

CITIZENS ELECTIONS ADVISORY COMMITTEE MEETING
September 24, 2009
Minutes

Date: September 24, 2009

Meeting Began: 2:05 p.m.

In Attendance: Shirley Forslof, Whatcom County Auditor
Pete Griffin, Election Supervisor
Nancy Moore, Auditor Staff
Todd Donovan, City of Bellingham
Robbi Ferron, League of Women Voters
Margit Kingston, Disability Community
Don Hansey, representing Republican Party
Marian Beddill, representing Whatcom Fair Voting
Bill Verwolf, Small Cities Representative
Steve Schuck, Democratic Party
Jim Fox, Democratic Party

Shirley Forslof called the meeting to order at 2:05 p.m. Introductions were made around the room.

Shirley stated the Primary Election went very smoothly. However, when the manual hand count was conducted on Wed., August 20th, there was a one-ballot discrepancy between the 400C optical scan reader and the manual hand count.

Pete Griffin explained that six batches of ballots were randomly chosen by party observers on Election Day. When the manual hand count was conducted on Wed., 08/20, there was a one-vote discrepancy. It was discovered that the 400C optical scan reader did not read a vote cast for a candidate because the line connecting the head and tail of the arrow was very faint. When the manual hand count was conducted the light line was counted as a vote. Pete explained the ballot was run through the same 400C reader again on Thursday 08/21 and once again the reader did not read the light line connecting the head and tail of the arrow as a vote. Pete stated that all three of the 400C readers will undergo adjustments prior to the General Election to test for sensitivity. Test ballots designed specifically for testing the sensitivity level of the 400C readers will be used to test the adjustments that will be made to the readers. Presently, a date has not been set for the sensitivity adjustments and testing of the 400Cs.

Steve Schuck complimented the staff on their cooperation with the political party observers throughout the recent Primary Election season.

Shirley said that a few election staff members attended training on the 400C readers held by Sequoia in Sacramento, California, which involved adjusting the density readings. She said we will be utilizing the trained staff members to make the adjustments and to test the 400Cs for sensitivity levels.

Shirley stated the November 3, 2009 General Election will be a two-sided ballot. Pete said there are a total of 115 contests for the General Election with 75 styles of ballots and 183 ballot

faces. He reminded members that not all contests will be on a ballot; voters only vote on contests and measures applicable to their own district.

Shirley brought up the White vs Reed lawsuit, unique barcodes on ballots. Shirley had previously referred interested persons in the lawsuit to the Secretary of State's website. She stated that no Washington State county is utilizing software that indicates whether a voter's ballot has been counted. The San Juan County Auditor that purchased and used the software, retired. The current San Juan County Auditor is not utilizing the feature available on the software that can reveal if a specific voter's ballot has been counted. Shirley reiterated that no Washington State county is tracking when a voter's ballot has been counted.

In the 2009 legislative session legislation was passed (Chapter 414 Laws of 2009), that provides that no paper ballot or ballot card may be marked by or at the direction of an election official in any way that would permit the identification of the person who voted that ballot. A ballot cannot contain a mark, by law, that identifies the voter and when his or her ballot is counted.

Pete stated he believes that the Hart system used in King County still allows coding on the ballot that is related to resolving necessary ballot duplications. Shirley clarified that the coding cannot be utilized to track whether a ballot has been counted. She said that King County does have coding that enables a voter to go to the King County website to check to see if their ballot has been received or if the ballot envelope has been unsigned or if their signature is being questioned.

Marian Beddill added the purpose for ballots not having unique identification is to maintain the integrity and secrecy of the voter.

Shirley gave all CEAC members a copy of an article from the "Election Administration Reports" newsletter regarding ES&S acquiring Diebold/Premier Elections for their information.

Shirley stated the Secretary of State formed a committee to revise voter registration forms to make it simpler for the voter to read and fill out. She added that the committee only redesigned the aesthetics of the form and that changes were not made to the content of the information required. The voter's signature box will be larger to accommodate those with a larger signature, for example.

