

VERBATIM MINUTES
STATE ELECTION BOARD MEETING

200 Washington Street

Suite 450 State Capitol Building

Atlanta, Georgia 30334

Thursday, June 21, 2007

1:00 p.m.

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

Chairperson Handel - "We do have a quorum now, so I'm going to call the meeting to order and first order of business is to do the roll call. Mr. Evans."

Mr. Randolph Evans - "Present."

Chairperson Handel - "Mr. Israel."

Mr. Jeff Israel - "Present."

Chairperson Handel - "And Karen Handel so three does make a quorum. If I could ask everyone to please stand. We're going to have an invocation first from Mr. Israel followed by our Pledge of Allegiance which we'll do to this wonderful -- there it is. Okay. Great. Go ahead, Jeff."

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

Chairperson Handel - "Just a couple of announcements before we get started. We have a number of speaker of cards. Many of you are here to speak regarding a specific investigative matter that's going to come later. Is anyone here to speak on a subject other than an investigation?"

(Whereupon, a number of people raised their hands)

Chairperson Handel - "You are. Okay. If I can have you come on up and everyone will have two minutes if it's not related to an investigation, and then when I call the investigation we'll catch up with everybody who wants to speak on those. Okay? And if you'll, please, state your name and address for the record. Thank you."

Ms. Helen Butler - "Good afternoon. My name is Helen Butler. I'm Executive Director of the Coalition for the People's Agenda. My address is 100 Auburn Avenue, Suite 102, Atlanta, Georgia. And I just want to speak on behalf of our coalition which is made up of representatives from all of the civil rights, human rights, labor, environmental peace and justice organizations throughout the State and the southeast. And we're convened by Dr. Joseph Lawry (phonetic). And our mission, of course, is to improve the quality of governance. In that vain, voting rights and civic participation is the threat of all of our activities. So today I want to speak on a couple of electoral issues. One being voter education with regards to the advent of Super Tuesday and the impact it will have on the purge process. I know Secretary Handel, you've said that you believe in open government and that you believe in voter education, and we applaud you for that effort. And we certainly think that since Super Tuesday is coming up that will change the primary election date, the purge process should incorporate a lot of voter education. In fact, going

to the public to let them be notified of when they will be purged, the actual day, using media that not just only goes to clear channel, but to all channels that will meet the entire population of the State of Georgia. They need to know about the impact because a lot of people on Tuesday, primary day, will come up and try to vote when, in fact, they may have been purged and some may have been purged incorrectly. Second, in terms of election integrity and voting rights, we want you to support HR 811 whereby it provides for paper verified trail receipt. It gives confidence to the voter that they have actually voted and we do applaud that effort nationally and want you to support it on a local level. By converse, the State has already opposed the Real ID Act, and we applaud the State for doing that because we feel that that the ID, photo ID is really not necessary. It's unconstitutional, according to the State, in terms of the requirements of becoming a voter to be eligible to vote. So we definitely want to implore the Election Board to adhere to that. Real ID, the State has requested that they actually not be imposed with the Real ID Act until further things can be resolved and I believe there are better methods of doing that. Even if you have to just know a person on Election Day --."

Chairperson Handel - "You're now through with your two minutes, so if I can get you to --."

Ms. Butler - "I will."

Chairperson Handel - "Thank you. Two minutes. It's past two minutes."

Ms. Butler - "Well, I will close to say that we ask that you do not impose the photo ID requirements, and I will provide you, further, a statement regarding why. Thank you."

Chairperson Handel - "Great. Thank you so much. All right, anyone else on general public comment non-case related?"

Ms. Donna Price - "My name is Donna Price. I represent Georgians through Verified Voting. I'm also a member of Vote Trust USA, an advisory committee which is an organization which is -- forms a coalition of election integrity groups throughout the nation. About 40 groups. I'm here today to -- in support of HR 811. I understand that there is a petition, or was a petition by the Georgia Election Officials Association in regard to 811, and one of the options that was not mentioned in that petition was optical scan. And what I have done is I've brought some cost sheets with data taken from the Secretary of State's office -- former Secretary of State, it was done last summer -- with cost breakdowns showing that optical scan voting systems are significantly less expensive to buy and maintain than touch screen voting systems. Also, the National Institute for Standards in Technology, in December of 2006, issued a report saying that our paperless voting systems like we have are -- I'll say -- I'll read the exact quote.

In practical terms the DRE dependent approach cannot be made secure or highly reliable. Experience in testing software in systems has shown that testing to high degrees of security and reliability is from a practical perspective, not possible. Requiring software independent voting systems involuntary voting system guidelines 2007 effectively leaves only voter verified paper based approaches. So there are tremendous problems. I think election officials have seen the tremendous problems with the TSx paper trail and so we - we would highly recommend optical scan voting system...."

Chairperson Handel - "All right. Thank you."

Ms. Butler - "...with manual audits. Thank you for your time."

Chairperson Handel - "Thank you very much. Has -- Are you non-case related?"

Ms. Susan Somack (phonetic) - "Yes."

Chairperson Handel - "Okay. Come on up. If I can -- if there's anyone else who wants to speak in public comment, I think it was announced before, please submit your card so that we have the info so that we don't keep coming -- so I know how many we have and we can move forward."

Ms. Somack - "Susan Somack and my address is 941 Blue Ridge Avenue, Northeast Atlanta, 30306. I'm speaking as a citizen and somebody who has participated in election protection activities in the past and oversees election monitoring and supervision. I just would encourage this body to consider making some changes to the Code to allow for neutral election monitors to be able to get closer than 150 feet to the election activities that are taking place with appropriate rules to maintain a non-partisan nature of their activities. It is an international standard that poll monitors are allowed around the world, and that I would encourage the State of Georgia to allow -- to make some amendments for that purpose."

Chairperson Handel - "All right. Thank you very much. All right. With that we'll go to our next item which is approving the minutes and before we get to those I just, colleagues, want to let you know that we've made several changes in the minutes. The previous minutes from the past tended to just be specifically the motion without any summary of what the discussion was so that if someone had a copy of the written minutes, they really wouldn't know what the tenor of the discussion was, and so we've changed that. In addition to that, we have brought on board a transcriptionist so that we can make sure that we've got the verbatim minutes for reference as we go forward. Because many times we need that for, especially for some of the cases that we're involved in, and that's -- is it Parillo, Donna Parillo?"

Court Reporter - "Yes. It's Parillo."

Chairperson Handel - "Great. Thank you very much for being here. So we'll be able to have a little more detail for everyone and then as we go forward, if we have a case that has been before the Body before, we'll be able to pull that for you and have that background from the minutes in your packets as we consider them. All right. So we have a number of minutes to take and I think I'll start with March 13th. Any other changes to that one?"

Mr. Evans - "Actually, Madam Chair, I just move we adopt the minutes of May -- March 13th, March 22nd, May 23rd and June 13th."

Mr. Israel - "Second."

Chairperson Handel - "Okay. Motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is passed. Our next item is the Inspector General's Report with a number of cases. Shawn."

Ms. Shawn LaGrua - "Thank you, Madam Chair. And if you will all bear with me a little bit this afternoon, we have a number of presentations during my report today. I will try and be as brief as possible without not giving you the information that you need. Really, the first case that's on the Agenda is the White County complaint. This complaint came in in June of last year. It was from a Theresa Stancil (phonetic), alleging that the Sky Mountain Estates Homeowners -- I'm getting -- are you all okay, I'm getting a --."

Chairperson Handel - "Feedback?"

Ms. LaGrua - "I'm getting some feedback."

Chairperson Handel - "Uh-huh (affirmative). I think it's fine."

Ms. LaGrua - "Okay. Sky Mountain Estate Homeowners Association that was acting as an independent committee to make expenditures opposing the election of an individual in that circuit, there was a cited in Ethics and Government Act. We have spoken to Rick Thompson with the Ethics Department of the State of Georgia. They have an open complaint. In this regard, this appears to be more appropriately addressed by the Ethics Commission and I would recommend closure of this case at this time."

Chairperson Handel - "Okay. And have we referred things over to Mr. Thompson? Have --."

Ms. LaGrua - "They already had it open and we've spoken to him...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...and we've notified the complainant of the status of that case and that it is open in the Ethics Commission."

Chairperson Handel - "Okay. Any questions?"

Mr. Evans - "Move we close."

Mr. Israel - "Second."

Chairperson Handel - "Got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. That passes unanimously. Next item."

Ms. LaGrua - "Thank you. The next item on the Agenda, Madam, is Gwinnett County. As the Board may recall, at the March 13th, 2007, SEB meeting there was a complaint before the Board involving the election in Gwinnett County alleged the Board had tampered with and/or modified the Diebold Election System. We investigated the case and in the -- at the March 13th meeting recommended that that case be closed as there were no violations found. However, the Board then directed us to request a hash be run by Ray Cobb and the people at KSU to actually check the numbers on that case. That was done, the numbers are clean, the numbers are clear. There are no irregularities and at this point we would recommend that this case be closed based on those findings."

Chairperson Handel - "Okay. Any questions?"

Mr. Evans - "Is there -- is there any reason we can't put the rehash, or the documentation generated in connection with the rehash, into the record?"

Ms. LaGrua - "May I defer to Mr. Cobb on that question?"

Mr. Evans - "Sure."

Ms. LaGrua - "I believe Mr. Cobb from KSU is here, if I could, Mr. Evans."

Chairperson Handel - "Absolutely."

Mr. Ray Cobb - "It's -- It's just a file that prints out that says no discrepancies found --."

Chairperson Handel - "Okay."

Mr. Evans - "If you could -- if you can give us the documents that says no discrepancy found...."

Chairperson Handel - "Sure."

Mr. Evans - "...subject to that being added to the minutes just so that someone doing research...."

Chairperson Handel - "Absolutely."

Mr. Evans - "...finds it. I would move we close this file."

Chairperson Handel - "Second. I've got a motion and second. All in favor?"

(Whereupon, there was a chorus of ayes)

Unidentified Speaker - "Excuse -- I was invited to address the meeting...."

Mr. Evans - "I thought you asked for anybody else?"

Chairperson Handel - "I did."

Unidentified Speaker - "...and I would like to exercise --."

Chairperson Handel - "Two minutes. Come on up. We heard him last time. And everyone, when the case is called, if you want to speak on a case, if you'll stand up when the case is called so I'll see. That'll help me a lot and then I'll make sure I don't miss anyone."

Unidentified Speaker - "We speak from here?"

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

Unidentified Speaker - "I understand, folks, that we're dealing essentially from a closed system with a ROM operating system which is a closed BIOSed system. Now if you don't know what BIOSed means, essentially it's a chip just like the chips on a regular motherboard, which I brought in just to give you an idea of what they resemble and just like the cards that are put in there. Those, themselves, consist of ROM chips which can be flashed and changed at any time along with the instructions. Once those are cleared out, you have no record. Numbers don't mean too much, and with the papers that I gave you I honestly, with the five minutes I was given to address the Board previously -- if you notice on the board, mostly these are ROM chips. These are instruction chips. They tell this computer, just like the ones who's using in the voting machines, how to operate everything that comes in, everything that goes out. Any calculations can be modified and this was not strictly against Gwinnett County, although I will say that Gwinnett County cannot strictly separate the Elections Office from the County, in as much as every check that I wrote out to

the Elections Office was written out to the Gwinnett County Commissioners. Just to rebut some comments that were made after I was allowed to address this Board. However, even leaving paper trail that says, hey you've got all these people that voted as a number is not going to satisfy and give you a complete and accurate account of who voted for who. Myself, and a number of people in the County, have experienced certain irregularities with these voting machines with them coming up, and you go back to review and some of the names that you had put in have been changed. So you go back and change them and you take for granted that the machines are going to transmit and be accepted in a tabulating office at the county where they are received and understand with the input and output you're transmitting over open lines, so that any point in between there, they can be modified...."

Chairperson Handel - "All right. Thank you."

Unidentified Speaker - "...so it's not a closed system and it is open to fraud and...."

Chairperson Handel - "Thank you very much."

Unidentified Speaker - "...every person in this State
...."

Chairperson Handel - "Thank you."

Unidentified Speaker - "...reserves a right to know their vote is being counted as cast."

Chairperson Handel - "Thank you very much. Okay. We have a motion to approve the closure with the spreading on the minutes of the report from KSU as a part of the record, and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is approved. Real quick before we go to the next one, just to go over again, kind of, what this part of our State Elections Board Meetings are that what Ms. LaGrua is doing is really just presenting the report from the investigative team. This is, in essence, and then we will determine, as a Body, based on that evidence if there's any probable cause to move forward to an official hearing. So we're not really taking formal evidence from the parties on this at this hearing today -- at this meeting today. Should the SEB determine probable cause in moving forward there will, of course, be an opportunity for every party to go through the formal process of presenting evidence. So I just want everyone to keep that in mind as we go through and again, individuals who have public comment about a case two minutes, and if it's an individual who is the subject of the

complaint, then we'll allow probably up to fifteen minutes. Would that be amenable to my colleagues?"

(All nodding up and down)

Chairperson Handel - "Great. And if we can let the record show that Mr. McIver is here as well. Welcome. All right. Ms. LaGrua, the next one."

Ms. LaGrua - "Thank you, Madam Chair."

Mr. Evans - "Too bad the record can't reflect his tie."

Chairperson Handel - "Oh, I could make a little --."

Mr. McIver - "Mr. Evans, that tie is a gift from wife. You and I are going to be in trouble."

Chairperson Handel - "It's very colorful. Go ahead, Shawn."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is the Bartow County case. This is not the same Bartow County case that the Board heard on the March 13th SEB Meeting, this is a subsequent investigation that was conducted, just in case - for clarification purposes. This involved the November, 2006, General Election. We received a complaint, and I believe it came in through the front office from a Tammy Valmice (phonetic), that was concerned that the precincts had failed to post the DRE results on the doors of the polling places, and also was concerned that the results for the question, in the special election at that time, obtained by the complainant did not match the official statement of the votes cast. Investigator McBrayer went out to investigate this. He interviewed the different parties involved and, in fact, was able to verify through the Board of Elections and Registration that the DREs were, in fact, posted and, in fact, Bartow County does a very good job of including in their lesson plan the requirements of posting the DRE results. Further, an examination of the records and interviews with the poll workers, as well as looking at the record shows that the returns were completed in accordance with the applicable law. And based on that we would recommend closure of this case at this time."

Chairperson Handel - "Okay. Anyone on this case? Okay."

Mr. Evans - "So -- so what was the explanation for the difference between what the complainant said they received and what was, in fact, posted?"

Ms. LaGrua - "I think the complainant was there earlier in the evening and alleged that the results that she had tabulated were different from the official results that were finally posted. The official results were verified by Investigator McBrayer, and I'd be happy to let Mr. McBrayer address some of that if you'd like to have him answer that

in more detail."

Mr. Evans - "Steve, do you remember what -- do you remember what the answer was?"

Mr. Steve McBrayer - "Tammy Valmice, the complainant in this case, reviewed the DRE results tapes while she was at the polling place. They don't accumulate at that polling place where she was at, so she reviewed each of the DRE tapes and she may have miscalculated the -- the question that was on the ballot. And -- but I did review all of the DRE results tapes and they are accurate."

Chairperson Handel - "Okay. All right. Are there any other questions? All right. Do we have a motion?"

Mr. Evans - "I so move."

Mr. Israel - "Second."

Chairperson Handel - "I have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none that case is closed. Next item."

Ms. LaGrua - "Members of the Board, you may recall that on the March 13th SEB Meeting, there -- the case involving the City of Eatonton, Putnam County, was actually on the calendar at that point, and just to refresh for the record, the complainant was Mary Mason, former Putnam County Election Supervisor. The allegations at that time were that Alma Stokes had delivered -- Alma Stokes was a Councilwoman, had delivered absentee ballot applications to City Hall. She had admitted that she distributed them and returned them to City Hall. It was alleged, also, that she delivered an absentee ballot to the home of Wanda Harris. There was -- an issue had come up during the election as to where Ms. Harris should vote. When it was determined, apparently in violation, Ms. Abrams delivered a ballot to her home. It was also alleged that Gary Culp and his step-daughter, Ashae Mahome (phonetic) were involved in the absentee ballot application process and absentee ballot envelope process in violation of the law. I requested at the SEB Meeting in March that you refer that part of the investigation back to my office for further investigation because I thought additional questions needed to be asked. My recollection is that -- that the Stokes and Abrams case may have been referred on to the AG's office at that time. If it was not, that'll be part of my recommendation today. Mr. Culp -- I actually traveled, personally, with Investigator Dyer to Eatonton to follow up on this investigation. Mr. Culp was re-interviewed by myself and Investigator Dyer and during

that interview, among other things, Mr. Culp emphatically denied that he ever touched any absentee ballot or ballot envelope, even just to pick them up and mail them. He also said when assisting on applications, he admitted he knew he was to sign as assisting, but failed to do so on numerous occasions when he did that. After speaking to Mr. Culp, we traveled to the Office of the Board of Registrations and Elections to review the absentee ballot applications, the envelopes they came in, as well as the absentee ballot envelopes themselves. In doing so, one of the things that was discovered that a number, probably upwards of 50-plus envelopes that the application -- that the absentee ballot applications were mailed in appeared to be written by the same individual. There also appeared to be some similar writing on some of the absentee ballot envelopes that were not consistent with the signatures on the applications versus the ballots. We took a sampling of those and went out and spoke to a number of electors, all indicating that Gary Culp had been to see them, that assisted in the application process and, in fact, had been back and picked up the ballots. I know Mr. Parham said that Culp -- Mr. Culp had told him who to vote for and took his ballot with him when he left. David and Annie Ruth Humphries indicated that Mr. Culp brought them the application, had them sign it, took the envelope, had the envelope -- one of the envelopes that we identified as having similar writing, had that with him, came back when the absentee ballot was arrived, helped them fill out the ballot, took their ballots after telling them who to vote for. And another individual also identified the envelope. Approximately, as I said, 74 envelopes contained absentee ballot applications appearing to have been filled out by the same individual and had the same writing as the envelopes containing the applications of the Humphries and Mr. Farley. My recommendation in this case is I would recommend not only that these individuals be referred to the AG's office for further procedures as appropriate, but I -- and I've already briefly spoken to the District Attorney's assistant in that circuit. I believe it should be referred to the DA for consideration of felony false statement charges under O.C.G.A. 16-10-20."

