

**Denver Election Commission
200 W. 14th Avenue Commission Meeting Room
Second Floor Conference Room**

**November 16, 2004
4:00 p.m.**

Present: Sandy Adams, Commissioner
Susan Rogers, Commissioner
Wayne Vaden, Commissioner
Victoria Ortega, City Attorney's Office
Carolyn Metzler, Denver Republicans
Frank Sullivan, Denver Democrats
Rosemary Rodriguez, City Council Member
Julie Connor, City Council District 7 Office
Shelly Watters, Councilwoman Boigon's Office
Debra Bartleson, City Council
Brittany Morris, CRL Associates
Shawn Rogers, Bighorn Center
Manolo Gonzalez-Estay, Citizen
Dusti Gurule, Latina Initiative
Carla Vialpando, Citizen
Charlotte Stephens, Safe City
Susan Greene, Denver Post
Karon Majeel Hatchett, Executive Director
Jesse Brown, Staff
Robert Asmus, Staff
Kathleen Mills, Staff
Walter Bell, Staff
Rocky Rushing, Staff
Anthony Rainey, Staff
Alan McBeth, Staff

Commissioner Adams called the meeting to order at 4:07 p.m. and asked the members of the audience to introduce themselves.

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I. Approval of Minutes

Commissioner Adams noted that she did not (as indicated in the minutes) ask for "posters" of procedures for the benefit of election observers. Adams indicated that she had requested that detailed procedures for all election processes be provided by Ms. Hatchett, and posted for the benefit of the temporary workers involved in various election processes. Adams repeated her request that detailed procedures for election processes be provided by Ms. Hatchett. Commissioner Rogers indicated that she was unaware that Adams wanted procedures posted for staff. Commissioner Adams cited a likely "failure of communication" for the fact that the procedures she expected to see were not made available.

Commissioner Adams moved that, with the exception of the "procedures" matter, the minutes of the September 21, 2004, October 12, 2004 and October 19, 2004 Election Commission Meeting be approved. Commissioner Rogers seconded the motion, which passed unanimously.

II. Old Business
Election Review: 2004 General Election

Ms. Hatchett requested that, at the request of staff, "New Business" be taken up before "Old Business" is discussed. The Commissioners approved the request.

III. New Business
DEC Employee Compensation Policy (Overtime v. Compensatory Time)

Commissioner Rogers asked if any city department or agency currently pays its workers overtime. Commissioner Vaden responded that the Clerk and Recorder's Office does – in a "mixed" fashion. He indicated that his employees must accumulate 48 hours of compensatory time before they can request that additional "overtime" be paid, rather than offset by compensatory time. He indicated that such a system could be implemented at the Election Commission. Vaden expressed the opinion that such a system provides incentives for workers. Charlotte Stephens of Safe City noted that her agency requires workers to have 32 hours of compensatory time accumulated before they can ask for overtime pay.

A wide-ranging discussion ensued. Commissioner Adams asked if the overtime pay requests could be retroactive. Jesse Brown (who posed the "New Business" question) indicated that he currently has nearly 300 hours of unused compensatory time. (This time includes the 2004 Primary and General Elections.) He would like to be able to cash some of it out, since the election schedule does not allow him to take 300 hours away from work.

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Commissioner Vaden indicated that any policy change would not be retroactive. Ms. Stephens indicated that Career Service Authority rules specify that when an employee has accumulated a certain number of "comp" hours, the city must be willing to pay the employee overtime for hours worked over 40 a week. Commissioner Vaden suggested that the Commission "pay off" employees' comp time on a yearly basis, so accumulation does not get excessively high. Mr. Brown indicated that he hopes to get paid for overtime worked since October 1, 2004. Ms. Hatchett indicated that Debbie Gokey (payroll) believes that "payment since October 1st" is the only practical "retroactivity" the Commission could institute.

Mr. Asmus asked if employees of other agencies get a choice between comp time and overtime pay. Commissioner Vaden responded in the affirmative. Councilwoman Rodriguez warned the Commission not to make a decision until after consultation with the Employment Law section of city government. Rodriguez suggested that the Commission wait until January 1, 2005 before allowing employees to opt for overtime pay. City Attorney Ortega indicated that the Commission should create a formal policy and time-lines before acting. She suggested that the Commission examine existing rules, policies and practices in developing a policy on this matter. Commissioner Adams indicated that there would be no motion on the matter at this time, since the Commission has to investigate the possibilities before enacting a new policy. Mr. Asmus indicated that the Commissioners should consider the fact that the Election Commission is the only city agency that does not offer its employees overtime pay, and that prohibiting overtime pay prior to January 1st is unfair.

Commissioner Rogers moved to table the issue until the Commission's next meeting. Commissioner Vaden seconded the motion, which passed unanimously.

