

**Transcript of the Public Meeting
of the Board of Advisors to the
United States Election Assistance Commission**

Held at
The Sphinx Club
Oasis Room
1315 K Street, N.W.
Washington, DC 20005

Held on Thursday, June 4, 2009

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the Board of Advisors to the United States Election Assistance Commission ("EAC") held on Thursday, June 4, 2009. The meeting convened at 9:17 a.m., EDT. The meeting was adjourned at 11:56 a.m., EDT.

PUBLIC MEETING

CHAIR THOMAS:

Okay, before we get back to the Voting System Guidelines, I'd ask Doug Lewis to report on proxies, if you could.

MR. LEWIS:

This is Doug Lewis. And I want you to see the one proxy I got, I want you to notice this, I got a proxy that says, "I give my proxy to Doug Lewis. This proxy is valid until my hung-over carcass shows up at the meeting."

UNKNOWN:

It's got to be Peggy.

MR. LEWIS:

No, it was Sarah Ball Johnson. I don't know if Sarah's in the room, but she's here somewhere.

I have one that I'll have to ask for a ruling from the Chair on, but we have a, Mr. Gardner is in the room?

MR. GARDNER:

Yes.

MR. LEWIS:

Okay, and he has Mr. Jenkins' proxy. So he has, Mr. Gardner has two votes. Ms. Noren has two votes, she has hers and Ms. Carnahan's. And I'm sorry Mr. Chairman, I have mislaid that batch, up there, we've got so many of these going along. Ms.

Ensley assigned her proxy to Mr. Cowles. So Mr. Cowles has two votes. Mr. Jones, Don Jones assigned his to Mr. Crangle. Mr. Crangle has two votes. Abigail Thernstrom assigned hers to Mr. Donsanto. If Mr. Donsanto arrives, he has two votes. If he does not, that one is no longer valid. In Mr. Donsanto's absence, I have his proxy and so I would have two votes. And then we have one that was emailed to the DFO last night by Mayor Frank Ortis who wishes to assign his proxy to Mayor Rhine McLin. It is the decision of the Proxy Committee that we would allow this, but we need a ruling of the Chair as to whether or not that is actually allowable under either Robert's or the procedures of this body.

CHAIR THOMAS:

It is.

MR. LEWIS:

So Mr. McLin has two votes. Okay. That's where we stand at the current time. Assuming that Sarah Ball Johnson arrives, I'm going to guess that, since she is present, that she probably would vote her own.

CHAIR THOMAS:

And there would be a question of the proxy in any event.

[Laughter]

CHAIR THOMAS:

She gave you that proxy on a bar napkin. I don't know.

MR. LEWIS:

Well, she didn't have a form at the time.

CHAIR THOMAS:

It's not the form we're worried about. Okay, in the absence of Jim Dickson, who is on the way, his cab driver wasn't there this morning, so he'll be along shortly. In the interim, I'm going to ask Terri Hegarty to report on the Resolution Committee, and as I understand, we have one Resolution and our intention now is to just read that so you all can have some time to think about it. We're not going to discuss it right now. And then we're going to move on to Voting System Guidelines, so go ahead.

MS. HEGARTY:

Yes, good morning. We did receive one Resolution from Secretary Chris Nelson by the deadline yesterday and it was, it's now in a typed version. Apparently there's no printed copy though and, is it on your computers? It was suggested that perhaps staff could read since I don't have a copy...

CHAIR THOMAS:

That's fine.

MS. HEGARTY:

...if that's possible.

MR. MASTERSON:

She's going to try to bring it up on there.

MS. HEGARTY:

Because it is different than the handwritten version I have here. It's been edited, so I'm not going to use this one.

MR. MASTERSON:

Technical difficulties.

CHAIR THOMAS:

We've come back. I'm going to turn this over to Keith Cunningham and we can continue on working our way through the Committees' recommendations and we've probably got a little over an hour where we can devote to this. I'm going to try to keep it within that timeframe.

MR. CUNNINGHAM:

Thank you. How many of you woke up this morning and just couldn't wait to get down here and get back at this?

[Laughter]

MR. CUNNINGHAM:

We thought what we would do this morning since we are running a little tight on time, is turn to the specific recommendations of the Committee and cover those. And then with whatever time might be left after that we would then move to any questions about the full document. Is the technical difficulty going to affect your ability to put those things up there?

MR. MASTERSON:

No, we'll project the standards up on the screen.

MR. CUNNINGHAM:

Okay, how do we do this John, do you want me to talk about each of the recommendations while you look for them or do you, are you prepared to sort of present them in order? I guess we should have probably talked about that first.

MR. WACK:

How about, Keith, if you would introduce each one and I'll, in the meantime, try to get to the specific material. The first one I

have I believe, would you be starting at Volume I, Section
4.1.2.13...

MR. CUNNINGHAM:

Yes.

MR. WACK:

...testing under extreme conditions.

MR. CUNNINGHAM:

Yes, testing under extreme conditions. I will try to paraphrase as briefly as possible, the Committee's thinking in some of these matters. And certainly if any of the Committee members have a different recollection or a different opinion about it, don't hesitate to jump in to the discussion.

Testing under extreme conditions, there was a set of numbers, if you will, certain humidities, certain temperatures and so forth, and I believe what the Committee's thought process here was instead of trying to, a lot of time was spent discussing the levels of humidity on a given day around the Country, you know, between Louisiana and Arizona, or there's none in Ohio, or there's some. So, the Committee's, I think, position on this was to let the manufacturer specify, instead of actually saying that the equipment must function at this level, allow the manufacturer to specify the temperature and humidity ranges that their systems are designed to handle. Test to that statement, and then if the machinery exceeds those standards, to duly note it in the certification process. Is that a fair representation of the Committee's discussion on that matter? I'm saying that the temperature and humidity range issue was one where the Committee felt that it was best that the manufacturer

state the range that their systems are designed to function in and then the system be tested to that, and if it exceeds those standards, duly note it in the certification, but do not state preset numbers in the standards. Is that...

COMMISSIONER HILLMAN:

Well, I feel, there's a preset range in the standards and the intent of the recommendation was for the manufacturer to state what his system would accommodate, and if it exceeds a standard, it would be noted in the certification, so that election officials would know. And so, perhaps, Matt or John, you can say what the, it's 4.1.2.13 and the existing temperatures ranging from 41 degrees Fahrenheit to 104 degrees Fahrenheit, and relative humidity from 5% to 85% non-condensing. That's the existing standard. And the recommendation was if a manufacturer exceeds that, it would be noted in the certification. But at any rate, it must meet those ranges.

MR. CUNNINGHAM:

Okay, I misunderstood that.

MR. LEWIS:

And the discussion, Mr. Chairman, if you will remember, was that in a good many parts of America we have jurisdictions that are in excess of 85% humidity on a continuing and regular basis and that that does indeed impact paper ballots substantially. So the concern was that the folks who recommended the standard as a baseline may not have truly understood the impact of the recommendation and that so, therefore, the Committee's recommendation was to encourage and reward the vendor for

exceeding those baselines and to then identify what the vendor says it is able to do in excess of that. Was that...

MR. MASTERSON:

Yeah, that's exactly correct. And two points of clarification that I think are important to note here. One is that in our Testing and Certification Program, if a vendor claims something, whatever that may be, in this case 92% humidity support, that's what we'll test. We want to confirm that the functionality is, in fact, the functionality. A lot of times though, you know, that claim is not stated in there, it's simply that it will meet whatever the standard is. But if that claim is in there, that's what we'll test. The second point is, for the purposes of the standard, you know, the 5% to 85% non-condensing, the conditions in the chamber obviously are not the same as the conditions in the polling place. And 85% non-condensing humidity in the chamber is different than 85% humidity in a polling place, whatever, let alone 95% humidity in a polling place. It's just a, it's a different test than actually putting it out in the polling place. So that's important to know. I don't know, I mean one's probably better because it's actually how it's being used in the polling place, but the chambers, the humidity chambers are not simulations of a polling place. So that's sort of important to note. There are testing chambers that can be, you know, very accurate on condensation, level of humidity, all that.

MR. CUNNINGHAM:

Mr. Lewis.

MR. LEWIS:

Doug Lewis. I think the concern here, Matt, is, how do we structure this so that it is clear to the manufacturer that they will be clearly rewarded for excess on this rather than, the tendency will be to be tested to, and meet, the standard because the standard is less than the requirements that are necessary in a good many parts of the Country. And, I'm under no illusions that if I'm a manufacturer, I want to meet the standard. I don't want to be failing because I told you I was going to exceed the standard and then don't meet the standard. So it seems to me that the testing has got to do two things. It first tests to the standard. Does it meet the standard? And then the second test is does it exceed the standard that the manufacturer wants to claim then. So that you're not penalizing the manufacturer if he says that it will do 92%, and then telling him he failed because it didn't do 92%. He passes if he does 85%, and then if he makes the claim that it will also go up to 92%, then at that point you will say well you don't meet the 92% but you do meet the 85%. Right?

MR. MASTERSON:

Currently, kind of. The classic lawyer answer, right? Maybe. If they claim 92% or, you know, whatever the functionality is, and they don't meet that functionality, that's a discrepancy because they're not meeting that functionality. But then of course they can just, you know, change it to meet the standard, you know. So, the documentation would need to be clarified. They can't claim they meet 92% if they don't in fact meet 92%. You know, that's going to do you no good. And so what would need to happen is either they fix the system to meet 92% and match the documentation, or they

remove the claim that they can meet 92% and instead change it to we meet the standard for humidity.

MR. LEWIS:

Let me suggest that we approach it a different way. We test first to what the standard itself says. Then, and the manufacturers pass or fail on that. Then, anything they want to claim above that, is tested separately or in addition to the basic standard so that if they fail that part at least they'd have to remove that claim from theirs, but they do not become a discrepancy as to whether or not they meet the standards.

MR. MASTERSON:

The manner in which you suggest the testing is exactly how it's done.

MR. LEWIS:

Okay.

MR. MASTERSON:

But, it's still a discrepancy because their documentation still claims one thing and, okay.

MR. CUNNINGHAM:

Further discussion? Wendy

MS. NOREN:

I just want to add one. This was another one of those issues where I think most of us felt, you know, given free rein, that we thought the standard should be higher. But, again, part of our goal is to try to minimize hardware changes in this version of it. And so we were trying to find a balance between believing 85% was too

low for a standard and trying to get the manufacturers to bump that up so we would actually know what their equipment is capable of.

MR. CUNNINGHAM:

Barbara.

DR. SIMONS:

Barbara Simons. Just a really minor point. It seems to me that you actually want to reverse the order and first test to the claim because if they pass that then you don't have to bother testing to the standard. So that should be cheaper in terms of testing.

