MEETING SUMMARY – February 15, 2013

The Pima County Election Integrity Commission met in regular session on February 15, 2013, in the Pima County Administration Building, Pima County Board of Supervisors 1st Floor Conference Room, 130 W. Congress, Tucson, Arizona 85701.

ITEM 1.   ATTENDANCE

Present: Pat Pecoraro, Arnie Urken, Benny White, Mickey Duniho, Bill Beard, Barbara Tellman, Elaine Lim, Tom Ryan and John Moffatt (arrived at 10:00 a.m.)

Absent: Jim March

Also in attendance: Brad Nelson, and Paul Harrington, Regional Sales Manager for Election Systems & Software (ES&S)

ITEM 2.   PLEDGE OF ALLEGIANCE

Those in attendance stood for the Pledge of Allegiance.

ITEM 3.   APPROVAL OF MINUTE SUMMARY – January 18, 2013

The Meeting Summary for January 18, 2012 was distributed with amendments as requested, and Tom Ryan asked if there were any further comments. With no discussion, it was moved by Barbara Tellman, seconded by Pat Pecoraro and unanimously carried, to approve the Meeting Summary for January 18, 2013 as amended.

ITEM 4.   ELECTION OF NEW CHAIRMAN

Note: Pursuant to Article VII, Section 1 of the Election Integrity Commission By-Laws, to Elect a New Chairman, two-thirds of qualifying voting members of the Commission were present for a quorum.

Tom reported that no written submittals were received for the position of Chairman, and nominations were opened on the floor. It was moved by Mickey Duniho and seconded by Arnie Urken, that Tom Ryan be nominated for Chairman. It was moved by Elaine Lim, seconded by Bill Beard, and unanimously approved to close the nominations. Tom accepted the nomination. A motion was carried unanimously by voice vote to appoint Tom Ryan as the new Chairman.

A motion to nominate Benny White to the position of Vice Chair failed as Benny declined the nomination. It was then moved by Pat Pecoraro, seconded by Elaine Lim and carried unanimously to nominate Barbara Tellman. It was moved by Pat, seconded by Elaine and carried unanimously, to close the nominations. Barbara accepted the nomination. The motion was carried unanimously by voice vote to appoint Barbara Tellman as the new Vice-Chair.

ITEM 5.   **SUBCOMMITTEE REPORTS**
- Tracking Election Integrity in the Legislature Subcommittee – Barbara Tellman
- Ballot Scanning Subcommittee – Benny White

Tracking Election Integrity in the Legislature Subcommittee
Barbara provided a handout and reported on the following bills of relevance to the Commission:

- **SB 1003 (Passed Senate Elections Committee) – Early Ballot – Designation**
  This provides that that voter can designate the voter's spouse, child, parent, grandparent, grandchild brother sister, or person residing in the same household as the voter, to return the ballot to the election official from whom it came or the Precinct Board at a polling place within the County. **Comments:** This passed the Senate Elections Committee and only needs to go through Rules and pass the Republican Caucus.

Mickey asked Barbara whether this would affect the current service Pima County provides to those voters who are unable to come to the polls. Barbara felt that this service will continue but she was unsure whether this would exclude them. She will follow up.

Bill stated that he attended the hearing on this bill. The House side is working on language and trying to determine that if the ballot is turned over to a representative, whether or not there should be a time frame with a limit. The Senate side is suggesting that there should not be a time limit. There seems to be two tracks with no indication at this time which one will have dominance in the legislature.

Barbara noted that Michele Reagan, Chairman of the Senate Elections Committee, seems to be convinced that large numbers of fraudulent ballots are being delivered. Other Members felt that this does not apply to dropping of ballots at the post office, only at the Polls, Recorder's Office or Voting Centers. Brad said he had not witnessed this in Pima County. Benny felt that the issue of people delivering large numbers of ballots, which has been seen in Maricopa County, mainly consists of party representatives or advocates of initiatives, who go to assist the voter with voting and/or taking their ballot back for deposit.

