

# Minnehaha County Election Review Committee

March 6, 2015 Meeting

## Meeting Notes:

Attendees: Lorie Hogstad, Sue Roust, Julie Pearson, Kea Warne (by phone), Deb Elofson, Bruce Danielson, Joel Arends (by phone)

**I. Call to Order**

**II. Approval of Agenda**

Motion passed unanimously.

**III. Approval of Minutes from meeting on February 20, 2015**

There was a committee discussion that the meeting minutes as presented contained the full text of a statement provided by Bruce Danielson. It was agreed the statement should be summarized in the minutes rather than presented in full.

Approval of the meeting minutes from February 20<sup>th</sup> will be reconsidered after Mr. Danielson's full comments have been summarized.

Motion passed unanimously.

**IV. Opportunity for Public Comment**

Melvin VanDenTop expressed his concerns about electronic vote tabulation equipment. He urged the committee not to allow the vote-counting process to be rushed along in a desire to produce quick results.

Theresa Stehly addressed the committee and expressed her appreciation of election workers. She expressed the frustration felt by some voters that multiple voting locations for city, school and state-wide elections can be confusing. She felt that any plan that could create consistent voting locations for all elections would be preferable to the current system.

**V. Adoption of Final Committee Report**

There was an initial discussion of the executive summary portion of the report. Executive summaries are typically written after all other parts of the report are completed. The committee directed Robert Wilson to prepare the executive summary following this meeting.

The committee reviewed and voted separately on each recommendation included in the draft report:

1. We recommend the Minnehaha County Auditor allocate sufficient staff time to assure the Total Vote date base and its Street Master program are maintained and up to date at all times. The recommendation was adopted as proposed by a 6-0 vote.
2. We recommend the Minnehaha County Auditor consider securing the north first floor hallway of the Administration Building for ballot tabulating related activities on Election Days. The recommendation was adopted as proposed by a 6-0 vote.
3. We recommend the Minnehaha County Auditor consider operating ballot tabulators in the large Multi-Purpose Room and use the smaller room for receiving and jogging ballots. The recommendation was adopted as proposed by a 6-0 vote.
4. We recommend the Minnehaha County Auditor purchase one additional DS850 ballot tabulator. Before voting on this recommendation committee members wanted to know if it was the desire of Auditor Bob Litz to purchase an additional ballot tabulator. Mr. Litz indicated he intends to approach the County Commission and request authorization to purchase one additional tabulator. The recommendation was adopted as proposed by a 6-0 vote.
5. We recommend the Minnehaha County Auditor design all ballots with preprinted 'fold here' watermarks to assist with voter mail-in absentee balloting. Committee members indicated it was their understanding that Mr. Litz plans to make the changes suggested in recommendations #5, 6, 7 & 11. The Auditor indicated he intended to order a certain number of ballots pre-folded. Julie Pearson suggested Mr. Litz consider the purchase of a folding machine. This recommendation was amended to state: *"We recommend the Minnehaha County Auditor pre-fold absentee ballots and consider purchase of a folding machine."* The recommendation was adopted as amended by a 6-0 vote.
6. We recommend the Minnehaha County Auditor's Office make arrangements to have extra resolution team members available if needed for recreations. If the parties do not provide an adequate number of resolution teams by the requested date, they should lose the opportunity to seat their affiliated

members and the auditor may select members. Sue Roust said she wasn't aware of anything in South Dakota Codified Law that required county auditors to ask political parties to provide individuals to sit on the resolution board. She felt there is no need for the Auditor to wait for political parties to provide those individuals. As a courtesy, Mr. Litz indicated he will continue to contact the parties and request they provide individuals to serve on resolution boards. This recommendation was amended to state: "We recommend the Minnehaha County Auditor have extra resolution team members available if needed." The recommendation was adopted as amended by a 6-0 vote.

7. We recommend the Minnehaha County Auditor ensure ballot scanners are programmed in accordance with South Dakota Administrative Rules. The committee agreed this issue arose over a question of over-votes. Over-votes should not be sorted out without stopping the counting process. That was not done during the ballot tabulation for the 2014 General Election in Minnehaha County. Over-votes should not be sorted out because there is no way for a resolution board to determine voter intent and therefore, no reason for the board to review them. This recommendation was amended to state: "We recommend the Minnehaha County Auditor ensure ballot tabulators are programmed in accordance with SDCL 12-17B-13.1" The recommendation was adopted as amended by a 6-0 vote.
8. We recommend the Minnehaha County Auditor consider scanning absentee ballots before polls close on Election Day, in accordance with SDCL 12-19-43. There was discussion about how strongly this recommendation should be worded. Should the recommendation be to "consider" counting ballots before polls close or a stronger recommendation? The recommendation was adopted as proposed by a 6-0 vote.
9. We recommend the Auditor thoroughly research potential underlying issues before using e-pollbooks. The Minnehaha County State's Attorney opinion dated March 2, 2015 advises not using paper poll books and e-pollbooks for elections. A side benefit of using e-pollbook use could be a significant reduction in the number of calls to the Auditor's Office to assist voters with voting locations. The committee discussed whether this recommendation should be included. Minnehaha County will decide if it wants to make the investment in e-pollbooks. Committee members questioned if this would be outside the scope of the committee's charge. "The committee believes that the use of e-pollbooks at

large precincts could allow precinct workers to more easily look up voter information and direct voters to the correct precinct, significantly reducing the number of calls to the Auditor on Election Day. However, Chief Civil Deputy State's Attorney Kersten Kappmeyer recommends that e-pollbooks be used at all precincts or none, due to equal protection concerns. Providing e-pollbooks at all precincts would require a very large expenditure of the county's HAVA funds. The recommendation was adopted as amended by a 6-0 vote.

