

County of Alameda Elections Commission Agenda

SPECIAL MEETING

Meeting Date: Thursday, December 19, 2024
Time: 4:00 PM
Location: Via Zoom/In person
Alameda County Training & Education Center
125 – 12th Street, 4th Floor
Suite 400 Hayward/Union City Rooms
Oakland, CA 94612

Zoom Link for Meeting: <https://us02web.zoom.us/j/83703209681>

The video recording of the meeting is normally posted 2-3 days after the meeting.

You can find it at: <https://bos.acgov.org/>

1 -- Call To Order / Roll Call at 4pm -- 2 minutes

2 -- Announcements and Communications -- 5 minutes

No discussion on these items.

(a) From staff

(b) From commissioners

3 -- Public Comment on Agenda Items -- 20 minutes

If we have 5 or less commenters, then they will have up to 3 minutes each. 5-14 commenters will be limited to 2 minutes each. If we have 15 or more people then they will be limited to one minute each. We encourage and appreciate written comments to be emailed to the Commission at eoc@acgov.org. (Please be aware that email sent to eco@acgov.org is not private. It also goes to staff at the ROV Department, it is legally discoverable in a lawsuit or via a Public Records Request.)

4 -- Sole Item for this Special Meeting -- for discussion possible action

(1) Plan to Analyze and Report to the BOS re. the 2024 election administration -- 20 minutes

(a) What do we want included in the analysis?

(i) Should it apply to all races in 2024, not just November 2024?

(ii) Should it include what the department did well and where it needs to improve?

(iii) ROV department staff should be consulted for the report -- this is a requirement of the ordinance.

(b) What should be the format of the report?

(c) What topics should be included in the report?

- See the attachments from Commissioners
- Discuss some of the Controversies and Criticisms of the Nov 2024 Election Administration and hear from the Alameda County election administrators on their points of view on these items.

1) Voter Information Guides did not arrive or arrived late for lots of people

2) CVRs controversy

- 3) Alleged slow count (getting results earlier)
- 4) Continued concerns about election administration observation
- 5) Issue of a candidate who was not easily found on the ballot

Recommendation regarding this Report: To form a committee to do the initial analysis and draw up a draft report to be delivered by the February meeting.

5 -- Public Comment on Agenda or Non-Agenda Items -- 10 minutes

The 10 minutes here is a fixed allocation of time, and will be divided equally among all who wish to comment, with a maximum of 3 minutes per person.

If your comments are complex or if you didn't have enough time, we always appreciate it if you send your input to the Elections Commission at eoc@acgov.org. (Please be aware that email sent to eco@acgov.org is not private. It also goes to staff at the ROV Department, it is legally discoverable in a lawsuit or via a Public Records Request.)

6 -- Requests for Future Agenda Items

Commissioners can make requests directly to the president of the commission. Requests for future agenda items from the public can also be emailed to the commission at eoc@acgov.org. (Please be aware that email sent to eco@acgov.org is not private. It also goes to staff at the ROV Department, it is legally discoverable in a lawsuit or via a Public Records Request.)

7 -- Adjournment (as close to 6:30 as is viable)

The next regular meeting will be January 16, 2025.

Commissioner Communications

Meeting date: December 17, 2024
From: Commissioners Irene Dieter and Karen Butter
Subject: November 2024 Post-election Assessment

This is an update on our attempt to gather ideas before today's meeting, as agreed upon at our November 21 meeting.

On November 29, 2024, we sent an email with the following notice in red concerning Brown Act compliance in a shared google doc to all commissioners that would eventually get shared with the public:

The sole purpose of this document is to gather ideas for the commission's post-election assessment of the March and November 2024 elections. This document is not meant to develop a concurrence as to action to be taken by the commission. Furthermore, as a reminder, more than a quorum of commissioners are forbidden to converse among one another on this issue outside of a public meeting, according to the Brown Act. The formulated list of ideas will be shared with the public in December's meeting agenda packet.

Within minutes of the email being sent, we were asked by President Lindsay to remove access to the google doc, which was set to monitor for compliance, because it may have been a violation of the Brown Act. Ten days later, county counsel, Jason Allen, opined that "While creating a list of potential agenda items, alone, may not violate the Brown Act (this is a close call), any shift into advocacy for a position or facts that will be discussed as part of the discussion of an agenda item could violate the law. An improper 'meeting' doesn't necessarily require decisionmaking or advocacy for a position. For purposes of the Brown Act, an improper meeting can occur when a majority of members are involved in discussions where they acquire and exchange facts before making a decision on an issue."

