



PIMA COUNTY ELECTION INTEGRITY COMMISSION
MEETING MINUTES FOR November 21, 2014
<http://www.pima.gov/commission/ElectionIntegrity.shtml>

The Pima County Election Integrity Commission met in regular session on November 21, 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, Beth Borozan, Benny White, Brad Nelson, Elaine Lim, Arnie Urken, Matt Smith, Chris Cole, Barbara Tellman, Tom Ryan, and Pat Pecoraro.

Others in Attendance: Ellen Wheeler, County Administrator's Office

ITEM 2. PLEDGE OF ALLEGIANCE

The American flag was saluted with the Pledge of Allegiance.

ITEM 3. APPROVAL OF MINUTE SUMMARY – October 17, 2014

It was moved by Bill Beard, seconded by Barbara Tellman and carried unanimously to approve the Minutes of the October 17, 2014 meeting.

ITEM 4. OVERVIEW OF NOVEMBER 4, 2014 ELECTION– Brad Nelson

Brad Nelson provided a handout showing an overview of the November 4, 2014 General Election [a copy of this overview is incorporated into these minutes as Attachment 1]. Pima County had the second highest turnout in the State with 55%; Yavapai County was the highest with 61%. Statewide, voter turnout was down compared to past gubernatorial elections. The handout shows that 92.5% of provisional ballots were verified, which is the highest rate that Brad has ever seen; in the past the rate has been mid-70% to 80% of provisional ballots verified. Of the approximately 275 conditional provisional ballots which require the voter to show identification within the statutory timeframe, only 43 were actually conditional provisional; the rest were processed as provisional.

The handout also shows a very tentative schedule for Pima County's recount of the ballots in CD 2; tentative given the likelihood of a contest being filed after the Secretary of State canvasses the state and federal elections. Pima County's General Election ballots are being catalogued and will be picked up by the Treasurer's office for storage today [November 21, 2014]. The order for the recount is expected on or about December 1, 2014. Once that is received, the ballots will be returned to the Elections Department around December 4th. Bill Beard asked if the Elections Department had consolidated the CD 2 early ballots, or will all early ballots need to be counted? Brad responded the latter and the same in Cochise County; Pima County will count all 206,000-plus early ballots but only reporting the CD 2 race.

Brad went on to discuss the Continental School District ballot error issue. After discussion with the County Attorney's office, the Recorder and the County School Superintendent it was decided that the

County would send out a replacement ballot. Some may have heard on the news that there were suddenly 200-plus ballots found; they were never lost. Brad explained that the early ballot affidavit envelope has a barcode and 3-digit number that indicates the election. There was a specific envelope for the return of the General Election ballot and a separate envelope for the Continental School District Election ballot. Some voters put the wrong ballot in the wrong envelope, and Recorder's office used the barcode designation to count the returned ballot as a General Election or a Continental School District ballot when verifying them and updating the voter history. When these ballots, which had been verified as Continental School District Election ballots, were turned over to Elections Department and opened for processing, it was discovered that there was instead a General Election ballot inside. Those had to go back to the Recorder's office so the voter could get credit for voting in the General Election. All the Continental ballots had been set aside until the General Election ballots had been processed. Once that was completed then the Continental ballots were processed, and that's when the discovery was made.

Chris Cole asked how many of the Continental School District voters voted a General Election ballot and also sent in a Continental School District ballot. Brad replied that of the approximately 14,000 eligible voters in the Continental School District, 8,000 cast a Continental School District ballot.

Tom Ryan said he looked on the Secretary of State's and the Elections Department websites for overvote and blank vote information; this information used to appear on those reports and now they don't seem to appear. That information is in the canvass, as well as on the GEMS results online [listed as "Old Style Results" on the Elections Department website].

Barbara Tellman asked about the Pilot Project and how those precincts performed. Brad responded that it was better in this election due in part to the learning curve. The iPads seemed to work very well. Omission of information—such as middle names, suffixes or mailing address information—in the Primary by the vendor had been corrected for the General. There were individual precincts that went to the SNAG Board on Election Night, but the majority of problems were not due to the scannerless environment or having an electronic poll book, but were due to human error; for example, ballot numbers and signatures in the roster matched, but a name was not recorded on the poll list. Another example was that in some cases, the poll workers did not hit the "Accept" button after the voter signed and the transaction was not completed. But generally speaking the project went well; Brad did not receive any complaints from voters or poll workers about either the e-poll books or the metal ballot boxes.