10. We recommend when an election is conducted using e-pollbooks, all absentee voters should also be processed using them. Absentee voting is currently recorded in a different poll book system than the one used on Election Day. This follows the March 2, 2015 opinion from the Minnehaha County State's Attorney concerning equal access and election audit.

This proposal was developed as a result of Bruce Danielson's research of submitted election data. Information in the vote history logs did not provide the ability to trace the history of voter-related data as it moved from one program and office to another. Because all the information wasn't saved in the same format it was impossible to perform a clean audit. Mr. Danielson said it needs to be possible to do a clean audit of all information. Julie Pearson suggested this is not what the e-pollbooks are designed to do. This change also may not be needed because voter-related data can be accessed through the county auditor's office using the Total Vote program. There was additional discussion that the voter history available is whether a particular voter voted in the most recent election. It will not show if that voter voted absentee or in person or when they voted. There was a comment that in a contentious election it might be helpful to know who voted by absentee ballot. There was also a comment that the county cannot dictate how the machines will be programmed. Ms. Pearson indicated that creating an auditable trail of data in the e-pollbooks would duplicate work already accomplished in Total Vote. The committee rejected this recommendation by a vote of 6-0.

11. We recommend the Minnehaha County Auditor develop a procedure manual utilizing the staff knowledge, state election rules, state law, federal law, vendor requirements and useful information gained by these committee meetings.
  - a. Purchase and use green ink ballot stamps in accordance with vendor E,S&S recommendations.

- b. Consider ordering ballot stock with watermarks or a defined place on the ballot identifying where a ballot stamp should be placed as not to interfere with read areas of the ballot.
- c. We recommend the Minnehaha County Auditor design all ballots with preprinted 'fold here' watermarks to assist with voter mail-in absentee balloting.
- d. Review the use of blue ink pens for voters to mark ballots. The office should provide sufficient pens to polling places and instruct workers to tell voters to use only the marking devices provided
- e. Conduct additional testing of the ballot scanners during off periods to verify readiness prior to elections.

Minnehaha County Auditor Bob Litz told the committee work is underway within the office to write an election procedures manual. By a vote of 6-0 the committee approved this recommendation as amended:

We recommend the Minnehaha County Auditor complete a procedure manual for elections:

The committee then discussed sub-items A – D. Members expressed support for the ideas but suggested they should be addressed differently than the other recommendations because all are procedural in nature and Auditor Litz has indicated his office plans to adopt these practices. A, B & D were adopted as amended by a vote of 6-0.

- a. Purchase and use green ink ballot stamps in accordance with vendor ES&S recommendations.
- b. Consider ordering ballot stock with watermarks or a defined place on the ballot identifying where a ballot stamp should be placed as not to interfere with read areas of the ballot. Review with Secretary of State's Office if a change may be needed in administrative rules.
- c. ~~We recommend the Minnehaha County Auditor pre-fold absentee ballots and consider purchase of a folding machine.~~ (Item C was not included because it appears as a separate recommendation.)
- d. Review the use of blue ink pens for voters to mark ballots.
- e. ~~Conduct additional testing of the ballot scanners during off periods to verify readiness prior to elections.~~ The committee agreed item E was not needed or useful. It was pointed out that in between elections the office does not have the information needed to properly test the DS850 ballot

tabulators. It was agreed additional testing would not improve accuracy. Recommendation E was rejected by a 6-0 vote.

12. We recommend the Minnehaha County Commission provide adequate space on Election Day for all election related activities to include processing absentee ballots, receiving supplies and ballots, counting ballots with space for multiple resolution teams, public viewing and finally storage of all. A suggestion for use of the hallway was made only on a short term basis. We ask the Commission conference with the Auditor for a long term resolution and funding as needed.

The committee recognized that space issues within the Minnehaha County Auditor's Office are discussed in Recommendations 2 and 3 of this report. It was agreed that further discussion of that topic was not needed. The committee also recognized the considerable voter frustration and confusion exists. The committee heard from several members of the public during the Opportunity for Public Comments periods at committee meetings. Recommendation was rejected by a vote of 6-0.

13. We recommend the City of Sioux Falls and the six Sioux Falls area school districts explore combining the municipal, school and primary elections during even numbered years.

