APPEARANCES

BOARD MEMBERS
John A. Pérez, Chairperson
Stephen Kaufman, Vice Chairperson
Michael Bustamante
Tal Finney

STAFF
Mr. Michael Kanotz, Elections Counsel
Ms. Jana M. Lean, Staff Consultant
Ms. Katherine Montgomery, Executive Secretary

ALSO PRESENT
Mr. Stephen Jones, Merced County (via teleconference)
Ms. Debbie Lizzari, Los Angeles County
Ms. Conny McCormack, Los Angeles County

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
PROCEEDINGS

CHAIRPERSON PÉREZ: We're going to get started.

We have a quorum. I would like to call to order the
meeting of the Voting Modernization Board, March 21st,
2007.

Please call the roll.

EXECUTIVE SECRETARY MONTGOMERY: John Pérez.

CHAIRPERSON PÉREZ: Aye -- or here.

EXECUTIVE SECRETARY MONTGOMERY: Steven Kaufman?

VICE CHAIRPERSON KAUFMAN: Here. Present.

EXECUTIVE SECRETARY MONTGOMERY: Michael

Bustamante?

MEMBER BUSTAMANTE: Here.

EXECUTIVE SECRETARY MONTGOMERY: Tal Finney?

CHAIRPERSON PÉREZ: Expected. And the great
debate is whether he will make it before 11:00 or before

11:15.

EXECUTIVE SECRETARY MONTGOMERY: Carl Guardino?

Perhaps calling in.

CHAIRPERSON PÉREZ: Okay. We definitely have a

quorum.

The next item for us is Item 3, Public Comments,

for items not specifically on our agenda.

Do we have any cards?

We don't. Very good.
Next is adoption of January 17th, 2007, Actions and Meeting Minutes.

Has everybody has a chance to review them?

VICE CHAIRPERSON KAUFMAN: Yes, and I will move approval.

MEMBER BUSTAMANTE: I will second.

CHAIRPERSON PÉREZ: Mr. Kaufman moved.

Mr. Bustamante seconded.

Without objections, we'll adopt those.

Next is Project Documentation Plan Review and Funding Award for Merced County.

So Jana, if you would like to walk us through that.

STAFF CONSULTANT LEAN: Merced County is one of the three counties that had not submitted a --

THE REPORTER: I can't hear you.

STAFF CONSULTANT LEAN: They are one of the three counties that had not yet submitted a modernization plan.

Merced County purchased the ES&S AutoMARKs and the ES&S Model 100 Optical Scan units. They purchased 104 units. Merced County has secured this voting equipment, and it was used for the first time during the June 6 primary election.

The Voter Verified Paper Audit Trail requirement doesn't apply to Merced County's new Project Documentation Plan.
Plan and the voting system, as it is a paper-based optical scan system.

Merced County's Project Documentation Plan meets the requirements for completeness and the ES&S Model 100 Optical Scan units and the ES&S AutoMARK Voter Assist Terminals are certified for use in California.

Merced County began the process of upgrading its voting equipment in 2003. The county was cognizant that it did not want to implement a new voting system during a President election cycle. Therefore, in June of 2003, Merced County entered into a contract with ES&S to purchase new touch screen technology.

The County purchased 446 iVotronic DRE units and 2 Model 650 High Speed Central Scanners. Merced County conducted an extensive outreach program to introduce the new voting system to its voters. And the County projected that it educated approximately one-third of its voters before the equipment was deployed for the first time during their November 2003 UDEL election.

Merced County asserted the equipment was well received by the voters and was successfully used the five countywide elections.

However, effective January 1, 2005, California state law required that all DRE voting systems receive federal qualification and include an accessible Voter
Verified Paper Audit Trail.

Let me pause for just one moment.

CHAIRPERSON PÉREZ: Let the record reflect that Mr. Finney has now joined us.

MEMBER FINNEY: It's my birthday.

CHAIRPERSON PÉREZ: He's beating both the under 11:15 and under 11 o'clock.

Happy birthday.

STAFF CONSULTANT LEAN: Happy birthday.

MEMBER FINNEY: I'm allowed to be late today.

VICE CHAIRPERSON KAUFMAN: As opposed to anybody other than you?

CHAIRPERSON PÉREZ: Is this your American birthday or your Hebrew birthday?

STAFF CONSULTANT LEAN: Can I continue?

CHAIRPERSON PÉREZ: Please.

STAFF CONSULTANT LEAN: Effective January 1, 2005, California state law required that all DRE voting systems receive federal qualification and include an accessible Voter Verified Paper Audit Trail by January 1, 2006, in order for the equipment to be certified and used in California.

ES&S did not seek state approval for a printer for the iVotronic DRE units in time for the 2006 deadline. Therefore, Merced County's new DRE units were no longer
permitted to be used. And as a result, the county was required to trade in the iVotronic and Model 650 units for equipment that would fulfill the state and federal accessibility requirements.

Pursuant to the requirements of the federal Voting Rights Act of 1965, Merced County was required to obtain pre-approval of both Model 100s and AutoMARK equipment from the U.S. Department of Justice.