Chairman Eaves - "One question I have on the absentee ballot applications that appeared to have the same handwriting --."

Ms. LaGrua - "Correct."

Chairperson Handel - "How many?"

Ms. LaGrua - "Approximately 74...."

Chairperson Handel - "Wow."

Ms. LaGrua - "...that I counted and have the names for. And just so, if I could briefly follow up on that, Madam Chair, that, in and of itself, is not necessarily a violation but

what we are trying to do from my division of your office at this time is, that's an indication to us of who we need to talk to when there's so many that are done by the same person. And that's where we have started to focus some of our investigations."

Chairperson Handel - "Right."

Mr. McIver - "Madam Chair, could we determine if anybody's here to be heard in this case?"

Chairperson Handel - "Is there anyone here? Yes, I usually -- I will ask before -- when Shawn is done. Anyone else...."

Mr. McIver - "Well, this is --."

Chairperson Handel - "...that wants to speak on this? Come on up."

Mr. McIver - "Well, the reason I asked is this is my home County and there could be an issue about recusal."

Chairperson Handel - "Sure."

Mr. McIver - "And I wanted to just put that to whomever might be here on behalf of either side. I'm willing to recuse myself if that's the request. I'm -- I'm in the county, I am not in the city. The City of Eatonton, as may know, is the county seat for Putnam County. I don't know any of these individuals and I'm not a resident of the City, although, the County. But if anybody thinks it's appropriate, I'll be glad to recuse myself."

Chairperson Handel - "Calandra, I don't --."

Ms. Calandra Almond - "I don't think that just living in the County would be, you know, would require you to recuse yourself unless you have some sort of personal interest and you know some of the parties or have some sort of other personal interest. I don't think just living there would be a basis."

Mr. McIver - "Well, I agree with that. I mean, it's just -- I want to -- if anybody had an objection...."

Chairperson Handel - "Sure."

Mr. McIver - "...to my participating in the case I'd be glad to stand out."

Chairperson Handel - "Okay. All right. Are you a subject of the complaint or do you want to speak about subject. Okay."

Ms. Sarah Abrams - "I was just here because I received the letter to come."

Chairperson Handel - "Okay. All right. Can you state your name for --."

Ms. Abrams - "My name is Sarah Abrams."

Chairperson Handel - "Okay."

Ms. Abrams - "And I serve as Elections Superintendent for the City of Eatonton."

Chairperson Handel - "Okay. Did you have anything to add?"

Ms. Abrams - "No."

Chairperson Handel - "No. Okay."

Mr. McIver - "Thank you."

Chairperson Handel - "Thank you for being here. I appreciate it. Does anyone else? Okay. Thank you."

Mr. Evans - "Madam, I believe we have -- Madam Chair, I believe we have sufficient information to refer this to the --."

Chairperson Handel - "I just want to make sure that -- are you coming -- did you want to speak on this case, sir?"

Mr. Gary Culp - "I'm Gary Culp."

Chairperson Handel - "Okay. Mr. Culp. Mr. Culp. You need to come on up to the microphone, please, and state your name and address for the record. And since you're the subject of the complaint, we'll give a little more latitude than two minutes. Go ahead."

Mr. Culp - "My name is Gary Culp of Eatonton, Georgia. On these -- I heard what the complaints were on me, but a lot of these things that they said is not on me. I had -- I had --."

Chairperson Handel - "Mr. Culp, I'm going to stop you for one second and let Ms. LaGrua make one comment from a legal perspective for you."

Ms. LaGrua - "I -- I don't know what the motion of the Board will be, but part of my recommendation was that this potentially be referred to the District Attorney's office for criminal implications. Based on that, I think Mr. Culp should be aware that anything he says is being recorded, is being said publicly and can, and could be, and probably would be used against him in any criminal -- criminal

prosecution so I'd like to just...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...let him know that before he...."

Chairperson Handel - "Thank you."

Ms. LaGrua - "...makes any statements here this morning."

Chairperson Handel - "Okay. Are you aware? Are you --."

Mr. Culp - "Okay. So she said it's going to be --."

Chairperson Handel - "It's going to be -- I don't know, it will depend on the vote of the Board. I think just what you should know is whatever is said in that microphone...."

Mr. Culp - "Okay."

Chairperson Handel - "...is on the record and would be available to anyone who may or may not choose to pursue the case further."

Mr. Culp - "Right."

Chairperson Handel - "Okay."

Mr. Culp - "I was just here to represent myself."

Chairperson Handel - "Okay."

Mr. Culp - "Okay."

Chairperson Handel - "All right."

Mr. Culp - "So I'll just --."

Chairperson Handel - "Okay. All right. All right, colleagues, anything else?"

Mr. Evans - "Madam Chair, I believe we have sufficient information to refer this matter to an Administrative Procedure Act here and in front of an Administrative Law Judge, so I would so move."

Chairperson Handel - "I'll second. Any questions or comments?"

Mr. McIver - "Well, are we then going to address the question having to do with the recommendation of General LaGrua about referring it to the DA?"

Mr. Evans - "I think so. I was just separating so that one doesn't cloud the other."

Mr. McIver - "Okay."

Chairperson Handel - "Okay. We have a motion and a second to refer on to the Attorney General's office, and the questions on that motion. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There is none, that is approved. Is there a further motion?"

Mr. Evans - "I'd be interested in hearing my colleagues comments given that we've addressed this referral issue before a couple of times."

Chairperson Handel - "Referral to a district attorney, you mean?"

Mr. Evans - "Yes. And it's a pretty sensitive matter. Obviously, we give great deference to getting the findings of our Administrative Law Judge or fact findings so that we are pretty well grounded. On the flip side of that is that we've -- we've, on prior occasions, concluded that that is ultimately a decision that will be up to the District Attorney and at best, we're just providing information for them to take a look at. There's an -- a tension that is then created between the investigation, which is then conducted by the District Attorney and the impact it might have on our ability to gather facts and information in order to enable us to address policy. Which is, we're -- we're equally interested as this Board. I know the Chair is equally interested in making sure that we don't just address past wrongs, but we prevent future wrongs by adopting policies and procedures. So I hesitate, slightly, in terms of actually making the referral given the impact it will have on the issue. But I think the facts here are so serious. The allegations, if true, are so -- so undermine the confidence and integrity and intellectual process, that not with -- after balancing those interests, considering the interest as it would impact public policy against the interest if unaddressed, this kind of behavior threatens the electoral process and to lose voters all across the State. I -- I have to come down in favor of saying that I think I make a motion that we refer this over to the appropriate law enforcement official for their investigation in a timely way."

Chairperson Handel - "I'll second for discussion. Any questions or comments around the motion? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none and I'm

guessing Mr. Worley abstained from this one and if you'll let the record show that Mr. Worley has joined, as well. That motion is approved, and the next case is Lamar County. Who's here to speak on Lamar County, just so I can see everybody?"

(Whereupon, there was a few hands raised)

Chairman Eaves - "Okay. Sir, you -- oh, okay. One, two. Okay. Thank you. All right. Go ahead, Shawn."

Ms. LaGrua - "Thank you, Madam Chair. The Lamar County case involves the July, 2006 Primary Election. The complainant in this case was Ann Turner, the Lamar County School Board, and Richard McCreary, Candidate and Chairman of Lamar County Board of Commissioners. The allegation -- there are a number of allegations in this case and I'll try and move through them slowly and address them as I go. It's alleged that the voter list contained hundreds of errors in birth dates and registration dates. It's also alleged that some electors were not allowed to vote, that absentee ballots were unsecured, that Bobby Burdette, the Chief Registrar failed to verify signatures on absentee ballots. It is also alleged that voters from outside the County were allowed vote. It's further alleged that Bobby Burdette personally delivered bundled absentee ballot applications to the office and that Mr. Barrett (phonetic), George Barrett, Eldridge Harris (phonetic) and Frank Belcher -- I'm sorry, Fletcher(phonetic) unlawfully assisted voters in their applications and ballots. What the findings was, and Investigator McBrayer conducted this investigation. A new database was installed in Lamar County and the Board failed to update the data, find new current data. What brought this to someone's attention was that a number of the birth dates showed an inordinate number of electors to be a hundred years old or more that were still voting, and that sort of, what prompted the beginning of some of this. And they just hadn't updated the database and that has since been fixed. No electors were turned away, however, the Board did fail to manually enter a couple of electors as voting, which did not give them their vote counted. But they didn't get the statewide credit for voting in that particular election. There was no evidence at all that the absentee ballots were not secured as required by law. It -- the investigation, however, did show that the Board failed to verify applications with voter registration cards as required. They would compare the actual ballot envelope with the application, but the application had not been compared with the registration card, therefore effectively not validating the absentee ballot envelope. The Board did allow two voters who moved to vote. There was nothing to show if they had moved in a time fashion or permanently, as related to the election. Candidly, to the Board, it would appear to me that further inquiries should have been made with the elections officials realizing this wasn't a

situation where the elections officials didn't know the individuals and found out after the fact that they might have moved. These were individuals that they were at least familiar with and had some indication that there was a move involved. And because there was no paperwork indicating a change of address or a move, they didn't do anything to verify it. They allowed them to vote. There's no evidence to substantiate that Bobby Burdette acted inappropriately as implied to the ballot applications, however, both George Barrett, Eldridge Harris and Frank Fletcher, all admitted to assisting voters and filling out and mailing absentee ballot applications, then going to their homes, picking up the absentee ballot envelopes, helping them filling them out and mailing the absentee ballots. That's getting to be, as you'll see as we go through a number of these cases, a huge issue in the area of absentee ballot voting and it appears that there is some calculated effort in a number of these cases to do this in a way to obviously influence the outcome of the election. Based on all of that, I recommend that the case against the Board of Registrars, as well as Mr. Burdette, Mr. Harris and Frank Fletcher, individually, be referred to the AG's office for further proceedings."

Chairperson Handel - "All right. The individuals here to speak for this, why don't you all come on up. If you'll state your name and address, as well, for the record."

Mr. Scott Mayfield - "Hello. My name is Scott Mayfield. I'm no relation to the milkman, unfortunately. I know at least one of you all is thinking that. I'm with the firm of Smith, Welch and Brittain. Our firm is proud to represent Lamar County. With me today, from right to left in the second row is Judge Katherine Martin, a Probate Judge and Superintendent of Elections. Next to her is Mrs. Bobbie Burnette, our Chief Registrar. Then Ms. Lynette Wilson, Ms. Anne Cadle (phonetic) and Ms. Anita Reid. They are the registrars. They're all named in this investigative report and they're all here today. I heard your caveat, at the beginning about this not being an evidentiary hearing, and I'll try to go through my portion with as much brevity as she did. We only got this letter --."

Chairperson Handel - "As long as it's 15 minutes or less we're in good shape."

Mr. Mayfield - "I can do it in 15 minutes."

Chairperson Handel - "Perfect."

Mr. Mayfield - "We only got this summary of investigation Tuesday, although we got the initial letter from Director McBrayer -- McCarthy, I'm sorry, that it was coming in his letter May 25th. So we've only had really one full day to look this over. There are a few things which I think stand out and which certainly bear pointing out to the Board. With regard to allegation number one, it is true that there

are cards out there with wrong birth dates and wrong registration dates. It's my understanding that when the 1995 computer system first went online that a lot of default dates were put in. 1/1/1900 for date of birth and 11/11/1911 for date of registration. They're working to fix these. Fixing these requires manually pulling the actual registration cards in some circumstances. Getting the information, if the information is available, forwarding it to the elections division. If the information is not available it requires going forward tracking these people down getting that information. I don't think the report show that there are any adverse effects from this other than many people insulted by saying my, you don't look 100. Allegation two, which was the most serious allegation, was that people being disenfranchised and turned away from the poll, but if you read the first sentence of the report from allegation two, that is clearly not the case."

Mr. Evans - "Do you -- do you view 220d and 228a to be strict liability offenses, or do you believe that there's a (inaudible) into requirement?"

Mr. Mayfield - "Don't they -- there's one statute in here that uses the word willful and I think it's a caveat 21-2-596."

Mr. Evans - "I think, specifically, that if you put -- that if you've got it there it's 21-2-220d."

Mr. Mayfield - "220d?"

Mr. Evans - "Yes. And then 21-2-228a is the -- is the citations that are associated with allegation one."

Mr. Mayfield - "I'm no criminal lawyer, but I'm not aware of too many offenses in criminal ought to be in strict liability, and I think you have to show some level of mens rea and some level of intent."

Mr. Evans - "Unless you go through a traffic light."

Mr. Mayfield - "That's right. And there are some exceptions to that. Humans make errors."

Mr. Evans - "Right."

Mr. Mayfield - "Machines make errors."

Mr. Evans - "Well, if it's a strict liability offense, would you agree that we -- that we have evidence of a violation and that we would have to refer that over for administrative law?"

Mr. Mayfield - "I cannot dispute with you that there are people in Lamar County showing up with birth dates of 1900

and registration dates of 1911."

Mr. Evans - "Okay."

Mr. Mayfield - "Does that answer your question, Mr. Evans?"

Mr. Evans - "No, it does. Thank you. And if you need, you know, and we've -- we've taken this position before. If you need more time, if you think that you haven't had sufficient time to prepare, we can always make a motion or ask us to consider a motion for a continuance to give you time to address any of these issues you think might be helpful to us because our goal is to get to the right answer."

Mr. Mayfield - "Well, that's -- that's thoughtful and I think we're prepared to go forward."

Mr. Evans - "Okay."

Mr. Mayfield - "We've been involved in this, our firm has, from the initial charges, and the lawsuits that have been involved. Although the actual report is new to us, the investigation by my firm has been going on for some time. I feel confident up here today addressing...."

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

Mr. Mayfield - "...Madam Secretary and the Board on it. Allegation two, if we're talking strict liability, that I suppose there was an error made. My understanding is two people came to vote, both of their votes were counted, but somehow the manual recording of their name did not match the electronic credit for their vote being sent to the State. Again, particularly Mr. Evans, that happened, there is no evidence, and my people tell me both of those were counted, which I think was the ultimate concern with allegation number two were that voter's votes were not being counted. Allegation three requires no response. Allegation four has me particularly concerned. The very top of page four accuses the County of not complying with O.C.G.A. Section 21-2-38b in that signatures on absentee ballot applications were not compared to the signatures on voter registration cards. I read, and I reread that statute and I do not see that requirement in that code section. I will agree that O.C.G.A. Section 21-2-386a-1-b requires a comparison between the signature on the ballot oath envelope with a signature on the application. In this report it says that that was not done. That is incorrect, it was done. I don't know what other evidence there is, but the letter written by Mrs. Burnette to Mr. McBrayer states -- I don't know if you have a copy of the whole packet or the just the report, but she says in here this office has never verified the signatures on the absentee ballot application against the registration cards, which I contend, is not required. However, this office has always verified the signature on the absentee

ballot application against the oath of the envelope. So again, I will -- I will stipulate that that the fact contained on the top of page four, in allegation four, has signatures on the ballot application were not compared to the voter registration card, that was not done. I don't think the statute requires it. With regard to the third paragraph, I submit to you that was done. Allegation five and six --."

Mr. Evans - "You're saying that -- that Lamar County registrars, in fact, did compare the signatures on the absentee ballot oath envelopes with what?"

Mr. Mayfield - "Absentee ballot application. Not the voter registration card."

Mr. Evans - "In your -- not to make your argument for you, but I assume, then, that you're saying that there could not be a 596 violation of neglecting or refusing to perform official duty if, in fact, you have concluded that the predicate duty either didn't exist or cause 381b doesn't require that, or, in fact, the duty was performed under 386a-1."

Mr. Mayfield - "Yes, sir. The first paragraph I submit 381b does not say what this allegation says it says. And the third paragraph on that page says that the County did not do it, I say we did. What am I basing that on? Well, my interview with the people with me, and the April 5th, 2007 response letter sent by Ms. Burnette to Mr. Steve McBrayer."

Mr. Evans - "And so, if we -- if we end up with a fact dispute --."

Mr. Mayfield - "If you end up with a fact dispute...."

Mr. Evans - "Then we have to --."

Mr. Mayfield - "...then that's the only resolution is to submit it to a fact finder, which I know you all are not sitting as a fact finder today."

Mr. Evans - "That's correct."

Mr. Mayfield - "But I think the interpretation of that statute -- there's no fact question there, and I assume you all aren't sitting in a judge capacity, but I think if you're sitting here to define probable cause, you'd have to have a working knowledge of the statute we're accused of violating so I think you all could clearly interpret the 381b, the 386 ultimate fact question. You know, I'll agree to that."