One frustration was that a Sioux Falls voter must vote at different polling locations for different elections depending on whether the election is conducted by the City of Sioux Falls, the Sioux Falls School District or a statewide election. *“the committee heard testimony about voter confusion and changing voting locations. We understand that the City of Sioux Falls and the Sioux Falls School District will continue to utilize vote centers for their elections and realize the difficulty this will entail for the Primary and General Elections primarily due to geographical challenges and election turn-out.*

There was a general discussion that most members were not in favor of a recommendation to combine elections. Several members said it was not appropriate for this committee to make recommendation to other jurisdictions regarding how or when they should conduct their elections. There was an agreement that recommendation #13 as amended was needed because that was a significant message the committee received through public comment. The committee also discussed that although there is a general understanding that this is a frustration of the public, but the committee is not aware of a solution at this time. This recommendation was accepted by a vote of 6-0.

14. We recommend this combining knowing the City of Sioux Falls and the Sioux Falls School District will continue to utilize Vote Centers for their elections until details can be worked out. We realize the difficult jurisdictional and geographical challenges of Minnehaha and Lincoln Counties would make voter centers impractical for the Primary and General Elections. The committee recognized the challenge that multiple voting locations presents to voters. That was why recommendation #13 included a recognition that the current polling locations present challenges to voters. This recommendation was rejected by a vote of 6-0.

15. We recommend the Lincoln and Minnehaha County Auditors work together with the City of Sioux Falls and school districts to coordinate Total Vote database table field data normalization for precinct, ward and school data.

Julie Pearson recommended striking this recommendation. Bruce Danielson said he suggested it because if all organizations are using the same program (Total Vote) all the data should be managed the same. Sue Roust commented that the data fields are standardized statewide even if there are variations in the way different organizations format their data. Ms. Roust also commented that this appears to be an issue for the Total Vote program, not the individual program users. Mr. Danielson said he first requested the Secretary of State's Office review its data for consistency across the state. He's looking at it from a programmer's perspective and that led him to suggest the recommendation. Ms. Person told the committee a county auditor's responsibility is to maintain an accurate voter registration list, and county auditors do that. She doesn't want this committee to insert itself into the internal structure of the Total Vote program. There was a comment that if two different counties use different descriptions for the same thing, (a ward vs. a district) that is not an inconsistency. It reflects two county auditors managing voter information in the way each deems to be most appropriate. Recommendation #15 was rejected by a vote of 5-1 with Bruce Danielson voting no.

16. County Auditors are responsible for the voter data originating in their counties. We recommend no voter data be modified or updated without the expressed written approval of the county auditor.

17. An audit file must be included with the approval request prior to any maintenance process preformed on behalf of the Minnehaha County Auditor's

voter data. We ask the Secretary of State also institute this for all voter data secured by the office.

18. Set normalization standards for data field contents. The city and school district of Sioux Falls resides in two counties (Lincoln and Minnehaha) with two different county auditors. The auditor's voter data for these governmental bodies must be similar in structure and detail for both counties.
19. We understand address verification services are not without fault. We recommend a policy requiring a written approval before any voter information is inserted into the Total Vote database by a county auditor or the designated staff can be modified by any automated system, contractor or state maintenance program.

There was a question if recommendation #16 would conflict with requirements related to the Help America Vote Act (HAVA). The Secretary of State's Office is the depository of all voter files, but each individual county owns and maintains their voter files. Ms. Pearson told the committee she hasn't heard of a case where a county auditor had any internal voting data changed by the Total Vote program. Recommendations 16-19 were rejected by a vote of 6-0 and replaced with the following statement:

*"We recommend that whenever any changes are made to voter records by Total Vote, a report be provided to each auditor listing the "before" and "after" values for any fields which have been changed."*

20. We recommend the South Dakota Secretary of State develop a spreadsheet style table "view" to allow county auditor staff to view and correct data more than one record at a time.

Recommendation #20 was rejected by a vote of 6-0.

## **VI. Old Business**

None

## **VII. New Business**

Following the selection of which recommendations to include in the final report, the committee decided to reorganize the 13 approved recommendations into five new categories. The categories include: Timeliness of Vote Tabulation, Performance of Vote Tabulators, Issues of Absentee Ballots, Election Process and Additional Committee Comments.

There was a committee discussion about the best way to finalize the changes made to the report and present it to the Minnehaha County Commission. It was agreed that Robert Wilson would prepare a draft copy of the meeting minutes and distribute to all committee members for review. All members will approve the meeting minutes by email. Mr. Wilson will also revise the meeting minutes from the committee meeting on February 20<sup>th</sup> to replace the verbatim report submitted by Bruce Danielson with a summary of his report. All members will also approve the meeting minutes from February 20<sup>th</sup> by email. Once both sets of minutes are approved, they will be included in the final report. Mr. Wilson will prepare an executive summary for the report and distribute that for committee review and approval by email. Once the committee has approved the final report by email, Mr. Wilson will present the report to Minnehaha County Auditor Bob Litz and coordinate a time for the report to be presented at a regular meeting of the Minnehaha County Commission. Procedurally Ken McFarland briefed the committee that the Commission would not be able to accept the report at the meeting it is presented. Acceptance of the report would have to be considered one week after the report is first presented.

#### **VIII. Adjournment**