II. Old Business (Taken up after "New Business") Election Review: 2004 General Election

Ms. Hatchett distributed the Final Unofficial Summary (#15) of election results for November 2, 2004. Ms. Adams asked if the registration statistics on Active Registrants reflect the voters who reactivated on Election Day. Mr. Rainey answered in the affirmative.

Commissioner Rogers thanked staff members for all of the overtime they worked for the election. Mr. Sullivan asked how many Provisional Ballots were counted. Ms. Hatchett responded that approximately 10,000 Provisional Ballots were received and that approximately 8,000 were counted. Commissioner Vaden stated that 10,121 Provisional Ballots were received and that 7,726 were counted.

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Mr. Sullivan asked for the reasons Provisional Ballots were not counted. Commissioner Vaden responded that the Secretary of State specifies 7-8 reasons for not counting Provisional Ballots. Ms. Ortega noted that the reasons would be provided to voters whose Provisional Ballots were not counted. Commissioner Adams asked about voters who cast votes both by Absentee Ballot and by Provisional Ballot. Ms. Hatchett

responded that there are apparently 64 such voters, and that their cases are being researched.

Ms. Hatchett noted that the Commission lacked funding for Early Voting prior to the November election, due to budget cuts. The Commissioners decided to offer Early Voting at 10 sites in the city to provide better customer service. Turnout was significant (37,606 Early Votes) and additional voting machines were supplied to some Early Voting sites. Commissioner Vaden explained that large turnout resulted in long lines at Early Voting. Vaden noted that Early Voting was successful, both in terms of increased turnout and cost per vote. He wants to see more locations, more voting machines and more computers in use at future Early Voting. Vaden also mentioned that he supports the idea of "Vote Centers" for future Denver elections.

Ms. Stephens indicated that she visited several Early Voting sites and found long lines at all of them. She suggested that a system be put in place that would allow voters to have a specific number, indicating their place in line, so that they could leave the polling place and return later to their place in line.

Manolo Gonzalez-Estay raised issues about Poll Watchers, indicating that the process for appointing Watchers could be streamlined. Commissioner Vaden suggested instituting a deadline, so that Watchers would have to be assigned at least seven days before the election. Gonzalez-Estay suggested that Election Judges be better trained regarding the rights and responsibilities of Poll Watchers. He indicated that Poll Watchers should themselves be trained, and that the Election Commission should train them and their trainers. Ms. Hatchett and Commissioners Vaden and Rogers explained that current state law prohibits mandatory Watcher training.

Commissioner Vaden led a wide-ranging discussion on Election Judges, training issues and Election Judge "age" issues. Vaden returned to the topic of Vote Centers, indicating that the goal of instituting such centers included the cost-efficient "consolidation" of precincts, better Election Judges, better training and better pay.

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Commissioner Adams indicated that past experience shows that better pay does not result in easier recruitment or the acquisition of "better" Election Judges. Adams asked why two precincts had no supplies and no Supply Judges on Election Day morning. Mr. Bell responded that on Election Day he discovered that supplies had not been picked up for five precincts, because Supply Judges had decided not to work the night before the election.

Commissioner Rogers addressed voter concerns about Absentee Ballots. She indicated that many voters think their "absentee" status is permanent, which is not the case. She noted that the "second" mailing of Absentee Ballot requests confused some voters. Voters who had already requested Absentee Ballots got request forms in the mail, and re-requested Absentee Ballots. Commissioner Adams asked why the Commission mailed these requests with the provision that the Commission would pay "return postage." Adams finds this a wasteful expenditure for a mere "request." Ms. Hatchett indicated that the requirement might be statutory, and indicated she would research the question.

Commissioner Vaden reviewed the problems encountered with the mailing of Absentee Ballots. He mentioned the lawsuit concerning Ralph Nader's name on the ballot, which delayed Absentee Ballot printing and mailing by 10 days. This delay stopped the printing and mailing of the initial 13,855 Absentee Ballots. A second order of approximately 30,000 ballots was submitted after the "Nader" question was decided. The vendor processed the second order, but did not fill the first. Phone calls from voters alerted the Commission to the problem. The Election Commission, with assistance from volunteers from other city agencies, mailed the 13,855 Absentee ballots from Denver. Vaden noted that of the 13,855 "first order" ballots that were mailed from the Election Commission, over 12,000 were returned.

Susan Greene of the Denver Post asked why the Commission paid to FedEx Absentee Ballots to overseas voters, but not to "in country" absentee voters. Commissioner Rogers responded that federal law requires this action for overseas Absentee Ballots but not for in-country ballots. Ms. Ortega added that the Commission would face liability and Department of Justice sanctions if it failed to pay the bill for overseas Absentee Ballots.

