

BOARD MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE BUILDING
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 21, 2006

10:40 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. John A. Pérez, Chairperson(via teleconference)

Mr. Stephen Kaufman, Vice Chairperson

Mr. Tal Finney

Mr. Carl Guardino(via teleconference)

STAFF

Mr. Michael Kanotz, Staff Counsel

Ms. Susan Lapsley

Ms. Jana Lean, Staff Consultant

Ms. Evelyn Mendez

ALSO PRESENT

Mr. Glenn Spencer, Kern 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 May 25, 2006 Actions & Meeting Minutes	1
V Project Documentation Plan Review and Funding Award Approval: (A) Imperial County	2
VI Change to Approved Project Documentation Plan (A) Kern County	5
VII Staff Report on Related Issues: (A) Report on County 2nd Quarter Status (April-June 2006)	13
VIII Adjournment	18
Reporter's Certificate	19

1 PROCEEDINGS

2 VICE CHAIRPERSON KAUFMAN: So I'm going to call
3 the meeting to order, and ask our substitute person to
4 call the roll.

5 MS. MENDEZ: John Pérez?

6 VICE CHAIRPERSON KAUFMAN: Not yet present.

7 MS. MENDEZ: Stephen Kaufman?

8 VICE CHAIRPERSON KAUFMAN: Here.

9 MS. MENDEZ: Michael Bustamante?
10 Tal Finney?

11 BOARD MEMBER FINNEY: Present.

12 MS. MENDEZ: Carl Guardino?

13 BOARD MEMBER GUARDINO: Here.

14 VICE CHAIRPERSON KAUFMAN: Okay. The first item
15 up is public comment. And I understand that we do not
16 have any cards that were submitted. So let's move to Item
17 number 4, which is adoption of the May 25, 2006 Actions
18 and Meeting Minutes. And do I have a motion to approve
19 the minutes and action items?

20 Anyone?

21 Tal.

22 BOARD MEMBER FINNEY: Sure.

23 VICE CHAIRPERSON KAUFMAN: Okay, Mr. Finney
24 moves. And, Carl, do we have --

25 BOARD MEMBER GUARDINO: I'll second.

1 VICE CHAIRPERSON KAUFMAN: Okay. And all in
2 favor of approving the minutes say aye?

3 (Ayes.)

4 VICE CHAIRPERSON KAUFMAN: No opposition, and
5 we'll adopt the minutes.

6 Okay. Now, let's get to the first item of
7 business, the project documentation plan. And we have one
8 from Imperial County. So, Jana if you could give us a
9 staff report on that.

10 STAFF CONSULTANT LEAN: Imperial County was
11 unable to attend today. If we have any questions, they
12 are available by phone and we can give them a call.
13 They've submitted a plan to move forward to purchase the
14 AVC Edge, 330 units with the VeriVote Printer, 420 units.
15 And also the Optech 400-C Optical Scan, one unit.
16 Imperial County has secured its new voting system, and the
17 system was used for the first time during the November
18 2005 special --

19 VICE CHAIRPERSON KAUFMAN: Okay, John Pérez is
20 now present. John, we have covered the minutes. Jana is
21 beginning to read the Imperial County project
22 documentation plan. And we have Carl Guardino on the
23 phone and Tal and myself sitting here.

24 CHAIRPERSON PÉREZ: Thank you. Sorry I'm a few
25 minutes late getting on.

1 VICE CHAIRPERSON KAUFMAN: That's okay. And with
2 your approval, I've been running the meeting.

3 CHAIRPERSON PÉREZ: I appreciate that. Please
4 proceed.

5 STAFF CONSULTANT LEAN: I'll continue with
6 Imperial county's project documentation plan. Imperial
7 county secured its new voting system and they used it for
8 the first time in the November 2005 special statewide
9 election. The system that they're using, the AVC Edge
10 DRE's they purchased includes a Voter Verified Paper Audit
11 Trail. Imperial County's project documentation plan meets
12 the requirements for completeness. And the AVC Edge DRE,
13 the VeriVote, the Optech 400-C are certified for use in
14 California.

15 Imperial county converted from a Datavote punch
16 card voting system. And they considered only upgrading to
17 DRE equipment for their polling places and optical scan
18 for their absentee as they considered it easier for
19 implementation, and they would believe that this would
20 bring them into compliance with the Help America Vote
21 Agent.

22 With the implementation of this new system during
23 the special statewide election, the county was provided
24 with an opportunity for the elections staff and their
25 voters to experience a full use of all the components of

1 the new voting system prior to the June 6th Primary.

