



**PIMA COUNTY ELECTION INTEGRITY COMMISSION
MEETING MINUTES FOR MAY 9, 2014**

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

The Pima County Election Integrity Commission met in regular session on May 9, 2014 at 9:00 a.m. in the Herbert K. Abrams Building, 1st Floor Conference Room #1104 at 3950 S. Country Club Road, Tucson, Arizona.

ITEM 1. ROLL CALL

Present: Bill Beard, Mickey Duniho, Pat Pecoraro, Benny White, Brad Nelson, Barbara Tellman, Arnie Urken, Elaine Lim, Matt Smith, Tom Ryan, Chris Cole.

Others in Attendance: Eric Giffin, Candidate for Sunnyside Recall Election; Mike Polak, Candidate for Sunnyside Recall Election; Richard Hernandez, Chairman of the Sunnyside Recall Committee; Bob Hancock.

ITEM 2. PLEDGE OF ALLEGIANCE

Those in attendance stood for the Pledge of Allegiance.

ITEM 3. APPROVAL OF MINUTE SUMMARY – April 18, 2014

It was moved by Bill Beard, seconded by Barbara Tellman and carried unanimously to approve the Summary of the April 18, 2014 meeting.

ITEM 4. NEW ARIZONA LEGISLATION – Bill Beard

Bill Beard provided copies of "Election Related Bills at the Legislature" for May. He noted those bills that have been signed by the Governor, most of which are technical in nature, although SB 1344, Clean Elections Complaint Procedures, defines the filing authority more clearly.

ITEM 5. REMOVAL OF POLLING PLACE SCANNERS –Brad Nelson

Brad Nelson informed the Commission that the Elections Department has taken delivery of 60 ballot boxes that will be used for securing ballots at the polling locations where scanners will be removed during the pilot program. Extensive educational outreach to voters is being considered, particularly in the scanner-less polling locations to advise them of procedures for receiving a second ballot if they need to spoil their first one due to a mistake; this may include posting the information directly on the voting booth, handing each voter a card with the information, a postcard sent to households. When the verbiage has been decided, and then translated, Brad will submit it to the Commission for input.

For the benefit of the visitors present in the audience, Brad explained the pilot program and reasons for it: In Pima County, more and more voters are voting by mail-in ballot. During the 2012 General Election, slightly less than 70% of votes were cast by mail-in ballot or at a Recorder's office early voting site. The trend shows about a 3% to 5% increase every two years. The question arises of whether or not Pima County should invest \$10,000 to \$12,000 per polling place in equipment that is

used so infrequently, and in light of the rise in early voting. The pilot program involves 20 to 25 precincts in the 2014 Primary. When the voter casts their ballot, instead of putting the ballot through the scanner, it will be deposited into a sealed ballot box for tabulation that evening in the Elections Department.

Mickey Duniho inquired as to the cost savings of removing scanners while concurrently adding an electronic poll book (e-poll book). Brad estimated approximately \$100.00 apiece for the sealed ballot boxes, and approximately \$600.00 for the e-poll book, including hardware and software. In addition, personnel costs for implementing the scanners in each polling location, warehousing and transportation would decrease. The Recorder's office may be able to update voter histories more rapidly with the e-poll book rather than a hard copy of the signature rosters. The e-poll books should be able to provide accurate ballot counts for comparison to actual ballots in the ballot box. The Presidential Election Commission has recommended use of e-poll books in polling places to speed administration within the polling place, as use of hard copy signature rosters is error-prone and time-consuming; one capability of these books is pulling up a voter's record by scanning the barcode on the driver's license. The Recorder's office has committed to providing sufficient e-poll books for the pilot project, and funding is available.

Bill Beard restated his concerns about removing polling place scanners: Although the concept of election checks and balances does not appear in the state or federal constitutions or laws, the principle is ingrained in all election legislation. When one of these checks is removed, we are undermining the system.

Benny White discussed his concerns about ballot security. The removal of scanners in the polling places is a significant change, and the concerns for chain of custody of ballots is a significant reason that the pilot program is being conducted using varying demographics, to get an idea of voter acceptance of the change, as well as what procedural changes will be required. After the pilot is concluded, a review of all issues of concern will be conducted.

