



Election Commission Action Summary

Commissioners:
CJ Garbo, Chair
William Huddy, Vice Chair
Christopher Pratt
Sherry Viani

Wednesday, February 19, 2020

5:00 PM

Town Hall
100 N. Wilcox Street
Castle Rock, CO 80104

This meeting is open to the public. One or more Council members may also attend this meeting, during which the items listed herein will be discussed

CALL TO ORDER

Vice Chair, William Huddy, called the meeting to order at 5:40 pm.

ROLL CALL

Staff present: Lisa Anderson, Town Clerk, and Kathleen Kelly, outside Council for the Election Commission.

Present 3 - Vice Chair Christopher Pratt, Commissioner Sherry Viani, and Commissioner William Huddy

Not Present 2 - Commissioner CJ Garbo, and Chair CJ Garbo

APPROVAL OF MINUTES

[EC 2019-009](#) **Minutes: September 30, 2019 Election Commission Meeting**

Moved by Commissioner Viani, seconded by Commissioner Pratt, that Election Commission Minutes be Approved as presented. The motion passed by the following vote:

Yes: 2 - Commissioner Viani, and Commissioner Huddy

Not Present: 2 - Commissioner Garbo, and Chair Garbo

Abstain: 1 - Vice Chair Pratt

UPDATES

[EC 2019-008](#) **Discussion on Recommended Changes**

Vice Chair Huddy brought up his request for information on a violation he reported during the 2016 election.

Kelly clarified that our Code does not require that literature indicates who mailed it or paid for the advertisement. If someone donates to a candidate, the candidate would report that on their FCPA report.

Huddy asked going forward, if an outside entity without the candidate's knowledge pays for a mailer that goes out to support one candidate over another, would break the law. Kelly stated there is nothing in the Code that would prevent that, but there

could be issues as the entity should form a committee and file disclosures.

Huddy confirmed that we do not follow the State election code. Kelly stated the Town has its own election code.

Pratt asked if we were doing a coordinated election, would we operate under the Uniform Election Code. Kelly stated that complaints would still come to the Town for FCPA or election offenses per our Code and per State legislation that was passed last year.

Kelly stated our Code appears sufficient and complaints are funneled to the prosecuting attorney.

Viani stated we should review the regulations to ensure they are in our Code and feels most have been codified.

Anderson clarified that the Regulations do not get codified like our Code does. They are passed as they are needed to clarify a specific situation or election procedure. Many of the Regulations are obsolete or since then have been put into the Town election code. Chairman Garbo's suggestion was to review the Regulations to make sure any appropriate regulations are codified. Anderson stated that staff can review the regulations and bring back recommendations to the Election Commission.

Anderson stated that some of the regulations are more procedural and may not make sense to codify. One regulation was regarding the write-in candidate deadline that she would recommend changing in the Code to align with the deadline to certify our ballot.

Kelly stated many of the regulations are administrative and many were one-off's to get through a situation that wasn't clear in the code. Some establish procedures so all election judges do the same thing for elections in the future, and our Code doesn't necessarily go into that detail.

Pratt asked if there is anything that requires future Election Commissions to comply with older regulations. Kelly stated the Commission can disagree with a previous regulation and can repeal or amend it.

Motion by Commissioner Viana, seconded by Commissioner Pratt to direct staff to review regulations and bring back recommendations to the Election Commission at the next meeting.

The motion passed 3-0.

Huddy asked if there is any way to see what Election Commissions in other municipalities do that we may want to look at.

Anderson stated that the majority of our Election code applies if we are running the election ourselves. As soon as we have certified our ballot to the County when we are coordinating, we comply with Title 1.

Pratt made notes on items in the Code that he had questions on or that may need to be revised:

Watchers 2.01.030 - Asked why there is only one watcher allowed per candidate. Anderson said that our Code mirrors State statute. If we are coordinating the election, then the watcher requirements default to Statute. Kelly stated if we were conducting our own election, we would default to Title 31 and our Code which both indicate one person per location. Anderson stated that all of our elections are mail ballot and no longer hold polling locations; and we only process our ballots at one location if we perform our own election.

Ballot counting equipment 2.01.140 - Pratt noted that it specifies we use Accuvote equipment. Anderson explained that it is the brand of the ballot counting equipment that we use if we run our own election. Anderson stated they are old, but are very accurate and work really well; however, it is interesting that we have the brand specifically mentioned in our Code. Removing the brand of equipment would be a good idea and replace with equipment approved by the Election Commission.

