STATE OF CALIFORNIA

SECRETARY OF STATE
VOTING MODERNIZATION BOARD

VOTING MODERNIZATION BOARD MEETING

ZOOM MEETING
(California)

WEDNESDAY, AUGUST 11, 2021
10:00 A.M.
APPEARANCES

VMB BOARD MEMBERS:

Stephen Kaufman, Chair
June Awano Lagmay
Gabriel Sandoval

CALIFORNIA SECRETARY OF STATE STAFF:

Jordan Kaku
Jana Lean
Robbie Anderson
NaKesha Robinson

PUBLIC COMMENT:

Brent Turner
CHAIR KAUFMAN: Okay. It's 10:01 AM and let's call the meeting of the Voting Modernization Board to order. Jordan, you want to take the roll for the record?


CHAIR KAUFMAN: Here.

MS. KAKU: June Awano Lagmay?

MS. LAGMAY: Here.

MS. KAKU: And Gabriel Sandoval.

MR. SANDOVAL: Present.

CHAIR KAUFMAN: Good morning, everybody. Good to see everybody.

ALL: Good morning.

CHAIR KAUFMAN: It's been a year since we formally met and a lot has passed. We've had a major election that was completed in November of last year and continued thereafter for a few weeks. But I know our state came through it with flying colors. Probably a lot of stuff that happened in the background that wasn't so easy, but compared to the rest of the country, you all made it look easy.

So, kudos to our staff and the Secretary of State's Office, and to county registrars up and down the state who
managed a very difficult election and managed to come through. I see we will get to it a little later in our agenda. But it sounds like all voting systems in California are now kind of conforming with the Secretary of State’s requirements.

So, I think we're good on that. And lo and behold, we're here a year later and we're going through yet another challenging election. And I want to thank the staff in the Secretary of State’s Office for managing to get this meeting in order and steering things in the right direction, despite having to deal with yet another statewide election coming up here a month now -- well, a month away.

So, thank you all for your hard work and everything you're doing. And we will look forward to your reports. Today, I don't think we're going to have a very lengthy meeting today, but we have a couple of important things to talk about.

Let's see ... did we receive any request for public comment prior to this meeting?

MS. KAKU: No.

CHAIR KAUFMAN: Okay.

MR. TURNER: I do have a public comment, Stephen.

CHAIR KAUFMAN: I see a hand up from Brent Turner. So, just before I call on you, Jordan, do we need to just for propriety's sake, do we need to get anything formal from Mr.
Turner other than his name and identification in making a comment?

MS. KAKU: I don't think so, but I'll take the-

CHAIR KAUFMAN: Okay. Mr. Turner, do you want to identify yourself, and any affiliations prior to speaking?

MR. TURNER: Yes, thank you. Stephen, can you hear me?

CHAIR KAUFMAN: We can.

MR. TURNER: Great. Thank you. Thanks to the staff for putting all this together and for all the great efforts.

My name is Brent Turner. I'm formerly the Director of Communications for Open Voting Consortium, which is a group founded right around 2000 for the purpose of developing and providing education regarding open-source election systems.

CHAIR KAUFMAN: Okay. Thank you. Please proceed.

You've got two minutes for-

MR. TURNER: Thank you very much. I just wanted to direct the Secretary's Office toward the Little Hoover Commission Report that was issued a few months back, basically giving direction to Governor Newsom toward open-source election systems.

We took pride in the report because it conforms with what we've been advocating for the past couple of decades to say, if you're going to use software in an election, it
shouldn't be corporate-owned software. It should be general public license, open-source software.

So, I just wanted to give attention to that report. And again, we're hopeful that California takes the lead for the rest of the country toward these better election systems. We basically, want to make a good system even better and be able to show the losing candidates and party that they lost with great ease and clarity.

And so, the concern with the proprietary software is obvious, and we're looking forward to the new Secretary of State following up on some of Debra Bowen's initial work. And hopefully, we move into the light on this issue. So, thank you. Thanks to all for any efforts.

CHAIR KAUFMAN: Thank you, Mr. Turner.
Okay. Do we have any other public comment before getting to the remaining items on our agenda?

Alright, seeing none and hearing none, let's proceed to item four on our agenda, which is an adoption of the July 29th, 2020 action items and meeting minutes. And I will turn to my fellow commissioners and ask if we have a motion to approve those items.
And I do want to note that the minutes already have some edits to them that were done by staff. So, anyway, please proceed.