All Washington State counties are listed on the back of the new registration forms. The voter will now mail the completed registration form to the county in which they live instead of to the Secretary of State's office. Previously, all registration forms were mailed to Olympia and then Olympia mailed the forms to the appropriate counties. Now the voter will mail the completed form directly to the county in which they live. If a registration form is mailed to Whatcom County in error, the cost to mail the form to the proper county will be borne by us. Shirley added it is the Secretary of State's "cost-shift" measure. The new registration forms will be implemented for use in January 2010. Shirley mentioned the positive side to the newly designed forms is it will be easier for the voter to fill out, the negative is we will be spending the time and money sorting the forms and mailing them to the appropriate counties.

Another change implemented by the Secretary of State as a cost-cutting measure is that each county is responsible for purchasing and printing overseas and military ballot envelopes. Previously, the SOS purchased and printed the envelopes and distributed them to each county. (The government pays for the postage to mail the military ballots.) Pete added that the price of

the envelopes is contingent on how large the envelope order is, i.e., the larger the quantity of envelopes ordered, the cheaper the cost per envelope. He said the SOS purchased the envelopes for 39 counties which lessened the cost per envelope considerably. We will be ordering approximately 15,000 envelopes which will be at a much greater cost per envelope than what the state was paying.

Shirley stated we were previously required to mail a state and a local voters' pamphlet with the military and overseas ballots. Legislation was changed so that it is no longer required to insert a local voters' pamphlet with the ballot. We are now required by law to provide our website address so the military voter can read the pamphlet online. Shirley added the positive side is because we no longer are required to enclose a local voters' pamphlet with the military and overseas ballots, the size of the envelopes we purchase and print can be smaller which will reduce the cost of the envelopes a degree. Military and overseas ballots are mailed out 30 days prior to an election. Military and overseas ballots are allowed to be counted up to 21 days after Election Day. Shirley said there is proposed federal legislation that would require military and overseas ballots be mailed 45 days prior to an election.

Shirley reminded members that new legislation provides that counties no longer are required to send a notice of election for every election to inactive voters. Federal law, however, provides that we do have to do a confirmation mailing every two years. A voter becomes inactive when the post office returns the confirmation notice as undeliverable. She stated the new law will save a measurable amount of money in printing the election notices, mailing the notices, and paying for all the notices that are returned by the post office because they are not deliverable. Shirley said that under the old law the election notices had to be mailed to inactive voters each election. Recently there was a year with six elections with notices going out to all inactive voters for each of those elections, a considerable sum of money.

Shirley also reminded members that legislation was passed eliminating the March special election. Currently, potential Spring special election dates are February, April, and May. Legislation was also passed that the May special election date will be eliminated in two years leaving only February and April as Spring special election dates. Shirley said the May election is intended for a levy that failed in the February or April election, for a new bond measure, or a bond measure that also did not previously pass in February or April.

Shirley said the state does *not* pay a portion of election costs in even years. The state only pays their portion of election costs in odd year primary and general elections. Each taxing district, however, pays their portion of the election costs. Pete added that the 2008 General Election ballot was mostly state issues and Whatcom County had to pay the entire election cost because it was an even year. Shirley stated for approximately 20 years auditors have rallied legislators to pass legislation that mandates the state to pay their fair share of election costs but to no avail. Shirley emphasized that every junior taxing district, i.e., cemetery districts, fire districts, etc. all have to pay their fair share of election costs with the exception of the state in even year primary and general elections.

Shirley stated that HAVA funds are used for special election projects above and beyond the scope of normal, expected election expenses. For example, the 400C optical scan readers and the Accessible Voting Units were purchased with HAVA funds. The very first Whatcom County primary and general election Local Voters' Pamphlet was paid for with HAVA funds because it was the first time a pamphlet was ever published. Subsequent Whatcom County Local Voters' Pamphlets are not eligible for HAVA funds because it is now considered a normal, expected election expense.