Matt Smith asked what the standard procedure is for a voter who comes to the incorrect polling place. Brad responded that if the individual is not listed on the poll roster, they are sent to the Special Situations table. One of the clerks at the Special Situations table will call the County Recorder's office to verify that the individual is registered to vote, and if so, to direct the voter to the correct polling place for their precinct. If, after explaining to the voter that it is the law that they go to their proper polling place, the voter insists that they want to vote where they are, they will be given a provisional ballot. There is also visible signage to the effect that ballots must be cast in the proper polling location for them to count and the Recorder's office phone number is included so voters can call to find out exactly where to go.

Bill Beard said that as a poll watcher, he spoke with the Inspector, Marshall and both Special Situations Clerks who said that in the past maps and addresses to surrounding polling locations had been provided to assist voters, but were no longer provided. Benny White responded that the vast majority of people looking at the map were unable to find their address to find the polling location for that precinct. The maps were removed from polling locations because many more provisional ballots occurred as a result of errors in reading the maps. Brad stated that Bill's point is taken, but he would

concur with Benny on this issue. The information posted in the polling place, the sample ballot, and the polling place notification card all state that voters should call the Recorder's office to verify if they are registered to vote, and to find out where they need to go to vote. The information is out there; whether or not it's consumed is another issue. Benny noted that the voter has some responsibility for getting the correct information.

Tom Ryan asked if the e-poll books would have the capability to direct someone to the correct place. Brad responded that it would tell the individual if they are on the list of eligible voters and it would tell them where the polling place is. Some poll books being used around the state will actually print out a receipt with the location and address.

Pat Pecoraro asked if communication and responsiveness by the poll book vendor had improved; Brad responded that it certainly did improve from the Elections Department perspective. He has not heard from the Recorder's office about their dealings with the vendor, but he understands that the Recorder's office is still leaning towards developing a system in-house.

Bill mentioned that at the precinct where he was a poll watcher, there were no voter registration forms available. Also there was a mix-up in the provisional ballots with ballot types. The word "PROVISIONAL" was in bold red lettering on the provisional ballots; there was also a red stripe on some of the ballots [indicating a precinct split]. It appeared that the two different red indicators caused confusion with some of the poll workers. This was due to poor instructions to the poll workers. There also appeared to be an inordinate number of voters at the special situations table needing to receive provisional ballots, causing long delays. Brad said there were some precincts that got close to running out of provisional ballots; he didn't know for certain what caused that but he guessed that many were voters who had received early ballots and did not vote them. Bill also mentioned that he observed that a request for a ballot to be brought to someone's home took a long time to process, and that the technical support troubleshooters didn't provide support for other non-technical needs at that polling place.

Barbara Tellman asked about the poll worker surveys. Brad explained for the benefit of all Commission members that there are survey sheets supplied for each poll worker to comment on their experience at the polling place. Elections Department trainer, Mike Dale reads each one of those surveys and then gives Brad the results.

Beth Borozan has been a poll worker as a Special Situations Clerk; one thing that helped with distinguishing provisional ballots is that they were Z-folded.

Barbara said that she, Elaine and Benny had spent many hours in the Elections Department observing the operations, and she is very impressed with the efficiency and the care taken to ensure that every vote is counted. Elaine added that in three weeks, the workers had only one day off.

Chris Cole asked how many "FED Only" ballots were cast; Ellen Wheeler said she heard 32 from their communications person. Benny said there was one FED Only provisional where the voter cast a full ballot that was later duplicated to a FED Only ballot.

Benny also said that he has been very critical of the removal of scanners and the use of the lock boxes, but noted that it went much more smoothly in the General Election. Brad is hoping to meet with elections personnel in both Pinal and Yavapai Counties, which are both completely scannerless, to discuss what works and what doesn't work for them in their processes, what forms they use, etc. This will probably occur mid-January to February. He would also like to request images from Pinal County.

Arnie Urken asked Brad his thoughts on the increase in errors at the precinct level in a scannerless environment where voters cannot fix a mistake on their ballot, and the decrease in errors at central count because of increased reliability of the new equipment. Brad said that Yavapai County will be proposing electronic adjudication of ballots for the Procedures Manual, which as he understands the term, is the ability to look at an image of a ballot, make a determination of voter intent without altering the ballot, and make the count, even though the paper ballot is still confused. Brad has a real problem with that. In the case of a recount, that ballot may not be interpreted the same way the second time. The duplication process has been improved in Pima County since 2012; now there is a second-check of duplicated ballots to ensure accuracy.