Did I hear Gabriel?-  
MR. SANDOVAL: ... minutes as edited by staff.
MS. LAGMAY: I second that motion.
CHAIR KAUFMAN: Thank you, Gabriel and June. Just because we're doing this by Zoom and for clarity, Jordan, why don't you just call the vote on this?

MS. KAKU: Sure. Stephen Kaufman?
CHAIR KAUFMAN: Aye.
MS. KAKU: June Awano Lagmay?
MS. LAGMAY: Aye.
MS. KAKU: And Gabriel Sandoval.
MR. SANDOVAL: Aye.
CHAIR KAUFMAN: Okay. The minutes and action items have been approved.

Next, we have on our agenda, item five, which is a standing item. It's a report from staff on Secretary of State notice of withdrawal of certification and conditional approval of voting systems.
I made reference to this earlier. I think this may be our final report in the standing report category. So, I will turn to ... who's delivering this report?

MS. KAKU: That would be NaKesha.

CHAIR KAUFMAN: NaKesha Robinson. Please proceed.

MS. ROBINSON: Thank you. Good morning members of the board, public and staff. As you see displayed here on the screen, on February 27th of 2019, the then California Secretary of State issued notice to California counties that the secretary will withdraw certification and conditional approval of all California voting systems in whole or in part, not tested and certified to the California Voting System standards effective August 27th, 2019.

The operative date ending that grace period and official withdrawal of the certification for the legacy systems was February 28th, 2020.

I am happy to report that as of January 1st, 2021, all counties within California have purchased or leased and implemented a CVSS certified voting system. And that concludes my report.

CHAIR KAUFMAN: Okay. Thank you. NaKesha. So, all counties are now on board and up to date. And I think I can take the liberty of saying now that we've reached that goal. We
can pretty much hand these ongoing reports to the VMB about what
the status is.

So, thank you NaKesha and thank you to all the counties
who have gotten to this point and certified their systems in
accordance with the Secretary of State’s requirements.

Are there any further comments from fellow
commissioners on this item?

COMMISSIONERS: No ... thank you.

CHAIR KAUFMAN: Okay. Alright. So, then let's proceed
with kind of the main order of business for today, which is item
six, final round of funding.

This is an item that I had requested that staff place
on our agenda today. As much as I enjoy being the Chair of the
Voting Modernization Board, it has been a long time, a longer
than necessary time that I've served in this capacity.

And those of my fellow commissioners were all around a
lot longer than we ever thought we would be. And staff has
presented us with a report and I've asked staff to give us some
recommendations for how we might move to the point where we
become as a board, obsolete, and go out to pasture, and also,
that we kind of use up all the money that was allocated for
counties to be able to upgrade their voting equipment, which is
almost 20 years running now.
So, we have a report from staff on the funds that remain, kind of what the different categories of remaining funding are. And some thoughts about how we might move that into the future and get that money allocated, or at least allocated or not allocated. And then get to the point where we're disbanding this board, this commission. So, with that, NaKesha, is this you? I'm not sure who's delivering this.

MS. KAKU: No, that would be me.

CHAIR KAUFMAN: That would be you? Okay. This is Jordan. So, Jordan, do you want to kind of give us the lay of the land and tell us where we're at on that?

MS. KAKU: Sure. Yes. So, prior to today, this meeting, I did make a phone call to all counties with remaining funds. There were a couple that I just had to reach out via email. They're all trying to get this election together, but everyone has been made aware that you guys are voting on this today. And everyone is interested in using their funds.

So, I'll just go through this for everyone who has not read the report, it is on our website. But basically, the purpose of this staff report was to look at the remaining funding allocations that are under the Act still, and our SOS (Secretary of State) plan to move forward with the final round of the funding.
So, as you said earlier, originally, the VMB was established to oversee the modernization of voting systems for each California county. And we were given $195 million. To date, counties have a combined remaining allocation of $14,260,000, and that's over 21 counties.

So, of those counties with remaining funds, six have come before the board and have been reimbursed for the replacement of an entire voting system. Under the Act, counties may be reimbursed for replacing each part of their voting system once. In the staff report from November 15th of 2019, counties that have replaced an entire system may also be reimbursed for expansion of their voting system solution by adding components to further modernize their system.

For those counties that have not been reimbursed for an entire system, we did list out the parts of a voting system that are reimbursable so long as they haven't been previously reimbursed by the board. This includes a client workstation server, a standalone workstation precinct scanner for tabulation, central scanners, and election management systems software, tabulation software, ballot marking devices, adjudication software, ballot on demand workstation, and printer, and other external supporting peripherals that go with that equipment.
The components that could also be considered in expansion as mentioned in the November 2019 staff report would be remote accessible vote by mail systems, ballot on demand, electronic poll books, vote by mail processing equipment, and signature verification hardware and software.

