MEMORANDUM

Date: January 16, 2008

To: Distribution

From: C.H. Huckelberry
County Administrator

Re: Scanning and Display of All Ballots Cast in an Election, by Precinct, on the Internet

The recent litigation filed by the Democratic Party has caused the County to review our election processes and procedures. I suggested a number of modifications in my report to the Board dated October 19, 2007. This litigation and subsequent publicity has obviously deteriorated voter confidence in the accuracy and outcomes of the election process. This must be corrected. While I am confident that our processes and procedures are secure and the results of our elections are accurate, the general public will have continuing doubts, and hence the need for a radical departure in how we conduct our elections from the perspective of transparency.

Yesterday the Board gave general direction to open the transparency of our election process by making public all ballots by precinct. Obviously, because of the number of votes cast at the precinct level, voter anonymity will be maintained. The public display of every ballot cast in a particular election is the ultimate in election transparency. This public display of every ballot cast is a radical departure from past practices, and may require procedural modifications and approvals from the Secretary of State and Department of Justice. However, such may also be classified as simply another step in ballot processing and hence may fall within the present rules and procedures for conducting an election. Because of the significant change in election process, we will request review and approval of this procedure from the Secretary of State before implementation.

The purpose of this memorandum is to request that the Civil Division of the County Attorney's Office explore the legal implications of what has been proposed, that the Elections Director review the practical application of same, and that Dr. John Moffatt review and identify any technology processes and/or equipment that may be necessary to accomplish this purpose.

First, I have already directed that early ballots not be counted until after the polls close on any given election day. This will eliminate the allegation of peaking of and releasing preliminary election results. While this will certainly delay the release of final election results on ballots by as much as 96 hours, at this point it is more important to eliminate any claim of the County releasing early election results than timely election results reporting. As an alternative, if early ballots were to be counted beginning on election day, most early ballots could be counted on that day. It is also important to remember that election results are going to be delayed due to the procedural modification I recommended in my October 19, 2007 memorandum to the Board to eliminate the electronic transmittal of precinct election results to the central ballot tabulating computer.

The second most serious election fraud allegation is the ability to tamper with election tabulating processes from both external as well as internal sources. This is a serious allegation, and while there are a number of technical safeguards that can be put in place, in the final analysis, the general voting public, in particular those who are not computer experts, will never be comfortable with technical computer assurances received from anyone on any side of the issue – the County, the Democratic Party, the Republican Party, the black box voting experts, etc. A new, transparent, verifiable, and easily understood process is necessary to restore voter confidence in the election process.

Scanning and placing on the internet for public view, all ballots cast for an election by precinct, will allow anyone to count the votes cast by race or proposition, and to subsequently, if they so desire, compare the results of the computer ballot tabulation that occurs through the ballot scanning and counting process. In addition, this process will also significantly enhance the ability to detect any type of election tampering from outside the election process to those inside conducting the election. By implementing such a procedure, everyone can become an election watchdog if they desire.

Scanning each cast ballot will allow an exact copy of the ballot to be produced and reviewed. For all early ballots cast, the scanning process would simply be one more step in ballot preparation for counting. All of the ballots would be sorted by precinct, scanned, and then counted. For ballots cast on election day at each precinct, some modification to the existing system may be necessary as the ballots are "counted," once they are optically scanned at the precinct counter. However, this scan does not produce a reproducable copy of the actual ballot. It may be necessary to establish or set up a scanning device at the precinct level that would scan the ballots for reproduction prior to being optically scanned for counting and tabulation. In addition, all provisional or questioned ballots would have to be individually reviewed for validity prior to scanning for reproduction and optically scanning for tabulation. Once all ballots by precinct have been scanned for reproduction in any efficient copying format, such as a PDF file, the ballots would be aggregated by precinct and then all reproduced ballots would be placed on the internet by precinct for review and analysis by any interested party.

Finally, a process will be necessary for provisional ballots which will be the last ballots scanned and ultimately counted if found valid.

I would appreciate the legal, practical and technological review of the Board's direction at your earliest convenience. I certainly realize that this is a major departure from past practice, and may not ultimately be practical or feasible, or even legal, but I believe we at least need to try to improve the transparency and credibility of the election process. As I have stated previously, I have full faith and confidence in the technology and safeguards we have placed in our election processes. I am not suggesting in any way that we abandon these processes, but simply establish a transparent mechanism that allows each and every voter, if so interested, to examine each and every ballot cast in a particular election.

CHH/jj

Distribution:

Christopher Straub, Chief Civil Deputy County Attorney
Brad Nelson, Manager, Division of Elections
Dr. John Moffatt, Office of Strategic Technology Planning

c: The Honorable Chairman and Members, Pima County Board of Supervisors