



Memorandum

To: Honorable Gavin Newsom, Mayor
Honorable Members, Board of Supervisors

From: John Arntz, Director of Elections

Date: June 28, 2007

Re: Brief Overview of Manually Counting and Tallying Votes for November 6, 2007 Election

This memorandum is written to provide a brief overview of manually counting and tallying ballots for the upcoming November 6, 2007 election. A manual tally is one alternative to using the ES&S voting system that is currently not certified by the Secretary of State to conduct ranked-choice elections (RCV) and which also does not meet threshold certification requirements. The Department would conduct the manual tally if all or part of the ES&S system does not successfully complete a review for certification by the Secretary of State's office (SOS).

There are two basic approaches to conducting a manual count. One is for poll workers to undertake the counting and tallying at their polling places after the polls close, and the second is for the Department to organize the counting at one central location. From the Department's estimates a manual count could require the counting and tallying of 3,371,454 votes.

A. The Ballot and Turnout

For planning purposes the Department has used conservative estimates to establish baseline criteria: a two-card ballot (with contests printed on both sides of the cards) consisting of three RCV contests, 12 measures, and a 50% turnout of San Francisco's 416,000 voters: 60% voting at the polling places and 40% voting by absentee ballots.

The baseline is for 208,000 voters to participate in the election: 125,000 would vote in San Francisco's 561 polling places for an average of 223 voters per polling place and 83,200 would vote using absentee ballots.

50% Total Turnout of 416,000 Registered Voters	208,000 Voters
60% of Turnout from Votes Cast at Polling Places	124,800 Ballots
40% of Turnout from Voters using Absentee Ballots	83,200 Ballots
Average Number Ballots Cast in each Polling Place	223 Voters

1. Poll Workers Counting and Tallying Votes after the Polls Close

The poll workers would count an average of 223 ballots at each polling place. The number of votes to be tallied, however, is much higher. For instance, assuming each voter casts votes for all 12 measures and for first-choice selections for the three RCV contests, each voter would cast a total of 15 votes. For a polling place with 223 voters, the poll workers would count and tally 3345 votes. This total does not address votes cast in RCV contests for the second- and third-choice selections.

Individual Polling Place Total	3345 Votes
223 Voters x 12 Measures	2676 Votes
223 Voters x 3 RCV Contests	669 Votes

Citywide, the poll workers from the 561 polling places would potentially tally 1,876,545 votes.

Total Votes from All Polling Places	1,876,545 Votes
561 Polling Places x 223 Voters x 12 Measures	1,501,236 Votes
561 Polling Places x 223 Voters x 3 RCV Contests	375,309 Votes

After the poll workers completed their tally of the votes in their precincts, they would need to package the ballots for pick-up and transport to the Department's warehouse. After election night the Department will re-count and tally any precincts for which there are questions about the count.

2. The Department Counting and Tallying Polling Place and Absentee Votes at a Central Location

The Department conducting a manual count at a central location would include absentee ballots in addition to the polling place ballots. If 40% of all ballots cast are from voters using absentee ballots, there would be 83,200 ballots cast, and these ballots would have 1,245,000 votes to count and tally. The total number of votes to count and tally from the ballots from the polling places and voters using absentee ballots is 3,121,545.

6.1

Total Votes from All Polling Places and All Absentee Voters	3,124,545 Votes
561 Polling Places x 223 Voters x 12 Measures	1,501,236 Votes
561 Polling Places x 223 Voters x 3 RCV Contests	375,309 Votes
83,000 Absentee Ballots x 15 Votes per Ballot	1,245,000 Votes

3. Ranked-choice Voting

The ranked-choice voting (RCV) method applies to contests in which no candidate receives a majority of the first-choice votes. The number of tallies associated with RCV depends on the number of times the RCV method requires the elimination of candidates and the redistribution of votes according to the second- and third-choice selections.

Before the elimination and redistribution process actually takes place, it is impossible to estimate the effect this process would have on a manual count and tally of a contest. If the RCV method required the elimination and redistribution process to occur twice before a candidate attained a majority of the remaining votes, the Department might count and tally an additional 250,000 votes. Using the Department’s baseline estimates, including 250,000 votes from the RCV method increases the number of votes to count and tally to nearly 3.4 million.

