

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

THURSDAY NOVEMBER 12, 1998

PRESENT:

Joanne Bond, Chairman
Sue Camp, Commissioner
Jim Galloway, Commissioner

Betty J. Lewis, County Clerk
Katy Simon, County Manager
Madelyn Shipman, Legal Counsel

ABSENT:

Mike Mouliot, Vice Chairman
Jim Shaw, Commissioner

The Board convened in a continued regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the pledge of allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

98-1082 CONTINUED CANVASS OF THE NOVEMBER 4, 1998 ELECTION RESULTS

9:00 a.m.

On motion by Commissioner Camp, seconded by Commissioner Galloway, which motion duly carried, Chairman Bond reconvened the meeting in order for the Board to consider this matter as continued from November 10, 1998.

Laura Dancer, Registrar of Voters, advised that all of the election data which was hand counted has been accurately entered into the computer and the Accuracy Certification Board is in the process of assessing the final data which has been counted both electronically and by hand. She advised further that it will take sometime, and because of that, would suggest that this meeting be once again extended to a later time perhaps after lunch.

She stated that they are going to be at Judge Berry's Chambers in the Second Judicial District Court following this meeting to seek another extension to the time limit for canvass of the vote; that after and if that extension has been granted, they will give the Board all of the results as soon as they are certified; and that Kathy Carter, the Public Information Officer for the County, is meeting with the media campaign editors to let them know as soon as the results are certified.

9:10 a.m.

On motion by Commissioner Galloway, seconded by Commissioner Camp, which motion duly carried, Chairman Bond ordered that the canvass of the vote be continued to 1:00 p.m. today.

1:00 p.m.

On motion by Commissioner Galloway, seconded by Commissioner Camp, which motion duly carried, Chairman Bond reconvened the meeting.

Legal Counsel Madelyn Shipman advised that this morning Second Judicial District Court Judge Berry granted an extension for the vote canvass until such time that the work needed to do so is completed.

Laura Dancer, Registrar of Voters, distributed the abstracts of the vote and advised that the Certification Board has determined that this is a true and accurate accounting of the vote following the steps taken to assure that to be. She reviewed the problems which had been encountered and the steps taken to alleviate them and cited the time involved. Some of the problems encountered were: more voter signatures obtained at precincts than voted ballots read by the voting machines; stubs left on ballots and inserted into the voting machine causing the possibility that the ballot may not have been read; the long waiting period in order to get a voting booth caused impatience among voters and it was reported one voter walked off with his ballot, and that may have occurred more times; and that several failures and breakdowns in the central counting of absentee and mail-in precinct ballots resulted in a hand count, and it was later determined by the President of Global Election Systems that this was due to having some of the ballots printed by the County Reprographics Department which did not conform to the system specifications. She noted the extension of time granted by Judge Berry in order to complete the vote count so the Board could do a canvass and the granting of permission to open the ballot boxes to do the hand count in order to allow the Certification Board to certify the election, which has finally been accomplished.

In response to Board questions, Ms. Dancer detailed some of the procedures which occurred.

Concerning the fact that the Board just received the abstracts, the Board requested the Assistant District Attorney to pose available legal options. Ms. Shipman stated that while she has noted before her belief that this is a ministerial function of the Board, she believes the Board must be mindfully comfortable that the abstract reflects the report received from the Registrar of Voters as well as the certifications received from the Accuracy Certification Board, and if the comfort level is not there, the Board may choose to do a more independent review of the abstracts in order to substantiate its action.

The Board then discussed this and Commissioner Galloway stated that he would like additional time to look at the material presented before he makes a decision and suggested that they meet again later on today.

Following this, Chairman Bond called for public comment.

Alex Flangas, on behalf of the Nevada State Republican Party, made his plea to the Board for a total review of the occurrences concerned with the Washoe County election urging them to take whatever time is necessary to do this. He presented a list of points and questions for the Board to address and suggested the possibility of a new election. It was noted that his concern was the closeness of the race between Harry Reid, Democrat, and John Ensign, Republican, for the U.S. Senate seat.

