



MEMORANDUM

Date: October 22, 2008

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Election Issues**

Attached please find letters dated October 15, 2008, October 21, 2008, and October 22, 2008 transmitted to the Party Chairs, as well as communication with the Election Integrity Commission. I will continue to provide the Board with copies of information that I transmit to the Party Chairs and the Election Integrity Commission as we continue to prepare for the November 4, 2008 General Election.

CHH/jj

Attachments

c: Brad Nelson, Elections Director





COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, TUCSON, AZ 85701-1317
(520) 740-8661 FAX (520) 740-8171

C.H. HUCKELBERRY
County Administrator

October 15, 2008

Judi White, Chair
Pima County Republican Party
5447 East 5th Street, Suite 100
Tucson, Arizona 85711

Re: AccuVote and Touchscreen Post-Poll Closing Election and Ballot Bag Processing and Handling Procedures and Poll Worker Checklists

Dear Ms. White:

We are now working on draft step-by-step guidelines (will be provided at the meeting on Friday), as well as draft documentation and control documents associated with the closing, transport and transfer of election tabulation equipment, both AccuVote and touchscreen voting devices, post-poll closing to the receiving centers established throughout Pima County and, finally, to the Technical Center. We have also developed Closing Duty Cards that are intended to guide election poll workers in the proper closing, transport and transfer of this equipment.

We are also developing step-by-step procedures (will be provided on Friday) for the transfer of all other election material, including the blue ballot bag, from each voting area post-poll closing as discussed at our last Party Chair meeting on Friday, October 10, 2008. All remaining election material will be transferred by designated poll workers to the satellite receiving centers with a checklist of the information required. A transfer and chain of custody document will accompany the equipment and materials to Central Receiving on Congress or the Technical Center on Mission Road.

The blue ballot bags will only be opened at the satellite receiving center if one of the following documents or information is not produced at transfer from the polling place to the receiving center. These documents are:

1. The Unofficial Envelope including the Signature Roster;
2. Official Envelope;
3. Early and Provisional Ballot Envelope; and
4. Write-In Envelope.

Judi White

**AccuVote and Touchscreen Post-Poll Closing Election and Ballot Bag Processing and Handling
Procedures and Poll Worker Checklists**

October 15, 2008

Page 2

If any of this material is within the blue ballot bag it will be removed and the ballot bag will be resealed with proper documentation. The retrieved materials will be transferred to their respective specific designated locations. If the required materials are not in the blue ballot bag, the poll workers will be sent back to the voting area to retrieve the missing materials.

The blue ballot bags, with their seals documented at the satellite receiving center, will then be transferred to Central Receiving at 130 West Congress, A Level Parking Garage. At this location, all blue ballot bags will be opened with appropriate chain of custody and seal documentation to verify that the correct material is contained within the blue ballot bag. The required items are: A) the voted ballots without write-ins; B) the AccuVote unofficial results tape for the precinct, signed by poll workers; and C) the yellow copy of the ballot report signed by the poll workers.

If the blue ballot bag contains the correct material, such will be so noted and the bag will be properly resealed with seal documentation for secure storage and disposition post-canvass and expiration of a challenge period. If the bag contains material other than that required, materials will be removed with appropriate documentation of what has been removed. If the ballot bag is found to be irregular, i.e., not containing the required materials, the blue ballot bag will be resealed and appropriately transferred to a snag board for further processing. The following chain of custody, transfer, receipt and documentation forms will be provided for your review and delivered to you on Friday.

1. Election Night Official Materials Receipt;
2. Election Night Voting Equipment Receipt;
3. Inspection Board Log;
4. Chain of Custody Receipt for Voting Equipment Transfer to the Technical Center on Mission;
and
5. Chain of Custody Receipt for Ballot Bag and other election materials to the Inspection Boards
at Congress.

In addition, we will provide a Geographic Information System map of Pima County showing all voting areas, the appropriate receiving areas for aggregated voting areas or precincts, the Inspection Board location on Congress, and the Technical Center located at Mission Road, as well as the Elections Administrative Office located on 22nd Street. Also included on this map is a listing of the locations of each receiving board, the number of receiving board members that will be working each location, and the number of party observers needed at each receiving station. Additionally, at the Technical Center there will be four lines of party observers/security

Judi White

**AccuVote and Touchscreen Post-Poll Closing Election and Ballot Bag Processing and Handling
Procedures and Poll Worker Checklists**

October 15, 2008

Page 3

confirmation inspectors to process AccuVote machines that are delivered to the Technical Center on election night. The touchscreen machines will be delivered to the Technical Center on election night, but will be placed in secure storage for processing the following day since we anticipate few votes being cast on these election machines.

We would also like to be very clear to avoid any misunderstanding regarding the number of party observers and their compensation at the receiving centers, as well as the number of party observers required for security verification at the Technical Center, and those that will be necessary for observing at Central Receiving on Congress and the amount of monetary honorarium they will receive.

Finally, I am enclosing for your information, eight color coded election worker checklists to assist poll workers in completing their essential assignments post-poll closure.

Please review this information for comment at our meeting scheduled for Friday, October 17, 2008, at 3:30 p.m. at 130 West Congress in the Board of Supervisors first floor conference room.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/jj

Attachments

- c: **Members, Election Integrity Commission**
 - Brad Nelson, Elections Director**
 - Dr. John Moffatt, Office of Strategic Technology Planning**
 - Mary Martinson, Elections Supervisor, Elections Department**

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**EARLY AND PROVISIONAL ENVELOPE CLOSING
CLERK'S DUTY**

- ____ Early Ballots dropped off at Polling Place in Envelope
- ____ Provisional Envelopes in Envelope
- ____ Conditional Provisional Envelopes in Envelope
- ____ Number of each type of ballot in envelope is written on green insert page
- ____ Seal is placed on Envelope and Inspector and Judge of the Opposite Party have signed across the seal and onto the envelope

Signature of Clerk

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election..



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**BLUE BALLOT TRANSFER BAG CLOSING
JUDGE OF THE OPPOSITE PARTY DUTY**

- ____ Voted Ballots without Write-In Votes (if the ballots were separated) in Blue Ballot Transfer Bag
- ____ Yellow Copy of the Ballot Report in the Blue Ballot Transfer Bag
- ____ Second Copy of the Accu-Vote Final Results Tape in Blue Ballot Transfer Bag
- ____ Verify nothing else has been put into the Blue Ballot Transfer Bag
- ____ Blue Ballot Transfer Bag is zipped and clasp is closed
- ____ White seal for Blue Ballot Transfer Bag has been put in the clasp and clicked into place

Signature of Judge of Opposite Party

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**UNOFFICIAL ENVELOPE CLOSING
CLERK'S DUTY**

- ___ First copy of Accu-Vote Final Results Tape with Zero Tape attached in envelope
- ___ Second copy of Touch Screen Tape in envelope
- ___ White Copy of Ballot Report in envelope
- ___ Signature Roster in Black Signature Roster Notebook in envelope
- ___ "R" Envelope (with Registers in Register Notebooks and Provisional Signature Roster inside) in envelope
- ___ Red poll List in envelope
- ___ Yellow poll List in envelope
- ___ Seal Log in envelope (if not picked up earlier by Troubleshooter)
- ___ Payroll in envelope (if not picked up earlier by Troubleshooter)
- ___ All signed closing duty cards (including this one) in envelope

Signature of Clerk

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE
Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**BALLOT REPORT
INSPECTOR'S DUTY**

- ____ Every line of Ballot Report filled out correctly
- ____ Ballot Report is Signed by available poll workers
- ____ White copy of Ballot Report is in Unofficial Envelope
- ____ Yellow copy of Ballot Report is in Blue Ballot Transfer Bag

Signature of Inspector

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**OFFICIAL ENVELOPE CLOSING
CLERK'S DUTY**

- ____ Yellow Pages from the Red and Yellow Poll List in Envelope
- ____ Spoiled Ballots in Envelope
- ____ Challenge List in Envelope (only if a challenge was made)
- ____ Seal is placed on Envelope and Inspector and Judge of the Opposite Party have signed across the seal and onto the envelope

Signature of Clerk

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**TOUCH SCREEN CLOSING
MARSHAL'S DUTY**

- ___ First Tape (signed by at least Inspector and both Judges) in Canister
- ___ Second tape (signed by at least Inspector and both Judges) in Unofficial Envelope
- ___ Touch Screen Tablet in Carrying Case
- ___ Canister in side pocket of Carrying Case
- ___ Pink Zip Lock Bag with Encoder, Voter Access Cards and Supervisor Card in side pocket of Carrying Case

Signature of Marshal

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**ACCU-VOTE CLOSING
JUDGE OF THE SAME PARTY'S DUTY**

_____ First Tape (signed by at least Inspector and both Judges) in Unofficial Envelope

_____ Second Tape (signed by at least Inspector and both Judges) in Ballot Transfer Bag

_____ Accu-Vote in Carrying Case

Signature of Judge of Same Party

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08

**GENERAL ELECTION NOVEMBER 4, 2008
CLOSING DUTY CARD CHECKLIST**

**WRITE-IN ENVELOPE CLOSING
CLERK'S DUTY**

____ Voted Ballots with Write-In Votes are in envelope

____ Seal is placed on Envelope and Inspector and Judge of the Opposite Party have signed across the seal and onto the envelope

Signature of Clerk

Date of Election

PLACE THIS CARD IN UNOFFICIAL ENVELOPE

Department of Elections

If you have any questions, call Hotline **351-8551**
Thank you for a safe, secure and accurate election.