2 Imperial conducted a public relations program in
3 both English and Spanish to prepare their voters for the
4 new system and provided their poll workers with evaluation
5 forms to give them feedback on the new equipment. And the
6 equipment was received well by the county.

7 Imperial County will only receive VMB payments
8 once they've submitted detailed information for its
9 certified voting equipment.

10 It is the staff recommendation that Imperial
11 County's project documentation plan be approved and a
12 Funding Award letter be issued in their full allocation of
13 \$653,218.33.

14 VICE CHAIRPERSON KAUFMAN: Thanks. This seems to
15 be a pretty straightforward matter. For those of you on
16 the phone, Imperial County is not here today, but --

17 BOARD MEMBER FINNEY: It was a long drive and
18 long flight.

19 VICE CHAIRPERSON KAUFMAN: That's right. Does
20 anybody have any questions for staff on this beginning
21 with you, John?

22 CHAIRPERSON PÉREZ: No questions.

23 VICE CHAIRPERSON KAUFMAN: Tal?

24 BOARD MEMBER FINNEY: No questions.

25 VICE CHAIRPERSON KAUFMAN: Carl?

1 BOARD MEMBER GUARDINO: No.

2 VICE CHAIRPERSON KAUFMAN: Okay. Then does
3 somebody want to move --

4 CHAIRPERSON PÉREZ: I move approval.

5 BOARD MEMBER FINNEY: And I'll second.

6 VICE CHAIRPERSON KAUFMAN: There's a motion to
7 approve the staff recommendation.

8 Take the roll.

9 MS. MENDEZ: John Pérez?

10 BOARD MEMBER FINNEY: John?

11 CHAIRPERSON PÉREZ: Yes, aye.

12 MS. MENDEZ: Stephen Kaufman?

13 VICE CHAIRPERSON KAUFMAN: Aye.

14 MS. MENDEZ: Tal Finney?

15 BOARD MEMBER FINNEY: Aye.

16 MS. MENDEZ: Carl Guardino?

17 BOARD MEMBER GUARDINO: Aye.

18 VICE CHAIRPERSON KAUFMAN: Okay. The motion
19 passes 4 to nothing. Imperial County will get a Funding
20 Award **letter**.

21 BOARD MEMBER FINNEY: Congratulations Imperial
22 County.

23 VICE CHAIRPERSON KAUFMAN: Next, Item number 6,
24 Kern County. We have a project documentation that
25 represents a change from the original project

1 documentation plan.

2 STAFF CONSULTANT LEAN: That is correct. Kern
3 County is coming forward to make a change to the original
4 approved project documentation plan. They have purchased
5 the Diebold AccuVote-TSX with the printers. They have
6 purchased 1,350 units with the Optech -- or sorry with the
7 Optical Scan Central Count, 6 units.

8 At the December 17th, 2002 meeting of the VMB,
9 the Board approved Kern County's project documentation
10 plan and awarded funding for the reimbursement of the
11 County's purchase of the Diebold TS units and the AccuVote
12 Optical Scan units. The County used this equipment in the
13 March 2004 Presidential Primary Election. Kern County's
14 entire VMB formula allocation equated to \$3,401,866.46.

15 Kern County submitted paid invoices and received
16 reimbursement for their AccuVote-TS units totaling in the
17 amount of \$1,123,581.48 of its initial VMB funding award.
18 On March 30th, 2004 Kern County amended their contract
19 with Diebold to purchase the AccuVote-TSx units. On April
20 30th, 2004, the prior Secretary of State issued orders
21 decertifying the use of all DRE voting equipment in
22 California and specifically banned the use of the
23 AccuVote-TSx. Hardware and firmware voting equipment.

24 After the decertification, Kern County amended
25 their county with Diebold a second time to supply the

1 County with non-DRE voting equipment at no cost to the
2 County for all future elections until December 31st, 2006
3 or until the new DRE units were recertified. On February
4 17th, 2006 the current Secretary of State certified for
5 use in California the Diebold AccuVote-TSx with the
6 printer, and the AccuVote Optical Scan central count
7 optical count ballot tabulators and other related voting
8 system components.

9 Kern County used the newly certified AccuVote-TSx
10 with the printers and the AccuVote Optical Scan central
11 count optical scan ballot tabulators for the first time
12 during the June 6th, 2006 Gubernatorial Primary election.

