



CITY OF LONG BEACH

DEPARTMENT OF THE CITY CLERK

333 W. Ocean Blvd.

Long Beach, CA 90802

(562) 570-6101

FAX (562) 570-6789

ELECTIONS BUREAU

October 24, 2006

Elections Oversight Committee
City of Long Beach
California

RECOMMENDATION:

Recommendation that the Elections Oversight Committee receive the City Clerk's presentation regarding voting system alternatives for the City of Long Beach; and direct the City Clerk to report back to the City Council on December 12, 2006, with findings and recommendations relative to the feasibility of procuring a "central-count" voting tabulation system based on vendor proposals submitted in response to the Vote Tally System Request for Information (RFI), due to the City Clerk on November 17, 2006.

DISCUSSION

Background

In 2002, the Help America Vote Act (HAVA) and Proposition 41 (State Voting Modernization Fund) provided California with more than \$495 million for procurement of new voting systems in California's 58 counties. With the availability of these funding sources, came new legal requirements:

1. Under HAVA all voting systems in which federal candidates appear on the ballot must be capable of allowing blind and disabled voters the opportunity to cast their ballots without assistance. Systems must also provide protection to prevent over votes. This requirement became effective January 1, 2006.
2. Under State law, the Legislature mandated that all direct record electronic (DRE) voting equipment be augmented with a printer to produce a contemporaneous voter-verified paper trail audit (VVPAT). This requirement became effective January 1, 2006.

In 2003, the City requested \$2.8 million from the Secretary of State for the Municipal Elections Pilot Project, which would have provided a funding source to improve the City's voting system. Citing scarcity of funds, the request was denied and the City was encouraged to seek assistance from the Los Angeles County Registrar Recorder/County Clerk (RRCC). Furthermore, it has been opined that HAVA and Proposition 41 do not apply to "city" elections.

In December 2004, at the request of Elections Oversight Committee Chairman Patrick O'Donnell, the City Clerk Department released a request for information on pricing of an enhanced City election system. Responses were received from four election system vendors with system costs ranging from \$650,000 to \$6.4 million.

To comply with the requirements of the Help America Vote Act (HAVA), the RRCC will implement Ink-A-Vote Plus on November 7, 2006. The RRCC has indicated that there would be no cost for the City's leasing this equipment, but cost of supporting the system during a City election would be chargeable. These support costs have not yet been determined.

In the face of an uncertain future regarding the certification of compliant voting systems, the RRCC has chosen a best alternative strategy -- to enhance InkAVote to meet federal and state requirements. However, this strategy is of no benefit to the City unless election cycles change. To use the new RRCC equipment, City elections would have to move to odd-calendar year elections, or the Primary Election moved to February. Use of the RRCC InkAVote Plus system could reduce capital investment costs for the City of approximately \$1.9 million (this does not include operation, maintenance and replacement).

Current Status

With completion of the 2006 election cycle, the archaic condition of the City's voting system was fully exposed in two ways: lack of precinct level over/under-vote protection and lack of modern tally system. If we are to maintain and improve the integrity of the voting process, these shortcomings should no longer be accepted.

A recent ruling in supports the timing of our decision to review our voting system *Stewart v. Blackwell*. In this case the U.S. 6th Circuit Court of Appeals ruled that the use of punch card and central-count systems violates the 14th Amendment of the U.S. Constitution. The analysis distinguishes between precinct-count optical scan equipment that prevent over votes and "non-notice" equipment such as central-count scan equipment that does not provide notice of and opportunity for a voter to correct residual votes. The decision prohibited the State of Ohio from continuing to allow the use of these voting systems in the sited counties while more reliable voting equipment is used in other counties. Though the City does not use a punch card voting system, our ballots are tabulated on a central-count basis.

The selection of a replacement City voting system is made difficult mainly due to the lack of financial resources to procure a new system and the continuing flux of viable and certified voting systems. Furthermore, the question of replacement is compounded by variations in voting system use and functionality. Nevertheless, such conditions should not prevent the City from considering the system replacement alternatives for implementation in advance of a Spring 2007 or April 2008 election cycle.

In August 2006, the City Clerk anticipated that there were five voting system alternatives:

1. Continued use of Martin & Chapman's "Opto-Mark", if the vendor can offer system enhancements, e.g., ballot bar codes and Internet reporting;
2. Purchase of a Modern Central-count System;
3. Lease Use of the RRCC InkAVote Plus;
4. Purchase of a City Owned Precinct Level Ballot Counting System;
5. Conduct of Citywide mail ballot elections.

Alternatives 1 and 2 are the least expensive alternatives, while the cost of Alternative 3 and 4, have the potential to be significantly more. Alternative 5 is not a practical option given the City's demographics.

In September 2006, the Elections Oversight Committee conducted elections system voter demonstrations in order to recommend a system alternative to the City Council at a later date. In the end, the EOC determined that a recommendation could not be made until the change in our City's Municipal Election cycle was determined.

On October 13, 2006, the City Clerk Department issued a Request for Information (RFI) to determine the estimated costs for replacement of the current Opto-Mark System – a central-count voting system.

This RFI will provide system costs data that will permit the City Clerk Department to determine whether a new central-count voting system can be procured for use in the Spring of 2007; if so, then the City Clerk Department would recommend that purchase of a new central-count voting system be approved by the City Council in December 2006. Furthermore, the central-count system could be configured to be compatible with direct recording equipment and/or precinct level-ballot counters.

The City Auditor, at the request of the City Clerk Department, is currently conducting an audit of Martin and Chapman billed expenses for the April-June 2006 election. We anticipate that the Auditor's findings may be available at the end of November 2006. In turn, the City Clerk Department expects that the audit may establish a firm election cost baseline, as well as any potential cost avoidance savings that could be used to fund a new central-count election system.

TIMING CONSIDERATIONS

In order to install a new central-count voting system in time for a Spring 2007 Municipal Election, Council approval of an election vendor contract must be completed by December 12, 2006.

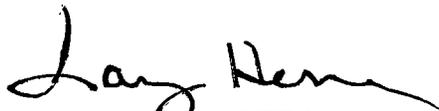
FISCAL IMPACT

None.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry Herrera". The signature is fluid and cursive, with the first name "Larry" and last name "Herrera" clearly distinguishable.

LARRY HERRERA
CITY CLERK