MR. CUNNINGHAM:

That's interesting.

MR. MASTERSON:

That's a good point. That's an efficiency thing and that's probably actually how it works. But the point is, I mean, functionally what Doug says is how it works. If they meet the standard, they meet the standard. But you're exactly right Dr. Simons, that efficiency-wise you're probably exactly, if they're going to claim 92%, just throw it in at 92% and see if they meet that. So, yeah.

MR. LEWIS:

I think what we want, Matt, all along is to encourage. No matter where a vendor is, a manufacturer is willing to try to exceed standards, we want to encourage that, throughout the standards, whether it's in this or any other area. And so, we just want to make sure that we're not penalizing them for making their own claims if they still meet standard.

MR. CUNNINGHAM:

Is there any further discussion on this particular item?

MR. KELLEY:

Mr. Chairman, do you want questions now on these or do you want to go through all of them first? Neal Kelley.

MR. CUNNINGHAM:

No, let's handle them as we go because I believe what our intention is, is then when we're done, is to approve them all or perhaps remove one if somebody doesn't like it, but the intention is to approve the document as it stands, not make individual motions.

MR. KELLEY:

I can wait if you're going to do the Resolution.

MR. CUNNINGHAM:

No, go ahead, let's finish our discussion on this.

MR. KELLEY:

I do have a question. It centers around the environmental study or the environmental standards, but it's probably broader than that. And that is, my concern is lifecycle issues. And I'm not sure if any of that is taken into account, you know, the manufacturers claim x lifecycle. And I'm here to tell you that they're not going to meet that lifecycle. At least in my county. I'm responsible for 13,000 voting systems and \$50,000,000 to the taxpayers, and at this point I'm trying to keep those going for the next several years. And in the airline industry, you know, for an aircraft to be certified, you have to meet x lifecycle on a part and that part is replaced even if it's not at the end of the lifecycle. Is any of that taken into account or consideration under these Guidelines or these testing standards?

MR. WACK:

I'm not really good at operating a computer and talking at the same time. But I do know that there is a requirement, and I'll try to find it quickly, somewhere in Volume I, that basically says there's an expectation that voting systems will run for 10 years. And that's repeated also in this next iteration. And, but I don't think it's "the voting system shall last for 10 years." I don't think it's that necessarily.

MR. KELLEY:

But they should run for 10 years under the conditions, under the standards where they were tested?

MR. WACK:

Something akin to that, that there's an expectation. I'm not exactly sure what, I'll see if I can look for the term "10 year."

MR. KELLY:

And while you're looking for that, maybe I can just add a quick question. How do, how are those temperature ranges established in the first place?

MR. WACK:

Could I, if I could just interrupt, I'll go back. It's Section, Chapter 4, Section 4.3.2 Durability. All voting systems shall be designed to withstand normal use without deterioration and without excessive maintenance cost for a period of 10 years. Now, looking at that, you know, "excessive maintenance cost," "normal use," those are terms that really aren't very testable. I think it just lays out that there's an expectation that it's reasonable to conclude that this will last for 10 years.

MR. KELLEY:

Under normal conditions, unfortunately in my county, that's not the case. 25 elections roughly in five years, those things just get beat up, quite frankly. But the testing standards for the temperature range, and maybe that hopefully expands on my question, how do you set those? Is that from another industry? Is that something that is brought in?

MR. WACK:

Let's see, I don't know the origin. They were inherited from the 2002 VSS and I don't know if they go all the way back to the 1990. So, I'll have to do some research on that.

MR. KELLEY:

It just seems to me that the manufacturers, and I know my manufacturer is not going to like this, but, you know, lifecycle is an issue. And if these new voting systems that will be coming out are expected to last the same as these voting systems in the last few years, I think we have problems long-term.

MR. CUNNINGHAM:

Do you want to move the Resolution real quick? Is there any further discussion on this particular item? Let's take a look at that Resolution then real quick.

MS. NEDZAR:

It's projected on the screen. It reads, "Whereas, the United States Election Assistance Commission, Board of Advisors, passed Resolution 2007-[D10]; and Whereas, that Resolution recommended that the Election Assistance Commission provide a fiscal analysis for new Voluntary Voting System Guidelines; and Whereas, that Resolution was silent regarding the scope of the

analysis; and Whereas, that Resolution did not contain a timeframe for the conclusion of the analysis; Now Therefore, Be It Resolved that any such fiscal analysis should report projected cost increases or decreases on a State and National basis for version 4.0 of the Voluntary Voting System Guidelines. This analysis should be completed following the public comment period and prior to the adoption of the next iteration of the Voluntary Voting System Guidelines by the Election Assistance Commission."

CHAIR THOMAS:

Thank you very much. We will be taking that Resolution up later. We wanted people just to be able to see it, think about it, and be ready to discuss it when it comes before the Board. Thank you.

MR. CUNNINGHAM:

The next item the Committee discussed and has a recommendation for is basically that this is Volume I, Section 4.1.5.1, testing systems with all ballot sources. In other words, a concern was that a manufacturer brings in a machine, brings in their own set of pre-printed ballots, and that's what the test consisted of. We felt that the testing of the system should include all variations of ballots that that system may ultimately be required to handle including, but not limited to, early voting, early voting ballots, ballot on demand, ballots obviously, ballots not only provided by the manufacturer, but then ballots that were independent of the manufacturer's purview so that the system was fully tested on all possibilities, or as many of the possibilities of ballot sources as it may encounter in a real environment. So with that, that's a pretty simple, straightforward recommendation. I don't

know that it needs a whole lot of discussion. If there's any, okay. John, did you have anything to add to that?

The next was Volume II, Section 2.1.1.1. It's for manual documentations, instructions for functionality and set-up. And I think this is a pretty strong recommendation. We believe that the User Manual and documentation should clearly identify in concise language how to set up the system, operating system, security functionality and accessibility functionality, according to the manufacturer's specifications as certified. In other words, documentation should be provided with this machine that clearly allows election official, poll worker, to set the machine up in a way that voters can use it without question or regard for doing it correctly. Pretty straightforward. Hearing no objection, I'll move to the next one.

Volume II, Section 2.1.1.1. Apply usability standards, user documentations. Standards shall specify that the manufacturer shall develop User Guides for the systems. Voting system test labs shall test the user documentation. User Guides shall be presented in plain language for usability by election officials. Usability testing shall apply to all User Guides and Operations Manuals submitted under the VVSG. In other words, we want the actual, you know, in the course of testing we don't think it's good to just say "yeah, here's our user document." We actually want, in the testing process, to utilize the documentation provided by the manufacturer to set the machine up and make sure that it is clearly understandable and readable by even those of us that manage elections. Questions? Concerns?

Okay, Volume II, Section 2.1.3. And I'm going to probably have to ask for some help here because I'm sort of drawing a blank. I remember protection of proprietary information. Matt perhaps you can pull in, I mean I remember this conversation, but I don't quite remember what it, you're younger than I am, brain cells, you haven't had as much time to burn brain cells.

MR. MASTERSON:

Only a couple of years Keith. This was Mr. Lewis'.

MR. CUNNINGHAM:

I'm sorry, was it Mr. Lewis'?

MR. MASTERSON:

Yes, but basically, he objected to the wording "moot" as being incorrect verbiage. That it doesn't actually describe what we want it to describe as far as if you label everything proprietary, it basically means nothing to us. And so he objected to "moot."

MR. CUNNINGHAM:

Mr. Lewis.

MR. LEWIS:

And the reason for that was, because we got on-line and looked up the definition of "moot," which meant to argue or discuss about as it's first preferred definition, and we didn't want that. And so, what we wanted to make clear was that it was "invalid" not "moot."

MR. CUNNINGHAM:

Questions? Comments? The next aspect of the discussion centered around Volume II, Section 2.6. Accessibility documentation. Basically that user documentation shall contain a

distinct accessibility section that clearly identifies the system's accessibility functionality, how the system meets the accessibility requirements and set up procedures for accessibility. And again, this is basically asking for, excuse me, basically asking for very clear and concise documentation to assist election officials and poll workers in their quest to serve voters properly. All right, any concerns there?

Volume II, Section 5.4. Software Workmanship Coding Standards. Test labs shall verify that what manufacturers claim conforms to the requirements for software workmanship coding standards is published and credible as outlined in the standard. And once again, Matt I'm going to defer to you.

MR. MASTERSON:

Yeah, this actually, John should discuss this. This section was important, as I mentioned in my comments yesterday, we're attempting to create flexibility for the manufacturers in coding so that they can actually use state-of-the-art coding practices if that's what they choose to do so. So do you want to speak a little bit about the change in the coding standards?

MR. WACK:

Sure. We've talked about this probably before, but there have been some longstanding complaints about the coding standard specified in 2005 and 2002, and primarily some vendors have even, you know, said things such as it ends up making us write code that's basically less durable, possibly less secure. The advantage was that it was relatively easy to run basically automated source code checking tools, but in general it wasn't a

good modern standard in software development terms. So, the change here was essentially to say it's okay to use another coding standard as long as it's identified as being credible. And there are some requirements in here. There's also some additional rather basic requirements on basically software coding. And that's really it. Basically, in the discussion with some of the manufacturers, they wanted some clarification on whether they could continue to use the existing coding standards, or whether all of a sudden their source code would automatically be noncompliant. And we would view the current 2005 as a credible published coding standard. So, yes, people could continue to use the coding standard they have in place right now. And that's really all it is. We heard nothing but positive feedback from manufacturers on this issue.

MR. CUNNINGHAM:

Questions? Okay, well, Commissioner Hillman just reminded me, because I sort of skipped over it, myself, because I always have to go back and try to remember what the acronyms are. The previous accessibility documentation, TDP is Technical Data Package, for those of you, I told her I'm convinced there's a guy in a basement in Washington that comes up with acronyms for everything and we don't know who he is, but that's, maybe it's a she.

I want to, a couple of things, first I want to thank the members of the Committee for this work. You know, this, as I said at the beginning of this whole discussion, this is just, even for those of us that sort of deal with it, it's pretty mind numbing, and I know all

of you sitting here over the last today have come to realize that. So that you for your patience.

COMMISSIONER HILLMAN:

Don't forget the...

MR. CUNNINGHAM:

Oh, there is another one, I'm sorry. I don't even know my own document. I should have followed my advice and read it last night again. I'm sorry, there is one final, but it was not, it's not actually in the, is it?

COMMISSIONER HILLMAN:

No, this is the test suite recommendation that comes at the end of the, it's not Section-specific. It's specific to the test suite.

