

BOARD MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
VOTING MODERNIZATION BOARD

COMMUNITY REDEVELOPMENT AGENCY OF LOS ANGELES  
354 SOUTH SPRING STREET  
BOARD ROOM  
LOS ANGELES, CALIFORNIA

WEDNESDAY, MARCH 21, 2007

10:48 A.M.

KATHRYN S. KENYON, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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

## INDEX

	PAGE
I. Call to Order	1
II. Roll Call and Declaration of Quorum	1
III. Public Comment	1
IV. Adoption of January 17, 2007, Actions and Meeting Minutes	2
V. Projection Documentation Plan Review and Funding Award Approval - Merced County	2
VI. Change to Approved Project Documentation Plan - Shasta County	13
VII. Staff Report on Related Issues	16
Adjournment	40
Reporter's Certificate	41

1 PROCEEDINGS

2 CHAIRPERSON PÉREZ: We're going to get started.  
3 We have a quorum. I would like to call to order the  
4 meeting of the Voting Modernization Board, March 21st,  
5 2007.

6 Please call the roll.

7 EXECUTIVE SECRETARY MONTGOMERY: John Pérez.

8 CHAIRPERSON PÉREZ: Aye -- or here.

9 EXECUTIVE SECRETARY MONTGOMERY: Steven Kaufman?

10 VICE CHAIRPERSON KAUFMAN: Here. Present.

11 EXECUTIVE SECRETARY MONTGOMERY: Michael

12 Bustamante?

13 MEMBER BUSTAMANTE: Here.

14 EXECUTIVE SECRETARY MONTGOMERY: Tal Finney?

15 CHAIRPERSON PÉREZ: Expected. And the great  
16 debate is whether he will make it before 11:00 or before  
17 11:15.

18 EXECUTIVE SECRETARY MONTGOMERY: Carl Guardino?

19 Perhaps calling in.

20 CHAIRPERSON PÉREZ: Okay. We definitely have a  
21 quorum.

22 The next item for us is Item 3, Public Comments,  
23 for items not specifically on our agenda.

24 Do we have any cards?

25 We don't. Very good.

1           Next is adoption of January 17th, 2007, Actions  
2 and Meeting Minutes.

3           Has everybody has a chance to review them?

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

6           MEMBER BUSTAMANTE: I will second.

7           CHAIRPERSON PÉREZ: Mr. Kaufman moved.

8           Mr. Bustamante seconded.

9           Without objections, we'll adopt those.

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

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

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

16          THE REPORTER: I can't hear you.

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

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

24          The Voter Verified Paper Audit Trail requirement  
25 doesn't apply to Merced County's new Project Documentation

1 Plan and the voting system, as it is a paper-based optical  
2 scan system.

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

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

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

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

23 However, effective January 1, 2005, California  
24 state law required that all DRE voting systems receive  
25 federal qualification and include an accessible Voter

1 Verified Paper Audit Trail.

2 Let me pause for just one moment.

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

5 MEMBER FINNEY: It's my birthday.

6 CHAIRPERSON PÉREZ: He's beating both the under  
7 11:15 and under 11 o'clock.

8 Happy birthday.

9 STAFF CONSULTANT LEAN: Happy birthday.

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

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

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

15 STAFF CONSULTANT LEAN: Can I continue?

16 CHAIRPERSON PÉREZ: Please.

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

23 ES&S did not seek state approval for a printer for  
24 the iVotronic DRE units in time for the 2006 deadline.  
25 Therefore, Merced County's new DRE units were no longer

1 permitted to be used. And as a result, the county was  
2 required to trade in the iVotronic and Model 650 units for  
3 equipment that would fulfill the state and federal  
4 accessibility requirements.

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

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

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

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

22 Merced County was unable to attend today, but they  
23 did submit a letter -- I just handed it to you. It wasn't  
24 in your packet; it came in late -- explaining how they  
25 implemented their new system, and try to answer any



1 questions you might have had -- try to anticipate any  
2 questions you might have had of them. They are available  
3 by cell phone, if you have any questions of them.