13 Kern County is requesting that the Voting
14 Modernization Board approve the change to their existing
15 project documentation plan, which incorporates the
16 amendments to their contract and the receipt of the newly
17 certified AccuVote-TSx units and related hardware and
18 software.

19 It is our staff recommendation that Kern County's
20 change to their approved project documentation plan be
21 approved and a subsequent Funding Award letter be issued
22 in the amount of \$2,278,284.98.

23 VICE CHAIRPERSON KAUFMAN: Okay.

24 STAFF CONSULTANT LEAN: We do have a
25 representative here from Kern County, Glenn Spencer, if

1 you have any questions.

2 VICE CHAIRPERSON KAUFMAN: Okay. Well, we'll
3 have Mr. Spencer come up just for a minute. I wanted to
4 ask 1 or 2 questions of you, Jana.

5 First of all, I was a little confused when I read
6 this, but I think there's a typo in the staff report.

7 STAFF CONSULTANT LEAN: Yes.

8 VICE CHAIRPERSON KAUFMAN: So in the first
9 paragraph, so we authorized the purchase of the TS system?

10 STAFF CONSULTANT LEAN: That's correct.

11 VICE CHAIRPERSON KAUFMAN: And the funds were
12 spent on the TS system.

13 STAFF CONSULTANT LEAN: Correct.

14 VICE CHAIRPERSON KAUFMAN: Now the funding award
15 that's being requested is the remaining balance of what we
16 originally authorized for the new system?

17 STAFF CONSULTANT LEAN: Correct.

18 VICE CHAIRPERSON KAUFMAN: And, Mr. Spencer, is
19 the original system at this point then scrapped or is this
20 an add-on to the original system?

21 MR. SPENCER: We actually received the TSx
22 unit -- both of the units we actually received. And, at
23 that time, we did not realize that that required a change
24 to the plan. That was an upgraded unit that Diebold had
25 supplied us with.

1 And then the second amendment we had was to
2 attach the -- to obtain the VVPAT printers for all 1,350
3 machines. And this was all at no extra cost to the
4 County.

5 VICE CHAIRPERSON KAUFMAN: So the initial award
6 that we provided was essentially a payment against the
7 overall amount that you ended up spending on all the TSx
8 units?

9 MR. SPENCER: Correct.

10 VICE CHAIRPERSON KAUFMAN: Tal, did you have any
11 questions?

12 BOARD MEMBER FINNEY: No questions.

13 VICE CHAIRPERSON KAUFMAN: John, any questions?

14 CHAIRPERSON PÉREZ: I'm okay.

15 VICE CHAIRPERSON KAUFMAN: Carl?

16 BOARD MEMBER GUARDINO: None here.

17 VICE CHAIRPERSON KAUFMAN: Okay. Mr. Spencer,
18 did you have anything else you wanted to add for us?

19 MR. SPENCER: No, I don't.

20 VICE CHAIRPERSON KAUFMAN: Just out of curiosity,
21 you said that you used the system in the June election,
22 what was the feedback like from voters?

23 MR. SPENCER: Actually, the system worked very
24 well. I will say that we did have one problem, but it
25 didn't really involve the units themselves. It was with

1 the Voter Access Cards and a misunderstanding with the
2 vendor. And some of the older Voter Access Cards were not
3 cleared out prior to the start of the election. And we
4 were under the understanding that they didn't need to be
5 cleared. We thought they'd already been cleared out.

6 And that was a little bit of a problem in getting
7 the system up and running in several areas in the morning,
8 but that was taken care of very quickly. In fact, your
9 office has already even looked in to that and issuing a
10 report. But that was handled very well and very quickly.
11 And, actually, the system worked like it should, as we
12 found out in hindsight, that a card used in the prior
13 election has to be specifically cleared out. And it will
14 not be able to be used in the current election until it's
15 been cleared out ahead of time, and that's exactly what
16 happened.

17 VICE CHAIRPERSON KAUFMAN: And you're talking
18 about the card that the voter uses to insert in the
19 terminal?

20 MR. SPENCER: Correct. So we had -- fortunately,
21 we had enough of the newer cards that were working fine.

22 VICE CHAIRPERSON KAUFMAN: How do the old cards
23 get cleared out? They get basically run through something
24 that just pulls information out?

25 MR. SPENCER: Correct. Nothing in the

1 documentation we had from the vendor had indicated that.
2 In fact, that was just an unanticipated problem that no
3 one, including the vendor, had foreseen. And now that we
4 now about it, we'll make sure they're all cleared out in
5 the next election.