MR. CUNNINGHAM:

Okay, yeah. In the test suite, that standard ballot format for the test suites, which contains a large number of races and ballot propositions, including lengthy propositions, in order to test the systems ability to handle long ballots. And certainly those, anybody, I know those of you from California understand this issue, and we're seeing, as does Florida, we're seeing ballots even in Ohio that are getting longer and longer and longer and longer. So, I think, again, the Committee's desire there is to see the systems tested to as close to a real use environment as can possibly be duplicated in a test environment. Is that a good summation of what that's about?

MR. WACK:

Yeah, and that currently, I'll just share currently in the test suites that we've written, we tend to have separate, basically

separate test ballots per area. Like, you know, a separate one for HFP which doesn't exactly jive with the one being used by security and so on and so forth. And to the extent possible, it would be better just to have one. And, I think the results of some discussion on this would especially be useful in usability when looking at VVPAT systems in particular.

MR. CUNNINGHAM:

Matt, do you have anything to add to that? Okay, again I'll just, thanks to the Committee. Those of you on the Committee, want to raise your hands, take a little bit of.

MR. DICKSON:

Mr. Chairman?

MR. CUNNINGHAM:

Yes sir, Mr. Dickson?

MR. DICKSON:

Jim Dickson. On a, something that the Committee did not discuss, but that addresses the test suites, I have a motion for the Board's consideration. Should I raise the conversation now or later?

MR. CUNNINGHAM:

Is it, do you want it to be, because you're on the Committee, do you want it to be part of the Committee's recommendation?

MR. DICKSON:

I'd like it to be part of the Committee's recommendation.

MR. CUNNINGHAM:

Yeah, because we're going to handle this in one sort of fell swoop hopefully. So, yes, why don't you go ahead and put it on the floor now and let's look at it.

MR. DICKSON:

I don't think there's any controversy behind this.

[Laughter]

MR. DICKSON:

The notion is that as part of the test suite work, the EAC direct the test lab that they include in the, Matt, what's the document called that is actually used for the testing?

MR. MASTERSON:

That's the System Specific Test Cases.

MR. DICKSON:

Okay. That when drafting the Test Cases, that accessibility experts be engaged to help advise on the drafting of the Test Cases and that they be present during the testing of the accessibility features. The reason for this is there will inevitably be judgment questions that will have to be made during both the development of the test case and in some of the interpretation. And if we have engaged in the process those experts whose work is accessibility, then I think it's going to both improve the quality of the equipment, it could avoid things like what recently happened, so that's the notion.

MR. CUNNINGHAM:

Jim, I have one question in light of what we went through yesterday. I think it was pretty clear that there can be pretty broad differences between representatives of the disability community

depending on where they're coming from. How do we, how do we avoid that sort of a situation in this proposal?

MR. DICKSON:

That's a very good question. In this particular case, I don't think we're looking for, necessarily for advocates from the disability community. We are looking to academics who have been involved from the very beginning, there are mainline corporations, like IBM has been developing accessible features all across disability lines for 30 years. So a company like that might be interested. There are also non-profits that have grown up, that work specifically around say, there's one that grew out of FDR's work with polio, for instance. They're an authority on technology for people who are paralyzed. And we could provide the EAC with a comprehensive list so that the manufacturers could know who to talk to.

MR. CUNNINGHAM:

Well, at this point, Wendy just one second, I'll come to you. I'd like to go to John and Matt just to get initial impression of what impact this has and how you think it is workable for you.

MR. MASTERSON:

It's a good question. To be honest, the Access Board, in conjunction with NIST and the EAC, held a meeting I think last March, I know David Baquis is here somewhere. Was it last March?

MR. BAQUIS:

Two years ago.

MR. MASTERSON:

Two years ago, with the voting system test laboratories to talk about this very issue. The test laboratories recognized their lack of expertise in this area and that it's a developing area as far as expertise. And so, it's certainly something that we want to continue to look at. I know the Access Board has offered to have another meeting, or other meetings, with our VSTLs and manufacturers to continue to discuss this. So, the only thing fundamentally that, I mean anytime you bring in people, experts, it adds cost. I mean that's, that's a reality. I'm not saying that's, you know, it's not worth it or whatever. It does add cost. One of the things, and I talked to Mr. Dickson a little about this. Currently, and this is kind of a tough distinction, currently in our program accessibility usability testing is labeled as core testing. And all core testing means is at the time that the Manuals were drafted and NIST was developing it's test lab program for voting systems, there were not lab, you know, separate laboratory experts in the areas of accessibility usability, security also, I believe, is listed as core. And so the VSTLs were expected to find a way to develop that expertise. One of the solutions is to move it to non-core so that outside laboratories could be contracted by the test laboratories and used to do the testing. Because, really, those laboratories are the experts, not really our VSTLs. So that, that's another thing to think about. I think the heart of this resolution probably is a good thing. Our laboratories recognize a need to harness some expertise in this area certainly.

MR. CUNNINGHAM:

Great. Wendy. I passed over her, just a second and I'll come to you Barbara.

MS. NOREN:

Wendy Noren. I think that was kind of where I was going in wanting to ask Jim, the first part of it I think would be easier to do in the development of the test scripts, getting advice on it, but when you got to the piece of it that they'd be there during the test, I think maybe having to move that out and having them contracted out is probably a better idea. Because I was trying to figure out how are the test labs going to find somebody to be there when the test is going on and that kind of thing. So, I totally agree with you, just like I think all the usability testing should be done with the people who are, groups of people who are using it. But, do we need to take it out of core? Do you see that's the only way to accomplish that?

MR. MASTERSON:

No, it's not the only way. There are certainly other ways. I mean the difference is, and I'd be interested to hear from either the members of the Access Board or Mr. Dickson on the availability of accessibility usability laboratories. Do those exist, are those something that exist? Because moving it out of, from core to non-core does no good if there's no labs for them to contract with, obviously, or people. I know that, you know, from talking to members of the TGDC, there's usability experts, but are those people that do testing? Yes and no I think. So, I think a collection of more information would be helpful here as well.

DR. SIMONS:

Barbara Simons. I was originally going to raise the topic of usability in conjunction with accessibility, that that should be tested to, by experts as well. And by usability I mean not just how easy is it for the voter to vote the ballot, but how easy is it for poll workers to deal with the machines, election workers to deal with the things, I mean, election officials to deal with all the things they have to deal with, because having been a poll worker, I can say that some of these machines are not very easy to set up and deal with. I think that's something that should be worked on. But then you also mentioned the security issue as yet another area where there's often not real expertise in some of these labs. And moving out of the core, one thought which occurred to me at that point was that some Secretaries of States have done extensive testing by having the testing done at universities, at major universities. And so I'm, where there is some of the expertise, both usability and security, and so I'm wondering if that might be an option?

MR. CUNNINGHAM:

If I may, do you want to answer that? I mean I don't want to interrupt your train of thought on that.

MR. MASTERSON:

All I was going to say is that that's something, I mean we haven't looked specifically at universities, but when we were working on our laboratory manual we played with the ideas of core and non-core, and to be quite honest, we got pushed back at moving anything out of core just because of the word "core" when, in fact, it doesn't have any meaning except to say the VSTL has to test it rather than someone else. I will say that our laboratories,

because of the security testing, all of our laboratories do now have security experts on staff. But again, that's an expense that perhaps would be mitigated by moving it to other security labs.

DR. SIMONS:

Well also, if I might just suggest, if cost is an issue, you might actually find universities can be cheaper because they have the people who are set up to do this, and also, you know, they have graduate students who offer to work for cheap.

MR. CUNNINGHAM:

If I may, Jim, with all due respect, I'm going to, I suppose, take a liberty here and I would ask that we not include that in what is going to be a sweeping motion to approve these recommendations of the Committee because I think in fairness to the people here, the Committee met, set forth...

MR. DICKSON:

That's fine.

MR. CUNNINGHAM:

...set forth a set of recommendations that we sent out to these folks to review and come prepared to vote on, and so, if we could, since we finished that report, what I would like to do is vote on the document as it was submitted. And then we can come back to, I can turn this back over to the Chairman and we can come back to your discussion on this matter, and then I'm not in trouble for running this meeting too long.

Ah, Ron.

MR. GARDNER:

Thank you. I agree with what, I think that was Keith
Cunningham.

MR. CUNNINGHAM:

Yes sir.

MR. GARDNER:

I agree with what he just said. I think we should go back to that. As a member of the Access Board, I'm willing to ask our staff to help us come up with the resolution to Jim's motion, but I think we're not, I'm not prepared to really speak or address that motion. I'd like to see us go back and deal with the recommendations. I do have a point of order and that is, what we did last night as a small Committee appointed me as Chair, Mr. Chair. And I'm wondering if we need to report on that and have that language be part of this sweeping motion or a recommendation for approval?

MR. CUNNINGHAM:

Yes, this is Keith Cunningham. And thank you for bringing that up. It slipped my mind actually. We had sort of pushed that back...

MR. GARDNER:

I don't blame you.

MR. CUNNINGHAM:

...we wanted to wait on Mr. Dickson. I was hoping to get out of here and...

MR. GARDNER:

I understand.

MR. CUNNINGHAM:

No, we were waiting on Mr. Dickson to arrive so that the discussion could be complete with all the stakeholders.

MR. GARDNER:

If now is a good time, I'd like to just make that report...

MR. CUNNINGHAM:

Yes sir, please do.

MR. GARDNER:

...and have it be part of the sweeping approval. You know, there is one thing I would like to say and that is that we recognize the, I think everyone in the room recognizes the importance of the issues dealing with accessibility and people with disabilities. We have a right to vote and I think everyone in this room is really in tune with that. On the other hand, I think things got out of hand yesterday afternoon and I take, as a personal challenge, the responsibility to deal more, I think, directly on the issues prior to a meeting and see if we can bring more consensus before we come to this group. And that discussion was held with all of us. I do appreciate the fact that you all were willing to endure it. I think the issues are important. So thank you very much.

We did meet last night as a Committee and I would like to ask I think, Keith do you have it or Matt?

MR. MASTERSON:

I'll be glad to read it and it's also, for those of you that want to read it along with me, on the screen, but I'll be glad to read it.

MR. GARDNER:

Thank you.

MR. MASTERSON:

Yep. So, the sub-committee met and recommended changing Section 3.3.4 (b) and (c), or Sections 3.3.4 (b) and (c) in Volume I. So that's Volume I, 3.3.4 (b) and (c) to read "The accessible voting system shall provide an industry standard jack used to connect a personal assistive technology switch to the voting system. As of January 1st, 2013, systems submitted for complete end-to-end testing shall meet this requirement." So that's the first part of the recommendation. The second part, in just a second, recommends adding to the end an exception on Volume 1, 3.3.1 (c). So this exception would be added at the end of Volume 1, 3.3.1 (c). And the exception reads as follows: "This requirement shall not apply to personal assistive technology required to comply with 3.3.4 (b) – support for non-manual input."