REV. 10/16/08



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, TUCSON, AZ 85701-1317
(520) 740-8661 FAX (520) 740-8171

C.H. HUCKELBERRY
County Administrator

October 21, 2008

Judi White, Chair
Pima County Republican Party
5447 East 5th Street, Suite 100
Tucson, Arizona 85711

Re: Update on Various Issues Including Our Meeting of Friday, October 17, 2008

Dear Ms. White:

I appreciate your continued interest and assistance in preparing for the November 4, 2008 General Election. Below are some of the key issues discussed on Friday, as well as others we know are of interest to you. Please review this information and provide feedback where appropriate.

Observer Rules and Protocol

Attachment 1 is a draft of observer rules. This would include early ballot processing, receiving, inspection and hand count audit. A separate set of rules is being developed for the Technical Center and will be forwarded to you as soon as practically possible. Please review these rules, edit, and make suggestions and additions as you deem necessary. You may provide your comments on these rules directly to either myself, Elections Director Brad Nelson, or Mary Martinson, Elections Manager. Any comments regarding the Technical Center rules should be forwarded to me, Brad Nelson, or Dr. John Moffatt of my office.

Request for Legal Opinion Regarding Size of Early Ballot Hand Count Batches

Attachment 2 is a request to the County Attorney regarding the number of ballots in each batch for hand count verification. It is hoped that the size of the batches can be kept to between 300 and 400 ballots, which will add to the ease of hand count verification and tabulation.

Judi White

Update on Various Issues Including Our Meeting of Friday, October 17, 2008

October 21, 2008

Page 2

Observer Schedules

On the Election webpage will be posted the planned schedule of events requiring party observation and the participants required at the locations needed. This webpage will be updated as election events unfold. It is very important that the availability of this webpage observer schedule be provided to those individuals who will be coordinating and/or supervising observers, or observers themselves. Hopefully this up-to-date information will be useful in coordinating the processing and scheduling requirements for the various election functions requiring observation.

Election Issues

As discussed with you on Friday, we will be openly and transparently disclosing all issues that confront the Elections Department in the conduct of this election. Historically, these issues have been handled internally without a great deal of disclosure or scrutiny. Given the transparency desired in the election process, we are disclosing this information and will continue to do so as other issues arise. Presently or since the General Election cycle began we have identified five issues. These are:

- A. Ballot language regarding the South Tucson proposition.
- B. The printing of a one-sided early ballot.
- C. The printing and distribution of ballots in Precinct 360 that contained an Oro Valley General Obligation Bond park question that will not be tabulated when received. The correction to this ballot coding tabulation error caused more confusion, as will be explained.
- D. Identification of voters eligible to cast ballots in the Mt. Lemmon Domestic Water Improvement District Governing Board election.
- E. Early ballot technical registration issues for optical scanning.

Each of these issues is discussed below in more detail.

- A. **Ballot language regarding the South Tucson proposition** - An opponent/proponent of the proposition contacted the Clerk of the City of South Tucson the day before early balloting was to start and complained that the full text of the proposition was not on the ballot or the language is insufficient to describe the proposition. Initially, the Clerk of the City of South Tucson requested that the ballots be reprinted for South Tucson. However, adding substantial additional language to the proposition would affect every other ballot marking and position of other propositions that may relate to other local voting districts, such as the Tucson Unified School District override election, etc. After discussion with the South Tucson City Clerk and the South Tucson City Manager it was decided to post the full text language of the proposition at the polling places within South Tucson and to mail the full text to all voters in South Tucson.

Judi White

Update on Various Issues Including Our Meeting of Friday, October 17, 2008

October 21, 2008

Page 3

- B. The printing of a one-sided early ballot - Recently publicized was the fact that a voter received an early ballot that had races printed on one side of the ballot and nothing on the other. To our knowledge this is the only occurrence of such an error. Obviously it is related to ballot printing where ballots are typically fed into an automated printing machine one at a time. Apparently two ballots stuck together with races printing on one side of one ballot and possible propositions printed on the other. I believe this is a very random error and should not recur as we have not received any additional voter complaints regarding receiving a two-sided ballot.
- C. The printing and distribution of ballots in Precinct 360 that contained an Oro Valley General Obligation Bond park question that will not be tabulated when received - Precinct 360 in Oro Valley north of Tangerine Road contains areas that are both within the Town of Oro Valley, as well as a small portion of the precinct in the unincorporated area. Because the precinct contains split jurisdiction, it receives two separate codes and ballot styles, one identified as ballot style 360.0 and the other as ballot style 360.1. This ballot style identification allows for the unique Oro Valley park question to be printed on the ballots received by Oro Valley residents, and no question printed on the same ballot style for individuals in the unincorporated area. In this particular case, the unincorporated area contains zero voters. However, due to a coding error, which is the programming that tells the optical scanner what portions (called a split) of the ballot to read or ignore, the ballots for Oro Valley that had the park question on them were programmed in the GEMS tabulation system to not read the lines where the Oro Valley question occurred. This programming issue was discovered as a part of the "Blank and Fully Test" process on September 30 and required further analysis and consultation with Premier since there were no registered voters in the unincorporated area. The correction to the "split" coding was made on October 3, 2008. Unfortunately, the change was not communicated to the Recorder's Office until October 9, 2008. During that period, 49 ballots were sent to voters within Oro Valley, within Precinct 360, that did not contain the Oro Valley question. After October 9, 2008, all voters receiving early ballots received proper ballots with the proper coding.

Between the start of early voting and October 9, 2008, a total of 1,078 ballots were sent to Oro Valley voters. Of these, 1,029 ballots contained an Oro Valley question that would not be detected by the scanner and GEMS programming. Once returned by voters, these early ballots will be collected by the Recorder and forwarded to the early ballot processing boards. They will then be duplicated onto correct ballots by properly established duplicating boards with observation by party officials, officials of Oro Valley, and both opponents and proponents of the Oro Valley Bond park question. These ballots will then be properly tabulated. As of today, of the 1,078 ballots that were sent out between the dates of October 2 and October 9, 1,029 went out with the ballot question and will be duplicated for proper coding, and 49 went out without the ballot question. Of the ballots needing duplication, as of this date 196 have been received by Elections and segregated for the above described process.

Judi White

Update on Various Issues Including Our Meeting of Friday, October 17, 2008

October 21, 2008

Page 4

For the 49 ballots that were sent to voters without the Oro Valley Bond park question, each voter has been notified in writing and by follow-up phone call to disregard the ballot that has been received. They have been sent new and corrected ballots for processing. All early ballots received from Precinct 360 will receive special handling to either duplicate an erroneous ballot onto a correct ballot to correct the fact that 49 voters received a ballot without the park question, and to ensure that all early ballots that were transmitted after the correction are the correct ballots that contain the Oro Valley park question that will be properly labeled and detected when scanned.

This initial coding error was detected because of the thousands of test ballots run by Elections staff prior to the election to ensure that the various ballot styles all accurately reflect votes that are cast in any specific voting area. At last count there are over 523 different ballot styles and hence combinations of ballots to cover the geographic voting area of Pima County. Ten thousand, seven hundred seventy-seven (10,777) test ballots of various combinations have been run through the tabulation system to ensure that ballot programming and logic is accurate as this test ballot analysis detected the problem coding issue for the Oro Valley precinct. This test ballot analysis occurs well before the logic and accuracy test of the Secretary of State, which is required prior to the beginning of early vote tabulation.

- D. Identification of voters eligible to cast ballots in the Mt. Lemmon Domestic Water Improvement District Governing Board election - Within the Mt. Lemmon Domestic Water Improvement District there are a number of voters who are registered to vote with addresses within the District; however, because of the uniqueness of a water improvement district, all property owners within the District are eligible to vote if they are a registered voter in any county within Arizona. While property owners who have addresses and live within the precinct on Mt. Lemmon will receive this question, other property owners who have residences other than the precinct within Mt. Lemmon will not. Communication has been directed to the Mt. Lemmon Domestic Water Improvement District with a request that they notify all property owners based on their water connection records that they can receive a ballot for the Mt. Lemmon Domestic Water Improvement District Board of Directors if they so choose. Ballots were prepared and will be mailed upon request to voters who are eligible once their eligibility has been determined that they are actually registered voters within any county in Arizona.
- E. Early ballot technical registration issues related to optical scanning - Previously, early ballot processing has been through direct offset printing of early ballots. This year is the first time the County and Recorder are using on-demand ballot printing. This printing process is somewhat different than offset printing and ballot rectification, which means exact and precise alignment of timing marks and ballot detection points may slightly vary. In a number of ballot tests that have been conducted to date, there is a possibility that a very small percentage of early ballots may not process through the optical scanning devices unless they are specifically orientated in a specific direction. Normally the optical scanning devices are programmed such that ballots can be fed into the device in a front or back position, or from foot (bottom) or head (top). In a very small percentage of ballot

Judi White

Update on Various Issues Including Our Meeting of Friday, October 17, 2008

October 21, 2008

Page 5

tests, approximately three out of 5,300 test ballots, the ballot was rejected as an invalid mark, even though the ballot was properly marked. This rejection occurred when the ballot was fed into the optical scanning device foot first instead of head first. In subsequent testing, the ballots that are fed into the optical scanning devices head first and party race up will not experience this problem. Hence, in the preparation of all early ballots for tabulation they are being assembled to be fed only head first with candidate race up. This eliminates this ballot registry problem associated with using on-demand balloting for early votes. This problem will not occur for ballots cast on election day as these ballots are all offset printed and do not have the alignment problem identified with early ballot on-demand printing.

