state that the
9 simpler ballot, are you doing resolutions? In
10 other words, we heard from the Board of Elections,
11 and I certainly think Assembly Member Kavanagh
12 could use all the support possible, how are you
13 communicating some of your ideas so that it
14 registers in Albany?

15 AMY LOPREST: Well, you know, as
16 you know, this is a new committee and not fully
17 constituted yet, but one of the things that--well
18 one thing that's mandated in the Charter is an
19 annual report that makes recommendations for
20 legislative changes, so obviously that would be
21 used, you know, that's only one time a year. But
22 also we plan to have a group, we've had a number
23 of people come before the committee already to
24 present pieces of legislation that deal with
25 different aspects of voting and the voter

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2 engagement process. And so the committee is
3 looking at those proposals and will be, you know,
4 sending letters to the appropriate legislatures or
5 legislative bodies as they come up.

6 CHAIRPERSON BREWER: Okay. 'Cause
7 I guess sooner rather than later--

8 AMY LOPREST: Yeah.

9 CHAIRPERSON BREWER: --otherwise,
10 we will have a whole year of elections without the
11 ability to read the font.

12 AMY LOPREST: Yes.

13 ART CHANG: Yes, now I just want to
14 add one other comment to this, which is that
15 resolutions are terrific and very important and we
16 will certainly do everything we can to make that
17 happen. What's more important is actually getting
18 people engaged and if we can get--if over 300
19 million people worldwide are on Facebook and
20 they're engaging every day, each and every day in
21 conversations, upon this technology vehicle--

22 CHAIRPERSON BREWER: [Interposing]
23 I know, they send me so many crazy e-mails.

24 ART CHANG: --why can't we have--

25 CHAIRPERSON BREWER: Can't imagine.

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2 ART CHANG: --right, why can't we
3 have, you know, a system--

4 CHAIRPERSON BREWER: Okay.

5 ART CHANG: --that allows ordinary
6 people to actually talk about these issues on a
7 daily basis? Why do we have to wait until the
8 need for a formal resolution? Why can't we make
9 the message for the people heard by their elected
10 representatives electronically or otherwise on a
11 daily basis or weekly basis as it happens as these
12 topics come up?

13 CHAIRPERSON BREWER: So you and I
14 are going to make that happen.

15 ART CHANG: Great--

16 CHAIRPERSON BREWER: Okay.

17 ART CHANG: --I look forward to
18 that.

19 AMY LOPREST: Yes.

20 CHAIRPERSON BREWER: I don't have
21 any other question, but I look forward to doing
22 that. But just so you know about Facebook, I'm on
23 it and I get so many crazy questions on Facebook,
24 and I answer every last one of them. So I would
25 be glad to turn these questions over to somebody

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2 else and I would love to work with you on doing
3 that.

4 ART CHANG: Terrific.

5 CHAIRPERSON BREWER: But thank you
6 for your expertise. You're very lucky to have Art
7 Chang 'cause he really does understand the topic
8 that I love most, which is technology.

9 AMY LOPREST: Yes.

10 CHAIRPERSON BREWER: Thank you. Go
11 ahead.

12 AMY LOPREST: Chairwoman Brewer, I
13 just was remiss in not introducing another member
14 of the Voter Assistant Advisory Committee, Jane
15 Kalmus who is in the audience, so I just wanted to
16 introduce her.

17 CHAIRPERSON BREWER: [Interposing]
18 She's our Manhattan rep and we like her--

19 AMY LOPREST: Yes.

20 CHAIRPERSON BREWER: --very much, I
21 know she's a more general rep, but she's always
22 been the Manhattan representative.

23 AMY LOPREST: Okay.

24 ART CHANG: And she is remarkably
25 supportive about everything that moves us forward.

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AMY LOPREST: Yes.

CHAIRPERSON BREWER: She will keep your feet to the fire, Mr. Chang.

[Crosstalk]

ART CHANG: She has already done that, thank you.

AMY LOPREST: Okay. Thank you.

CHAIRPERSON BREWER: Thank you very much.

ART CHANG: Okay. Thank you, Councilwoman.

CHAIRPERSON BREWER: Okay. Our next panel is Neal Rosenstein from NYPIRG, Deanna Bitetti from Common Cause, and Alex Camarda from Citizens Union.

[Off mic]

ALEX CAMARDA: Yeah, I've been waiting for the water.

DEANNA BITETTI: Yeah.

ALEX CAMARDA: [Off mic] my big thing--

[Off mic]

CHAIRPERSON BREWER: All right, whomever would like to begin.

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2 NEAL ROSENSTEIN: You want to go
3 first or should I?