**ITEM 6. ELECTION SYSTEM PROCUREMENT - Update – Brad Nelson
EIC Recommendations – Tom Ryan/Benny White**

May 7th at 2:00 p.m. was the closing for submittals for the Request for Proposal. Two envelopes were received. Hart InterCivic, an election tabulation vendor in Texas submitted a "thanks for the invitation but no bid" response. The only proposal received was from Election Systems and Software (ES&S) from Omaha, Nebraska. The RFP evaluation team will be invited to meet on Wednesday [May 14, 2014] to begin the evaluation process.

Arnie Urken requested that Brad Nelson inquire of ES&S how they deal with security, if they include the capability for ranked voting, and if so, what method they use.

Pat Pecoraro asked for an update on the Yavapai County purchase of election equipment. Brad Nelson recapped the situation: Yavapai County awarded their bid to Unisyn, which has not been certified by the Arizona Secretary of State. Brad's understanding is that Unisyn's precinct count scanners and precinct ADA devices were certified, but their central count equipment was not. He has requested, when it becomes available, a copy of the certification committee's recommendation to see why their central count system failed. He does not know at this point what Yavapai County is going to do next.

Pinal County has received a bid from ES&S; they need to purchase all new equipment, as theirs was destroyed when their elections warehouse burned down. The Pinal County RFP has a requirement

that the vendor be certified at both the state and federal level by April 25, 2014. ES&S was the only vendor able to meet that requirement.

Responding to a question by Mickey Duniho about the Board of Supervisors' letter requesting the Secretary of State to waive the requirement that all election equipment used in Arizona be certified by the Election Assistance Commission, neither Brad Nelson nor Tom Ryan have heard about any response by the Secretary of State.

Benny White noted that the RFP had requirements that were not applicable to the election system server, such as network interface, capability, mapping software, etc., but that are part of the Pima County Procurement standard boiler-plate requirements. Mickey Duniho expressed concern about adding requirements that would dissuade other legitimate vendors from bidding. Benny described the provision in state law that requires all requests for proposal to be competitive. Complaints can be submitted to the Arizona Attorney General's office.

ITEM 7. ESTABLISHMENT OF POLLING PLACES FOR 2014 – Brad Nelson

Referencing the Excel spreadsheet of proposed polling places for the 2014 elections, Brad Nelson told the Commission that Elections Department had reached out to all the municipal clerks, tribal governments, Chicanos Por La Causa, the EIC and major political parties with an electronic copy of the spreadsheet, which shows the proposed polling locations and information as to why there was a change if relevant. He has had input from some of the municipal clerks and Benny White, but is still waiting for input from the rest. No one has objected to the proposals, though suggestions had been made. However the suggestions would combine precincts that cross Legislative or Congressional lines, which can't be done. The Board of Supervisors will take action on the proposed polling places on May 20, 2014.

Tom Ryan noted that a fair number of schools were not being used. Brad explained that more and more schools are declining due to concerns for safety of students, faculty and visitors to the campus; some schools no longer can provide adequate room, parking, etc.

ITEM 8. BALLOT ISSUES – Brad Nelson

Multi-page Ballots: Brad Nelson explained that, since petitions for the Pima Community College Recall effort were not turned in by the deadline, the possibility of having a multi-page ballot in 2014 is no longer an issue. Pima County is still a long way from going to multi-page ballots. Arizona is only required to translate from English to Spanish, unlike other states such as California that is required to include multiple Asian translations in addition to English and Spanish. They print ballots in a single language. In consultation with the County Attorney that sometime in the future, as more and more jurisdictions are added to the ballot, it is likely the Pima County Elections Department will go to single language ballots. In the 2008 elections, the front side of the ballots with the list of all the candidates showed English and Spanish. On the back side with the propositions, there was not sufficient room to print the text in English and Spanish, so ballots distinguished as Spanish language ballots were produced. At polling places, a sign was prominently displayed in the Spanish language stating that if a voter required a Spanish language ballot, one could be provided on request.