Early Ballot Processing Began on October 17, 2008

A total of 58,021 early ballots have been received from the County Recorder, with 35,634 being processed for early tabulation and delivered to the Technical Center. These processed ballots are safely and securely stored under 24-hour video surveillance and secured in our vaults at the Elections Office on 22nd Street. They will be processed for tabulation upon completion of the upcoming logic and accuracy test by the Secretary of State and under party observation when early ballot processing begins.

Modifications to the Closing Duty Cards and Receipts

In our meetings with the Election Integrity Commission, as well as party chairs, certain suggestions were made related to improving the functionality of the Closing Duty Cards and Receipts. These changes will be made and new cards printed and sent for your information.

I hope this update is helpful and is of assistance to you in our continuing efforts to fully communicate and cooperate with the parties in the conduct of the November 4, 2008 General Election.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/jj

Attachments

- c: Members, Election Integrity Commission
- Brad Nelson, Elections Director
- Dr. John Moffatt, Office of Strategic Technology Planning
- Mary Martinson, Elections Manager, Department of Elections

Attachment 1

Observer Rules and Protocol

Observer Rules

Early Ballot Processing:

- There may be no more than two observers in the early ballot processing room at one time
- Observers may not touch any ballots or any containers that have ballots in them
- Observers may not talk to Early Ballot Processing Boards. All questions must be directed to the Supervisor of the Early Ballot Processing Boards
- All items brought by the Observers, save clipboards, paper to make notes and a pen or pencil, must stay in the area designated by the Supervisor of the Early Ballot Processing Boards
- No cameras or recording devices are allowed in the Early Ballot Processing Room

Receiving:

- Observers may not touch any election materials or containers
- Observers may not talk to Receiving Boards. All questions must be directed to the Supervisor of the Receiving Boards
- All items brought by the Observers, save clipboards, paper to make notes and a pen or pencil, must stay in the area designated by the Supervisor of the Receiving Boards
- No cameras or recording devices are allowed at the Receiving Station

Inspection:

- Observers may not touch any election materials or containers
- Observers may not talk to Inspection Boards. All questions must be directed to the Supervisor of the Inspection Boards
- All items brought by the Observers, save clipboards, paper to make notes and a pen or pencil, must stay in the area designated by the Supervisor of the Inspection Boards
- No cameras or recording devices are allowed at the Inspection Station

Hand Count Audit:

- Only one Observer per Party is allowed in each room that Hand Count Audit Boards are working in
- Observers may not talk to Audit Boards. All questions must be directed to the County Officer of the Audit Boards
- Nothing may be brought into the rooms with the observers, save a pen and note paper provided by the County Officer
- No cameras or recording devices are allowed in the Hand County Audit Rooms

Attachment 2

**Request for Legal Opinion Regarding Size of
Early Ballot Hand Count Batches**



MEMORANDUM

Date: October 21, 2008

To: Dan Jurkowitz
Deputy County Attorney, Civil Division

From: C.H. Huckelberry
County Administrator

Re: Size of Early Ballot Batches for Hand Audit

The Secretary of State's Manual, Page 234, under Early Ballot Audit Process, Paragraph 1, indicates that four percent of the early ballots should be selected for possible hand audit. Paragraph 9 indicates that ballots from this election will be counted, equaling one percent of the total early votes cast.

This year possibly 250,000 early ballots will be cast. Four percent of these ballots would equal 10,000. Breaking these ballots into eighths as indicated in Paragraph 3 would equal 1,250 ballots as one batch. Therefore, there would be eight batches of 1,250 ballots. Again, then, referring to Paragraph 9, one percent of the actual early vote, if it remains at 250,000, would equal 2,500 ballots to hand audit, or two batches of 1,250 ballots each.

The parties all concur that attempting to keep track of 1,250 ballots in one batch is an overly cumbersome task and they would prefer that the number of ballots in a batch be no more than 400. The question to you is whether or not our reading of the one or more batches can allow us to divide the one eighth totals from the 1,250 ballot batch to, for example, a more manageable ballot batch of 400 ballots. Hence, prior to election day, not knowing the actual number of early ballots that will be cast, under the previous example, 25 batches of approximately 400 ballots would be selected (10,000 divided by 400) and then of those, only seven batches would be hand counted, equaling 2,800 ballots, exceeding the minimum one percent, which would equal 2,500 ballots.

In our reading of this section of the Secretary of State's Manual regarding early ballot audit processing, we believe we can segregate the ballot batches down to 400 as long as we meet the minimum threshold of four percent selected for possible audit and one percent being actually audited. I would ask for your concurrence with our interpretation of this matter. The math and process is a little complicated. I would suggest if you have questions that you contact Brad Nelson or Mary Martinson to discuss the particulars.

CHH/jj
Attachment

c: Vince Rabago, Chair, Pima County Democratic Party
Sallee Hunter, Acting Chair, Pima County Green Party
David Euchner, Chair, Pima County Libertarian Party
Judi White, Chair, Pima County Republican Party
Brad Nelson, Elections Director
Chris Straub, Chief Civil Deputy County Attorney
Mary Martinson, Elections Manager, Department of Elections

earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference from the previous count that is less than the Designated Early Ballot Count Margin.

Early Ballot Audit Process

1. Prior to beginning the tabulation of early ballots, the County Officer shall estimate the expected total number of early ballots based on past history of a similar election. From this number the County Officer shall calculate a number that equals four per cent of the estimate or 20,000, whichever is less. This number is the number of ballots that will be split into batches and allows a margin for estimating error and room for expansion if necessary.
2. The County Political Party Chairmen will work with the County Officer to specify times during the counting of early ballots that batches will be created.
3. At the specified time the County Officer will create one or more batches that consist of a number of ballots equal to one eighth of the ballots calculated in item 1. This number of ballots constitutes one batch. At least one batch shall be created and processed on each machine used for tabulating early ballots.
4. To create a batch, the County Officer will cease all counting of early ballots (including uploading Accessible Voting Device early ballot results) and will run a tally report of all early votes cast to that point in time. This tally report shall serve as the baseline tally for that batch.
5. The County Officer shall then process the ballots in one batch.
6. Immediately after processing a batch, the County Officer shall run a second tally report of all early votes cast to that point in time. This tally report shall serve as the batch tally report. The difference between the baseline report and the batch tally report shall serve as the results for that batch.
7. The ballots included in a batch as well as the baseline and batch tally reports will be clearly labeled and sequestered separate from any other ballots or batches. The machine that the batches of early ballots were counted on shall be identified and listed with the batch.
8. This process shall continue until eight batches have been created.
9. On Election Day the County Officer shall calculate the exact number of early ballots tallied to that point in time. From this number the County Officer shall calculate a number equaling one per cent of the total early ballots. This shall serve as the number of ballots to audit.



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, TUCSON, AZ 85701-1317
(520) 740-8661 FAX (520) 740-8171

C.H. HUCKELBERRY
County Administrator

October 22, 2008

Judi White, Chair
Pima County Republican Party
5447 East 5th Street, Suite 100
Tucson, Arizona 85711

Re: **Update on Various Activities Related to the General Election**

Dear Ms. White:

Since we will not be meeting this week I thought I would take the opportunity to provide you with a written update of current activities.

1. Letter to the Oro Valley Town Clerk - In the issues raised in my previous letter dated October 21, 2008, Precinct 360 was identified as an election issue. This issue has been resolved. The County has communicated with the Oro Valley Town Clerk, apologizing for any inconvenience or confusion that this issue has caused (see attached letter).
2. "Practice Makes Perfect" - We are providing voting equipment and machines at the Elections Office at 3434 East 22nd Street and the Green Valley Library, and have indicated that poll workers are free to access these locations for practice regarding machine setup, takedown, or processing in advance of election day. These additional opportunities for hands-on training are designed to assist poll workers in the technical components associated with voting equipment that is located at each polling place.
3. Early Ballot Processing Issues - Mickey Duniho recently raised valid issues regarding early ballot processing. In a conversation with Mr. Duniho on Wednesday morning, October 22, 2008, these issues were resolved. Some of the issues relate to ensuring that observers have the correct information and share that information with their subsequent replacements.