4 ALEX CAMARDA: I can go.

5 CHAIRPERSON BREWER: Okay. Go
6 Alex.

7 ALEX CAMARDA: Are we using the
8 time clock here or should I--

9 CHAIRPERSON BREWER: [Interposing]
10 No, you can just--

11 ALEX CAMARDA: Okay.

12 CHAIRPERSON BREWER: --try to, you
13 know, be reasonable.

14 ALEX CAMARDA: Okay.

15 CHAIRPERSON BREWER: I really
16 respect all the work that all three of you have
17 been doing on this topic.

18 ALEX CAMARDA: Well first, good
19 afternoon, Chair Brewer and members of the
20 Council. My name is Alex Camarda, I'm the
21 Director for Public Policy and Advocacy for
22 Citizens Union. We thank you for holding this
23 hearing on the primary and special elections and
24 issues related to the City Board of Elections.

25 Regarding primary day feedback, we

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2 don't have a tremendous amount to say here that
3 hasn't already been said, so I think I'll skip
4 over this part of our testimony.

5 With regard to the resolution
6 that's under consideration, generally we support
7 the principles of that, certainly the spirit of
8 it, and many of the parameters in the Kavanagh
9 bill, particularly the one that the Brennan Center
10 has worked closely with them on.

11 I did want to note a couple of
12 things based on what's been said about ballot
13 design. First, it's our understanding that the
14 instructions already, to Councilman Fidler's
15 question, could already be separate from the
16 ballot. So that's something that the Board could
17 do administratively if that was desired.

18 Regarding font size, we are
19 cognizant that--and certainly the Council survey
20 that we helped to participate in, showed that font
21 size was a tremendous issue for the voters. But
22 as Mr. Richman mentioned, if you lock in on any
23 one parameter when it comes to voting design, it
24 has a ripple effect on the others and so you have
25 to be very careful in doing that. You know,

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2 whether locking in a 12-point font would then
3 result in numerous pages of the ballot, you know,
4 whether it's two pages or three, I think
5 politically it makes it much more difficult to
6 pass in Albany first and foremost because the
7 person who has their office as the last office on
8 the last page will probably experience fewer
9 voters voting for that race than the first race on
10 the first page. So that's something to consider.

11 With regard to languages, currently
12 the City Board has chosen--and some of this is
13 required by federal law--to put all the languages
14 on one ballot. There are other options, we're not
15 saying that it should be done, but I'm just
16 letting you know that there are other options in
17 which you could have English combined with other
18 languages instead of all the languages on one
19 ballot. That obviously has complications in terms
20 of distribution, poll worker training, others have
21 argued that potentially it may not treat people as
22 fairly as opposed to the current system where all
23 of the languages are on one ballot, but these are
24 options that are out there that should be looked
25 at.

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2 With regard to the poor performance
3 of the Board in general, over the last year I
4 think they've done a number of things well, that
5 they have not necessarily always gotten the credit
6 for that they deserve. We talked about putting
7 the sample ballots online that the chair has been
8 deeply involved in, DoITT, and the Board, they've
9 done a great job in getting that up and running.
10 There was a snafu at the end with regard to DOJ
11 approval, but we look forward to that being up for
12 the November elections.

13 They were very open and transparent
14 in going through and recommending changes for the
15 ballot at their weekly meetings on Tuesday and
16 that's what resulted in the resolution they
17 passed. And I think, you know, coming back to the
18 resolution that's being looked at by the Council
19 today, with an eye toward actually getting
20 something done in the Legislature, I really think
21 it's in the interest of the Board to take the
22 resolution they passed related to ballot design
23 and the Kavanaugh bills and the Brennan Center and
24 other groups and the Council and we should get
25 together and try to come behind one proposal

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2 before the state legislature, because I really
3 think if all the groups are on board for one
4 proposal and we can reconcile our small
5 differences, it makes it much more likely it will
6 pass. So that was a very open and transparent
7 process that they did at their meetings, and, you
8 know, they deserve commendation for that.

9 With regard to poll workers, we
10 haven't talked about it today, but Valerie Vasquez
11 led a very intensive months-long process to bring
12 in more poll workers, they went to Community
13 Boards, they went to colleges, to high schools,
14 and were able to hit their target of over 4,000
15 new applicants. Which is terrific, and we think
16 that will really help tremendously next year, in
17 particular, and their shooting for another 1,500
18 by general election day. And you know, they
19 really took concern to engage in this recruitment
20 in great detail. They did a PSA, the Commissioner
21 Soumas did. Leveraging the city's resources when
22 poll workers had to register in order to become--
23 to occupy certain positions, they were told if
24 they did not, if they weren't already registered
25 and then sent a form so that they could. So they

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2 really thought through a lot of the fine details
3 of this and I think it was a well-run program.

4 With regard to their monthly
5 meetings, they've put their minutes online in a
6 much more timely manner, which helps groups like
7 ours when we miss a meeting to see what's going
8 on. They put the voter survey that the, you know,
9 the Council pioneered last year, they've done that
10 and put that on their home page, so that was up
11 and running for the primary. It's still up and
12 running for future elections so people can go on
13 there and provide feedback as to how the election
14 went. We'd like to see them advertise that a bit
15 more, but it is there for people to provide their
16 feedback.