The Model 100s and the AutoMARK units were implemented completely during the June 6, 2006, primary election. Merced County believes that the deployment of the Model 100 optical scan units combined with the AutoMARK Voter Assist Terminals brought the county into compliance with the Help America Vote Act and the state accessibility requirements.

Merced County will only receive VMB payments once it has submitted detailed invoices for its certified voting equipment.

It is our recommendation that Merced County's Project Documentation Plan be approved, and a Funding Award letter be issued in the amount of $1,056,294.37.

Merced County was unable to attend today, but they did submit a letter -- I just handed it to you. It wasn't in your packet; it came in late -- explaining how they implemented their new system, and try to answer any
questions you might have had -- try to anticipate any
questions you might have had of them. They are available
by cell phone, if you have any questions of them.

CHAIRPERSON PÉREZ: Thank you. If you could give
us a second to just look over the letter really quickly.

Any questions or comments?

Mr. Bustamante?

MEMBER BUSTAMANTE: None. I don't have any.

VICE CHAIRPERSON KAUFMAN: Yeah, I was just
confused.

Jana, I'm sure you can clarify this. Maybe it's
in the letter, but rather than try and piece through it.
So they have an optical scan system that was in place for
the last election. Do they still have this DRE system?

STAFF CONSULTANT LEAN: No. They traded those in.

VICE CHAIRPERSON KAUFMAN: Just completely traded
it in and replaced it. I wasn't sure if one was a
supplement or they completely traded it in.

STAFF CONSULTANT LEAN: It was completely traded
in.

VICE CHAIRPERSON KAUFMAN: Okay. And then this is
their new system? This is what they have?

STAFF CONSULTANT LEAN: That's the offset of the
cost, and they are trading those in.

VICE CHAIRPERSON KAUFMAN: Okay. Thank you.
MEMBER BUSTAMANTE: So Jana, their system cost is $2.6 million?

STAFF CONSULTANT LEAN: That's correct. That's the total system cost, based upon the amount of money that they were allowed for the trade-in, for the high speed scanners and for the iVotronic units. So this is the additional cost, the cost of their original contract minus the trade-in money, plus the new AutoMARK units.

MEMBER BUSTAMANTE: I will move the staff recommendation if there's no other questions.

CHAIRPERSON PÉREZ: I'm just disturbed by the third paragraph of the letter from Merced.

The quote that says, "Whatever the answer, I believe we will not intentionally disenfranchise these voters. It did not capture their intent."

VICE CHAIRPERSON KAUFMAN: That's the old system.

CHAIRPERSON PÉREZ: No. That's --

STAFF CONSULTANT LEAN: Well, they are not -- as the Project Documentation Plan says, they weren't really happy about having to change from the DREs. They really liked -- the voters did receive it very well. But because ES&S was unable to get that printer certified for use, they had to change for the accessibility requirements.

They do have a provision in their contract that -- let's say that ES&S does move forward with it by 2008.
They could have a chance to buy back the iVotronics. I talked to Merced County, and they said they are going to stick with AutoMARKs and the Model 100s.

VICE CHAIRPERSON KAUFMAN: Do they not have the scanner like L.A. County, the polling place scanner that picks up overruns?

STAFF CONSULTANT LEAN: It does. But from a conversation that I had with Merced County, even though no voters are notified that they have overvoted, they, for whatever reason, they choose not to revote. They choose not to get a ballot. They just cast the ballot as it is.

MEMBER FINNEY: Do you hear these types of concerns from other counties? There are other counties that have this system?

STAFF CONSULTANT LEAN: Yes, there are other counties that have this system. Nothing as blatant as this. I've heard there's been some with AutoMARKs jamming up and stuff. But never to this extent.

CHAIRPERSON PÉREZ: Here's what I don't understand. Using the DRE, I found out that I under-voted in the lieutenant governor's race in 2002, just because the machine, you know, notified me that I had under-voted.

Maybe I was mad at him that day and just maybe -- and there was something psychologically wrong. But the machine did notify me to the fact that I under-voted and
to go back and correct it.

    But this was a long ballot that we're dealing with. And I intentionally under-voted in the judicial races, where I didn't think I had the information to make a decision.

    But in the example that they give here, there's only one question on the ballot. I can't -- it's hard for me to fathom, first of all, someone turning out for that election, given our experience here in Los Angeles a couple of weeks ago, and having eight percent turnout in a good precinct. But somebody taking the time to go to vote for one single issue, being notified that they overvoted and then not taking the one minute it would take to go revote. It just -- it doesn't seem to be the way somebody, who went through all that effort to vote on a single issue, would react. So I'm just concerned that that doesn't -- it doesn't ring true to me.

    MEMBER FINNEY: We need better communication, or something, from the Registrar's Office.

    STAFF CONSULTANT LEAN: They do plan to do a more extensive outreach program. I did talk to them about that.

    MEMBER FINNEY: I mean, actually, practically, on the ground at the time the vote is taking place, maybe there needs to be docents or something or poll workers, I don't know, that can actually make these folks more
comfortable. They're probably just not real comfortable
with this new-fangled system, quote, unquote.

