

Location: Via Zoom/In person
Alameda County Training & Education Center
125 – 12th Street, 4th Floor
Suite 400 Hayward/Union City Rooms
Oakland, CA 94612

Date: April 18, 2024

Time: 4:00PM – 6:00PM

Minutes

1. Call To Order / Roll Call at 4pm

The monthly elections Commission meeting of April 18, 2024 convened at 4:00 p.m. in the Hayward/Union City Rooms. The clerk, Noe Lucio, ROV, called to order the meeting.

Present

Commission Members: James R. Lindsay, Judy Belcher, Karen A. Butter, Avni Desai, Irene Dieter, Susan R. Henderson, Alexander H. Ramon, Stephanie F. Singer, Benita Tsao; *City Clerk:* Anna Brown; *Registrar of Voters:* Tim Dupuis, Cynthia Comejo, Lolita Francisco, Noe Lucio; *County Counsel:* RayLara.

Not Present

Commission Member: Zabrae Valentine

2. Public Swearing-in of New Commissioners

No new commissioners to be sworn-in.

3. Approval of Minutes of March 21, 2024

Commissioner Dieter made corrections to the submitted meeting minutes and requested additions to the text.

Mr. Lindsay noted that the clerk is only responsible for summary minutes, not for transcribing everything each commissioner wants recorded.

Commissioner Singer noted that in meeting discussions, commissioners ask for information, indicating that every request as they are made should be recorded in the meeting minutes.

Mr. Lindsay reiterated that typically a clerk may or may not follow that practice because the entire commission has not motioned and voted on such specific requests for information, but that it is understood why Ms. Singer made the request. He suggested the commission continue the practice of sending him all requests for information and research.

Ms. Singer requested that her current request that all minutes include all individual commissioner requests for information, research and reports be publicly captured in the previous meeting minutes.

Commissioner Tsao requested specific data be added to the minutes.

Ms. Singer further requested that Ms. Tsao's request to the Registrar of Voters for the metrics used to measure the impact of outreach activities (Item 6(b)) be added to the minutes.

A motion was made to accept the meeting minutes as amended by Commissioner Belcher, seconded by Commissioner Butter, approved unanimously.

4. Announcements

(a) Announcements from staff: there were no announcements.

(b) Announcements from commissioners

Ms. Singer announced that as of April 16th the "muni code" is still not updated with the amended law governing this commission, and that she wrote a memo on CVR publication in Alameda County which she distributed to the commissioners via email.

Ms. Tsao announced that there are upcoming Language Accessibility and Voting Accessibility Advisory committee meetings, for seniors and voters with disabilities meetings, and so if anyone is interested, they could reach out to the Registrar of Voters for how to observe or participate.

Mr. Lindsay asked where the specific dates, times and locations could be found and learned the details are found on the ROV website events calendar.

Commissioner Desai announced that community-based organizations (for example, housing organizations) participating in the ROV registration drives are grateful and appreciative.

Mr. Lindsay announced that he has read an article about the nationwide attacks on election workers; that he'd run elections for a few NGOs and himself quit because of verbal and legal threats and harassment. He stated election workers are critical to our democracy, they should not be attacked, they should not be accused of a lack of integrity unless you have absolute proof of it, they should not be accused of being not competent unless you have proof of that. Those are serious charges to accuse a professional of any sort because that's a pretty low blow. Therefore, he thanked election workers and encouraged them to hang in there. Further, that as the commission does oversight it should look at the things that need to be fixed, but should also note when they've done well instead of just assuming that.

Mr. Lindsay announced that, as the county does not hold meetings in August and December, so the commission will follow that protocol.

Mr. Lindsay clarified that this commission's meeting is not "live-streamed", it is a Zoom meeting, and the recorded meeting will be posted.

5. Public Comment on Agenda Items

Public comment was allowed for all agenda items.

