

Elections Commission
City and County of San Francisco

Roger Donaldson, President
Viva Mogi, Vice President
Christopher Jerdonek
Charlotte Hill
Charles Jung
Jill Rowe



John Arntz, Director of Elections

Don Chan, Secretary

REGULAR MEETING MINUTES (draft)

San Francisco Elections Commission
Wednesday, July 18, 2018
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 Donaldson called the meeting to order at 6:01 PM. Comm. Jerdonek, Jung, Mogi, Rowe were present. Comm. Hill was excused absent. Also present: Direction of Elections John Arntz, Deputy City Attorney Andrew Shen, Secretary Chan.

2. General Public Comment

None

3. June 5, 2018 Election

President Donaldson reported that the BOPEC reviewed the elections and recommended that the full Commission declare its certification as a free, fair and functional election. He pointed out some items that were of question, but were not considered serious nor prevented a free and fair vote. He asked Director Arntz if there were any techniques available to reconcile discrepancies in numbers between numbers of ballots counted at a precinct and what is tallied later with provisional, vote by mail ballots. Director Arntz said no. There's nothing in the Dominion system that does that.

Commissioner Jung asked if that report was in the agenda packet of materials. No but Director Arntz said he could get that to the Commissioners.

Commissioner Jerdonek asked if the voting results summary could be more integrated (showing direct links with RCV results).

He recalled at a previous Commission meeting a member of the public commented that public awareness of the existence of the Commission was very limited. He said that in old voters information booklets of the Department (2002-3) there is an introduction of the Commission, but not in recent publications. If a similar thing can again be included, the public may be more encouraged to express their mind on election matters.

He also thought that it would be helpful to do better instructions for rank choice voting, and mentioned a couple of resources Director Arntz could seek out.

President Donaldson said that while there was a script for roster clerks to inform voters but felt it could have been emphasized more (in keeping with the Commission resolution to promote information on accessible voting tools).

Commissioner Jung moved to declare that the election plan succeeded in carrying out a free and fair election. Commissioner Rowe seconded.

Public Comment

Mr. Brent Turner agreed with the Commission's motion (limited by the extent the system allowed for it).

Commissioner Rowe commended the participation of the public to work in carrying out the elections. Commissioner Jerdonek asked if there were lack of workers at polls. Director Arntz said there were no shortages but there were no "extra" hands to be able to step in were there needs.

4. Open Source Voting.

a) Technical Advisory Committee Update

Commissioner Jerdonek reported for TAC. The TAC discussed the CGJ report and found it generally positive. The Committee will be trying to video it's meetings in the future. It is continuing to work on refining its results reporter component, and software to convert Department data to be used in the results reporter.

President Donaldson reported that he and Commissioner Jerdonek, and Director Arntz had met with CIO Linda Gerull regarding the OSV and the work of both departments in developing it. One idea brought up producing a validation module as an initial product, that could be used to validate results of an election. Doing this could prove the feasibility of an open source agile approach in development. Gerull thought other municipalities could be interested in this also.

Commissioner Jerdonek brought up proposed amendments to the resolution passed last month. It addresses the large question of project ownership. The original resolution stated that the Mayor would be asked to name the project owner, but in this amendment it reads that the Commission names the Department as the owner. A lively and in-depth discussion ensued that explored what it means to be the owner of the project, what distinction that had for having final authority for decisions on what the product would look like, how it would proceed through each stage of development. Some were of the mind that because

Department of Technology (DT) was willing and enthusiastic about taking on the technical side of the development (software/hardware) that the project should be under DT's leadership (also since DT was heading up the hiring of the Project Manager), while others felt the Department of Elections should own it.

It was acceded that the Department of Elections did not have the technical expertise to lead that aspect of the project, and DT did. The Department expressed its preference for not having to oversee this for fear that the time and attention necessary would severely interfere with the Department's mandate to assure the execution of free and fair elections (the logistics to carry out that task). There was a fear that without the Department's ownership of the project (and the Commission's final oversight and guidance), there's no assurance that it won't go awry. Similarly, if it's in another department's fiscal allocations, could/would that department be as effective an advocate for the City's support as the Commission and Elections Department? (much of the fiscal arena revolves around state and federal funding, could another department keep abreast of those developments that would impact the project?)

A question was raised as to whether DT really wants to own it, or just play a supporting role of leading the technological build. Likewise, is the logical supervisor of the technical activities (via Project Manager) in DT or the Department? (the Department saying it hasn't the expertise to supervise that)

Commissioner Rowe moved to approve the amendment as written, seconded by Commissioner Mogi.

Public Comment

Brent Turner approved the amendment.

David Cary brought up a comparison to when the Department had to implement rank choice voting. They had to find a vendor or contractor who could provide the program that would accomplish this. Ultimately Dominion (the current vendor) was chosen, but clearly it was under the "ownership" of the Department, to get it done. He said this was the same situation where the Department must find (not develop the system itself) someone, some firm, vendor, to bring forth a program (per its OSV requirements) for the Department to use. The Department would be the owner, and how it finds the final product is a totally separate issue from that condition. He encouraged the Commission to pass the amendment.