So, if the board were to determine to set a deadline by which counties with remaining funds must use them or they would be reverted back to the fund for redistribution to other counties. VMB staff would recommend setting the deadline for project plan submission by December 20th of this year. So, we're asking counties to have a plan for when they will come forward to request their funds by December 20th.

So, VMB staff would send out a final notice to counties with their remaining funds to claim them on or before that deadline. And any funds remaining to be claimed could be reallocated to the counties that come forward to the board with a request for these funds to purchase additional voting equipment and/or related components for expansion of their existing equipment.

The new reallocation formula of these funds could be based on the total number of registered voters and the final amount of the remaining funds. So, the board could also set a
So, basically, we would be willing to work with counties to come up with the plan for when they are able to come forward before the board to claim their funds, or basically, put them in a pot and allow counties to come forward and request funds for the money that the counties with that remaining allocation wouldn't be claiming.

CHAIR KAUFMAN: Thank you, Jordan. So, this report provides kinda, I guess, a roadmap of possible items that counties who haven't used up all their funding yet could find some opportunities to use their funding. It's kind of there in black and white.

I'm presuming whatever notice that we would send out to counties between now and December 20th would essentially contain a summary of these items for counties and provide them with a queue in terms of how to make a claim before the window closes in December. Right, Jordan?

MS. KAKU: Yes.

CHAIR KAUFMAN: Okay. And you said you had preliminary conversations with the counties before this. So, did I hear you right? That the counties with remaining funding all intend to make claims to use that funding?
MS. KAKU: Overall, there was general interest in coming forward for remaining funds. And a lot of them had already had plans to come forward. There were a few who, we’ll just probably need to speak with them a little bit more in detail about what they can come forward for. But there's a lot of interest.

CHAIR KAUFMAN: Okay. And we're trying to be sensitive to the fact that we don't want to, I don't know, sounds silly -- rush people into having to get this resolved. So, given that it's been 20 years, I don't think anything's rush.

But we have an election in September, there doesn't seem to be any perfect time for trying to put deadlines on things because there always is some election and something going on that's going to make it not as convenient as it could be. But it seems to me, December three months after the September election, particularly since we've already given people a heads up, seems like a reasonable amount of time to impose a deadline.

Jordan or Turner, do you want to just address that issue or comment on that?

MS. KAKU: Volume up, please.

MS. LEAN: Hi, this Jana. Yes, absolutely. Sorry, it took me a minute to get unmuted. After over a year and a half and I'm still figuring out how to unmute myself.
So, we are 34 days away from the September 14th recall election and we are all in an incredible mode right now. I'm not going to lie, but I do see a need to set a deadline. Without a deadline, folks don't get things done.

So, I think if we work with them and we say, “Okay, here it is, and if you want to do it come forward, otherwise your money's going to be reverted and go back in the pot,” I think that'll definitely motivate people to get some things done.

I think we made a suggestion until the end of the year to let them get through the election, let them get through canvass, and before any redistricting starts, I think that's what we needed to do, is to ... if we're going to do this and it's actually going to use up the entire funds or just if folks are not interested once we have done that reach out -- but if they don't come forward, they don't come forward. And we either reallocate or we just won't sell the bonds. I mean that’s an option also.

So, I do think it's a good idea to set something and I know you're right, there's no year that's going to be great to do. This year is absolutely crazy. But next year's going to be even more when we have redistricting going on and then we have
the June, and then the November election. So, they just all
roll together and it's just going to be crazy.

So, let's try to get this done. And if not, then I'm
sure there's other counties that could definitely use the
allocations and move forward.

CHAIR KAUFMAN: And I would think that if there is
going to be money left over or either for the people who have
money on the table, or for others who might have projects in the
pipeline, I mean, with another statewide election next year, I
mean, it seems like this is the time folks are going to want to
implement additional programs or implement additional equipment
that could be useful in the next cycle. So, I'd like to get the
money doled out if we are going to dole it out.

MR. SANDOVAL: Have you thought of a process that can
be used?

CHAIR KAUFMAN: (Indiscernible)

MR. SANDOVAL: Sure. If there are certain counties
that did not use the money that are currently allocated to them
and the money is reverted back, as you're suggesting that could
be a course of action taken, have you developed a process by
which other counties that could use that money can apply for
those funds that were reverted back from other counties?
CHAIR KAUFMAN: I think our decision making for today would be kind of imposing the deadline. And then when we get to December 20th, if we choose to use these deadlines, that when we get to December 20th, 2021, we see how much money is left, if any. And if there is money left, we will, as a board have to decide at that time how we're going to reallocate that money. And then provide that for everyone who we decide can qualify to access that money from that point forward through July of 2022, if that's the date that we choose to abide by.