   But if there's someone there to help guide them
   through it --

   STAFF CONSULTANT LEAN: I don't know what it's
   like in Merced County. In Sacramento, they have the same
   system. And there is a poll worker who monitors the
   optical scan machines, so they are there to help, if you
   feed it yourself. But they help to make sure you are
   feeding it correctly, or if there's a problem if you have
   overvoted. But it is up to the voter to do that. It is
   an educational problem.

   VICE CHAIRPERSON KAUFMAN: The letter, to me,
   seems to almost show resentment towards even having to
   deal with these machines. You know, complaints about
   having to remove the equipment. And I don't know, there
   seems to be a comfortability issue. And we are -- this is
   the people's money being spent here, a significant amount
   of it.

   Maybe there's something we can do, through you
   guys, to reach out to these guys and see if we can make
   them more comfortable. I don't know if we have anything
   like that in place, where there's some type of program
   from the Secretary of State's Office, to make -- to help
   counties more comfortable.
I mean, I don't know. I'm just curious. Because that seems to be the issue here. You can't get to the voter if the folks in charge aren't comfortable.

CHAIRPERSON PÉREZ: Again, if it's a long ballot and you've got, you know, 73 issues that you just voted on, somebody tells you, you overvoted on Question 12, fine, I'm leaving. So be it. But when it's just one question and you're over, that just doesn't -- that doesn't ring true to me.

STAFF CONSULTANT LEAN: It could have been an exaggeration. It could just be something they wanted to point out.

I do know that they were not happy with the change. They did like the iVotronic machine, and they wish they could have kept those.

But in order to meet the state disability requirements and federal law, they had to move. So I think that's kind of what you are hearing or you are reading in this, is that they really didn't want to move but they had to.

VICE CHAIRPERSON KAUFMAN: To the tune of $2 million.

CHAIRPERSON PÉREZ: Does anyone else have an interest in potentially getting Mr. Jones on the phone and asking him about this experience?
VICE CHAIRPERSON KAUFMAN:

MEMBER FINNEY: Maybe we could -- I guess we can take a vote to do that.

VICE CHAIRPERSON KAUFMAN: I mean, I don't know that it affects whether or not they're entitled to the funds, but it's certainly an issue that we should be concerned about.

CHAIRPERSON PÉREZ: I mean, I just feel it would be irresponsible to not to look into it, that it's clearly --

MEMBER FINNEY: You mean follow-up.

CHAIRPERSON PÉREZ: Right.

MEMBER FINNEY: I'm totally for that. This is clearly is an issue. The letter was actually quite surprising, the tone of it and everything.

Yeah, if we can.

VICE CHAIRPERSON KAUFMAN: Since he's available on this cell phone.

CHAIRPERSON PÉREZ: Do we have the ability to dial out on this one?

STAFF CONSULTANT LEAN: Can we take a moment.

We'll call him and have him dial in.

CHAIRPERSON PÉREZ: Why don't we move on to the next item, come back to this, once we get him on the line.

STAFF CONSULTANT LEAN: Staff is going to step out
for a moment. Do you want me to go to Shasta now?

CHAIRPERSON PÉREZ: Yeah, I think, let's go to Shasta and we'll come back to Merced.

So we have a -- the next item -- we'll come back to Merced -- is Item 6, Change to Approved Project Documentation Plan for Shasta County. This is their Voter Verified Paper Audit Trail Plan.

STAFF CONSULTANT LEAN: As you recall, the Board has made a policy decision to allow VVPAT retrofit request for funding.

The Shasta County has requested a specific amount that, based upon their review of their plan, the allowable amount that the staff would recommend awarding them would be $253,464.71, versus their 255,050.98. There's some unallowable expenses in their plan, just so you know.

They are actually retrofitting their Sequoia voting systems, their AVC Edge. They are getting a VeriVote. They purchased 573 DRE units.

As you are aware, the Secretary of State's Office received an opinion from the EAC that permitted a county to remit funds it received through the Voting Modernization Bond Act, and to receive a "retroactive payment" pursuant to Section 251(c)(1), to pay the costs of purchasing a HAVA Section 301-compliant voting system from HAVA resources received by the state.
At the September 17th, 2003, meeting of the Voting Modernization Board, the Board approved Shasta County's Project Documentation Plan and awarded funding for the reimbursement of the county's purchase of 438 Sequoia AVC Edge DREs and two Sequoia Optech 400C Central Count Optical Scan units. The County used this equipment at the October 7th, 2003, statewide special recall election.

Shasta County began modernizing its voting equipment before the state requirements for a VVPAT were enacted. Consequently, the county was required to retrofit all of its Sequoia AVC Edge DRE machines to include a VVPAT printer. These newly equipped machines were successfully implemented countywide during the June 6, 2006, primary election.

Shasta County is requesting that the Board allow the county to return funds received from the VMB, in order to qualify for the retroactive reimbursement from HAVA, for its purchase of a HAVA Section 301 compliant voting system, and concurrently requests funding from the VMB to fund its VVPAT retrofit costs.

Shasta County would be required to refund the allowable retrofit cost of $253,464.71 to the Voting Modernization Fund, from the county's general fund, before the county would be eligible for any VMB funding for the VVPAT retrofit or any retroactive reimbursement from HAVA.
Section 301.