17 And then they discontinued some
18 outdated policies, mailing information about old
19 machines and things like that, that unfortunately,
20 were required by state law, but just didn't make
21 much sense anymore.

22 So those were all the things they
23 did well. There are a number of areas we think
24 they can still improve. It was mentioned today
25 that they're going to be tackling this issue of

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2 applying online to become a poll worker. We think
3 that would be a tremendous contribution to the
4 campaign that's already undergoing and be able to
5 bring in even more folks to become poll workers,
6 but also help organizations like ours go out and
7 do some of the work as ,well and we can simply
8 point people to a website or even bring a computer
9 ourselves for them to sign up rather than have to
10 cart forms around and wonder if the people
11 actually completed them and sent them in.

12 We'd like to see the Board report
13 to the Mayor's Management Report. We understand
14 there is this issue of jurisdiction and they
15 acknowledge that the Council is the body that they
16 report data to. I think this is very simply
17 addressed by just having the City Board report the
18 metrics, the Council can request them, that are in
19 the MMR to the Council and the Council can relay
20 them to the Mayor, and I think that would be
21 respectful of the authority lines that are in
22 state law.

23 We'd like to see the City Board
24 webcast its meetings. We mentioned the
25 improvements with the minutes, we'd like to see

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2 them go further with the webcasting. Again, I
3 mean, part of that's for selfish reasons. We're
4 small organizations, we can't make it to every
5 meeting, nor can the press, nor can every staff
6 member of the Council, and so it would just be
7 easier for us to participate if they webcast their
8 meetings.

9 And, frankly, there's a lot of good
10 that goes on at those meetings that they don't get
11 much credit for in the papers and I think, you
12 know, for example, going through the ballot in the
13 way they did in an open manner would be good to
14 show the public what they're doing.

15 And then lastly, while Dawn Sandow
16 we think has done a great job and sometimes has
17 made us forget that they have a vacant Executive
18 Director position, we do think it should be
19 filled, especially with the challenging year ahead
20 and the number of elections that we might have to-
21 -or they may have to administer.

22 So with that, I'll close, thank
23 you.

24 CHAIRPERSON BREWER: Thank you very
25 much. Who's next?

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2 NEAL ROSENSTEIN: Go down the line.
3 Howdy, my name's Neal Rosenstein, I'm the
4 Government Reform Coordinator for NYPIRG. I'd
5 like to thank the Council for the opportunity to
6 testify today at this important oversight hearing.
7 It's hearings like this one that are essential to
8 monitoring and improving the election process in
9 New York, and we commend the interest and the
10 commitment from this committee and from the chair.

11 You know, this election in the past
12 year we also believe has been a mixed bag for the
13 voters of New York City and the Board of
14 Elections. Our testimony today will focus on this
15 election mix of what we're calling The Good, The
16 Bad, and The Ugly.

17 First, for The Good. The Board of
18 Elections has its challenges and its problems, but
19 it's also made some very good decisions that
20 deserve mention. We're particularly pleased that
21 the Board, working along with the City and this
22 Committee, are on the verge of going live with an
23 online sample ballot tool on the Board's website.
24 This common sense service to voters was a long
25 time coming and one that NYPIRG and many others

1 here in this room have been advocating for years.
2 I just want to say to many that the lack of an
3 online sample ballot symbolized the worst of the
4 Board--refusing to adopt what we think was a
5 simple, meaningful reform that was directly under
6 their control and relates to some of our other
7 suggestions. We're hopeful the Board will soon
8 adopt another web-based technology, as was also
9 previous noted and start to webcast and archive
10 its meetings online. We think the minimum cost is
11 small to pay for a more open and transparent
12 government. And here's an idea we think to help
13 push the Board, because in these financial times
14 and every agency is looking at its budget, we
15 think the Council should consider including a
16 \$5,000 appropriation for webcasting in the Board's
17 budget, along with the terms and condition that it
18 can only be used for that purpose as an incentive
19 hopefully to push them along, or as a way to kind
20 of remove any excuses they might have for not
21 wanting to go forward with it in terms of the
22 cost.
23

24 Similarly, we also hope in another
25 web-based initiative similar to the voter survey

1
2 that the Board put on its website, a very simple
3 e-mail capture allowing voters to sign up, the
4 City could do it at NYC gov, other folks can do
5 it, to sign up for alerts and notices. We were
6 talking before about people maybe not knowing that
7 there was an election in their particular
8 district. This is a great way we think once again
9 the Board very simply, I mean, anyone could put an
10 e-mail sign-up, you know, for the most part, on
11 their website and with DoITT as well that would be
12 able to then generate various notices to voters
13 and educational notices.

14 We also want to say that the board
15 has been wise and commend them for continuing the
16 provision of postage paid registration forms to
17 New Yorkers. For a little while, that was a
18 question, they had run out of forms and they were
19 providing registration forms that were not
20 postage-paid and we think the Boards had wisely
21 considered the issue and decided to continue with
22 that commitment to postage-paid.