We would like to stress that party observers are encouraged to verbally ask questions and/or ask for information if they believe what they receive is insufficient. They should be encouraged to speak up and ask questions of the election officials in charge of the particular process.

It was also agreed that for the processing of unfinished early ballot boxes that are secured in the Elections locked vault room, party observers will be allowed to observe the placement of these boxes in the vault and/or secure room, and the door to that room will be sealed with

tamper proof numbered seals with the numbers available to observers, and the vault/secure room will not be reopened until the following day or time of entry, and entry will only occur upon observation that the seals remained the same and have not been altered.

It was also agreed that party observation of the printing of ballots for duplication will occur to verify and observe the correct number of required duplicate ballot printing.

Finally, for any movement of early ballots at the processing center, such will be verbally announced so that observers have the ability to track and observe any movement of early ballots either into or out of secure storage for transfer to the Technical Center.

4. Web Page for Party Observation Schedules at Both the Elections Office on 22nd Street and the Technical Center - A schedule has been developed by election officials for such and has been transmitted to County Information Technology staff, who are meeting today at 1:00 p.m. to design the web page and its interaction related to updating. It is hoped that this web page schedule of observation requirements will be up and available within 24 hours.
5. Campaign Finance Reports - The deadline for filing campaign finance reports for this next reporting period is October 23, 2008, at 5:00 p.m. The County will scan and post all reports received as soon as possible. It is hoped that most reports will be available for inspection by midnight of October 23, 2008, if received.
6. Logic and Accuracy Test - The final logic and accuracy test occurred today at 10:40 a.m. by the Secretary of State. The tabulation programming passed the Secretary of State's logic and accuracy test.
7. Early Ballots Received and Processed - As of October 22, 2008, we have received 67,164 early ballots from the Recorder. Of these, 45,395 have been processed for tabulation; another 1,554 ballots have required duplication by duplication boards; 5 ballots have been rejected; 31 ballots have been cast on the TSx touchscreen device; and the balance are in process.
8. Sample Ballots - Sample ballots are being mailed to voters this week.

Sincerely,


C.H. Huckelberry
County Administrator

CHH/jj

Attachment

c: Members, Election Integrity Commission
Brad Nelson, Elections Director
Dr. John Moffatt, Office of Strategic Technology Planning
Mary Martinson, Elections Manager, Department of Elections



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, TUCSON, AZ 85701-1317
(520) 740-8661 FAX (520) 740-8171

C.H. HUCKELBERRY
County Administrator

October 21, 2008

Kathryn E. Cuvelier, Town Clerk
Town of Oro Valley
11000 North La Cañada Drive
Oro Valley, Arizona 85737

Re: Your October 14, 2008 Letter to Brad Nelson, the Pima County Elections Director

Dear Ms. Cuvelier:

As we discussed last Friday, the issue of the Oro Valley park bond question in Precinct 360 has been resolved. This letter is to document the issue and its resolution. The resolution of the issue involves both the Department of Elections and the County Recorder, who is the Voter Registrar and conducts early vote ballot processing.

In Pima County, covering the entire geographic area of the County requires 523 different ballot styles where specific voting areas and districts overlap, including municipalities. In the case of the General Election, two municipalities have propositions - Proposition 401 in South Tucson related to greyhound racing and Proposition 400 in Oro Valley related to the authorization of General Obligation Bonds for the Naranja Park.

The error with regard to Precinct 360 is two-fold. First, within Precinct 360 there is a small area that is unincorporated Pima County. Obviously, if there were voters in that area they would not be eligible to vote for the Town proposition. Hence, two different ballot styles - 360.0 and 360.1 - were developed. In one ballot style the voter would receive the Oro Valley proposition as it was directed to Town residents. For any resident who may be in the unincorporated area, they would receive a ballot without the proposition. Because of a geographic coding error described below, the proposition vote would not be counted, even on the ballots showing the proposition. Second, once the error was detected and corrected, we failed to timely notify the Recorder, causing 49 ballots to be mailed without the proposition.

At the start of early voting, 1,078 ballots were mailed to residents within Precinct 360 who had requested early ballots. Of these, 1,029 ballots contained the Oro Valley proposition and, as you know, 49 ballots were sent without the proposition. The Department of Elections runs thousands of test ballots prior to the election to determine if there had been any coding errors made regarding the previously mentioned 523 ballot styles. Test ballot analyses indicated that while the ballots were printed correctly, the coding, which is necessary to have the votes

Kathryn F. Cuvelier
Your October 14, 2008 Letter to Brad Nelson, the Pima County Elections Director
October 21, 2008
Page 2

detected by the AccuVote scanning device, skipped the Oro Valley ballot as if it had been cast in that portion of the precinct which is in the unincorporated area; hence, it disregarded the vote. This problem was detected on September 30, 2008, and early voting started on October 2, 2008. Ballot programming was corrected on October 3, 2008, and the vendor, Runbeck of Phoenix, was notified by Elections staff. Unfortunately, Elections staff failed to notify the Recorder for six days, on October 9, 2008. This resulted in 49 ballots being directed to Oro Valley residents who had their codes reversed, which simply meant that they were receiving a ballot that indicated they were an unincorporated area resident in Precinct 360 when they were not. Obviously, the ballot lacked the Oro Valley proposition. Immediately upon notice of this problem, letters were sent to these voters indicating they were to disregard or destroy their ballot and that a new ballot was being sent to them. Furthermore, followup phone calls have been made to these voters. All Precinct 360 ballots that were sent after October 9, 2008, are correct in that they both contain the Oro Valley proposition and votes cast on this proposition will be properly detected when scanned.

The early ballots that have been sent and are now being received that contain the park question, however, will not tabulate correctly and are being accumulated and separated for duplication immediately after the election. This is commonly referred to as a duplication board, which will include individuals duplicating these ballots on correct ballots under party observation as well as observation by yourself, the Town Attorney, and proponents and opponents of the Oro Valley proposition. Everyone will be invited to observe and participate in this duplication process to ensure that every vote cast in Precinct 360 is accurately counted and reflected in the final canvass of the November 4, 2008 General Election that will occur later in November. As of today, of the 1,029 ballots sent without the correct coding, 196 ballots have been received by Elections and segregated for the above described process.

We apologize for our lack of communication in notifying you when this programming error was detected. We further apologize to the County Recorder for not properly notifying her of the change, which allowed 49 ballots to be sent to Oro Valley voters without the Oro Valley proposition. This issue will not affect election day polling place voters. Through everyone's help and cooperation this matter has been resolved. We appreciate your patience in this matter.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/jj

c: The Honorable Mayor and Council, Town of Oro Valley
The Honorable F. Ann Rodriguez, Pima County Recorder
David Andrews, Town Manager, Town of Oro Valley
Brad Nelson, Pima County Elections Director
Tobin Rosen, Town Attorney, Town of Oro Valley
Mary Davis, Communications Administrator, Town of Oro Valley



TOWN OF ORO VALLEY
11000 N. LA CAÑADA DRIVE
ORO VALLEY, ARIZONA 85737
Administrative Offices (520) 228-4700 Fax (520) 297-0428
www.orovalleyaz.gov

October 14, 2008

Mr. Brad Nelson, Elections Administrator
3434 E. 22nd Street
Tucson, Arizona 85713

Dear Mr. Nelson:

We have been made aware that the early ballots for Precinct 360 did not include Oro Valley Question 400 related to the bond election for the Naranja Town Site Property.

We are concerned about this situation for several reasons. First, we are disappointed by the lack of quality control in the Pima County Elections Division that led to incorrect or incomplete ballots being mailed to voters within the Town of Oro Valley. We fully expect and insist that the Elections Division will take immediate steps to ensure that all voters within the Town receive complete and correct ballots, and that you will cause the Pima County Recorder's office to correspond with early voters who have received incomplete ballots in order to correct and rectify the situation. This should include, at a minimum, providing these early voters with the opportunity to vote a complete and correct ballot. Second, we are dismayed that the Pima County Division of Elections did not make us aware of this situation, but that we had to learn of it from other sources.

We expect that this error will be completely rectified at the on-site early voting locations and at the normal polling places.

Sincerely,


Kathryn E. Cuvelier, CMC
Town Clerk

cc: Oro Valley Mayor and Council
David Andrews, Town Manager
Tobin Rosen, Town Attorney
Mary Davis, Communications Administrator
Chuck Huckelberry, Pima County Administrator
F. Ann Rodriguez, Pima County Recorder



MEMORANDUM

Date: October 3, 2008

To: Election Integrity Commission

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: Arrest of Mr. John Brakey at the Hand Count Audit of Saturday, September 6, 2008

Mr. John Brakey, apparently representing the Democratic Party at the hand count audit, disrupted the audit proceedings. The Elections Director, acting only in response to a complaint provided by a political party regarding the activity of Mr. Brakey in the hand count audit, asked Mr. Brakey to refrain from interrupting the hand count audit process on a number of occasions. Mr. Brakey refused. Law enforcement was requested to assist in asking Mr. Brakey to refrain from interrupting the hand count audit process. Mr. Brakey again refused. Mr. Brakey was asked to remove himself from the room. He refused. Mr. Brakey then stated that the only way in which he would be removed from the building was to be arrested. Such a belligerent attitude forced law enforcement to arrest Mr. Brakey.