Once the refund for the retrofit cost has been received and deposited back into the Voting Modernization Fund and confirmation of that deposit has been received from the State Controller's Office, the VMB would notify Shasta County and the Secretary of State's HAVA coordinator that the deposit has been completed.

The VMB could then amend the original Funding Award letter issued to Shasta County to explicitly state that the VMB will allocate the $253,464.71 in funding returned by the county, to the VMF, for the purpose of reimbursement of the voting -- Voting Verified Paper Audit Trail retrofit costs.

Shasta County would then be required to submit to the Voting Modernization Board an acknowledgment letter certifying that the new funds will be used in accordance with the Voting Modernization Bond Act of 2002. Shasta County could concurrently submit a Payment Request Form with required documentation to receive the reimbursement for the VVPAT retrofit costs.

It is our staff recommendation that Shasta County's change to their approved Project Documentation Plan be approved, contingent upon receipt of the funds as outlined above.

Once confirmation of the deposited funds is
obtained, the VMB staff will notify the chair of the Board, and an amendment to the original September 17, 2003, Funding Award letter may be issued in the amount of $253,464.71 to fund the allowable VVPAT retrofit costs only.

CHAIRPERSON PÉREZ: Any questions? No?

MEMBER FINNEY: So we're assuming this will take place prior to our next meeting. That's why we are doing pre-approval?

STAFF CONSULTANT LEAN: Yes.

CHAIRPERSON PÉREZ: Is there a motion?

VICE CHAIRPERSON KAUFMAN: I will move to approve the staff recommendation for the funding award for Shasta County. Seems to be consistent with past practices.

MEMBER BUSTAMANTE: I will second it.

CHAIRPERSON PÉREZ: Seeing no further discussion, all in favor say "aye."

(Ayes.)

CHAIRPERSON PÉREZ: Opposed?

That's four ayes.

STAFF CONSULTANT LEAN: I will notify Shasta County.

CHAIRPERSON PÉREZ: Very good.

Next item before us is Item 7, Staff Report on Related Issues, regarding the review of county responses.
to expenditures of remaining VMB formula allocations.

Actually, before we go there --

EXECUTIVE SECRETARY MONTGOMERY: He will be
calling in, in just a moment.

CHAIRPERSON PÉREZ: Let's hold for Mr. Jones
instead, and we'll go back to Item 5.

Mr. Jones, are you with us?

MR. JONES: Yes, I am.

CHAIRPERSON PÉREZ: One second. Let us adjust
your sound. Maybe, if we can pull that mike down.

Let's see if we can hear you better now.

MR. JONES: Okay. Can you hear me?

CHAIRPERSON PÉREZ: That's much better. Thank
you.

Mr. Jones, this is John Pérez, chair of the Voting
Modernization Board. With me are the other Board members,
Steve Kaufman, Michael Bustamante, and Tal Finney.

We were just taking action on the item regarding
your county, but we're also reviewing your letter to us
regarding some of your concerns. And I think a couple of
us have some follow-up questions with you, regarding your
letter.

In particular, I have a question. In the third
paragraph of your letter, you make reference to a school
bond election, and 2 percent of the voters overvoted. And
it was just something that was hard for me to understand
the dynamic of somebody turning out to vote in a
single-issue election, being informed that they overvoted
and not choosing to go back and correct, since it was just
one question on the ballot. And I was just hoping, you'd
be able to tell us a little bit more about that
experience.

MR. JONES: Yeah. What we think is the --
(indiscernible.)

THE REPORTER: I can't understand anything he's saying.

CHAIRPERSON PÉREZ: Mr. Jones, I think, if we've
got you on a cell phone, I think we've got you on a bad
cell space. You're coming through rather garbled.

MR. JONES: I'm getting feedback right now.

Do you want me to call you back?

CHAIRPERSON PÉREZ: That would be great.

MR. JONES: Okay. Thank you.

CHAIRPERSON PÉREZ: Thank you.

Let's kill that microphone altogether and see if
that helps.

Mr. Jones with are you with us now? Mr. Jones?

MR. JONES: Yes.

CHAIRPERSON PÉREZ: Okay. We're going to adjust
the volume again. Okay.
So if you would go back to what you are telling us about that election.

MR. JONES: Yeah. We found that -- (indiscernible).

CHAIRPERSON PÉREZ: I'm sorry. Mr. Jones we're still having technical difficulties. I think what we'll do is try you from one of our other lines and see if that works better and give it one more shot. One second.

Why don't we use this phone back here, see if we can --

EXECUTIVE SECRETARY MONTGOMERY: I think I should have the facilities guy come down, because I don't know what I'm doing.

CHAIRPERSON PÉREZ: Why don't we -- why don't you let him know that we will be calling him shortly. And then let's -- we'll get back to him.

And let's go back to Item 7, and then we'll go back to Mr. Jones when we're done with Item 7.

STAFF CONSULTANT LEAN: At the last meeting --

CHAIRPERSON PÉREZ: Okay. At the last meeting --

STAFF CONSULTANT LEAN: At the last meeting, you requested that we contact all the counties who have remaining Voting Modernization Funds to formally request them to respond whether or not they are going to be using the remainder of the their funds, and when they do plan to
submit their next phase of plans.

