

Elections Commission
City and County of San Francisco

Christopher Jerdonek, President
Dominic Paris, Vice President
Roger Donaldson
Charles Jung
Viva Mogi
Jill Rowe
Rosabella Safont



John Arntz, Director of Elections

Don Chan, Secretary

MEETING MINUTES

San Francisco Elections Commission
Wednesday, August 16, 2017
6:00 p.m.
City Hall, Room 408
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

Order of Business

1. Call to Order & Roll Call

President Jerdonek called the meeting to order at 6:00 p.m. All Commissioners were present at the gavel. Also present: Director of Elections John Arntz, Deputy City Attorney Andrew Shen, Secretary Don Chan.

2. General Public Comment

None.

3. Accessible Voting Education

Mr. Fred Nisen, Supervising Attorney for Voting Rights, Disability Rights California, gave a presentation on the issue of assuring that disabled voters were given every opportunity to successfully cast their ballots, with assistive voting technology (PowerPoint presentation attached to these minutes). The discussion revolved around what was the current procedure regarding use of assistive voting machines at the polling places. Mr. Nisen said that nobody was being asked at the polling place if they needed or wanted to use such methods to vote so that many people who have disabilities (not obvious to the eye) might be unable to vote. Director Arntz said that in the 2008 elections, people were given the option to use touch screen machines to cast their votes, but there was a big question as to their security and susceptibility to hacking and alteration, so it was de-emphasized as an option. The question was raised about the impact on the poll workers and the Department (given Butte County's experienced increase in the use of such machines) if this resolution were enacted. Director Arntz said that it would definitely increase the numbers voting but couldn't provide a hard

estimate. State law requires that every ballot cast via touch screen be printed out in paper card format for the record. The question was raised whether this resolution would put any additional obligations the Department has in conducting an election. Director Arntz replied no, rather it would return the City to one where people are informed of all the different means available to them to vote.

President Jerdonek recounted that in 2008 the Commission did pass a resolution which steered the City away from recommending touch screen voting, preferring to recommend paper balloting, but that Mr. Nisen's proposed resolution doesn't present any adverse conditions to the goals of the City. The resolution's language was reviewed by President Jerdonek, Director Arntz, and Deputy City Attorney Joshua White, who all found it in good order and aligned with policies in the past.

Director Arntz was asked if he felt there would be any conflicts with past practices, notwithstanding the Commission's 2008 resolution, and whether the issues surrounding the use of assistive voting equipment were significant. He was asked if in his experience the Department would continue to utilize those machines in the places previously placed. Director Arntz answered yes and that they are careful to select polling places where there is greater evidence of need for the equipment (as shown in past use).

Director Arntz was asked how this would impact the vote-by-mail process. He responded that the laws around remote accessible voting would first go into effect during the June 2018 election, so there is no past experience by which to project or anticipate future outcomes.

President Jerdonek commented that the current voting equipment/contract will expire in a year and this resolution might help the City keep an eye on the next system being much better than the past one, so that there is more confidence to use assistive equipment.

Commissioner Jung suggested that it would be very helpful in the future, when considering resolutions such as this that an impact statement be included in their presentation so commissioners can have an assessment to work from. He then went forth to move that the Commission adopt the resolution presented by Mr. Nisen (see attached draft "Resolution on Accessible Voting Education") "that it be the policy of the Elections Commission to support all voters being informed of the opportunities available to them to vote using accessible ballots or voting equipment, including when voting by mail." The motion was seconded by Commissioner Rowe.

Public Comment:

Mr. Brent Turner, CAVO, agreed with the resolution. He said that the voter-verified paper audit trail ballot (VVPAT) is the creation of Dr. Rebecca Mercury, but has moved away from its original design. He said voters often do not look to verify and that migrating information to paper ballot is fraught with the potential for misuse.

Mr. David Cary encouraged passage of the resolution. He said that the new voting system should have many improvements that make voting more readily available to the disabled. He mentioned that during the 2012 elections, he was part of a task force and

observed some cases where the accessible voting systems were not set up the entire day. It is essential that poll workers know the importance of having them and making it known to all voters.

Mr. Tim Mayer, CAVO, said that if the system were set up it would not only be available to disabled individuals, but everyone who wanted to use it,

Commissioner Donaldson echoed others' concern over the remaking of ballots, and felt it should be minimized. He agreed with President Jerdonek that this question of accessibility and accessible systems is important to the open source project.

There was no further discussion. The question was called and the vote was unanimous in support of the resolution.