Total Votes from All Polling Places and All Absentee Voters and RCV Method	3,371,545 Votes
561 Polling Places x 223 Voters x 12 Measures	1,501,236 Votes
561 Polling Places x 223 Voters x 3 RCV Contests	375,309 Votes
83,000 Absentee Ballots x 15 Votes per Ballot	1,245,000 Votes
Votes from RCV Method	250,000 Votes

B. Accounting of Ballot Cards

The Department must account for all ballots cast in an election regardless of the counting method. This accounting usually requires a minimum of three weeks. A manual count and tally will require at least this much time. State law, however, allows counties 28 days to complete their accounting of ballots. Thus, the Department will need to combine the hand count with a simultaneous accounting of all ballots used to conduct the election.

C. Space Required to Conduct Manual Tally / Access for Employees and Observers

A manual count will require a secure facility with a minimum of 75,000 square feet of open floor space. Since the Department uses no facility with such dimensions, the City would need to locate a facility that is large enough for the count and which is accessible by public transportation.

6.2

The Department estimates the need for approximately 400 people to conduct a manual count of a Citywide election and many of these people will rely on public transportation. Even for those people with personal transportation, parking would most likely be challenging with so many people converging on the same location.

D. Planning Issues

ES&S has recently submitted an application to the SOS requesting the SOS to review the voting system the City uses for certification. This review may continue for a few weeks as ES&S provides documentation not provided in its application materials. The Department will monitor this application and review process and provide weekly updates. Also, as time moves forward, the Department will increase its planning efforts related to alternatives to using the ES&S system.

Finally, I will be glad to answer any questions you might have on any matters discussed in this memorandum.

- cc: Dennis Herrera, City Attorney
- Ed Harrington, Controller
- Edwin Lee, City Administrator
- Phil Ginsburg, Mayor's Chief of Staff
- Nani Coloretti, Director, Mayor's Budget Office
- Greg Wagner, Analyst, Mayor's Budget Office
- Ann O'Leary, Deputy City Attorney
- Elections Commission

City and County of San Francisco
Elections Commission

Approved: _____

Minutes of the Retreat and Special Meeting
City Hall Room 034
June 20, 2007

President Meek called the meeting to order at 1:19 pm.

PRESENT: Commissioners Gerard Gleason, Richard Matthews, Tajel Shah, Victor Hwang, Winnie Yu, Jennifer Meek, Deputy City Attorneys Ann O'Leary and Jon Givner. Commissioner Arnold Townsend arrived at 1:26 pm.

ANNOUNCEMENTS:

President Meek announced that Item #15, the possible reappointment of the current Director of Elections, would not be an action item due to the lack of the wording "and possible action" in the agenda description. Commission Secretary Shirley Rodrigues announced that the first meeting of the Commission in July would be on the Wednesday that is the Fourth of July Holiday. Therefore that meeting of the Budget and Oversight of Public Elections Committee would be cancelled, and if members wanted to hold a meeting on another day, they should let her know and a meeting room would be arranged.

Overview of the Department of Elections

- Election Day Procedures Overview: Commissioner Gleason made this presentation and pointed out "it isn't Election Day any more, it's really Election Season." With 50% of the ballots arriving absentee voted, there is a lot of work that must be accomplished well before the actual day of an election. The Commissioner reminded everyone that the next four elections will be happening in quick succession: this coming November, then February, then June and then again in November. The DoE is fortunate to have the same Director and most of the managers who handled the unprecedented Recall Election of October of 2003, then the regular election that came in November and the subsequent run-off election in December followed by a primary in February. All activities and duties regarding elections by the Department are viewable to the public, and Commissioner Gleason recommended that the new members of the Commission make arrangements to observe the activities. (A copy of the Commissioner's points for his presentation is attached to these minutes).

Commissioner Gleason said that, in the past, he considered the Poll Worker portion of the election day equation to be the weak link. However, he was impressed with the results of the test that was sent to all Poll Workers regarding their knowledge of election day laws and procedures in

which 50% of those returning the test got 100% of the questions correct. Those missing one or more of the questions had to attend a three-hour training. (A copy of the test is attached to these minutes).