Bill asked Brad if he anticipated any problems with the scanning equipment for the recount; Brad has borrowed some like equipment from the City of Tucson, which is not in good shape, but can be used for parts if necessary.

ITEM 5. PLANS FOR POTENTIAL RECOUNT – Brad Nelson

Brad referred back to his "Overview of the 2014 General Election," which also has a tentative calendar of events for the recount. He has already alerted the political party chairs of the need for a hand-count audit. The test ballots are being prepared now for the parties, the Elections Department and the Secretary of State to run Logic and Accuracy Tests. Brad understands that the Secretary of State will have a representative present for the entire recount process. He recapped the process: once the Superior Court orders the recount, it is then delegated back to the Secretary of State to conduct the recount; the Secretary of State then delegates it to the respective Board of Supervisors to conduct the recount within that jurisdiction. The Pima County Elections Department will actually be conducting the recount, but under the observation of the Arizona Secretary of State. The process will be streaming online as in the past. The Court may order that results not be released until they are given to the Court, in which case it is the Court that makes the declaration of the final results. Bill asked Brad if the ballots will be run in the same batch sequencing as before; Brad confirmed they will be run in the same batches.

Benny White asked about the subsequent hand-count audit; there will be 5% of the CD 2 precinct ballots audited, but what about early ballots? Brad read the verbiage from the Procedures Manual which states that the political party chairs or their designees "shall select at random without the use of a computer five per cent of the precincts/polling locations for the recounted race for a hand-count." He said the process is still evolving, but his understanding is that they will not be auditing early ballots. With the polling place ballots, there are the tapes as well as the SOVC to compare the numbers. With early ballot batches, there are a finite number of ballots, but not necessarily a known quantity of CD 2 ballots and therefore no comparison mechanism. Benny also asked if the actual ballots would be scanned, or if the memory card would be uploaded again without recounting the ballots. Brad stated that would be the case for the touchscreens since there is nothing physical to count, but all polling place ballots will be re-tabulated. Benny asked if the GEMS central count equipment will record polling place votes by precinct, without the memory card formatted for the precinct scanners; Brad believes it will as long as you are in the polling place input, and run the ballots in "decks" by voting area.

Arnie Urken asked Brad if there will be any press releases using the information on his calendar. Brad responded that everyone seems to know that the recount will not begin until December 1.

Brad stated that as in the past when there is a close Congressional race, the United States House of Representatives will be sending a representative from both parties to observe the recount; he

received a call yesterday [November 20, 2014] informing him that two individuals will be arriving, because in the end, the House determines who will take the seat.

Tom Ryan restated that Brad is planning on recounting the ballots on the same equipment that was used before, which Brad confirmed. Tom referred to state law, §16-664, which states that the programs used in the recount shall differ from the programs used in the initial tabulation of the votes; the Secretary of State's Procedures Manual also states that the programs used shall not be the programs submitted to the Secretary of State and used in the initial tabulating of the votes. He asked Brad, given these citations, how he was going to count the votes. Brad responded that they were going to strip everything out of the program except CD 2, and that has been accepted as a different program. Tom continued with the definition of computer program [as found in §16-444.A.4]: "Computer program" includes all programs and documentation adequate to process the ballots at an equivalent counting center." That seems all-inclusive. Based on his reading of the law, Tom feels that Pima County would be violating state law by doing the recount on GEMS. Benny suggested that issue may be raised by the lawyers, and the Court will have to decide.

Tom said he wanted everyone to be aware of this issue, and maybe the Commission should be talking about potential solutions since it may end up in court. Brad stated that his understanding of how recounts have been done in other parts of the state is that they crop out everything that doesn't pertain to the recount, and then run the ballots.

Tom stated that, also based on his reading of the law, the Secretary of State is responsible for providing a system for the recount, so the Secretary of State can approve a system to recount ballots. Benny White brought up the fact that Yavapai County is in an experimental situation, their Board of Supervisors having purchased a system that does not have federal certification. They did not ask for Secretary of State approval nor did the Secretary of State give input to the Yavapai County Board of Supervisors on their purchase. Benny acknowledges Tom's concerns, and they are valid, but he doesn't know what this Commission can do about these concerns. The issue will probably be part of the considerations before the Court, and a decision will be made prior to the next meeting of the Commission so he doesn't know how they would advise the Pima County Board of Supervisors one way or another. Tom responded that if this does become an issue and the Court decides that another method is needed for the recount, then the Commission should be making a recommendation to the Board of Supervisors on what methods are available. There are only two that he can think of: hand-counting the ballots, and Clear Ballot.

