

Pima County Election Integrity Commission

Minute Summary

The Pima County Election Integrity Commission met in regular session on May 6, 2011, at the Pima County Administration Building, Board of Supervisors Conference Room, 1st Floor, 130 W. Congress, Tucson, Arizona 85701.

Upon roll call, those present were as follows:

Item 1: Roll Call

Present: Mickey Duniho, Charles Geoffrion, John Moffatt, Pat Pecoraro, Ann-Eve Pedersen, Tom Ryan, Barbara Tellman, Arnie Urken, and Benny White

Absent: Drew Spencer

Also in attendance: Brad Nelson, Pima County Elections Department, Mike Dale, Pima County Elections Department, Darren Venters, and David Cashion

Item 2: Pledge of Allegiance:

Those in attendance stood for the Pledge of Allegiance.

Charles Geoffrion introduces Ms. Ann-Eve Pedersen to the Commission.

Item 3: Approval of the April 1, 2011 Minute Summary:

The minute summary was reviewed by the members of the Commission. No changes were noted. Motion taken to accept the minutes. Motion unanimously approved.

Item 4: Poll Worker Evaluation Form – Barbara Tellman

The Election Department presents the Commission with a draft form, which merged their survey and the new Poll Worker Evaluation Form. Brad Nelson believes that the form is a work in progress, and seeks additional comment from the Commission.

Mike Dale continues to work on the possibility of placing the new survey online, utilizing an online survey database. In the meantime, the paper document would be used for the 2011 November Elections, if approved. Questions 7-12 are questions currently used by the Elections Department; questions 1-6 are the new questions, proposed by former Commission member, Donna Branch-Gilby.

Ann-Eve Pedersen suggests another question be added to the survey: *Did you need to contact a troubleshooter, and what was your experience?* Arnie Urken suggests multiple choice text be added to question #4.

This form will be distributed during poll workers training classes, prior to Election Day, and available at the polling locations, should a poll worker not receive one in class. A self-addressed, postage paid envelope will be enclosed to return the surveys.

Tom Ryan suggests adding questions which addressed specific problems that occurred more often in the polling report cards. Poll workers should be aware of the most problematic issues, and knowing those problems will allow the Elections Department to track the issue(s).

Brad Nelson will present another draft of the survey at the next meeting.

Ann-Eve Pedersen suggests adding a question: "*How can this process be improved?*" Mike Dale states that poll workers are given the opportunity to answer that question during their training classes.

Item 5: Bylaws for Election Integrity Commission- Jim March-cont'd

Jim March is not present.

The Commission is appointed via sponsoring sources. Some sponsors are repeatedly asked to reappoint their member or appoint a new member, but the Commission Coordinator receives no response. Expired membership is not addressed in the Commission Bylaws and Charles Geoffrion seeks the Commission's feedback as to how to address this issue.

Mickey Duniho believes the appointing responsibility should rest on the sponsor, and if a replacement or reappointment is not addressed, the Commission representative should remain on the Commission.

Charles Geoffrion then questions the reason for a term expiration date.

Benny White states that once that expiration term is up, you are no longer a representative on the Commission. Representatives are on the Commission to "represent" those within their District or Political Party. If that District or Political Party chooses not to participate in their representative's service on the Commission, then the representative shouldn't sit and speak for the represented District or Political Party.

Mickey Duniho disagrees. He believes that the Commission has a responsibility to keep itself going. He would like the appointment letters to include language stating that should the Chair of the specific District or Political Party not respond to the appointment letters, the expired representative will remain on the Commission until action is taken.

Charles Geoffrion believes that the Chair's of the Districts or Political Party's should become more responsive or better organized, and not simply ignore the Commission's requests. An appointment is a formal act; it has a beginning and an end.

Mickey Duniho believes that an appointment continues until that representative is replaced. John Moffatt asked the opinion of the Clerk's Office, and he was referred to the County Attorney's Office. There is no answer, to date, but John Moffatt agrees with Charles Geoffrion's opinion.

Charles Geoffrion explains that if a sponsor doesn't believe this Commission is worthy of a serious response, after multiple requests, it should raise concerns. Benny White explains that ignoring the requests, specifically affects the member representing that Party or District and their obligation to the Commission.

Commissions are set up with an appointment term. Pat Pecoraro wants appointments addressed in the Bylaws, once the guidelines are addressed. Commission members, who are working on the Bylaws, are asked to include specific guidelines, in respect to the appointment terms.

Pat Pecoraro states that the *Purpose and Scope* language in the draft documents is inconsistent with the Commission.