City Council Member Rosemary Rodriguez mentioned that she was aware of at least two "in country" students who requested, but never received, Absentee Ballots. Commissioner Vaden responded that the Commission cannot be held responsible for the postal service or FedEx. Commissioner Adams indicated

that it would be unwise to have confidence in the postal service. Rodriguez responded that the postal service is the basis of the Absentee Ballot process.

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Commissioner Vaden noted that some absentee voters had experienced a 15-day delay in postal delivery. Rodriguez expressed the opinion that "fax voting" options should be available for in-country absentee voters, just as they are for overseas voters.

Ms. Romero indicated that the Commission received 63 complaints from voters indicating that their Absentee Ballot did not arrive at all, or arrived too late to cast the ballot by the deadline. Commissioner Rogers indicated her belief that the "Satellite Program" (headed by Mr. Bell) worked well, but would have been better if it had radios and additional supplies.

Mr. Bell stated that there were 27 "alternate Judges" in the field for the "Satellite Program." He mentioned that the cell phones provided to him did not work in some locations.

Commissioner Rogers indicated that the Commission should make and publicize any "last minute" polling places changes earlier than it did for the November 2nd election.

Commissioner Vaden mentioned the "Call Center" set up for the election. He noted that it received 40 complaints and requests. The requests were mostly for additional Provisional Ballots at polling places. Some complaints concerned voter intimidation. All were investigated, and all were unfounded.

Commissioner Rogers suggested that, in the future, late-breaking policy changes (like those from the Secretary of State this year) should be e-mailed to Election Judges.

Ms. Romero reported on "bilingual" precincts. There were three complaints that precincts lacked bilingual Election Judges. In only one case was the complaint from a precinct that was mandated to have a bilingual Judge.

Frank Sullivan asked about the requirements surrounding voter registration information coming from the Department of Motor Vehicles (DMV). Commissioner Adams suggested that voters who register at DMV should be required to sign an affidavit indicating that they will call their county if they do not receive a notice of their voter registration. Ms. Hatchett noted that DMV normally has 10 days to send voter registration information to counties. That time period decreases to five days as the voter registration deadline approaches.

Mr. Sullivan indicated that he got complaints from citizens who registered at DMV, but whose voter registrations were never received by the Election Commission. Mr. Rainey indicated that Colorado's new statewide voter registration system (mandated by HAVA) would eliminate that problem when it is implemented in 2006. Commissioner Vaden suggested that DMV be held responsible for voter registration information not being forwarded to the Commission. Commissioner Rogers suggested that the Commission investigate sending couriers to DMV offices to pick up voter registration data. Commissioner Adams suggested that such an approach would only work if DMV actually made copies of the information needed.

Mr. Sullivan asked if provisional voters would be added to the Commission's voter registration database. Commissioner Vaden responded in the affirmative. Sullivan mentioned that he had visited Early Voting sites and was pleased with what he saw. Election Judges worked well, and voters were patient with the long lines. Ms. Hatchett mentioned that store managers and employees dealt with the crowds of Early Voters in a positive and professional manner.

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Kathleen Mills expressed the opinion that the Commission needs to institute a "Vote Center" program, and asked when the Commission would begin serious deliberation on the question. Commissioner Rogers expressed both her support and "trepidation" concerning the concept. She believes that it will be difficult to find a sufficient number of appropriate locations – with accessibility and sufficient parking. Commissioner Vaden indicated that the Commissioners will look at the possibilities immediately. He noted that the Commission, at the suggestion of the Executive Director, plans to work with the city's Asset Management, Purchasing and Economic Development offices. He suggested putting out a Request for

Proposals geared at finding the locations needed for vote centers.

Mr. Sullivan asked if Vote Centers would allow the Commission to report election results on a precinct basis. Noting the similarity of Vote Centers to current Early Voting, Commissioner Rogers noted that Early Voting results are not reported by precinct. Mr. Rainey indicated that the statewide system that will be in place in 2006 will allow Vote Center results to be reported by precinct. Commissioner Rogers asked if the statewide system would enable Absentee Ballot results to be reported by precinct. Mr. Rainey indicated that that possibility is under discussion. Ms. Hatchett emphasized the importance of voter confidentiality when precinct results are published.

IV. Announcements and Comments by Commissioners, staff and guests

It was determined that all "announcements and comments" had already been articulated.

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VI. Adjournment

Commissioner Rogers moved that the Commission adjourn the meeting and go into Executive Session on a personnel matter. Commissioner Vaden seconded the motion, which passed unanimously. The meeting was adjourned at 5:50 p.m.

THE DENVER ELECTION COMMISSION

Sandy Adams, Commissioner

_____ Susan Rogers, Commissioner

Wayne E. Vaden, Commissioner

Attest:

Karon Majeel Hatchett, Executive Director

Date: _____