- **SB 1261 – Permanent Early Voting List (PEVL) - Amendments**
This provides for the County Recorder to send a notice to each voter on the PEVL who did not vote an early ballot in both of the most recent primary and general elections, to inform the voter that if they wish to stay on the list, the voter shall confirm that desire in writing and return the completed notice to the County Officer within 30 days of the notice. The response must be signed and contain the voter's address and date of birth. If the voter fails to respond according to the provisions, the County Officer will remove the name from the PEVL. **Comments:** This provision does not affect the voter's status as a registered voter. This bill was recently amended to state that a voter cannot miss two Election Cycles. A cycle is defined as a Primary

and General Election which is consistent with the Statutes that govern moving a voter from active to inactive status. PEVLs can be purchased from the Recorder's Office.

- **SB 1274 – Delivery of Early Ballots and Affidavits**

In order to be valid and counted, the ballot and affidavit must be delivered to the Office of the County Recorder or Officer in Charge of Elections or may be deposited at any polling place in the County no later than 7:00 p.m. on THE TUESDAY BEFORE Election Day. **Comments:** This bill is being sponsored by Senator Al Melvin and no one seems to be taking it too seriously at the moment.

- **SB 1275 - Removes the Requirement of Name Presidential Electors on the Ballot**

Comments: Brad stated that this was his ongoing request to remove these names from the ballot to increase space, but he was not sure it would pass. Bill reported that it did pass the Elections Committee in the Senate unanimously.

- **SB 1276 – Ability to Conduct an Election by All Mail**

This provides that on a specific finding of the Board of Supervisors, that if the number of registered voters in a Precinct on the PEVL are subtracted from the number of active registered voters in the Precinct results in a total of 350 or fewer active registered voters in that precinct, the Elections Officer in Charge of Elections may conduct the election by mail. **Comments:** This bill makes it easier for the Election Official to conduct an all-mail vote.

- **SB 1387** – (2 Section 1) - **On Line Voting Pilot Program**

This provides that the Secretary of State (SOS) shall establish a pilot program that provides a method for a registered voter to vote online by use of a secure internet portal. The On Line Voting Pilot Program (OLVPP) shall be offered as an additional method of voting that is intended to supplement early voting and voting at a polling place or voting center. The SOS shall consult with County, City and town elections officers in developing the OLVPP and shall provide an opportunity for the review and comment by the public before finalization and implementation of the program in any one or more jurisdictions. This test must be conducted in at least two jurisdictions within the State. **Comments:** Barbara expressed her concerns about online security to Senator Steve Farley. Tom spoke with Senator Reagan who did not think that this program was ready for "prime time". Barbara stated that if this bill passes, Pima County should insist on being one of the participants in this pilot.

- **HB 2146 and SB 1248 – Voter Registration – Same Day Registration**

These would allow an otherwise qualified individual to register to vote and vote on the same day provided residency requirements are met in all elections except in a Partisan Primary Election. **Comments:** Members do not feel that this will pass.

- **HB 2350 - Notarization of Early Ballot Requests**

Comments: This legislation is being held in Committee.

Barbara stated that the other bills listed on the hand out are for information purposes. She commented that the SOS has not weighed in on the bills yet, and inquired if the County Lobbyist was following these proposed legislative items. No one responded, but Benny noted that no one pays a great deal of attention to any of the proposed bills until March.

Ballot Scanning Subcommittee - Benny White

Benny reported that efforts in promoting this Ballot Scanning Pilot issue were currently "dead in the water." He had intended to submit the final language to the Commission but forwarded the language to Senator Al Melvin to meet the cut off for opening a bill folder. After repeated attempts to contact Senator Melvin, he discovered in a phone call this morning that the folder had not been opened. Benny said that he had also spoken with Deputy Secretary of State, Jim Drake, who indicated that his support would basically consist of not opposing the legislation. After his discussion with Benny, Senator Melvin did send a message to Senator Michele Reagan to ask for her assistance in moving this along. Benny and Tom have also followed up with Senator Reagan. Tom heard back from her and resent the language. He also forwarded the same information to Senators Kelli Ward, David Bradley and others. Benny noted that one of the problems with return communications is that everyone is currently trying to address over 4,600 bills. In a response to a question from Bill who inquired if the Commission had an opportunity to review the final language, Benny responded that the Subcommittee continued to review the proposal before sending it in to meet the deadline, but that there were no changes since reviewed by the Members at the last meeting. He advised that he would continue to contact Senator Reagan, try to move this forward and report next month.

