



Florida Fair Elections Coalition
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Volusia County Canvassing Board
Volusia County Supervisor of Elections Office
125 W. New York Avenue
Deland, NY

Subject: Assessment of August 14, Primary Election

For the past seven years, we at Florida Fair Elections Coalition have been observing elections in Volusia County and preparing comments to present to the canvassing board as part of our mission to bring fair, transparent, accessible, and accurate elections to Volusia County and all of Florida.

Before getting into that assessment, however, I wanted to take a moment to comment on the progress we have made in these seven years. While attending the canvassing board meetings this past week, I was struck by how much more transparent and participatory this process has become since we first became engaged in Volusia elections. For this progress, I want to commend the supervisor of elections and her staff, as well as past canvassing boards who helped to bring about these changes. I would particularly like to single out former canvassing board member, Frank Bruno, for his part in promoting greater public participation in canvassing board meetings and for his commitment to the sanctity of each vote.

The relationship between a watchdog organization and the public entity that it watches is necessarily adversarial; however, we try to keep it civil and focused on issues and objective goals. We understand that people make mistakes and machines do not always perform perfectly, but we hope that our observations will provide valuable input that can help improve future elections.

The following assessment is based on our own observations as well as those reported to us by members of the public. Further, we are relying on the information about equipment problems provided by the elections office since we have not had sufficient time to investigate these issues ourselves.

Poll Worker Problems

It is challenging to take people who may have no technical skills or training, knowledge of elections law, and perhaps even experience in working with the public and turn them into competent poll workers. Further, it is difficult to train people for every contingency. Still with far fewer precincts and polling places in this election, it should have been easier to put together teams of competent, well-trained poll workers.

Yet, inadequately trained poll workers remained the most common and most persistent problem on election day. We received a number of complaints that poll workers were not familiar with the forms of identification that were acceptable. A voter was told that she had to have an ID that “could be scanned.” Another voter was told that her Visa with her photo and signature could not be used. She insisted, and the poll worker checked with the poll clerk and discovered that the Visa was acceptable. Another voter, known to me personally, attempted to use his military ID and was told that he would have to use his driver’s license. In this case, the voter knew the poll worker and was still unable to use the military ID. No doubt, poll workers felt that the driver’s license was preferable because it could be scanned directly into the system, but they cannot require voters to use it if the law allows voters to use other forms of ID.

At one Ormond Beach polling place, poll workers seemed unfamiliar with the most basic poll closing procedures. For example, they did not anticipate that they would be required to reconcile the number of ballots given out with the number of people who voted. In fact, with the new system, they had difficulty even determining how many people had voted. They did not know that they were required to post a copy of the results tape on the door of the polling place. They were unable to run a tape from the AVE machine. At another location (Holly Hill), poll workers were apparently unaware that the equipment had to be put in sealed bags as their Accu-Vote arrived at the Ormond Beach drop site unsealed.

In the review of the provisional ballots by the canvassing board, it became clear that some poll workers are still failing to fill out the paperwork properly and to review the provisional ballot sheet to ensure that the voter has signed it. *This is the job of the poll worker, not the voter.* Voters cannot be expected to be familiar with filling out provisional ballot paperwork. Further, they are likely to be somewhat distressed because they have been prevented from voting a regular ballot. As noted during the meeting, these poll worker lapses are fewer than in the past, and we applaud that progress. We believe, however, that the new rules with regard to renewal of driver’s licenses and state ID cards are likely to result in a proliferation of provisional ballots in the November election. Thus, it is imperative to ensure that poll workers know how to process provisional ballots so that the ballots can be counted if the voter is found to be qualified.

Due to the redrawing of precincts and consolidation of polling locations, we need far fewer poll workers than in the past. It ought to be easier now to put together teams of competent poll workers. Some experienced poll workers have told us that they have not been asked to work in this election cycle, yet it is clear that at least some of the poll workers in Ormond and Holly Hill are novices.

We suggest that the elections staff review the list of available poll workers to see if they can ensure that each location has, at a minimum, an experienced poll clerk. In addition, we recommend training before the November general election with emphasis on the following:

- What forms of identification are acceptable.
- Why security procedures are so important, especially maintenance of chain-of-custody on ballots and equipment.
- How to reconcile ballots and turnout.
- How to run tapes and what to do with them.
- What to do if there is a memory card failure.

- How to modem results and what to do if the upload fails.

Voting System Performance and Accuracy

Recount. The recount in County Council District 4 gave us a rare opportunity to examine a large percentage of ballots cast in this election and, thus, gave us better information on which to base an evaluation of the performance of the equipment and accuracy of results.

Despite a few problems that delayed the recount process, overall it went quite smoothly and gave us added confidence in the equipment's performance in this election. For the most part, totals from the rerun ballots matched those from election day. This is important as our system included new equipment with the usual potential for problems in the initial roll-out.

The programming problem that led to overvotes and undervotes not being separated out properly was promptly and easily addressed. The Accu-Vote OSX is new to Volusia County so it is understandable that staff may not be thoroughly acquainted with slight differences in how it is programmed. Equally understandable, but more problematic is the issue of missing ballots. Sorting ballots by hand necessarily introduces the likelihood that some may be overlooked. Of course, staff should follow rigorous accounting procedures to ensure that they do not stop until all ballots have been retrieved. This, however, would have the potential to be incredibly time-consuming. So we ask the obvious question: Is it possible to use the machines to sort the ballots? This would be a good question to pose to the vendor and the state in advance of the November election when the number of races on the ballot and the much greater turnout could lead to multiple recounts, which could consume considerable time and staff resources.