In 2018, we had to perform our own election. At that time the Town reached out to other counties for processing our ballots; but it was decided to run the election ourselves due to the complication with transporting ballots, confusion for voters having a Denver address to mail ballots to, and citizens trusting the process if it was done outside of Douglas County. Accuvote is very labor intensive to process the ballots, and we were looking at the different options and the best way to conduct the election.

Huddy asked if we have received any inquiries or interest from Town Council about what they would like the Commission to look at or talk about. Anderson confirmed that we will be redistricting in 2021.

UOCAVA Ballots 2.01.180 - Our Codes states they must be received by the close of the polls, or be submitted for delivery by the close of the polls. Kelly stated that is driven by the UOCAVA. Ballots can be received up until 8 days after the election and reflects State statute.

Secrecy Sleeve 1.01.220 - Anderson stated that secrecy sleeves were used in 2018 even though they are not required by Statute. They were used out of precaution but the Town did not incur additional cost as the secrecy sleeves were used to print the voter instructions on them.

Nominations 2.01.210 - Pratt recommend revising wording that clarifies that voters can only sign one petition - in that election. Anderson added that Council has had discussions on whether someone should be allowed to sign for more than one candidate so they could both appear on the ballot.

Replacement Ballots 2.01.230 (b) - Neither ballot counted if both returned. Pratt asked what the process is to ensure this is adhered to if they already voted and then got a replacement ballot. Anderson stated they have a specific process in place to ensure that before anyone is given a replacement ballot, it is initially

confirmed that their ballot was not yet returned as ballots are logged in every day and marked as received. They are then flagged in the poll book that a replacement ballot was issued. Their original and/or replacement ballots are set aside until the polls close to ensure only one ballot has been returned per voter. Some municipalities will just count the first one that is returned, but the Town wrote the Code this way to lead to higher scrutiny to verify that someone else did not return the original ballot and forge their signature.

Election Judges 2.01.245 - Pratt noted that the Town Clerk appoints judges who are registered electors in the Town and doesn't mention the process for selecting them. Pratt feels it could easily be abused if there is no criteria for selecting them. Anderson stated that a list of pre-vetted election judges experienced with signature verification was obtained from the County for the last election. Pratt suggests putting in a provision to codify that process. Anderson clarified that they only need to be an elector in the County, not just the Town. Kelly stated they could indicate more specific requirements for election judges.

Duplicate Ballots 2.01.240 - Pratt noted that the County requires one republican and one democratic, and if there is a way to ensure that process is protected. Anderson stated that the election judges have signed an Oath, and that the 2018 election there were three election judges at each station vs. two. Anderson also noted that signature verification judges require three judges to agree to disallow a signature.

Receiving and Counting Ballots 2.01.250 - Pratt asked about the household swap for ballots. Anderson explained that there are times when two people in the same household sign each other's envelopes, or have two ballots in one envelope and an empty envelope from the same household. Every exception is documented and if there is any question, we can go back to the source document. They are set aside until all ballots are received and can be verified. Kelly stated this was a long standing practice before it was codified.

Election Offense 2.01.580 (d) - Pratt asked if the \$300 fine is per occurrence or is that the maximum fine. Kelly stated the Town has a general penalty provision and it would be at the Judge's discretion via our Code 1.08.010.

Recall 15-3 (b) - Pratt noted the way this is written is a little confusing stating 25% of the vote of those for the office. Pratt stated that now that the Mayor and Councilmembers are two separate offices, it could be read that it is 25% of all votes of the office (all Councilmembers vs. Councilmember for a District). Anderson noted that this is in our Charter and can only be changed by the vote of the people. Anderson stated we could have the Election Commission rule on that if it was challenged. Kelly read the State statute which was similar.

All comments will be included in the summary of recommendations at the next meeting.

NEXT MEETING

Consensus of Commission for staff to send out availability of the Chambers in the May-June timeframe for the next meeting.

OTHER BUSINESS

None.

ADJOURN

Move to adjourn at 6:54 pm.

Submitted by:

Lisa Anderson, Town Clerk

Moved by Commissioner Pratt, seconded by Commissioner Viani, to Adjourn the Meeting. The motion passed by the following vote:

Yes: 3 - Vice Chair Pratt, Commissioner Viani, and Commissioner Huddy

Not Present: 2 - Commissioner Garbo, and Chair Garbo