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The Honorable Ernie Hall
Chair, Municipality of Anchorage Assembly
City Hall
632 W. 6th Avenue, Suite 250
Anchorage, AK 99501

RE: Report to the Assembly Regarding April 3, 2012 Election

Dear Chair Hall:

Summary

The Anchorage Assembly asked me to determine what caused the ballot shortages and other problems with the April 3, 2012 Municipal election and to recommend action to prevent those problems from occurring again. I have reviewed hundreds of pages of documents, conducted interviews or reviewed summaries of interviews of more than 60 election workers, Municipal employees and others, and had access to personal computer and email files.

I found no evidence of any intent by Municipal employees or election workers to unfairly influence the outcome of the election. Instead, I found that a combination of events led to the problems experienced in this election.

In this high turnout election, the employee responsible for managing the election made the decision about how many ballots to distribute to voting places based mainly on her limited experience with two prior low turnout elections in 2010 and 2011. To compound the problem, the training manual for election workers did not contain instructions regarding what to do if they ran out of ballots.

These discrete problems are easy to repair in the future by making changes in the practices of the Municipal Clerk's office. But during my investigation I also encountered a more systemic issue in that office that likely contributed to the problems.

The Municipal Clerk, who is responsible for administering the 6 person office exercised a hands off management strategy, delegating the details of managing elections and other important Assembly business to the Deputy Municipal Clerk, but without

providing much supervision and without having a working knowledge of some of those important functions. The Deputy Municipal Clerk who had only two years experience in managing Municipal elections ran the 2012 race without seeking supervision, input or collaboration from other staff members. And the Assembly, whose members do their job only part time and whose leadership changes regularly, was not aware of these issues and did not have a mechanism to evaluate the performance of its employees in the Municipal Clerk's office.

At the conclusion of this report I make some recommendations to prevent these problems for happening again. In sum I encourage changes in the Municipal Clerk's Office and Assembly practices so that election duties attain the level of focus and importance that they deserve.

What Happened

Ballot Shortages

The municipal code requires the Clerk's Office to print enough ballots for 70% of the registered voters.¹ But, because voter turnout is usually much lower - roughly 30-35% in mayoral election years and 20-25% in other years - the office ordinarily does not deliver all of the printed ballots to each precinct. Instead, they look to prior turnout, the nature of ballot propositions, the number of absentee ballot requests, changes in precinct sizes and other factors to try to allocate sufficient ballots to each precinct, reserving the remainder under security at the office.

This practice is not written out in any guidelines or procedures. But it is not unusual. The State of Alaska Division of Elections and the City of Fairbanks use the same unwritten criteria to determine how to print and allocate ballots to voting places.

The 2012 election promised a high voter turnout. It was a mayoral election year, and those elections typically bring out more voters than in other years. The 2009 mayoral election year had 58,714 voters and the more contentious 2006 election saw 70,859 voters. By comparison, recent non-mayoral elections averaged less than 50,000 voters. In addition, the 2012 election had an important ballot proposition certain to increase voter turnout. Shortly before the election the Municipal Clerk's staff noticed and reported to management that absentee ballot requests were higher than normal.

But the Deputy Municipal Clerk, the manager responsible for the election, did not consider these factors carefully in allocating ballots to the precincts in the 2012 election. She looked primarily at two recent low turnout elections with no mayoral contests - 2011 with 45,200 voters and 2010 with 39,096 ballots cast. She gave some consideration to the most recent 2009 mayoral election, with 58,714 voters, but did not consider the more contentious mayoral election of 2006 with a higher turnout of 70,859.

As a result, 50 precincts received fewer ballots than the number of voters in those precincts in 2006. Eight precincts received fewer ballots than the number of voters in the 2009 election. 71,099 voters turned out for the 2012 election, a turnout similar to the 2006 election.

The inevitable ballot shortage problems developed early in the day. By approximately 2:00 PM, several precincts became concerned that they were running low

¹ Anchorage Municipal Code, sec. 28.40.010(b).

on ballots. Some workers called their troubleshooters; others called the Municipal Clerk's Office election central hotline. Most of these precincts were able to receive additional ballots.

During this time no one at the Clerk's office realized that the ballot shortage problem was system wide, so no one took proactive steps to try to prevent shortages in other precincts. This lack of foresight proved fatal to the rest of the day.