23 Onto The Bad, because that's the
24 order in Sergio Leone's mind. New technology
25 should mean an improvement to old problems, it

1
2 shouldn't mean unnecessary procedures on election
3 night that can both lead to more mistakes and
4 delays in reporting preliminary results. We think
5 the City Board deserves criticism for creating a
6 Rube Goldberg system of printing and cutting and
7 calculating and entering and reporting results.
8 Our understanding is the City is alone in the
9 state for complicating reporting to such a degree,
10 and has resisted repeated State Board of Elections
11 concerns about election night procedures.

12 Now NYPIRG is not a fan of speed
13 over accuracy, however, and I have concerns over
14 merely transporting flash drives for downloading
15 results quickly, especially without improved audit
16 requirements at the state level. Often, as we saw
17 in 2000 election night reporting in Florida, is
18 the perceived outcome of an election. And in that
19 election, the person who was behind Al Gore had to
20 continually fight for what he thought was a full
21 counting of ballots, there was a perception that
22 worked against him.

23 So we do have some concerns, we're
24 interested in seeing how this pilot program works,
25 but we also think that the Board should have a

1
2 hearing, they should invite folks from Monroe
3 County, they should invite folks from Nassau
4 County, other big counties which have problems
5 with some of these procedures or have experimented
6 with transporting flash drives and see what system
7 works best. And that could also include going to
8 jurisdictions outside of New York state, it could
9 include making recommendations to the legislature.
10 We're interested in seeing how the pilot works,
11 but we'd like to see that outreach across
12 jurisdictions.

13 We also want to disagree and really
14 call for the Board of Elections to provide
15 information to the Mayor's Management Report and I
16 think they should be doing it directly. This is
17 not an issue of independence, this is an issue of
18 ego, this is an issue of the Board of Elections
19 Commissioners deciding we are not going to provide
20 information, you know, to the Mayor, because we're
21 independent and we don't have to. Maybe they
22 could do it to the Council or they could do it in
23 other ways, but that's an ego issue, it's not a
24 legal issue. They still can do it, they're not
25 prohibited from doing it, and, as a result, I

1
2 think the voters of New York ultimately suffer by
3 not having metrics there, which really could be
4 [off mic] from an independent source that are
5 provided in an ongoing and meaningful and regular
6 manner.

7 And there have been some
8 improvements from the Board in their annual
9 report. I still think some of their annual
10 reports from 10 or 15 years ago provided more
11 information, and I think, you know, sucking it up,
12 so to speak, and just providing that information,
13 acknowledging when you send it that you're not
14 required to would be the best step forward for the
15 Board.

16 We also think it's time for the
17 Board, as you said, hire that new Executive
18 Director and professionalize that process with, we
19 think, a national search by this point in time.
20 With 9 % employment, if every week they're asking
21 and no one has handed in a resume, obviously, you
22 know, there's a lot of people out there in this
23 country that might even want to apply for the job,
24 even if they were Joe Schmo and unqualified.
25 That position needs to be advertised, we need a

1
2 written description, and the commissioners
3 themselves and the Council who have ties to the
4 party leaders and the commissioners should, I
5 think, be pressuring them for action. And if it
6 takes another term and condition, if it takes that
7 long for the Board to say, here's 3,000, \$5,000 to
8 advertise the position, it could only be used for
9 that, you know, then I think that's a power in
10 many ways that the Council should be looking at.

11 Finally, I'm going to go to The
12 Ugly and, rest assured, it's no one in this room.
13 We can point here to the state. New York State
14 optical scan ballots are ugly and using them is an
15 ugly process. They're meaninglessly complex and
16 lack good ballot design. This isn't an issue for,
17 really, the City Board, but ultimately the State
18 Legislature.

19 And we commend the Committee for
20 considering Resolution 671-A, we urge its passage.

21 I just want to add a couple of
22 things to what's already been said. And that is,
23 ultimately we hope whatever the state legislature
24 or the Board does with those statutes that are
25 handed down, that they use and reach out to

1
2 usability experts and literacy experts and folks
3 who really do this as a business, you know, we do
4 elections, but we may not do design. And I think
5 that's really important and for us as well, it's
6 not included in this resolution, ultimately we
7 hope and we think part of that answer is in the
8 state legislature reconsidering the full face
9 ballot here in New York. And that of course is a
10 longer-term maybe bigger haul, but something that
11 should be considered at least in saying that we
12 should be looking at that. Thank you very much.

13 CHAIRPERSON BREWER: Thank you very
14 much. Next. What a crew, thank you, you're the
15 best.

16 DEANNA BITETTI: Actually, it's
17 easier going last because my counterparts already
18 said everything, so I will be very brief.

19 Hi, good afternoon, Chair Brewer,
20 members, oh, there they left, but the members who
21 were here of the committee, my name is Deanna
22 Bitetti, I'm the Associate Director for Common
23 Cause New York. Thank you again for this
24 opportunity to discuss Resolution 671-A. The
25 scope of my testimony really just goes to the kind

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of spirit of Resolution 671-A.