4. Open Source Voting

President Jerdonek reported that he was invited by Dean Logan, the Los Angeles County Registrar, to speak on a panel at the Elections Center's annual conference in Orange County next Tuesday. The other panelists will be Amber McReynolds (Director of Elections, Denver, CO) and Noah Praetz (Director of Elections for Suburban Cook County, IL).

Colorado issued an RFP for open source software for election auditing, and they have selected a contractor to do that. The progress can be followed on GitHub. President Jerdonek personally submitted a "pull request" to the project and will wait to see if they accept it.

President Jerdonek recounted that the first meeting of TAC was fully attended by the members. They discussed general topics and questions about how to move forward within the confines of the Brown Act and Sunshine Ordinance. President Jerdonek has created a website for the committee, linked to the Commission website, and the next meeting will be August 30. The Committee is scheduled to meet every fourth Wednesday of the month in Room 421. The Committee will submit a written report to the Commission three times per year. The first report is due September 3.

Director Arntz said the selection panel scored the three responses to the RFP and chose a contractor. There is now a protest period until next Monday where anyone in the public may raise issue with the contract. If it passes without opposition, it will then go to the Civil Service Commission on September 18 for approval or disapproval of the contract. There was a question about the process involved with the RFP. Director Arntz gave a summary of the steps it went through.

Public Comment:

Mr. Tim Mayer, CAVO, appreciated the accomplishments to date on the road to open source and hoped the work would continue to move forward. He referred to the *New York Times* op-ed (included in the agenda packet) advocating for open source.

Mr. Brent Turner thanked Director Arntz and the Commission for their work and also referred to the *New York Times* op-ed. He emphasized the need to protect the principle of open source against private enterprise ventures' efforts to privatize it.

5. Approval of Minutes of Previous Meeting

President Jerdonek commended Secretary Chan for his improvements in doing the minutes, saying they are getting better each time. Secretary Chan thanked him for his kind comments and said he hopes to keep improving for the Commission. Commissioner Donaldson moved to approve, seconded by Commissioner Jung. The Commission voted unanimously to adopt the minutes.

6. Commissioners' Reports

President Jerdonek reported that the Commission's response to the Civil Grand Jury report was sent to the Superior Court yesterday, as part of a consolidated response via the Mayor's office. Copies of that response were sent to the Commissioners.

Another item he mentioned was a California Attorney General opinion issued in July regarding SB 450 (the California Voter Participation Act), which directed cities and counties to move "off year" elections to even years in certain circumstances. The circumstances depend on the turnout relative to the turnout in the past four elections. The opinion says this applies also to charter cities, like San Francisco. San Francisco is still reviewing this decision. Deputy City Attorney Shen said that the intent of the law is to get rid of the odd-year elections, which don't capture significant voter participation. San Francisco has a much more active voter populace and would not fall into that criterion.

Vice President Paris asked if this law would then extend or reduce the terms of those officials impacted on odd years. Deputy City Attorney Shen said the law was silent on this question.

7. Director's Report

Director Arntz mentioned that he met with the Executive Director of the Ethics Commission regarding the consolidation of slate-mailer campaign finance statements. The idea is for them to be filed directly with the Ethics Commission rather than with the Department of Elections, as it is currently done. They talked about how to migrate information to them so it is in their online database.

President Jerdonek asked for an update on the warehouse, given the news about Anchor Steam reported in the Chronicle. Director Arntz said the Department's target was Shed A, and Anchor Steam was planning to move to Shed B. However, the news is that it doesn't appear that Anchor Steam is actually moving there. Director Arntz said he preferred to stay at Pier 48 but there have been no indicators that this would happen.

8. Process for Annual Director of Elections Performance Review

President Jerdonek recounted that the form they have now was the same as used last year. There was a discussion regarding one aspect of the evaluation process, which involved in-person interviews of Department staff. This seemed to create discomfort for some employees and raised questions regarding the honesty or value of the opinions

expressed. Commissioners expressed a wide range of opinions about the value of this exercise, from keeping it but having a smaller interview panel (one or two Commissioners as opposed to the entire Commission), to having anonymous or signed written surveys, or some combination of the two. An employee NPS was mentioned as a confidential aid that could be used.

Director Arntz was asked his feelings about the impact of this activity on his staff, and he said that the employees really don't like to participate in this because they fear it will affect them if they give negative responses.

It was felt that anonymous responses leave the door open to fallacious and disruptive comments of no positive value. The morale of the Department was important to protect.

Public Comment:

Mr. David Cary suggested that personal interviews would be better with at least two interviewers as a check against possible personal bias in interpretation. He felt the evaluation of the Director should be held much earlier in the year (for the previous year). He also suggested adding the item of progress toward open source voting against which to evaluate the Director.