Chairman Bond then requested that a member of the Certification Board address the issue of the hand counted ballots. John Byerly, a member of that Board, explained the procedure that took place advising that they are a 3-member board; that the process took place in a number of office areas, including hallways, and lasted 20 to 28 hours; that there were a number of teams with three members per team, wherein one person would enter the data through the keyboard, and the others would read the tallies per precinct, per race, and per candidate; that a certification board member was present during the time that information was being put into the machine; and that the total number of votes in a race, the total for all candidates, had to equal the number of ballots that were in that precinct count. He continued advising that if this did not occur, it became necessary to look at the manual tally sheets to verify they had accurately been counted, and if that did not work, then the ballots had to be hand counted again, during which time a Certification Board member had to be present. The Board discussed briefly how votes were counted in the past elections as far as prior to computer technology.

Mr. Byerly addressed concerns of Commissioner Camp regarding the primary election and advised that in the primary they were able to certify after the election and did not have the same kinds of problems as they did in the general election.

Mike Weber cited problems that occurred in the Presidential Preference Primary in 1996, which he believes were ignored, and addressed this year's election to include the following suggestions:

For filling in the ovals on the ballot, voters should have had felt tip pens at their disposal rather than the Bic pens that were used, even though the felt tip may be more expensive, since some people (an 85-year-old man, e.g.) may take as long as 20 minutes to complete the ballot, wherein the law says 2 minutes to vote in the booth is sufficient, which was a clear violation of State law. The reproduction in-house of ballots did not meet the specifications of the computer manufacturer. He has received telephone

calls from persons regarding their right to a secure ballot, anonymity in their ballot, and an accurate count, and people must be assured that the ballot process is above reproach. In order to give more integrity to the process, the political parties must have the ability to post-verify the process as well as pre-verify the process. Allow the Democrats to pick 3 precincts, the Republicans to pick 3, and other minor parties 1, and have the votes hand counted to verify the integrity of the machines. He has spoken with both the Democrat Chairman and the Republican Chairman who think this is a good idea. He added that these proposals if enacted would shore up voter confidence and help alleviate some of the concerns that have plagued this County for the last week.

Legal Counsel Madelyn Shipman disputed some of the statements made in Mr. Flangas' petition which he handed out at the beginning of his presentation as follows:

Your canvassing role does not allow the Board to review all of the election procedures and methods used to obtain the results, but it can, on a future agenda, request such a review. The summaries and abstracts are what is reviewed for the purpose of conducting the canvass and not the actual election materials as that is confidential material and can only be used in the event of a contest, not a recount.

The Commission can make note of any clerical errors only and do not need to be fully informed of the election process to do a certification.

The results do not go directly to the Supreme Court; they must go to the Secretary of State's office first. The absentee ballot and the mail-in precinct process and procedures are not part of the canvass but can be a part of an audit or a separate review after the election.

Only upon affidavit by election officers for a precinct stating that an election was prevented because there has been loss or destruction of ballots intended for that precinct or any other cause, and upon an affidavit from a candidate requesting that, can the Board have the authority to call for a new election, and otherwise, only a Court can call for a new election following the specific procedures set forth in NRS 293.465. She added that the Board cannot canvass ballots that were not cast and should be dealt with in another procedure.

She added that many of the statements in the petition could be dealt with through a recount procedure if requested by any candidate who believes that they want to have a recount.

Following some discussion, on motion by Commissioner Galloway, seconded by Commissioner Camp, which motion duly carried, Chairman Bond recessed the Canvass of the Vote proceedings until 8:00 p.m. on this date.

Mr. Flangas was then allowed to make statements disputing some of the responses of the Board's legal counsel to the petition, and stated, in summary, that the task before the Board is not quite as simple as signing off on the Certification Board findings but is more important than that and there is a lot more involved.