Memory Card Failures. For anyone who follows Volusia elections closely, memory card failures are no surprise. Every election brings a number of them. Thanks to the investigative skills of Mary Moewe, former reporter for the *Daytona Beach News-Journal*, we know that we are not unique in experiencing this problem. These failures have plagued the Accu-Vote OS for decades, not just in Volusia, but everywhere they are used.

The consequences of memory card corruption can be catastrophic, as they were in the 2000 election. At a minimum, these failures deprive voters of overvote protection, which leads to more discarded votes, and delay voting at the polls. From what we understand about how these failures were handled it seems that staff was well prepared for the eventuality of failures and had procedures in place to deal with them. Thus, there was a minimum of confusion and disruption at the polls.

Still, the fact that we continue to experience such large numbers of memory card failures is worrisome. Although these are the older cards and we have newly purchased cards for the November election, we don't have any reason to believe that the new cards will be more reliable than the old. In our view, the vendor has never given a completely satisfactory explanation for why the cards become corrupted; thus, it is difficult to know what changes implemented in the new cards would affect their reliability. Thus, we trust that the supervisor of elections will examine the audit tapes for the cards to determine if any information can be obtained about why the failures occurred and publish the findings of her review.

Uploading from the Precincts. Like memory card failures, uploading failures occur in every election. In particular, it seems that uploading of the AVEs continues to be a problem. Whether

this problem stems from problems with phone lines, the GEMS, or poll workers is not clear. Perhaps it is a combination of the all three. An examination of the GEMS audit logs – particularly the memory card status reports and the poster log – will, no doubt, be helpful in determining the source of the problem.

Problems with uploading in Pinellas County were mentioned, but these are not necessarily relevant to the problems here since Pinellas uses a different voting system – the ES&S DS200. Further, Pinellas County has little experience with modeming results as its previous system had a different way of accumulating results.

In the past problems with modeming results in Volusia have resulted from a variety of problems – system issues resulting from two uploads from a single polling place, too many calls coming in all at once and overloading the server, inadequate phone lines or static from storms, and poll workers who just don't know how to modem results.

The uploading problem is more serious than it may seem. A few years ago, a flaw was discovered in this system that makes it possible for upload problems to result in incomplete uploads even though the system shows the upload was successful. So it is important to ascertain that all memory cards have been uploaded and that the uploads are complete. We recommend that staff use the audit logs to investigate why the upload problem occurred, put together a plan for preventing these problems in November, and publish this prior to the election.

Availability of AVEs for Disabled Voters. Another continuing problem is the availability of disabled accessible machines for disabled voters. In many precincts, it seems that poll workers are not trained or experienced in the operation of the AVEs. Further, it isn't even clear whether the machines are functioning properly. As observed in our reports long ago on these machines, they have the potential for violating the secrecy of disabled voters' ballots because the results on the AVEs cannot be accumulated with the OS results at the precinct. In short, the result has been that these machines cannot be said to provide a good alternative for disabled voters and, thus, most are left with no better options for independent voting than they had before the machines were acquired. We still hope that these will be replaced with ballot markers that allow disabled voters to vote independently on a paper ballot that is scanned on the same optical scanner as everyone else's ballot. Ballot markers are state certified and are being used successfully in a number of locations.

Canvassing Board

Because this is a new canvassing board, with two members who have never served on a canvassing board, we wanted to comment on their actions as well:

- The board worked in a manner that preserved transparency and encouraged public participation while maintaining decorum and staying on schedule. We have worked hard to achieve these levels of transparency and public participation so we were delighted to find that the board continued to honor these values. It is of some concern that the Supervisor of Elections articulated a view that the public and the candidate's representative had no right to participate in any fashion. This is, of course, contrary to Florida Statutes Sections, 101.68 (2) (c) 2., 286.011 and Article I of the Florida Constitution.

- Overall, we felt that the members of the new canvassing board did an excellent job of understanding the difference between their “day jobs” and their duties as canvassing board members. They generally operated by consensus, asked for technical and legal advice when necessary, and were respectful of both staff and the public.
- The board members clearly understood their obligation to count every vote. For the most part, they gave voters the benefit of the doubt and did not let poll worker errors invalidate votes. In only one case did we disagree with the actions taken by the board on provisional ballots. That was a case involving a voter who signed with a different middle name. The signature appeared genuine, and she was registered, hadn’t already voted, and was in the correct precinct. We think her vote should have counted as it was quite likely that the difference involved her maiden name and her middle name.
- During the recount procedures, the decisions of the canvassing board served to reassure candidates and the general public that the results were complete and accurate.

Other Issues

Public notices. Public notices issued by the elections office met the requirements of the law, but they still failed to give adequate notice to the candidates and public. We believe that important, time-sensitive information such as public notices about recounts or changes in canvassing board schedules should be posted prominently on the home page of the elections website. The point of giving notice is to inform candidates, political parties, their supporters, and the general public so that they can exercise their rights to observe or participate in such meetings or events. Currently, it is quite difficult to locate these notices on the website. We suggest that the supervisor of elections consider making changes to the website prior to the November election to make it easier to locate these notices.

Conclusions

No election is perfect—machine failures and human mistakes will always occur. More important is how these issues are handled—both immediately and over the long run. From what we can tell, the immediate response from the elections office was good – they acknowledged problems promptly and responded appropriately.

The question is what will done now to prevent these problems from recurring in the November election. Now is the time for enhanced poll worker training based on the input from this election, for an examination of the audit logs to determine the source of uploading problems and to develop solutions, and for a forensic investigation of the failed memory cards. If these are addressed, we can look forward to a November election that runs as smoothly as this one. That is our sincere hope.

Sincerely,
 Mary K. Garber
 Associate Director
 Florida Fair Elections Coalition

The opinions expressed in this report are those of the author and do not necessarily reflect the views of the Florida Fair Elections Coalition board of directors.