6. Items carried over from previous meetings

(a) Voter Database Maintenance

As outlined on the meeting agenda, Registrar Dupuis and Deputy Registrar Cornejo explained that the voter database (not to be confused with the tally system) maintains all of a voter's record; who is to vote in which jurisdictions, where he lives, his party preference, his voting history. The ROV uses Runbeck Election Services' DIMS, a state-certified database system. Each county has its own voter database, and all county databases are tied to VoteCal, the state's central database, as required by federal law.

To further automate the process of maintaining the database (file maintenance), Alameda County's ITD has created modules that trigger actions when specific anomalies are detected (such as duplicate registrations or missing information).

The state's database acts as the central record and the clearinghouse for all changes to individual voter records. Each county registrar of voters maintains its own active and inactive records.

Changes (updates) to voter records include new registration and activation, death, name, address (both in and out of state), deactivation, restoration and cancelation of a voter record.

Receipt of Update

The ROV receives updates, electronically or on paper, from VoteCal (which may originate in other counties, the DMV, the Department of Public Health, and courts of law, as well as from the registered or registering voter himself. The origin of change is identified by the state; they are not duplicated.

The ROV also receives paper change of address or returned (undeliverable) mail material from the U.S.P.S., as well as electronic changes from the U.S.P.S.'s NCOA dataset. The U.S.P.S. is obligated to deliver all official state and county elections first class correspondence as addressed to the individual voter, and to return to the issuing agency when the U.S.P.S. has (1) official information of the change of address of the voter, (2) official knowledge that the voter does not receive mail at this address, or (3) the material has been marked "Return to Sender". The U.S.P.S. may not forward any elections material addressed to the individual voter.

The ROV may also generate its own queries regarding possible duplicated registrations (for example, a voter may have registered under his full name, using his first, last and middle initial, with no middle name or initial, with out without the suffix Junior or Senior. That individual will have the same street address, birthday and last four digits of his social security number. Two voters may have the same name, and one does not use the suffix "junior". A voter may have entered his mailing address instead of his residence when renewing his driver's license.

Volume and Timing

VoteCal reports changes to affected counties daily; more than 2,000 changes are received throughout the day every day. The ROV, as required, affects the changes that same day; there is no backlog. The databases automatically process updates, so that although every update is reviewed and verified by experienced, trained team members, they are usually able to process these updates quickly. The ROV employs fewer than ten FTEs, and calls in core temporary team members when registration activity increases—often before an election.

Additionally, during any federal election cycle the ROV is required by the NVRA (National Voter Registration Act) to research any voter claim of having not received his VBM ballot or VIG (Voter Information Guide) on-time at the mailing address in the ROV's (and the state's) records. The ROV is mandated to notify the voter within strict time limits to pursue remedy.

Wrongly Registered, Duplicated Registrations

When the database finds what appears to be a duplicate record, it sends a postcard inquiry to the voter. The voter then contacts the ROV by phone, email or in-person; this process is not automated.

The ROV is required to follow these steps according to this timeline every time it receives official information that an individual voter is no longer eligible to be a registered voter in Alameda County:

1. The first trigger causes correspondence to be sent to the voter at his residence requesting confirmation or correction of the official changes the ROV has received. A note is added to the voter record. The voter must respond within the time period specified.
2. If the ROV has not received a response from the individual himself within the time limit, a second contact is generated with a new time limit, and another note is added to the voter record. Once two general elections go by (there is a general election every two years), the record note triggers the change of status from "Active" to "Inactive".
3. New correspondence is generated.
4. The last step is to change the voter's status to "Canceled". However, the voter must be notified again by postcard before the ROV can take this step.

Once the voter is marked "Inactive," ROV does not send official election material to the voter. The voter may then contact the ROV as he has not received a ballot or Voter Information Guide; the ROV then confirms his eligibility to be reinstated.

The ROV has found that the majority of individuals who are ineligible or are no longer eligible to be registered will take the necessary steps to cancel their registration voluntarily, but the ROV follows strict regulatory procedures when it cannot communicate with the voter himself.