Common Cause New York all of last year was actively engaged in voter outreach and increasing voter participation. We partnered with the Board of Elections. I do want to thank Valerie and other members of the Board for helping us put on these kind of voter instructional educational outreach initiatives across the city.

One of the things Common Cause is really trying to do is say the sky isn't falling down, there is a lot of hesitation, a lot of fear, especially from older voters that, you know, this new system, they wouldn't know how to use it, there'd be a lot of problems. So one of the things you know, we reiterated, the sky isn't falling down, we could use these machines, we can embrace the technology.

After the trainings, people felt a lot more comfortable with it. On the days of the elections we did go out, we were at the different polling places talking to people about their experiences. Obviously we've all heard about the different issues, the idea that the font is way too small. My own grandmother asked me to tell

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2 you that, you know, her hands were shaking, it was
3 very hard to tell the different ovals from one
4 another, different--very difficult to use any kind
5 of walking device, plus a magnifier, plus a pen to
6 do all of this at the same time. So there were
7 issues that can be addressed and these are things,
8 you know, that Common Cause has worked on.

9 We have been ardent supporters of
10 Assembly Member Kavanagh and Joseph Addabbo's
11 bills, A4696A and S609, as well as the Voter
12 Friendly Ballot Act. To kind of go on something
13 that Neal referenced, however, we do think that,
14 you know, we do have to address this whole idea of
15 the full face ballot and, you know, I know the
16 Brennan Center was heavily involved in this a few
17 years ago when they were looking at the new
18 optical scanning machines, but we do kind of have
19 to go back and re-look at this.

20 Something that I will say and, you
21 know, this may come out as a joke, but I really
22 don't mean it to be, I know that Mr. Chang
23 referenced they did voter engagement, voter
24 encouragement, we all talked about, you know, with
25 technology and Neal was referencing experts. I do

1
2 have to say, especially for my age group, there
3 are so many 20, 30-year-olds went to art school,
4 have design backgrounds, would love to probably do
5 this as a contest or work on these issues that I'm
6 sure if you gave them the criteria and said, could
7 you come up with something, you would get
8 hundreds, if not thousands. I could get you at
9 least a few from my friends, I'm putting it out
10 there. So I think, you know, it's one way to
11 think about how do we engage experts and what we
12 mean when we say experts. You don't have to pay
13 thousands of dollars, I think that the technology
14 is there and there are a lot of people that are
15 willing to do this.

16 With that, I just want to thank the
17 New York City Council Committee again for holding
18 this important hearing. We think that it's
19 extremely important, we want to support you in any
20 way, support these bills moving forward. We
21 would, you know, with the Citizen Union and, of
22 course, with Alex too that we would love to come
23 together in some kind of advisory capacity, work
24 towards a more comprehensive solution to these
25 problems. Thank you again.

1
2 CHAIRPERSON BREWER: Thank you very
3 much, you've already contributed a great deal over
4 the years; Neal, forever, others more recently.
5 And all I can say is we'll keep working on every
6 single issue. I'm focused if we get this DOJ
7 through the ballot, then my next is webcasting.
8 It shouldn't even cost 5,000, I hate to tell you
9 that. So we'll figure out the funding and we'll
10 do the webcasting. And then I love to work with
11 Art Chang, I forgot that he has going to be stuck
12 on technology and have to work with us on all the
13 technology issues that we've been talking about
14 for a long time and then we'll keep working with
15 you. So thank you very much.

16 DEANNA BITETTI: Thank you.

17 NEAL ROSENSTEIN: Thank you.

18 ALEX CAMARDA: Thank you.

19 CHAIRPERSON BREWER: The next panel
20 is Kate Doran from the League of Women Voters,
21 Rima McCoy from CIDNY, and Jerry Koenig, the
22 expert.

23 [Off mic]

24 CHAIRPERSON BREWER: Is the
25 Sergeant-at-Arms here for materials?

[Off mic]

CHAIRPERSON BREWER: So don't get caught. Whomever would like to begin, go ahead.

[Off mic]

KATE DORAN: Good afternoon, Chair Brewer. My name is Kate Doran and I am the City Affairs Chair of the League of Women Voters of the City of New York.

For 90 years voter education election administrations have been priorities for the League in the city and we are very, very grateful to be here and sincerely appreciate your holding this hearing.

You may know that the League operates a telephone information service and we received fewer calls than usual this year because there were so few contests. Most of our calls are from the voters who didn't know if there was an election in which they could participate. Providing them with correct information was complicated, much more so than in the past because we had to search through multiple Board of Elections ballots and lists to respond to each caller. We believe that the implementation of the

1
2 online ballot system linked to the existing poll
3 site locator will greatly reduce voter confusion,
4 and we congratulate the Board of Elections for its
5 commitment to this important innovation and we
6 look forward to it going live in November.