Pat Pecoraro explains that his appointment expired at one time, and was asked to keep voting and participating on the Commission. He received his letter of reappointment, but did not receive a new card.

The Commission's reappointment process is currently under review. On this Commission, everyone's party and district is respected, but each representative's appointment should be taken seriously.

This item will be continued.

Item 6: Overseas Ballots – Tom Ryan – cont'd

Tom Ryan suggests Pima County look into a secure web transmission system, and inquired why the Recorder's Office chose their current email system, as opposed to a secure, web-based system. Chris Roads, of the Recorder's Office, was asked to look into overseas procedures at the Commission's request, although there has been no feedback, to date. John Moffatt explains that a commercial system was brought to the attention of the Recorder's Office, and he suggested they consider the product.

The Recorder's Office is working with the Elections Department and Pima County IT in restructuring their automated registration system. John Moffatt has been tasked with providing design options for the system. The database will be streamlined and updated.

Item 7: Recorder's Report on Poll Worker Errors – Benny White

Benny White was supposed to present a proposal to the Commission, and forward their recommendation to the Board of Supervisors to consider using 12 County workers in the February 2012 Presidential Preference Election, and to facilitate these election processes in the most troublesome voting areas.

Benny White asks to remove this Item from the Commission's Agenda, as the Democratic Party is not likely to have a Primary, due to the likelihood of President Obama going for reelection. Additionally, the Republican Party does not have the sufficient funds to conduct an election.

Brad Nelson explains that the Recorder's Office report discussed past poll worker errors, specifically tied to provisional and conditional provisional ballots. In communication with the Recorder's Office, the Elections Department has redesigned the provisional envelopes, the conditional provisional envelopes, as well as, the voter ID slips used in polling places, in an effort to alleviate some problems. During the Marana and South Tucson Municipal Elections, poll workers who had questions contacted the Recorder's Office to get the appropriate information.

Benny White asks if it's possible to have a voting booth near the special clerk's desk for provisional voters, so provisional ballots don't get mixed in with other ballots. Depending on the layout of the room, poll workers are encouraged to separate provisional voting booths, to

alleviate confusion as to where the ballots are located. Additionally, pink envelopes for provisional ballots will no longer be used, and the timing marks on the back of the provisional ballots are already implemented.

Brad Nelson can't speak for other Counties and their voting processes, but believes that Pima County is more advanced in reviewing information, and addressing the issues brought to their attention.

This item will be removed.

Item 8: Poll Book Progress Update – Brad Nelson

Brad Nelson remains pessimistic about the polling books. Yavapai County currently uses Poll Books and they do have their benefits. Yavapai County intends to transition to a “voting center” voting process, where voters can show up at any “voting center” location, outside of their district, and cast their vote. The polling book vendor has told Yavapai County that electronic poll books will not work in a voting center environment. A Yavapai County representative spoke to Brad Nelson about the system, and said that the County purchased that equipment with the understanding that it would work under a “voting center” system.

Brad Nelson does not like the idea of stand-alone poll books working off of a battery. If poll books were to be considered, Brad Nelson would like to see the satellite voting, hard-wired to a computer, similar to what the Recorder utilizes.

Yavapai County also noted that a couple of the poll book machines broke during transport, and instead of the vendor repairing them, they sent new poll book machines. There are only a specific number of poll book machines made, and may not accommodate the number of units needed for Pima County.

Mickey Duniho inquires about incorporating each voter (categorized by district) into poll books. Brad Nelson explains that during the early voting process, only specific Recorder's Office employees will call the voter up, determined what ballot is to be issued, give the voter the ballot, and “flag” the voter's record.

Mickey Duniho adds that if this process can be accomplished at early voting centers, then, technologically, it may be possible to accomplish the same idea at voting centers or polling places on Election Day with the appropriate security safeguards. Brad Nelson agrees. John Moffatt points out that this is a policy issue, not a technical issue.

The City of Tucson plans for all mail-in ballots on Election Day, but will have seven (7) centers available, where people can exchange or obtain their ballots. Barbara Tellman inquires if the County will follow the City's process. Brad Nelson expresses interest in the idea, but cannot speak as to how the Recorder's Office will handle that. The County anticipates calls from voters on Municipal Election Day, asking for new ballots, and they will be instructed to go to any Ward Office to obtain a new ballot. Securities will have to be in place, so a voter cannot vote twice.

Benny White notes that this process only includes those voting on Election Day; no early voting sites. Barbara Tellman asks Brad Nelson to verify that information.