Mr. Evans - "All right."

Mr. Mayfield - "Allegation five requires no response."

Allegation six requires no response. Allegation seven, I do not represent George Barrett, Eldridge Harris, or Frank Fletcher. They are not members of the Board of Registrars. Anything they did or they did not do was unauthorized by the County, was not ratified for the County. I'm not here one way or another to comment on allegation seven. I hope, if you find the remaining six allegations do not have merit to submit to further investigation, you would find a way to sever allegation seven against each individually and forego the County."

Chairperson Handel - "All right."

Mr. Mayfield - "Let me sum up on a comment Mr. Evans had. He said the goal of this is to not merely dwell on the past, but to move forward in the future. And the County has realized that with growing technology and with the growing population, this is no longer a part-time job. And it has been a part-time job for many, many years and our probate judge, I believe, has been shouting for help since 2002 and the County, the City of Barnesville, the City of Milner finally realized that help was needed and I have here the legislation signed by Secretary Handel approving what is rather ominously titled House Bill 666 creating the Lamar County, City of Milner, City of Barnesville Board of Elections. It's by signed by the Governor, approved by the General Assembly, and will go into effect January of next year. The parties involved are already investigating their appointees to that Board. They're already looking to hire a full-time superintendent, so very shortly all of the duties of these ladies here will be transferred to this full-time Board of Elections which I think all of us will agree is a good decision. I would hate to see this new Board or this new superintendent take over with this specter of investigation and administrative hearings hanging over their head. If you've ever done any local government work in small counties, sometimes it's hard enough to fill authorities and committees as it is, much less with this Sword of Damocles hanging over their head. I'm here to answer any questions. I know that was probably more evidence than you wanted to hear."

Chairperson Handel - "All right."

Mr. McIver - "Madam Chair."

Chairperson Handel - "Yes, Mr. McIver."

Mr. McIver - "Mr. Mayfield."

Mr. Mayfield - "Yes, sir."

Mr. McIver - "Scotty Mayfield is a client of mine and he wishes he was thin as you are."

(Whereupon, there was laughter in the audience)

Mr. McIver - "Not much doubt about mistaken who would be who."

Mr. Mayfield - "I think he went to Mercer, if I'm not --."

Mr. McIver - "Yes, he did."

Mr. Mayfield - "And I went to Mercer and I sure get a lot of phone calls from people wanting donations, but I just tell them that's not me. I'd love to donate, but --."

Mr. McIver - "He's in Athens, Tennessee, which is a right pretty part of the world as well. I want to make sure, then I'll ask you my question, that you appreciate our concern. Many of us on the Board believe that absentee voting may soon account for 30 percent of all votes cast. So it's a great area of concern to us."

Mr. Mayfield - "Yes, sir."

Mr. McIver - "Since it's a burgeoning area of voting. While at the same time, I think General LaGrua would agree, it's probably the most problems we have. They're associated with absentee ballots as opposed to those cast across the DREs and so on. So you'll find our interest here to be particularly keen, so with that my question. What would your recommendation be if you were seated on the Board here? What is it that you would recommend we do?"

Mr. Mayfield - "I'd find allegations two and seven the most serious. Allegation two, that some electors were turned away from the poll. I think we all agree that an election should be run constitutionally, run legally, and run with as little problem as possible. Me, personally, I separate a technical problem with registration applications from just a citizen being denied his constitutional right to vote. I can think of nothing more trampling to the constitution that. That was not found. It says that allegation two, specifically, no one was disenfranchised. I don't see anywhere in here where any of these results resulted in someone being denied the right to vote. I find allegation seven to be serious. I do not represent those people. If I had a vote, I would refer allegation seven for future investigation and close the rest of the file."

Mr. McIver - "All right."

Mr. Mayfield - "I see absentee ballot problems here, I don't see any problems arising to fraud. I think the defects in the birth date, the address, again, apparently did not lead or deny the right to vote. I don't see the defects in the signatures denying the right to vote. Allegation seven, whether anyone influenced the vote one way or another, I think it's serious and bears further investigation. I would

sever that from the County, though, because they're not employees or their actions weren't ratified."

Mr. McIver - "Thank you. Thank you, Madam Chair."

Chairperson Handel - "Thank you. If I might, I actually, for me in my role, see this a little bit differently than you. My job is about more than just whether or not fraud was committed and whether or not a person was intentionally or unintentionally not allowed to vote. I also have a responsibility to make sure that the State Elections Code is followed and that's equally important, I think, in terms of how we decide here. Now certainly, for me and I don't think this body, none of us want the new Board of Registrations and Elections going forward to have anything hanging over their heads. With that said, there are some things here that, frankly, I would like to see. I'm not saying that this has to go to an administrative law judge. In most cases some sort of an agreement is worked out and that could be worked out and brought back to us. Something that would put a specific timeline and a deadline on when this registration list needs to be completely gone through and updated and, I mean, that has got to be done. I got the impression from you, from your remarks, that it was in the process of being done and it needs to be done by a date certain prior to coming into next elections. And on these other issues it's not really a case of -- of willfulness. If the law isn't followed, the law isn't followed and we have rules and procedures in place and as Mr. McIver pointed out, absentee ballot problems are rampant and, you know, frankly the counties we -- I anyway, in my role, am going to be very firm on counties having their feet held to the fire in terms of following the absentee ballot rules because of what Mr. McIver said of the extremely significant, extreme significant increase in the percentage of voters voting absentee ballot. So again, I'm not in the place where I believe that a voter didn't get to vote. I don't know if I have enough evidence for that, but I do think for this one member that there's cause to send this over to the AG's office to work something out to them be brought to us is where my mind set would be."

Mr. Mayfield - "I agree with the law being followed, obviously -- I'm sorry."

Chairperson Handel - "That's okay. Any other questions or comments? Mr. -- David, anything?"

Mr. Worley - "No. I agree with the Secretary. I think we should send it over --."

Chairperson Handel - "Mr. Evans."

Mr. Evans - "Just checking one thing to make sure that I'm right on this. The -- the statutory provisions that we are

looking at are statutory provisions that impose duties on various individuals including the Board of Registrars. What we don't have in our proposal here is the provision that -- that designates what the remedy is for having violated -- in other words, there's a provision -- there's a provision that says, for example, let me just use this for illustration, 220d, 228b -- 228b is a good example, says this what the Board of Registrars shall do. Now there is a related provision that says and here's what happens if you don't perform your duties. We don't have that. We probably need that in order for us to -- to -- to effectively address the remedy on this. But it would -- it would appear to me that -- that we have enough fact issues that we're going to have to have, you know, a fact finder help us. I agree with you, you know, and I've looked at probably not as many times as you have. I don't see 21-2-381b and maybe I'm just missing the reading of it. But I -- that should be in there. That may be -- that's something that someone should undertake as part of our legislative package that if there's a hole in the law --."

Mr. Mayfield - "It's -- it's coming out in the SB 194, which has recently been adopted."

Mr. Evans - "Right."

Mr. Mayfield - "It's going to be in the new one."

Mr. Evans - "Right. And I think we -- I think we addressed it, but the fact that we've included it in the new one and didn't have -- suggest that we didn't have it in the old one. So I would -- I would -- my inclination would be to refer allegation one, allegation two, and allegation four with the exception of the 381b and the 596, and then allegation seven over. I don't know if we've gotten to the point where --."

Chairperson Handel - "Sure. You can do a motion. Is that your motion?"

Mr. Evans - "Okay. Yes. I would -- let me just say, my opinion has consistently been on the Board that these are strict liability offenses and that the willfulness and neglect of the official not performing their duties goes to the remedy that we should adopt. If we have an official who has no bad motive or intent, this was simply either not knowing -- not knowing the rule or a failure or negligent omission, we take that into account and say here's how we train you in the future and make sure you know the rules. If we have somebody who is engaged in willful conduct then we have to address that accordingly. But because these are strict liability offenses, which is there is literally zero tolerance for compliance with the integrity rules associated with ballots. It compels, at least compels to file -- to make the motion to allegation --."

Chairperson Handel - "Will -- will you hold the motion because I just remembered we had one more speaker."

Mr. Evans - "Absolutely."

Chairperson Handel - "But finish up your --."

Mr. Evans - "No, no, no. It just -- I'll hold the motion, but my -- I already said what the motion will be."

Chairperson Handel - "Right. Okay. Thank you. Next speaker, please."

Mr. Richard McCreary - "Thank you, Ms. Secretary."

Chairperson Handel - "You're welcome."

Mr. McCreary - "I'm Richard McCreary. I live at 170 Bush Road, Barnesville, Georgia. I was the candidate that was disenfranchised by the electric system in Lamar County, and this is similar to the Eatonton case where there have been many issues with absentee ballots. And I'm not an attorney, as you see the County has brought their attorney and I've spent countless of thousands of dollars on legal representation to the -- a point where my case is never -- the facts of my case has never been able to be heard. It was dismissed by technicalities. The County spent three times more money on me making sure the facts in this case have not been heard and it's rather surprising to me that they brought their own County Attorney up here this time to try to smooth things over and make things look nice and pretty in Lamar County, which it's not. This is been going on for years in this County, and my complaint -- I commend Ms. -- the Board for allowing me to speak, and Mr. McBrayer for all the obstacles that he had to overcome in Lamar County to try to get resolution to this issue in Lamar County. And I commend him for his hard work and I commend you for performing this investigation that he handled. In my complaint there are several things and I preface my complaint with the fact that I was a candidate and the election superintendent is a -- related to the Chief Registrar in Lamar County and also to the candidate who was my opponent. The superintendent of elections is the sister of the candidate and the sister-in-law of the Chief Registrar. So, you know, blood is rather thick in our County and it's been that way for years. And I contend, in my complaint to Mr. McBrayer, the proof is locked up in the Superior Court in the absentee ballots. Whether it be knowingly, or not, I have had people that are willing to testify in court or here or at any hearing that you wish to say, and I don't know how much evidence I should allow out at this point and time til we move forward, but they're willing to testify to the fact that certain individuals came there requesting money for postage to take care of the absentee ballots in Lamar County. My election, I only lost

by eight votes, so you can see how everything in the County that has occurred over several years, there have been many, many close elections in Lamar County and it always comes to whether you win or lose through the absentee ballot system in our community. And that's rather disturbing to me, and that's disenfranchised a lot of people in our County. If you will notice, probably throughout the State Lamar County has one of the lowest voter turnouts because knowing how it's been, the good ole boys and the good ole ways in the community being a small town. You don't -- you know, you're not going to get anywhere because they've got their way of doing it and I'm not going waste my time voting. And it's unfortunate that that has occurred in some of the small communities around the State, especially in our County because that, by just -- by -- I also have proof that two people voted outside Lamar County. I took proof, undeniable proof, to the registrar and her statement to me was well, that's okay. They've lived here a long time in this community and they care about Lamar County. And -- plus my husband said it was okay. Her husband was the candidate so -- does that say enough for you? That's all I really have."

Mr. Evans - "Thank you."

Mr. McCreary - "Does anybody have any questions for me? I have tons of evidence locked up at home and Steve -- I sent Steve, Mr. McBrayer, my complaint with some of the evidence attached. Should I share that with them, Steve? Would you all like a copy of my initial complaint at this point and time, or --."

Chairperson Handel - "Yes. We'll go ahead and take and then when we refer the whole package over, it'll -- everything will go. All right."

Mr. Evans - "So Madam Secretary, I move that we refer this over for fact finding on potential violations of 220d as to the -- as to the Lamar County Board of Registrars 220d, 222a, 386a-1-b, 596. And then as to what Mr. Barrett, Mr. Harris, Mr. Fletcher that we refer it over for a fact finding determination, 381a-1-b, 381a, 385b, 409a, 385 and 574."

Chairperson Handel - "Okay. One Second. Ms. LaGrua, does that include the -- the specific code reference for the signature verification requirements. I want to make sure we have the right --."

Ms. LaGrua - "Madam, I think you have to read 381b in connection with --."

Chairperson Handel - "Okay. You said 381."

Mr. Evans - "No. I left -- I left it out because I don't -- I don't see it, but I think there's enough other information here."

Chairperson Handel - "Okay."

Mr. Evans - "Obviously, if in the context of the -- the fact finding determination there are other violations --."

Chairperson Handel - "They find something -- perfect. Perfect."

Mr. Evans - "And then that issue will be addressed."

Chairperson Handel - "Okay."

Mr. Evans - "My hope is -- my hope is, candidly, that working with the Attorney General's office and working with our folks, that the facts will not largely remain in dispute as to the Board of Registrars. They'll be able to agree to the procedures and other civil remedies that will address the situation to our satisfaction. And that we'll be able to move forward in a pretty prompt way. Typically that's done by Consent Order."

Chairperson Handel - "Yes."

Mr. Mayfield - "Does your motion include 596? You told me when I was --."

Mr. Evans - "No. I said that I understood your argument to be that if we concluded that there was no 381b or no 386, then we didn't have a predicate for 596. However, since there's a fact dispute as to the 386a-1 violation and I'm referring it, then I have to also refer 596. Now that just means that that's something that you'll have to take up. If it turns out the evidence is as you indicate, which is that, in fact, a comparison occurred and there is no 386a-1 violation, then you would be right. There would be no 596 and these minutes should reflect that. That the predicate for a 596 is a 386 violation."

Mr. Mayfield - "I thought that the use of the term willfully neglects in 596 would go against your strict liability argument which is what I thought 596 --."

Mr. Evans - "I agree if -- if it's -- if your responsibility is limited solely to strict liability, you're right, there would be no 596. However, there's a fact dispute. We have facts from one side saying the comparison did not occur and we, in fact, believe more happened. We have you telling us facts, which I recognize that you've done a great job of representing your client in getting all this information together saying, no, in fact, the comparison did occur. We need a fact finder to tell us which one."

Mr. Mayfield - "Okay."

Mr. Evans - "But I will -- but I will stand by the position that if it comes back to us and it turns out you're right and there is no 386 violation, then I agree with you there cannot be a 596 violation."

Mr. Mayfield - "Okay."

Chairperson Handel - "Okay."

Mr. Mayfield - "Thank you."

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

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that one is approved, and Calandra, you have what you need to go forward to work with them to hopefully get in agreement."

Ms. Almond - (Nodding up and down)

Chairperson Handel - "Super. All right."

Mr. Evans - "I did want to say...."

Chairperson Handel - "Yes"

Mr. Evans - "...if I could. Mr. Mayfield, I do want to say the Board appreciates your hard work...."

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

Mr. Evans - "...in putting this together. It really does make a difference whenever we can narrow the issues down and you were very prepared and did a great job and I appreciate that. It was -- it enabled us to at least address one of the issues, and I think we'll be able to address more."

Mr. Mayfield - "You and I have never met, but I see you every year in the Recent Development Seminar. So if you're doing it again, I'm sure I'll see you sometime in November or December when it comes up."

Mr. Evans - "All right. Well thank you for your good work."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is the Fannin County case. This is a December, 2006 General Election run-off case. Fannin County, Blue Ridge, Georgia. The complainant in this case was the Fannin Democratic -- Fannin County Democratic Party, respondents being the Fanning County Board of Registrations Election and Elections and their members. Some of them individually, as well as in their official capacity. The initial allegation

that came in, members, is that it was alleged that an 18-year old un-deputized clerk was delivering absentee ballots to the post office. And it was further alleged that numerous absentee ballots were not delivered to the voters. As we began our investigation, what we discovered was there was an 18-year old that was delivering ballots to the post office, but she was qualified to serve and she was deputized. So there was no basis for that allegation. Secondly, the investigation shows that the absentee ballots actually were mailed and, in fact, there was an 80 percent return rate from the absentee ballots in fairly large numbers, which would indicate that the ballots did go out as they should have. Unfortunately, and this may be new to the Board, at least from what I've seen in the brief time dealing with investigations, in the past it has appeared that when we get an allegation, we go out, we investigate the allegation and that's the end of our investigation. Regardless of what we see when we're out there, we come back and we don't go further. I hope it's a good thing that as we're moving forward, that's not going to be the case coming from this division. When we were out investigating these initial allegations, what we recognized were, again, there were large numbers of absentee ballot applications bearing the same or similar handwriting on them. What we then did was take the absentee ballot applications and look at the absentee ballot envelopes to see if we found the same issue. And again, we found the same issue on the absentee ballot envelopes. What we found was that the portions of the absentee ballot envelopes filled out that were not the actual signature of the elector, but the information on the back, the address and the name of the elector seemed to be different handwriting than the signature. And much of the handwriting, not the signature on the absentee ballot envelopes, was similar to the handwriting on the absentee ballot applications that again, were not similar to the signatures on the absentee ballot applications. And what we found were, that this writing appeared to be or consistent with the writing of Lena Early, a seasoned election official. What we did then was take the names on the absentee ballot applications and envelopes that seemed to have some, I don't know if discrepancy is the word, but there were too many with all the same writing on them. And we went and talked to those electors. And what we found was that Lena Early had taken out the absentee ballot applications to voters, helped them fill them out, had them sign them, did not sign as assisting, mailed them and then went back to these electors or voter's locations and assisted them with actually filling out their ballots on numerous occasions. And if not filling out their ballots, helping them with the envelopes and taking those absentee ballot envelopes and mailing them. This happened in fairly large numbers. As I recall, approximately between 70 and 90 ballots were involved. And we, in fact, interviewed Ms. Early and she admitted to this procedure. She admitted that she had done it and, in fact, her memory was remarkably

clear. She remembered the specifics of many of the voters and where she had gone and whose house and where they had sat and who was with them. And many, while a number of voters were disabled or illiterate, large numbers were not disabled or illiterate and she did not sign as assisting as required by the statute. Further, as we investigated the envelopes and we were in the registrar's office, it was discovered that proper training was not provided to the poll workers, despite an acknowledgment by Ms. DuVal that she knew the requirement, but had just not followed it. And it was further admitted that they did not compare signatures on the absentee ballot applications with the registration cards and, in fact, they had no intention of doing so in the future."