Shirley stated we will hold an observers training class if there are any political party observers that have not attended the Whatcom County Auditor's training class either in 2008 or 2009. If an observer was trained by the political parties, they need to be trained by the Auditor's Office to participate as an observer. Pete interjected if an observer was trained in 2008 it would benefit them to be re-trained this year as the rules for "What is a Vote?" have changed. Shirley advised members to give a minimum of a one-week notice if additional observers need to be trained prior to the General Election.

Shirley said Whatcom County had a 27% voter turnout in the 2009 Primary Election and she believes we will have double the turnout for the General Election, although she is hopeful for an even larger turnout.

Marian Beddill announced there will be a public forum on the Presidential Electoral College vs. the National Popular Vote at the Bellingham Library on Saturday, October 24, 2009, at 10:00 a.m.

Marian Beddill suggested the six batches of ballots that are randomly selected for a manual hand count post-Election Day should be selected on more than one day to get a more accurate representation or to "better cover a true random sample". Shirley stated to do so would require a change in state law. The law states that the manual count is to be conducted and completed within 48 hours of Election Day. Marian would like to see more than six batches of ballots selected for a hand count to display a more true and accurate sampling. She said the theory is that if the public knows what day the random selection of ballots will occur, there is a potential for mishandling. Shirley said that Whatcom County is one of only a few Washington State counties that conducts a post-Election Day manual hand count. She added that the counties that do have a manual hand count, not all counties count in batches. Batch size also varies from county to county. Whatcom County's batch size is 100 to 125 ballots per batch while another county's batch size can contain 300 ballots.

Shirley stated that voters hear of incidents in other states and become concerned. She emphasized that every ballot matters in Whatcom County and due diligence is paid to each and every ballot that we receive and every eligible ballot is counted. Shirley also reminded members that Washington State is a voter intent state and we have state laws on "What is a Vote" that other states do not have. Washington State makes every effort to count a voter's ballot.

Pete told CEAC members that we conduct a manual hand count as an extra measure to ensure the 400C optical scan readers are counting correctly. He said CEAC members want more than the current six random batches selected which is an audit; two separate entities.

Shirley said if we were to choose some of the randomly selected batches for a hand count on Wednesday and if there were a problem, we wouldn't know until Thursday, the final day for the hand count to be completed. If there was a problem with the 400C readers, she prefers that we find out on Wednesday so the problem could be rectified immediately rather than waiting an extra day to discover any problem. Marian Beddill agreed with Shirley's philosophy, however, she would like the random batches selected on Election Day and counted on Wednesday and then additional batches pulled on Wednesday to be hand counted on Thursday. Shirley responded that it would take a change in legislation to allow for a more flexible schedule to select the random batches and then count those batches. She reiterated that Whatcom County is in the minority of counties that actually conduct a hand count. However, an auditor has the

authority to order a hand count even if the political parties don't. Shirley said the political parties agree on the selection of the six randomly selected batches and agree on what office will be hand counted. Legislation provides that if the political parties do not choose six batches to be hand counted, the auditor *may* order and select the six random batches.

Jim Fox suggested documenting and then adding to our policy and procedure manual all quality assurance and quality control measures. Pete said our manual contains the policy, the procedure, and then the task. Shirley stated there are still procedures that need to be added to our policy and procedure manual; it is an ongoing process. She added that our procedures have been a combined effort with the Secretary of State's Office.

Shirley announced that a combined effort between the Secretary of State's Office and Oregon State have produced a database whereby a voter's registration can be checked against each other to see if a voter is registered in both states. The SOS sends each Washington county a list of persons that may be registered in Washington and Oregon. Election staff screens the voter's registration form to make sure they are not registered in both states. Shirley said that vigilance needs to be taken that a voter's registration is not cancelled because it may appear that it is a duplicate registration when in fact it is two different people.