7 Regarding Resolution number 671,
8 the New York City League certainly supports the
9 Council's resolution calling for the passage of
10 state legislation and requiring that the paper
11 ballots be designed in a more user-friendly
12 manner, but at this time I cannot comment on
13 specific state legislation because we have a state
14 League of Women Voters and they are continuing to
15 identify optimum ballot design, and we hope that
16 we will be able to support legislation very soon.

17 In addition to being on the board
18 of the League, I'm a poll site coordinator and I
19 have some experiences to describe about this
20 particular primary. As we all know, it was a very
21 low turnout event but I still have a great deal of
22 concern about poll worker competence and training.
23 And I have to tell you that I received by mail--
24 it's the standard practice of the Board to send a
25 package of materials before every election event

1
2 to the coordinators. And I've asked in the past
3 why these materials can't be e-mailed, and the
4 fact is that this year I got my package on Friday,
5 September 16th. Luckily, I had a colleague who
6 was going to the Board a few days--on the Friday
7 before the election and she picked up the packet
8 for me and I had the materials I needed. But I
9 don't understand why the Board can't e-mail the
10 coordinator's packets.

11 Among materials that we receive in
12 the packet is a site coverage report, which gives
13 us the names of the workers assigned to the site.
14 We are expected and directed to call these people
15 to find out if or not they're going to work on the
16 election Tuesday. So we know by Monday, if we've
17 done our job properly, we know by Monday if we're
18 going to have a sufficient number of inspectors to
19 properly administer the election. We urge the
20 Board of Elections to make changes to the standby
21 pool system, such if coordinators could contact a
22 dispatcher on Monday, describe their vacancies,
23 and have standby workers assigned to show up at
24 poll sites at 5 a.m. on Tuesday morning.

25 If Council Member Fidler were still

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2 here, I could say this is sort of stuck on stupid.
3 We're told that shortages may be caused by late
4 comers--that's actually out of the coordinator's
5 handbook--and after 6:30 a.m., if we're still
6 shorthanded, we should call the Board for standby
7 workers. After 6:30 a.m., we'd better--we need
8 workers there, the full complement at 5 a.m., not
9 sometime after 6 a.m. I really don't know too
10 much about how the standby pool is administered,
11 but I think that we would be better served if we
12 could access it on Monday.

13 We also, again, strongly urge the
14 Board of Elections to act on the March 16, 2010,
15 amendment to the Election Law and write rules to
16 employ election inspectors to work half-day
17 shifts. Those of us who monitor the meetings of
18 the commissioners have heard concerns that half-
19 day shifts would mean training twice as many
20 workers. That may be so, but training time could
21 be halved inasmuch as early shift workers would be
22 trained in opening procedures and late shift
23 workers in closing procedures.

24 The training program, as presently
25 constituted, is of questionable value. Most

1
2 students never open, much less read, the poll
3 worker manual. They sit in their classes while
4 the trainer reads to them or paraphrases bits of
5 the manual that the Board of Elections deems to be
6 important. It's long past time to revamp the
7 training and it makes sense to couple new training
8 procedures with the split shifts.

9 Two of New York City's major
10 newspapers recently criticized the Board of
11 Elections specifically for the complex and time
12 consuming closing procedures that delay the
13 announcement of preliminary vote totals. It's
14 worse even than they reported. Both the New York
15 Times and the Daily News said that we added the
16 numbers up with calculators. We don't have
17 calculators. If anybody used a calculator, it was
18 a function of their own phone, or something that
19 they might have brought in on their own.

20 The New York City Board requires
21 hand copying of, not only the numbers, but in a
22 primary, the names, and the return of canvas is
23 very complicated, there are opportunities to put
24 the names of judges in incorrect places. So not
25 only do we have to put in the numbers and then add

1
2 them, but we have to write the names in these
3 slots. And it was very complicated in November 10
4 when we had unexpired terms for senates and many
5 other opportunities for error.

6 So not only do we have to hand copy
7 and record, we have to cut up those scanner tapes
8 and clip them to the handwritten return of canvas.
9 We also never got any clips.

10 So we encourage the Board of
11 Elections to embrace the eight-hour work shift,
12 develop a transparent, sensible standby program,
13 and to use the scanners to do the things that they
14 can do faster and more accurately than the humans
15 can. Thank you again very much.

16 CHAIRPERSON BREWER: As always,
17 thank you very much for onsite and policy, I
18 appreciate it. Next?

19 RIMA MCCOY: Hi, my name is Rima
20 McCoy, I'm the Voting Rights Coordinator at the
21 Center for Independence of the Disabled New York.

22 I want to speak to evaluating
23 election performance, and thank you for this
24 opportunity. An issue that doesn't get enough
25 attention is lack of public awareness of the

1 ballot marking device and lack of poll worker
2 training on the ballot marking device. We have
3 heard multiple complaints about lack of access to
4 the BMD after each election, including this
5 primary. And one voter reported that after
6 successfully using the ballot marking device to
7 mark her ballot, the poll worker told her that she
8 didn't need to put it in the scanner. So this
9 meant that her vote may not have been counted, but
10 luckily she knew more than that poll worker and
11 made sure her ballot was inserted into the
12 scanner. However, the problem is most voters are
13 not aware that their polling sites have a machine
14 that provides accessibility for those who cannot
15 read or mark their ballot on their own. And voters
16 who could benefit from the BMDs don't know they're
17 available.