Public Comment. *Brent Turner* said that he had concerns regarding the Logic and Accuracy testing because of the lack of review of the equipment's source code. *Alec Bash* said that he wasn't comfortable with the voting equipment arriving days before election day to the voting sites where he felt the machines could be "hacked" or tampered. *Chandra Friese* presented the Commission with what she described as a short dvd titled "We're Counting the Votes" that demonstrates how the state of New Hampshire hand counts its votes. Additionally, Ms. Friese suggested that the San Francisco League of Women Voters would assist the City should a hand count be necessary this November.

The Retreat recessed for the Department of Elections walk through at 1:40 pm.

The Retreat resumed at 3:25 pm.

Commissioner Arnold Townsend left the meeting at 3:30 pm and returned at 5:09 pm.

History of the Commission.

Commissioner Richard Matthews said that the San Francisco Charter of 1900 provided for an Elections Commission, it had five members, was called the Board of Election Commissioners and it structured its membership requirements to minimized political influence. Two members were from each of the two largest political parties from the previous Presidential election. The fifth member was from the party with the third most votes, and if there were no third party the Mayor would appoint the fifth Commissioner.

Preferential Voting, allowed in the Charter in the early 20th Century, was very much like Ranked Choice Voting which was adopted a few years ago in San Francisco.

In 1923 there was litigation regarding voting machines, and currently voting machines and their possible fallibility are under suspicion by some members of the public and City officials.

In 1927, in a dispute between the Board of Elections and the Board of Supervisors, the State Supreme Court limited the Board of Elections powers to fix salaries and other administrative powers to those within the general budget and fiscal provisions of the Charter.

A new Charter passed the voters and went into effect in 1932 which created a Chief Administrative Officer who had as part of his duty "the conduct, management and control of the registration of voters, the holding of elections, and of all matters pertaining to elections in San Francisco shall be vested exclusively in the registrar of voters". This Charter also eliminated the Board of Election Commissioners.

In 1976 the amendment to the Charter clarified the responsibilities of the Registrar of Voters and the Chief Administrative Officer and said that all matters of voter registration are vested exclusively in the Registrar.

Then in November of 1995, voters adopted a new Charter which was a large restructured one. In it the Registrar of Voters was replaced with a Director of Elections "vested exclusively with the conduct and management of voter registration and matters pertaining to elections in the City and County". This is Section 13.104 of the 1996 S. F. Charter. This Charter eliminated the Chief Administrative Officer, replacing that position with the City Administrator who was responsible for appointment of the Director of Elections.

In November of 2002, voters passed Proposition E that became Charter Section 13.103.5 which created the current Elections Commission – seven members appointed by seven different citywide elected bodies or officials. The Charter gave the Commission the responsibility of setting general policies for the Department of Elections and for the proper administration of the general practices of the Department of Elections.

Overview of and Discussion of Commissioner Roles, Duties, and Responsibilities. (This discussion began at 3:40 pm and ended at 5:00 pm.)

Deputy City Attorney Givner gave a broad overview of the responsibilities of the Commission and the Director. The Commission's responsibilities come from two sections of the Charter: Article IV – addresses the role, authority and restriction of all City Commissions appointed by the Mayor, and Article XIII that specifically addresses Elections and what this Commission's responsibilities and duties are. Many of the provisions that apply to all Commissions apply as well to the Elections Commission to the extent that there is a conflict, then Article XIII is the authority. The role of the Commission breaks down into six categories: (1) setting general policies for the Department of Elections, (2) approving a written election plan prior to each election and assessing the success of the plan after each election, (3) approving the budget that is submitted by the Director, (4) conducting investigations and hearings in any aspect of the operations within the Commission's jurisdiction, (5) appointing and removal of the Director, and appointing a secretary and overseeing that secretary's work,

(6) holding meetings and acting as a conduit for the public to speak to the Department.