Item 9: Secretary of State Legislative Status Update – John Moffatt

John Moffatt provides an update regarding and HB2303 – Voting Centers, and HB2304 - Scanned Ballot Election Auditing Pilot Program.

HB2303 – Voting Centers

HB2303 has passed the Legislature. The Commission opposed this bill, as the legislators failed to consider how the current Election process worked. The legislation that passed was inserted into specific statute as to how certain things were done.

Some of the Commission's concerns were addressed, some were not. John Moffatt provided copies of the final bill to the Commission, and encourages the Commission to review its content. Although the legislation has passed, details can be worked out in the Procedures Manual.

Tom Ryan remembers that there was a technical barrier to the voting centers, as the equipment in the 12-15 counties can't handle all of the precincts. Brad Nelson believes that having an electronic registration list is possible. Ballots can be stored at the voting location, or one can be printed for the voter. A private booth is provided and the ballot is filled out. The technical problems occur because the scanners that read the ballots can read only one precinct, not multiple precincts. By law, each polling place must feed the ballot into the machine, and if over-voted, it's rejected, giving the voter the opportunity to modify their ballot. Pima County does not have the technology to have 20 or more ballot boxes sitting and waiting for scanners. It comes down to a tabulation problem; not a voter registration problem.

The City of Phoenix will introduce voting centers for their Municipal Elections in August and September. In the past, the City of Phoenix has had optical scanned ballots at polling places, but they didn't drop them into a scanner; they were taken to central count location and counted there.

Brad Nelson is unsure how counties will financially have the ability to implement voting centers. Benny White expresses concern, and believes that Secretary Bennett wanted voting processes changed in one County, but this law has affected the entire State. The provisions for political party oversight are also affected by this law. Political party observers in the polling place have to be designated by the Chairman of the precinct, in which you're going to observe. The Commission does not know how this will affect "voting centers." Benny White will seek clarification of these issues during his Procedures Manual meetings.

Charles Geoffrion suggests the Commission create a sub-committee to review HB2303 and its procedures. Benny White's understanding of legislation is that if Secretary Bennett doesn't put it forward, it is not considered. He wouldn't want to waste the Commission's time and resources. The Commission agrees; voicing an opinion at the Procedures Manual level is best.

Benny White suggests those who participate in the Procedures Manual revisions have a set of facts to present to those attending the meeting. John Moffatt suggests a subcommittee to identify key factors addressed in the Procedures Manual discussion. Arnie Urken hopes the Secretary of State illustrates their changes to the Manual. John Moffatt will make that request.

The Commission will wait to view the final Legislation before establishing a subcommittee.

HB2304 – Ballot Scanning

HB2304 has also passed the Legislature. Under the Logic and Accuracy testing (Item 5), the State will want to test the equipment if ballots are "marked," as opposed to "scanned."

Under Miscellaneous (Item 40), the State added "Special Elections" to the Elections, which require a hand count. No changes were made to testing by political parties. Brad Nelson

believes the motivation for this change was the May 2010 Statewide Sales Tax Election, where there was no provision for hand counts.

Under the Scanned Ballot Election Auditing Pilot Program (Item 24), it ties the Secretary of State in cooperation with one or more Counties to establish this Audit Program, and includes analytical assistance from one or more of the Universities. John Moffatt believes the Legislators are trying to formulate more of an audit process or an independent assessment. A similar audit process is being looked at for the Certification Process of new election equipment to get the Universities involved.

Once the election is over, the ballots are turned over to the County Treasurer, the ballots are sequestered, and will be released for the auditing process.

The pilot program is set to expire in 2015, and the published report results will be extended to 2014.

Pima County will participate in the pilot program, if approved by the Board of Supervisors. Tom Ryan states that the Secretary of State's Office will not do anything, until they hear from interested Counties.

Under Item #26, the pilot program is permitted, "on approval of the governing body, to be used to audit the results of a live election for a special taxing district or for *another local election*." John Moffatt has requested a legal opinion on what "another local election" means, so the Commission can know what elections are affected.

Brad Nelson explains that within Title 16 & 48, special taxing districts include fire districts, health districts, and water districts. Mickey Duniho suggests contacting the Secretary of State's Office for Item #26 clarification. John Moffatt will make contact with the Secretary of State's Office after he receives an opinion from the County Attorney's Office.

Additionally, the latter portion of Item #26 exempts the ballots and software from public records law, alleviating another court battle to gain access to the public records.