MR. GARDNER:

Okay, are you turning it back to me?

MR. MASTERSON:

Would you like me to read the additional language as well?

MR. GARDNER:

Yes.

MR. MASTERSON

Okay. And then, included in this is a recommendation to the EAC that the EAC shall create management guidance regarding the needs of people with several disabilities, types of personal assistive technology switches, and best practices for poll workers in jurisdictions serving those voters.

MR. GARDNER:

Okay. We, I know there are many in this room who glazed over yesterday afternoon, but I think you woke up again when the work "jack" and "switch" were raised in this. Trust me, we've looked at this. We understand that there is a need for a small exception. We believe that it is acceptable and tolerable with the population of people with disabilities that this will affect. And it's our recommendation unanimously from that group last night, and other are here to speak to that, but it's our recommendation that this language be approved at this time. And I thank you for the opportunity to bring it to the Board.

MR. CUNNINGHAM:

Could I ask you to, I'm just trying to figure out how we can re-word, or word the motion. Okay, the...

UNKNOWN:

It's just a substitute...

MR. CUNNINGHAM:

Just substitute language for the recommendations of the...

MR. GARDNER:

I'll just make that motion. I make the motion that this language be accepted as substitute language and that it be accepted by the Board as part of the recommendations for the sweeping, well I thought I could do it and I obviously can't.

MR. CUNNINGHAM:

It's okay. We understand.

MR. GARDNER:

Thank you.

DR. SIMONS:

Second.

MR. CUNNINGHAM:

Is there a second?

DR. SIMONS:

Barbara Simons, second.

MR. CUNNINGHAM:

Is there any discussion? Secretary Nelson.

SECRETARY NELSON:

Chris Nelson. I just want to echo the Board, or the Committee came together and understood that we need this practical exception so that we're not required to provide a dozen different kinds of switches and we also understand the need to have a jack in the machine so that those that have the switches can utilize the machine. A good compromise, I hope we can get unanimous support. Thank you.

MR. CUNNINGHAM:

Great. And Ron, I just want to add. That was a long session and, however, I don't think there was too much acrimony, there was...

MR. GARDNER:

There was not.

MR. CUNNINGHAM:

And I'll say to you, after a number of these, that quite frankly, I've learned a great deal through discussions like yesterday. And while they sometimes are laborious and mind numbing and so forth, I think that's how we all do, that's what we're here for really, is to have those conversations and learn from one another and, you

know, come out of here with better understanding. I certainly know that through working with Jim Dickson for a number of years, I have a much better understanding of the disability needs and, you know, what we need to be doing.

MR. GARDNER:

I have great, great, I didn't mean to cut you off.

MR. CUNNINGHAM:

Oh, it's okay, go ahead.

MR. GARDNER:

I have respect as well for Mr. Dickson and for the longevity of his service and the understanding of the intricacies of the issues dealing with people with disabilities. I will say that people with disabilities really understand their, and want to use, their right to vote. And this Board is making that possible. We, I'm 58 years old, I have voted in exactly two elections independently. I've voted every year that I was eligible to vote and I voted exactly two times independently. And it truly is an emotional experience to be able to do that. And so I thank this Board for making those things possible. And especially, not just because he's here, but especially our Governor and the fine people in the State of Utah. We were, I think the first ones in the Country, to make it accessible in every single precinct. And it made an impact. And in the world of people with disabilities, it's huge. And I want to passionately tell you thank you for allowing those kinds of discussions to happen. Now, having said all that, I will say that I think it's just as important for people with disabilities to vote, at least as important as it is to talk about

the temperature which these machines can run. But, we'll leave that to the...

[Laughter]

MR. GARDNER:

That concludes my remarks.

MR. CUNNINGHAM:

We have a motion on the floor to approve the substitute language and a second. If there's no further discussion, those in favor signify by saying aye.

[Multiple responses in the affirmative]

MR. CUNNINGHAM:

Those opposed same sign.

[No response]

MR. CUNNINGHAM:

The motion carries. So at this point, I would entertain a motion that the recommendations as submitted by the Voting System Standards Committee, including the specific recommendations regarding accessibility, be approved and adopted as proposed.

MR. LEWIS:

Mr. Chairman, so moved.

MR. GARDNER:

I second, Ron Gardner.

MR. CUNNINGHAM:

Doug Lewis was the motion, Ron Gardner was the second. Is there any discussion on the document as a whole? With none, those in favor signify by saying aye.

[Multiple responses in the affirmative]

MR. CUNNINGHAM.

Those opposed same sign.

[No response]

MR. CUNNINGHAM:

Motion carries. My work is done here. I believe, other than to say thank you very much for your indulgence and I hope I didn't offend you, because I can do that sometimes and not know it.

CHAIR THOMAS:

Thank you Mr. Cunningham. Again, would those of you on the Committee please raise your hands, that worked on the Voting Systems Standards Committee. Thank you all very much.

[Applause]

CHAIR THOMAS:

And Commissioner Hillman, thank you for, kind of, driving this along. The Commissioner was extremely well-organized and organized the conference calls and the materials. Maisha, thank you. This was yeoman's work and we were here the week before last, right? For a very quick one-day meeting to prepare for this. So, I thank all of you that were able to attend that for coming and getting this work done. At this point,

COMMISSIONER HILLMAN:

Excuse me Mr. Chairman, can I just add thank you, also, to Matt Masterson, and the NIST's John Wack and his colleagues, Lynne Rosenthal and others for their willingness to hang in with us all day long.

[Applause]

CHAIR THOMAS:

Yes indeed, thank you. You've put up with a lot. Okay, Mr. Dickson are we still...

MR. DICKSON:

Yeah, I heard, this is Jim Dickson. I think I have a short motion that addresses the conversation. The Board of Advisors recommends that the Election Assistance Commission explore ways to involve usability and accessibility experts in the development of the test, you've got to help me, it's not scripts.

MR. MASTERSON:

Cases.

MR. DICKSON:

...test cases and explore the feasibility of involving usability and accessibility experts in the conducting of the tests. So, I hope somebody got that.

MR. GARDNER:

I did Mr. Dickson. It's Ron Gardner. I'd like to second that motion Mr. Chair. And also, hoping that you'll go right into discussion, say that I believe this is something the Access Board can take an active role in. We have a fabulous staff that understands exactly what Mr. Dickson just said. And I think we can work with this Board to provide that kind of information or names of labs, or whatever it is. So I second the motion and urge us to discuss it quickly and move on.

CHAIR THOMAS:

Mr. Wilkey.

MR. WILKEY:

As I mentioned, thank you Mr. Chairman. As I mentioned in my report to you all on Tuesday, we are very pleased that the Congress provided \$5,000,000 in research money, specifically, to look at issues regarding disability and accessibility in voting systems. Now, that might be a vehicle for us to handle this Resolution in that, and if I could suggest, that the Resolution may include us taking that into consideration when we're doing the criteria for that grant.

MR. DICKSON:

Sure. I accept that friendly amendment.

MR. WILKEY:

I can't make it.

MR. DICKSON:

I'll modify the amendment, the motion to say and that the EAC explore the use of its disability R and D research funds in this connection. I'm sure somebody could make it a little smoother.

CHAIR THOMAS:

Mr. Gardner, you'll second that?

MR. GARDNER:

Second, Ron Gardner.

CHAIR THOMAS:

Barbara.

DR. SIMONS:

Barbara Simons. The original motion of course talks about both usability and disability and so if the Access Board is going to be helping with the disability issues, which I think is a great idea, I would just like to volunteer that ACM, which is the large

professional society of computer scientists and has many people working, doing research in usability issues, and I would be really pleased to work with the Access Board and EAC to help provide some expertise in that area.

CHAIR THOMAS:

Thank you Dr. Simons. Any other discussion?

MR. LEWIS:

Mr. Chairman. My name is Doug Lewis. The Voting System Standards and Testing process under the United States Election Assistance Commission, working through the National Institute of Standards and Technology, it seems to me, has been a public and deliberative process continuously. And, despite the fact that I have great admiration for Mr. Dickson and his organizations, and his suggestion here, this has far more reaching impact than it appears on the surface of it. And I think quite frankly, for the Commission, begins to open up the box of every particular group that thinks it has expertise on any given area, they should be sub-contracted or sub-involved or re-involved or helping to design the tests because everybody thinks their ideas are better than the others. And it seems to me that this begins that sort of never ending loop of our organization knows more about x, y, z than anybody else does. I think, despite the fact that it sounds innocuous, despite the fact that it sounds like it is helpful, I think it really actually begins to complicate the process. And while I certainly welcome recommendations and suggestions from any group in America about how we can improve this process, to formalize that as a recommendation of the Board of Advisors, so that we begin this

every group possible wanting to have official role and responsibility in this, seems to me to be one that is going to complicate this process so enormously that it becomes almost impossible for the EAC and NIST to work through with labs and how do we get this done before we've had the blessing of everybody in America that thinks they know something about whatever their expertise is and getting this done. And so, I think it's one of those unfortunate things that, had it come to the Committee and been discussed more in a lengthy environment, we may have seen more of how far reaching this is and maybe been able to find a way to come up with language and all that, but at this point I think we're actually asking this Board, this body, this Advisory Committee, to endorse a process and a concept that seems to me will bring the whole process to its knees.

MR. CUNNINGHAM:

Mr. Chairman.

CHAIR THOMAS:

Mr. Cunningham.

MR. CUNNINGHAM:

I'm wondering if referring this into the Voting System Standards Committee for some discussion via conference calls and so forth in the future to flesh it out and bring some recommendations back to the Board in some fashion is worthwhile.

COMMISSIONER HILLMAN:

If I can just clarify how that might happen. The public comment period on this is 120 days. And even though this comment isn't directly to the VVSG, it's related, and so, there would

be sufficient time for the Committee to be able to discuss it, send a recommendation to the Board, and then, we could find the way that the Board could vote on this, either in the virtual meeting room, or through a paper ballot, or something. So, it wouldn't have to be in an in-person meeting, but would still be transparent to the public.

MR. CUNNINGHAM:

I would, I'm sorry, I jumped in there. Can I add one thing to Commissioner Hillman's remarks?

CHAIR THOMAS:

Sure.

MR. CUNNINGHAM:

I think it would probably be advisable to open the call up to any Board members that wanted to listen in to the Committee's discussions on it, just so that we get as much broad-based understanding as possible.

Chair Thomas:

Mr. Dickson.

MR. DICKSON:

Jim Dickson. I think Doug makes a very strong point. And so, I think having a conversation through the Committee's with other Board members participation is a very good way to deal with it.