The Director is responsible for everything else in elections. The Charter says that the Director is responsible for the day-to-day operations, for administration and management of the Department, including all personnel matters, recommending legislation to the Board of Supervisors, purchasing, contracting, handling the conduct of elections.

Adoption and enforcement of Policies for the Commission. Deputy City Attorney Givner reminded the Commission that the policies adopted by the Commission do not have the force of law, but the Commission has the power to enforce them through its oversight of the Director in his/her performance review.

Commission's role in contracts. Deputy City Attorney O'Leary said that the Charter makes it clear that the Commission does not have the expressed authority to award contracts. The Commission does have a role: to hold hearings and pass resolutions. The hearings can cover issues related to the contract such as the type of voting system for which the Department should contract or the process the Director should use to select a voting system. The Director has the authority to make the purchase and sign the contract on behalf of the Department and follow the rules of the Administrative Code in terms of going to the Board for approval of a contract over \$10M.

Deputy City Attorney O'Leary gave a brief history of the current equipment contract. Currently the City has a contract with ES&S (Elections Systems and Software) that was competitively bid in 1998. The requirement was that the system would consist of an optical scan or touch screen and direct electronic reporting system. The contract was for five years – from January 15, 2000 to January 15, 2005. The contract was for 682 optical scan machines (these are in the precincts on election day), and two high-speed optical scanning machines to process the ballots at City Hall. In 2005, the DoE put out a new RFP (request for proposal) for a new voting system. Because this would take some time, ES&S's contract was extended. Since then, the contract has been extended THREE times. The first time was for one year – to January 2006, next until another year through July 31, 2007, and just recently to get us through this coming November's election.

The concern that the City Attorney has is that you cannot extend a contract forever because the City's sole source provider rules may be violated. All City contracts must be competitively bid.

In March of 2005, the Department issued an RFP and Sequoia Voting Systems won. Negotiations for the contract began in the summer of 2005,

and were completed in Spring 2006. As the contract was being completed, there was concern that Sequoia was not certified. This is why the ES&S contract was extended to get the City through the November 2006 election. Contract negotiations continued, and an agreement arrived at the end of 2006. However, that contract was for an amount over \$10M, and therefore had to be approved by the Board. The Board of Supervisors Budget Committee had several concerns regarding the contract, such as: why purchase new machines so soon after purchasing the AutoMark machines (these were purchased for disabled voters), and concern about "open source" voting. There was no requirement in the RFP for "open source". The City, therefore, could not put an additional requirement upon the contractor after the RFP was closed. However, the Board did not act upon approval of the \$10M Sequoia contract. Instead, the Board voted to approve an extension of the ES&S contract.

Where does this leave the contract and where does this leave the Commission? At this point the Department is continuing negotiations with Sequoia. If at some point the Director chooses to end the negotiations, because there is no agreement, the option is to open up a competitive solicitation process. The Commission can hold hearings on whether the Department should have a new voting system, the type of voting system the City should purchase and the process by which the City should purchase a system.

Communication with the Board of Supervisors. Deputy District Attorney Givner said that the Commission could make a resolution after holding hearings, or it could make a report to the Board of Supervisors with recommendations.

Reviewing the Performance of the Director and the Secretary. The Commission has the power to review the performance of the Director and the Commission Secretary. Mr. Givner suggested that the Commission adopt an amendment to the Bylaws that states that it will review the Secretary every December and the Director every April (for example), and describe a formal process for these reviews.

Approving and Assessing the Election Plan. Deputy City Attorney O'Leary said that the Commission has the responsibility to adopt and improve the Election Plan for each election. The plan should include written plans prior to each election that are submitted by the Director detailing the policies, procedures and personnel that will be used to conduct the election as well as an assessment of how well the plans succeeding in conducting a free, fair and functional election. How to make the assessment has been a concern of the Commission. This is a policy decision. One consideration is observation of the activities at the Central Command Center at City Hall on election day where there is

a projection of the computer screen which shows calls from poll workers who have problems and concerns emerging at the precincts. Once these complaints are resolved, the screen shows how and when they are cleared.

Budget Process. Deputy City Attorney O'Leary added that the Commission has approval of the Department's Budget pending final approval of the Board of Supervisors.