Barbara stated that she had received communications from Senator Reagan - one general and the other suggesting that rather than blocking the taking of Early Ballots, why not expand the time to accept them by making early drop off sites more available the week and the Monday before Elections and that there was currently a bill to that effect in the House. Mickey stated that he knew that Bill had been following a lot of this legislation and asked if he had discussed the Pilot Study with anyone. Bill responded that he had not, but would try and have a conversation.

Material Distribution: Bills of Special Relevance to the Commission.

ITEM 6.   GENERAL ELECTION UPDATE – Brad Nelson

Brad reported that a post mortem with Runbeck Election Services (which prints the ballots for Pima County) had been conducted regarding substandard printing on some of the Polling Place Ballots. Brad noted and the Members discussed the following:

- The post mortem had nothing to do with anything that Runbeck does for the Recorder's Office.
- The differences and associated issues related to offset printing which is predominantly used for the Polling Place Ballots and laser printing which is used for Early Ballots. Primary problems with the offset printing were related to shadows or illegibility on some of the ballots due to a dirty printing plate.
- A very low percentage of the Polling Place Ballots, which basically affected three Precincts, had to be reprinted for the 2012 General Election.
- Runbeck has a quality control process, however ballots are not pre-tested before they are received because the vendor is not given access to the County's software to run the Election.
- New scanning technology should be part of the Pilot Study and would be valuable in the area of counting Early Ballots by Precincts. It could also provide for a significant reduction in the man hours that it currently takes for reconciliation, as close to 10,000 ballots were duplicated in the last Election.

- There was a suspicion that some of the yellow cards had not been mailed out by the Runbeck subcontractor to voters on the PEVL.

Bill asked if other Counties were experiencing similar problems and Brad responded the he was unsure due to the fact that other Counties use different software. Brad advised that he will have a supplemental report on the printing issues at the next meeting.

Barbara inquired about feedback from the poll workers and mistakes that were made that were not quantifiable. Brad responded that the only thing that remains outstanding is his concern over why voters were allowed to vote multiple ballots at the same Precinct. He stated that they were still reviewing the causes of this issue and that additional training will be provided prior to upcoming elections on the handling of Provisional Ballots. Brad stated he had heard there may be software out there that will address duplication of ballots by offering an automated way to perform the check and balance of duplicate ballots, saving substantial time. Brad acknowledged that he had been slow in getting to the Provisional Ballot information and would get that to Joni for distribution to the Members in the near future.

Brad discussed the potential of needing multiple page ballots in the future and the associated issues that are inherent to the processing and counting of these types of ballots. Maricopa County has used multiple page ballots in the past, but Pima County has not. Tom noted that many states have multiple page ballots so there should be sufficient precedence for review. Brad explained that one of the primary reasons for requiring multiple ballots relates to the mandatory listing of the Judicial Retentions required by the Constitution to be placed on General Election Ballot. Since a Constitutional change would be highly unlikely, he suggested that Pima County may want to emulate other States and conduct state wide elections every November to handle these types of listings, county questions, no contest elections, propositions, etc., leaving more space on the ballots for Gubernatorial and Presidential Elections.

ITEM 7. **ANTICIPATED ELECTIONS FOR 2013 – Brad Nelson**

Brad advised that Elections may be receiving a filing for the incorporation of the community of Vail. He explained that once filed with Elections, proponents have 180 days to bring petitions back for consideration by the Board of Supervisors (BOS). If they get 10 percent of the registered voters within the defined area, the BOS can ask for an election. If proponents return with 70% of the baseline voter residents, the BOS can make the decision to incorporate without an election.