The facts regarding Mr. Brakey's arrest are detailed in the attached police report (Attachment 1). In addition, the complaining party to the actions and activities of Mr. Brakey was the Republican Party representative, Mr. Benny White, and his statement is included as Attachment 2. These reports speak for themselves and require no further explanation.

It is unfortunate that Mr. Brakey attempted to use this incident in a manner to publicize his particular agenda in this matter. As clearly indicated in the last section of the arresting officer's report, the arresting officer declined to re-handcuff Mr. Brakey and take a photograph of him "talking to his attorney." While this may be acceptable ethical behavior by some, it is clearly theatrical and unacceptable in a setting as important as an election.

Attachment 3 is the motion request of the Board of Supervisors dated September 2, 2008, to have the Election Integrity Commission conduct an investigation into this matter.

CHH/jj

Attachments

c: Brad Nelson, Elections Director
Dr. John Moffatt, Office of Strategic Technology Planning

Attachment 1



Pima County Sheriff's Department

Detail Incident Report for 080906184

Nature: TRESPASS
Location: City of Tucson

Address: 3434 E 22 ST; 1200S; County Elections
Tucson AZ 85713

Offense Codes: 2625

Received By: Morris, Michael

How Received: Radio

Agency: PCSD

Responding Officers: Gutierrez, Artur Morales, Jorge

Responsible Officers: Gutierrez, Artur

Disposition: Active 09/06/08

When Reported: 12:19:34 09/06/08

Occurred Between: 12:18:58 09/06/08 and 12:18:58 09/06/08

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Radiolog:

Unit: 309

Enroute:

Arrived: 12:19:34 09/06/08

Completed: 12:45:46 09/06/08

Unit: 676

Enroute: 12:20:03 09/06/08

Arrived: 12:27:04 09/06/08

Completed: 12:21:53 09/06/08

To: Mr. Huckelberry
c/o Julie Johnson

9/8/08

per your request.

John Brunkey review report

copy for

Board
information

CBH

9/8/08

Detail Incident Report for 080906184

Page 2 of 11

INVOLVEMENTS

<u>Type</u>	<u>Record</u>	<u>Date</u>	<u>Relationship</u>
nmmain	896777	09/07/08	WITNESS
nmmain	958172	09/07/08	ARRESTEE
nmmain	1143041	09/07/08	WITNESS
jmmain	080907062	09/07/08	Arrest/Offense
edcall	3260484	09/06/08	Initiating Call

Detail Incident Report for 080906184

Page 3 of 11

ARRESTEES:

Name: BRAKEY, JOHN R. Name Number: 938172
Race: S Sex: M DOB: 04/21/54 Hgt: 6'00" Wgt: 225 Hair: BRO Eyes: HAZ
Address: 5947 S PLA PICACHO EL DIABLO, Tucson, AZ 85706
Home Phone: (520)250-2360 Work Phone: () -

Hair: BRO Eyes: HAZ

P. Name Number: 896777
 Sex: F DOB: 08/21/47
 RD, Tucson, AZ 85719
 Work Phone: () -

R. Name Number: 1143041
 Sex: M DOB: 07/30/54
 PL, 5425N, Tucson, AZ 85704
 Work Phone: () -

Detail Incident Report for 080906184

Page 5 of 11

ARRESTEE:

Name: BRAKEY, JOHN R. Name Number: 958172
Race: S Sex: M DOB: 04/21/54 Hgt: 6'00" Wgt: 225 Hair: BRO Eyes: HAZ
Address: 5947 S PLA PICACHO EL DIABLO, Tucson, AZ 85706
Home Phone: (520)250-2360 Work Phone: ()-

ARREST:

Arrest Date: 12:19:00 09/06/08 Agency: Pima County Sheriff's Dept.
Type: Probable Cause Arrest Arresting Officer: Gutierrez, Artur
Disp: Cite & Release - Adult Location: 3434 E 22 ST
Age Status: A

OFFENSE: TRESPASSING

Statute: CRIMINAL TRESPASS 2ND DEGREE
Class: Class 2 Misdemeanor
Location: 3434 E 22 ST

Time/Date: 12:19:00 09/06/08

Type: Arizona Law Violation
Court: JUSTICE COURT #1
Law: Arizona Revised Statutes

Detail Incident Report for 080906184

Page 6 of 11

NARRATIVE:

Initial Case Dictated By A. R. Gutierrez #730 in Supp. 1

Detail Incident Report for 080906184

Page 7 of 11

SUPPLEMENTAL NARRATIVE:

Initial Case Narrative By A. R. Gutierrez #730 on 09/07/08 at 0838 hrs.
Total Dictation Time = 18:14 mins.
Total Narrative Dictation Time = 15:24 mins.

SYNOPSIS:

This report will reflect my contact with and the arrest of John Brakey (DOB 04/21/54).

NARRATIVE:

On 09/06/08, at approximately 1215 hours, at the Pima County Elections Headquarters at 3434 East 22nd Street.

On 09/06/08, between the hours of 0600 hours and 1400 hours, I was working in an off duty capacity at the Pima County Elections Headquarters, at 3434 East 22nd Street. Upon my arrival to this post, I was advised that at approximately 1030 hours, 40 people would be coming in to do an audit and a hand count of election ballots for the primaries.

At approximately 1030 hours, people began to arrive at the location to do the hand count. There were representative from the Democratic party, the Republican party, the Independent party and the Green party.

As subjects were checking in, I took note of or observed one of the subjects who had arrived. This subject was later identified as John Brakey. At that time, I noticed that Mr. Brakey was confrontational and opinionated during this time. As people were checking in, I observed Mr. Brakey have contact with Brad Nelson who is the elections director. Mr. Brakey at that time was questioning Mr. Nelson as to why Pima County elections were not being audited. During this time, I also heard him making statements to other people in the hallway that our system was corrupt and also to the effect that Pima County could do what they want or that Pima County was the "big bully."

After the check in process of the volunteers who came to do the audit and the hand count of the ballots, they were separated into their parties and all placed into one large room where instructions were given as to how the audit would take place.

As people were checking in, they were also notified that no phones, electronic equipment, pens, pencils, food or drink items would be allowed into the room

Detail Incident Report for 080806184

Page 8 of 11

once the process started.

After instructions were given to the volunteers, they were then separated into two rooms and were seated at nine different tables with the parties mixed. Some of the tables had Democrats and Republicans and the process began.

During this time, I saw that Mr. Brakey was not one of the auditors or one of the counters, but was in the position of being an observer. At this time, I also noted that Mr. Brakey had taken a piece of paper or a pad and a pen or a pencil into the rooms and at this time, due to his position as being an observer, I did not know if he was allowed to take these into the rooms.

As the audit process was moving along and people were doing the work, I noticed that Mr. Brakey would go to different tables and he would lean over and have interaction with the people doing the hand count. He would then go into the other room and do the same thing. He would lean over the table getting close to the people and have some type of interaction with them.

During the process at this time, I overheard Judy White who was the Republican party chairperson complain of Mr. Brakey's actions. Also present was the County Attorney with Pima County who was there to oversee any legal issues. I unfortunately did not have his name and I heard Ms. White speaking with him reference the conduct of Mr. Brakey and what exactly the responsibilities of the observer had and she felt that Mr. Brakey should not be interacting with people.

This continued for some time. At one point, I was standing in the hallway between the two rooms where the people were doing the audits. At one point, Mr. Brad Nelson who is the elections director call me requesting that I remove a subject from the premises. I then entered the room and at that time, Mr. Nelson directed me toward Mr. Brakey. As I walked in, I observed Mr. Brakey again at the table having some type of interaction with the people doing the audit. Mr. Nelson stated at this time that Mr. Brakey was being disruptive and as his position as the elections director, he had the authority to have Mr. Brakey removed, that he was not complying and was being disruptive.

Mr. Brakey at this time became confrontational and argumentative. He began stating he had a right to question things and began talking about the seals to the bags were not correct.

Mr. Nelson told Mr. Brakey that he had already been told that if he had any questions that he was to come to him and that Mr. Nelson would direct any

Detail Incident Report for 080906184

Page 9 of 11

questions toward the people doing the audit. Mr. Brakey continued to be argumentative and at this time, I told Mr. Brakey he had to leave and that he needed to remove himself from the room. Mr. Brakey refused to do so and again began arguing reference his rights to question the audit and to question the seals on the bags and was refusing to leave. I told Mr. Brakey numerous times that he needed to go and Mr. Brakey refused. Mr. Brakey then stated that he wanted to be arrested. I advised Mr. Brakey that we could avoid this situation and that he just needed to leave and was ordered to do so.