Does the Commission have the authority to reject the budget? The Commission can use its power to not approve the budget but the Commission cannot make specific changes to the budget. The changes in the budget are within the Director's purview of running the day-to-day operations of the Department. The Commission can make the Director aware of any concerns it has with the budget.

What role can the Commission play regarding the Board of Supervisors when it approves the budget? The Commission can go to the Board and lobby for the Department's budget. Other Commissions usually give the Chair of the Commission's budget committee the authority to go to the Board of Supervisors to advocate on behalf of their Department.

Roles and Responsibility of Individual Commissioners. Deputy City Attorney O'Leary explained that in Article IV there is specific information about how a Commission may deal with the administrative affairs of a department. The Commission must work with the department through that department's head. A Commissioner may represent the Commission at a public body, like the Board of Supervisors, only after that Commissioner has been requested to do so by the Commission.

What is a Commissioner's role on election day? Deputy City Attorney O'Leary gave an example of a Commissioner going to a polling place. She explained that the Commissioner cannot direct pollworkers to take any actions, because that Commissioner would not be working through the Director, a violation of the Charter. There is no legal conflict of interest for a Commissioner to work as a pollworker, as some members have done in the past. However, working in that capacity could put the member in a "slightly awkward" position because as a pollworker the Commissioner is a subordinate to the Director of Elections (while at the same time you sit on the Commission that oversees the Director of Elections). She said that this is not a "clear legal conflict of interest", but it certainly could cause problems that should be considered."

Commissioners giving written reports. Deputy City Attorney O'Leary said these reports become part of the public record, and should be done

with the caveat that these are the observations of that particular Commissioner (if it's a report of election day observations), and are not meant to represent what "holistically was happening on election day".

Commissioner Matthews said that Section 13.104.5 of the Charter specifically envisioned that Commissioners might work on election day, and says: "except as provided below, no city employee or officer other than the Director of Elections and appointee of the Director of Elections or a member of the Elections Commission may in any capacity perform any function relating to the conduct of an election."

Deputy City Attorney O'Leary explained that prior to the provision of the Charter mentioned above, city employees were generally involved in elections and the concern was that if those employees worked for an individual or in an office where a person was running on the ballot of that election, could feel that they needed to work on the election or might feel unnecessarily influenced to work on the election, or unnecessarily have influence that they shouldn't have. The Charter was amended to clear this up. The Elections Commission has the purview of elections, and the Charter envisioned that the Commission have this authority. The Deputy City Attorney said that she wanted the Commission to think about how it wanted to use that authority and working with the Director so that he knows what each Commissioner will be doing. She said she wanted to raise the question to the Commission of being a subordinate and an overseer to the Director.

Commissioner Gleason expressed his enjoyment working as a pollworker and explained that his rationale was that "once you're sworn in as the precinct board, the Department of Elections assists you in running the Department. You are not working subordinate, unless you are removed...they have the power to remove you as the precinct board. From 7 am until 8 pm (on election day) you are an independent body." Deputy City Attorney O'Leary explained that "you are not an independent body. The Director of Elections has the right to remove any person who is working for the elections on that day. When you go as a pollworker you are not a member of the Commission, you are a pollworker for that day. This makes it clear what your authority is on that day." Commissioner Gleason said that this is exactly how he views his role on election day when he's working at the polls. Deputy City Attorney O'Leary said that she was not making a legal opinion regarding whether Commission members should work at the polls on election day, but was offering food for thought.

Deputy City Attorney Givner added that due to the Charter amendment, one of the powers of the Elections Commission is to ask the Board of

Supervisors, at each election, to waive the restriction of City workers working on the election when the Department of Elections needs help.

Political Activities of Commissioners. Deputy City Attorney Givner explained that the Charter is very clear about the restrictions on Commissioners. Members cannot serve as officers of political parties, hold public office in this County, be a registered campaign consultant, lobbyist, or be employed by or receive gifts from a campaign consultant or lobbyist, not participate in campaign activities supporting or opposing a candidate or ballot measure, except a candidate for state and federal office. Commissioners should not make donations to local political campaigns.