Chairperson Handel - "Can I just -- so, actually said not going to do it?"

Ms. LaGrua - "Yes."

Chairperson Handel - "Okay. I'm going to stop you right there unless there's another really big point in there."

Ms. LaGrua - "That's it."

Chairperson Handel - "All right."

Ms. LaGrua - "Just that I recommend, obviously, that this case be referred to the Attorney General's office for further procedures."

Chairperson Handel - "Okay."

Ms. LaGrua - "And proceedings."

Chairperson Handel - "Okay. Anyone here to speak on Fannin County, come on forward. Are you a complainant or --."

Mr. Willard G. Thomas - "No. I'm Willard G. Thomas, Chairman of Democratic Party of Fannin County."

Chairperson Handel - "Okay."

Mr. Thomas - "In Fannin County we did exactly what Governor Sonny Perdue did. We mailed out absentee ballot applications. He did it and they was completely filled out. The only thing the person had to do was sign that absentee ballot application and send it back in. However, we was also doing some telephone calling and we found out from many people that we called, that they had not received an absentee ballot, even though they had mailed a request. Then we found out that 300 of them had been hand carried by the 18-year old who -- that issue has never been addressed. We don't think she was legally hired, therefore she couldn't be legally registrar. I have two people here who are appointed to the Board from Fannin County and there was

never a meeting held to hire this girl or to certify her as a registrar. We took the 300 applications and started looking at them and doing the telephone calling and I was one of them. And I finally received mine about two days before the election and I hand carried it to the election office along with my wife's. My wife is a diabetic. She's blind, legally blind and when I took them up there they said they could take hers, but the couldn't take mine. I had to hand deliver mine to the post office, have it stamped and mailed back to the supervisor of elections. I had to go from the supervisor of elections office, to the post office. In Blue Ridge, if you drop it in the regular mail it goes to Gainesville, then to Atlanta. It is a long process and I heard somebody say they want to correct future problems. Well, in Fannin County our system was to take the absentee ballots to the post office, have it stamped -- I mean, the Board of Registration would have it stamped, therefore it would be mailed back to the Board of Elections. In this case with 300 of them, that was not done. Those went out and when we started calling I found quite a few people, yes, they did get them back. But we started calling and the people filled out an absentee ballot and did get it back in time to vote. Not all of them. Our two candidates, if all 300 absentee ballots would have come back in and really I feel that if all democratic absentee ballots, if those 300 would have come back in, our one candidate lost by about 40 votes. The other candidate got 46 percent of the votes. So it could have made a big difference. The gentlemen said they wanted to identify past wrongs and correct them for the future. Well if they do that they're going to have to have some method to where those are mailed and if they drop them in the regular mail and they go through three or four post offices to get back two weeks later, the person after the election finds out -- and we didn't put the no reason absentee ballot in there, but I heard one gentlemen say he thinks about 30 percent would be -- end up be voting and I think as a result of that no reason absentee, you're going to see more and more people vote absentee. In my, as Democratic Party, I would like everybody in Fannin County who's a democrat to vote no reason absentee. I will state that for the record. No reason absentee. It makes sense, I don't have to haul them to the poll, I don't have to stand in line, and I can verify it. Think about that. I can verify the voter. I can't do it on the machines because on the day of election we did have some people turned away. They didn't have a voter ID. They was turned away from the polls in Fannin County. They were Democrats. They were turned away from the polls in Fannin County and I still don't understand why they didn't take my absentee ballot at the supervisor Board of Elections, but took my wife's and I had to go the post office then have the lady handstamp it, drop it in there and mail it back. I'm in the supervisor -- I mean, the Board of Elections. This is my case."

Chairperson Handel - "Sir, we set a rule at the beginning.

You have up to 15 minutes and there's two minutes left, so --."

Mr. Thomas - "Okay. Well, that's very good."

Chairperson Handel - "Okay."

Mr. Thomas - "Because we did have some things occur in Fannin County. We always have. I can tell you that my brother is well aware of what happened in Fannin County cause he was a vote buyer for the Republican Party. He served four or five years in jail. There's still nine sealed, I mean, nine sealed indictments there that's never been opened. They're federal indictments, they should be. I think he would be willing to testify today to some of the things that went on. But it is serious. The absentee ballots are serious. They need some attention and I appreciate the Board's concern for this, but in Fannin County we're going to do exactly what the Governor did. We're going to mail them out to no reason absentees and ask people to send them back."

Chairperson Handel - "All right. Thank you. Is there anyone else to speak? Come on up."

Ms. Lynn Daus - "Madam Chair, my name is Lynn Daus and I'm the County Attorney for Fannin County. And I with me four members of the Fannin County Board of Elections. The fifth member could not be here today. We have Mr. Morris Queen (phonetic) and Ms. Lena Early her, sitting on the front row. And then we have Ms. Evelyn Waters Tanner who is our floor chairman, Mrs. Janna DuVal who is a Board member. And we have Ms. Mary Ann Conner who is a Board employee. First of all, as to the summary that was presented to us, we didn't get until Tuesday afternoon either. We didn't get it until we made repeated phone calls, so again --."

Mr. Evans - "Would you like a continuance?"

Ms. Daus - "No. No. I'm just stating the procedure for the record. And the -- I am only addressing the recommendations for the issues that contain the words The Fannin County Board of Registrations and Elections because under the heading, Potential Violations, there are a series of violations that appear to address Ms. Lena Early individually. Ms. Early is here, both in her capacity as a Board member, but Ms. Lena Early has separate council, Mr. Herman Clark, who is here and would be speaking on her behalf, individually, and I want to make sure that none of my words are misconstrued. As to the statements, there seems to be five, and the first one addresses the fact that says that the Fannin County Board of Registration and Elections failed to provide adequate training to all poll workers before the first election in the 2006 election cycle. It is the position of the Board of Elections that

there were, in fact, 13 members that were not trained during that election cycle. Two of which had served for over four decades. They are twins, their names are Mary and Martha, and their jobs are to hand out the little stickers at the end. And they have done the same thing for about four decades and they did not come in for individual training. The other 11 were fill-in people that had to be called in when we had --."

Mr. Evans - "I'm sorry. Give me those numbers again."

Ms. Daus - "There was 13 total."

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

Ms. Daus - "Two were the elderly ladies that have worked for over four decades."

Mr. Evans - "Okay."

Ms. Daus - "The other -- the others were individuals -- the other 11 were individuals that came into fill-in because we didn't have people show up."

Mr. Evans - "All right."

Ms. Daus - "The Board of Elections --."

Mr. Evans - "But you -- you understand our predicament...."

Ms. Daus - "Yes."

Mr. Evans - "...in terms of -- which is someone trained on lever machines four decades. So length of service is always an important consideration for us, however, the reason we have all gotten so -- and I think Mr. McIver has been leading the charge in this attending that (inaudible) Conference and the GEOA Conference to participate to make sure that training on the latest issues is just key for us."

Ms. Daus - "And there was no one that worked on any of the machines, that even the people that came in and worked last minute did things like check off IDs."

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

Ms. Daus - "Or check, you know, the voter -- fill out the little voter slips."

Mr. Evans - "Right."

Ms. Daus - "And --."

Mr. Evans - "So we had 11 fill-ins and they -- and they did what?"

Ms. Daus - "Like, where you would come in and I would say my name is Sherry Lynn Dillard Daus and my date of birth is 4/2/63 and they would mark you off as having, you know...."

Mr. Evans - "Okay."

Ms. Daus - "...having been there."

Mr. Evans - "Okay. Have they been trained?"

Ms. Daus - "Some of them were people that have served in the past. I would just have to defer to my Board as to whether or not --."

Mr. Evans - "I just wondered if they were trained on Photo ID and on the requirements of...."

Ms. Daus - "Yes. Yes."

Mr. Evans - "...exactly what the latest is --."

Ms. Daus - "Yes. And there was a Poll -- there was a Manager in each and every poll that had had all the required training."

Mr. Evans - "Okay. So --."

Ms. Daus - "And --."

Mr. Evans - "And we have -- I'm sorry."

Ms. Daus - "Go ahead."

Mr. Evans - "Do we have an allegation on Poll Managers?"

Ms. Daus - "No. No, I was just addressing your -- how the oversight would -- would have been handled and we have instituted, after our discussion with Mrs. LaGrua and the investigator, a training manual that we will be using going forward."

Mr. Evans - "Would you agree -- would you be agreeable to putting that training manual into a Consent Order?"

Ms. Daus - "Yes, sir."

Mr. Evans - "Okay. Great."

Ms. Daus - "How we're going to deal with the -- with the last minute issues of people that just simply don't show up and trying to find somebody at six o'clock in the morning will be an ongoing problem for all of us. The second allegation is that the Board of Registrations and Election violated by permitting untrained poll workers to serve in

the 2006 election cycle, and I believe there's an A and a B to the Code Section, but the answer is the same. The next allegation is the -- the gentlemen from Lamar County left, but I liked it. That there is no requirement to match up the eligibility as to an absentee applicant by validating the application signature on the absentee ballot application. As to the -- by failing to -- moving on the fourth one, the Fannin County Board of Registrations and Elections may have violated O.C.G.A. 21-2-386a-1-b by failing to validate an absentee ballot by comparing the signature on the absentee ballot oath with an un-validated signature on the absentee ballot application. First and foremost, the statement was previously made that Ms. Janna DuVal, a member of the Board of Elections said that that had never be done and that it would not be done. Mrs. DuVal is here and prepared to state, although we understand you're not a fact finding body. But since is on the record and could be used further, that no such statement was made by her. The Board of Elections and Fannin County, the Chairman of the Board of Elections, Mrs. Evelyn Waters Tanner, has served on that Board. We're a very political cap and we tend to rotate one year the Chairman is a Republican and one year the Chairman is a Democrat. It's decided in a gentlemen's agreement. Mrs. Tanner has represented the Republican Party since 1987 and is currently serving as the Chairperson. We are a small-ruled --."

Unidentified Speaker - "(Inaudible)."

Ms. Daus - "Certainly. We are small-ruled County and the - most of the vast majority of the people that vote absentee do so on a consistent basis. Our cards have not been updated and the signature cards from somebody 20 years ago who now has Parkinsons, is not going to match. Again, we have started the process of updating our cards. And finally, the third allegation is that we failed to reject three absentee ballot applications which were not signed by the elector. We will admit to that. That was human error. They constituted less than four-millionths of one percent of the total number of applications -- ballots sent out and since only one of those was returned it constitutes less than one-millionth of the total number of absentee ballots, and human error is going to happen no matter how much we agree that we're not going to do that."

Chairperson Handel - "All right. Who else wants to speak on this one? Come on up."

Mr. Evans - "Ms. -- Ms. Daus. Thank you. That was very good. It was very helpful."

Mr. Herman Clark - "Members of the Board and Ms. Handel, my name is Herman Clark. I'm with the firm of Clark and Clark in Ellijay, Georgia which is Gilmer County, not Fannin County. And Ms. Handel, we appreciate you coming to the

beautiful north Georgia mountain this last week...."

Chairperson Handel - "Thank you."

Mr. Clark - "...and speaking to some of our folks up there."

Chairperson Handel - "Thank you."

Mr. Clark - "I -- I represent, and I'm in somewhat of an awkward position because in don't know, as Mr. Mayfield said earlier, a whole lot about election law, as much as you Mr. Evans and some of the other members of this Board may. And some of the allegations against my client tend to be criminal in nature, and we only got these things -- I saw it for the first time on Tuesday afternoon."

Mr. Evans - "Would you like a continuance?"

Mr. Clark - "As far as she is concerned, I want to make a few general comments and probably, we may --."

Chairperson Handel - "But, I mean, we would need to -- if you want a continuance we can do that, but we're --."

Mr. Clark - "Right."

Chairperson Handel - "I mean, we're not going to sort of --."

Mr. Clark - "Do both."

Chairman Eaves - "Sort of hear everything today and then have a continuance, and then hear it all again at our next meeting, so --."

Mr. Clark - "Well, as far as she is concerned and as far as -- and I may want to get some help in election law areas, especially if she's facing charges that give rise to a number of them that appear to be misdemeanors and to at least one of them, that appears to be a felony charge here, and I --."

Chairperson Handel - "So you'd like a continuance?"

Mr. Clark - "I think we should have a continuance on her behalf."

Chairperson Handel - "That's fine. Okay. Then we'll have a continuance on --."

Mr. Evans - "I make a motion that we grant the request...."

Mr. Clark - "Very good."

Mr. Evans - "...of a motion for continuance as to Ms."

Early."

Chairperson Handel - "Early."

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

Chairperson Handel - "Okay. We have a motion and second for Ms. Early."

Mr. Clark - "Thank you very much."

Chairperson Handel - "All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, Ms. Early's is continued and we'll bring that up at our next meeting which we'll make sure you know exactly when that is as soon as we set it. And that leaves the Fannin County, specific Fannin County Board of Registrations and Elections component which the County Attorney indicated that she did not need a continuance at this point, so --."

Mr. Evans - "Madam Chair, as I understood it there were three categories, and Ms. Daus, are you still here?"

Ms. Daus - "Yes, sir."

Mr. Evans - "I'm sorry. Okay. Just make sure these three categories right. One category is training."

Ms. Daus - "Yes, sir."

Mr. Evans - "Which you indicated that you were prepared to accept a Decree or Consent Order that imposed the training requirements that you have reached. Have you reached that with our office with the --."

Ms. Daus - "When the investigator was -- when we met when the investigator was in Fannin County, we went over the things and he was there for part of them and subsequent to we came up with some general things that we knew we needed to do so that if nothing else, we would have a checklist."

Mr. Evans - "But you're agreeable to a Decree that imposes training requirements."

Ms. Daus - "Yes, sir."

Mr. Evans - "Okay. And the second one is that we have an admission on the 386a1 which is the rejecting the three absent -- so we don't need to have an evidentiary hearing on that piece because we have -- you've admitted that the only question, really, is the remedy. We'll have to take that up. I know that one of my colleagues has -- has expressed

significantly and I -- I share that which is that one vote is too many because of the margin in cases. Then in the one that we appear to a fact issue on -- and then you adopt the 381b, which is that's not in the Code, the comparison."

Ms. Daus - "Correct. But if it is we will certainly start do that."

Mr. Evans - "Right."

Ms. Daus - "And I understand it's going to be in the new version of the code."

Mr. Evans - "Right. So the one that we have left for a fact determination is comparing the signature on an absentee ballot, oath envelope with signature on the absentee ballot application. And on that narrow issue, is there just a disagreement? You say you did it and they said they didn't; or what?"

Ms. Daus - "No. We are actually saying that we did not do it in all cases. What we took exception to was the statement that we would not be doing it in the future because we're actually undertaking to make sure that we have cards that wouldn't want closely to (inaudible), for example, a voter that our current minimum is 75, card's been on record since he's 18. He has Parkinsons now, the signatures couldn't possibly match."

Mr. Evans - "So, and obviously you recognize we'll decide he'll probably -- what you're going to do in the future."

Ms. Daus - "Right."

Mr. Evans - "So what I have then, Madam Chair, is I have an admitted violation of 386a1b and a 386a1c admission. And then I have an agreement to a Consent Decree. So what I -- I would suggest is given that, I think our staff could probably present to us these admissions and then we can decide the remedy which is we won't have a fact -- we won't put you through the expense of a fact finding because we have an admitted violation of these two -- we have admitted two violations and we have training. I'm just going to put training over here. We need to decide what the remedy is for the two violations and what the training should be."

Ms. Daus - "Yes."

Mr. Evans - "Is that the -- do we all agree on that?"

Ms. Daus - "Yes, sir."

Mr. Evans - "So -- So I would move that we accept the two admitted violations. That we set this down for a remedy hearing at our next hearing whereby the staff presents us

with a, presumably a Consent Decree, but if it doesn't, if you can't agree on the remedy, then what you'll give us is - here are the admitted violations. You now need to decide training, and what it is for these two violations. Is that --."

Ms. Daus - "Yes, sir. Yes, sir."

Mr. Evans - "Okay. I think everybody's agreeable with that, so that would be my motion."

Chairperson Handel - "Got a motion, is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Got a motion and a second. Any -- I'm going to be real honest. I have a little angst about it, only because we continued the other case. And I'll know that we, since we haven't heard anything from the other side, it would seem to me that all of these should be handled together because they're intertwined and I understand that you represent the Board and you represent the individual, but I -- I mean, I'd kind of like to understand the totality of this better from where I sit because -- and I'm going to have to get some clarity on this absentee ballot issue because it is my read of the law that you do, indeed, have a requirement to verify the signature on the absentee ballot. And the new law, hang on, the new law lays it out, I think, in a much clearer, more succinct manner, but just because the new law is clearer it doesn't take away the responsibility from the previous law. And if you have to -- if your requirement is to verify the absentee ballot voter, how do you do that unless you check the signature. You don't just look it at and say, ah ha, that's Joe Blow. You have to have something to compare it to. So I have a little uncertainty around that, again, sort of breaking these apart since I think this is a totality of -- of a matter."