Brad read the five circumstances that allow a contest of an election [found in § 16-672]: misconduct on the part of an election board, or an officer participating in a canvass for state election; the person elected was not eligible to the office at the time of the election; the person elected or a designee offered a bribe to secure his election or committed other offenses against the elective franchise; on account of illegal votes; or that by erroneous count of votes an office or proposition did not in fact receive the highest number of votes. Tom suggested that misconduct is failure to follow the law; Brad countered that once the recount is done, it is done. The time to contest an election is after the canvass and before the recount; there is no canvass of a recount. It is a declaration by the judge.

Tom asked if the Commission wanted to make a recommendation. Arnie Urken asked what the arguments might be for doing the recount by hand. Answers given were time, cost and human error. Chris Cole suggested that, if the Court says the recount has to be done on something other than GEMS, a recommendation be made to the Board for one of these two options

because as far as can be determined, these are the only options. Bill Beard suggested an alternative would be to prepare a letter to the Board of Supervisors to submit in the event the judge rules on something other than GEMS, that recommends either a hand count, or to use Clear Ballot. Benny reminded the Commission that the next Board of Supervisors meeting isn't until December 2nd, which would be after the fact of the December 1st order. Barbara Tellman asked how it had been done in previous recounts; Benny said there is a long-standing precedent for doing it the way it is being planned. Bill suggested that the recommendation should be sent now and circulated among the Board members so that if they wish, they can ask any questions of the Commission, the Elections Department, the Recorder's office, or anyone else involved.

MOTION

Chris Cole made a motion to draft a letter alerting the Board of Supervisors of that provision in State law, and pointing out that the only two options the Commission can see are a hand count and Clear Ballot.

Tom asked if the Commission should make a recommendation on which method should be used. Elaine Lim said no; Barbara said she would never recommend a hand count. Bill Beard seconded the motion.

Benny White asked if the motion would include the additional language concept, i.e., if the Court does such and such because he would not agree to that. Benny believes it should be a declarative statement, not contingent upon other things the Commission has no control of. Chris Cole clarified the motion; it is our understanding of State law that the recount cannot be done on the same program that was used for the initial count, and these are the options that are available. Brad reminded the Commission that the recount involves more than just Pima County; there is Cochise County as well and there needs to be uniformity throughout. Bill Beard said the Commission will be making a recommendation to the Pima County Board of Supervisors, and if Cochise does it differently, that's for the attorneys to decide.

Tom said that unless someone else volunteers to write the letter, he will do so.

VOTE

Tom called the vote for writing a memo to this effect; Bill Beard, Beth Borozan, Benny White, Elaine Lim, Arnie Urken, Matt Smith, Chris Cole, Pat Pecoraro and Tom Ryan voted aye; Barbara Tellman voted no. The motion carried. Barbara explained that the main reason she opposed the motion is that she does not consider a hand count a viable option.

MOTION & VOTE

Tom asked if, in the interest of saving time, the Commission wanted to vote that he write the letter and distribute it to the Board without sending it out to the rest of the Commission for approval. Chris Cole made the motion, Bill Beard seconded it and the motion was carried unanimously.

ITEM 6. EARLY BALLOT HAND-COUNT AUDIT – Tom Ryan

Tom said that he, Bill and Arnie had met on this issue to see what can be done with ballot images that come out of the DS850, and their conclusion is that it is a viable way to do a hand count on early

ballots by precinct. Their conclusion also is that it would be better to print those ballots than to do it in soft copy because the audit would be more accurate. There is no need to make a recommendation right now since there is time. Tom did get in touch with ES&S and they sent Tom a copy of an example of a ballot from an image. The difference between what the DS850 produces and what Clear Ballot produces is that the DS850 produces binary ballots, not gray scale, so the quality of the images is not as good.

