

# **Pima County Election Integrity Commission**

<http://www.pima.gov/commission/ElectionIntegrity.shtml>

## **Minute Summary**

The Pima County Election Integrity Commission met in regular session on January 20, 2012, at the Pima County Administration Building, Finance & Risk Management Department Conference Room, 6<sup>th</sup> Floor, 130 W. Congress, Tucson, Arizona 85701.

### **Item 1:        Roll Call**

**Present:**       Charles Geoffrion, Jim March, John Moffatt, Pat Pecoraro, Tom Ryan, Barbara Tellman, Arnie Urken, and Benny White (via teleconference)

**Absent:**        Mickey Duniho, Ann-Eve Pedersen, and Drew Spencer

Also in attendance: Brad Nelson, Pima County Elections Department; Mike Dale, Pima County Elections Department

### **Item 2:        Pledge of Allegiance:**

Those in attendance stood for the Pledge of Allegiance.

### **Item 3:        Approval of the December 2, 2011 Minute Summary:**

Barbara Tellman motions to approve the minute summary. Pat Pecoraro seconds the motion. Motion carries with one abstention.

### **Item 4:        Secretary of State Election Procedures Manual Process – Brad Nelson**

The Governor and Attorney General signed off on the Procedures Manual, and on November 29<sup>th</sup>, the manual was forwarded to the United States Justice Department with pre-clearance. The Justice Department has 60 days to decide if the manual is accepted or not. Most changes were particular to voter registration. No inquiries have been made at this time, and it remains a work in progress.

### **Item 5:        2012 Election Update – Brad Nelson**

February 28, 2012 will be the Presidential Preference Election (PPE) throughout Arizona, for the Republican and Green party candidates only, and additional information on the election can be found on the Election website at [www.pima.gov/elections](http://www.pima.gov/elections). By statute, no other elections may appear on the ballot. The deadline to register to vote is January 30, 2012. The overseas and MOVE ballots have been sent to the eligible voters.

March 13<sup>th</sup> is the Oro Valley Town Election for three (3) Council seats and will be an all-mail election. If Oro Valley has the need for a run-off election, it's scheduled for May 15<sup>th</sup>.

Benny White explained that there are 23 candidates on Republican ballot for the PPE and he is filing criminal complaints against two (2) individuals in Pima County who are not Republicans; one not even eligible to vote. There are three (3) candidates in Maricopa County who are not Republican, but filed perjured statements indicating they were Republicans.

It's unknown if legal action will be taken in Maricopa County. Brad Nelson explains that anyone with the proper credentials can file an affidavit, during the filing window of opportunity, with the Secretary of State's Office and have your name placed on the Presidential Preference Election ballot. There are no petitions to circulate to gather signatures for this election.

For this to change, it would require statutory changes. Benny White has offered suggestions to the Secretary of State's Office, and they would need to modify State statute to require signatures from each County in order to demonstrate some level of public support to cease frivolous filings. Unknown if legislation will follow.

**Item 6: Redistricting Progress Report**

The IRC has completed its task and adopted a final map of their Congressional and Legislative lines within the State of Arizona. Pima County has asked the GIS Office to apply those final Congressional and Legislative lines to the most recent established Election Precincts to see how compliant Pima County is with the jurisdictional lines.

There continues to be problematic areas where the IRC has drawn some Congressional and Legislative lines in areas that defy a physical boundary. Brad Nelson clarified that the Elections Department had an objection for the proposed state legislative boundary near Massingale and I-10, where the legislative district line is drawn along the freeway, matching a congressional district line, goes half a mile down Massingale, up 200 ft and back to the original boundary. The Elections Department has alerted Mr. Huckelberry of the issue. Lines are subject to change as the process moves forward.

The IRC hired a consultant who reviewed the drawings and demographics while in the meetings. Brad believes that his division will know the impact of the established precinct lines by the end of next week (January 27<sup>th</sup>).

The IRC is expected to submit the Congressional map by the end of January. The Legislative District map is expected by mid-February. With the final maps still outstanding, no one knows the number of registered voters in each District which dictates the number of signatures required for a candidate to be placed on the ballot. This proves frustrating for the Elections Department, as they are required to give potential candidates the number of signatures they'd need by March 1<sup>st</sup>.