In your binders, you have copies of all their responses. I did a little synopsis for you. It's not a really formal staff report. But I wanted to kind of give you an overview, along with the actual hard copies for you to take a look at.

So there was a few counties that hadn't responded, but you do get a few of them today. Madera County didn't respond and Mono County is -- still has not responded. But all of the rest of the counties did respond to the letters.

And as you can see, a majority of them -- actually, almost all of them -- do anticipate using the remainder of their non-disbursed allocation. A few counties even bothered to submit their invoices, so that they made sure they were able to use these funds.

One thing I do want to note is that there are two counties who did say they will not be using the remainder of their funds. And one of them is Trinity County. And I know that you and John and Stephen did mention that you wanted to talk to Trinity County. They did submit a letter. They do not plan to utilize the Voting Modernization Board Funds. And it's pretty specific why they don't plan to use the money. So there's that.

And Ventura County has also sent a formal letter...
saying that they will be reverting back over $1.1 million of their funds. So as it stands today, there's approximately 1.2 million that is not claimed and not allocated.

So that's -- that's a small pot for considering 195 million, but that's still 1.2 million.

But as you can see, based on our responses, due to the change of --

CHAIRPERSON PÉREZ: Everything every time?

STAFF CONSULTANT LEAN: Due to the change of every year, there are new requirements now potentially going through in the federal government. There's also a new Secretary of State. As you are aware, they are planning to do a top-to-bottom review of all the voting systems. The criteria hasn't come out, but is going to come out soon.

So counties are really reluctant to want to give up any funding, to know exactly the money that's in their plan, because they don't know when the plan is going to be. And that was very much shown in the response to our letter to them.

CHAIRPERSON PÉREZ: When we are referring to Secretary of State, that's SOS Version 4.0?

STAFF CONSULTANT LEAN: Is it 4.0?

CHAIRPERSON PÉREZ: During our time, I think;
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Jones, Shelley --

MEMBER BUSTAMANTE: Yeah, it's 4.0.

STAFF CONSULTANT LEAN: So we do have a representative here from Los Angeles County, that I know wanted to speak on this agenda item. But I'm here to answer any questions you have regarding those responses from the other counties.

CHAIRPERSON PÉREZ: Why don't we hear from Los Angeles first. And then we'll see if we have any questions after that.

And it's up you, if Conny or if Ms. Lizzari, whichever of you wants to speak first.

MS. LIZZARI: Good morning. My name is Debbie Lizzari. I'm with the Los Angeles Chief Administrative Office. And if you don't mind, I would like to take a few minutes to read into the record the letter that was signed by all five Board members of the Board of Supervisors yesterday, at their meeting.

We are writing in response to your solicitation for comments with regard to the exploration by the Voting Modernization Board of whether or not to establish a deadline for use of Prop 41 funds, which are currently available to counties for modernizing voting systems. It is our understanding that this topic was raised at your
VMB meeting on January 17th, but was tabled for further discussion to today's meeting.

We support the continuation of the VMB's existing policy, which requires counties, such as L.A., that have not expended their entire VMB allotment, to retain such formula-based funds for future upgrades to voting equipment as long as periodic status reports are filed with the VMB by the County's election official.

It is important to note that no deadline for use of the VMB funds was defined within the language of Prop 41, which was passed by the voters in March 2002, for the purpose of providing funds to counties to upgrade voting equipment.

Our Board adopted a policy in August 2002, to "phase in" new voting equipment. This approach was adopted to help voters with the transition from the punch-card voting system, which had been used for the previous 38 years in the County. This multiple stage approach toward procuring new voting systems was adopted in recognition that federal and state laws and procedures, for Direct Reporting Electronic, or DRE, and other legally compliant voting systems were in flux and that technology would undoubtedly continue to improve.

County's initial phases involved purchasing a small amount of DRE equipment for use during the early
voting period in advance of major elections, because such
equipment allows any voter the opportunity to vote at a
choice of any early voting locations throughout the
County.

Meanwhile, an interim optical scan voting system,
InkaVote, was introduced at the County's 5000-plus voting
precincts in 2003 and upgraded to InkaVote Plus in 2006.
The goal has always been to fully utilize the remainder of
the County's allotment of Prop 41 funds at a future date,
to purchase the next generation of voting equipment, which
would then be expected to serve the County's voters for
decades into the future.

It is critical to the voters of L.A. County for
the VMB to retain its current policy to expend Prop 41
funds, per the established formula. To set an arbitrary
deadline for use of these funds would appear contrary to
the will of the voters and would undermine L.A. County's
plan, accepted and approved by the VMB, to phase in
ever-improving voting equipment, into the future.

The key reason why L.A. County has, to date,
utilized very little of our Prop 41 allotment is precisely
because these funds were not deadline driven, unlike
federal punch card buyout funds, which contained a
January 1, 2006, legal deadline for use as specified in
Section 102 of the Help America Vote Act.
Thank you for your consideration of this request.

CHAIRPERSON PÉREZ: Very good. Next we have Conny McCormack.

MS. MCCORMACK: Good morning. Conny McCormack, Los Angeles County Registrar-Recorder/County Clerk.

Always good to see the members of the VMB and especially here, in Los Angeles. Thank you for coming to our hometown. And happy birthday.