Mr. Brakey again refused and stated he wanted to be arrested. I then told Mr. Brakey to turn around and I grabbed his left hand and placed a handcuff on it and advised him that he was under arrest. As I placed the handcuff on Mr. Brakey's left wrist, he immediately complained it was tight and that his left wrist had been broken previously. The County Attorney who was present was observing this and also confirmed that Mr. Brakey had previously broken his wrist. I also grabbed Mr. Brakey's right hand to bring it back to cuff it, but he was a man of rather large size and not very flexible and it was difficult handcuff him.

Mr. Brakey was not resisting but due to his flexibility and the injury to his hand, I then opted to take off the handcuffs. I then removed the handcuff off of Mr. Brakey and at this time, I again told him that he had to leave.

Mr. Brakey, Mr. Nelson and I then walked out into the hallway. Mr. Brakey continued to be argumentative and was again questioning his rights to talk to the auditors and to question the seals to the bags containing the ballots. Mr. Brakey was still refusing to leave. At this time, I again told him that he needed to leave and that he was already under arrest and (inaudible). Mr. Brakey continued to state that he wanted to be arrested and that he was not leaving.

I then at this time escorted Mr. Brakey outside of the building. As we were walking down the hallway, Mr. Brakey yelled out to the volunteers doing the audit in the other room that he was being arrested. He had also caused a scene and a disturbance in the initial room where I made contact with him regarding his removal and being arrested.

Upon exiting the building, I had a chair brought out and I had Mr. Brakey sit in the chair. I had also handcuffed Mr. Brakey, handcuffing him in the front and advising him that he was under arrest for Criminal Trespass in the 2nd Degree.

Detail Incident Report for 080908184

Page 10 of 11

At this time, I had to request a San Xavier Unit to respond to my location to bring me a citation and a possible transport of Mr. Brakey to the Pima County Adult Detention Center if he refused to sign the citation.

I then explained the citation to Mr. Brakey or the charge, stating he would be charged with Criminal Trespass in the 2nd Degree. I advised him it was a misdemeanor violation and that I would complete a citation. Upon completion of the citation, he would be requested to sign the citation. I explained to him that he would not be admitting guilt, just promising to appear on the date directed. Mr. Brakey at this time acknowledged that if he refused to sign the citation that he would be taken to jail. Mr. Brakey at this time requested or wanted to know when he could make a phone call to his attorney. I explained to Mr. Brakey at this time that I did not need to give him that option but I would go ahead and allow him to call his attorney.

I then waited for the arrival of a deputy to bring me a citation. Deputy J. L. Morales #6321 arrived at the location. I then asked Deputy Morales to watch Mr. Brakey and I went back into the building and retrieved Mr. Brakey's property which contained a laptop and a bag containing his phone and other items.

I brought the bag out and with the assistance of Mr. Brakey we retrieved his phone. I then advised Mr. Brakey that he could go ahead and call his attorney and get their advise as to what he should do. Mr. Brakey stated that his attorney was Brad Roach (ph) and he attempted to contact him numerous times unsuccessfully. He also apparently called another attorney and left a message that he wanted a call back.

After the citation was completed, I then again explained the citation to Mr. Brakey advising him that he was being charged with Criminal Trespass in the 2nd Degree and that he needed to appear in the Pima County Justice Courts on 09/30/08, at 0830 hours to respond to the charge.

Mr. Brakey again wanted to make a point stating he wanted to be arrested, because he wanted to make a point and stand up for his cause that he believed the count was fraudulent, that the seals were broken to the bags that contained the ballot and apparently there was not paperwork in the bags verifying the information with the bags.

Mr. Brakey then signed the citation and I advised him he was free to depart and that he needed to leave the property. The handcuffs had been previously taken off of Mr. Brakey. Mr. Brakey was cooperative with me but he again explained

Detail Incident Report for 080908184

Page 11 of 11

that he had a point to make and also at this time, he requested if I could take a photograph of him with the handcuffs on, talking on the cell phone to his attorney. I advised Mr. Brakey I could not do this for him and I again advised him that he was free to depart but he had to leave the property. Mr. Brakey cooperated, picked up his items and removed himself from the property.

At this time, I have no further information and this concludes my involvement in this case.

NFI Transcribed By #5186 on Sun Sep 07 13:05:20 MST 2008

Attachment 2

SWORN STATEMENT OF BENNY WHITE

My name is Benny White and I reside at 1715 East Kleindale Road in Tucson, Arizona. The zip code is 85719. My telephone number is 520-795-3046. Today's date is Tuesday, September 9th, and it is currently 2:58 pm. I am sitting in the small conference room on the tenth floor of the County Administration Building. The purpose of this recording is to capture my recollections and memory of events that happened last Saturday, September 6th at the Pima County Elections Department offices at 3434 East 22nd Street in Tucson at about midday.

I am the designated Republican observer for election activities in Pima County and I was asked to accompany our party Chairman Judi White to observe both the hand audit of the ballots that were cast at the polls on Election Day and the early ballots and the second selection of the nine precincts that were to be audited on Saturday. The hand audit was scheduled to begin at 11 o'clock in the morning and I arrived at the facility at about 10:50.

When I arrived I entered the building and saw that there were quite a few people there. Mr. Jim March was there and he was complaining about the fact that he had to secure his firearm in a secured locker within the facility. That discussion didn't last very long then I saw that Mr. John Brakey was also in the building. I am issued an election pass as a designated political observer for the Republican Party. I saw that Mr. Brakey did not have that type of pass on him and I asked who he was representing at the event. I was told by Brad Nelson, the director of Elections, that Mr. Brakey was representing the Democratic Party at the audit. I also saw Barbara Tillman there who was the designated representative of the Chairman of the Democratic Party. Barbara was also going to work as part of the audit but

she acted as the Chairman of the Party for the additional precinct selection later in the morning.

When I arrived in that hallway between the two hand audit board rooms it was about five minutes to eleven I guess at this point. I saw that Mr. Brakey had a laptop computer set up at one of the tables in the hallway and I suppose he was using that to keep records. I don't know, he had screen display up when I saw the laptop. He was also handing out a cassette that contained a DVD called Fatally Flawed. This is a cassette that is labeled AZ Election Integrity Pack. I am leaving that with Dr. John Moffat here today so that he can review the contents of that. I have not viewed the DVD, but Mr. Brakey was handing that out to the observers to the Party Chairman and to the members of the audit boards when I arrived.

At about 11:15 the audit board members gathered into one of the two rooms that were going to be used for the hand audit for a briefing by Mr. Nelson on what they were doing that day and what the procedures would be used and had to be followed. During that briefing Mr. Brakey interrupted Mr. Nelson quite loudly with an announcement that the proceeding afternoon he and others requested that there be a county election included in the elections to be considered for the audit. He was quite vociferous in expressing his objection to the fact that the County Election was not included and he interrupted Mr. Nelson's briefing. Finally Mr. Nelson interceded and told him it was not a matter for discussion at this event and asked him to refrain from further comment on that.

After the briefing by Mr. Nelson the audit board members took their places in the two rooms with three members seated at each table to begin the audit process.

Shortly after that, in one of the rooms Mr. Brakey began going from table to table and talking to the board members who were going to be conducting the audit. I don't know for sure what he was telling them at that point but I

objected because political party observers should not be conducting conversation with or providing instructions to the audit board members. I voiced my objection to Dan Jurkowitz who is the Deputy County Attorney attending this event. He responded that I should bring this to the attention of the manager of the election Mr. Nelson. I then went to my party chairman Judi White and told her that I objected to Mr. Brakey's interference with the process and his instruction to the board members. She brought this matter to the attention of Mr. Nelson. Mr. Nelson promptly approached Mr. Brakey and told him he must discontinue talking directly to the board members and that if he had any concerns or questions that needed to be addressed he should bring his questions and concerns to either Mr. Nelson or to one of the other election officials, Mary Martinson or Romey and that they would make sure that his concerns and questions were properly addressed. Mr Brakey then went on to continue talking directly to people at the audit boards in that first room and I objected again and Mr. Nelson once again instructed Mr. Brakey that he must discontinue those types of conversations with the board members.

I then went to the second room where board members were also preparing to conduct the hand audit. Mr. Brakey then came into that room and spoke very loudly so that I could hear what he was saying. He began instructing the board members in that room that they should be checking the security of the seals on the blue containers and the paperwork that was inside of all the containers to check for discrepancies and missing documentation. This was not a part of the procedures that had been briefed by Mr. Nelson for the board members to accomplish during the hand audit. Mr. Brakey continued this process of going from table to table.

Mr. Nelson followed Mr. Brakey into the room and once again told him to stop interfering with the hand audit process. Mr. Brakey ignored Mr.

Nelson's request and continued to move from table to table. It seems to me this incident happened about three times.

Finally Mr. Nelson told Mr. Brakey that if he did not discontinue his interference and disruption of the hand audit process, he would have to have him removed from the premises. Mr. Brakey refused to stop and then Mr. Nelson left that room to go get the security officer who was stationed in the hall.

The security officer came into the room and told Mr. Brakey that he would have to leave the room and that he had been ejected from the facility. Mr. Brakey argued with the security officer that it was his right as a political party observer to make sure that the security of the election was intact and that it was necessary to talk to the board members to make sure that was accomplished. The security officer listened for a couple of seconds or possibly a minute or so and then told Mr. Brakey that he would have to leave the audit board room at that time. Mr. Brakey did so and went out into the hallway between the two audit board rooms.