6 But the equipment worked fine and people were
7 very pleased in being able to use it. And we thought it
8 was a very successfully election from that angle.

9 VICE CHAIRPERSON KAUFMAN: Good.

10 MS. LAPSLEY: Can I just -- this is Susan
11 Lapsley. Can I just add something in anecdotally. The
12 Secretary of State's Office did do a report. We went down
13 there and spoke to several people. In all, we spoke to
14 about a hundred people plus.

15 One of the main comments that we did get from
16 people is that when they showed up to the polls and they
17 were presented with this is what the issue is, you can
18 vote on paper, but these machines aren't going to up and
19 running for, you know, an hour or so. We know what the
20 issue is and we're taking care of it. Most of the
21 people -- a great portion of the people said, "I want to
22 vote on these machines. I've been waiting for these
23 machines. I want to vote on them. And I'll come back."
24 And it was over and over and over again that's what we
25 heard. So just from our perspective, that answers, I

1 think more directly how people reacted to the machines.

2 BOARD MEMBER GUARDINO: I don't know how it is
3 for others, but it's really cutting out here and I can't
4 hear anything.

5 VICE CHAIRPERSON KAUFMAN: I'll summarize what
6 Susan said. She said that following the elections the
7 Secretary of State's Office went to Kern County to
8 interview folks who had experience with the new equipment
9 and the problem on election day. And that most voters
10 were very excited about using the new touch screen system.
11 And, in fact, when they showed up and the machines weren't
12 ready, most of them chose to come back later in the day
13 and vote on the machines rather than vote by paper.

14 BOARD MEMBER GUARDINO: Okay. Thank you for
15 summarizing.

16 MR. SPENCER: And that is correct. That is our
17 impression, too, from our people.

18 BOARD MEMBER FINNEY: That's music to the guys
19 from the silicon valleys' ears, you know.

20 (Laughter.)

21 VICE CHAIRPERSON KAUFMAN: Well, that's good. We
22 always like hearing positive voting stories.

23 So very good.

24 Okay. Does somebody want to --

25 BOARD MEMBER FINNEY: I'll move approval of the

1 staff report.

2 VICE CHAIRPERSON KAUFMAN: Do we have a second?

3 CHAIRPERSON PÉREZ: I'll second.

4 VICE CHAIRPERSON KAUFMAN: Second from the Chair
5 or John.

6 Okay, do you want to call the Roll?

7 MS. MENDEZ: John Pérez?

8 CHAIRPERSON PÉREZ: Aye.

9 MS. MENDEZ: Stephen Kaufman?

10 VICE CHAIRPERSON KAUFMAN: Aye.

11 MS. MENDEZ: Tal Finney?

12 BOARD MEMBER FINNEY: Aye.

13 MS. MENDEZ: Carl Guardino?

14 BOARD MEMBER GUARDINO: Aye.

15 VICE CHAIRPERSON KAUFMAN: Okay.

16 Congratulations, Kern

17 MR. SPENCER: Thank you very much.

18 VICE CHAIRPERSON KAUFMAN: Okay.

19 Next, we have Item 7 which is a staff report on
20 the quarterly status reports provided by counties who have
21 not yet received full funding awards.

22 Go ahead and summarize for us, Jana.

23 STAFF CONSULTANT LEAN: This item was moved from
24 the last meeting to this meeting. I'm just going to give
25 you a brief overview. You have it in your packets. These

1 are the responses from the remaining 22 counties, now 21
2 counties. Ten counties are still remaining to submit the
3 project documentation plans. We have Humboldt, Lake,
4 Madera, Merced, Modoc, Nevada, San Mateo, Sonoma, Trinity
5 and Yolo. With those 10 counties, 6 of them plan to come
6 forward in the next quarter between July and August and
7 September.

8 There's 2 counties that are unknown at this time
9 when they're going to come forward, but we'll keep an eye
10 on them. We'll ask them again for the third quarter and
11 see where they're at. Eleven counties will be submitting
12 their plans for their next phase. Seven plan to come
13 before the end of the year and 4 are unknown at this time.
14 We have one county, San Joaquin, who will be submitting a
15 change to the project documentation plan. They will also
16 be coming forward to get reimbursement for the TSx units
17 that now has been recertified.

18 VICE CHAIRPERSON KAUFMAN: Very similar to what
19 we just saw.

20 STAFF CONSULTANT LEAN: Very similar to Kern and
21 to San Diego that came forward last time. So we will go
22 ahead and send out the third quarter requests for the
23 counties probably the beginning of July and have that
24 ready for the August meeting.