Benny White raises concern regarding electronic signatures for nomination petitions. Chaptered laws will have to be reviewed prior to the Procedures Manual revision to see what the impact is on political party oversight capabilities.

The Commission seeks an explanation on Item #22. Brad Nelson explains that when petitions are turned in to the Secretary of State to place a ballot measure on a State-wide ballot, they gather the all petitions for Pima County, and eventually turn them over to their respective Counties. The Secretary of State conducts a random sample, which falls within a 95%-under 100%. If it's below the 95%, 100% of the petitions will be verified, as opposed to the sample.

Brad Nelson will verify his explanation with the Recorder's Office and will email the Commission with the correct answer, before the next meeting.

Brad Nelson explains that there is an issue with the Early Ballot Administration within San Luis, Yuma County, Arizona, where an attempt was made by the State Legislature to pass a law which would restrict the use of early ballots and have notarizations on them. Secretary Bennett and the Attorney General's Office is working on this issue, although a remedy has not been identified.

Tom Ryan volunteers to draft a letter from the Board of Supervisors (model letter) to the Secretary of State, expressing what elections the Commission would want to participate in during the Ballot Scanning Pilot Study. Arnie Urken suggests the letter inquire about what the University's role would be and what public policies we can utilize from them.

Motion

Charles Geoffrion requests a motion be taken for Tom Ryan to proceed with his letter from the Commission, recommending that the Board of Supervisors make a formal request to the Secretary of State for Ballot Scanning Pilot Study participation on behalf of Pima County. Barbara Tellman makes a motion to proceed with a draft letter; Pat Pecoraro seconds the motion. Motion unanimously carries.

Mickey Duniho suggests that a representative from the Secretary of State's Office attend the next Commission meeting to discuss what the process would be for Counties to make proposals. John Moffatt will make the request and suggests Tom Ryan's letter be complete and given to the Secretary of State's representative at that time.

Item 10: 2011 Election Update – Brad Nelson

The Municipal Elections with the Town of Marana, the City of South Tucson, and the Town of Sahuarita will take place on May 17th. The Town of Sahuarita will participate exclusively through the mail-in ballot option.

The next County Elections will be November 2011. Sunnyside will have an Election in November 2011 for their Governing Board, as well as, financial questions to vote on.

Several school districts are considering Elections during that time: Vail School District, Continental School District, Flowing Wells School District, Catalina Foothills School District, and Tanque Verde School District. Several of these Districts will coincide with the City's Elections, although combining their election experiences is unknown at this time.

The Commission discusses mail-in ballot cost benefits. Brad Nelson believes the cost savings to mail-in ballot elections has long-term effects. For example, polling locations need to be staffed, the location needs to be operational, and vehicles are needed to deliver ballots to and from the location, which takes a lot of resources and costs money. A mail-in voting system alleviates the need for polling locations; therefore, alleviates the cost for those resources to operate a polling station.

Concerns raised regarding mail-in ballot integrity. Ballots have been missed, ballots have been recently found in USPS locations, and several voters complained about not receiving their ballot. Mickey Duniho asks that the Recorder's Office provide a report on this issue.

Brad Nelson reminds the Commission that a voter's ballot can be tracked via the Recorder's Office website.

John Moffatt explains that the County has a "tracked" matrix for early ballots when they return. The start of that process begins when the Recorder creates a batch. The Recorder's Office has been asked for the last three (3) years to insert and document controls prior to releasing the batch, as there is no tracking, within their office, as to how many pieces of mail come in, how many are scanned, and how many are certified. John Moffatt feels very confident of the Recorder's Office ability, but there is a potential concern when you have a heavily democratic

precinct, and ballots can be missed. He stresses that this is not an allegation, but is concerned about the issue.

Additional statistics on mail-in ballots and their benefits will be gathered by Brad Nelson, and discussed at a future meeting.

Item 11: Ballot Scanning Pilot Study – Tom Ryan

See Item #9.

Item 12: Call to the Audience

Charles Geoffrion calls to the Audience. Question raised regarding the HB2303 – Voting Centers. Voting Centers are optional, and it would take effect within 90 days of statute approval.

Item 11: Next Meeting Date and Time

The Commission will meet again on Friday, June 10, 2011, at 9:00 am, Pima County Administration Building, First Floor, Board of Supervisors Conference Room, 130 W. Congress, Tucson, Arizona 85701.

Item 12: Agenda Items-New Business

Barbara Tellman would like an agenda item for precinct drawing. Brad Nelson will provide information for that item.

Item 13: Adjournment

Meeting adjourned at 11:19 pm.