We are disappointed. This conservative approach, particularly for an advisory group that has no legislative authority, will make every election cycle assessment harder for the entire commission to have prepared thought-out written input *before* an ad hoc committee begins preparing their detailed draft assessment.

March and November 2024 Post-election Assessment

Proposal of ideas by Irene Dieter and Karen Butter

The following ideas for possible inclusion in the post-election assessment were compiled from public comments, news articles, and first-hand experiences.

Possible categories of topics

Pre-election – placing candidates on the ballot, ballot arguments, voter education, equipment

Voter Resources – voter registration, polling locations and hours, election assistance

Election Results – website, timeliness, observation of counting

* * *

STRENGTHS

1. PROPER NOTIFICATIONS - Pre-election – There were more than enough mailers sent to inform voters about Election Day. Voters were equipped with the accurate information they need to vote and trust that their vote counts. Information about how to receive email notifications was easily accessible.

2. EXPANDED TRANSPARENCY - Voter Resources – Observation of election processing was noticed, updated, and available in person and on a few camera views. The instruction states: “To subscribe to receive morning notifications about observing ballot processing during this election cycle, click the “Subscribe here” button and provide your email address or phone number (for text messages).” This topic is also listed as a weakness.

3. ELECTION SECURITY - Voter Resources – A host of resources were [available](#) to help ensure voters were safe from interference and county elections offices had the resources and training they needed to protect their staff and systems.

~ scroll down for list of weaknesses ~

WEAKNESSES

1. UNUSUAL HIGH RATE OF OVERVOTES - Election Results – The typical overvote rate in ranked-choice voting elections is 0.2%. However, the November 5 preliminary election results show a first-round overvote rate of nearly 4% in Oakland’s at-large city council race and 2% in district councilor races, and 2% in Albany.

<Option(s) to Consider: Research what may be behind this anomaly, possibly with the help of FairVote, prior to the upcoming mayoral special election in Oakland?>

2. COMPUTER TOUCHSCREEN DESIGN- Pre-election – All candidates in one contest did not appear on the same screen and some voters may not have known to scroll for more candidates.

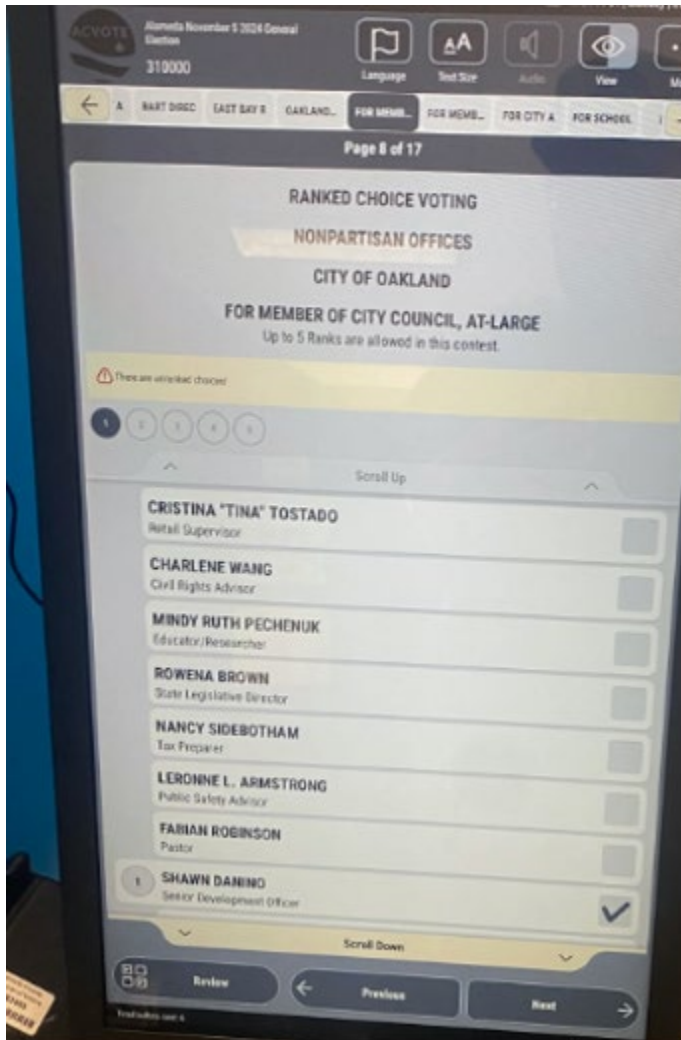


Photo credit: Shawn Danino, Oaklandside

For example, Oakland’s at-large council race featured 10 candidates, but the touchscreens show only the first eight candidates when initially opening that screen, forcing voters to scroll down to a second page to find the final two candidates. Without written instructions, or a requirement to view all candidates before moving on, the digital ballot booths may cost some candidates votes.