With respect to future 2013 Elections, he advised that he has heard that Congressman Raul Grijalva may run for Secretary of the Interior which would result in a Congressional Vacancy Election. As reported at the last meeting, Municipal Elections for Sahuarita, Marana, and the City of South Tucson are scheduled for March 12, 2013. It is anticipated that these three municipalities will also have elections on May 21, 2013 as well - the same day that the Town of Oro Valley Election is scheduled. He is not sure of the City Election's schedule, but knows that they are off and running for 2013. To date, they have not asked for County assistance, and Brad does not anticipate that assistance will be requested.

ITEM 8. GEMS SOFTWARE/PRODUCTION OF ELECTION INFORMATION FOR PARTIES – Tom Ryan/Benny White

Continuation of Drive Production for the Parties - Tom Ryan

Tom reported that he had reviewed the data and performed an analysis with respect to the Commission's question on whether or not the data given to the Parties should continue to be produced. His analysis of the 2012 General Election data from the GEMS consisted of a data set using 18 data bases. He found that he could open the 2012 GEMS data using the existing software and a password, and that the Microsoft Data Base (MDB) files can be opened with Microsoft Access and are far more useful. He has not had an opportunity to look at the GEMS Backup Files (GBF) data base files .

He reported that the data is already converted to MDB files which are easily read with Microsoft Access, and that the data bases consist of approximately 50 tables – one third of which are dynamic and the remainder are static. Using the data base table that updates the count on the candidates and issues from day to 1 to the last day, he looked for consistency (votes increasing or staying the same). In looking at every voting area, he discovered that there was a one vote loss for the candidates and issues. The reason for the loss is unclear but needs further testing. Benny White offered his logs which identified an exception that occurred on the day in question. The exception was fully explained.

Tom and the Members engaged in discussion and offered opinions regarding the analysis and potential reasons for the vote loss discrepancy including pointers getting "off" incrementally, the process for handling write-in votes, ballot deformities and errors in handling and/or tabulation. Other reasons noted were power surges and memory/server issues, although the group felt that a power surge would be more likely to damage data rather than shift data from one column to another. Benny explained the Political Party process that is currently used to maintain, research and reconcile ballots. John reported on previous problems related to over loading server errors and the actions that were taken to analyze, diagnose and hopefully correct the problems including the decision not to run the pre-audit and post-audit reports while other stations were accumulating data.

Tom said that the data base contains a candidate counter that provides more data but he did not look at it because of the size of the data base, but advised that he will analyze day 1 and 2 data in more depth. Mickey commented that Microsoft Windows and Microsoft Access have a reputation for being inherently unstable when used for used for any kind of critical processes, and suggested that a different type of software like UNIX would be more reliable to count votes.

Tom proceeded with a more detailed explanation of the graphs for the Members which depicted every race, how he picked the ones that looked unusual, reviewed the percentage of all votes for each candidate received, and explained the various behaviors. He suggested that the Members might want to think about who might be interested in paying for this type of data and felt that it was important to focus on addressing the vote loss. Mickey suggested that the Vendor could be contacted to clarify the codes and to ask for their perspective on this problem. The Members agreed and discussed other potential testing methods that could be used to further test the data.

Tom asked if John if he had spoken with the attorneys about continuing the production of the drives. John reported that he believed the County's position was that the process should continue unless the Commission or Political Parties did not want the data. He noted that, in his opinion, the discussion today makes continuing this process worthwhile and that there is a wealth of data to be accessed.

Tom inquired if there were resources in the County that could be used to implement the kind of analysis that he is doing. John believed that there could be, but commented that it was important to first define a set of specifications that would create an automated system for performing this kind of analysis as part of the output process. Tom offered to provide a brief outline on the algorithms that he is using as well as define what variables are important and how to do the calculations. John stated that IT is running a little behind with other priorities at the moment, but he thought that they would be able to assist with this process due to separation of capabilities for security. He noted that one of the current problems with the data base turnover is that IT staff has to sit there during the process due to separation of capabilities for security. However, if this process could be part of the production, once they have created the data under observation and created the reports, the analytical process can be automated and not require their physical presence. John stated that he was willing to pursue this process in light of the fact that the Commission continues to be committed to maintaining and enhancing transparency.