I would just like to reiterate a few remarks that I already made at the January 17th meeting. So I won't repeat them, in depth. But just to say that I thought that was a very good discussion of your Board. Clearly, you were grappling with all the issues and there is an understanding on this Board of what registrars and election officials have been through, during the tremendous changes over the last four years.

And now the uncertainty that is even more -- is occurring, even since your January 17th meeting. Not only are we awaiting the Secretary of State's announced intentions to do a top-to-bottom review of voting systems, which she just had her first conference call with all the counties, just before this meeting. And she said that those criteria would be released tomorrow, as to what those would be. So we're all anxiously looking forward to that tomorrow.
And also, on February 7th, 2007, Washington D.C.,
the Senate Rules Committee held a hearing. And I was
invited to be a witness at that hearing. And at that
time, Senator Feinstein, who chairs the Senate Rules
Committee indicated that she was requesting and
subsequently sent a letter, dated February 20th, to the
General Accounting Office, to do a top-to-bottom review of
voting systems in the United States.

So I think the review of the voting systems is not
only a state issue at this point; it's very much a
national issue. And there's also several legislative
proposals in the U.S. Congress right now that contain many
provisions that could impact dramatically the type of
voting equipment that might have to be used for the '08
election.

And so the situation of flux I think is the key
right now. I think the fact that this Board has been our
anchor of stability in elections, which I and others are
very grateful -- that we could take a pause in terms of
having a policy decision, whether you just decide to
continue with what you are doing now.

As you know, I sent a letter to your board on
March 6th -- I won't read it into record. But I did send
you a letter, and I can bring it to you if you would like
a copy of it, to the reporter -- to request that the
status quo be maintained and not institute any type of a deadline at this point in time, given the flux. And I did request the Board of Supervisors to submit a letter to you, which they did yesterday. And also, too, another letter that's going, from yesterday, from them to the Secretary of State, regarding the HAVA 301 funding, because that is also -- Secretary of State, last week, did put out a letter indicating that she was considering finalizing a deadline on that money as well. And our Board took an action to please not do that, and to extend those contracts.

So there's -- as you know, your money and that money is so intertwined because you have a formula of three to one for your money. And the one has been coming from the HAVA 301, primarily. Not in Los Angeles County, because we had 102 funds. We have the punch card buyout funds, which we had to expend, and we did, by the deadline. But some counties didn't have those punch card buyout funds. I think only 10 or 12 counties had those funds. The other counties are really reliant, as the ones you mentioned today, on the 301 funding.

So in summary, that sounded like a bunch of jargon. But in summary, the situation is just not very stable right now. And I think that over the next six to eight months, there's going to be a lot more certainty
coming to light, both at the federal and state level on voting system requirements. And so again, I thank you for the policy positions you have taken in the past.

And I will certainly take your questions, if you have any.

CHAIRPERSON PÉREZ: Thank you.

Any questions for Ms. McCormack?

VICE CHAIRPERSON KAUFMAN: I don't have any questions at the moment.

CHAIRPERSON PÉREZ: Okay. Any responses? Any comments?

VICE CHAIRPERSON KAUFMAN: I guess I had a comment. Just having thought about this since our last meeting and now seeing what the staff has presented in this summary, you know, I guess I don't see -- if you go back to some of our original premises for looking at this issue, I don't see other counties jumping up and down and trying to get their hands on L.A. County's money, which is sitting out there. And by the same token, I don't see L.A. jumping up and down, screaming for more money than it might be entitled to. Are we to, you know, call in our chips and require people to put their money back in the pot?

And I don't think we want to encourage unnecessary spending by counties, just to use up their allocated

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amounts by a certain deadline.

So other than the fact that it means, and I might have to see you all a lot more, on a continuing basis over next few years, I guess I'm seeing little reason why we need to start imposing deadlines on folks, when there seems to be a consensus out there that people are fairly comfortable with the status quo. And the couple counties that have stated their intent to put the money back in the pot, we obviously could allocate that money in a certain way.

So those are my comments based on what I have seen, following our January meeting. And I'm pretty comfortable with that.

CHAIRPERSON PÉREZ: I tend to agree with you. There are a couple of places where I would like to draw issues. I still wrestle with what we do with a county like Trinity, who's got no intention of using the money. And I don't know how we could single them out and say, "Send us the money back," when we're allowing everybody else to have extended periods of time. And who knows, as the rules continue to change, Trinity may find themselves more interested in using that money than they have been, up to this point, similar for Ventura County.

I was always looking at counties like Los Angeles, who, from day one, asserted that they wanted to do a
phased approach. And they asked us to be on the record in
saying that their initiation of a phased approach met the
timelines as the timelines kept rolling, and that they
wouldn't be in jeopardy of losing that money if they
waited to implement future phases.

So I always saw counties like Los Angeles
differently than counties that hadn't been responsive to
request for information. I'm happy to see more of them
being responsive. But I still do, you know, wonder what
we do with a county like Trinity. I don't know. It makes
a whole lot of time for us to let that one county drive
our policy, though.