CHAIR THOMAS:

Wendy Noren, did you have something that you wanted to...

MS. NOREN:

I guess, I feel like this is kind of reinforcing what evidently the Commission is already trying to do. So, I didn't see it as that

broad ranging. I mean, Matt states they've been trying to get the testing labs to deal with this. And, you know, I don't mind putting it off, I just didn't read that much into it because all we're doing is encouraging them to look into this and doing something they've already been doing. So.

CHAIR THOMAS:

Mr. Wilkey.

MR. WILKEY:

Thank you Mr. Chairman. Just let me point out, also, that this is not the end of this process. While we certainly congratulate the enormous efforts that this Board has made, and particularly the Committee that has worked so hard to make these recommendations. We still have a, as Commissioner Hillman pointed out, we still have a 120 day comment period to go through. We also have the other body, our Standards Board, which will begin going through the exact same process that you have begun. And that's why I'm particularly pleased that there are members of the Standards Board Executive Committee here present. They will be forming and they will be working within their own voting system committee to make these recommendations similar to what you have done. So the process doesn't end here. And I think there's still plenty of opportunity to get these issues fully vetted as we move along in the next four months and as we work with the Standards Board. And I'm hopeful, fortunately this body has some truly great professionals. I'm sitting next to one. And Mr. Gardner, and others from the Access Board, and I'm hopeful that your commitment to the process, along with my longstanding

commitment and others, will filter into the Standards Board, also, as they make their recommendations. And I'm hopeful that they will reach out to members of this community for that input. But I just wanted to make that known, that we've still got a road ahead of us before this document becomes complete. Thank you Mr. Chairman.

CHAIR THOMAS:

Thank you sir. Mr. Dickson.

MR. DICKSON:

Yeah, I was going to say in light of the conversation, I feel like we don't even need the motion. We'll just handle it through the Committee and we can move to the next items on the agenda.

CHAIR THOMAS:

Okay, you're withdrawing your motion. Mr. Gardner, withdraw your second?

MR. GARDNER:

Yes sir.

CHAIR THOMAS:

Okay, thank you very much. The next order of business, and again, thank you Matt, John, very much appreciate all the work. Send our best to Lynne. She's enjoying a rainy day off.

We will move to the election of officers. Under the process of our Bylaws, we do elect officers either at our May or June meeting, our annual meeting. And we take nominations from the floor and the order of the offices that we will handle is Chair, Vice Chair, and then Secretary.

So at this point I'll entertain any nominations for the position of Chair.

MR. LEWIS:

Mr. Chairman, I would like to nominate, my name is Doug Lewis. I would like to nominate Mr. Jim Dickson as Chair of the EAC Board of Advisors.

MR. CUNNINGHAM

Second. Keith Cunningham.

CHAIR THOMAS:

Thank you. Other nominations? Second call for nominations. Hearing none, I need a motion to close nominations.

MR. CRANGLE:

Mr. Chairman, I move that we close nominations.

CHAIR THOMAS:

Thank you Mr. Crangle. And having no others, our Bylaws direct that we will have a voice vote. All in favor of Jim Dickson for Chair of the Board of Advisors please say aye.

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed say no.

[No responses]

[Congratulations and applause]

MR. DICKSON:

Thank you very much.

CHAIR THOMAS:

The floor is now open for nominations for Vice Chair.

MR. COWLES:

Mr. Chairman, Bill Cowles. I would like to nominate Keith
Cunningham to be the Vice Chair of the Board.

CHAIR THOMAS:

Do I hear a second?

MS. PURCELL:

Mr. Chairman, I second that nomination. Helen Purcell.

CHAIR THOMAS:

Helen Purcell, thank you. Any other nominations? Hearing
none, a motion to close nominations?

MR. CRANGLE:

Move to close nominations.

MS. NOREN:

Second.

CHAIR THOMAS:

Ms. Noren seconded. All in favor of Mr. Cunningham
becoming our Vice Chair say aye.

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed same sign.

[No responses]

CHAIR THOMAS:

Hearing none, congratulations Mr. Cunningham.

[Applause]

CHAIR THOMAS:

Nominations are now open for Secretary. Nominations?
Ms. Noren.

MS. NOREN:

Wendy Noren. I'd like to nominate Terri Hegarty to continue
as our wonderful Secretary.

CHAIR THOMAS:

A second on that please?

MR. CUNNINGHAM:

Second

CHAIR THOMAS:

Mr. Cunningham seconded. Any other nominations? Motion
to close nominations?

MR. CRANGLE:

So moved.

CHAIR THOMAS:

Thank you Mr. Crangle.

MR. LEWIS:

Second.

CHAIR THOMAS:

Okay, all in favor of Terri Hegarty as our next Secretary
please say aye.

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed same sign.

[No responses]

CHAIR THOMAS:

Congratulations.

[Applause]

MR. LEWIS:

Mr. Chairman, as a point of personal privilege, if I may?

CHAIR THOMAS:

Yes sir.

MR. LEWIS:

In serving us, I think you have, obviously, as our longest Chair, and certainly served us, in my mind, very well over this past two plus years. I think we need to recognize the grace and intelligence and humor with which you have led us over the past two years. And so, I would like to have the Board of Advisors say thank you for your service as Chair of the Board of Advisors.

[Extended applause]

CHAIR THOMAS:

That's very nice. Thank you sir. And I guess, I would make my closing comments as Chair at this point. You know, I really enjoyed serving on this Board. It's a great Board. Particularly for you newer members, this Board came as the result of HAVA obviously, and it recognizes the organizations and interests that were really involved in the creation of HAVA during those days. And it began that conversation back in 2001, and the idea of this Board is to keep that kind of communication going. So it's not just when the election process hits bumps in the road and Congress decides to act that everybody gets back together and starts talking. So I think conversations that we had on the overseas voters, for example, the luncheon conversations yesterday that really took us into all of the areas that are of concern in the elections community by advocates, election officials, government officials, really is the heart/soul of what this Board's all about. We'll go through some long periods of some fairly boring discussion of Voting System

Standards, which are absolutely critical to the operation of our Democracy, but really the heart/soul of this Board is to keep this conversation going. We will all come back together when this Board meets again, but we're likely to run into one another in other venues, whether it's going to be on Capitol Hill pushing for various pieces of legislation or in our various associations where we do have an opportunity to look again, see one another. So I really enjoyed this, this has been a great time for me to be with all of you. My idea has always been is to let everybody talk. That's what we're here to do. So, again, Mr. Lewis thank you, and each and every one of you, thank you very much. It's been a real pleasure.

[Applause]

CHAIR THOMAS:

And we are going to do installation of officers. We're going to take a quick break. I don't know if we're really set up for a break, but just let everybody stretch their legs for 10 minutes or so. Come back in. We have one Resolution, maybe some motions that we're going to want to deal with. And then, installation of the officers and we will definitely be out of here on time. So, let's take about 10 minutes. Thank you.

[The meeting took a break from 10:32 a.m. until 10:53 a.m.]

CHAIR THOMAS:

Okay, we have a Resolution that has been, if we could get that up on the Board, we'd appreciate that, that Secretary Nelson

has brought forward. At this point, Chris if you would like to speak to that we'd very much appreciate it.

SECRETARY NELSON:

Certainly, Chris Nelson. I hope the intent of this is fairly simple. We've got a Resolution that passed in 2007 that talks about doing a fiscal analysis before Version 4.0 of the Voting System Guidelines is adopted. That Resolution didn't talk about timeframe or the scope of the analysis and I think it would be apparent that that fiscal analysis ought to be done before that Version is actually adopted. And so what the Resolve Clause asks is that an analysis be done comparing what the difference in costs will be between Version 3.1 moving to Version 4.0 of those Guidelines and that that analysis be done before the Commission actually adopts 4.0. So that everybody knows, the world knows, what's the cost of making this decision. We talked about, so far as the scope of doing it on both a State and National basis. I know that will be difficult, to break it down on a state-by-state basis, but in visiting with at least one of the State Legislators here I was told we want to know what's it going to cost our State. And so hence I put that language in there. But that's really all we're asking for – tell us what it's going to cost before the final decision is made. Thank you.

CHAIR THOMAS:

When you say "cost," what cost exactly are you speaking to?

SECRETARY NELSON:

The costs that will be incurred by jurisdictions for the changes that will need to be made in machinery between what is going to be required in 3.1 and 4.0. I mean, obviously, there are

going to be changes, and there will probably be cost increases, might be decreases, but there will be changes in the costs for acquiring the machinery, for operating the machinery, for maintaining the machinery. What is the change? What's it going to cost us? And ultimately what I'm looking for is a figure on a National basis, but again, I was told, hey we want to know what it's going to cost our State. And that's going to be a more difficult figure, granted. But that's what we're looking for.

CHAIR THOMAS:

So you're not, you're not seeking costs of certification.

You're talking about costs of the equipment itself?

SECRETARY NELSON:

The cost of certification is going to be part of that because that certification cost is going to be passed down in the cost of machinery which is going to get passed down to the jurisdictions and it's going to be part of the purchase cost of the new machinery. So, that will be inherent in the analysis, yes.

CHAIR THOMAS:

Unless I've got the timing wrong, and if I do, just stop me here. So, as I've been listening to the conversation over the last couple days, and through the Voting System Standards Committee, it's been stated that the vendors, the manufacturers, generally don't start design until they know what the new standards are. So, on the Version 4.0, they're really not going to have designed those systems. So where was it that, when was it I guess, that this cost was to be determined?

SECRETARY NELSON:

I would want the cost determined before the Guidelines are adopted by the Commission. And I'm not saying that this analysis is going to be easy for the exact reason that you've stated. But I find it very difficult to believe that we ought to be passing Guidelines and nobody knows what they're going to cost. We need to have some idea of that before they're passed. That would be my position.

CHAIR THOMAS:

Commissioner Hillman.

COMMISSIONER HILLMAN:

What I suspect the Commission will do, as we did with the VVSG that was adopted in 2005, is that there was a time period, a window of two years, because the manufacturers and others said we need that time. And the point that Chair Thomas raised is a very important one, because we can't make the manufacturers give us information that's really critical to what you're asking for. And they will say no, we need to see the standards. Now, they will have a heads up as to what the standards are likely to say before they're adopted, but EAC could very well be in a position where it's the chick and the egg. If we don't adopt the standards, we can't get the data we need from the manufacturers. And so, if you would be willing to put in there that this analysis be done before the standards are effective or something. I just don't know how we answer the certification cost issue if the manufacturers aren't willing to say what the new equipment is going to likely cost. And we've heard, you know, we can go with their high ball. They can say every machine is going to cost \$25,000, and that will scare the

living daylights out of everybody. But, most of the time, the cost isn't as high as the manufacturers project. So, I just don't know how we would do that.