18
19 And I want to talk a little bit--
20 this is very brief--about how the City Council can
21 play a crucial role in improving the general
22 awareness of the ballot marking device. CIDNY is
23 asking that every City Council member agree to use
24 the ballot marking device in the November election
25 coming up and that you publicize this decision in

1
2 your constituent newsletter that hopefully gets to
3 your constituents before the November election.
4 And that you tell your voters that you're going to
5 use the ballot marking device and invite them to
6 do the same. Now attached to my testimony--I'm
7 not going to read it--is a sample text that I am
8 offering to City Council members to make it easy
9 to put it in their--adapt it however and put it in
10 their constituent newsletters to help voters
11 understand how the BMD can benefit them whether or
12 not they identify as someone with a disability.

13 So earlier Deanna had said that her
14 grandmother has shaking hands. Well voters should
15 know that they can use the BMD--actually I would
16 like Council members to let their voters know an
17 important message, that when you put the ballot in
18 a ballot marking device, number one, it enlarges
19 print so you don't have the trouble of seeing it.
20 And you can use it like an ATM machine. So if you
21 can't use a pen to mark an oval because you have
22 shaking hands, you can just press the screen and
23 mark an oval.

24 So in my sample text, which I'm not
25 going to go over, I give examples of some of the

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2 benefits, including Council Member Fidler was
3 talking about confusion of layout. Well the BMD
4 presents one race at a time so it eliminates a lot
5 of problems and could benefit a lot of voters.

6 So I just ask, I think this is an
7 important role and I would like to know whether
8 you can encourage your colleagues to do this.

9 CHAIRPERSON BREWER: I will
10 definitely do so. Thank you very much.

11 RIMA MCCOY: Thank you.

12 CHAIRPERSON BREWER: Sir?

13 JERRY KOENIG: Good afternoon. My
14 name is Jerry Koenig and for over 20 years, until
15 my retirement in 1996, I was chief of staff of the
16 Assembly Election Law Committee, and in that job I
17 was the principal draftsman of almost all of the
18 election laws enacted during that period. I want
19 to thank the committee for undertaking this
20 hearing, and so shortly after the primary while
21 our memories are still fresh.

22 But actually before I get into my
23 text, I would like to comment on something which
24 was part of the discussion earlier today--the cost
25 of printing the ballots. Part of that cost, of

1
2 course, is related to the number of ballots the
3 Board prints and that is directly related to the
4 number of voters on the role because there's a
5 formula. Now there are--well 4 1/2 million is the
6 number thrown around, but half a million of that
7 is inactive and doesn't count for these purposes.
8 There are about 4 million active voters on the
9 list, but at least a quarter of that is dead wood,
10 there are not more than 3 million real voters, but
11 we print ballots for the dead wood also.

12 Now part of that dead wood is
13 unavoidable, New York is a highly mobile place and
14 you don't always get word on people who move and
15 so on. And of course the federal law which
16 prohibits us from canceling registration for
17 failure to vote has materially increased the
18 amount of dead wood.

19 But part of it is because the Board
20 of Elections has refused to take part in the
21 statewide voter database and cancel registrations
22 when the statewide system shows that they have
23 registered elsewhere in the state. The Board
24 takes the position that the statewide system is
25 invalid because it permits local Boards of

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2 Election to do that entry with one clerk rather
3 than a bipartisan team.

4 Now it is true that the Election
5 Law used to require a bipartisan team for those
6 purposes, but that law was repealed in 1996 and is
7 no longer the law and no longer requires a
8 bipartisan team for data entry and so, therefore,
9 I think the New York City Board is being
10 extraordinarily rigid in taking the position that
11 they can't accept data from the state system
12 because it's been entered in other counties by
13 other than a bipartisan team.

14 [Off mic]

15 JERRY KOENIG: Well yes, Steve
16 points out to me the Board has--it's now doing
17 some processing of those registrations on its own,
18 but it is still not taking those registrations at
19 face value, which is what the state rules require
20 them to do.

21 Now of course, to discuss the issue
22 of election night tallying, hopefully the new
23 Board's new system, which is certainly an
24 improvement, will speed up the process of
25 processing of the election night unofficial

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2 tallies for the press, but any system that
3 requires the collection of the materials and
4 delivery to one place in the borough is still
5 going to take a long time. Theoretically, you
6 could set up a reader in each precinct, but that
7 will require a bipartisan team of inspectors, of
8 clerks to take the material out of the sealed
9 envelope and enter it in the reader. Of course,
10 you could, the statute does consider the
11 possibility of the press association, the AP,
12 paying for the installation of the readers in each
13 precinct so you might explore that possibility.