Disenfranchising Registered Voters

The State of California does not require citizenship, property, wealth, race, gender, literacy or language tests of individuals who register to vote. Proofs of eligibility are required for the newly registered voter's first ballot to be tallied. The state and its representatives require each and every applicant swear or affirm under penalty of perjury under the laws of the State of California

that he is a U.S. citizen and a resident of California that he is at least 16 years old, that he is not currently serving a state or federal prison term for the conviction of a felony, that he is not currently found mentally incompetent to vote by a court; and that he understands that it is a crime to intentionally provide incorrect information on application or affidavit. The assumption of the state is that the individual is telling the truth and understands the consequences of lying to acquire registration. No California Registrar of Voters has the power to investigate citizenship, to track or arrest any individual; the Secretary of State, county district attorney and the state attorney general have the mechanisms to investigate and prosecute individuals who perjure themselves. The process of disenfranchising a voter is not lightly undertaken by any California registrar of voters.

Systemwide Disenfranchisement of Registered Voters

In response to questions regarding any legal or official processes thought of as “purging” the voter database or engaging members of the public in disenfranchising registered voters, the Deputy Registrar clarified what the registrar is able or obligated to do to ensure each and everyone registered to vote is currently eligible. As stated, the ROV accepts change information from official sources, the individual voter or that voter’s legal representative, and either updates county records or begins researching information received the same day it is received.

The ROV does not conduct mass purges, nor does it act directly on information received from unofficial sources. If an individual or member of a private organization such as a political party or committee thereof reports its opinion that a registered voter should not be registered, the ROV takes that information, asks the informer to ask the voter himself to contact the ROV, refers them to the Secretary of State, the district attorney, or the attorney general. The ROV can and does review the voter’s record and voting history according to regulations before determining whether to contact the voter.

Mr. Lindsay asked whether this ROV had experienced callers attempting to disenfranchise a voter as a way to harass the voter: the answer was yes.

Ms. Belcher asked if the ROV kept statistics of these calls, the answer was a note is added to the voter’s record, but the ROV does not tally the calls.

Ms. Henderson asked whether the state or the registrars of voters conduct the research and make corrections when a discrepancy in voter database records is reported. Ms. Cornejo replied that the counties conduct the research and make the corrections.

Mr. Lindsay referred to a member of the public’s claim that Santa Clara County ‘just went through their voter database, and they found 200,000 people who shouldn’t be voting, and they removed them from the database’. He asked what they heard that would give them a reason to make that statement, the answer was the ROV doesn’t know.

(b) Report and discussion from sub-committee regarding ROV possibly being a full-time position

Ms. Singer explained Exhibit B: It is not just who is in charge of how many departments; what matters is also how much delegation happens, how much staff support there is, and what other ROVs have duties outside of elections and how many CIOs have duties outside of Information Technology. The sub-committee has contacted California Common Cause and the Goldman

School of Public Policy (University of California, Berkeley). These organizations have funded a paid summer fellow to pursue answers to the sub-committee's questions.

Ms. Dieter noted that 21 county ROVs don't have multiple roles, she supplied a spreadsheet detailing the number of cities in every county. She noted that the commission is considering separating two positions, so she sees this commission's responsibility to also rewrite the job description and regulatory responsibilities of the CIO, as well as to find out whether there are tasks the ROV can't get to, and, based on their findings rewrite the job description and regulatory responsibilities of the ROV.

Ms. Singer responded that the county website provides the job descriptions for both positions. She further requested an updated organization chart for the ROV, which Mr. Lindsay noted, and that the county staff does not have time to do the work for all the requests this commission has made.

Ms. Belcher asked for the definitions of CIO and IT. Mr. Dupuis defined the Chief Information Officer as the head of the Information Technology Department. Ms. Belcher noted that the previous ROV, Dave MacDonald had a strong IT background. Mr. Dupuis clarified that the position has been as it is currently established for the last 18 years.