Mr. McIver - "Madam Chair, I agree with Mr. Evans, but for a different reason. This case will be coming back to us and certainly if anything we hear from Mr Clark with respect to Ms. Early could certainly influence that and we'd have a chance to correct it at that time. I would favor the motion as it's proposed. Certainly it saves Fannin County a fair amount of money in that regard, and that's what's appealing to me having been in a position like this, saving money is a premium these days. So I would support the motion knowing that we can always correct it."

Chairperson Handel - "Are there any other comments? All right. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "I'm opposed. That passes 4 to 1. Next item, please."

Ms. Daus - "Excuse me."

Mr. Evans - "Yes. Yes, you are and thank you."

Chairperson Handel - "Thank you."

Mr. Evans - "Ms. Daus, thank you for your presentation, and Mr. Clark, always."

Mr. Clark - "Thank you."

Ms. LaGrua - "I should let the Board know that both, Mr. Clark and Ms. Daus were very cooperative with our office on occasions when I met with both parties and were very forthcoming and made this investigation much easier for the Secretary of State's office, and I appreciate that."

Mr. Evans - "It makes -- it makes it easier for all of us when really good lawyers are brought in."

Chairperson Handel - "Thank you."

Ms. LaGrua - "The next calendar is the Fulton --."

Chairperson Handel - "Can -- Can we take a five minute restroom break?"

Ms. LaGrua - "That would be wonderful."

Chairperson Handel - "Super. So can I get a motion to take a break?"

Mr. Worley - "Motion to recess."

Chairperson Handel - "Second."

(Whereupon, there was a chorus of ayes)

(Whereupon, a break was taken at 2:40 p.m. and the meeting resumed at 2:51 p.m.)

Chairperson Handel - "All right. We're going to go ahead and come back to order. And Shawn --."

Unidentified Speaker - "I would like to compliment the Secretary of State's office on the binder that we have now. It's so organized --."

Chairperson Handel - "Kristen and Rhonda and Shawn and everybody, thank you."

Unidentified Speaker - "I'd like to thank you for all the

excellent work you do all year. It makes it easier for me (inaudible)."

Chairperson Handel - "All right. Go ahead."

Ms. LaGrua - "Thank you, Madam Chair. The next case on the calendar is Fulton County case. This doesn't involve a specific election cycle. Actually, it involves an allegation that our office received on April 9th of this year. We got a phone call into the Elections Division that a citizen had seen some ballots in a dumpster. That was, I believe I recall, a Monday. We immediately followed up. Investigator McBrayer spoke to the individual, traveled to the area which was the Atlanta Technical School, called me about 5:15 and said I can't fit these in my Crown Vic. We then traveled with an SUV, as well as the Crown Vic out. Recovered approximately 75 thousand voter registration cards in a dumpster on the Atlanta Technical College. That, obviously, instigated an investigation and I'll try to move through this fairly quickly. What we found out was that those registration cards for 2002 through 2004 had been dumped in a dumpster down at the Atlanta Technical College at the direction -- the warehouse manager for Fulton County directed that the cards be destroyed, not that they be taken to Atlanta Tech. There were two temporary workers that were supposed to throw these in the dumpster. They decided that they saw it when they were getting an application at Atlanta Technical College. We then followed up with the Board of Elections and Registrations. There was no -- there were no specific instructions about how these were to be destroyed. The cards contained, specifically, social security numbers and in some of the older cards, maiden names of the female voters whose name appeared. Ira Turnipseed, the Director of the warehouse had indicated at a number of meetings of the Board of Elections and Registrations that he was going to be destroying documents that were older than 2004 and never received from John Sullivan or Shawn Kelly, any directions to the contrary. As we investigated after we got those voter registration cards, Investigator McBrayer, on April 20th, traveled to the Board of Elections and Registrations with 57 randomly selected registered voters to see if Fulton County could give us the scanned image. They had started scanning the voter registration cards, allegedly, from 2002 to 2004, and then their scanner broke down and they picked back up in 2006, as I recall. We asked for 57 randomly selected registered voters for the original registration card and the scanned image. Approximately two-and-a-half to three weeks later we started getting some results. They located 41 of 57 of the registration cards. Ms. April Pye, the acting Director now, believes 11 may be the cards from the dumpster. So 11 of the cards, and I'll get to the status of those cards in just a minute, if, in fact, they're in the 75 thousand, would have been gone forever had we not found them. In many others, she thought of those 16 cards they could not find may have been in there and mis-sorted.

They were able to locate 44 of 57 scanned images. Twelve were before through 2001 before scanning, so over 20 percent of the request we made was unavailable to be verified by the Fulton County Board of Elections and Registrations. At approximately 9:30 a.m. on May 16th, Investigator McBrayer took another 49 randomly selected registered voters to the Board of Elections and Registrations and asked for the registration cards and scanned images as quickly as possible. And, specifically, by the end of the day as their -- if they're not kept at the site, they're supposed to be retrievable in a reasonable amount of time during an election or during the absentee process so that they can be compared. By two hours later, they had only 36 of 49 scanned images. Eleven were prior to 2001. There was no image at all for two voters from 2002 and 2003. Two voters had neither card or image. That's approximately five percent. By 4:30 they could only produce 23 of the 49 registration cards. Following up, we -- approximately two months ago, sent the 75 thousand cards to the archive warehouse to be processed, scanned and cataloged. They have just been completed. We have received back -- it took approximately 10 people that two-month time period and an approximate cost of \$20 thousand to catalog those cards. Further, on June 12th, Investigator McBrayer and Investigator Conway, who I don't believe the Board's met before, Bobby Conway with our office, traveled to Fulton County during the absentee advance voting process. They found that there was no provisional ballot set up or provisional ballot voting machines on hand. There were no optical scan instructions posted, no card of instructions posted. When they examined the absentee ballot process, they found that 14 absentee ballots had been requested and issued back out 14 applications and then 14 ballots issued backed out. They received nine back. A requested scanned image of the registration cards or signatures for the 14 applicants, they could not provide anything for two of the applicants and they issued those two without any verification. Approximately 14 percent were clearly not verified and were -- don't really know on the others because we weren't there when the process occurred. I would like to, before I give my recommendation, specifically thank the archives division of our office that came and stepped up to the plate to help us process this. It was an arduous process, and also the Georgia Bureau of Investigation, which immediately stepped in within about 24 hours of this incident happening and assisted us with our investigation. Unfortunately, Ms. Verasci (phonetic) and Ms. Lange and Mr. Johnston are not available today, they're on a homicide investigation, I believe, from East Point but otherwise would have been here. It's my recommendation that all of the allegations and investigations be turned over to the AG's office in this case. You do not have specifics and we will provide that at the next meeting when we finish the investigation on the current election after we verify everything from Tuesday. We will have a subsequent report

on those specific violations, but I wanted to update you on what we knew at this point."

Chairperson Handel - "Is anyone here from Fulton County who wants to make a statement? And you were here, I don't know if you were earlier, but you'll have up to 15 minutes. This isn't an evidentiary, it's -- or probable cause."

Mr. Lee Parks - "Thank you, Ms. Chair."

Chairperson Handel - "Thank you. And if you'll state your name and record for us."

Mr. Parks - "My name is Lee Parks, I'm the Attorney for the Fulton County Board of Registrations and Elections, and we have here today four of the Board members. Frank Strickland, Sam Westmoreland, Cynthia Williams and the Chair, Juanita (phonetic). We also have the Executive Director, April Pye in attendance. We had received the report on Tuesday. Obviously, I think as the -- Shawn said, we do not have any report on the stuff about the elections...."

Chairperson Handel - "Right."

Mr. Parks - "...so we can't respond to that today."

Chairperson Handel - "Do you need a continuance, then?"

Mr. Parks - "Well, obviously on that -- I -- are you --."

Chairperson Handel - "No, for today. No. No. No. Not that. For what's before us today."

Mr. Parks - "We do, because if this issue. Approximately three weeks into the investigation, we requested access to the documents. We made an offer to create a manipulable database at our expense so that we could share it here, have it in this room, have it in an ALJ room, have it in Attorney General. And we were refused access to those documents and our many contacts with -- Inspector General's office told us that the lack of manpower precluded them from doing it and they wouldn't let us have it. It's impossible to assess these charges without having access to the documents. We're not saying -- we're saying that if we have access to the documents and we can manipulate them so that we're not actually searching, you know, scanned images that are static, we can very quickly get to a situation where at least the facts of these charges are going to be able to be debated coherently in front of you. But at this point we haven't had access to the information. So what we had asked for in the conscious of a continuance, not a continuance in the abstract, is a continuance so that, and I don't know. It may be that there is a manipulable database being created here with all this time. But if it isn't, it's worthless."

What we need is something, because we can't go through them -- this many documents one at a time when we're looking for something that was, they say, randomly selected 57 cards or 57 signatures, to be able to match that up. So we're willing to --."

Mr. Evans - "So your interest, just to be sure to understand...."

Chairperson Handel - "Yes."

Mr. Evans - "...so your interest is as to the magnitude of the problem, but you agree that there's at least one ballot that was not secured or registration application that was not secured. You can't even agree on one?"

Mr. Parks - "Yes. No, I'm not disputing that. I'm saying that if you wanted to go through the nine charges, we can't begin to do that because we don't have an access to the documents that they have had -- they rely upon and make those charges. If we -- if you want to approach it just on is there some basis...."

Mr. Evans - "Right."

Mr. Parks - "...to even make one charge that that's the basis for the referral as opposed to what I've seen before, trying to see because there's a number of these charges that don't even set forth a cause of action or a claim. There is a matter of law not referable."

Mr. Evans - "Well, let's do this."

Mr. Parks - "But I don't want to get into that until I see the documents."

Mr. Evans - "Just maybe highlight for us which ones you think the data would make a difference on in terms of us."

Chairperson Handel - "Mr. Evans, if I might before he does that, can we hear from Ms. LaGrua again on actually where the data is and the reason that the actual cards, themselves, were not turned over since, obviously, if this were to go forward that's evidence. So I -- I'm sure you can appreciate we cannot give you the cards."

Mr. Parks - "We wanted just access to create a database."

Chairperson Handel - "Go ahead. Would you explain what you all have done?"

Ms. LaGrua - "Yes. We've actually had that done. We've had to hire outside workers to do that. The reason they weren't turned over and Fulton County was not given access is this is potentially a criminal violation and this evidence in a

criminal case. And there's no logical way for us to supervise somebody else coming in and dealing with 75 thousand voter registration cards. Furthermore, as I'd point out to the Board, the fact of the matter is Fulton County got rid of this stuff. That doesn't change the allegation. The fact that we recovered it might have saved them from committing this had they had it back is sort of like un-throwing the baby in the water."

Chairperson Handel - "Right."

Ms. LaGrua - "I mean, the cards were sent to be destroyed and by the luck of a concerned citizen we've recovered what Fulton County got rid of and would not have been able to use to verify the request for voter input."

Mr. Worley - "But that doesn't change the fact that there is evidence there and they ought to be able to access it to defend these charges if -- if they can. I mean, if someone from our defense --."

Chairperson Handel - "And I think what Shawn is saying is that we did go through and expend the monies to do it because, clearly, you would want it in a controlled environment, catalog all the cards. And that's been done and they'll be given that. I guess what I heard was cataloging the cards has nothing to do -- it might have something to do with some of the other allegations, but it certainly doesn't have anything to do with the allegations that the cards were thrown away in the first place. Kind of, sort of two separate things. And when will they be ready to give to them?"

Ms. LaGrua - "We've just received the data from the archives and our IT Division is going over it to make sure it's in a format that --."

Chairperson Handel - "Can be sorted."

Ms. LaGrua - "Can be sorted and can't be altered."

Chairperson Handel - "All right."

Mr. McIver - "Madam Chair, isn't there enough, and perhaps this is Mr. Evans' point, isn't there enough here for us to simply move this forward? And do we really need Mr. Parks to come back and comment further when we know we're looking at some fairly clear violations? I assume it's not disputed that these things were in the dumpster -- all the rest of them, so --."

Mr. Parks - "No. Because --."

Mr. McIver - "That, in and of itself, would --."

Mr. Evans - "I agree. Because what I'm trying to understand is this we have two -- we have two different things that we have to do. One of the things we have to do is do we have enough evidence to buoy that the violation has occurred? You know, and typically what we hear are the statute doesn't ban that, there's a legal reason, something, you know or there's an admission which takes it away. And then separately there's an evidentiary hearing where, I think Mr. Parks, your position is that if in order to defend and I need the evidence because if there's a trial on the evidence then I should have access to the evidence."

Mr. Parks - "It's more than that. I think that if -- if there's a default here in going through -- they've chosen to make nine charges. It's grossly overcharged. I think one of the -- one of the obligations this Board has is to parse through that. I think that we can do that and I think we can down to a much more finite coherent situation or we can go debate that with the Attorney General. I think it's a policy issue, it's certainly not my call. With the -- to get the investigative report 48 hours before the hearing, to not have access to the documents and asked to be respond to serious charges which the Inspector General says man-brought criminal charges, I'd like to have the documents and have a coherent opportunity to present our case to this Board. And I don't think I've had that."

Chairperson Handel - "Again, this is not the place where you would quote, present your case. And this --."

Mr. Parks - "It would be on probable cause."

Chairperson Handel - "Hang on. No, it's really not. I mean, I hear from AG's office that we look at the report and, I mean, we don't quote, take evidence, if you will. Certainly if this -- if this body chooses to refer it on, then -- and there's a hearing versus trying to have a Consent Order or whatever, I think that there would be much broader access on the evidence, et cetera --."

Mr. Parks - "Madam --."

Chairperson Handel - "Hang on. For -- for me, I cannot more vehemently disagree with you that there is anything grossly overcharged here. As a -- I mean, this is, in my short time here, the most serious thing that this body has come across. And let's just forget about put the voter part of it aside and the fact that somebody's registration with their social security number and potentially their maiden name as well, which would give them full access to the person's life, was sitting in a dumpster. I mean, it's just extraordinarily egregious, and I don't think that anyone here has the desire to be overly aggressive on this. We just want to be appropriately aggressive so that we can make sure that everything is really gotten under control as we come into a

much bigger election cycle than what was had to be faced on June 19th. Mr. Worley."

Mr. Worley - "Thank you, Madam Secretary. Mr. Parks, when did you get this investigative report?"

Mr. Parks - "Tuesday. Middy."

Mr. Worley - "And today is Thursday, so you haven't had 48 hours yet, really, to deal with it. Madam Secretary, I -- I think just as a matter of fundamental fairness when we have had other people today...."

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

Mr. Worley - "...and our policy in the past has essentially been that if someone wants a continuance, and particularly in circumstances like this where they've just gotten the investigative report, that the fair thing to do is to give them a continuance. I mean, there's not any -- any allegation that, you know, there's going to be some immediate irreparable harm to the voters of Fulton County if we wait to bind this over to the Attorney General's office. And I just think the fair thing to do is to give Fulton County an opportunity to look through the database, which apparently is just now been received and more than 48 hours to respond at a probable cause hearing."

Mr. McIver - "Madam Chair."

Chairperson Handel - "Mr. McIver."

Mr. McIver - "Any chance that if we -- if we agree with Mr. Worley that this case should be -- that we should grant them an extension, is there any chance at the February '05 election, which I think will be our next statewide election, will be impacted by, perhaps a delay in this matter?"

Chairperson Handel - "I -- I mean, it will depend, I mean, certainly I don't think that we could delay beyond, say, you know, our September meeting that we would have here in Atlanta because we, I mean, I think that from -- we will see, but clearly some significant remedial action is going to need to take place in the Fulton County Elections Office. I mean, that's just abundantly clear. All, you know, regardless of what happens. Mr. Worley, the reason that I asked up front did they want a continuance, because I want to be fair about all of it."

Mr. Worley - "Sure. I understand."

Chairperson Handel - "So I, candidly, even though I think just the dumpster issue in and of itself is enough to refer, I don't have a problem with a continuance until our September meeting. Just in the interest of fairness and

making sure that we have a level playing field for every individual or county that comes before us."

Mr. Worley - "Then I would make a motion that we continue this matter until our September meeting."

Chairperson Handel - "Okay. Motion. I'll second. Any other comment or questions? But again, I'll say that, colleagues, I think will have to make our decision in September and need to have some very expeditious action in order to be prepared coming to the next election."

Mr. Evans - "Well, in that regard, I mean, I would recommend, you know, because what will happen is once we make a decision one way or the other as to whether or not we think there's a potential violation, the Attorney General has to issue a notice which is the equivalent of a complaint, and they have to set forth the specific violations. Because I think it's so critical that we get that exactly right given the possibility of legal challenges and appeals down the road, you know, I would -- I would suggest that we grant the continuance for two purposes. One purpose is to allow you an -- a reasonable opportunity to get whatever information you think is appropriate. And second, so that the AG can go ahead and prepare for us, in the event their going -- the decision is, in fact, made and so that we will not have any additional delay, what the specific charge will be so that on the day that we decide one way or another, should we decide to find a potential violation that we can charge that day and move forward that day."

Mr. Parks - "My concern about that is only that you've effectively referred it. That it's prejudged. I --."

Mr. Evans - "I haven't. I -- I look through here, but --."