In the past, turnout was determined by counting the number of ballots in the ballot box. If multi-page ballots are used in the future, that method will not be usable. An electronic poll book may be more dependable for determining voter turnout using closeout reports.

Chris Cole presumes there are no problems with translations. Brad explained that the Elections Department uses a Superior Court certified Spanish translator. Then the translation is reviewed by organizations such as Chicanos Por La Causa to see how comfortable they are with the translation. The native language spoken by the O'odham Nation doesn't have a standard written form, so individuals fluent in speaking the language are assigned to polling places on the Nation to provide verbal translations. In the case of the Yaqui Tribe, very few of the elders speak the native language. The tribal government is fine with English/Spanish translations.

Bifurcated Ballots. Brad said that the [Arizona Secretary of State's] Procedures Manual is still in the [Arizona] Attorney General's office for review and approval of the bifurcated ballot procedures, and then it will go to the Governor to be signed.

ITEM 9. COST OF ELECTIONS

Referencing the 2012 elections cost spreadsheet, Arnie Urken clarified what he means by normalization for the process of data collection. Extraordinary efforts went into collection of data needed to create the spreadsheets and graphs, and it wouldn't happen again unless a way is found to make it happen again. Brad Nelson said his department itemizes costs pretty substantially on a regular basis, so that going forward it will be easy for the Elections Department to do.

Bill Beard stated that there needs to be a clear understanding of what fixed costs the Elections Department and Recorder's office have and the costs need to be presented consistently. He asked Brad if there has been someone pinpointed in the Elections Department who is tasked with gathering that data. Brad responded that staffing in the Elections Department is minimal; since it is unclear how much time will be required for this task, he doesn't know whether to assign someone to it. Brad would like the EIC to share those responsibilities of putting the data together.

Arnie Urken said that having this data might help in understanding how Pima County makes the decision to raise their costs for public and private elections, and also asked under what conditions fees might be raised for jurisdictions appearing on a General Election ballot. Brad responded first that standalone elections such as the Sunnyside Recall Elections are itemized according to actual cost and billed accordingly. If a jurisdiction is on the ballot of, for example, a Presidential election, they are billed a fee of 75¢ per registered voter to offset the cost of printing that ballot and sample ballot. Secondly, the last increase from 55¢ to 75¢ per registered voter occurred when voters were required to present ID at the polls, and touch screen voting was required. In each polling location two additional poll workers were added to handle the ID's and the increase in provisional ballots.

In general, Brad agrees with the necessity of keeping accurate cost figures for elections, for the benefit of the EIC and the public at large. Chris Cole added that having this data could actually reveal that further increases might be warranted to recover more of the actual costs.

Mickey Duniho suggested that the EIC should inform the Elections Department and Recorder's office what kind of data the Commission is looking for. There should be a breakout of mail ballot costs versus polling place costs to show a bottom-line analysis of the difference; amortization of capital costs of equipment; and the potential costs of sorting early ballots by precinct for a better hand-count audit. If the EIC is to give advice on policies, those kinds of numbers are needed. Mickey had compared the total numbers in the spreadsheet to Pima County's overall budget; in 2012 with five major elections, the percentage of the Pima County budget devoted to elections after reimbursements was four-tenths of one percent (.4%) of the total budget.

Bill Beard noted that the Board of Supervisors will need detailed information for making cost savings decisions. Election systems will not get simpler, and it would behoove the Elections Department and Recorder's office to make it a priority to start breaking this kind of information down on a regular basis.

Benny White and Mickey Duniho agree that providing a set of questions to the Elections Department and Recorder's office would be a good place to start. Benny would welcome an internal discussion on precinct sorting of ballots, but does not want to add more burden to either department this election year. Mickey has already contacted Pitney Bowes on his own to get cost figures for sorting equipment, and can also contact the states of Oregon and Washington concerning the sorting of ballots.

Tom Ryan's assumption is that the Pima County administration would like to have a better handle on the cost for elections for predictive purposes. The spreadsheet originated in response to the concerns raised by the County Administrator about election cost increases.