25 VICE CHAIRPERSON KAUFMAN: Okay. And I noticed

1 in going through the list that you mentioned that a couple
2 of them, Merced and Modoc: Merced obviously has taken
3 steps to implement new equipment. Modoc is troublesome in
4 the sense that they're apparently nonresponsive. Is there
5 any more information for us on Modoc.

6 STAFF CONSULTANT LEAN: I have personally talked
7 to Modoc, and they have a very small office. And I'm not
8 trying to make excuses for them, but they do not know what
9 they're doing at this time. I do know that the Secretary
10 of State's Office staff has been in contact with them to
11 make sure that they become compliant under HAVA, for the
12 accessibility.

13 So they will move forward. What they're going to
14 do is still unknown to them and unknown to us, but we will
15 continue to have conversations with them.

16 VICE CHAIRPERSON KAUFMAN: So we're at least in
17 communication with them.

18 STAFF CONSULTANT LEAN: Yes.

19 VICE CHAIRPERSON KAUFMAN: Okay. Thanks, Jana.

20 Does anybody have any questions on the staff
21 report?

22 Okay. Well then with that, I think we're done
23 for the day.

24 STAFF CONSULTANT LEAN: I'd like to mention is
25 the July meeting is July 19th. We will not be able to

1 hold it in Los Angeles. Staff is just going to be under
2 too many deadlines for that time. But we can look in to
3 holding the August meeting in Los Angeles if that's still
4 a request by the Board?

5 And I will notify everyone if we find a place to
6 hold it in Los Angeles.

7 CHAIRPERSON PÉREZ: What date are we looking at
8 in August in, Jana?

9 STAFF CONSULTANT LEAN: It would be August -- I'm
10 sorry, let me look that up -- 16th.

11 CHAIRPERSON PÉREZ: I have the 15th.

12 STAFF CONSULTANT LEAN: That's correct, it's a
13 Wednesday.

14 CHAIRPERSON PÉREZ: Okay, I ma -- well, let me
15 just raise this issue now about would there be any
16 possibility of having that meeting on August 15th instead
17 of the 16th? I just found out my travel plans for August
18 have changed, and I'm leaving to Israel on the 16th.

19 STAFF CONSULTANT LEAN: Okay. Well, how about
20 I'll send Emails around to everybody and see what's good
21 for them.

22 VICE CHAIRPERSON KAUFMAN: Yeah, I may have a
23 problem with the 15th, unless it's in LA?

24 CHAIRPERSON PÉREZ: Yeah. If it's in LA on the
25 15th, that will be great. But if you could just maybe

1 poll what the possibility is, that would be great.

2 STAFF CONSULTANT LEAN: I will do that before I
3 send out a notice.

4 VICE CHAIRPERSON KAUFMAN: But the bottom line is
5 the July 19th meeting is a go, but it will be up instead
6 of LA.

7 STAFF CONSULTANT LEAN: That's correct.

8 CHAIRPERSON PÉREZ: And I apologize that I wasn't
9 able to be there in person today. And I thank you, Mr.
10 Kaufman, for chairing the meeting.

11 VICE CHAIRPERSON KAUFMAN: You are welcome. Not
12 a problem. You were missed, however.

13 CHAIRPERSON PÉREZ: Well, I'm raising money for
14 battered women and children today. So hopefully, I made
15 the right decision.

16 VICE CHAIRPERSON KAUFMAN: It sounds like it.

17 BOARD MEMBER GUARDINO: Good job.

18 VICE CHAIRPERSON KAUFMAN: With that --

19 BOARD MEMBER FINNEY: Move to adjourn.

20 VICE CHAIRPERSON KAUFMAN: -- we have a motion to
21 adjourn. I'll just second and assume we have a consensus
22 on that everybody, unless I hear otherwise.

23 BOARD MEMBER GUARDINO: Just a reminder that you
24 don't need a motion to adjourn.

25 (Laughter.)

1 VICE CHAIRPERSON KAUFMAN: I know.

2 BOARD MEMBER GUARDINO: Thank you.

3 BOARD MEMBER FINNEY: Thank you.

4 (Thereupon the Voting Modernization Board
5 meeting adjourned at 10:56 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Secretary of State's, Voting Modernization Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 27th day of June, 2006.

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JAMES F. PETERS, CSR, RPR

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Certified Shorthand Reporter

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