By late in the afternoon, many more precincts ran low or ran out of ballots and began asking for more. Unfortunately, this occurred later in the afternoon, just before rush hour and the normal increase in voters arriving after work. Because these problems seemed to hit all at once, election workers had difficulty reaching their troubleshooters or getting through the hotline at the Municipal Clerk's office. Traffic problems prevented troubleshooters from delivering ballots to the precincts. Clerk's office employees pitched in to try to deliver ballots but their efforts fell short for the same reasons.

The Deputy Municipal Clerk in charge of elections had not faced this situation before and was unsure of how to respond. The training materials for election workers did not address the issue.² Some election workers asked if they could use sample ballots and were at first told no. The Deputy later changed her mind and approved the use of samples or copies. Later in the evening she also advised workers to send voters to the two precincts set up for absentee in person voting, because those stations had more ballots.

Despite this lack of direction many precinct workers, especially those with prior experience, used imaginative means to deal with the problem. Some workers borrowed copy machines from their voting places and copied sample ballots. Others called nearby precincts and either borrowed ballots from less busy polling places or sent voters to precincts with extra ballots. Had it not been for these efforts, the problems would have been more severe.

Overall, more than one-half of the polling places – 65 out of 121 - ran out of ballots, although most were replenished by one means or another before the polls closed. But, several precincts did not receive extra ballots until shortly before the 8:00 PM closing time.

One polling place, out of ballots with no prospect of receiving more, began dismantling before 8:00 PM, giving the appearance of being closed. A Clerk's Office employee delivering ballots discovered another voting place closed and told them to re-open.

The ballot shortage caused frustration and inconvenience to many voters. Some had to wait longer than necessary to cast their votes. Others were unable to wait and left without voting or were sent elsewhere. According to estimates made by precinct workers, close to 300 voters either left in frustration or were sent to other polling places. I have been unable to determine how many voters did not vote due to the inconvenience caused by the ballot shortage.

² In contrast, the State of Alaska Election Manual provides: "If there are not enough ballots or ballots are missing on election day, use sample ballots, ballots removed from an official election pamphlet or sheets of paper on which the names of candidates and issues are written until new ballots are delivered."

How Did It Happen

As noted above, the employee responsible for managing the election, the Deputy Municipal Clerk, did not allocate enough ballots to the precincts. She did not have the experience or foresight to recognize that this election would bring a high turnout and did not have the institutional knowledge to look back to prior mayoral election years for guidance. She also did not seek input or help from other Municipal Clerk's Office employees.

The Deputy admitted to me that, in retrospect, she made a mistake in allocating too few ballots to the voting places. She told me that in making her decision she looked mainly to voter turnout in the two prior years, 2011 and 2010. She later decided to look at turnout for the 2009 mayoral election and allocated additional ballots to some precincts. But she did not look back to turnout in the more contentious 2006 mayoral election. She told me that she did not have the institutional knowledge to understand that she needed to take a wider view and said "I did the best I could based on my experience."

Based on my investigation, I think we can best understand how this mistake occurred by looking at practices in the Municipal Clerk's Office. For several years prior to 2010, the office was staffed with a Municipal Clerk, a Deputy Municipal Clerk, an administrative assistant acting as a Deputy Municipal Clerk³ and designated as Election Coordinator, and 4 additional administrative assistants. That Election Coordinator had years of government and administrative experience before coming to the Municipality. She did not receive any special training for her election management duties, but her predecessor left behind a list of responsibilities and remained available for advice, and the coordinator took advantage of this help. In addition, she took it on herself to learn more about elections. She joined in mentoring with clerks from other Alaska communities and observed an election at the Kenai Peninsula Borough.

The Election Coordinator retired in 2009 and the Deputy Municipal Clerk resigned in 2010. The Municipal Clerk hired one new Deputy Municipal Clerk but took this opportunity to trim the budget by not filling the other Deputy Municipal Clerk/Election Coordinator position, and combining all Deputy Municipal Clerk duties, including elections, into one job. The new Deputy Municipal Clerk worked in the Clerk's office as a licensing clerk from 2006 to 2009 and the Municipal Clerk considered her competent, a hard worker and due for promotion. But, other than pitching in on election day as expected of all administrative staff, the new Deputy had no experience in managing elections.

The Municipal Clerk did not provide any special election training to the new Deputy. But by all reports the Deputy Municipal Clerk worked hard to train herself prior to her first election. She also relied on and collaborated with other staff members with more experience and asked one to send her a list of job duties.