President Donaldson said the CIO spoke of her department as being the business provider but it was Director Arntz's feeling that the CIO's position is that she (DT) would be the owner of the technical aspects of the system. He further stated that the Department wasn't seeking to develop a voting system, that it was seeking updated technology for a system so they can conduct elections better. It is the Commission's interest to have a system developed. There was a discussion about this, whether the acquisition of an OSV system was within the purview or mandate of the Department, or whether it should be directed by another department. The larger question related to this was whether the Department should take on the responsibility of developing the system (by whatever means), or just seek to acquire one that met its specifications. The contention was around the question of support the development of, vs actually overseeing the development of an OSV.

The Department said it was not suited to do the latter. Various questions needed answers to: what would be the relationship between the Department and DT in relation to the OSV project, who directs who in the decision making. Who maintains and improves it.

Vice President Mogi commented that in light of the conversation, she didn't think it wise to name the Department as the owner.

Commissioner Rowe also felt it ill advised.

Deputy City Attorney Shen asked if the motion was still on the floor. Commissioner Rowe withdrew her motion and made another motion. "To amend Open Source Voting resolution #2 by deleting the Further Resolved section that reads ".that the Elections Commission ask the Mayor and Bd of Supervisors to name the Department of Elections as the owner of the project [essentially lines 11 to 17]. And in the next Further Resolved section to delete the part on line 20 that reads " to report to the Director of Elections".

Commissioner Jung seconded.

President Donaldson opposed weakening the resolution and said it would be beneficial to have another meeting with CIO Gerull to clarify and define those terms and understanding of relationship.

Public Comment:

David Cary made a distinction between the project ownership and the ownership of the technical aspects of the project. He recommended not passing this resolution and asked the Commission to clarify what responsibilities it would like the Director of Elections to have for this project.

Brent Turner spoke in opposition to the Director of Elections.

Jim Soffer said if you get a good Project Manager, things will work out.

Bruce Wolfe via email: Dear Chair and Commission Members --

I write you today as an individual, a resident and voter of San Francisco with great interest of our election system. I support Open-Source Voting. As a professional chief information and technology security officer, and avid user of open-source systems and software since their inception the importance that this newly approved system to be developed for our use be cautiously monitored is essential. With the increasingly problems all around us facing technology and Internet security plus the issues around secrecy of proprietary voting systems we, as a city, need to move forward methodically and carefully to assure the appropriate and correct procedure and plans to complete this task in order to protect our most coveted of civil rights. I understand that sizable funding is available for this project but is not clear as to how it is appropriated. To have funding be designated to a certain department for projects like this without full understanding if that department does this kind of work or not is an undesirable way to go. To this end, I strongly urge that SF Elections Commission and Department be the sole "owner" of this project with complete jurisdiction for its direction and management. This way flexibility to work with any one or more city departments and/or agencies can be made comfortably. In your resolution for external guidance, I would also strongly urge that you, SF Elections Commission, take full ownership

of this project as was brought by you into the light and amend the resolution to reflect such ownership. Thank you for your attention and indulgence on this matter

The motion was called, and with a vote of 3 opposed, 2 approve, the motion failed.

Commissioner Jerdonek mentioned a public hearing in Sacramento on July 26, on the subject of voting equipment security.

President Donaldson reported that the Department (via Dominion) will be holding a demo on how the new voting equipment works and how the system works. The dates and times are stated on the Department website.

5. Review of the Civil Grand Jury Open Source Voting Report in San Francisco President Donaldson summarized that the Civil Grand Jury published this report and requested the Commission respond to various findings and recommendations in it. He said that the BOPEC and TAC had taken up initial discussions and reviews and had compiled their thoughts on it, along with comments submitted by members of the public, and with these points he and Commissioner Jerdonek had drafted a coordinated set of responses that, with the exception of F19, were in general alignment. The Commission is asked to review that and act to approve a final copy for reply to the Civil Grand Jury.

Commissioner Jung said he found the coordinated draft to be generally consistent with what was discussed in BOPEC, with that one exception where President Donaldson found that developing a voting system was within the Charter's mandate [section 13.104] for the Department....."matters pertaining to elections in the City and County..." but he doesn't see that in the language of the Charter.

Commissioner Jerdonek asked Deputy City Attorney Shen to interpret the language of the CGJ report and he said that mandate didn't seem to him to speak to legal authority as much as it dealt with expertise and capacity.

On another note, Commissioner Jerdonek brought up the question of whether this is a project or not. In the coordinated response (F1) it is said there is not a project, but he feels this is a misstatement of history and wants to delete the first 3 paragraphs under F1.