With respect to the letter from Los Angeles
County, I intend to have staff work with me to come up
with a response, because while I agree with the general
thrust of what the letter is trying to achieve, I do take
issue with whether or not this board has the ability to
set a deadline, and whether or not that's contrary to the
will of the voters. I think that while the Prop 41 didn't
specifically set deadlines, it created, for the Board, to
set the policy -- the same Board that set the policy to
come up with the funding allocation. I think that,
clearly in there, was the will of the voters for us to
make these decisions about how best to look at
implementing policy to benefit the state of California as
a whole.

So I just want to make sure that we're on record of asserting our belief that we have the right to make those decisions, even if we choose not to make that decision at this point in time, and even if orchestrated by all the arguments, by a variety of counties that responded, to need for us to continue extending the deadline for counties to be responsible, as they weigh the changing rules, both at the state and the federal level.

Mr. Bustamante?

MEMBER BUSTAMANTE: Yeah, that's essentially where my comments were going to go. Obviously the Secretary of State is certainly entitled to -- you know, thankfully, the top-to-bottom review of the voting systems will hopefully provide some clarity to otherwise what's a murky process.

My comments are strictly about the letter. And I think that while I appreciate information from the county, I think there's some inaccuracies in the letter that need to be addressed.

We've established a series of deadlines, in fact, over the course of this process, specifically so that we can kind of urge a disbursement of the funds and really plod along. Because ever since I've been here, which is essentially the first day the Board was created, it's
always been our intent to disburse the funds and to move it along. It has never been the intent, as far as I know, to take a hold approach. So I kind of take issue with that.

And I also take issue with the question about firm deadlines, you know, the comments about the periodic status reports and the like. I think it's a little bit misconstrued, especially since it's written in the record. So I would like to also have the opportunity to comment on the letter and send it back to the Board. But for the record, I think we need to be clear, you know, where we've been and what we hope to accomplish.

CHAIRPERSON PÉREZ: Mr. Finney, anything?

MEMBER FINNEY: I will just second my fellow Board members' comments. I do think a letter would be appropriate to help clarify laying out for the Board, at least the policy this Board has adopted, but to make it clear for them.

STAFF CONSULTANT LEAN: I will work with the staff to do that.

CHAIRPERSON PÉREZ: Very good. I don't know that there's any further action required from us at this time, since we're not looking at establishing a new deadline.

Mr. Bustamante?

MEMBER BUSTAMANTE: Yeah, the one thing I would
think about is that, with regard to Trinity and Ventura, I
don't know that we want to take any action. From my
opinion, I think, when we take action, we should take
action with regard to all the counties --

CHAIRPERSON PÉREZ: Right.

MEMBER BUSTAMANTE: -- as opposed to, you know,
one or two. While I appreciate the fact that we've had
1.2 back in the bank, I think you made a good point about
who knows, maybe Trinity may, at some point, make a
decision and say, "Hey, maybe we can use this.

So I would -- I would suggest that we just hold
off, you know, on this until the Secretary of State has an
opportunity to do a top-to-bottom review. And then we'll
have some better clarity at that point. Hopefully, the
remaining counties will too.

CHAIRPERSON PÉREZ: Very good. Thank you.

MS. McCORMACK: Thank you.

CHAIRPERSON PÉREZ: So the next item is, if we can
go back to Item 5. Let's see if we can call him directly
from this line.

MR. JONES: I'm still on the line.

EXECUTIVE SECRETARY MONTGOMERY: He is on the
line.

MR. JONES: I'm still on.

CHAIRPERSON PÉREZ: Mr. Jones we can actually hear
you even.

MR. JONES: (Indiscernible.)

EXECUTIVE SECRETARY MONTGOMERY: Sir, would you hang up and call back in about two minutes. I'm going to dial into a land line.

MR. JONES: Jones okay. That would be fine.

EXECUTIVE SECRETARY MONTGOMERY: Okay. Thank you.

CHAIRPERSON PÉREZ: It's funny, because his first couple words come through clearly, and then he's gone.

(Thereupon a break was taken in proceedings.)

CHAIRPERSON PÉREZ: Mr. Jones?

Mr. Jones?

MR. JONES: Yes, how are you?

CHAIRPERSON PÉREZ: Good.

So if you would, just share with us what you can.

And hopefully the 16th time is the charm.

MEMBER FINNEY: Mr. Jones?

MR. JONES: I'm having a little trouble hearing you.

MEMBER FINNEY: We can hear you. Just go on ahead and tell us your story. We can hear you now.

MR. JONES: Okay. The reason for telling you is, is I think that DRE's, at least our DREs proved to get over an issue that was out there, that we suspected, but
took a single election like the one I mentioned, in that
people are afraid to ask for another ballot. We offer
people, by law, three ballots.

However, they have to go and ask somebody. There
is a human interface. That interface is -- could be
embarrassing, could take time, any number of things.

In this election it was a yes and no on the
ballot. Ballot's very short. It's not over an inch and a
half long. They vote yes or no on the initiative.

And 2 percent of the voters turned up to the poll,
went from wherever they were to the poll, voted yes and no
and left, which doesn't make any sense to us. And the
only thing we can attribute that to is that the voter did
not want to say, "I want another ballot," whether I made a
mistake or whatever other excuse. It's not that there had
to be an excuse, but they didn't want to say they needed
another ballot.