Incompatible Activities. Deputy City Attorney Givner explained that Section 3.218 of the Campaign and Governmental Conduct Code requires that every City Department, Board and Commission adopt a section of incompatible activities that sets forth the actions that employees and officers of the department cannot do because they are incompatible with holding a position in that department. The Ethics Commission has the authority to formally approve the statements and does so for 65 departments. Once these statements of incompatible activities are agreed upon and adopted by the Ethics Commission, and any employee or Commissioner violates this Code, the Ethics Commission can launch an investigation that may lead to formal charges, a \$5000 fine for every violation, and the City Attorneys Office can bring civil action against the violator and the District Attorney may bring criminal charges. This law will be in effect when all Departments have agreed to conflicts within each, and the Ethics Commission has received those statements. Deputy City Attorney Givner said that he expects this to be the case by the end of 2007.

Can a Commissioner sign a petition? Can a Commissioner attend a fundraiser at which he/she has made no monetary contribution? –
The Deputy City Attorneys will answer this after further research.

Public Comment. *Alec Bash* said that it was common for Commissions to pass resolutions supporting documents their departments send to the Board of Supervisors. *Sacha Ielmorini* suggested that the Commission mention the public's tenacity at meetings regarding the issue of voting equipment if the Commission sends a resolution to the Board of Supervisors, and that if the resolution is not unanimous, it reports which Commissioners were in favor and who opposed it. *Tim Meyer* said that he senses frustration on the part of some Commissioners regarding their power to direct the head of the Elections Department. He said that the Commission can educate itself by listening to the information attendees present at meetings. *Brent Turner* said that the Commission has "a

tremendous amount of power” and that the issues he is concerned about are policy issues and not the day-to-day department matters about which the Commission has no power.

9. Discussion of Ideas for Improving the Commission and Future Plans/Projects. President Meek asked that the members consider the following items for future discussion at upcoming meetings: (a) Getting the Election Plan reconfigured, (b) Better methods of evaluating the Election Plan, a documented criteria, (c) Implementing an evaluation process for the Director and Secretary and conducting it annually, (d) Researching and issuing more resolutions.

Commissioner Townsend, regarding doing an evaluation on the Director or having input regarding activities of the Department, said “when things are running and working smoothly, it’s a testament that you have enough sense to see it and let it go.”

BREAK at 5:17 pm
RETURN at 5:44 pm

Commissioner Victor Hwang left during the break to attend personal business.

Overview of Appointment Procedures for the Director of Elections. Deputy City Attorney Givner reviewed the Charter and Civil Service Commission Rules regarding the appointment of the Director. These are included in the packet for this Retreat. The Commission, working with the Department of Human Resources, sets the criteria and qualifications for selection of the Director. The estimated time for the process is three months. The decision to re-appoint, or to do a search for a new Director must be made no later than 30 days before the end of the current Director’s five year term of office.

Discussion and possible action whether to hold Closed Session. Commissioner Townsend MOVED and Commissioner Yu SECONDED this item. The Roll Call vote was UNANIMOUS.

Public Comment. *Brent Turner* said that if the Commission decides to seek candidates for the position of Director of Elections after the five year term of the current Director, he and others in the audience would like the opportunity to suggest candidates.

This meeting went into CLOSED SESSION at 5:55 pm
Returned of OPEN SESSION at 6:20 pm.

Discussion and possible action regarding disclosure of Closed Session. Commissioner Matthews MOVED and Commissioner Shah SECONDED non-disclosure of the contents of the Closed Session. The Roll Call vote was UNANIMOUS. President Meek disclosed that no action was taken in the Closed Session.