SECRETARY NELSON:

If I might respond to that, I understand what you're saying. And, as I said, I'm not saying this is going to be easy. But if you don't have the cost before you actually adopt the Guidelines, then I don't know that the fiscal analysis is important at all. I mean I think it's important to know the costs before you make the decision. If you find out after you make the decision, well that's a foregone conclusion we're going to incur the costs. So, but I don't have an answer for the chicken versus egg issue. I understand that.

CHAIR THOMAS:

Director Wilkey.

MR. WILKEY:

Thank you Mr. Chair. Mr. Secretary, I'm not trying to pooh pooh your motion here. I think it's a valuable recommendation and a valuable motion, but I just want to point out that whatever analysis comes out of this, if we can do one, and find a way to do one, is not going to be consistent state-to-state. And I say this because some States will accept this certification, that's it, no further work to be done. Other States, such as my own, Florida, Michigan, California, others, may have an elaborate State certification process. I'm hearing from my former State that we're talking about in the millions that it is costing these vendors for additional certification requirements at the State level. That's going to skew that cost because what you may be paying in your State could be a lot

different from what somebody else is paying, because they've got to add in the cost of doing that level of testing, additional testing, into their product base. So, I'm just pointing this out, and I'm not saying, and we certainly would be happy to look at that and find some ways to do, but coming up with the baseline that can be used Nationally, could be very, very difficult, because we're dealing with a whole other layer down at the State level.

CHAIR THOMAS:

Secretary Rokita.

SECRETARY ROKITA:

And then, Doug has his hand up. It's just ironic. I think we can answer some of the questions that are being laid out here by putting that vendor member on that one Board.

CHAIR THOMAS:

Doug Lewis.

MR. LEWIS:

I'm Doug Lewis still. I like the intent of what I hear the Secretary's Resolution is aimed toward because it clearly is saying we need to be thinking about how expensive this next Version 4.0 is very likely to be to the entire process. And yet, at the same time, we are evolving. By the time that we get to that Version 4 of the Standards, we are evolving to where we are looking at ever better systems, hopefully. The reason that we're trying to find transition time between now and then for the iterations that we just approved, 3.1 or what have you, or at least recommended to the EAC, is because it's clear that the next Version is going to require substantial re-designs and re-thinking and re-looking at. And so,

there's no question in my mind that that's going to be an expensive proposition. I'm not sure, Mr. Secretary, having worked with this program on behalf of NASED for many years, having worked through having to put a fiscal note to HAVA, having to put a fiscal note to some other National legislation as it's been offered, this is exceedingly difficult to do. It is one that is so exceedingly difficult that if you get it wrong, you really miss it by such a mark that nobody believes you ever again. You're either way too high or way too low and you don't think of all the things that are related to it. I would rather take it in the sense of what I think you saying, Mr. Secretary, is that this, we have to be cognizant that the cost of elections is beginning to be prohibitive. If not for States, certainly for local governments. It is beginning to be the one part of the budget that is breaking the bank. And so, I think I hear that frustration in this, and the Secretary is voicing what many in America are saying. Peggy, I don't want to speak out of turn for NASED, but as I understand it currently, NASED is going to ask Congress to take over the cost of funding testing for voting systems simply because it has gotten to the point that we're stopping all innovations, we're stopping the numbers of systems from going through simply because getting one system through is about to break the bank on some of the companies themselves. And so I think, Peggy have I stated this correctly as to where NASED is headed in terms of its recommendations? And so this is one of those that I think, Mr. Secretary, if I can make a recommendation to you, is that we maybe not pin the Commission down to specifics here, but to be mindful of the cost of elections and how dramatically

this may impact the entire process for State and local governments, and to do the best they can to tell us how they see that this may indeed impact elections in America. But to ask the Commission to do what I think we're asking them to do the way this is written, becomes, from our experience, almost impossible.

CHAIR THOMAS:

Wendy Noren.

MS. NOREN:

I think it was my little Committee that did the original Resolution on that, and I guess my thinking behind that at the time was, we sit here and we go through all of these recommendations. Some of them sound great. There are lots of things I would like to do in elections. And I know there's a great deal of people who think that cost should not be part of the evaluation in setting standard. And I understand that, but I'm the one who has to, you know, pay these bills. And I have to think about these things, and I also don't like sitting making judgment on things when I have no idea of being able to evaluate any kind of cost benefit on these things. For example, we spent a lot of time yesterday discussing switches and jacks. If that's something that costs \$5, why in the world are we worrying about it. It's something we need and it costs \$5. If it's something that's \$10,000, \$15,000, a machine, there's a certain level that we have to recognize we may not be able to go to, at least in this next generation. And so I don't know if we want to look at it that we present some kind of cost benefit analysis, waiting for us to evaluate that is a concern I have, that we just make these decisions in a vacuum. Sometimes we may leave something out

that's needed, that's necessary, that doesn't cost that much, because we have no idea. There's a fear that it costs too much, and I don't like that either. So I, you know, we're getting all kinds of hits, you know, a lot of these security things. I'm looking at some of this stuff and I think, you know, how far do I go? And I recognize there's people out there who think, you know, you go as far as, there's no amount of money we shouldn't spend for the security. And that's fine, but I don't have a printing press in my warehouse. I've got to figure out a way that we can afford to do this. And we've got to have some methodology and some information source that we can evaluate that as we're doing and passing on our recommendations. And that's kind of where I wanted to go, was looking at developing a cost benefit process as we go through this.

CHAIR THOMAS:

Anyone else like to speak to this? Secretary Cortès.

SECRETARY CORTÈS:

Thank you Mr. Chairman. Pedro Cortès. I appreciate the comments by Mr. Lewis, who, you know, has lived elections for years, and breathed them, and this is his life, and I take what he says with a great deal of respect and consideration. From a procedural standpoint, we do have a resolution that has been adopted by this Board, which is that 2007-[D10]. As with any of these recommendations or Resolutions, they present a wish, I guess, from this body to the EAC to do certain things. And those things could be done or not. But there's already a Resolution that has passed that asked for a fiscal analysis, and, as I understand it, the end result, and Ms. Noren just spoke to it, is to, and I'm reading

verbatim on this Resolution, the last Whereas, "Now therefore, be it resolved that the Board of Advisors recommends to the United States Election Assistance Commission that the United States Election Assistance Commission provide a fiscal analysis for new Voluntary Voting Systems Guidelines, and that Congress," and this is where I think the emphasis is, "and that Congress appropriate sufficient funding to do so," meaning that the intent, in the end, is to try to come up with a figure that will give Congress an idea of how expensive it would be to implement this next iteration of systems, and the Guidelines, if States have to replace their systems. I mean, a State can continue to use their system because they're somewhat grandfathered in the Guidelines. However, if we have to replace them, we want to know how much it costs, so that Congress can, ideally, assist the States paying for that equipment. So, I guess, I'm trying to, in my own mind, sort out how we reconcile, even if we do not adopt this Resolution, how do we deal with 2007-[D10], because, in the end, I believe that it's still worthwhile to have a ballpark idea of the cost to assist Congress with, ideally, giving us the money?

CHAIR THOMAS:

That's an excellent point. And I would note that as we looked at, in preparation to passing that D10, you know, we were in the midst of going through Version 4 and looking at SI, for example. Security Independence was a major issue on our plate when we were in Austin, which just raised all kinds of questions about cost and what the implications would be to State and local government

to implement those types of costs. So the concern is extremely real.

There's someone else over here. No? Commissioner Davidson.

COMMISSIONER DAVIDSON:

In the way I'm reading the motion that I hear from the Secretary, is a little different than what I hear from Wendy. Wendy's wanting to know what implementation of changes like SI would, the cost of doing that. What I hear from you, is you want more of an end result, of what the whole system would cost at the end. Am I correct or incorrect? That's my first question.

SECRETARY NELSON:

You are correct, but I think you're going to have to answer her question first before you can even get to my question, which leads to a lot of the complications that are being talked about.

COMMISSIONER DAVIDSON:

That's what, I was seeing two different issues on the table.

MS. NOREN:

And he and I talked about it right before this...

COMMISSIONER DAVIDSON:

Okay. To be able to get to the desire that you have, I think that we would have to have NASS's support and NASED's support to be able to accomplish getting that kind of results because every State is different, as we know. So the Secretaries and the Directors would have to work very closely with us with their vendors, some are one vendor within their State, others have a multitude of vendors within their State. I called them vendors, it's

manufacturers, I apologize. Anyway, we would have to have your support with Resolutions to be able to accomplish your goal, the way I see it. We can't take just a broad base and come up with one number because it doesn't give you what the States need. So there would have to be, I would say, Resolutions at your meetings to support this effort for EAC to be able to accomplish the end goal. As we move forward, the right word of changing whether it's, you know, whatever we're changing we ought to be able to have NIST be able to help support that, in getting what Wendy's wanting, but that would be as we move through the process. Does that make sense to anybody? Thank you.

CHAIR THOMAS:

Dr. Simons, and then Jim Dickson.

DR. SIMONS:

I have a quick question and then a comment. Just, I think the Resolution numbers might be wrong for the Version numbers in the Resolution. Are we maybe, I'm confused again. Should it be 1.1 and 2.0 instead of 3.1 and 4.0?

MR. LEWIS:

No.

DR. SIMONS:

Okay, sorry. So my comment is that I think that Mr. Lewis' comment about Federal, the Federal government picking up the tab for the testing is a very reasonable and a good idea. And since it's so hard, I think what we're hearing is that it's really hard to come up with a price tag for this, and maybe a simpler route is for us to

recommend that the Federal government pick up the tab for the testing at the National level and that would, I think, help a lot.

CHAIR THOMAS:

Mr. Dickson.

MR. DICKSON:

Jim Dickson. I think the idea of this Board maybe doing a Resolution on Congress picking up the testing is worth a conversation. But the testing is only going to be a small, it's a significant piece, but its only going to be a small piece of the cost. And I think this is very, very important, but I don't think the EAC has, or could have, the kind of expertise it would take to do this. And so I wonder if, you know, and I'm not sure, maybe the GAO, maybe OMB, but this is not only going to be a very difficult task, Wendy's point about the task needs to be ongoing with the development of the Standards means this is a kind of long-term task. So, I just wonder what folks think about, you know, is there some other Governmental entity, OMB or whoever, who might, who could be approached to relate to the EAC on cost sort of the same way NIST related to the EAC on technology? I don't know the answer, but...

