



Date: October 9, 2007
To: Honorable Mayor and City Council
From: Vice Mayor Bonnie Lowenthal, Chair, Elections Oversight Committee
Subject: **PROPOSED CHANGES TO ELECTION-RELATED ORDINANCES**

The Elections Oversight Committee, at its meeting held October 2, 2007, considered communications relative to the above subject.

It is the recommendation of the Elections Oversight Committee to the City Council to request the City Attorney to prepare the following proposed changes to Election-Related Ordinances. Proposals 1, 2 and 3 should be adopted as written and Proposals 4 and 5 should be amended to allow five (5) business days to protest incorrect voter materials or candidate statements for a General Election and eight (8) business days for a Primary Election.

Respectfully submitted,

ELECTIONS OVERSIGHT COMMITTEE

Vice Mayor Bonnie Lowenthal, Chair

Prepared by:
Gloria Harper



CITY OF LONG BEACH

City Clerk Department

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September 4, 2007

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer consideration of proposed changes to election-related ordinances to the Election Oversight Committee for consideration and request that the Committee reports back its recommendations to the City Council by October 16, 2007.

DISCUSSION

Following the May 1, 2007 Special Election, the City Clerk Department has sought to review our practices and procedures to identify any potential improvements. As you know from previous communications, we are now in the process of implementing potential cost-saving measures from that review, including the issuance of Request for Proposals that we hope will minimize our costs. Additionally, in internal deliberations we have come to a consensus that there are several changes to the Municipal Code that we believe would improve election administration in the City of Long Beach; we briefly list these changes here, and I look forward to discussing them further.

Proposal #1: Amend LBMC Section 1.21.020 to Clarify Existing Procedures

Long Beach Municipal Code Section 1.21.020 states that "Notwithstanding the provisions of the California Elections Code, including section 15630, all ballots, whether voted or not, and any other relevant material, **shall** be examined as part of any municipal election recount." (Emphasis added.) This part of the code was added by the City in reaction to a 1994 election in which some of the ballots (specifically, provisional and absentee ballots that had been disqualified) were not originally inspected as part of a full recount.

In any full recount, it is and will continue to be the policy of the City Clerk Department that all ballots be inspected, including disqualified provisional and absentee ballots. However, the City Attorney has advised us that a voter has the right to request a partial reexamination of ballots. In other words, a voter has the right to request which precincts he or she wants examined, and to specify the order in which they are examined. It is worth noting, however, that any partial examination of ballots cannot be official and thus cannot affect the official results (Elections Code Section 15632, requiring a full recount in order to overturn the original election results.)

Therefore, we propose to clarify the Municipal Code to make it clear that (1) any recount that aims to affect the official results must still involve the examination of all ballots, regardless of whether they were originally disqualified, and (2) any member of the public may request a partial examination of the ballots in some precincts, although such a recount will not affect the official results. While this amendment would not change our current practice, it would increase the transparency of our election procedures to the public, and thus we believe that this change is warranted.

Proposal #2: Amend LBMC Section 1.22.030 to Coordinate Campaign Filings

Long Beach Municipal Code Section 1.22.030 requires that campaign committees that are established to advocate for or against propositions make regular reports showing money raised and spent on behalf of the campaign. (This section does not affect candidate campaigns.) This section was enacted several years ago due to the Council's desire to obtain frequent reports on the activities of these committees.

In addition to being required to file reports under the Long Beach Municipal Code, proposition committees are also required to file reports under the statewide Political Reform Act administered by the Fair Political Practices Commission (FPPC). The reporting deadlines of the separate laws are uncoordinated, leading to an unnecessarily burdensome reporting calendar.

As an example, the reporting calendar for propositions created by the two reporting schemes for the May 1, 2007 election is shown at Attachment A (with problematic, uncoordinated deadlines in bold).

While the Council intended to have proposition committees report more frequently than is required by state law, no purpose is served by requiring committees to make separate reports covering separate periods of time just a few days apart. The current system is unduly burdensome to both those trying to comply with the current rules and the City Clerk Department that enforces them. Therefore, we recommend that the Municipal Code be amended so as to allow the City Clerk the authority to consolidate the City reporting deadlines when they are within seven days of state deadlines and to adjust the reporting periods accordingly.

Proposal #3: Pass New Ordinance Lowering the Number of Polling Place Ballots that the City Clerk Department is Required to Print

Currently, Elections Code Section 14102 requires that the City Clerk print enough ballots for use at the polling place by 75% of the registered voters. This outdated requirement does not take into account the electorate's increasing use of absentee voting. Recently, absentee voting has surpassed polling place voting in popularity in some elections. Nonetheless, given an absentee voting rate of just 40%, even if one were to project 100% voter turnout at a particular election (an extremely unrealistic assumption), the City Clerk Department would still have to throw away thousands of unused ballots. This is because we are currently required to print polling place ballots

for 75% of the electorate, even though in this example the highest possible percentage of polling place voters would be 60% (because 40% had already voted).