Mr. Parks - "I think we'll have input that we'll be back. We're not -- we're not here to be defensive, we're here to be proactive and helpful. We wouldn't be asking the continuance if we didn't think, with access to these documents, we can provide information which is not going to delay the process, but move the process along because we'll come to closure on factual issues. We're going -- we're going to move this as fast as possible. I don't want any of the Board members thinking that this request is for delay. It's not. It's so that we can be more interactive with the process. Proactive with the process. But I would -- I would hope that we would not have the Attorney General drawing up the papers before we've had the probable cause hearing."

Mr. Evans - "Well, I think that they can bring, just as they provide us with a report here, which you disagree with, they can bring us information to expedite the process, and I will

be, you know, candid with you. We -- I, personally, think the Board will be hard-pressed to find that thousands of documents of this nature in a dumpster are business as usual and acceptable and that no violations have occurred."

Mr. Parks - "I understand."

Mr. Evans - "However, you may can -- you may succeed. I've been surprised before. I may be surprised again. I think Georgia voters would be surprised. But I want you to have that opportunity, and want you to have all the information, but I also want, as the Secretary wants, we don't want delay here. We want to move it forward. So I -- I will support the motion."

Chairperson Handel - "Okay. I have a motion and a second."

Mr. Israel - "Second."

Chairperson Handel - "Any other questions? Did you want --."

Mr. Israel - "Second."

Chairperson Handel - "Okay. Motion and a second. All in favor, say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed?"

Mr. McIver - "Me. I oppose."

Chairperson Handel - "All right. Everyone's clear what needs to happen?"

(Whereupon, there was a chorus of affirmatives)

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

Ms. Almond - "Yes."

Chairperson Handel - "All right. Next."

Ms. LaGrua - "Next case on the calendar, Madam Chair, is the Randolph County case. There are three different cases involving Randolph County. One of the cases was before this body in March of this year. It was referred back to us for further investigation and I won't go into -- briefly, those allegations came from Bobby Jenkins against respondent, Carol Ray, alleging racial discrimination on the rejection of valid applications. You may recall that Investigator Dyer addressed this Board and specifically went through all the applications that were rejected and denied and gave you

specific reasons and the count on that. Since then there was another -- there have been two other investigations and if I could address those sort of in reverse order starting with 2007-0006. This case involved the November, 2006 General Election. The complainant was Henry Cook, Commissioner of the School Board. Respondents were Carol Ray, Lorraine Curry, and Winona Johnson, the Chief Registrar and two Deputy Registrars in Randolph County. Allegations related to --."

Chairperson Handel - "I'm sorry. It's the last report under 12. You're going in the opposite order."

Ms. LaGrua - "And I apologize. And let me explain from a timeline. This alleg -- this complaint actually came in and was misplaced under the former director and eventually I found it and requested...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...that it be investigated. The allegations related to a dispute regarding District 4 and District 5, which has been the subject of an ongoing DOJ investigation. It alleged that Mr. Cook was changed from District 5 to District 4 and was not given an opportunity to appeal that decision. In looking at it, it was found that, in fact, the proper notice was not posted in the papers. We had -- Investigator Dyer actually retrieved the papers, which the Board of Elect -- the Registrars Office said -- had posted the notice of the special called meeting announcing that they would consider Mr. Cook's change from District 5 to District 4. It was not posted, he was not allowed an opportunity to be heard and in that regard, along with the other cases in -- regarding this County, it's my recommendation that that case be referred to the AG's office. The follow up investigation, which is 2006-0005 was the case, when you all heard the case in March 13th of this year, I asked that it be referred back for some further investigation. I traveled to Randolph County with Investigator Conway, who's here today. What had happened in the March 19th, I believe, spring election, we had been down monitoring and Investigator McBrayer saw some irregularities he thought in the absentee ballot process, so we immediately traveled down to Randolph County to follow up. Investigator McBrayer and I retrieved from the Registrar's office, the registrar had actually kept the absentee ballot application envelopes that the applications had come in and again, there appeared to be similar writing on all of the envelopes. They either had the same pre-done label or similar handwriting. And let me back up a minute. I don't believe the Code as it is right now, specifically says that the absentee ballot application has to be compared to the registration card, however, what the law says is that when an absentee ballot application is received, you can only mail an absentee ballot to an eligible voter. Unless it's

in person, the only way I know of to determine that you have an eligible voter that's requested an absentee ballot on a mailed in application is to verify that that voter is registered in that county to vote, which is where you're hearing the allegation that the application is not compared to the ballot if it's a mailed in application with the ballot being sent. There's no other way, that I'm aware of, to determine that the person who mailed the application -- the absentee ballot application is an eligible voter without comparing it to make sure that that voter is a registered voter in that county. What we found when we went out was that there were three women, Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers, that were in a calculated group and effort going out with absentee ballot applications, assisting voters in filling out the applications, putting the -- taking those applications, putting them in the envelopes and mailing them. And, in fact, Sheila Flowers was the individual that was preparing the envelopes and stamping the envelopes to mail the absentee ballot applications to the post office. And, in fact, on one occasion the post office received a huge packet of the absentee ballot applications that had been mailed as a bundle. We then took the ballot, the absentee ballot envelopes and went back to those same individuals and asked them. We interviewed approximately 30-some voters that we could locate in Cuthbert and they indicated that Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers, with Nettie Bell Shepherd being the most moving of the three, had come out and assisted with the absentee ballot, actually helping them fill it out and actually taking the ballot envelopes and mailing them. And, in fact, on at least one occasion I talked to a voter who indicated that Ms. Nettie Bell Shepherd had filled out his ballot. He had no idea who he had voted for and she took the ballot and left his location. Again, it's my recommendation, in this particular case, that they be referred to the AG's office, and if necessary, I can try and fill in any gaps. There's -- this case has a long history of investigation."

Chairperson Handel - "But there's three separate complaints; is that right?"

Ms. LaGrua - "Correct. There was the original complaint that this body heard September -- I'm sorry, March of this year which is this 17. That's correct. And I --."

Chairperson Handel - "Which we sent back for more investigation."

Ms. LaGrua - "Correct. As it related to the -- the absentee ballot and the timeline. And --."

Chairperson Handel - "What I'm trying to get to is whether or not we should be taking each of these individually or all together as one. I just want to make sure that anybody who wants to speak on --."

Ms. LaGrua - "Probably separately because you different respondents in the different cases."

Chairperson Handel - "Who's here to speak on the -- you need to just call each case so I can -- and not lump them. It's one -- so I can...."

Ms. LaGrua - "I'm sorry. Okay."

Chairperson Handel - "...make sure everybody has their say."

Ms. LaGrua - "In 0017 --."

Chairperson Handel - "Which is the one that we sent back."

Ms. LaGrua - "You heard on March 13th. Correct. The respondent is Carol Ray and it was alleged that...."

Chairperson Handel - "The complainant is Bobby Jenkins; is that right?"

Ms. LaGrua - "Correct."

Chairperson Handel - "Okay. Is there anyone here to speak on this particular matter? Okay. And you are?"

Mr. Bobby Jenkins - "Bobby Jenkins."

Chairperson Handel - "Okay. Come on up. And I'm going to require that you keep it two 15 minutes or less, please."

Mr. Jenkins - "I'll just take two."

Chairperson Handel - "Is there anyone else here for this one?"

Unidentified Speaker - "(inaudible)."

Chairperson Handel - "Okay. He's the complainant because I --."

Mr. Jenkins - "I was the complainant in this particular one, and just very briefly, I think the fact that we have several and that there are potential violations in each of those, speaks to the fact of what I brought to you all in March. That there are people, local officials, who are using their office to disenfranchise black voters. And we just hope this Board would take a strong stance against that and issue out appropriate, but decisive punishment. We have a County and some of the officials are here, and they've spent over a quarter-of-a-million dollars to try to get Mr. Cook, who's Representative Chairman of the School Board, out of his Office. Part of this district moving and all of that,

that's part of, we think, a concerted effort to do that. So we just would plead with this Board to take decisive action to make sure that these kinds of activities do not occur and regardless who is on the Board of Registrars that they follow the laws as they are printed. And that's all I have."

Chairperson Handel - "All right. Thank you."

Mr. Tommy Coleman - "My name is Tommy Coleman. I represent Randolph County."

Chairperson Handel - "And so you're also here representing Ms. Ray?"

Mr. Coleman - "Well, yes, ma'am. I represent the Board of Elections and also the Board of Registrars."

Chairperson Handel - "Okay."

Mr. Coleman - "I want to announce, however, that Ms. Ray, Ms. Johnson, Ms. Curry, are no longer members of the Board of Registrars. They resigned and --."

Chairperson Handel - "Okay."

Mr. Coleman - "As a matter of fact, I doubt seriously we have a Board of Registrars at this moment. There was another that also resigned for other reasons. And so, the Judge of Superior Court is dealing with that right now."

Chairperson Handel - "All right."

Mr. Coleman - "Hopefully, they'll be...."

Chairperson Handel - "Okay."

Mr. Coleman - "...appointed shortly. As I pointed out or said to the Board at the last time you considered this matter, with regard to 2006-0017, we completely agree with the report of the Secretary of State's office. Our own investigation of that one found that they were three disabled voters who were not mailed a ballot because their address had changed. And that, of course, is violation of statute. When Ms. Ray was the chief registrar, I had a discussion with her about that. She acknowledged that she, in fact, had done so, and, of course, committed not do it again. But I guess that's moot; isn't it?"

Chairperson Handel - "Yes."

Mr. Coleman - "So I'll be prepared to speak on the others as well."

Chairperson Handel - "All right."

Mr. Coleman - "When and at the appropriate time."

Chairperson Handel - "Okay. All right. So this is case number 17."

Mr. Evans - "So we have, basically, on allegation two an admitted violation?"

Chairperson Handel - "Yes."

Mr. Evans - "381-a-1."

Chairperson Handel - "The challenge with this one is that all of the individuals who were involved are now gone, but I think, certainly, some sort of direction for a new Board coming in around all of these -- I mean, unless was there anything willful, Ms. LaGrua, on the part of Ms. Ray?"

Ms. LaGrua - "I can't comment on that."

Chairperson Handel - "Okay."

Ms. LaGrua - "It's clearly neglect, if not willful. I should point out that the first complaint in this we did not address as that had been taken up with the Department of Justice, just for clarification...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...because it's been so long. As you're looking through the file --."

Chairperson Handel - "Okay. This first one is still with DOJ?"

Ms. LaGrua - "It -- it's -- it's been handled by DOJ, and that'll come up in one of the other...."

Chairperson Handel - "Got it. All right."

Ms. LaGrua - "...cases."

Chairperson Handel - "All right. Colleagues, I would think at minimum we would want to have something in the form of a Consent Order or a letter --."

Mr. Evans - "I would move that we issue a Cease and Desist Order with a Public Reprimand."

Chairperson Handel - "Okay. Is there a second?"

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

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

questions on this item, colleagues? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. That's the action for number 17. Calandra, you got that?"

Ms. Almond - "Yes."

Chairperson Handel - "Okay. All right."

Mr. Evans - "(Inaudible)."

Chairperson Handel - "Pardon me? Yes. I just wanted --."

Mr. Evans - "The issue we have filed on behalf of the Board --."

Chairperson Handel - "Yes. Yes. All right. The second one is number --."

Ms. LaGrua - "06."

Chairperson Handel - "Okay. We'll do 06 before 05."

Ms. LaGrua - "06. This is -- this letter involved an allegation regarding the dispute between District 4 and -- excuse me -- District 5. As the Board may recall, Mr. Cook was changed from one District to the other which was the subject of the DOJ investigation. It is alleged that Mr. Cook was changed from District 5 to District 4 after the DOJ put him in District 5, and was not given an opportunity when there was a special called meeting of the regi -- the Board in Randolph County to hear that decision. In fact, he was not given adequate notice and it is -- it was improper and, in fact, the DOJ, after Randolph County appealed this ruling the DOJ said no, he's in District 5. So I would ask that Ms. Ray, Ms. Curry, and Ms. Johnson again, be referred to the AG's office. It is, in my mind, after looking at the totality of these case, in my professional opinion, this was a willful violation."

Chairperson Handel - "All right. Did you want to speak on this item?"

Mr. Coleman - "Sure. Madam Chair, this is a much more complicated issue than it's been presented. The DOJ didn't say he was in District 5, they -- they didn't pre-clear the method about which he was assigned. There is been, from the first presentation before a Superior Court Judge sitting as a Probate Judge, that Judge found that Mr. Cook lived a hundred yards out of District 5 in District 4. Nonetheless, he found that his domicile was in District 5. There was -- has been a number of legal proceedings around this. The

suit's in Superior Court, pending action in Federal District Court. The -- it was an action to require the County to pre-clear the movement of a candidate, excuse me, of an elector from one district to the other which was kind of a common practice among counties and registrars. We did that, we filed the pre-clearance, appealed the pre-clearance. In the meantime, that was a contempt to suit file against the County, which the County prevailed on. In the order, the Court did, in fact, find that -- or says in the order. I'd be happy to read the language to you, if you like, that when the General Assembly designed these districts they bifurcated for a -- he owns about six acres and they put a line right down the center. The Court said that his dwelling house was in District 4, even though he lived in District 5. If the Board would be kind enough to look at 21-2-228, you'll see that the Board of Registrars is not strained by any other actions in making a determination as to whether a person is qualified to vote. The Board of Elections is not a part to any of the matters that were -- that were litigated in 2002. And only after they made this decision, did this litigation begin. Now that's not to say that the Board is completely faultless. They did a poor job, as did a number of other people in 2002 with regard to this matter. There was really a perfect storm of incompetence, political intrigue, political power, bad lawyering and bad judgment so that one man ended up living in one district and representing another and remains so. But that's how it was pre-cleared and the matter is now -- he's now in District 5. He, all this time, ran for reelection in District 5 and won, and I think the Secretary of State's recommendation is inappropriate. I would say that -- that the presentation was much different from the report that was sent out. I don't want to argue the Open Records -- Open Meetings Law rather, but the Act that was cited requiring a hearing for the placement of an elector in a particular district, applies to the removal of an elector from the voting list, not to his placement within a City District or Congressional District or what have you. So I would beg the Board to read that very carefully. In the idea of the ad -- the Open Meetings Law does not require, although people believe that it does, does not require replacement of an ad for a meeting. When you conduct a meeting of a public body, such as this one, the only thing you're required to do is contact a legal organ, the county in which you are located, place a notice on the front door. So whether Ms. Ray represented she put an ad in the paper, or not, I'm not sure, I don't know, it's not relevant because that's not required for a regular meeting of the Board of Elections, the County Commissioner, any public body in Randolph County, or any other county in Georgia, absent some sort of local -- local act. So we believe that -- that they complied with the law when they held the meeting. It would not require to call a hearing, we don't do that in any future proceeding."

Mr. Henry Cook - "Madam Chair, my name is Henry Cook. I'm the Chairman of the Board of Education in Randolph County. I didn't come here to criticize anybody, but I've been on the Board of Education, this year it's 14 years. Mr. Coleman is the attorney. I never seen a man lie so much in all my days when it comes down to lying. Mr. Evan Simmons is also Chairman of the County Commissioner, which has come to our attention --."

Chairperson Handel - "Can we try not to have name calling. It's really -- thank you."

Mr. Cook - "Okay. Well, I --."

Chairperson Handel - "Thank you."

Mr. Cook - "And I just wanted to say that because I don't have a problem calling a spade a spade. But being here, the information that he has provided to you is false. This issue was presented back in 2002. The Justice Department cleared this issue back in 2002 where my residence involved. They came to my residence on several occasions trying to falsify information where my residence -- I am in District 5. It was proven when I first ran for the Board of Education 14 years ago. It was proven back in 2002 and we just saw it as a money making scheme. I make \$69.26 a month being on the Board of Education. Now why would anybody, or any municipality or county would spend \$250 thousand to remove a man from a position like that? Why? I ask you to look at this carefully. Judge the merit of this case and any question you may have, I'm sure the Justice Department can provide you with all the information. It was about 13 people that came down during the March 20th Election. They interviewed the attorney, they interviewed the County Commissioner's Chair, they interviewed other members that was connected with the County. The response that (inaudible) indicated to myself and the superintendent was that I just never seen anybody lie so much and didn't have any facts. The facts are there. I actually just reviewed the facts and any information that you need, we'll be more than happy to provide it to you. Don't allow these people to tell you information that's not true because everything that he just told you is not true. Thank you."

Mr. Worley - "Mr. Cook, before you go, I just wanted to focus, if I might, Madam Secretary?"

Chairperson Handel - "Please."

Mr. Worley - "Just focus on the charge that's in the case that's in front of us which is the 006 case."

Chairperson Handel - "Right."

Mr. Worley - "And it says that the Randolph County Board of Registrars violated O.C.G.A. 21-2-228d, and that they failed

to give three days written notification to you, of the hearing to determine your right to remain on the list of voters. Is that what they did?"

Mr. Cook - "That's exactly what they did. And not only with that, they had four or five sets of minutes in reference to this hearing and nobody will claim ownership to them."

Mr. Worley - "Okay. And it also says that Ms. Ray, Ms. Johnson and Ms. Curry violated 21-2-228f and that they didn't give you the opportunity to appeal their decision."

Mr. Cook - "And that was by design. That was intentional. They had no -- there was just no way they was going to give me the opportunity to do that."

Mr. Worley - "Okay."

Mr. Cook - "Anyone else?"

Chairperson Handel - "Thank you."

Mr. Cook - "Thank you."