So, there'd be a reallocation and it doesn't mean ... so, if somebody chooses not to pursue this first round of funding by December 20th, it doesn't necessarily mean they wouldn't have a shot at some pot of funding again on round two, if there's money left on the table.

MR. SANDOVAL: Okay. I am in agreement that there should be some deadline. I think that is a good recommendation, as long as it's consistent with any kind of laws or any concerns that people may have. You think that's consistent with what the law provides?

CHAIR KAUFMAN: If you're asking me, I mean, I can comment, Robbie is the lawyer. He can comment on it. But I don't think the original ... it wasn't contemplated that we'd be here forever. And I think we always anticipated that there
would be a “round two” if there was any money left in the pot.
I just think we anticipated that happening about 12 years ago,
maybe 10.

So, I think it's, it's certainly been consistent with
the way that we've been acting. And I think it's consistent
with what was in the original bond measure, but I don't think it
was that clearly laid out.

How the money was allocated, was always a function of
the board, deciding how that money should be allocated among the
counties. So, it wasn't specified in the original measure
exactly how that would take place. But I will defer to Robbie
and Jana, who may wish to comment on that.

MS. KAKU: Go ahead, Jana.

MR. ANDERSON: I agree with-

MS. LEAN: I agree with Robbie and I agree with you.

Yeah, you have broad authority. So, the board itself under the
Act has very broad authority on how the funds would be
distributed.

So, originally, there was a package that was put
together for counties to apply. It's the project documentation
plan. I'm assuming if we do a second planning round, we would
do something very similar, but of course, all of that would have
to be adopted by the board in a formal adoption.
So, we would make the proposals and that's how the process would potentially work. But yes, you definitely have broad authority, but go ahead, Robbie.

MR. SANDOVAL: Thank you, Jana. Thank you, Robbie.

MR. ANDERSON: Oh, you guys both covered it. So, I'm in agreement with Stephen and Jana; lots of authority there, and this was never intended to go on forever. So, it's a reasonable way to kind of wrap things up if we get to that point.

MS. LAGMAY: Can I ask a question? Did I understand correctly that staff reached out to all counties who have funds remaining and they all understand that a possible December deadline was on the agenda, and did anybody like totally freak out and say, there's no way we can make it? Or what kind of feedback did you get? It was like, “Yeah, we know. And we'll try to get our money in?”

MS. KAKU: No, well, they did not get a December deadline because it hasn't been decided upon.

MS. LAGMAY: Understood, okay.

MS. KAKU: But yes, I did say I would give everyone a call after the election to talk about next steps and everyone seems to take it well. But it's on their brains now.

MS. LAGMAY: Okay, okay. And the second question is, can you tell me a little bit about San Diego? Because they've
got like 7.5 mill left and that's like about 60% of the remaining money. What are the feelings from San Diego?

MS. LEAN: So, I've talked to the assistant ... well now, was the assistant registrar, now's the registrar, the acting registrar in San Diego; they're quite aware of the funds, they do have use for them. They do have a plan. They have updated their voting equipment.

They are considering moving forward with the Voter's Choice Act, which is a complete overhaul of the election system for how ... I think as most folks know, because you're in Los Angeles, there's a voting rights ... not the Voting Rights Act - sorry, the voting ... I think it was VCA, Voter's Choice Act, that's it.

So, Voter's Choice Act allows for all of the opportunities for a much longer period of early voting and then anyone can vote anywhere.

So, they're looking at that model. It does cost more money, an upfront cost, and it'll have additional costs that they would need to get from the board for other pieces of equipment, like an E-poll book and other equipment that they would need at the actual vote centers.
So, I believe that's what they're working towards according to Cynthia Paes. And I think they're going to have use for the funds.

I know that I talked to Michael for several times before then, he said he was very interested, but if we set a deadline, they will do it. And so, I have strong feelings that that'll happen.

MS. LAGMAY: I understand, okay.

CHAIR KAUFMAN: Any other questions of staff regarding the proposal or the status of funds that are available?

So, then I guess I would ask my fellow commissioners, whether there is a motion to adopt a deadline of December 20, 2021 for the submission of funding requests under the round one funding allocations, and also whether to set a July 29th, 2022 date as a date for the deadline for our board to consider funding requests under a reallocation formula to be determined at the end of this year.