The Commission carried on a short discussion about Mr. Carey's comments regarding prominently including open source voting as a criterion of evaluation. While it is a responsibility of the Department, some felt it should be stated beforehand as a criterion rather than added later.

Upon a call for a poll of Commissioners' feelings on the process:

- President Jerdonek was not wedded to a survey but wanted to maintain personal interviews of staff.
- Vice President Paris was open to 2-3 staff members interviewed by two Commissioners, and including 2-3 written, non-anonymous surveys.
- Commissioner Donaldson was against interviews unless the staff volunteered.
- Commissioner Safont liked the idea of a survey and not the interview.
- Commissioner Mogi agreed about the survey and is opposed to the interviews.
- Commissioner Jung agrees with the survey and does not feel the interviews are valuable.

President Jerdonek said that if they want to do the written survey someone would have to prepare that for review. Commissioner Donaldson suggested that this be a topic for BOPEC. BOPEC could possibly prepare it and bring it back to the full Commission. President Jerdonek agreed, and asked the other Commissioners to prepare suggestions in writing and send them to Commissioner Donaldson via Secretary Chan before the BOPEC meeting,

9. Agenda items for future meetings

President Jerdonek mentioned the Annual Report being worked on by Commissioner Rowe as a possible topic.

Adjourned at 7:50 p.m.

Informing All Voters about the Accessible Voting System

Fred Nisen & Bill Hershon

Voting Rights Unit

Disability Rights California

Current Practice Affecting Access to Private and Independent Ballot in San Francisco

- San Francisco poll workers are NOT trained to let voters know about the Accessible Voting System UNLESS
 - The voter has a readily visible disability
 - OR
 - The voter requests the accessible voting system

San Francisco currently provides
all voters with paper ballots.

Many Individuals Have Non-Visible Disabilities

Such as:

- Vision loss**
- Mobility/dexterity (i.e. Arthritis or Neurological Disorder)**
- Learning Disabilities**
- Intellectual or developmental disabilities**

Benefit of Letting All Voters Know about the System

- Helps voters such as seniors, who may be unaware of their disability. Such as, hearing or vision loss.

Benefits (continued):

- Will Help Ensure the Accessible Voting System is Plugged in and Operational:
- Often times poll workers neglect to set up the Accessible Voting System until someone who needs it shows up and requests it.
- By offering the system to everyone, poll workers will understand the need to have the system fully functional.

Compare and Contrast: Butte County

- ONLY 172 voters utilized the Accessible Voting System in the November 8, 2016 election in San Francisco
- While Butte County, which offers the Accessible Voting System to every voter, 7,256 voters used it in the same election.
- Butte County has a population of only 224,214*

*Based on 2014 Census

-Recent state law will make “remote accessible vote-by-mail” systems available, which would enable some voters with disabilities to vote using a vote-by-mail ballot privately and independently.

Proposed Resolution

- San Francisco Elections Commission adopts a Formal Policy that supports all voters being informed of the opportunities available to them to vote using accessible ballots or voting equipment, including when voting by mail.

1 SAN FRANCISCO ELECTIONS COMMISSION
2 **RESOLUTION ON ACCESSIBLE VOTING EDUCATION**

3 (PROPOSED / DRAFT)

4 Date: August 16, 2017

5 **Resolution supporting informing all voters of the options for accessible voting.**

6
7 WHEREAS, The San Francisco Elections Commission (“Elections Commission”)
8 supports the rights of all voters to vote independently and privately;

9 WHEREAS, People with non-visible disabilities (e.g. people with low vision who
10 do not use a white cane or seeing-eye dog; people with learning, developmental, or
11 intellectual disabilities that are not apparent; and people with dexterity disabilities such
12 as arthritis that affect their hands) may need to use accessible voting equipment;

13 WHEREAS, Many voters may not realize that they can use and benefit from
14 accessible voting equipment, even if they do not consider themselves to be disabled,
15 such as seniors, people who have a temporary disability such as one resulting from
16 surgery or wearing a cast, and people who cannot fully engage with a paper ballot such
17 as when carrying a young child;

18 WHEREAS, San Francisco is a county that provides all voters with paper ballots;

19 WHEREAS, All of San Francisco’s polling places provide all voters with
20 accessible voting equipment; and

21 WHEREAS, All San Francisco voters with disabilities will have the option to
22 receive an accessible vote-by-mail ballot by email, that voters can then mark using

1 digital tools, print, and return in the mail to the Department of Elections; now, therefore
2 be it

3 RESOLVED, That it be the policy of the Elections Commission to support all
4 voters being informed of the opportunities available to them to vote using accessible
5 ballots or voting equipment, including when voting by mail.