2:05 p.m.

The Board recessed.

8:00 p.m.

On motion by Commissioner Camp, seconded by Commissioner Galloway, which motion duly carried, the Board reconvened with the same Board members present and Howard Reynolds, Assistant County Manager, sitting in place of Katy Simon, County Manager.

Chairman Bond noted that the Board members have been going over the abstracts for approximately three and a half hours with help from people who have accounting backgrounds and stated that she does not see any glaring discrepancies.

Commissioner Galloway commented that he also does not see anything that would prevent canvassing the results and that the Board has been aware of all the problems and difficulties throughout the whole process as well as what was being done each step of the way to solve or correct situations. He did request an explanation as to why the differences between total votes and the ballots

cast in a county-wide race are different from the differences in congressional or state-wide races.

The Board recessed briefly while Ms. Dancer and the Accuracy Certification Board members met to determine the answer to Commissioner Galloway's question.

Ms. Dancer then explained the step-by-step process that was used to manually enter the hand counted data and stated that in some cases because of the way things were being consolidated, it was necessary to move votes to another precinct which would result in greater differences in the county-wide races. Mr. Byerly further added that it was not necessary to move the state-wide races from precinct to precinct.

Commissioner Galloway then stated that he has tried adding up the totals for County Recorder at least 10 times and cannot get the same answer. Mr. Byerly checked the numbers and stated that he finds that it does add up. Commissioner Galloway stated that he must be transposing numbers, accepted the explanations, and stated that he is now comfortable that the election results can be canvassed.

Commissioner Camp expressed concern with the ballots where the stub was not removed and not knowing whether those were counted by the machines and with the problems associated with the absentee ballots. She stated that the problems need to be thoroughly investigated so that this does not occur again.

Pursuant to NRS 293.387, Laura MacMahon, Registrar of Voters, presented to the Board the abstract of the votes cast for all candidates and questions in all the precincts in Washoe County in the General Election conducted on Tuesday, November 3, 1998, and certified the same to be true and correct as certified by the Accuracy Certification Board pursuant to NRS 293B.390 for canvass. Duly executed Submission of Abstract and Certificate of Accuracy Certification Board were placed on file with the Clerk.

Having conducted the canvass, the Board declared the abstract, as presented, to be a true vote cast and, on motion by Commissioner Camp, seconded by Commissioner Galloway, which motion duly carried, Chairman Bond ordered that the members present execute the Certification of the Official Canvass for the 1998 General Election, as presented, and the Clerk be directed to enter upon the record of the Board an abstract of the results, which shall contain the number of votes cast for each candidate and question. It was further ordered that the Registrar of Voters submit a certified copy of the abstract to the Secretary of State.

[abstract set forth in full in the permanent minutes]

98-1083 RESOLUTION - CANVASSING THE RESULTS OF A BOND ELECTION - WASHOE COUNTY SCHOOL DISTRICT

Having conducted the canvass of the results of the General Election, including the results of the bond election for the Washoe County School District, Washoe County, Nevada, on motion by Commissioner Camp, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the following resolution be adopted and Chairman Bond be authorized to execute:

RESOLUTION NO. 98-1083

A RESOLUTION DESIGNATED BY THE SHORT TITLE "1998 SCHOOL BOND ELECTION CANVASS RESOLUTION"; DECLARING THE RESULTS OF AN ELECTION HELD WITHIN THE WASHOE COUNTY SCHOOL DISTRICT IN THE COUNTY OF WASHOE, IN THE STATE OF NEVADA, ON THE GENERAL OBLIGATION SCHOOL BOND QUESTIONS SUBMITTED AT THE BOND ELECTION HELD ON TUESDAY, NOVEMBER 3, 1998, TO THE QUALIFIED ELECTORS OF THE DISTRICT; PROVIDING OTHER MATTERS RELATING THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF.