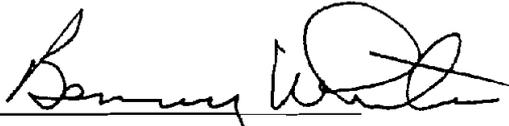
Once outside the audit board rooms, Mr. Brakey, I, Brad Nelson, and Dan Jurkowitz were there along with the security officer. The security officer told Mr. Brakey that he would have to leave the facility and Mr. Brakey refused to do so. It's my recollection now that the security officer told Mr. Brakey at least three times and possibly four times it would be necessary for him to leave the facility. Mr. Brakey objected and refused claiming that it was his right as a citizen to be in the facility and that he would not leave voluntarily. Mr. Brakey then continued to say that if he were to be removed he would only do so if he were arrested. The officer then told Mr. Brakey that it would not be necessary for him to be arrested; he could leave voluntarily. Mr. Brakey continued to refuse and again I recall that the security officer told Mr. Brakey on at least three occasions that he could leave voluntarily and that there would be no need for his arrest.

Finally, Mr. Brakey refused to leave the facility unless he was arrested and the security officer at that point asked Mr. Brakey to turn around and to put his arms behind him. The officer then started to apply the handcuffs to Mr. Brakey. He applied one handcuff and Mr. Brakey objected because he claimed that he had recently received an injury to a wrist and the handcuffs were too tight and were hurting him. The officer then discontinued the effort to put the handcuffs on Mr. Brakey behind his back. Dan Jurkowitz confirmed to the officer that Mr. Brakey had recently had an injury to his wrist. The officer then again asked Mr. Brakey to voluntarily leave the facility and it would not be necessary to handcuff him or arrest him. Mr. Brakey again refused. At that point the officer handcuffed Mr. Brakey in front his waist and made sure that the handcuffs were not too tight. Mr. Brakey then was escorted out of the building and on his way out of the building he waved goodbye to everyone and made loud announcements that he was being arrested and removed from the facility.

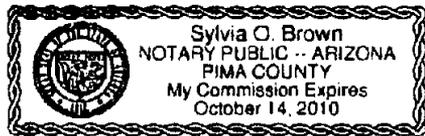
Shortly after Mr. Brakey was outside and before the Tucson Police Department arrived to take custody of Mr. Brakey, a reporter from the Arizona Daily Star arrived to investigate the activity and to question Mr. Brad Nelson about what had happened. This was followed by at least two television media crews showing up with reporters and video recorders. Then two political candidates, Mr. Brad Roach and Mr. Barney Brenner showed up. Bill Risner arrived shortly after that, followed closely by Mr. Ted Downing. All of these individuals arrived within twenty to thirty minutes after Mr. Brakey was removed from the facility. This indicated to me that once he was outside Mr. Brakey was able to use his cell phone to call various people and media representatives and in a very rapid manner they were all immediately available to appear at the election facility.

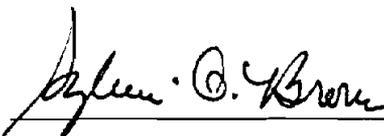
That was the end of events I observed that happened on Saturday around midday at the Election Facility that related to the arrest and removal of John Brakey from the election facility.

Dated this 12 day of September, 2008.


BENNY WHITE

SUBSCRIBED AND SWORN TO BEFORE ME by Benny White on this 12 day of September, 2008.




Notary Public

Attachment 3

BOARD OF SUPERVISORS' MEETING
SEPTEMBER 12, 2008

DIVISION OF ELECTIONS

Pursuant to A.R.S. §16-642, canvass of the September 2, 2008, Primary Election.

=====
CODE:

RE Richard Elías, Chairman
RV Ramón Valadez, Vice Chair
SB Sharon Bronson, Member
RC Ray Carroll, Member
AD Ann Day, Member
LG Lori Godoshian, Clerk

CH Chuck Huckelberry, County Administrator

=====

RE All right, Mr. Huckelberry, a couple of questions for you. Have all the returns from our polling places been opened and received and included in the final statement of votes cast?

CH Mr. Chairman, yes they have.

RE Okay, and does the final statement of votes cast include write-ins and accurately reflect the results of the 2008 Primary?

CH Yes it does and the entire canvass is available has been produced on a compact disk available to anyone who would ask it. Later today we will be running the databases and providing that information to anyone who wishes to have it. All information has been completed, compiled and the canvass is appropriate for approval and forwarding to the Secretary of State and as required by law, this is a Primary Election, requires the canvass to be completed 10 days after the election, this is the 10th day.

RE Okay, A.R.S. clearly states that in 16-45B, this Board of Supervisors' shall deliver the canvass to the Secretary of State within 10 days after the Primary Election--that's "shall." It's not a question of if. If we do not do that we are committing a Class 2 misdemeanor, we cannot do that so what I'm going to do is I'm going to move that we approve the canvass of the September 2, 2008, election and I'm going to ask that we conduct an investigation regarding Mr. Brakey and his arrest and Mr. Nelson's performance that night and I'd really rather have this investigation conducted by the Elections Integrity Committee that this Board has put together so that it's separate from the Administration and so that there is some clarity there. And I'd also ask that we have, at the same time, investigate the fact of why those seals were not handled properly by our workers and what exactly happened there

so that we have some answers that define exactly what transpired that were problems for that hand count that night. Do I have a second?

RV Mr. Chairman, I will second if you will let me add something to it.

RE What's that?

RV I will also add in addition to that, that they have the same commission look at what mistakes were made during this election process by poll workers and come up with a set of recommendations on how to prevent them in the General Election.

RE That's a good idea, I'll take that.

RV Second.

RE Okay. Discussion?

SB Mr. Chairman?

RE Supervisor Bronson then we'll go to you Supervisor Day.

SB The information or the questions that were raised and I'm trying to remember who initially, Duniho maybe, who did this. If we could also have the County Administrator or the appropriate department respond to those queries and make it a public record please.

RE That's fine too. Okay, Supervisor Day.

AD I just wanted to ask, I didn't see any mention (inaudible) reports (inaudible) this week, what's the status on the commission? The last I looked there were four appointed, it's the committee.....

RE I appointed my person this past week on Tuesday.

CH Mr. Chairman, I think that we've got appointments by myself and four members of the Board, parties, chairs need to make their appointments, I think we're probably one short of a quorum at this point and that's what has been holding up the elections process.

RE So we need to move forward on getting those appointments completed so we can get this done quickly, okay? Because it needs to happen and needs to transpire very quickly for us, okay? So from a party perspective, please, let's get moving on that and if there is any Supervisor's that have not made their choices yet, let's get going with it. Okay, any other discussion? Do you want to say something?

CH Mr. Chairman, no I will provide the reports and the answers to the issues that were raised by the public today in a format that's available to the Board and the public. In addition, I referenced in my memorandum the additional work on the seals and the

return of machines, all of that information and recommendations will be completed and provided to both the Board and to the Election Integrity Commission for their action and recommendations to you.

SB Mr. Chairman, one more item. There were some assertions and I understand a press conference yesterday that Pima County could have counted these ballots considerably faster than we did. Can we respond to those assertions and can we also, whether it's administration or the Election Integrity Commission have them review that particular item also?

RE Yes, I think that's perfectly appropriate because and I know that we're going to have a meeting with all of the parties and people involved about those procedures that possibly could speed things up, but I agree with Mr. Huckelberry's comment last week that unless there is unanimous agreement of everybody then we're going to stick with the procedure that we used on last Tuesday. What I would also say is that I think it's important that these reports from the Election Committee come forward to us prior to the General Election so that we're able to implement any recommendations that they may make and that this Board agrees with. Roll call.

RC Mr. Chairman?

RE Supervisor Carroll.

RC Mr. Chairman, after the speakers and after comments from Board members, I don't know if this will fly but I don't know if we had an official.....as far as approving this canvass today, I believe that by the 16th, that would be Tuesday, we could allow further review and further discussion with the County Administration, the Elections Division and members of this audience who have spoken besides our Board members. I would like, if possible, to just adjourn this meeting as was recommended until September 16th for the reason that we do have an incredible, probably the most--the highest voter turnout ever in the nation will be on November 4, 2008, and I think we do have some problems we need to fix. I'd like to delay this action until the 16th which is Tuesday, keep it on the agenda, keep the meeting open and also, inquire to the Secretary of State, the (inaudible) office in Phoenix, the legislature including Kirk Adams, the Chair of the committee that could hold a public hearing, to get input before the end of this month to see if we can make sure that if there is legislation or if there is ideas that could help with integrity issues by 11/04/08. Those would be investigated and implemented, if possible. The 16th is not too far, I understand the Class 2 misdemeanor is a possible fate of that decision but I think that the irregularities and the incident of the arrest of a poll worker and other things that have been identified today certainly do hurt the image of our free and open election process. I'd like to help restore the confidence of people in this room and myself and other members of the community who are not represented by a party at this time, to wait until the 16th to approve the canvass and that's in the form of a motion.