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

6 Any questions or comments?

7 Mr. Bustamante?

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

9 VICE CHAIRPERSON KAUFMAN: Yeah, I was just  
10 confused.

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

15 STAFF CONSULTANT LEAN: No. They traded those in.

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

19 STAFF CONSULTANT LEAN: It was completely traded  
20 in.

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

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

25 VICE CHAIRPERSON KAUFMAN: Okay. Thank you.

1           MEMBER BUSTAMANTE: So Jana, their system cost is  
2 \$2.6 million?

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

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

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

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

16           VICE CHAIRPERSON KAUFMAN: That's the old system.

17           CHAIRPERSON PÉREZ: No. That's --

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

24           They do have a provision in their contract that --  
25 let's say that ES&S does move forward with it by 2008.

1 They could have a chance to buy back the iVotronics. I  
2 talked to Merced County, and they said they are going to  
3 stick with AutoMARKs and the Model 100s.

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

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

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

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

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

23 Maybe I was mad at him that day and just maybe --  
24 and there was something psychologically wrong. But the  
25 machine did notify me to the fact that I under-voted and

1 to go back and correct it.

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

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

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

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

22 MEMBER FINNEY: I mean, actually, practically, on  
23 the ground at the time the vote is taking place, maybe  
24 there needs to be docents or something or poll workers, I  
25 don't know, that can actually make these folks more

1 comfortable. They're probably just not real comfortable  
2 with this new-fangled system, quote, unquote.

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

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

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

20 Maybe there's something we can do, through you  
21 guys, to reach out to these guys and see if we can make  
22 them more comfortable. I don't know if we have anything  
23 like that in place, where there's some type of program  
24 from the Secretary of State's Office, to make -- to help  
25 counties more comfortable.

1 I mean, I don't know. I'm just curious. Because  
2 that seems to be the issue here. You can't get to the  
3 voter if the folks in charge aren't comfortable.

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

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

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

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

21 VICE CHAIRPERSON KAUFMAN: To the tune of  
22 \$2 million.

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

1 VICE CHAIRPERSON KAUFMAN:

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

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

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

11 MEMBER FINNEY: You mean follow-up.

12 CHAIRPERSON PÉREZ: Right.

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

16 Yeah, if we can.

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

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

21 STAFF CONSULTANT LEAN: Can we take a moment.  
22 We'll call him and have him dial in.

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

25 STAFF CONSULTANT LEAN: Staff is going to step out

1 for a moment. Do you want me to go to Shasta now?

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

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

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

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

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

19 As you are aware, the Secretary of State's Office  
20 received an opinion from the EAC that permitted a county  
21 to remit funds it received through the Voting  
22 Modernization Bond Act, and to receive a "retroactive  
23 payment" pursuant to Section 251(c)(1), to pay the costs  
24 of purchasing a HAVA Section 301-compliant voting system  
25 from HAVA resources received by the state.



1           At the September 17th, 2003, meeting of the Voting  
2 Modernization Board, the Board approved Shasta County's  
3 Project Documentation Plan and awarded funding for the  
4 reimbursement of the county's purchase of 438 Sequoia AVC  
5 Edge DREs and two Sequoia Optech 400C Central Count  
6 Optical Scan units. The County used this equipment at the  
7 October 7th, 2003, statewide special recall election.

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

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

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

1 Section 301.

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

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

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

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

25           Once confirmation of the deposited funds is

1 obtained, the VMB staff will notify the chair of the  
2 Board, and an amendment to the original September 17,  
3 2003, Funding Award letter may be issued in the amount of  
4 \$253,464.71 to fund the allowable VVPAT retrofit costs  
5 only.

6 CHAIRPERSON PÉREZ: Any questions? No?

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

10 STAFF CONSULTANT LEAN: Yes.

11 CHAIRPERSON PÉREZ: Is there a motion?

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

15 MEMBER BUSTAMANTE: I will second it.

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

18 (Ayes.)