Material Distribution: Analysis of 2012 General Election GEMS Database Sequence.

ITEM 9.   **2012 GENERAL ELECTION COSTS – John Moffatt**

John reported that he has all of Brad's information and the Recorders Office has continued to do research on their costs. He has recently spoken with F. Ann Rodriguez, County Recorder, and she is committed to get this study done and assist in creating a profile.

Brad reported that the Arizona Association of Counties has requested that all Arizona Recorders and Election Officials submit information to them on costs related to Elections (i.e., printing, hiring poll workers, provisional ballots) in order to generate and submit a "cost per ballot" to the Legislature to help explain why elections costs are so high. Several of the Members expressed interest in seeing what other Counties are spending for their Election costs.

John noted that Pima County does more than any other County in the State to reach out to voters including the mailing of yellow cards, providing more than adequate number of election workers at the polls, which he and Arnie intend to include their refined analysis. Benny cautioned that they include adequate explanation of these costs to eliminate the perception that Pima County is wasting money. Mickey felt it should also be noted that Pima County pays for the postage of returning ballots. John advised that he hoped to receive the necessary input from the Recorder's Office in the near future and be able to report back on this matter at the next meeting.

ITEM 10.   **MEMBERSHIP – DECLARATION OF VACANCY – John Moffatt**

John reported that there had been numerous attempts to reach Jim March regarding his absence from the Commission meetings with no response. Brad reported that he had reached out to Ted Glenn, Chair of the Libertarian Party indicating that his seat figures into the Commissions voting

quorum and stressed the Commission's desire to have representation from all Parties. Joni reported that she had also forward correspondence to Ted requesting written notification from them that Jim would no longer be serving as their representative with no response. Joni reported that provisions of the by-laws provide for declaring a vacancy with a two-thirds of a quorum vote. It was subsequently moved by Benny White and seconded by Barbara Tellman, that Libertarian Party seat be declared vacant due to Jim March's absences from the meetings. Mickey asked for an amendment to declare the Green Party position vacant as well, but was advised that it had already been declared vacant. John noted that because Jim attended the October meeting telephonically, the motion needed to be amended to state that he had missed more than 40% of the meetings in the past year. The original motion, as amended by John Moffatt, carried unanimously to declare the position vacant and to notify the Libertarian Party.

Brad asked Joni to follow up with the Libertarian Party. John noted that we have made concerted efforts to contact the Green Party as well. Several of the members noted that there could be questions to meeting the requirements for the continued viability of that party in the future and that the County Recorder will make that decision in November of this year.

ITEM 11. **ELECTION SYSTEM STANDARDS MODEL FOR PIMA COUNTY - Subcommittee to Develop Parameters for an RFP**
- Statement of Work - Tom Ryan/Arnie Urken/Brad Nelson - No Discussion/Action

ITEM 12. **VENDOR PRESENTATION – Consensus on Presentation Components – Brad Nelson**

John reported that it was important that the Members of the Commission work together with Brad and other County staff to bring together the necessary and desired components for the impending RFP. John explained that this Commission must help identify the components and specifications for incorporation into the RFP process. The IT analyst assigned to work on this project will have the ability to accomplish the tasks but needs to have some of the specific goals outlined for the first cut of the scope from the Commission. IT will then return with more refined details of the process and help the Commission to look at other associated issues that are triggered as they travel through the process.

Tom asked what the time frame was for putting together the materials. Brad responded that the financing has been addressed and they have no specifics for the RFP, but hoped to be able to purchase the equipment by next year for implementation before the next Gubernatorial or Presidential Elections. John advised that it takes at least 90 days for selection and analysis of the bids; consequently, the RFP needs to go out in September at the latest, so specs are needed so that he can bring the draft to the Commission by May or earlier. He stated that it would also be helpful to be able to give the IT Analyst something with bullet points to begin working with soon to define specific requirements. Benny suggested that the Commission may want to increase the frequency of the meetings in order to meet the deadline for this process.