14 But I think the real problem is the
15 time the Board process for doing the official
16 return on election night by ED. Again, the
17 Board's counsel takes the position that the law
18 requires that, I do not agree with that, I think
19 that is, again, an extraordinarily rigid analysis
20 of the law.

21 As I say in my testimony, the
22 Section 9-122 specifically provides for the
23 printed sheet from the scanner to be treated as an
24 official return and attached to a return of
25 canvas, which can be a separate return for canvas

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2 for each scanner rather than each ED. Counsel
3 cites Section 122, but that is a really archaic,
4 based on the assumption there's a separate polling
5 place for each ED, which has not been the case
6 since my lifetime. And even if the counsel is
7 correct and you do require a separate--it did
8 require a separate tally for each ED, statutory
9 construction, later enactment supersedes earlier
10 enactment, and 9-102 clearly provides that you can
11 do the election night tally by scanner.

12 So I think they should really--and
13 of course the amount of time that the inspectors
14 do spend on that on election night in cutting up
15 the tapes keeps them there for another hour, an
16 hour and a half and it's going to cost you a lot
17 of inspectors, and they have enough trouble
18 recruiting inspectors now.

19 Now I also talk about other ways
20 the Board has--the Board has been extremely
21 reluctant to take advantage of the provision of
22 law which enables them to combine election
23 districts for a special election. In cases where
24 we had special elections like on the east side of
25 Manhattan or parts of Queens, without a primary,

1
2 they could have put two or three EDs on one--
3 combined two or three EDs with one set of
4 inspectors and fewer scanners, but they don't do
5 that, they really hate doing that and I think
6 that's wrong. I'm really upset about that because
7 I took great pride in writing that section to try
8 and save the City a lot of money.

9 Similarly, there is a provision of
10 law which is effect this year, one year out of
11 four, which permits the Board of Elections to
12 combine election districts in a general district
13 one year when there's no mayor or governor or
14 president elected because it'll be a very low
15 turnout, they could put two or three EDs with one
16 set of inspectors and fewer scanners. A
17 particularly egregious example is the Bronx where
18 there's only one office on the ballot this year
19 and that's an uncontested race for district
20 attorney, with only one candidate, yet the Board
21 is apparently planning to deploy a full set of
22 inspectors and a full set of scanners and other
23 equipment. Terrible waste of money, hundreds of
24 thousands of dollars for no good reason.

25 And of course even in the other

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2 boroughs where there are some other races, they're
3 really pro forma except possibly for the DA's race
4 in Staten Island and they really could save
5 extraordinary signs of money.

6 And now of course, also they spent
7 enormous amount of time maintaining the only--
8 they're the only board in the [off mic] which
9 maintains a system where they--would maintain an
10 alphabetical system of all voter registration
11 forms. And so every--they have to spend a lot of
12 time putting in the form--filing it in the new
13 registrations and removing the cards of voters
14 whose registrations are canceled. Nowhere else in
15 the state do they do that. The law specifically
16 says that a county like--Board of Elections like
17 New York which scans the whole registration form
18 into the computer does not have to save the
19 original forms for more than two years and they
20 certainly don't have to alphabetize them elsewhere
21 in the state. As you enter these registration in
22 the computer, it assigns a batch number and the
23 other Boards of Election keep the forms by batch,
24 by year and by batch and they can find them very
25 easily. On state boards which do not scan the

1
2 whole form into the system have to save the
3 registration forms indefinitely, but they don't
4 set up one that's one file, they do it by batch
5 and by year and much, much cheaper. And I'm
6 talking about big counties like Monroe or Suffolk,
7 not just New York City, not just Monroe or
8 Hamilton.

9 And I think the City is spending
10 extraordinary amounts of--the Board is spending
11 extraordinary amounts of money to no good purpose.
12 And certainly there are other things they should
13 be doing which they're not for lack of money and
14 they certainly could redirect the money to lot
15 better purposes.

16 And I think that covers about
17 everything I wanted to say. I've cited the
18 relevant sections in the statute in my statement,
19 but I really think the Council should look at this
20 and see where the money is going unnecessarily.

21 CHAIRPERSON BREWER: Well I want to
22 thank all three of you because you have put a lot
23 of time and effort into this, not just now, for
24 many years, and we're trying really hard to take
25 some of your suggestions and I think the Board is

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2 trying to do the same. So we will certainly take
3 every single suggestion very seriously, all right?

4 Thank you very much for being here today, I
5 appreciate it. Thank you.

6 [Off mic]

7 CHAIRPERSON BREWER: And I just
8 want to reiterate that, particularly thanks to the
9 long-term testimony and suggestions, we will
10 continue to advocate and this is not the end of
11 this discussion. I appreciate everyone's
12 participation and I thank the Board for giving us
13 material last night and also including the listing
14 not available on paper, but the listing of a lot
15 of material that was presented in a CD which we
16 will make sure is available. We will continue
17 this discussion. And I'm afraid I'm going to call
18 on Art Chang for a lot of help. Thank you very
19 much.

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature *Tammy Wittman*

Date October 10, 2011