19 CHAIRPERSON PÉREZ: Opposed?

20 That's four ayes.

21 STAFF CONSULTANT LEAN: I will notify Shasta  
22 County.

23 CHAIRPERSON PÉREZ: Very good.

24 Next item before us is Item 7, Staff Report on  
25 Related Issues, regarding the review of county responses

1 to expenditures of remaining VMB formula allocations.

2 Actually, before we go there --

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

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

7 Mr. Jones, are you with us?

8 MR. JONES: Yes, I am.

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

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

12 MR. JONES: Okay. Can you hear me?

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

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

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

23 In particular, I have a question. In the third  
24 paragraph of your letter, you make reference to a school  
25 bond election, and 2 percent of the voters overvoted. And

1 it was just something that was hard for me to understand  
2 the dynamic of somebody turning out to vote in a  
3 single-issue election, being informed that they overvoted  
4 and not choosing to go back and correct, since it was just  
5 one question on the ballot. And I was just hoping, you'd  
6 be able to tell us a little bit more about that  
7 experience.

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

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

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

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

16 Do you want me to call you back?

17 CHAIRPERSON PÉREZ: That would be great.

18 MR. JONES: Okay. Thank you.

19 CHAIRPERSON PÉREZ: Thank you.

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

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

23 MR. JONES: Yes.

24 CHAIRPERSON PÉREZ: Okay. We're going to adjust  
25 the volume again. Okay.

1           So if you would go back to what you are telling us  
2 about that election.

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

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

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

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

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

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

19           STAFF CONSULTANT LEAN: At the last meeting --

20           CHAIRPERSON PÉREZ: Okay. At the last meeting --

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

1 submit their next phase of plans.

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

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

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

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

25 And Ventura County has also sent a formal letter

1 saying that they will be reverting back over \$1.1 million  
2 of their funds. So as it stands today, there's  
3 approximately 1.2 million that is not claimed and not  
4 allocated.

5 So that's -- that's a small pot for considering  
6 195 million, but that's still 1.2 million.

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

9 CHAIRPERSON PÉREZ: Everything every time?

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

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

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

24 STAFF CONSULTANT LEAN: Is it 4.0?

25 CHAIRPERSON PÉREZ: During our time, I think;



1 isn't it?

2 Jones, Shelley --

3 MEMBER BUSTAMANTE: Yeah, it's 4.0.

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

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

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

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

20 We are writing in response to your solicitation  
21 for comments with regard to the exploration by the Voting  
22 Modernization Board of whether or not to establish a  
23 deadline for use of Prop 41 funds, which are currently  
24 available to counties for modernizing voting systems. It  
25 is our understanding that this topic was raised at your

1 VMB meeting on January 17th, but was tabled for further  
2 discussion to today's meeting.

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

9 It is important to note that no deadline for use  
10 of the VMB funds was defined within the language of Prop  
11 41, which was passed by the voters in March 2002, for the  
12 purpose of providing funds to counties to upgrade voting  
13 equipment.

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

24 County's initial phases involved purchasing a  
25 small amount of DRE equipment for use during the early

1 voting period in advance of major elections, because such  
2 equipment allows any voter the opportunity to vote at a  
3 choice of any early voting locations throughout the  
4 County.

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

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

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

1 Thank you for your consideration of this request.

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

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

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

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

17 And now the uncertainty that is even more -- is  
18 occurring, even since your January 17th meeting. Not only  
19 are we awaiting the Secretary of State's announced  
20 intentions to do a top-to-bottom review of voting systems,  
21 which she just had her first conference call with all the  
22 counties, just before this meeting. And she said that  
23 those criteria would be released tomorrow, as to what  
24 those would be. So we're all anxiously looking forward to  
25 that tomorrow.

1           And also, on February 7th, 2007, Washington D.C.,  
2 the Senate Rules Committee held a hearing. And I was  
3 invited to be a witness at that hearing. And at that  
4 time, Senator Feinstein, who chairs the Senate Rules  
5 Committee indicated that she was requesting and  
6 subsequently sent a letter, dated February 20th, to the  
7 General Accounting Office, to do a top-to-bottom review of  
8 voting systems in the United States.