Director's Report. Director Arntz thanked the Commissioners for joining the Department tour that was part of this meeting's agenda. The **Outreach Division** position opening received applications from two candidates. An announcement regarding the appointment will be made after the test scoring is completed and an offer is accepted by the winning candidate. The **update regarding securing a voting system for 2007 – 2008** is that Elections Systems and Software (ES&S) has not yet submitted its application for certification to the Secretary of State (SOS). The SOS has said that July 1, 2007 is the deadline for submission. Although the Board of Supervisors approved the contract extension to use ES&S back in April, that contract is not complete because insurance and bond certificates from the company have not been sent to the Department. If ES&S is not approved, the Director said he wants to ask the Board to approve the Sequoia Voting Systems contract or to fund a ballot hand count. If the answer is to use Sequoia, the first choices in the Ranked Choice Voting (RCV) contests can be counted by the equipment (this would be the same for ES&S). However, there would need to be a hand count for those contests where there is not a majority winner. The Director reminded the Commission that the Sequoia contract states that the company pays for the hand count.

Commissioner Shah asked if the Director could limit the elections to be covered by the Sequoia contract so that approval could be expedited. The Director said that this could be done.

Director Arntz announced that the supplemental budget has passed the Board of Supervisors (\$900,000+). The Director hasn't received the final draft of the Department's fiscal budget from the Board's Budget Analyst. Commissioner Shah asked the Director to provide, in layman terms, the positions and facilities that the Mayor's Office did not fund. The Commissioner said she wants to discuss why those were not funded by the Mayor's Office. Director Arntz said that he will request, in writing from the Mayor's Office, why the facilities he has requested have not been funded.

Commissioner Townsend suggested that the Commission request this indemnification at its next full meeting.

Commissioner Matthews suggested that the 2002-2003 Grand Jury Report, which is still viable, be used because it specifically called for the

consolidation of DoE sites. There is a new Grand Jury about to begin, and this would be the ideal time to let those members know that the preceding report's findings and recommendations have been ignored.

Public Comment. *Sacha Ielmorini* asked if Sequoia would still be paying for the hand count if they missed the submittal deadline for testing. *Brent Turner* said that the City should issue a new Request for Proposal that considers open source.

Discussion and possible action regarding securing a voting system for 2007-2008 and report from Commissioner Arnold Townsend regarding his assignment from the June 6, 2007 meeting to call ES&S. Commissioner Townsend reported that he spoke to Lou Dedier, who answered his phone personally. The Commissioner asked Mr. Dedier about the system and the bond and insurance. Mr. Dedier assured the Commissioner that the system had already been submitted and the bond insurance would be in the hands of the Director of Elections by Friday, June 22, 2007. Again, Mr. Dedier said the system had gone to the Secretary of State.

Commissioner Townsend reported that as of the day of this retreat, no system from ES&S has been submitted, and no bond has been received by the Department. The Commissioner said, "the problem with asking them (ES&S)...is that they lie!"

Commissioner Townsend left the meeting at 6:45 pm.

Commissioner Shah suggested that the Commission investigate doing a resolution about the strategies that Director Arntz is working on for a successful November election to send to the Mayor and Board of Supervisors. The Director replied that by the next Commission meeting (July 18), things might have changed and it could be too late.

Commissioner Gleason said that the Commission should communicate to the Board that the option of extending the ES&S contract may not be viable. Director Arntz said that he spoke to Supervisor Elsbernd earlier in the day and advised him, via a memo, of the status in response to the Supervisor's inquiry of May 16th.

Deputy City Attorney Givner suggested that the Director could mention in his memo that over the course of months the Elections Commission has expressed, in various forms, its concern about a viable equipment contract for the election.

Public Comment. *Sacha Ielmorini* said that she finds it interesting that the Director hasn't taken the "ball and running with it in terms of getting the

SOS on the line and getting ES&S on the line on a conference call." She said that a hand count should be the last resort. *Brent Turner* said that the City has never done business with Sequoia before and that he's heard that Sequoia has said that they will sue the City if it does not carry out the contract the company was awarded. He said this is not what you want to hear from a company with whom you are about to do business. *Tim Meyer* said that he's been in the business of purchasing and selling equipment since 1981 and that being "jerked around by vendors is nothing new." He said the reason ES&S is doing this is because the City doesn't have any alternatives.

Discussion and possible action to approve the meeting minutes of June 6, 2007. Commissioner Matthews MOVED to approve the minutes and Commissioner Shah SECONDED. The Roll Call Vote was UNANIMOUS to accept the minutes.

Adjournment at 7:05 pm.