ITEM 7. ES&S DATABASE INFORMATION – Tom Ryan

Tom spoke to ES&S on this also, and this issue is due to the fact that Pima County is required by law to provide data to the parties that is a sequence of databases from the beginning of the election to the end of the election, all the backups, all the data that is in the databases for all those days. The ES&S database is accessible; they can write out reports of various kinds using their management system. The database itself can only be read using their system, but they can produce all kinds of reports. In essence, one can do what is being done now, but with well-defined reporting. For example, ensuring that vote totals and over-votes throughout the election only increase; ensuring that candidates' names stay the same throughout the election and appear in the proper order. These reports can be written in various formats, as well.

Benny brought up the subject of software that had been developed by Pima County that could be applied to the databases after the election to compare registry entries in each of the databases to make sure there were no changes throughout the election period. His question for Ellen Wheeler to pose to the County IT staff that developed that software is, will it be possible in the new ElectionWare software to perform a similar function for an independent crosscheck? With the current system, Benny always felt confident that if any changes had made, they were discernable with that independent software. Tom feels that can be done again with some slight modification to the software to handle whatever format the report is in.

ITEM 8. DISCUSSION OF EIC MEMBERS' ROLE IN MAKING PUBLIC COMMENTS – Arnie Urken

Arnie Urken introduced this item by stating he is not interested in creating a "gag rule," but he had read the column by Tim Stellar where Bill Beard had been interviewed, and it was mentioned that Bill is a member of EIC. It was difficult for Arnie to sort out whether statements made in the column were somehow linked to the fact that Bill is a member of the Commission, or whether he was interviewed because he is generally knowledgeable. Bill responded that he clearly differentiates when he is approached by a reporter, but that he has been misquoted in the past. Each time he has been questioned from the perspective as a member of the Commission, Bill is very specific about his role as a member; if he is speaking on general knowledge that is how he responds. Tom Ryan said there shouldn't be a problem being recognized as a member of the Commission as long as one doesn't speak on behalf of the Commission.

ITEM 9. UPDATE ON PIMA COUNTY – UA PROJECT ON ELECTION SYSTEMS – Arnie Urken

Arnie has spoken to a number of people in different departments [at the University of Arizona], and there is interest expressed especially in research-related areas. They can help think through what might come up during a walk-through of an imaginary system. Arnie hopes to give further updates sometime in January or February.

ITEM 10. FUTURE AGENDA ITEMS

Benny White suggested the Commission invite the new Secretary of State and whatever staff member she might like to bring to a future meeting possibly in February or March, to make her aware of the Commission and its function.

Tom Ryan suggested adding an item for tracking legislation in January.

Chris Cole suggested looking at the Commission By-Laws in January or February to see if anything may need to be changed.

Pat Pecoraro asked Tom about doing an Annual Report. Tom will work on that as a short recap of issues.

ITEM 11. NEXT MEETING DATE

It was decided to skip the meeting in December unless an emergency meeting is needed for issues that come up with the recount. The next meeting was scheduled for January 23, 2015.

ITEM 12. CALL TO PUBLIC

No audience present.

ITEM 13. ADJOURNMENT

It was moved by Bill Beard and seconded by Barbara Tellman and unanimously carried to adjourn the meeting. The meeting adjourned at 10:42 a.m.

ATTACHMENT 1

Overview of the 2014 General Election

Number of eligible voters	497542
Total ballots cast	274449
Turnout	55.16%
Number of early ballots cast	206578 (75.2% of all ballots cast)
Provisional ballots cast	9861
Provisional ballots verified	9122 (92.5% of provisionals cast)

The Pima County Board of Supervisors canvassed the election on November 18. The results of the county level canvass have been forwarded to the Arizona Secretary of State. The State will canvass all State and Federal contests on December 1, 2104. The result of that canvass is that we will have an automatic recount of the ballots in the CD2 race in Pima and Cochise counties. Such a recount is ordered by the Superior Court.

It is expected that after the State canvasses on December 1 a contest will be filed by the Barber camp in an effort to have some rejected early and provisional ballots (in both Pima and Cochise) included in a recount. If a contest is filed, the recount will likely be stayed (put on hold) until the contest has been ruled upon by the court.

Given the likelihood of a contest (and a stay) below is a tentative calendar of events for the coming recount.

December 1	State canvasses and court issues order to recount
December 1-3	Unofficial and Official logic and accuracy tests are conducted
December 3-4	Election Department receives ballots from the County Treasurer
December 4	Election Department begins to recount ballots
December 5-15	Continue recounting ballots Hand Count Audit
December 15	Complete the recounting of ballots Conduct post-election L&A Report results to AZSOS
December 16-17	Return ballots to the custody of the County Treasurer