<Options to Consider: Add instructions on computer screens to scroll, such as “To See More Candidates Scroll Down?” At-large seats have its own page because of the many candidates? Amend voting interfaces to make all names visible on single screens? Use a method of rotation of randomly ordered candidates, so that all candidates end up on the second screen the same number of times?>

3. PRECINCTS REPORTED “100%” - Election Results – There is no explanation on the website of what 100.00% refers to.

| Members, City Council - Alameda | | | |
|--------------------------------------|-------|-------------------------------|--|
| 12 of 12 Precincts Reported(100.00%) | | Vote for no more than Two (2) | |
| Contest | Votes | Percentage | |
| Michele Pryor | 5,961 | 24.67 % | |
| Greg Boller | 5,721 | 23.68 % | |
| Trish Herrera Spencer | 5,466 | 22.63 % | |
| Thushan Amarasiriwardena | 4,307 | 17.83 % | |
| Steve Slauson | 2,704 | 11.19 % | |

Some people thought it meant 100% of the ballots from all precincts had been counted on election night. Others thought it meant 100% of the ballots from precinct voting had been counted, but that many mail-in and drop-off ballots not part of precincts remained. Or that it meant 100% of the ballots that have been counted so far. The confusion produced faulty assumptions.

<Options to Consider: Add clarifying language on website, esp. “preliminary results?” Put the percentage of votes counted of total votes received? If possible, drop the 100% altogether?>

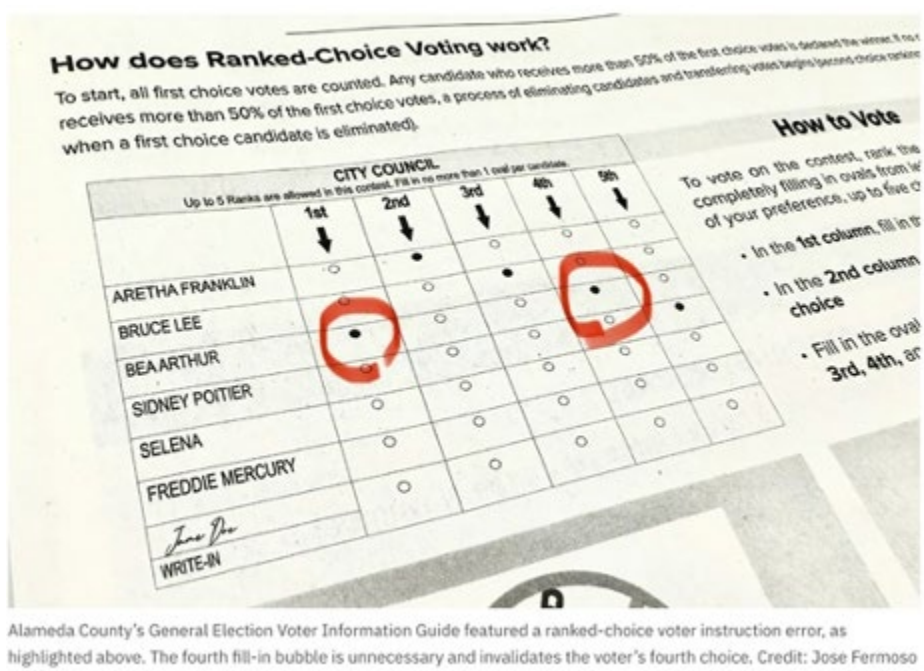
4. SCHEDULE OF RELEASING RESULTS - Election Results – Did the website indicate the timing of releases so that the public knew when to expect the next batch of results?

<Option(s) to Consider: Ensure information is on the election results page?>

5. VOTER GUIDE INSTRUCTIONS FOR BALLOT MISTAKES - Pre-election – Neither the voter guide nor the website appear to offer information about what to do if a voter makes a mistake on their paper ballot. For examples, (a) If voters accidentally fill in the wrong bubble choice, can the voter cross off the mistake and fill in the correct bubble? (b) If a voter makes a mistake on their ballot, they should know that they may discard the ballot and cast their votes at a polling center, and there is no need to ask for a “provisional” ballot. (c) If voters accidentally sign the wrong envelope between couples, family members, may they cross off the wrong signature and write it in the correct one? Or should they show up at a polling center and ask for

<Option(s) to Consider: Include instructions in the voter guide?>

6. VOTERGUIDE INSTRUCTIONS FOR RANKED CHOICE VOTING - Pre-election – The Oaklandside reported that the voting guides incorrectly described how to fill out a voting card.