This is not a hypothetical problem, but one that causes the City Clerk Department to waste significant sums of City General Fund resources. For example, in the May 1, 2007 election, we printed 158,850 ballots, as required, of which we will throw out 146,587 (92.3% of those ordered). This represents a waste of \$83,242. Additionally, the City would reap the environmental benefits of reducing this paper waste.

Therefore, the City Clerk Department proposes that a new municipal ordinance be passed requiring the City Clerk to provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on Election Day using the precinct's voter turnout history and the frequency of polling place versus absentee voting, not to fall below 40% of the number of registered voters.

Under this proposal, the City Clerk Department will still throw away unused ballots, which is unavoidable given our need to assure that there are plenty of ballots for all voters. However, we would reduce the waste and save significant General Fund resources.

Proposal #4: Amend LBMC Section 1.24.140 to Allow Five Business Days for Citizens to Protest Incorrect Voter Materials

Any voter is allowed to file a protest with the Court if he or she believes that election materials regarding propositions (such as the City Attorney's impartial analysis of a proposition or arguments for and against a measure) are misleading or incorrect. Under current law, any voter is allowed to file such a challenge within eight business days of the material's publication. The City Clerk Department and the City Attorney's have both found this period of time to be excessive, given the dilatory speed of litigation and the City's need to print materials in time for the election. Therefore, we propose that Long Beach Municipal Code Section 1.24.140 be amended to allow only five business days for such protests.

Under this change, any citizen will still have one business week to examine and challenge materials for inaccuracies. However, under this proposal the City's need to send out these materials in time for consideration by the voters will be protected. Elections are time-sensitive events that cannot be postponed, and thus this change will allow us to assure voters that they will receive their information in a timely manner.

Proposal #5: Pass a New Ordinance Requiring Protests Regarding Candidate Statements to Be Made Within Five Business Days of Publication

Any voter is also allowed to file a protest with the Court if he or she believes that candidate statements are misleading or incorrect. Under current law, the voter has ten calendar days to make such a protest to the Court. (Elections Code Section 13313 governs here because there is currently no Municipal Code section superseding it.) For similar reasons as presented in Proposal #4, this does not allow the City Clerk

Department enough time to mail out the sample ballots in the event of a protest. Therefore, the City Clerk Department proposes that a new ordinance be passed shortening the period that a voter has to protest a candidate statement to five business days, so as to make it consistent with the proposed time for voters to protest proposition information.

TIMING CONSIDERATIONS

In order for these ordinances to take effect in time for the April 8, 2008 Primary Nominating Election, it is requested that they be considered in time for them to be enacted before the candidate filing period opens in December. Therefore, we request that the Council refer this to the Election Oversight Committee for its consideration, and that the Committee refer its recommendations back to the Council by October 16 for possible adoption.

FISCAL IMPACT

Proposal #3 would result in significant cost savings to the City, which would vary along with the cost of a particular election's sample ballot. If it was in place for the May 2007 election, it would have saved the City approximately \$42,096. Proposal #2 would save City Clerk staff time, thus relieving the pressure for additional staff. Proposals #1, #4 and #5 would have no known fiscal impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



LARRY HERRERA
City Clerk

ATTACHMENT A

May 1, 2007 Special Election Campaign Filing Deadlines

<u>Filing Deadline</u>	<u>Period Covered by Statement</u>	<u>Jurisdiction/Type</u>
January 31, 2007	10/1/06—12/31/06	City (Quarterly)
January 31, 2007	1/1/07—1/24/07	City (90 days before election)
February 15, 2007	1/25/07—2/8/07	City (75 days before election)
March 2, 2007	2/9/07—2/25/07	City (60 days before election)
March 19, 2007	2/26/07—3/10/07	City (45 days before election)
March 22, 2007	1/2/07—3/17/07	State (First Pre-election)
April 2, 2007	3/11/07—3/25/07	City (30 days before election)
April 16, 2007	3/26/07—4/09/07	City (15 days before election)
April 19, 2007	3/18/07—4/14/07	State (Second Pre-election)
April 26, 2007	4/10/07—4/19/07	City (5 days before election)
April 30, 2007	1/1/07—3/31/07	City (Quarterly; period already totally covered)
May 8, 2007	4/20/07—5/1/07	City (7 days after election)
July 31, 2007	4/26/07—6/30/07	State (Semi-Annual)
July 31, 2007	4/1/07—6/30/07	City (Quarterly; period already partially covered)
Within 24 hours	4/26/07—4/30/07	State (All late contributions and late expenditures of \$1000 or more must be reported)