CHAIR THOMAS:

Can I make a suggestion, Secretary Nelson, that this be referred to the Voting System Standards Committee in that, one, your desire is to have this before the Version 4 is promulgated, which won't be until this Board has met a few more times, to work out exactly the issues that have been brought forth in terms of seeing what can be accomplished, whether it's with the EAC or with

vendors or with some other government agency, to get us a fiscal analysis before Version 4 is even put on the streets for comment by this Board. Again, I don't see that coming to us anytime soon.

SECRETARY NELSON:

Mr. Chairman, I think that would be wholly appropriate. That was going to be my final comment in that I know we've got several other meetings in the future where we've got plenty of time to deal with this. I fully understand the complications. In my own mind as I was trying to figure out how can the EAC do this, I couldn't come up with the answer. I know it's difficult, but by the same token, I can't believe that we would make this kind of major decision without having some idea of what it's going to cost. And so, that's what we need to wrestle with, we've got time, let's give it to a Committee, and we'll deal with it as it can develop. Thank you.

CHAIR THOMAS:

Thank you sir, I appreciate it. Commissioner Hillman.

COMMISSIONER HILLMAN:

One thing that I would like to put out, as you all know, the EAC cannot propose initiatives directly to Congress. I mean, there's a process we have to go through, OMB and the Administration. However, in the few years since HAVA was passed, and Congress created the idea of the Boards having input in the Standards and the development of the Standards, I'm not so sure there's ever been a really good conversation with Congress about what the cost implications are, and how they move around on around the Country, that it's just not the cost of what the manufacturers pay the testing labs. And so, for the groups that can

lobby Congress, and that can inform Congress about the need to really take a look at what HAVA has created, in this regard, and the need for the Federal government to stay in this process, is really, really important. And we can do it up to a point, but Congress responds, quite frankly, more quickly, and more astutely, when the conversations or recommendations come from NASS and NASED and other organizations.

CHAIR THOMAS:

Mr. Lewis.

MR. LEWIS:

Mr. Chairman, this is Doug Lewis. One of the recommendations that I think maybe we would to encourage the Commission to do is to convene one or more meetings at which we start exploring how the cost of elections has begun to impact the budgetary process of local governments. What has happened here is every level of government tends to push this down and it's always easy to spend somebody else's money, and sometimes to not even consider how much money you're costing them. Wendy will tell you, I think if you talk to local governments now who are bearing the costs of what we did in the Help America Vote Act, the cost of elections has increased on a minimum of four-fold, and in some cases, 12-fold, in terms of what they're doing just as a result of the Help America Vote Act. It's got nothing to do with what the Commission may do in Version 4 here. This is, it is time I think that we start airing and hearing exactly what that impact means so that we can bring in local governments and State governments to show and demonstrate to the Commission, and maybe even to the world,

here's what's happening in this. And so I would encourage the Commission to think about engaging some open discussions about what is it costing, what is Federal Regulation costing to the process of elections in America, so that at least we can start laying those out for the Republic and for Congress.

CHAIR THOMAS:

Secretary Nelson, I understand that you've withdrawn your Resolution with the knowledge that it would be referred to...

SECRETARY NELSON:

I would move that we refer it to the Committee.

CHAIR THOMAS:

Okay, thank you. Second on that please.

SECRETARY ROKITA:

Second.

CHAIR THOMAS:

Todd Rokita. All in favor?

[Multiple responses in the affirmative]

CHAIR THOMAS:

All opposed?

[No response]

CHAIR THOMAS:

Okay, that motion carries.

Mr. Lewis, was your last comment a motion of any kind?

MR. LEWIS:

Yes, I so move that the Commission, at least, consider a series of sessions involving lots of local jurisdictions and States, to explore and refine how Federal laws and regulations are beginning

to impact the cost of elections, so that we can, at least, people understand what this is doing. In essence, let me say to all of you, Congress is talking about doing some things now that may very well cost local governments more money and, quite frankly, there isn't any money. And so, this is where, we're at the point where we're about to break the piggy bank and the back and the administrative process.

MR. CUNNINGHAM:

I second that motion.

CHAIR THOMAS:

Yeah, the motion without the commentary? Any discussion?

Hearing none, all in favor?

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed same sign.

[No response]

CHAIR THOMAS:

Thank you, carried.

Other motions that anyone would like to bring forward at this point? Secretary.

SECRETARY ROKITA:

Yes, thank you Mr. Chair. And I think the staff might have my motion, I gave it to them. This is my last meeting. I first want to thank everyone, it's been a pleasure getting to know everyone, working with everyone. Since I won't be any longer a member of that Committee that the last motion was, the second to the last

motion was referred to, I want to record my support for Secretary Nelson in that motion. I think it's important.

I wanted to bring a motion to the table, as well, for consideration. I've been a member of the Standards Board, I've been a member of the Executive Committee of the Standard Board, and now this illustrious Board, and like many of you, I've written proposed Resolutions for the consideration of you and others. And, like you, you either write them in your hotel room at night between days, or you write them at the bar on cocktail napkins, wherever you do your best work. Mine was always in the hotel room. And then, you thought you accomplished something if you got it passed. And we may very well have from time to time, but then, it also seemed to me it was going into black holes, a perception, not necessarily reality, that it would go into a black hole and we would never hear from it again -- until the first day of this meeting when I think we had a great exercise going through Resolutions from 2007, 2008. It was very refreshing, I think was, for two reasons. Number one, it facilitated communication between the EAC and this Board, and I imagine that if it happened at the Standards Board the same result would occur. Secondly, it keeps us accountable to those that sent us here, certainly the stakeholders and the election community, but also the voters and taxpayers of this Country. We are a Board of Advisors. I mean, if the EAC isn't going to respond in some fashion to these Resolutions, then this is expensive advice, to bring all of us together from time to time and then nothing perceptually, perceiving to happen with the advice -- whether it's implemented, whether it's not implemented, disregarded, whatever

it is, that's the EAC's prerogative. But it's important I think to have that full circle of communication.

So, I have a motion that the Board of Advisors recommend that the EAC, upon request of the Board of Advisors, or the Standards Board, prepare a report for presentation at the meetings of both Boards regarding the status of all Resolutions that have been presented to the EAC for consideration by either Board. The report should indicate the Resolution number; a short description of the Resolution; the status of the Resolution, including, whether the Resolution was implemented, partially implement, under consideration still, or not implemented at all; and the reason for the status of each Resolution. The presentation should include adequate time for discussion of the report. That's my motion.

CHAIR THOMAS:

Is there a second?

SECRETARY NELSON:

Second.

CHAIR THOMAS:

Chris Nelson. Discussion? Mr. Fuentes:

MR. FUENTES:

Mr. Chairman, Tom Fuentes. There in the first "all Resolutions," I wonder if that should be "any or all Resolutions" because you may not way to bring forward all Resolutions, at one time. If there was a desire for a report for something of concern, I can see that, but you're not suggesting that constantly the full body of historically all Resolutions be reported on are you?

SECRETARY ROKITA:

If they're implemented already, then there is a record that would come to that report and there's no need to address it again. But if a Resolution continues to be under consideration, I think we should know that.

MR. FUENTES:

I guess, what I'm suggesting is that language of "any or all," if the body had a particular interest in some Resolutions, we could call for a report on those Resolutions which we have an interest in and that you're not reporting on all Resolutions. I mean, we wouldn't have to go through the entire exercise that we did earlier at this meeting because we've done it.

SECRETARY ROKITA:

Well, a lot of those Resolutions, as we heard, were being taken a look at, so I would want to see those again to see what the Resolution was. And I put a clause in there, I said "upon request of the Board of Advisors or of the Standards Board," so I imagine in that request, if something wanted to be limited to something, that could be made at that time. But I think it's important for the public record, and for voters and taxpayers, if we're giving advice, to see what the status of that advice is.

CHAIR THOMAS:

Commissioner Hillman.

COMMISSIONER HILLMAN:

Just for clarification, I understand Mr. Fuentes point. If you could just clarify your motion to say that Resolutions "that have already been dispensed with," or do you mean a running report, all the time, of all Resolutions? There are, now, about 30 Resolutions.

SECRETARY ROKITA:

No, as I responded, if it's already been implemented and there's a record of that in one report already, it would not make sense to revisit it..

COMMISSIONER HILLMAN:

Okay. And so, the only point I want to make is for historical record. If my successor were to read this Resolution, I can see where the person would say, all Resolutions must be reported when the Board requests that all Resolutions, you mean all Resolutions pending?

SECRETARY ROKITA:

I don't know if that matters or not. I mean, if it's a report, and we can have a record repeated again, I don't know that that's going to take any more time or not. I mean, it seems to me that in the continuing discussion it might be good to have a record, yeah this was implemented back at whatever date and it's done.

MR. FUENTES:

Mr. Chair, Tom Fuentes again. I don't give up my point. My point is that with every passing year, the volume of Resolutions grows. And when we do our business, we do our business and we move on. And every time we bring a report I don't want to see everything that's historically, if there's an interest on the part of the body to review pending, or Resolutions of interest, we say we want to see those. But why report to the Board volumes for the sake of volumes? I mean, life goes on.

MR. ROKITA:

Mr. Chairman, there is value in not making sure we don't address a Resolution or create another Resolution that might already have been taken care of, maybe, years ago. Again, I don't think that really makes too much difference. It's not the point of my Resolution. The point of my Resolution is accountability. And if it makes a big difference whether you're looking at a page two or three down in the stack of whether or not something's been done before, if that would kill the motion, then I'll amend it. But I don't think that's the big point here.

MR. FUENTES:

I'm empathetic with your desire of the Resolution in the general context. But I'm also thinking how thick this book gets as years go by.

SECRETARY ROKITA:

It's a line, I'm just saying report out a line, in the four different categories I said it's one line. It's not hundreds of pages. There's 30 Resolutions, it would be 30 lines right now.

MR. CUNNINGHAM:

Mr. Chairman?

CHAIR THOMAS:

Mr. Cunningham.

MR. CUNNINGHAM:

Given that the members, I mean, I think Secretary Rokita's motion has merit because given the ever changing make-up of this body, there's a distinct possibility that the history of the body's work will get lost. I mean, you know, I don't mean this to any one person, but if you just got here at this meeting, you know, the work didn't

start this week. It started several years ago. So, I think if, I mean, I don't think it's unreasonable to at least have an accounting for the history of the work of the body in the form of Resolutions so that: a) we're, I agree, we're accountable; and b) we don't repeat ourselves and, you know, reconsider things that we actually already did consider and get us into a situation where we've got two Resolutions on the table that are in essence the same document.

CHAIR THOMAS:

So, as I understand it, we're kind of talking about a Gantt chart in the sense that it would be a chart that would show the status of each, or maybe a short statement as to perhaps why the Resolution hasn't been dealt with.

Sarah Ball Johnson.