The Deputy Municipal Clerk overhauled a checklist of election duties with timelines for each task and met with the staff each week to discuss accomplishing those duties. She also received permission to hire two temporary employees whose sole

³ AMC 2.20.055 authorizes two Deputy Municipal Clerks, one responsible for Boards, Licensing and Administration, and one responsible for Elections and Budget. The Election Coordinator filled this latter position but was not formally appointed as Deputy Municipal Clerk.

responsibility was to work on the election, one acting as an election assistant to the Deputy and one recruiting election workers. Those employees began work in December and thus spent almost 4 months assisting the Deputy in preparing for the election. The temporary election assistants for those contests had prior election experience.

As a result of this hard work, the Deputy's first two elections, 2010 and 2011, went relatively smoothly. Those elections did not have mayoral races and turnout was low – only 39,096 voters in 2010 (the lowest in recent years) and 45,200 in 2011.

But, in 2012 the Deputy Municipal Clerk did not give the election the same focus and attention as in the two earlier years. She did not hire a temporary election assistant until late January and then only after being prompted by the staff. She assigned recruiting duties to a full time administrative clerk who also had other duties. She did not hold weekly meetings with the staff.

The Deputy explained to me that by 2012 she believed she had sufficient experience and did not need to involve the rest of the Municipal Clerk's staff. But others believe that she became complacent about managing the elections. One former employee recalled the Deputy saying that managing elections was a simple task and did not require much expertise or experience. Others noted that she was increasingly private, not open to collaboration or suggestions and resistant to supervision.

The Municipal Clerk was unaware of most of these changes. She described her management style as hands off. She delegated supervision of administrative staff to the Deputy Municipal Clerk. She did not have a working knowledge of the details involved in preparing for an election and had not participated in any meaningful way in election planning or execution in several years.

The Assembly was not aware that the Municipal Clerk was unfamiliar with the details for managing elections or that the responsibility for this election rested with a Deputy with limited experience. That is understandable given that Assembly members do their jobs part time and Assembly leadership changes frequently. The Assembly also has no formal means of evaluating the performance of its employees in the Municipal Clerk's office.

Other Issues

Email Encouraging People to Register at the Polls on Election Day

The 2012 election included a ballot initiative involving extension of the Municipality's Equal Rights Act to sexual preference. A few days before the election the leader of a group opposing that initiative sent an email telling constituents, incorrectly, that they could register at the polls and vote on the day of the election. The Assembly asked me to determine whether this incorrect email had any impact on the ballot shortages that plagued the election.

In this election 337 unregistered people attempted to vote (their ballots were not counted). This number included 187 people not registered anywhere and another 150 registered in other communities. Of those registered in other jurisdictions, 98 were from communities near Anchorage (Matanuska Valley and Kenai Peninsula) and 52 from Fairbanks, Southeast Alaska and remote villages. These numbers represent a substantial increase over prior years with only 35 in 2011, 71 in 2010, and 59 in 2009.

Given this striking increase in unregistered voters in 2012, I infer that the email encouraging unregistered people to go to the polls had its desired effect. But, at most the e-mail may have caused 200-250 additional requests for ballots. This may have exacerbated the ballot shortage problem, but it wasn't the primary cause of the shortage.

Staffing Issues

The Assembly asked me to look at whether staffing issues contributed to the problems with the election. As mentioned above, the Municipal Clerk reduced staffing by one position in 2009-2010. I have also learned that in 2005 the Municipal Clerk's Office absorbed the work of 3 legislative budget and finance jobs without a parallel increase in staff.

Some have suggested that the 2012 election problems were caused by understaffing in the Municipal Clerk's office or by the failure to fill the designated election coordinator position. Based on my interviews with current and former Municipal Clerk's Office employees, I do not believe that staffing issues contributed to the problems.

As mentioned above, the 2010 and 2011 elections went smoothly with the help of two temporary assistants. If, as I recommend below, the Municipal Clerk becomes more involved in election management, there is no need for an additional employee designated solely as an election coordinator. The Municipal Clerk's office staff was stretched thin on election day, but that was in part the result of the ballot shortage problem and in part caused by having only one and not two temporary election assistants.

There has been no change in the number of field election workers hired in the past several years past. I've set out those numbers below.

	Poll workers	Support staff	Troubleshooters	Total
2008	546	48	12	596
2009	649	62	13	724
2010	555	58	13	626
2011	555	51	12	619
2012	587	69	12	668

Payment System for Election Workers

In past years the Municipality paid election workers directly. In 2012, due to an overhaul of its computer system, the Municipality contracted payment of those workers to a private company.

Not all election workers were happy with this change. The contractor required workers to fill out a new form and to disclose more personal information than in the past. Some workers complained and felt that the Deputy Municipal Clerk did not respond promptly. A very few experienced workers chose not to participate in 2012.