Alameda County's General Election Voter Information Guide featured a ranked-choice voter instruction error, as highlighted above. The fourth fill-in bubble is unnecessary and invalidates the voter's fourth choice. Credit: Jose Feroso

Inside the guide's cover, the fictional candidate chosen as the first choice is also filled in as a fourth choice. Voters should not rank the same person in different slots.

<Option(s) to Consider: Correct instruction in the voter guide?>

7. PLACEMENT OF BALLOT QUESTIONS - Pre-election – The placement of a recall question was on the same card as the at-large race, which might have caused some people to miss it, perhaps in part because the item was asking the question but was not sorted into the same card as the other choices asking questions.

<Option(s) to Consider: Sort by subject matter?>

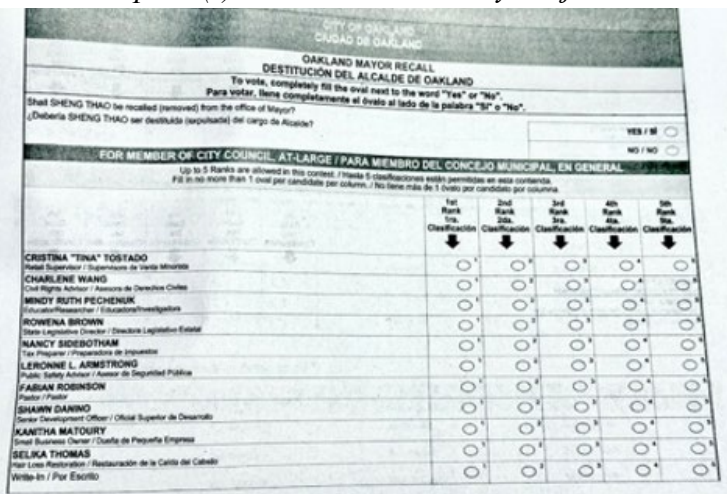


Photo Credit: Jose Feroso, Oaklandside

8. REPORTING PLURALITY AT-LARGE ELECTION RESULTS - Election Results – There is neglect to report the share of voters supporting each candidate plurality at-large elections. Below is a mockup of result reporting with additional information (an extra column), which would be helpful to interpret elections where voters can choose one or more candidates. Or perhaps eliminate "percent of votes" as those numbers are relatively meaningless. It is the percentage of voters that matters.

Current practice:

| Members, City Council - Alameda | | | – |
|---------------------------------------|--------|-------------------------------|---|
| 12 of 12 Precincts Reported(100.00%) | | Vote for no more than Two (2) | |
| Contest | Votes | Percentage | |
| Michele Pryor | 16,381 | 26.55 % | |
| Greg Boller | 14,193 | 23.01 % | |
| Thushan Amarasiriwardena | 13,041 | 21.14 % | |
| Trish Herrera Spencer | 12,071 | 19.57 % | |
| Steve Slauson | 6,004 | 9.73 % | |

Proposal:

| Members, City Council - Alameda | | | | – |
|---------------------------------------|--------|--|-------------------|-------------------------------|
| 12 of 12 Precincts Reported(100.00%) | | Total ballots cast 34,887 (Percent turnout 69.22%) | | Vote for no more than Two (2) |
| Contest | Votes | Percent of votes | Percent of voters | |
| Michele Pryor | 16,381 | 26.55 % | 46.95% | |
| Greg Boller | 14,193 | 23.01 % | 40.68% | |
| Thushan Amarasiriwardena | 13,041 | 21.14 % | 37.38% | |
| Trish Herrera Spencer | 12,071 | 19.57 % | 34.60% | |
| Steve Slauson | 6,004 | 9.73 % | 17.21% | |

<Option(s) to Consider: Report the share of voters supporting each candidate? Eliminate “percent of votes” as those numbers are relatively meaningless?>

9. REPORTING PARTICIPATION TURNOUT PER CONTEST - Election Results – Turnout is currently reported for the consolidated election, but not each contest. Participation turnout in a contest is often substantially lower than turnout in the consolidated election, particularly for local elections. A participation-turnout report by each contest is a more accurate measure of civic engagement. The mockup in #7 above includes participation in the reporting of results for an election.