New "general note/preamble" Regarding making progress on the project, rather than the lack of an owner, the Commission believes lack of funding, and a commitment from the City to start the project, was the main reason for the lack of progress. In its Nov 18, 2015 resolution, the Commission encouraged the Mayor and Bd of Supervisors to "first, hire a project director with technical expertise to be responsible for planning and leading the project, including working with stakeholders, collaborators and regulators drafting requirements and selecting matching technical contractors as necessary." However, the City did not provide funding a resource to lead the project until now, anticipated with the budget signing August 1, 2018 and so the Department did not have staff or expertise to make progress.

Commissioner Jung defined project and said that this one lacked the 'carefully planned and designed to a particular aim' character. Director Arntz also thought that with all the thought put

into this there still hasn't been produced (barring Slalom's report) any specific plans that could be attributed to a project.

President Donaldson stated he preferred the language in the draft.

President Donaldson said he had attempted to get the principal author of the report (Grady) to come, but he was not available. No other member was either. Deputy City Attorney Shen said that it is not unusual to ask members of the CGJ to come and respond.

President Donaldson asked about the response format options and Deputy City Attorney Shen said only those 4 options enumerated by the CGJ.

Commissioner Jerdonek had issues with that, given some cases where they would agree to implement the recommendation but not in the manner or context presented.

When asked, no commissioner had any problem with the drafted responses (sans F19), so they went on to discuss F19.

This discussion centered on the same question brought up in item #4, defining 'mandate'. Briefly, does it mean required by law, is it more a question of expertise, do development activities fit within that. President Donaldson asked if changing the word responsibility to authority would make it easier to accept. Further, the response would be Disagree or Disagree partially. Remove the word 'developing', replace with "An elections system is certainly a matter pertaining..." and then add from the 2015 resolution on open source voting, the first resolved. The final sentence could be "developing such an open source system would be consistent with the policy of the San Francisco Elections Commission and resolutions of the Bd of Supervisors.

The central question was whether develop a system meant to have hands-on responsibility, or just have it as being within the authority of the Department to accomplish (by whatever means). President Donaldson offered as the response, to disagree partially, "while section 13.104 of the San Francisco Charter does not enumerate developing an election system as a specific requirement of the Department of Elections, it is certainly within the scope of the Department's authority ." Strike the sentence after the quote.

Deputy City Attorney Shen pointed to R4, R9, R12 as having mention of "owner" and asked if this has impact on the Commission's response. Several other points were also noted. R11: Director Arntz said he could write to the parties to introduce DT for discussion and coordination. Response option #4.

Commissioner Jung suggested just striking the phrase "as the owner" from R4, R9, R12. On the request for quarterly reports Director Arntz said he'd suggest the reports be authored and published by the Project Manager. The request for posting information on a website, there might be options for TAC.

For those with option #4 President Donaldson will change to option #3 Commissioner Rowe stated that for the explanation in that option, the scope of the analysis is who is the appropriate person or body to undertake that task given the Commission doesn't have any staff.

President Donaldson summarized: R3, option3; R4, option 3; R9, option 3; R11, option 4; R12, option 3; R13, option 1.

As finally drafted, Commissioner Jung moved to approve the draft, seconded by Vice President Mogi. Upon voice vote, the motion carried, 4-0. President Donaldson will finalize the document and send it back to the Civil Grand Jury. Those items with an option 3 response, the Commission will take up further discussion at subsequent meetings.

Commissioner Jerdonek had to leave the meeting at 8:56PM.

Public Comment:

Mr. Brent Turner spoke off subject.

Mr. Jim Soper commented that the Civil Grand Jury's understanding of Prime III is weak; it is not a certified system (it does not tabulate). He felt there was little new information contained in the report.

6. Commissioners' Reports

Commissioner reports on topics not covered by another item on this agenda: meetings with public officials; oversight and observation activities; long-range planning for Commission activities and areas of study; proposed legislation which affects elections.

7. Director's Report

Director's Report on topics not covered by another item on this agenda.
(Agenda Packet: Director's Report)

8. Approval of Minutes of Previous Meeting

Commissioner Jung moved to approve the minutes of the June 20, 2018 minutes, seconded by Vice President Mogi. By a vote of 4-0 the motion carried.

9. Agenda items for future meetings

Discussion and possible action regarding items for future agendas.

10. Objectives and Process for annual Performance Evaluation Director of Elections

Discussion and Possible Action regarding the preparation of objectives and process for Performance Evaluation of the Director of Elections

- a) Public comment on all matters pertaining to this agenda item.
- b) Vote on whether to meet in closed session. (Action)
- c) CLOSED SESSION. Closed Session is held pursuant to Brown Act section 54957(b) and Sunshine Ordinance section 67.10(b) to discuss the performance evaluation of a public employee. Discussion and possible action.
- d) Discussion and vote pursuant to Sunshine Ordinance section 67.12(a) on whether to disclose any portion of the closed session discussion regarding the public employee performance evaluation. (Action.)

- e) If closed session is held, reconvene in open session. Report action taken in closed session as specified in California Government Code §54957.1(a)(5) and San Francisco Administrative Code §67.12(b)(4).

Adjournment