Ms. Tsao stated she has background in Human Resources, and requests more information assuming the commission should be rewriting the position.

Ms. Butter asked about the commission's plan of action; whether the sub-committee will direct the work of the summer fellow, how they will go into more detail, and what is the timeline. If so, the commission will need more information in order to deal with both organizations, which will depend on those organizations' support staff.

Ms. Singer replied that the sub-committee will direct the summer intern and there is no timeline but based on the intern's work, will present two options or more to the commission.

Commissioner Ramon asked that the ROV provide details on what is the cost and benefits of Alameda's being a dual position compared to other ROVs.

Mr. Lindsay stated he did not agree with the reasoning of the sub-committee or the way they framed the problem. His opinion is that there should be two full time positions, he noted that Alameda County is geographically large and diverse, and the public tone has become nasty or baselessly suspicious making the job more difficult. Further, that only one other county has a dual ROV/CIO (Solano County).

Ms. Belcher thinks the vehement public comment so far regarding the cast vote record and ranked choice voting might of itself trigger the separation as far as the commission's recommendation is concerned.

Mr. Lindsay reminded the sub-committee that this is an important, but not an urgent issue, and invited other commissioners to join. Ms. Belcher volunteered. Ms. Tsao offered to be available for consultation, and Mr. Lindsay clarified that that would make the sub-committee a group under the Brown Act.

A motion was made to add Ms. Belcher to the sub-committee by Mr. Ramon, seconded by Ms. Desai and passed unanimously.

(c) Issue of Releasing Cast Vote Records before elections are certified

Mr. Dupuis provided background on cast vote records. The CVR is a record or database that shows every voter's voted ballot in list format, making each line, effectively, an image of the voter's

ballot. A CVR user would be able to see how every voter in a specific precinct had voted on each contest, and, at least in small precincts, would be able to determine how a specific individual voted. The legality of delivering the CVR to the public is currently being debated. The ROV, working with the Secretary of State and other registrars of voters decided Alameda County would issue the CVR when specifically requested in the form of a Public Records Request once the election has been certified. AB-1559 is legislation introduced in 2023. The Secretary expects this legislation will pass this year. AB-1559 appears to make distributing the CVR a felony. San Francisco is an exception.

Ms. Singer notes that many counties throughout the country have strategies. She mentioned Dr. Phillip Stark would be available to present his expert opinions on the subject and offered his services to the registrar.

A motion that a sub-committee to bring recommendations to the commission consisting off Commissioners Butter, Dieter and Belcher by Ms. Butter, seconded by Ms. Dieter passed unanimously. Ms. Butter asked whether this issue should be resolved before the November election, Ms. Singer noted that the public callers see this as an urgent issue.

Mr. Lindsay asked that all the sub-committees try to submit to him progress made before each monthly meeting.

Ms. Singer stated she stated she absolutely respects the Registrar and the Deputy Registrar and all employees of the ROV, but “I intend to be very hard on the Registrar of Voters office because that’s what I’m here to do. I’m here to hold them to account.”

Ms. Belcher noted that what Ms. Singer said is super-important.

Mr. Ramon agrees that the commission is only bound by the law is currently exists.

Ms. Dieter noted that AB-1559 was placed on suspense last August. Note: as of 9/1/2023 AB-1559 is in-committee under submission.

Ms. Butter believes the sub-committee has an important job to do in analyzing the issues, and that they need to promote transparency.

Commissioner Henderson asked whether, where CVRs have been published, private citizens have been instrumental in catching election tally errors. Ms. Belcher responded that she knows they have, perhaps in San Francisco. Ms. Singer stated two people are in prison in Philadelphia because someone analyzed the CVR in an election.

Mr. Lindsay is in favor of publishing the CVR.