<Option(s) to Consider: Report participation turnout by each contest?>

10. CAST VOTE RECORD REPORTS - Pre-election – Small precincts with 10 or less voters were redacted. This creates a policy for an obscure *theoretical* invasion of privacy that has not happened and is not likely to ever happen. And in the process, it may undermine a solution for a problem that has *already* happened. The Secretary of State's CCROV 22420 does not distinguish

between preliminary and final results regarding redaction, but the Elections Code authorizes and requires public release of all final precinct counts object to redaction of CVRs for final certified results.

<Options to Consider: Consolidate small precincts with larger ones to avoid this exercise? The Board of Supervisors and ROV lobby SOS for a policy that makes sense?>

11. PACE OF COUNT - Election Results – The Oaklandside reported that “According to data from the Secretary of State, among the ten most populous counties in California, Alameda County is by far the slowest this year at counting ballots.” The Castro Valley Forum reported that the registrar said, “Alameda County had been in line with other large California counties.”

<Options to Consider: Purchase more machines? Hire more staff? What can the ROV learn from other counties to speed up the count? Does the pace of counting matter if the county meets its deadline?>

12. ARRIVAL DATE OF VOTER GUIDES - Pre-election – The voter information guides include important analysis about ballot measures and candidate statements meant to help voters decide how to vote. The guides are available in print and online. Some printed voter guides arrived late, reportedly in Albany, Berkeley, and Oakland at least. The ROV said it was the post office’s fault. However, a couple of Berkeleyside articles gave a different view, saying the post office said there were no delays and all guides that they received were delivered immediately. What happened? Documentation is surely generated by delivery of each batch of Guides to the USPS, indicating both (a) received by the registrar's office or its vendor and (b) generated internally by the USPS.

<Option(s) to Consider: ROV issue a press release about the situation, which would also allow the post office to respond? Seek documentation to verify delivery dates?>

13. VOTING AT VOTE CENTERS - Voter Resources – Failure to implement AB 626 (enacted 2023), which authorizes voters to return their vote-by-mail ballot in person at their designated home precinct or a vote center, and requires ballots cast in this manner be processed and counted like a non-provisional ballot cast in person at the polling place.

<Option(s) to Consider: Use poll pad?>

14. OBSERVATION - Election Results – Continued concerns about election administration observation.

<Option(s) to Consider: >

15. DATA ON ELECTIONS - Election Results – The website has very limited information, and the data on reported precincts is confusing and not explained. To find uncounted ballots one must go to the Secretary of State’s website.

<Option(s) to Consider: Expand the data reported with election results to the example below. Number of Ballots Cast: 412,090?>

For example,

Last Update: November 21, 2024 3:55 PM

Next Update: December 3, 2024 4:00 PM

Voter registration total: 522,265

Current voter turnout: 78.9%

Precincts that have reported in-person results: 514 of 514 (100.00%)

| | Ballots Counted | Percentage |
|--|------------------------|-------------------|
| In-person ballots cast on Election Day | 58,671 | 11.23% |
| Vote-by-mail ballots | 353,419 | 67.67% |
| Total | 412,090 | 78.9% |

From Alameda County Elections Commission, Commissioner Belcher

Issues from November 5, 2024 Election

A. Alameda County Voter Information Guide

How does Ranked Choice Voting(RCV) work?

Page One (although pages are not numbered) has an incorrect diagram, whereby one candidate ,Bea Arthur, is listed as 1st choice as well as 4th choice.

This is not only misleading but adds to voter confusion about how RCV works.

RECOMMENDATION:

All Ranked Choice Voting information for the Voter Information Guide be audited by a Ranked Choice Voting expert before approval for printing.

B. Alameda County has invested in the Candidate Electronic filing system and public portal 'Netfile', Yet it is optional whether a campaign or candidate must use it, allowing for a manual paper filing of state required campaign finance statements. Almost every neighboring county to Alameda makes it mandatory to file electronically making campaign finance data instantly available online. Paper filing is less transparent even when the statements are filed on time, the Registrar of Voters is not always timely in posting this important information. A manual paper report can be used by candidates and independent expenditure groups to avoid transparency of campaign finances as it is understood the ROV is busy during an election, thus they know there will be less scrutiny . A recent phone call to the Candidate and Digital Services revealed extreme delays in posting the manual reports because the ROV was so busy with the election, meaning the ROV violated state law requiring timely posting and the public was deprived of timely pre-election Campaign Finance data.

RECOMMENDATION :

All campaign finance report to be filed electronically on Netfile, thereby saving costly staff time , increasing transparency and compliance with Secretary of State posting deadline law, since e filing provides instant automatic online posting.