Despite these problems, the Municipality had a full compliment of workers for the election, due in large part to the efforts of the administrative clerk doing double duty as a full time employee and election recruiter. I didn't find any evidence that the payment

issue affected the conduct of the election. I suspect that over time election workers will become used to the change.

Broken Seals on Accu-Vote Machines

An Accu-Vote Review Board worker told me that the seals on the machines can break easily during packing and that they try to insure that all machines are packed away with seals intact. The training manual for poll workers tells them to “make sure the ... Accu-Vote Unit is sealed and the seal is not broken.”

Some poll workers have stated that the Deputy Municipal Clerk told them not to worry about broken seals. The Deputy has stated she did not intend to convey this message and that she was simply reminding workers that they could easily obtain another machine if the seal was not broken. At least one poll worker received an Accu-Vote machine with a broken seal, but did not use it.

In the future, workers should be clearly reminded that they may not use a machine with a broken seal and must call and obtain a new one.

Data Processing Review Board and Accu-Vote Review Board

I will address these issues in an addendum in approximately 2 weeks.

Method

The Chair’s letter to me dated May 11, 2012 promised complete access to Municipal records and personnel. The Municipal Clerk’s Office was prompt, thorough and cooperative.

I reviewed hundreds of pages of documents, manuals, and spreadsheets. I also had access to personal computer records and emails.

The Municipal Election Commission conducted interviews of dozens of election workers and Municipal staff, and I received copies of summaries of those interviews. Some observers raised concerns with the Commission’s methods because the Commission members were appointed by and some had close friendships with the Deputy Municipal Clerk.

I conducted my own interviews with current and former Municipal employees and also interviewed many election workers, focusing primarily on those precincts experiencing problems. The information I learned in my interviews did not differ in any significant respect from that contained in the Commission’s summaries. For this reason, in addition to my own interviews I relied on the Commission’s summaries.

I also relied upon affidavits and other materials provided by the ACLU.

Recommendations

1. No hands off management.

The Municipal Clerk's office is small. The Assembly should require the Clerk to have a working knowledge of all tasks performed by employees, including managing of elections.

2. Review of election training materials.

I recommend that the Municipal Clerk's Office conduct a thorough review of training and procedural materials used to manage elections, with an eye toward determining whether to adopt any additional written guidelines or procedures.

I recognize the tension between having too many strict written procedures, leading to rigid application of those rules, versus using institutional knowledge and common sense. In point of fact, on the issue of printing and allocating ballots to voting places, the Director of the State Division of Elections and the Fairbanks City Clerk both told me they did not use written guidelines and cautioned me against recommending them here.

But, given the extent of reliance on institutional knowledge in election matters, the Municipal Clerk's Office should at least review its practices to determine whether it should commit some of those guidelines to writing.

3. Election training for Municipal Clerk, Deputy Municipal Clerk and staff.

I recommend formal election training for the Municipal Clerk and other staff working in elections. At a minimum the training should include a requirement for working on or observing elections in other jurisdictions.

4. Election worker training.

The election worker training manual should be updated to address how to handle ballot shortages. As noted above, the State's manual provides: "If there are not enough ballots or ballots are missing on election day, use sample ballots, ballots removed from an official election pamphlet or sheets of paper on which the names of candidates and issues are written until new ballots are delivered."

5. Assembly oversight.

The Assembly should consider establishing some mechanism for oversight of the Municipal Clerk's Office. The Assembly has several standing committees (Legislative, Budget/Finance, etc.). A standing committee to periodically review the performance of the Clerk's Office would provide continuity and support for that office.

6. Ballot Distribution Centers.

The Election Commission recommended that the Municipal Clerk disburse extra ballots to distribution centers at hubs around the city to allow troubleshooters faster access to ballots should shortages arise. I agree with this recommendation.

I do not recommend mandatory allocation of all printed ballots to the precincts. The municipal ordinance requires printing ballots equal to 70% of registered voters, but is silent on how those ballots should be distributed to the precincts, leaving that to the Clerk's discretion. I don't see any need to change this.

This year's ballot shortage was the combination of several events unlikely to occur in the same combination in the future, especially if other recommended changes are made in the Municipal Clerk's Office. Precinct workers have many responsibilities. They should not be burdened with looking after, providing security for, and moving and carrying unneeded ballots.

Conclusion

Thank you for the opportunity to conduct this investigation. The Municipality is fortunate to have so many dedicated election workers who are committed to the integrity of the election process.

Please don't hesitate to contact me if you have any questions.

_____/s/_____
Dan A. Hensley