Barbara Tellman noted that there is no data on the spreadsheet for the cost of processing provisional ballots, which would be helpful if using e-poll books would reduce the number of provisional ballots.

Brad Nelson reminded the Commission of Mr. Huckelberry's memo to the Board of Supervisors of April 13, 2012; Brad's interpretation of the last paragraph is that Mr. Huckelberry would like to invite input from the EIC in determining whether all mail ballot elections is an appropriate way to go.

ITEM 10. NEXT MEETING DATE

The next meeting date was set for June 20, 2014.

ITEM 11. CALL TO AUDIENCE

Richard Hernandez, Chairman of the Sunnyside Recall Committee stated the issues of concern:

- The population of the Sunnyside School District is 90% Hispanic;
- Language issues; English and Spanish;
- Native Americans also attend Sunnyside Schools because of their proximity within the District.

He asked the EIC for help because of the concerns they have due to past issues in Pima County. The election is eleven days away, and Pima County is proposing to do a "pre-count" the Friday before. He requested that the EIC support the Recall group. Since there will be significantly less than 5,000 ballots, can't the ballots all be counted at one time on Election Night so that candidates can have their representatives present?

Mickey Duniho asked Brad Nelson if there is any logical reason for not doing as Mr. Hernandez asks.

Brad expressed his concern that during the call to the audience he shouldn't answer questions at this time. There was discussion among Commission members as to whether Brad could answer questions posed to him by Commission members.

Benny stated several times during the course of this discussion that the rules require that the Commission not respond to commentary or questions during a call to the audience. It is a violation of the Open Meeting Law because the item has not been noticed to the public, and if they want to schedule an emergency meeting to vote on this to advise the Board of Supervisors as to action, that is

a possibility. He also said that the election officials for this election are the Pima County Superintendent [of Schools] and the Sunnyside School Board Superintendent with joint responsibility. Mickey said the Intergovernmental Agreement gives Brad *carte blanche* to run the election however he sees fit.

In responding to questions posed to him by Commission members, Brad reminded the Commission that prior to counting ballots, a successful Logic and Accuracy Test must be performed. He would not be comfortable doing the Logic and Accuracy Test immediately prior to counting ballots on Election Night in case an error is found in the tabulation. If that were to occur, a brand new program needs to be filed with the Secretary of State's office. There are numerous other activities scheduled in the Elections Department in addition to the Sunnyside School Recall Election, which is another reason the ballot counting is scheduled when it is.

Bill Beard believes that, as an advisory body to the Board of Supervisors regarding election integrity and things that affect public trust, it is well within the scope of capabilities for the EIC to ask the Board to direct the Elections Department to withhold counting ballots until Election Day. Bill also quoted from Article III of the EIC By-Laws which states the function and purpose of the Pima County Election Integrity Commission is to "help improve the conduct of elections by examining the systems and processes behind them in order to improve the functioning of and public trust in the Pima County electoral process." During further discussion among Commission members concerning calling a special meeting and placing an item on the agenda for an upcoming Board of Supervisors meeting, it was determined that the timeframe for getting this accomplished is too short. Chris Cole and Mickey both suggested putting an item on the next EIC meeting agenda to review this election and its processes and make a recommendation about how such future elections should be handled.

Other speakers from the audience included:

Mike Polak, candidate for the Sunnyside Recall Election. Elections need to be fair, and Mr. Polak asks that the EIC take it under consideration and advise the Board of Supervisors on keeping things a little tighter.

Eric Giffin, candidate for the Sunnyside Recall Election. He has seen technology evolve in the voting system and, as we saw with the Target security breach around Christmas, the system can be beat. He would like to see all doubt removed by just counting all the ballots at the last minute.

Nick Pearson. As a voter, he sees the number one priority of this Commission as making sure the integrity of elections is 100%.

Jon Brakey. Mr. Brakey asked the Commission to do the right thing because these people are trying to clean up their school.

ITEM 12. ADJOURNMENT

It was moved by Barbara Tellman and seconded by Chris Cole and unanimously carried to adjourn the meeting. The meeting adjourned at 11:20 a.m.