Benny White states that this scenario is similar to what occurred in 2002, when new districting maps were introduced. There was a court order that allowed signatures to be gathered in both the old district and the new district. The current Legislature is considering a bill that will allow the same thing, as far as where the signatures can be gathered from; however, the Legislation does not address the statutory requirement as it relates to the number of signatures.

Additionally, candidate signatures are not checked by the County Recorder, they are deemed to be sufficient until challenged in court. The close of filing to run in the Primary Election is May 30<sup>th</sup>.

**Item 7: Ballot Scanning Pilot Study – Tom Ryan**

In December 2011, Tom Ryan talked to Larry Moore, as to what tools he has as it relates to Clear Ballot. Mr. Moore would like to give the Commission a quick demonstration, via online, at the February meeting.

Mr. Moore has equipment currently being used as an auditing tool for another election system, and has diagnostic tools for an election division to evaluate its own processes. A webinar will be set up by Catherine Hanna and Mr. Moore. The Commission agrees to the webinar, and would like time for a question and answer session.

Mr. Moore has spoken with the New York Board of Elections and they have used HAVA funds to work on elections issues. The Commission on the Board was so impressed with the presentation, that they've issued a 2-page RFP where Mr. Moore will conduct experiments with the ballot systems in New York. Tom Ryan will forward the RFP to John Moffatt to review and gather ideas for consideration.

***Commission agrees to address business on Item 12.***

**Item 12:      **Litigation Related to 2006 RTA Election – Arnie Urken, John Moffatt, & Jim March****

Jim March reports that there have been previous problems with litigation dealing with public records access during elections. This case is about court ordered reforms and whether or not this will occur. It was subsequently thrown out of court because the Judge said he didn't have the right to order reforms to the process. The Arizona Appellate and Supreme Court have disagreed and said that courts can order reforms to a proven process. This case is back in court.

The Libertarian Party believes the system is broken and intends to prove that there was unusual handling of memory cards and poll tapes during the RTA Election. There is a pattern that they're missing in relation to memory cards that were uploaded multiple times. The ballots still exist and the Libertarian Party has been paying \$450 a quarter for storage fees to keep them alive and will be used to question their authenticity.

Jim March expresses serious concerns with the Pima County election process and he wants the Arizona courts to order reforms as it relates to the transparency and auditing of the entire process.

During a public records case in 2008, John Moffatt was asked to discuss the reforms and improvements made by Pima County. He was asked if Pima County's improvements were enough to absolutely block cheating in an election by election officials and staff. His reply was "no." Jim March feels that changes need to be made.

Tom Ryan stresses that there are irregularities in every election, but to what level is the question and a judge will decide that.

Jim March explains that several of the re-uploads occurred at 10:30 pm with activity until 3:30 am. No video cameras were taping at those times nor were video cameras installed in the Elections tabulation room at the time of that election.

The Libertarian Party is asking for graphical scanning and mandated public records access. Jim March would like the records and computer databases to be made available earlier than the 5-day protest period, which is current State law.

During the RTA race, Ted Downing asked Brad Nelson to create a copy of the databases and hand it over to a Sheriff's Deputy for safekeeping. Brad Nelson refused. Jim added that this was contrary to Brad's normal policy, and no snap-shots were taken for three (3) days, which he felt was wrong. John Moffatt clarifies that the snap-shots were being taken, but the problem was when they were made available; Jim March agrees. John Moffatt states that the snap-shots cannot be made available until canvassing (election declared official) is complete. Additionally, when precincts return ballots that are inaccurate, those ballots have to be reloaded. Some are done that night or by the next morning.

Benny White feels that the Libertarian complaints are continuations of unsubstantiated allegations, and they continue to ask the courts to make judgments on things they don't have jurisdiction over. Jim March explains that the Arizona Supreme Court disagrees.

**Item 8: EIC Annual Report – John Moffatt, Charles Geoffrion, & Catherine Hanna**

The Commission reviews the Annual Report and provides feedback. Pat Pecoraro would like to see the topics relating to the Commission clearly documented. Catherine Hanna will include language at the beginning of the report that describes the EIC's role as it relates to the topics.