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

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

22           As you know, I sent a letter to your board on  
23 March 6th -- I won't read it into record. But I did send  
24 you a letter, and I can bring it to you if you would like  
25 a copy of it, to the reporter -- to request that the

1 status quo be maintained and not institute any type of a  
2 deadline at this point in time, given the flux. And I did  
3 request the Board of Supervisors to submit a letter to  
4 you, which they did yesterday. And also, too, another  
5 letter that's going, from yesterday, from them to the  
6 Secretary of State, regarding the HAVA 301 funding,  
7 because that is also -- Secretary of State, last week, did  
8 put out a letter indicating that she was considering  
9 finalizing a deadline on that money as well. And our  
10 Board took an action to please not do that, and to extend  
11 those contracts.

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

22 So in summary, that sounded like a bunch of  
23 jargon. But in summary, the situation is just not very  
24 stable right now. And I think that over the next six to  
25 eight months, there's going to be a lot more certainty

1 coming to light, both at the federal and state level on  
2 voting system requirements. And so again, I thank you for  
3 the policy positions you have taken in the past.

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

6 CHAIRPERSON PÉREZ: Thank you.

7 Any questions for Ms. McCormack?

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

10 CHAIRPERSON PÉREZ: Okay. Any responses? Any  
11 comments?

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

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

1 amounts by a certain deadline.

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

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

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

24           I was always looking at counties like Los Angeles,  
25 who, from day one, asserted that they wanted to do a



1   phased approach.  And they asked us to be on the record in  
2   saying that their initiation of a phased approach met the  
3   timelines as the timelines kept rolling, and that they  
4   wouldn't be in jeopardy of losing that money if they  
5   waited to implement future phases.

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

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

1 a whole.

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

10           Mr. Bustamante?

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

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

21           We've established a series of deadlines, in fact,  
22 over the course of this process, specifically so that we  
23 can kind of urge a disbursement of the funds and really  
24 plod along. Because ever since I've been here, which is  
25 essentially the first day the Board was created, it's

1 always been our intent to disburse the funds and to move  
2 it along. It has never been the intent, as far as I know,  
3 to take a hold approach. So I kind of take issue with  
4 that.

5 And I also take issue with the question about firm  
6 deadlines, you know, the comments about the periodic  
7 status reports and the like. I think it's a little bit  
8 misconstrued, especially since it's written in the record.

9 So I would like to also have the opportunity to  
10 comment on the letter and send it back to the Board. But  
11 for the record, I think we need to be clear, you know,  
12 where we've been and what we hope to accomplish.

13 CHAIRPERSON PÉREZ: Mr. Finney, anything?

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

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

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

24 Mr. Bustamante?

25 MEMBER BUSTAMANTE: Yeah, the one thing I would

1 think about is that, with regard to Trinity and Ventura, I  
2 don't know that we want to take any action. From my  
3 opinion, I think, when we take action, we should take  
4 action with regard to all the counties --

5 CHAIRPERSON PÉREZ: Right.

6 MEMBER BUSTAMANTE: -- as opposed to, you know,  
7 one or two. While I appreciate the fact that we've had  
8 1.2 back in the bank, I think you made a good point about  
9 who knows, maybe Trinity may, at some point, make a  
10 decision and say, "Hey, maybe we can use this.

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

16 CHAIRPERSON PÉREZ: Very good. Thank you.

17 MS. McCORMACK: Thank you.

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

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

22 EXECUTIVE SECRETARY MONTGOMERY: He is on the  
23 line.

24 MR. JONES: I'm still on.

25 CHAIRPERSON PÉREZ: Mr. Jones we can actually hear

1 you even.

2 MR. JONES: (Indiscernible.)

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

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

7 EXECUTIVE SECRETARY MONTGOMERY: Okay. Thank you.

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

10 (Thereupon a break was taken in  
11 proceedings.)