RE Motion dies for the lack of a second. I share Supervisor Carroll's concerns about election integrity and making sure that people know what's going on and I have

continued to show that consistently in my votes regarding election integrity and you know what? We are at a stage right now where clearly the reading of the A.R.S. says that we need to finish this canvass today. That does not preclude.....that does not preclude other redress that folks might have for questioning the results of this election, but it is our duty to do that as it stands today. Roll call please.

LG	Supervisor Bronson	aye
	Supervisor Carroll	no
	Supervisor Day	aye
	Supervisor Valadez	aye
	Chairman Elías	aye

RE Motion carries unanimously....

LG 4-1.

RE 4-1,excuse me and this meeting stands adjourned.



MEMORANDUM

Date: October 3, 2008

To: Election Integrity Commission

From: C.H. Huckelberry,
County Administrator *CHH*

Re: **First Meeting of the Election Integrity Commission**

As of this date, five members of the Election Integrity Commission have been appointed. An additional appointment is necessary in order to establish a quorum and begin your reviews, deliberations and recommendations regarding election integrity. It appears likely that the sixth member of the Commission and hence a quorum will be appointed by the Board on Tuesday, October 7, 2008. We have, therefore, taken the opportunity to establish the first organizational and informational meeting for the Commission, on Friday, October 10, 2008, from 1:30 p.m. to 3:30 p.m. at 3434 East 22nd Street. Please contact Victoria Ames at 740-8387 to confirm if you will be available for this first meeting. This time and place will be publicly noticed as the Commission is subject to the Open Meeting Law. A Deputy County Attorney will be available to discuss how the Arizona Open Meeting Law applies to your Commission deliberations and actions.

I am enclosing a recent report to the Board regarding the September Primary Election. A number of other documents that have been previously published regarding the subject of election integrity will be provided to you on Friday.

At the canvass of the September 2, 2008 Primary Election the Board made specific requests of the Commission to review certain matters related to the September Primary Election. Their motion and request is attached for your information.

While the Commission may review this matter and respond to the Board of Supervisors as the Commission deems appropriate, the Commission should not take any action or make any statement that could impede or jeopardize subsequent judicial proceedings that may take place regarding this matter. Specifically, no action should be taken that could jeopardize the defendant's constitutional rights with respect to those pending judicial proceedings, including the defendant's right to remain silent and the right to a fair trial not tainted by adverse pretrial publicity.

We look forward to assisting you in these most important deliberations.

CHH/jj

Attachments

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Lori Godoshian, Clerk of the Board of Supervisors
Brad Nelson, Elections Director
Dr. John Moffatt, Strategic Technology Planning
Victoria Ames, Executive Administrative Assistant to the County Administrator

BOARD OF SUPERVISORS' MEETING
SEPTEMBER 12, 2008

DIVISION OF ELECTIONS

Pursuant to A.R.S. §16-642, canvass of the September 2, 2008, Primary Election.

=====

CODE:

- RE Richard Elías, Chairman
- RV Ramón Valadez, Vice Chair
- SB Sharon Bronson, Member
- RC Ray Carroll, Member
- AD Ann Day, Member
- LG Lori Godoshian, Clerk

CH Chuck Huckelberry, County Administrator

=====

RE All right, Mr. Huckelberry, a couple of questions for you. Have all the returns from our polling places been opened and received and included in the final statement of votes cast?

CH Mr. Chairman, yes they have.

RE Okay, and does the final statement of votes cast include write-ins and accurately reflect the results of the 2008 Primary?

CH Yes it does and the entire canvass is available has been produced on a compact disk available to anyone who would ask it. Later today we will be running the databases and providing that information to anyone who wishes to have it. All information has been completed, compiled and the canvass is appropriate for approval and forwarding to the Secretary of State and as required by law, this is a Primary Election, requires the canvass to be completed 10 days after the election, this is the 10th day.

RE Okay, A.R.S. clearly states that in 16-45B, this Board of Supervisors' shall deliver the canvass to the Secretary of State within 10 days after the Primary Election--that's "shall." It's not a question of if. If we do not do that we are committing a Class 2 misdemeanor, we cannot do that so what I'm going to do is I'm going to move that we approve the canvass of the September 2, 2008, election and I'm going to ask that we conduct an investigation regarding Mr. Brakey and his arrest and Mr. Nelson's performance that night and I'd really rather have this investigation conducted by the Elections Integrity Committee that this Board has put together so that it's separate from the Administration and so that there is some clarity there. And I'd also ask that we have, at the same time, investigate the fact of why those seals were not handled properly by our workers and what exactly happened there

so that we have some answers that define exactly what transpired that were problems for that hand count that night. Do I have a second?

RV Mr. Chairman, I will second if you will let me add something to it.

RE What's that?

RV I will also add in addition to that, that they have the same commission look at what mistakes were made during this election process by poll workers and come up with a set of recommendations on how to prevent them in the General Election.

RE That's a good idea, I'll take that.

RV Second.

RE Okay. Discussion?

SB Mr. Chairman?

RE Supervisor Bronson then we'll go to you Supervisor Day.

SB The information or the questions that were raised and I'm trying to remember who initially, Dunihoé maybe, who did this. If we could also have the County Administrator or the appropriate department respond to those queries and make it a public record please.

RE That's fine too. Okay, Supervisor Day.

AD I just wanted to ask, I didn't see any mention (inaudible) reports (inaudible) this week, what's the status on the commission? The last I looked there were four appointed, it's the committee.....

RE I appointed my person this past week on Tuesday.

CH Mr. Chairman, I think that we've got appointments by myself and four members of the Board, parties, chairs need to make their appointments, I think we're probably one short of a quorum at this point and that's what has been holding up the elections process.

RE So we need to move forward on getting those appointments completed so we can get this done quickly, okay? Because it needs to happen and needs to transpire very quickly for us, okay? So from a party perspective, please, let's get moving on that and if there is any Supervisor's that have not made their choices yet, let's get going with it. Okay, any other discussion? Do you want to say something?

CH Mr. Chairman, no I will provide the reports and the answers to the issues that were raised by the public today in a format that's available to the Board and the public. In addition, I referenced in my memorandum the additional work on the seals and the

return of machines, all of that information and recommendations will be completed and provided to both the Board and to the Election Integrity Commission for their action and recommendations to you.

SB Mr. Chairman, one more item. There were some assertions and I understand a press conference yesterday that Pima County could have counted these ballots considerably faster than we did. Can we respond to those assertions and can we also, whether it's administration or the Election Integrity Commission have them review that particular item also?

RE Yes, I think that's perfectly appropriate because and I know that we're going to have a meeting with all of the parties and people involved about those procedures that possibly could speed things up, but I agree with Mr. Huckelberry's comment last week that unless there is unanimous agreement of everybody then we're going to stick with the procedure that we used on last Tuesday. What I would also say is that I think it's important that these reports from the Election Committee come forward to us prior to the General Election so that we're able to implement any recommendations that they may make and that this Board agrees with. Roll call.

RC Mr. Chairman?

RE Supervisor Carroll.

RC Mr. Chairman, after the speakers and after comments from Board members, I don't know if this will fly but I don't know if we had an official.....as far as approving this canvass today, I believe that by the 16th, that would be Tuesday, we could allow further review and further discussion with the County Administration, the Elections Division and members of this audience who have spoken besides our Board members. I would like, if possible, to just adjourn this meeting as was recommended until September 16th for the reason that we do have an incredible, probably the most--the highest voter turnout ever in the nation will be on November 4, 2008, and I think we do have some problems we need to fix. I'd like to delay this action until the 16th which is Tuesday, keep it on the agenda, keep the meeting open and also, inquire to the Secretary of State, the (inaudible) office in Phoenix, the legislature including Kirk Adams, the Chair of the committee that could hold a public hearing, to get input before the end of this month to see if we can make sure that if there is legislation or if there is ideas that could help with integrity issues by 11/04/08. Those would be investigated and implemented, if possible. The 16th is not too far, I understand the Class 2 misdemeanor is a possible fate of that decision but I think that the irregularities and the incident of the arrest of a poll worker and other things that have been identified today certainly do hurt the image of our free and open election process. I'd like to help restore the confidence of people in this room and myself and other members of the community who are not represented by a party at this time, to wait until the 16th to approve the canvass and that's in the form of a motion.

RE Motion dies for the lack of a second. I share Supervisor Carroll's concerns about election integrity and making sure that people know what's going on and I have

continued to show that consistently in my votes regarding election integrity and you know what? We are at a stage right now where clearly the reading of the A.R.S. says that we need to finish this canvass today. That does not preclude.....that does not preclude other redress that folks might have for questioning the results of this election, but it is our duty to do that as it stands today. Roll call please.

LG	Supervisor Bronson	aye
	Supervisor Carroll	no
	Supervisor Day	aye
	Supervisor Valadez	aye
	Chairman Elías	aye

RE Motion carries unanimously....

LG 4-1.

RE 4-1,excuse me and this meeting stands adjourned.