7. Presentations and Reports

(a) Report from the Registrar of Voters Office

Mr. Dupuis reported during March the ROV certified the March 5, 2024 election, has conducted the April 16, 2024 election and are in the canvas period, are preparing for the May 28 and the July 2nd, and the November 5th elections. We are performing signature verifications for initiatives, 3 currently with potentially 19 more. We continue to work on District 10 recall, a shared multi-county process.

Ms. Belcher asked what rules would apply to setting the date for the recall of the district attorney. Mr. Dupuis answered that this will be discussed with the Board of Supervisors following the April 30th certification, within 14 days the board must determine the date of the election.

Ms. Desai asked what the cost is of the District Attorney or any recall election; Mr. Dupuis replied that if the election is consolidated as opposed to a special election it will cost more, and that the ROV publishes projected costs per voter on the website.

Ms. Henderson asked whether sub-committee's recommendation on the Cast Vote Record would have the force of law on the Registrar, the answer is the commission makes recommendations to the Board of Supervisors.

8. Action Items

(a) Reports from the Sub-committee on Nominations

As tasked the sub-committee requested that the board of supervisors and fellow commission members reach out to their contacts to spread the word about the open at-large seats. Mr. Lindsay said Kelly Clancy, City Clerk of San Leandro has sent something to the city clerks, and that he'd asked that the announcement be posted on the ROV's website and social media pages, Mr. Dupuis replied that action was subject to legal evaluation.

Mr. Lindsay further noted that typically commission applicants aren't given follow-up responses, Ms. Singer and Ms. Tsao guessed that it would help to have a list of sought qualifications as well a supplemental essay page offered to the applicant, and thought the standard practice of not sending rejection correspondence should be eschewed and would like a staff to follow commission-originated protocol instead. Mr. Ramon clarified in fact all applications had been reviewed, no rejection messages were sent; the current effort in seeking applicants is designed to cast a wider net to reach members of the impacted communities as mandated by the ordinance. Ms. Tsao volunteered to reply to applicants requesting more information.

A motion was made for Commissioner Tsao to join the sub-committee to generate commission nominees was made by Ms. Tsao, seconded by Mr. Ramon and passed unanimously.

(b) Amend the ordinance to allow for an alternate city clerk

Whereas Alameda County Clerks have informed the president of the Alameda County Elections Commission that they need an alternate city clerk be appointed in case the primary city clerk cannot attend, and due to a misunderstanding no language was put into the ordinance to allow such an appointment, that the city clerks' perspective and advice is critical to the smooth and effective functioning of this commission, a motion to request and advise that as soon as is viable the board of supervisors amend the ordinance that established the Elections Commission so that it allows the board of supervisors to appoint an alternate city clerk to the commission, and that the city clerk submit a nomination to serve as an alternate to the commission, that the board consider the appointment of the nomination as soon as it is viable was made by Ms. Singer, seconded by Ms. Belcher.

Ms. Brown noted that city clerks' first obligation is to the work of their cities, and often city meetings will make consistent attendance impossible, therefore an alternate is needed.

The motion passed unanimously.

(c) Regular Elections Commission reporting to the Board of Supervisors

Ms. Henderson reminded the commission that its objective is to advise the board and to have oversight; and we are required to periodically report to the board. Ms. Belcher asked what is meant by “regularly”. Mr. Lindsay said Amy Shrago said that Supervisor Carson meant once or twice a year, in-person at a set time in a board meeting. Ms. Dieter asked how reporting is handled by other county commissioners. Mr. Lindsay stated that in his experience, this commission is different in that it has oversight duties, so this commission itself must discuss this issue further.

A motion was made to postpone Items 8(c) and 8(d) to the May agenda was made by Ms. Butter, seconded by Mr. Ramon and passed unanimously.

9. Public Comment on Non-Agenda Items

Public comment was allowed for non-agenda items.

10. Requests for Future Agenda Items

Mr. Lindsay asked that any requests for future agenda items be emailed to him.

11. Adjournment

The meeting was adjourned at 6:45 p.m.

The next meeting will be May 17, 2024