Mr. Worley - "If Mr. Coleman wanted to respond to those...."

Chairperson Handel - "Absolutely."

Mr. Worley - "...just those two specific --."

Mr. Coleman - "Right. There was no motion to remove Mr. Cook from the list of electors."

Mr. Worley - "Okay."

Mr. Coleman - "Consequently, he didn't deserve a hearing or didn't have a right to hearing --."

Mr. Worley - "Okay."

Chairperson Handel - "All right. Ms. LaGrua, this entire matter, though, the one that's in front of us now. Department of Justice has resolved everything and I just wonder if, since we have the first Cease and Desist letter that's going to go out if we just broadly encompass following all the rules and procedures as part of that. I don't know with the three individuals gone, what additional sanction would be there."

Mr. Evans - "Well, I think that -- what I'm trying to sort through is, it doesn't sound like we have a fact dispute. But is there any dispute that he didn't get a hearing and the only real issue is whether, under the statute, he was or wasn't entitled to a hearing."

Ms. LaGrua - "I think -- I think that's correct."

Mr. Evans - "So, what -- what is the law on that? What -- was he or was he not entitled to the hearing? Three days notice on a hearing."

Chairperson Handel - "Which, I guess, rests with whether or not there was a motion to remove?"

Ms. LaGrua - "I'm not going to pretend, obviously, at this juncture, to be an expert in elections law. And I may not understand, but as I read 228, removing him from one to the other is removing him from that part of the list. Now I may be in error in that. If I'm in error --."

Mr. Evans - "Well the most important thing, though, is we've got to get it right."

Chairperson Handel - "Exactly."

Ms. LaGrua - "Correct."

Mr. Evans - "And so, I would suggest that we get -- we need to get a legal answer and, you know --."

Ms. LaGrua - "That's fine."

Mr. Evans - "Mr. Cook, if you want to submit a -- a letter brief on that...."

Mr. Cook - "That would be fine."

Mr. Evans - "...that would be fine. I would -- I would suggest that we ask our (inaudible) colleagues, over at the Attorney General's office to give us some guidance on that. But it does seem to me, that it's a legal question as opposed to a fact question. So I would move that we table it to the next -- to the September meeting with the only issue being for us to decide this legal issue. Because it would seem that if -- if he's entitled to a hearing, we have a violation. We have to decide the right remedy. If he's not entitled to a hearing, then he's not entitled to hearing."

Chairperson Handel - "Okay. With the question being whether or not moving from one district list to another district list, Calandra, if that constitutes removal from the list."

Mr. Evans - "Exactly. That is exactly --."

Chairperson Handel - "Okay. Is that your motion?"

Mr. Evans - "That is my motion."

Chairperson Handel - "I'll second that. Any other -- did you want to add?"

Mr. Cook - "Yes. If these people will not listen to what the Justice Department has told them, they're not going to listen to what you put in writing."

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

Mr. Worley - "Well, in that case, Mr. Cook, why did you bother to file a complaint?"

Mr. Cook - "Well, I was hoping to get some results."

Mr. Worley - "Okay. But all we can is, you know, tell the Board of Registrars to do something."

Chairperson Handel - "Exactly. Did you want to add anything?"

Mr. Coleman - "Mr. Chairman -- Madam Chairman, rather. I did a little survey of other people in the election business --."

Chairperson Handel - "Okay. We can just -- we have a motion and a second. Yes, because --."

Mr. Evans - "If you'll just put it in your letter brief, that'll be great."

Chairperson Handel - "Exactly. I mean, we opened it up and each side gets 15 minutes and we're just -- we're not going to have a back and forth, back and forth. That is not the purpose of this. We've got a motion and a second to look at that narrow legal question. If my colleagues do not have any other questions -- all right. All in favor."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? None. So that's what we're going to do. All right. Thank you. Next item. We're -- let us get the answer to that and then we can have, really -- all right. What's the third one in this?"

Ms. LaGrua - "The third one is the follow up investigation conducted down in Cuthbert."

Chairperson Handel - "Which number is this?"

Ms. LaGrua - "This is 05. 2006-0005."

Chairperson Handel - "Okay."

Ms. LaGrua - "This involves respondents Nettie Bell Shepherd, Valerie Coleman and Sheila Flowers. This --."

Chairperson Handel - "And are they on the Board of

Registrations?"

Ms. LaGrua - "No."

Chairperson Handel - "No."

Ms. LaGrua - "These are private citizens."

Chairperson Handel - "Private citizens. Are any of the these three individuals here? Okay. Go ahead."

Ms. LaGrua - "These are the three individuals that on a -- on a very routine basis went out, took the applications, assisted in the application process, mailed the applications, then went back and most critically assisted in filling out ballots and taking the ballots with them to be mailed without signing as assisting, and in many cases, the voters were not illiterate or disabled. And in the case of Nettie Bell Shepherd on at least one occasion, actually voted the ballot without the elector knowing who she voted for him, and taking that ballot and mailing it. And I would recommend that those three individuals be referred to the AG's office...."

Chairperson Handel - "Okay."

Ms. LaGrua - "...for those violations."

Chairperson Handel - "Okay. All right. The -- where's Nettie Bell Shepherd, because on that complaint it has Sandra Thompson, Lorraine Curry and Winona Johnson, unless I'm looking at the wrong one."

Mr. Evans - "You're right."

Chairperson Handel - "Am I on the wrong one?"

Mr. Evans - "No, you're right."

Mr. Worley - "No, you're right."

Mr. Evans - "It's Thompson, Curry and Johnson."

Ms. LaGrua - "I'm sorry. The one that has 05, and there may be a mis-number on one. It says Robert Conway, Investigator."

Chairperson Handel - "I don't know that we...."

Mr. Evans - "No."

Chairperson Handel - "...have what you have Shawn."

Ms. LaGrua - "I apologize. I thought they were provided and that I had reviewed these. I apologize if you don't have

that one."

Chairperson Handel - "All right."

Ms. LaGrua - "You should have it."

Chairperson Handel - "I guess what -- and, colleagues -- here, I've got a sheet on it, but I don't see that one at all in here. I've got two of the same."

Ms. LaGrua - "Then that's my oversight and I apologize."

Chairperson Handel - "Let's do this because what I'm concerned about when the three individuals who are the subject of this -- have we heard anything from them?"

Ms. LaGrua - "We have not, but I did verify that they were notified. But I'm happy since we're -- if at the Board's pleasure, since we are tabling the legal issue...."

Chairperson Handel - "All right."

Ms. LaGrua - "...on the previous, I'd be happy to re-present this and make sure that you have the information. I apologize for that."

Chairperson Handel - "Let's table that, because I don't --."

Mr. Evans - "That's fine. I so move."

Chairperson Handel - "Second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "All right. None opposed. That's it for Randolph, right?"

Ms. LaGrua - "Correct."

Mr. Coleman - "No, ma'am. This complaint here deals with Ms. Curry and Ms. Johnson that has to do with their conduct on the Board of Registrars, which is what was sent to us. Which we received, like everybody else, on Tuesday afternoon. It had to do with the signing of a nominating petition by the members of the Board of Registrars."

Mr. Evans - "That's 2007-0005."

Mr. McIver - "That's our 05 case."

Chairperson Handel - "That's the 05 case."

Ms. LaGrua - "I have that, I'm sorry."

Chairperson Handel - "All right. All right. That's fine. All right. Shawn."

Mr. Coleman - "Remember, they are no longer members --."

Chairperson Handel - "That's fine. I understand."

Mr. Coleman - "Okay."

Chairperson Handel - "This is a continued -- this is the one that we sent back."

Ms. LaGrua - "This is the one we sent back. The other allegation in that, I'm sorry, was that Ms. Thompson and Ms. Curry and Ms. Jones -- Johnson, while they were registrars in the office, signed a petition for someone to be on the ballot. In the case of -- all were part-time and all the investigation indicated that they had signed this petition at their home. I think we're hearing a fact question on whether they were acting in their official capacity when they signed the petition. I think in a small county that becomes a very close call. I candidly don't know the answer. I think that's a legal question and an interpretation of -- that a registrar or something acting in their official capacity cannot campaign -- support...."

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

Ms. LaGrua - "...a candidate and I'll be honest, I'm not sure when it's a part-time position where that line is drawn. I think clearly had they signed the petition in the registrars office...."

Chairperson Handel - "Right."

Ms. LaGrua - "...on duty that you'd have a violation. I don't know where that line is and I think that may be, to some degree, while a legal decision, a policy decision of the Board on where you want us to go with these. This is not the first time I've encountered this. It's not on this calendar, but this question has arisen and Ms. Dyer, Investigator Dyer and I have discussed it of where that line is."

Chairperson Handel - "Okay. So the issue is we have part-time individuals who are engaged in a campaign, but signed a document being a part of the campaign in their official capacity."

Ms. LaGrua - "No. They did not sign in their official capacity."

Chairperson Handel - "They did not. Okay."

Ms. LaGrua - "The question is sort of where their official"

capacity ends."

Chairperson Handel - "All right. Colleagues, where those of you have been here, have we had something like this before?"

Mr. Evans - "Not that I recall."

Chairperson Handel - "All right. I need a determination on that one, as well."

Mr. Coleman - "I would invite the State Board to -- to consider this in light of their own conduct. My guess is that you're all here because you have been in government and politics before. The plain language of the statute says that no member of a Board of Registrars, and it lists several different kinds of Boards of Registrars. While conducting the duties of such persons office shall engage in any political activity on behalf of the candidate, political party or body or question including, but not limited to, distributing campaign literature, engaging in communication that advocates a citizen, a particular candidate, office over a political part of your body in wearing gadgets, buttons or clothing with partisan messages. I would submit to you that first you need to decide whether signing a nominating petition arises to the level that they say trying to regulate the statute. And secondly, it seems illogical to think that this statute would apply to someone at night in their own home when someone comes to the door asking them to ask a nominating petition. It seems to me that's a severe limit on a person's right to participate in government. The other one, Ms. Curry, the investigation is incomplete about where that occurred and what time it says in the afternoon. Well what afternoon? Where? But if she had signed in the office, that would be one question. But I don't think that's what happened. The other thing I'd like to point out that Curry that was a candidate or something, it would be -- please consider it in that light, as well."

Chairperson Handel - "All right."

Mr. Coleman - "So I think it seems illogical that a statute would apply in this instance."

Chairperson Handel - "Mr. Evans."

Mr. Evans - "We've never had this narrow issue come up with regard before, but we did have, if you recall, and I can't remember the city, but where we had a Mayor who was a candidate who was also on the election Board and we interpreted that specific phrase that you've, you know, what you've zeroed in on which is well in the performance of their duties, and they close -- we moved to close the case. So I would just note that in the interest of precedent, that that's the precedent we've taken before in terms of limiting the application of that statute."

Chairperson Handel - "All right. Is there a motion?"

Mr. Evans - "I so move."

Mr. Israel - "Second."

Chairperson Handel - "I've got a motion and a second."

Mr. Worley - "I -- I --."

Chairperson Handel - "Mr. Worley."

Mr. Worley - "Before we vote, I -- I take it Mr. Coleman is here in his capacity as County Attorney representing Ms. Curry and Ms. Johnson, but not Mr. Curry who's also been charged."

Mr. Coleman - "That is correct. I was unaware of that until I received --."

Mr. Worley - "Is anybody here with Mr. Curry or anyone on his behalf here? Because -- he -- the charges against him are of a different kind and character."

Chairperson Handel - "Right."

Mr. Evan Simmons - "In the absence of Mr. Curry, is there anyone to speak that has to act as County Commissioner, could I do so?"

Chairperson Handel - "Sure. Sure. Come on up."

Mr. Simmons - "My intention to speak before you today was to simply to thank this Board from the bottom of -- with utmost sincerity. I've been an election observer on two columns. I run a whole observation team in Africa for up to four months. I've had the privilege of getting to see people to have a right to vote for the very first time. When I returned home to my home, I'm appalled. You know, when we speak here of absentee voting and what it's doing to these counties and the investigations, all of these charges that you are hearing today are a backlash."

Chairperson Handel - "I'm sorry. I don't mean to cut you off, but did you have something to say based on Mr. Curry? We've a long day ahead of us, so if you have something specific on Mr. Curry."

Mr. Simmons - "Mr. Curry is a young candidate that was interested in participating in the political process. It was his very first time. He's a very nice young man and let me assure you that there was no wrongful intention on his part. If this is part of a process we need to correct, we will be glad to agree into any type of consent not to undertake any practice of that again. I think his attorney

would say that if he were here."

Mr. McIver - "What is your name, sir?"

Mr. Simmons - "Evan Simmons. I'm Chairman of the County Commission."

Mr. McIver - "Thank you."

Chairperson Handel - "Mr. Curry, did he win or lose the election?"

Mr. Simmons - "He lost."

Chairperson Handel - "Okay. My -- maybe we could consider a Cease and Desist to Mr. Curry as well for anything future as part of this or we can table that and give him an opportunity to be here one more time and if he's not here, then take action."

Mr. McIver - "That's fine."

Chairperson Handel - "So whatever is the Board's pleasure."

Mr. Worley - "I would rather table it and give him an opportunity...."

Chairperson Handel - "Okay. All right."

Mr. Worley - "...to speak. But I would move that the charge against Ms. Curry and Ms. Johnson be dismissed."

Chairperson Handel - "I think we already had a motion."

Mr. Worley - "Okay. I'm sorry."

Chairperson Handel - "Would you be willing to amend your motion...."

Mr. Evans - "Yes."

Chairperson Handel - "...to deal with both of the issues? Or we can take the first one and do a second one on Mr. Curry."

Mr. Worley - "We can put it all in one motion. That's fine."

Chairperson Handel - "Okay. Go ahead."

Mr. Evans - "Yes. So -- I move that we close the file as to Ms. Curry and Ms. Johnson and that we table as to Mr. William Curry."

Chairperson Handel - "Okay. I think, Mr. Worley, you were the seconder...."

Mr. Worley - "I second, yes."

Chairperson Handel - "...so your fine. Okay. Motion and a second. Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Next item."

Ms. LaGrua - "The next item is the status report on the Chattooga County investigation."

Chairperson Handel - "Right."

Ms. LaGrua - "Madam Chair, I just wanted to let the Board know that, obviously, this division takes that -- those allegations that were received in a complaint in the Chattooga County matter very seriously. That's an ongoing investigation and as soon as I am able, I will have a full report to this Board."

Chairperson Handel - "All right."

Ms. LaGrua - "The next item is on the Agenda is the DeKalb County monitoring update. If -- if members will recall, and if I could, Mr. McIver, if you could pass those over for me."

Mr. McIver - "Sure."

Ms. LaGrua - "Thank you so much."

Mr. McIver - "This is more current than the one we have."

Ms. LaGrua - "This is -- This a new, and I'll explain. At our last meeting, Mr. Evans had reviewed the schedule for inspection of the DeKalb County Board of Elections and Registrations storage of DRE and express poll units. Expressed some concerns about the layout of the actual monitoring. Mr. Evans, I have since spoken to Mr. Cobb with KSU. I've amended this proposal to change the June, 2008 to May, 2008 and added language leaving the rest of the dates the same, but with language that says said monitoring will occur as late in the identified month as is practical without interfering with the preparation of the machines for the upcoming election cycle. In conferring with Mr. Cobb, and I'd like to defer if you have questions specifically to him, if I might. There are some concerns in changing this to the month before the election because of the time frame needed to seal the machines and move the machines. So I have -- what I have tried to do is change the language to identify -- to address the concerns that you expressed at

the last meeting without also getting into compromising the preparation of the machines for the election. Further, I have added the security procedural changes that you've requested that DeKalb submitted at the special called meeting and are attached to the new memo and the changes on the new memo are in bold."

Mr. Evans - "Now the only other changes I would have is on the second page where you have the results of the inspections will be reported on a quarterly basis, it's just that the results of the inspections will be reported to the State Elections Board once they're available."

Ms. LaGrua - "That's fine."

Mr. Evans - "Really, we shouldn't wait until the next Board meeting."

Ms. LaGrua - "I will do that -- if that's the direction of the Board, I'll make that change."

Chairperson Handel - "And Shawn, did you mention to me the other day that DeKalb has already --."

Ms. LaGrua - Nodding up and down

Chairperson Handel - "Great."

Ms. LaGrua - "Two other minor matters, if I could, and I'll finish my rather lengthy report. I have received on yesterday, notification that DeKalb County has, in fact, sent us the \$15 thousand check, the fine, so that has been taken care of. And you do not have an updated case status at this meeting because it's so close to the last one there were no real changes except for the cases we heard at the last meeting. When -- at the conclusion of this meeting, I'll get that prepared and get it to you so you keep an updated list. I'm going to defer at the Chair's -- if the Chair approves and the Board approves, the update on the June 19th monitoring to Mr. McCarthy's report."

Chairperson Handel - "Perfect."

Ms. LaGrua - "I don't think we need to do both."

Chairperson Handel - "Okay. Perfect. All right."

Ms. LaGrua - "Thank you so much for you attention and for having me."

Chairperson Handel - "Thank you very much. Good job. All right. Let's see. Attorney General's office. Do you have --."

Ms. Almond - "Yes."

Chairperson Handel - "And we have been such significant clients of the Attorney General's office in the past couple of months, that Calandra is our additional support for us here. So thanks for being here and for your help. And I think that will also be some additional support to help us get through quicker, some of the cases that we've had."