MS. JOHNSON:

I'm definitely speaking in favor of my border State's issue, even though he slighted me earlier, I'm friendly. I can be nice.

SECRETARY ROKITA:

Completely unintentional. It just happens, part of being a Hoosier.

MS. JOHNSON:

I'm not commenting on that. I do want to say I do very much support that. And I do not think it is unreasonable to have a chart showing Resolutions for both the Standards Boards and the Board of Advisors. You know we spend a lot of time in thought in crafting these Resolutions. And I, you know, as a member, want to know what they do with them. You know, we made some comments yesterday about what the EAC does with our Resolutions. And we

did start out this meeting with an update Resolution by Resolution, and a lot of those, "we're looking into it," "it's under consideration." Well, it's under consideration today, but, you know, it would be nice to know at the next meeting what that status is – is it still under consideration or is it done or is it ignored or whatever? And I do think it has value. I think it validates this Board's existence when we do Resolutions, and the Standard Board. So we should approve it.

CHAIR THOMAS:

Mr. Gardner, and then Secretary Cortès.

MR. GARDNER:

I, too, am speaking in strong support of this motion.

Abraham Lincoln once said he would argue either side of a case, as long as he could craft the issue.

[Laughter]

MR. GARDNER:

We can kill any Resolution or motion if we take it to extreme. I don't think that's the intent of the proponent. I think we're simply asking for accountability and a little accountability is fine. Now, in five years, if we have volumes and volumes, we can amend the Resolution, but let's not kill it with extremities. I speak in strong support of this motion.

SECRETARY CORTÈS:

Pedro Cortès. At the risk of being repetitive with what has been stated, I also speak in strong support of the Resolution. I like history, I like accountability. I believe all of us do. I can understand Mr. Fuentes' point. My thinking, though, is that if you have a

running list of the actions that have been taken, or not, on the Resolutions, it is a good historical document to have helpful. And in the interest of moving meetings along, I would say that you go through a report, and very quickly you can go down and already check off the Resolutions that have been acted on, and just simply say, that matter has been attended to, and unless somebody has curiosity over the issue, then you have it. Also, having a running list, in my mind, would help in, possibly, avoiding repeats of Resolutions that already have been dealt with, and the folks may not know that happened, because they don't have a historical account to trace back the issue. So, I speak in very strong support of the Resolution.

MR. CUNNINGHAM:

Mr. Chairman, I call for the question.

CHAIR THOMAS:

Okay, we are going to take a vote on the motion that Secretary Rokita put forth. It's up on the Board. I don't think we need it re-read. All in favor say aye.

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed.

[No response]

CHAIR THOMAS:

Motion is carried. Thank you. Any further motions or business to come before the Board? Dr. Simons.

DR. SIMONS:

I don't have a motion, I just have a couple of points I wanted to make. Oh, I'm Barbara Simons. One is, I just wanted to clarify something that had come up earlier. Before we took our break, I had made some comments about ACM having expertise in usability. And you probably don't even know what I was talking about so I just wanted to say that ACM, it's a horrible name, stands for Association for Computer Machinery. It's a dreadful name, it reflects the age of the organization, which was founded I think close to 60 years ago when people thought there would be about a dozen computers in the whole world, and the name has stuck. But it's basically the scientific and professional society of computer scientists in this country, and it's divided into various special interest groups. For example, usability is one of the areas. And these are basically the National experts in these areas. So, when I was suggesting that ACM could work with the Access Board, that's what I had in mind, and I just wanted to clarify that.

I also just wanted to let people know, since the subject of security has come up at this meeting, that the Verizon on Business Group has issued their 2009 Data Breach Investigations Report. It just came out a few days ago. It's not too long. I think you might find it very interesting. It's at a horrible, the URL is quite lengthy, but if you go to securityblog.verizonbusiness.com, you can download their report, and it talks about all of the break-ins that have occurred that they are aware of in businesses, government, and so on. So, I think you might find it interesting. If anybody wants the URL just let me know and I'll send it to you. Thank you.

CHAIR THOMAS:

Thank you Dr. Simons. Mr. Cunningham.

MR. CUNNINGHAM:

Mr. Chairman, I would like to make a motion to direct the Secretary to prepare a Resolution commending those members who have left the Board since the 2008 meeting, thanking them for their service.

CHAIR THOMAS:

May I have a second please?

MS. PURCELL:

Second.

CHAIR THOMAS:

Helen Purcell second. Any discussion? Hearing none, all in favor?

[Multiple responses in the affirmative]

CHAIR THOMAS:

Opposed?

[No response]

CHAIR THOMAS:

Motion carries. Thank you very much.

At this point, we are going to move to the room next door, where we've had our breaks and meals, for the installation of officers.

COMMISSIONER HILLMAN:

Two housekeeping issues, please, before you leave. We have FedEx boxes available for you if you wish to ship back your materials. You will need your own FedEx number. We'll take care of the schlepping for you, but you'll need your own FedEx number.

And I just want to take a moment to thank all of the EAC staff who were involved in putting the meeting together. Start with Maisha Leek.

[Applause]

COMMISSIONER HILLMAN:

Sierra Morton, who is an intern, a summer intern with the EAC; Emily Jones, our meeting planner; Bryan Whitener, who is our photographer extraordinaire; Matt Masterson; Tamar Nedzar who has been doing your Resolutions and motions on the screen; Gavin Gilmour, our Deputy General Counsel; Brad Weirich, who is a summer intern working, I believe, principally, in our Testing and Certification, is it? I'm sorry. Brad is the Transcriptionist, Mike Durbin is the intern, my apologies. And then, from the hotel, we couldn't do this without cooperation from the hotel, Pablo from the hotel staff and our audio/visual technician expert, Jimmy. Thank you.

[Applause]

CHAIR THOMAS:

We have been very pleased to have her as the DFO for this body. She has kept us on track and the agenda that you've had and the materials you've had she is definitely responsible for. She's become a friend and a colleague and I've much enjoyed working with her. And she's a tenacious person who is well principled and we have enjoyed being on both sides of issues and on opposite sides, but always bringing to the table a strong intellect and what I think is definitely in the best interests of democracy in this country.

So I want to thank you very much for all you've done.

[Applause]

COMMISSIONER HILLMAN:

Thank you. As Boards go, I have really enjoyed this one. I have been working for or serving on the Board since 1970 and, as I said, this Board's focus has been pretty spectacular. You have to work under extraordinary restrictions. Fabulous job and, Chris thank you. And I guess I started with Doug Lewis. I'm not sure where Doug -- there you are -- started with Doug and transferred through Bev Kauffman and now here with Chris and on to Jim Dickson. So I appreciate everything that you've done.

Thank you.

CHAIR THOMAS:

Thank you.

MR. DICKSON:

Thank you.

[Applause]

CHAIR THOMAS:

We've all learned a great deal about how Boards operate. Is Donetta here with us? There you are. Come up here. Come up here, please. I would also like to acknowledge Donetta. She served as the DFO for the first half of my tenure and got us through the Austin meeting and definitely started a process for this committee -- for this Board to start working special committees. We worked on voting system standards. So I went to Boulder and worked on that which I think absolutely contributed to making the

Austin meeting a success. We go back a long way. We have been colleagues...

COMMISSIONER DAVIDSON:

Don't tell them how far back.

CHAIR THOMAS:

No, we're not telling them how far back. We've been colleagues as state election directors and then she ascended to the secretary ship and very pleased to see her come back to the election administration world in Washington, D.C. and to bring all that experience.

So thank you for all that you've done.

COMMISSIONER DAVIDSON:

Well, thank you.

CHAIR THOMAS:

You've helped this Board along tremendously.

COMMISSIONER DAVIDSON:

Well I appreciate that, thank you.

CHAIR THOMAS:

Thank you.

[Applause]

CHAIR THOMAS:

Okay, Maisha. Now here's the person who really made it all happen. Put the materials together, kept us marching down the road. We get the phone call, "Why aren't you on this conference call?"

MS. LEEK:

I'm sorry.

CHAIR THOMAS:

No, thank you so much for all you've done. You've definitely -- under the tutelage of Commissioner you're going to be well prepared to do well in this world, I will tell you that.

MS. LEEK:

Thank you.

CHAIR THOMAS:

You'll know how to dot all the "I's" and cross the "T's", no loose ends, and everything comes together. But it's been a great meeting and it wouldn't have been possible without you. So thank you so much.

[Applause]

MS. LEEK:

Thank you all so much. It's been great working with all of you and I really appreciate it. So thank you.

[Applause]

CHAIR THOMAS:

Mr. Dickson, come on up here.

COMMISSIONER DAVIDSON:

While he's getting everybody up, I've just got to say what a joy it is to be a Commissioner at the EAC and be able to work with people like all of you and to have you bring in your expertise is helping us a lot. So thank you, I really appreciate it. And I love my flowers.

CHAIR THOMAS:

Okay, we're going to swear in the new Chairman. Raise your right hand, please.

[Whereupon, the oath of office was administered to Chairman James Dickson.]

[Applause]

CHAIR THOMAS:

We're very pleased to have this young man taking over.

MR. DICKSON:

Thank you very much. And I have learned a huge amount from Chris. I've known him for years, we won't say how many, but I hope and will do everything to conduct the meetings with the grace and the energy and the attention to detail that you have done.

CHAIR THOMAS:

Thank you very much.

MR. DICKSON:

Thank you.

[Applause]

CHAIR THOMAS:

Mr. Cunningham.

[Whereupon, the oath of office was administered to Vice-Chair Keith Cunningham.]

[Applause]

MR. CUNNINGHAM:

Getting to know all of you is the true joy here. And getting to know Chris over the last few years has been an enhancing

experience in my life. You've become a good friend and a mentor,
and I appreciate everything you've done for the Board.

CHAIR THOMAS:

Thank you.

MR. CUNNINGHAM:

You've done a fabulous job.

CHAIR THOMAS:

Ms. Hegarty.

[Whereupon, the oath of office was administered to Secretary Terri Hegarty.]

[Applause]

CHAIR THOMAS:

Okay, with that I think we're ready to adjourn. May I have a
motion to adjourn?

MR. CUNNINGHAM:

I would like to make one additional motion that the Secretary
be directed to prepare a Resolution thanking you for your service to
this Board.

SECRETARY CORTES:

Second.

CHAIR THOMAS:

Okay, all in favor?

[The motion carried unanimously.]

CHAIR THOMAS:

Now a motion to adjourn.

MR. CRANGLE:

So moved.

MR. LEWIS:

Second.

[The motion carried unanimously.]

CHAIR THOMAS:

Thank you all.

[The meeting of the EAC Board of Advisors adjourned at 11:56 a.m. EDT.]