The Members discussed some of the components that should be included or factored into the RFP process:

- Scoring is critical when selecting successful consultants/bids because Procurement is all about the numbers. Components should be classified as "Must Haves" and "Desirable", both of which would be scored and then, a "Nice to Have" which could be used for a tie breaker.
- Anticipate a limited number of proposals due to the specific nature of the RFP and limited qualified vendors, so the specifications must be realistic.
- Minimums can be used in the criteria – for example…."if it cannot do this, we do not want it."
- Requesting something that has not been federally certified will pose a problem.
- Ability to handle multi-page, and varying sized ballots is mandatory.
- Graphical scanning ability would be a plus; however it has been noted in the past that the resolution of current graphic scanning systems is too low to be acceptable. However, the specifications could include this provision if the level of minimum resolution is identified.
- Future capabilities can be included in the RFP even though it may not be available today, the question can be asked of the vendor and scored.
- Verbiage needs to be more specific rather than generic for the vendors as evidenced by the fact that the County is involved in 4 lawsuits where the specs were not good enough.
- EAC procedures are identified in the SOS Manual and checked to insure compliance.
- A paper record of votes cast should be required even though it is not required by the EAC.
- Paper ballots should be part of the specifications.
- Barbara inquired when the revisions to the SOS Procedure Manual are expected. It was suggested that it would probably happen in September or October of 2013.

Tom suggested that vendor specs are available on the Elections Advisory Commission (EAC) website and those that apply or are required could be downloaded. John agreed that this would be excellent in creating an initial process that could be tweaked. He also noted the importance of requiring the vendors to accept the responsibility of adhering to all other related/approved Pima County Codes that are generally accepted as industry standards. Those specific requirements will not be included as part of the RFP but will be tied to it by reference within the RFP. Mickey suggested that the vendors be asked if they provide Open Source Code. John responded that it could be an option as a "tie breaker" but cautioned about making the RFP so tight, that acceptable responses are not received.

Tom suggested that a subcommittee be established to work on the criteria. Tom, Arnie and Brad will form the subcommittee. Benny agreed to access the EAC document and bring it to the subcommittee.

Brad reported that ES&S will be coming to the April Meeting and tentatively, Dominion will be attending in March. He encouraged the Members to forward any ideas to him that they may wish the vendors to discuss during their presentation and said that he was also open to any other vendor suggestions.

Mickey said that auditability is a big issue to the extent the vendor can support auditing by official report or precinct; as well as the ability to sort by Precinct like Clear Ballot does. John suggested that the ability to interface with a company like Clear Ballot would be a good, scorable component of the RFP. He also offered that how exceptions are handled is quantifiable and scorable as well. He noted that vendor visits serve as a two way street to learn what is reality in 2013 and 2014.

Tom inquired if TSX machines are on the table and John noted that the new equipment would not have to work with the current TSX machines but must meet Help America Vote Act (HAVA) Standards. Additional considerations include what happens if the State goes to voting centers, how all mail votes would be handled, where the vendor is headed with electronic voting and what happens if the County were to resume modeming results from Precincts.

Mickey asked about electronic poll books and John stated that they were looking at that as a separate issue. Brad noted that there are bridges and we could purchase that type of software. John felt that poll book technology will evolve more quickly because it does not need certification.

ITEM 12.   **NEXT MEETING DATE AND TIME**

The next meeting date was scheduled for Friday, March 15, 2013 in the Board of Supervisors 1st Floor Conference Room at 9:00 am.

ITEM 13.   **NEW BUSINESS**

No new business was brought forward.

ITEM 14.   **CALL TO THE AUDIENCE**

No one appeared to speak.

ITEM 15.   **ADJOURNMENT**

As there was no further business to discuss, the meeting adjourned at 11:40 a.m.