WHEREAS, the County of Washoe, State of Nevada (the "County," and the "State," respectively), is a county incorporated and operating as a county under the laws of the State; and

WHEREAS, the Board of Trustees of the Washoe County School District (the "District") pursuant to a resolution adopted and approved on July 14, 1998, designated in 1 thereof by the short title "1998 Election Resolution," duly called and held a bond election on Tuesday, November 3, 1998 (herein the "Election"), at which there was submitted to the qualified electors of the District the following questions:

A. SCHOOL BOND QUESTION PART A:

Shall Washoe County School District be authorized to issue \$131 million of general obligation school bonds for construction of 3 new high schools and upgrades and reconstruction of existing schools? The property tax rate is not expected to increase if this part of the question is approved.

("Bond Question A")

and

B. SCHOOL BOND QUESTION PART B: The bonds described in Part B can only be issued if Part A also is approved. If School Bond Question Part A is approved, shall Washoe County School District be authorized to issue an additional \$47.2 million of general obligation school bonds to build 4 new elementary schools, to upgrade and reconstruct existing schools, and to acquire and improve or reconstruct a facility for technical/alternative education?

("Bond Question B" and together with Bond Question A, the "Bond Questions"); and

WHEREAS, the Board of County Commissioners has canvassed the results of the Election and has considered all matters in the premises and desires to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY, IN THE STATE OF NEVADA:

Section 1. This resolution shall be known as and may be cited by the short title "1998 School Bond Election Canvass Resolution" (the "Resolution").

Section 2. The returns of the board of election for each precinct and voting district, if any, for the District for the Election are hereby accepted and approved.

Section 3. The Election, including, without limitation, the election on the Bond Questions, was, and it hereby is declared to have been, held and conducted in accordance with law.

Section 4. Bond Question A submitted to the qualified registered electors of the District at the Election was carried and the same hereby is declared to have carried by the following vote:

SCHOOL BOND QUESTION A:

YES 59,976
NO 32,288
TOTAL VALID BALLOTS CAST 92,264

REJECTED -0-

Bond Question B submitted to the qualified registered electors of the District at the Election was carried and the same hereby is declared to have carried by the following vote:

SCHOOL BOND QUESTION B:

YES 52,231
NO 39,495
TOTAL VALID BALLOTS CAST 91,726

REJECTED -0-

Section 5. The officers of the District and the County are hereby authorized and directed to take all action necessary or

appropriate to effectuate the provisions of this Resolution.

Section 6. All bylaws, orders, and other resolutions, or parts of bylaws, orders, and other instruments in conflict with this Resolution, are hereby repealed. This repealer shall not be construed to revive any bylaw, order, or other instrument, or part thereof, heretofore repealed.

Section 7. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 8. This Resolution shall be in full force and effect from and after its adoption.

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PUBLIC COMMENTS

Alex Flangas, representing the Republican Party, stated that they were hoping that the questions they submitted earlier were "pre-canvass" questions and that he is aware there is a difference of opinion regarding that between himself and legal counsel for the County, but he is requesting that the Board direct staff to investigate all of these problems and come up with answers prior to the State canvass on November 25th. He again reviewed the major concerns, especially in light of the close senatorial race, of whether or not the ballots with the stubs still on them were counted properly, what happened to all the absentee and mail-in precinct ballots that were not returned to the Registrar of Voters, and information they have requested which has not yet been provided. Ms. Shipman responded that now that the canvass is completed and staff is not working around the clock, the information Mr. Flangas requested can be produced as long as they are not requesting anything that is statutorily prohibited. Mr. Flangas stated that the most important thing is to ensure that these results really reflect the will of the electorate.

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There being no further business to come before the Board, the meeting adjourned at 9:05 p.m.

JOANNE BOND, Chairman
Washoe County Commission

ATTEST: BETTY J. LEWIS, County Clerk