MS. LAGMAY: I would make that motion, but I have one very quick, last question. So, the December 20th, 2021 deadline for round one, that's specifically just for the counties that have money left in round one; use it or lose it if you don't submit by December 20th.
The second deadline, round two, July 29th, 2022, does that mean that any county that wanted to specifically expand or purchase additional equipment could qualify for round two? Any county, even if they didn't any money for round one?

CHAIR KAUFMAN: The answer is that's a possibility. We have to make that decision in December of 2021, whether we're going to impose any further limitation on counties that could apply for a second round of funding.

MS. LAGMAY: Okay.

CHAIR KAUFMAN: But as of right now, it's all a possibility.

MS. LAGMAY: Thank you. With that, I move that we set the deadlines as specified in the staff report. December 20th, 2021 for round one and July 29th, 2022 for round two.

MR. SANDOVAL: I second.

CHAIR KAUFMAN: Okay. We have a first, we have a second. Again, Jordan, just for clarity, you want to take a roll so we can vote on this?

MS. KAKU: Stephen Kaufman?

CHAIR KAUFMAN: Aye.

MS. KAKU: June Awano Lagmay?

MS. LAGMAY: Aye.

MS. KAKU: And Gabriel Sandoval?
MR. SANDOVAL: Aye.

CHAIR KAUFMAN: Okay. So, we have approval of the deadlines. Staff, do you feel like there's any other direction or anything else that we should be voting on with respect to the conclusion of the final round of funding per the staff report?

I mean, implicit in this is that staff is going to now, reach out to all of those counties again, in a more formal way to advise them of the deadline and advise them of all of the possible components that could be purchased or voting system pieces that they could apply for generally as laid out in the staff memo. But is there anything else that we as a board need to vote on to give you the authority under the staff report for this process?

MS. LEAN: I don't believe so, sir.

CHAIR KAUFMAN: Okay. So, that is how it will be. And again, I think as far as setting the December agenda, obviously, whatever counties apply, we will consider in December and then we will have to have an action item following that to determine, or based on whether there will be any funding remaining and whether we need to do a reallocation for one final round.

And I think when we do that, it would be helpful because I know we have two newish board members. But it would be helpful as part of the staff report to kind of give us the
benefit of what decisions were made for round one. And whether we want to just follow lockstep what was done for round one.

I know you alluded to it in the staff report about basing funding allocations on registered voters and such, but to the extent anything has changed in the considerations from when we decided on how to allocate around one funding, that would all be helpful to know.

MS. LEAN: Absolutely. So, once we get there, if we get there, it was quite a few meetings, quite a long discussion of how that allocation could be ... how the formula would work.
And the current formula is based on four different items. A lot of it has to do with a number of precincts, a number of precincts and turnouts, and was all based on 2002.

So, it would definitely need to be modified in some way. I do know that the registered voters' proposal for the formula is pretty equal. I think it would be equitable to counties based on their size. So, that's how we propose that, but definitely, we'll have a much robust conversation once we get there, if we get there.

CHAIR KAUFMAN: And Jana, you and I should probably have a conversation prior to that at some point after September 14th.
MS. LEAN: Yeah. Perhaps late October, maybe a nice Halloween Day.

CHAIR KAUFMAN: There you go.

MS. LEAN: We have to, we have to get through canvass, but yes.

CHAIR KAUFMAN: We can each wear our costumes. Alright. Well, let's plan on that so we can kind of look at what the reality is at that point in time and what you've heard from the counties and we can have a conversation.

Okay. Any other questions about the item six or any other business or items of interest that we should all be thinking about between now and December?

MS. LAGMAY: Do we still have a tentative September 29th meeting on the calendar?

MS. KAKU: We do. It carries off until I believe it's August 30th to submit a project documentation plan. Alameda County was supposed to come forward back in 2019. They submitted their project and everything, but didn't. I've spoken with the assistant registrar and they have availability, they just have to resubmit their documentation. I'll let you guys know if-

CHAIR KAUFMAN: Okay. So, we may all get together before December?

MS. KAKU: Yes.

CHAIR KAUFMAN: Okay. Alrighty. Anything else before we sign off?
Okay. With that then, I will adjourn the meeting of the Voting Modernization Board. All in favor of adjournment, say aye.

(Chorus of ayes)

CHAIR KAUFMAN: Okay. Thank you everybody. Have a good election on September 14th and we will see you soon.

ALL: Thank you. Bye.

(Whereupon, the meeting was adjourned at 10:37 a.m.)