Ms. Almond - "Well, case no. 2005-67. This involves respondent Karen Slater. Ms. Slater has admitted to assisting six of her family members in obtaining their absentee ballots for the 2005 Municipal Election in the City of Commerce. Her son was a candidate for Mayor. What she did was she completed the applications for her family members and then she signed the applications for her family members and this was a violation of O.C.G.A. 21-2-381, as well as 21-2-562. This matter is considered at the Board's September 13th, 2006 meeting, and at that time was referred to our office. There's no recommended disposition indicated at that time, however, Ms. Slater has agreed to Cease and Desist from further violating the Code. She's also agreed to a \$100 fine. I recommend that you recommend that -- this Consent Order because the violations here appear to be, really, very minor. There's no dispute that her family members requested that she obtain absentee ballots for them and they knew that she was going to be filling out the ballots and signing for her. She's not going to do it again and, you know, she was just trying to be helpful. She wasn't trying to violate the law. So I would recommend that you would accept the Consent Order."

Chairperson Handel - "Okay. Any questions on the consent order. Mr. McIver."

Mr. McIver - "Yes. I have a question of member Worley. Now that Mr. Evans has left, I assume Mr. Worley's the senior member of our Board. And I would ask, is this fine consistent with how we've handled matters like this in the past?"

Mr. Worley - "I believe it is."

Mr. McIver - "Thank you."

Chairperson Handel - "And colleagues, on the matter of fines, as we -- since previously there really wasn't a database kept and a case management tracking system kept and we've all had the conversation around consistency and we are doing that going forward so that we will have some ability to go back from a retrospective standpoint to maintain consistency as we get these. So we will have that as we build that over the course of the next four years because, for me, that's really important information. All right. Do we have a motion?"

Mr. Worley - "I would make a motion that we accept this

Consent Order."

Mr. McIver - "Second."

Chairperson Handel - "Got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There's none. Thank you. Did you have any other items?"

Ms. Almond - "There are no major developments in any other pending litigations, so...."

Chairperson Handel - "All right."

Ms. Almond - "Unless you have a question, that's it."

Chairperson Handel - "Okay. All right. Legislative."

Mr. Rob Simms - "Madam Secretary and members of the Board, for the record I'm Rob Simms. I'm Deputy Secretary of State and I'm going to give a very, very brief update on HR 811 which is the Congressional Bill that you, as the Board, was briefed at our May 23rd meeting. You'll recall that at that time the discussion focused around some pending action and the possibility that the Bill would pass out of the House. In about the past four weeks since that Bill has been considered and talked about, there's been no official action in the House of Representatives. Just for your information, within the past week to 10 day there was a meeting of a, kind of a committee that is looking at Federal Election Reform. It's a committee of stakeholder's interest for its academics (phonetic). Congressman Rush Holt was there for part of the presentation and he said on the record that his hope and expectation, or at least his hope, was that the Bill would pass this summer, toward the end of the summer, in Congress which would put even further along the timeline for the subsequent 2008 elections. I'll briefly remind the Board that this legislation for Georgia's case would require a complete change in the voting election system. The DREs would not be -- would not be allowed to be utilized in any federal election starting with the November, 2008 election cycle. Practically speaking for this -- for this Board and for the State of Georgia, this would mean that the -- the 2008 election cycle would start with our current election system and our current machines and policies and procedures in place. And the Elections Division, the State Elections Board as the policy makers, would have to implement and move forward with the implementation and rollout of the completely new system at the same time. As you all are aware, the 2008 cycle of the Presidential Election Year is by far the largest elections that this State has on every election cycle and that would -- that is significant

problems. One other thing I'll bring to your attention is that there is included in the language of the legislation, there is a request for \$600 million or so in federal funding to help states with the implementation of the law. You'll recall, especially those who have been on the Board for a considerable amount of time that the HAVA funding that was discussed and starting in 2002 was in three phases. Phase 3 of HAVA has still yet to be appropriated. The total of those about \$800 million. Our approximate share of that third phase of funding would be about 18 or \$19 million. So we've got all these different kind of dynamics at play. An appropriations committee and the House added \$300 million in federal funding for election reform. Not necessarily directed for HR 811, but kind of in the debate that has been ongoing. And as you all are aware, the appropriations bills in Congress have become quite controversial and all 11 or 12 are in still some form of passage in the House. So that's roughly my brief update...."

Chairperson Handel - "Okay."

Mr. Simms - "...update on HR 811. I'm happy to answer any questions regarding it."

Chairperson Handel - "All right. Any questions or comments from my colleagues?"

Mr. Israel - "I make a motion we oppose HR 811."

Chairperson Handel - "Second."

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

Chairperson Handel - "There's no public comment on this. Thank you. You missed public comment time; sorry. And just for the record, if I can state, you know, for me, I support a voter verifiable paper audit trail. This Bill, however, is untenable in the timeline because, let's be practical. Number one, I don't have a lucky bucket with \$80 million in it that is going to magically appear. Even if we wanted to do this, it's -- it's just simply impractical. So I'm going to support the motion."

Mr. Worley - "What form would that opposition take. At the last meeting there was a, I guess, a question of sending a letter to the Congressional Delegation informing him -- informing them of our position."

Chairperson Handel - "Uh-huh (affirmative). We can do that. Absolutely. And it'll -- I mean, I'll be happy to share the letter with everyone as well. All right. I've got a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, the motion passes. All right. Our next item is Elections Recap. And I do want to -- come on up, Mike. I want to commend the Elections staff and also the investigative team and Mike will go through it, but the command center was open with KSU. We had the command center here, we had an extraordinary team of monitors that went out with particular focus over the Tenth Congressional District and getting all of that information on an hourly basis was just extremely helpful to us to make sure if there was anything that was even slightly amiss in a county, there was just a complete rapid response and Tex was out as well. And so, I mean, from where I sit I wish turnout had been higher than it was, but with that said I think it was -- everything went very well and very smooth. So congrats to the Elections team."

Mr. Michael McCarthy - "Thank you. On behalf of the whole team, I'd like to say thank you very much. We did some things the same. We did some things different and I'd like to highlight a little of each as we move forward and review what just occurred with the January 19th elections. I'm Mike McCarthy, I'm the Director of the Elections Division at the Secretary of State's office. I'd like to just touch briefly on the poll monitor because this is one of the things which we did draw on lessons from the past and we modified some things to make this program even more effective going forward into the future. On the special election that just occurred, we deployed 22 poll monitors out to these election sites. What is part of past practice is that we did go. What is part of new practice is that we didn't announce where we were deploying poll monitors to in advance. So for the first time, we actually put teams out into the field. We worked very collaboratively with the Inspector General's office and our division office to arrange to have these inspectors in the field and visit over 300 sites on election day. They traveled with materials that were similar to, but updated from the past materials. We were gathering background information on both, things they observed that could be better, but also good practices that we want to borrow and replicate elsewhere. And we're looking forward to compiling those reports and being able to share that information in the future. We also did a very thorough monitoring program, as the Secretary mentioned. Throughout the course of the day we were in radio contact and phone contact with these sites. We had contact with our technical support team at KSU, our staff here, the Elections Division. And we had central receipt points for all of our teams that were connected by radio. We got processes updates throughout the day of things that were going right. And it's good to know things are going right. And we were continually updated in the course of the day. What I do want to highlight is the monitoring programming in a few instances where things did occur help facilitate very quick, very quick response to the things that did occur so we could be right on top on behalf of the voters to correct anything

that did appear to becoming an issue and I'll touch on a couple of examples right at the close of our presentation. With -- with regards to the results, the results that are posted on our website and are being discussed in the media, these are preliminary results with the 10th and 24th District. We'll be gathering additional absentee voting results during the course, well, through Friday. These will be additional ballots that are overseas military voters who are sending in materials that are in the process in being received and tabulated. We have, for the turnout in the 10th and 24th Districts, at this point, we have 55 thousand 225 voters who voted in the 10th Congressional District race. We had 18 thousand 481 as of election night who voted in the 24th State District race. The apparent winners, at this point, for the 24th is Mr. Jackson, who won 63 percent of the vote. And for the 10th District, again, the unofficial results at this point, indicate Mr. Whitehead received 44 percent of the votes, and because this is not more than 50 percent of the votes, a run-off will be held on July 17th. Mr. Ward is the apparent second highest vote getter with 20.7 percent of the vote. Mr. Barlow, the third highest vote getter with 20.3 percent of the vote. This is a separation of only 187 votes as of election night, and because there is less than a one percent difference, the third highest vote getter does have the option of making a request for a recount. A couple of things I do want to highlight which occurred on election day that I think are good examples of being ready and be able to make a quick and effective response or show enough about them with a handout, you'll note that Columbia County, we had an instance where the server, the equipment that was used that evening failed earlier in the process. It was tested and in the process of testing it indicated it needed to be replaced. We had both, staff and equipment immediately ready for deployment. They were out into the field. Another thing that needed to be replaced was dealt with well in advance of that equipment being used. Electricity went off in Greene County in one polling place. We were asked if this was unusual and actually, if you listen to election results in the nation, someplace in somewhere the electricity goes off and we always train to this. This is a good example where staff were trained, generators were ready to bring in, the voting equipment was on battery, everything worked the way people were trained to address the contingencies. Columbia County had an instance in one case where there was a report that one of their DREs needed to be taken offline from the polling place. It was immediately recognized, the need was addressed and no further action needed to be taken. Fourth instance was more of a person type item. One particular polling place in Heard County, there was a report that some of the voters were uncomfortable of the religious music being played at a polling place. It was immediately brought to the attention of the polling place officials that they should stop doing that and that was the conclusion of the matter. So I'd like to just raise these and present these

as different types of things that can arise. We know this, we plan for it, we train to it and I'd like to congratulate everyone who is involved with it. It provided for a clean election on June 19th."

Chairperson Handel - "Super. Thank you."

Mr. McCarthy - "I'm ready for any questions that --."

Chairperson Handel - "Thank you very much. And colleagues, one thing that we will do is make sure that after elections that you get a report like this that talks about what went right, but also, what problems or issues occurred. Because I think, you know, we ought to be honest about those sides of that. Mr. McIver."

Mr. McIver - "Greene County spelled with an E. Folks from Greene might be sensitive to that."

Mr. McCarthy - "I will certainly -- certainly address that. I'm working on my accent."

Mr. McIver - "To your point, Madam Chair, I was out and was at Richmond County for the vote count. And I would really like, if they were here, would like to commend them. That's one of the smoothest operations I've seen. It was almost symphonic. People knew exactly what to do, how to --."

Chairperson Handel - "That's our Lynn Bailey. You got to love her."

Mr. McIver - "It's just -- It was just -- it was symphonic."

Chairperson Handel - "Yes. She's great."

Mr. McIver - "So I complimented everybody I could find and I want to do it here on the record, as well."

Chairperson Handel - "Yes. She's terrific. Super. Anything else? Thank you all very much."

Mr. McCarthy - "Thank you."

Chairperson Handel - "Okay. The next item -- actually, both of the next items A and B, deal with Photo ID Cards and if you want to touch on the distribution report and then I'll come back around on the Contract Renewal item."

Mr. McIver - "I'll be glad to. We have a new report that I have over the net, which is not part of the notebook. However, the numbers haven't changed significantly. We have at present, 2,796 cards have been issued. They continued to be issued on a monthly basis, even in this past month of May. I can - to comment on my continuing concern, we have

one County, the one I just complimented, Richmond County, has issued almost twice the number of cards that Fulton County has issued. As we all know, Fulton is a substantially larger county, more populous. I -- I have looked into that in my recent visit to Richmond County this week and it appears that the Registrar's office is across the way from a couple of homeless shelters and these individuals need photo IDs to cash their public checks. And it appears that they are -- are coming across to the Registrar's office and obtaining photo IDs, which they promptly lose and then need them for the next month so as to cash their checks. And there are individuals there who have received more than six cards, just because they're not particularly good at hanging onto them. So, what I think this highlights, Madam Chair, is certainly we should discuss and announce publicly. But we might, certainly, want to consider an audit at some point...."

Chairperson Handel - "Okay."

Mr. McIver - "...of the issuance of some of these cards. But it is troubling to me that Richmond County has issued as many cards as they have compared to much, much larger counties, so I want to make sure that doesn't become a factor in an important election like we may have on February the 5th."

Chairperson Handel - "Yes. That's a good point and as we've discussed, we are going to ensure that the numbers are reconciled between the reports that come up from the counties and the reports that come from Mr. Rainwater, as well, and do some as we get into the preparation mode for voter ID, which at this point we'll move forward as soon as legally possible. So we are mindful of that and that'll be part of what we do in terms of facts and -- and data gathering there. The second item is the Police and Sheriff's press, Inc., and colleagues, that has to do with -- it's kind of an interesting company name that doesn't really reflect what it's -- the actual -- the company that actually has the machinery that issues the photo ID cards and what we need to do is -- the contract does expire and what we need to do is move to be able to renew the contract and some components of the contract. And with some of those components being the extended warranty, a service to locate any lost of the laptop computers that might be lost, encryption, software, as well as annual training and I -- I thought I handed out, but I'll do it one more time because I have enough copies. I have a specific motion that details everything and the reason this needs to be done via the Board is, as you know, the original contract was via the Board. The second thing has to do with the performance bond for the contract. And the vendor originally had a performance bond for all of the equipment, et cetera, and if you read the contract I think that we can probably lift the performance bond so that it's not that burden on the vendor

because we have all the performance guarantees that we need already inherent in the contract. So now that the equipment's moving on to warranty, I don't think we need that performance bond. So that's a motion and it's a long motion. So whoever makes it, if they could please read it so we make sure we have exactly right so we can move forward exactly properly."

Mr. McIver - "Now does this cover the performance bond, as well?"

Chairperson Handel - "You would need to add that and say that we'd be willing to -- and that the vendor may drop the performance bond."

Mr. McIver - "Well let me make the motion and then, perhaps, we'll have some discussion. But by way of background, I was designated by the State Election Board last year to be the point person for the Board on the purchase of the photo ID system, and led that team. I think I've already commented, that was 244.1 hours of my time last year and it was a very detailed process trying to comply with the State's procurement regulations, which I think we did in a successful way. The winner of that bid was the Police and Sheriff's Press, Inc. owned by Mr. Frank Rayford, who's in the office today if we need to hear from him. I cannot speak more highly about how his team performed. As a vendor to the State, they over performed, in my judgment, particularly with the training aspects at the conferences last year. And also, in terms of supporting the various counties, many, many of whom sought retraining and additional help and reorientation of the equipment and so on. So I am delighted with the service of the -- of the vendor in that particular case. And with that as background, then would like to make this motion which -- all right. I'll add the performance bond as well. But, I would move, then, with that as a background that in accordance with Paragraph 2.1.12 in Exhibits C, E and J of the Turnkey Photo Identification System Contract and that number is 47800-005-0000000149, dated May 2, 2006. And this option year number one of the contract, we elect to make the following additional purchases. 1) Extended system warranty for a period of 12 months in the amount of \$13,515. 2) Service to locate lost or stolen laptop computers and related encryption software program for a period of 12 months in the amount of \$6,145.35. and 3) Annual training in the amount of \$60. per person, not to exceed \$30 thousand. And also, additionally, that the portion of this contract which deals with the performance bond, that that portion of the agreement be eliminated entirely and there be no bond requirement, whatsoever, on the vendor going forward from this point. And did you want me to cover this as well?"

Chairperson Handel - "Yes. So that we can actually work

with the vendor."

Mr. McIver - "All right. And then we would designate the Secretary of State as the Chairman of the SEB as the Administrator of the Contract heretofore, it's been the SEB. We were the -- we were the purchaser and I'm certainly delighted to indicate this as well, since you have the staff for it. And that would be my motion."

Chairperson Handel - "If you would also add that last sentence."

Mr. McIver - "Oh. Pardon me. And then the pending -- the transfer of appropriate funds."

Chairperson Handel - "Is there a second?"

Mr. Israel - "Second."

Chairperson Handel - "Okay. I've got a motion and a second. Any questions or comments."

Mr. Worley - I --."

Chairperson Handel - "Mr. Worley."

Mr. Worley - "I have a comment."

Chairperson Handel - "Sure."

Mr. Worley - "I'm going to vote for the motion because I -- I think it's a good thing that we have some provision to provide IDs for people, but I -- it doesn't change my opinion, which I still have, that this system in the counties is no where near sufficient to provide the number of IDs that are necessary to people who will be denied the right to vote if the photo ID system continues in effect."

Chairperson Handel - "All right. A motion and a second. And -- let me just comment further on that, sort of what we're doing from a staffing standpoint, given the ruling from the Georgia Supreme Court. We are putting together a detailed education and outreach effort because certainly, I view that I have an extraordinarily high responsibility to do everything I can to educate and get IDs in the hands of those who need them. So we are working on that and should have something shortly. I don't know if we'll have another meeting, but certainly we will make sure that the plan is distributed out to everyone and you'll have an opportunity to comment and things of that nature to make sure we're doing as much as we can."

Mr. Worley - "Madam Secretary, it's my understanding that there were funds provided by the legislature in the most recent budget."

Chairperson Handel - Yes. \$500 thousand. Yes. \$500 thousand. Okay. All right. We have a motion and a second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

Chairperson Handel - "Any opposed? There being none, that is approved. Any other items, colleagues? There being none, I will entertain a motion to adjourn."

Mr. Worley - "I move that we adjourn."

Mr. Israel - "Second."

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

(Whereupon, the meeting adjourned at 4:20 p.m.)