Robbi Ferron asked for a clarification regarding voting rights for felons. Shirley said that some felons with some stipulations can vote if they are not under the control of the Department of Corrections or incarcerated. There is a provision that provides if the felon does have their voting rights restored but have not paid their court fines, it can be taken to court to ask that their right to vote be revoked. Shirley said there is further information available on the Secretary of State's website. She added that we receive information from the courts that a person has been convicted of a felony, however, the Secretary of State's Office is managing those cases.

Pete interjected that all new voter registration forms are scanned against the Department of Corrections and the Washington State Patrol's database. Due to the scanning procedure that was not available a few years ago, felons do not mistakenly get registered to vote. Pete said that under HAVA regulations, all states are required to have a centralized database. He said he believes there are a few states that may be in violation. Pete added it is very difficult for a felon to become registered to vote. If they were somehow able to get registered to vote and subsequently vote, we would be unable to do anything about it unless someone reported to us that a felon registered and voted. He went on to say that once we have a valid registration we are required to issue that registered voter a ballot.

Shirley mentioned Oregon felons for a number of years could vote unless they were incarcerated or on probation. Washington State has had rigid regulations on the rights of a felon. Shirley stated with the change in legislation it will be easier to screen whether a felon is incarcerated or on probation.

Pete stated the record for a person convicted of a felony would go through the Washington State voter registration database. The state level record is the actual record on file for voter registration; our record is a secondary copy. Pete said that once the state voter record and the felon record match, the voter record is pended until there is confirmation before cancelling the registration. A federal crime is tried at the Federal Courthouse and it does not get reported to the local Department of Corrections. Shirley referred CEAC members to the Secretary of State's website for details regarding the new legislation for felons.

Marian passed around a hand out to all members information she compiled on the number of ballots received and the dates they were received in the 2009 Primary Election.

Pete announced that because Orphalee Smith is an official write-in candidate, the processing of ballots will be slower. Each of the ballots that has Orphalee's name written in will be kicked out by the 400C optical scan readers and the votes for Orphalee will have to be hand counted. Pete explained when there is an official write-in candidate, any spelling adaptation of her name will be accepted as a vote for the office for which she is a write-in candidate. He said that if a candidate is not an official write-in candidate, then a voter writing in the name of a candidate has to spell the candidate's name exactly as it appears on their voter registration or the vote for that candidate is not counted. Pete stated that there won't be a first total count for Orphalee until Thursday or Friday morning.

Discussion was held regarding IRV and rank choice voting which eliminates the requirement for a primary election. Shirley explained that because of Pierce County's Charter, rank choice voting was used for Pierce County offices in the 2008 General Election. A charter amendment will be on the 2009 General Election Pierce County ballot with the question of continuing or eliminating rank choice voting for Pierce County offices. With rank choice voting the results of the election are not known until the certification of the election. Shirley said that Pierce County voters received two ballots in the 2008 General Election; one ballot with the state offices and one county rank choice voting ballot. The state ballot had to be voted in the traditional way and the county ballot was rank choice voting. Shirley added that it took much longer to count the ballots since the traditional ballots had to be counted and the RCV ballots had to be counted separately. Pete said that in order for state offices to be IRV, the state statute would have to be changed. Shirley said there would also have to be a change to federal law for the federal offices. She said whoever may be ahead on Election night may not be the person that wins the election. The winning candidate is not determined until the certification of the General Election which is 21 days after Election Day. She added there are four or five ways of IRV.

Discussion was held about eliminating the Primary Election with all candidates appearing on the General Election ballot. The candidate that received the most votes in the General Election would be elected. Shirley said that the 2009 Primary Election cost \$220,000. All taxing districts share the cost of an election but Pete pointed out that it is still taxpayers' money. Shirley said the elimination of a Primary Election would be a considerable cost-saving measure.

In a closing comment, Shirley stated she would like a change in how Precinct Committee Officer (PCO) elections are conducted. She said having PCOs on the ballot costs thousands of dollars. It is the consensus of auditors throughout the state that discussions should be held with stakeholders regarding the PCO elections because the counties are paying for the cost of these elections.

Meeting adjourned at 4:00 p.m.

Next meeting: October 22, 2009