Tom Ryan suggests including a separate section (Next Steps) that outlines topics which are likely to be discussed in the coming year, i.e. pilot study, all-mail ballots. Order representation does not stipulate priority.

Catherine Hanna will also remove the hyperlinks in the emails.

**Item 9: System Specifications for Voting Systems – Arnie Urken**

Arnie Urken wanted to revisit this topic, as the state of the marketplace has changed, and the resulting EIC impact on the voting specifications and systems used by the State. He would like to schedule a vendor to meet with the EIC to discuss future products. Brad Nelson saw new vendors, one being Unisyn, out of San Diego, who has open-source tabulation software. This company has an association with LA County, as it's the largest elections administration jurisdiction in the United States, so it's safe to assume the process will be thorough and complex. There a small number of vendors who are certified for elections: ES&S and Dominion. Brad will meet with Brad Harrington (ES&S) and schedule a vendor presentation for March 2012.

**Item 10: All-Mail Ballot Election Recommendation – Benny White**

The Secretary of State's Office is busy with the Redistricting issue and the upcoming Presidential Preference Election through February 2012. Benny White seeks the Commission's direction as to how they would like to proceed with this item.

Jim March is against the all-mail ballot voting. There are fundamental protections to the vote, available to the precincts that are not available to a mail-in system. Having the votes split 50/50 between mail-in and precinct remains useful because should there be a significant increasing in the voting patterns between the two (2), there are procedures in place to allow review of the election.

The EIC does not seek additional legislation for this item at this time; therefore, this item will be removed until the next Legislative session.

**Item 11: Election Legislation**

The Commission reviews Benny White's handouts for proposed legislation. These proposals are late, as the Legislature is currently in session and the deadline for posting legislation is vastly approaching. The statutory changes were submitted to numerous members of the Legislature, and they have indicated that they will address the changes once the Secretary of State's Office submits their package. No action for the Commission is needed at this time.

Barbara Tellman would like to be notified as to what legislation will be changed or should be watched. John Moffatt will submit that request.

Benny White feels that Legislature changes should be made in the September timeframe, giving the lobbyists time to include Pima County input. He asks that the Commission treat the handouts as information at this time.

*Materials provided: Title 16 – Statutes Recommended for Rescission in Whole or in Part Due to Outdated Processes Addressed; Title 16 – Statutes Recommended for Revision for Clarification or Additional Requirements.*

**Item 13: Commission Reminders and Outstanding Tasks – Charles Geoffrion**

In addition to the Annual Report, Catherine Hanna prepared an Attendance Roster for the Commission's information.

Andrew Spencer, Green Party EIC Representative has not renewed his Appointment after several attempts of contact. Brad Nelson will assist and contact the Green Party Co-Chairs for help. Ann-Eve Pedersen, District 5 representative, has stepped down. John Moffatt has contact Supervisor Elias' office for another appointment. Jim March updated his Loyalty Oath prior to the start of this meeting.

UPDATE: Andrew Spencer was reappointed at the February 7, 2012 Board of Supervisors meeting.

**Item 14: Call to the Audience**

No audience members have comments for the Commission.

**Item 15: Next Meeting Date and Time**

The Commission will meet again on Friday, February 17, 2012, at 9:00 am, Pima County Administration Building, Board of Supervisors Conference Room, 1<sup>st</sup> Floor, 130 W. Congress, Tucson, Arizona 85701.

**Item 16: Agenda Items-New Business**

Per the recently adopted bylaws, the Chairman and Vice-Chairman positions have expired. The next EIC meeting will include nominations and elections for the positions. Charles Geoffrion and Tom Ryan (Vice-Chair) have enjoyed the position and would like to continue if that pleases the Commission.

Jim March will be forwarding a Goal's Document to Catherine, and would like that on the next agenda.

**Item 17:      **Adjournment****

Barbara Tellman motions to adjourn the meeting; Pat Pecoraro seconds the motion. Meeting adjourned at 10:48 a.m.