12 CHAIRPERSON PÉREZ: Mr. Jones?

13 Mr. Jones?

14 MR. JONES: Yes, how are you?

15 CHAIRPERSON PÉREZ: Good.

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

17 And hopefully the 16th time is the charm.

18 MEMBER FINNEY: Mr. Jones?

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

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

23 MR. JONES: Okay. The reason for telling you is,  
24 is I think that DRE's, at least our DREs proved to get  
25 over an issue that was out there, that we suspected, but

1 took a single election like the one I mentioned, in that  
2 people are afraid to ask for another ballot. We offer  
3 people, by law, three ballots.

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

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

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

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

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

25 MR. JONES: I'm sorry?

1           CHAIRPERSON PÉREZ: We're just seeing if we have a  
2 follow-up.

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

5           MR. JONES: Okay.

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

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

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

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

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

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

24           Now, the incident I brought out was prior to us  
25 having DREs. And our current M 100s do tell them that

1 they overvoted. But it also allows them to say, "Okay. I  
2 voted." So they can push -- the assistant comes up and  
3 says, "You have overvoted on these items or item," and  
4 they can say, "Go ahead and vote."

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

7 CHAIRPERSON PÉREZ: This is John Pérez again.

8 Are you going to be engaging your poll workers in  
9 training, though, now that you have the M 100s, that will  
10 flag an overvote, to draw overvotes to the voters'  
11 attention in a way that, you know, minimizes any  
12 embarrassment that could occur, so that the voter could  
13 avail themselves of the right to correct their ballot, if  
14 they so choose?

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

21 CHAIRPERSON PÉREZ: Very good. Any other  
22 questions?

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

25 MR. JONES: Thank you. Good day.



1 CHAIRPERSON PÉREZ: Good day.

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

4 MEMBER BUSTAMANTE: I will move staff  
5 recommendation.

6 MEMBER FINNEY: Second.

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

9 Katherine, would you like to call the roll?

10 EXECUTIVE SECRETARY MONTGOMERY: John Pérez?

11 CHAIRPERSON PÉREZ: Aye.

12 EXECUTIVE SECRETARY MONTGOMERY: Stephen Kaufman?

13 VICE CHAIRPERSON KAUFMAN: Aye.

14 EXECUTIVE SECRETARY MONTGOMERY: Michael  
15 Bustamante?

16 MEMBER BUSTAMANTE: Aye.

17 EXECUTIVE SECRETARY MONTGOMERY: Tal Finney?

18 MEMBER FINNEY: Aye.

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

21 Is there anything I'm unaware of, Jana?

22 STAFF CONSULTANT LEAN: No. I just want to let  
23 you know that our next meeting will not be until  
24 July 18th. We're on a quarterly schedule, at least that's  
25 the next one. And I want --

1 CHAIRPERSON PÉREZ: It's in Orange County?

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

6 MEMBER BUSTAMANTE: We're set.

7 VICE CHAIRPERSON KAUFMAN: Trinity.

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

11 ELECTIONS COUNSEL KANOTZ: It's Weaverville.

12 CHAIRPERSON PÉREZ: Yes, it is Weaverville.

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

16 MEMBER BUSTAMANTE: What county is Pasa Robles in?

17 CHAIRPERSON PÉREZ: San Luis Obispo.

18 VICE CHAIRPERSON KAUFMAN: That would be a nice  
19 place.

20 MEMBER BUSTAMANTE: We could do it on a Friday.

21 MEMBER FINNEY: I like that.

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

24 STAFF CONSULTANT LEAN: No.

25 CHAIRPERSON PÉREZ: Between San Luis Obispo and

1 Sacramento. There you go.

2 We stand adjourned.

3 (The Voting Modernization Board meeting

4 adjourned at 11:46 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 CERTIFICATE OF REPORTER

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

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

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

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

14

15

16

17

18

19

20

21

22

KATHRYN S. KENYON, CSR

23

Certified Shorthand Reporter

24

License No. 13061

25