And that's one of the things that we think the DRE
helped the voter with. And so these people, while
potentially disenfranchised, probably didn't get their
feelings known on that ballot because obviously their vote
didn't count.

CHAIRPERSON PÉREZ: Okay. Anybody else have any
follow-up questions for Mr. Jones?

MR. JONES: I'm sorry?
CHAIRPERSON PÉREZ: We're just seeing if we have a follow-up.

MEMBER FINNEY: We're just checking to see if we have any follow-up questions.

MR. JONES: Okay.

MEMBER FINNEY: Actually, we have someone. We'll just come down to the phone here.

VICE CHAIRPERSON KAUFMAN: Mr. Jones, this is Stephen Kaufman.

Do you have any anecdotal evidence, I mean, from the folks who were in the polling places that this happened? Did any of the poll workers tell you that, you know, they pointed out those overvotes to people, and they just declined to take their ballots back?

MR. JONES: I don't think our poll workers had any idea. Number one, they don't look at the ballot. They can't see the ballot, so they would have had no idea that we do the counting.

VICE CHAIRPERSON KAUFMAN: So do you not have the scanners in the polling place that people can stick their optical scan ballots into, and have them tell them if they have overvoted?

MR. JONES: They do stick them in, currently.

Now, the incident I brought out was prior to us having DREs. And our current M 100s do tell them that
they overvoted. But it also allows them to say, "Okay. I voted." So they can push -- the assistant comes up and says, "You have overvoted on these items or item," and they can say, "Go ahead and vote."

They have to take another action, though. They have to say they vote the ballot.

CHAIRPERSON PÉREZ: This is John Pérez again. Are you going to be engaging your poll workers in training, though, now that you have the M 100s, that will flag an overvote, to draw overvotes to the voters' attention in a way that, you know, minimizes any embarrassment that could occur, so that the voter could avail themselves of the right to correct their ballot, if they so choose?

MR. JONES: We've actually prepared signs to that effect, so that they can still -- there will be a sign in each voting place. The next election, it says, "If the machine says you have overvoted, you can get another ballot. Just turn the old ballot in, and we will issue you another ballot, without question."

CHAIRPERSON PÉREZ: Very good. Any other questions?

Thank you, Mr. Jones. I appreciate your tenaciousness in getting through to us today.

MR. JONES: Thank you. Good day.
CHAIRPERSON PÉREZ: Good day.

Any further questions on Item 5, or is there a motion?

MEMBER BUSTAMANTE: I will move staff recommendation.

MEMBER FINNEY: Second.

CHAIRPERSON PÉREZ: Mr. Bustamante moves, Mr. Finney seconds.

Katherine, would you like to call the roll?

EXECUTIVE SECRETARY MONTGOMERY: John Pérez?

CHAIRPERSON PÉREZ: Aye.

EXECUTIVE SECRETARY MONTGOMERY: Stephen Kaufman?

VICE CHAIRPERSON KAUFMAN: Aye.

EXECUTIVE SECRETARY MONTGOMERY: Michael Bustamante?

MEMBER BUSTAMANTE: Aye.

EXECUTIVE SECRETARY MONTGOMERY: Tal Finney?

MEMBER FINNEY: Aye.

CHAIRPERSON PÉREZ: It is approved. I see no further actions coming before us today.

Is there anything I'm unaware of, Jana?

STAFF CONSULTANT LEAN: No. I just want to let you know that our next meeting will not be until July 18th. We're on a quarterly schedule, at least that's the next one. And I want --
CHAIRPERSON PÉREZ: It's in Orange County?

STAFF CONSULTANT LEAN: I would like to ask where
you would like to have that meeting. I would like to ask
where you would prefer to have that meeting, so we can put
that on our Web site.

MEMBER BUSTAMANTE: We're set.

VICE CHAIRPERSON KAUFMAN: Trinity.

CHAIRPERSON PÉREZ: Trinity. I found out that we
could fly into Redding, and it's a 40-minute drive from
the Redding airport to the county seat for Trinity.

ELECTIONS COUNSEL KANOTZ: It's Weaverville.

CHAIRPERSON PÉREZ: Yes, it is Weaverville.

Obviously the choice is between L.A. and
Sacramento. We could go back to Sacramento in July.
Because Sacramento in July is just lovely.

MEMBER BUSTAMANTE: What county is Pasa Robles in?

CHAIRPERSON PÉREZ: San Luis Obispo.

VICE CHAIRPERSON KAUFMAN: That would be a nice
place.

MEMBER BUSTAMANTE: We could do it on a Friday.

MEMBER FINNEY: I like that.

CHAIRPERSON PÉREZ: Doesn't Monterey have money
that they want to give us back?

STAFF CONSULTANT LEAN: No.

CHAIRPERSON PÉREZ: Between San Luis Obispo and
Sacramento. There you go.

We stand adjourned.

(The Voting Modernization Board meeting adjourned at 11:46 a.m.)
CERTIFICATE OF REPORTER

I, KATHRYN S. KENYON, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Voting Modernization Board meeting was reported in shorthand by me, Kathryn S. Kenyon, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of April, 2007.

KATHRYN S. KENYON, CSR
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