

**OREGON ASSOCIATION OF COUNTY CLERKS
AOC CONFERENCE
HILTON HOTEL, EUGENE, OREGON
NOVEMBER 15, 2006**

Call to Order: President Steve Druckenmiller called the meeting of the Oregon Association of County Clerks, held in conjunction with the Association of Oregon Counties Conference in Eugene, Oregon, November 15, 2006 at 9:00 a.m.

Call of Roll: OACC Secretary Maria Iturriaga, Harney County, took roll; the following Counties were in attendance:

Benton	Hood River	Polk
Clackamas	Jackson	Sherman
Clatsop	Josephine	Tillamook
Columbia	Klamath	Union
Coos	Lane	Wasco
Curry	Lincoln	Washington
Deschutes	Linn	Yamhill
Douglas	Malheur	
Harney	Marion	

In addition to the 25 counties present, John Lindback and Julie Pearson-Ruthven from the Office of Secretary of State and Ravi Tanwar from Saber Consulting were also in attendance.

Dana Jenkins, Lincoln County Clerk, was congratulated on his re-election.

President Druckenmiller requested the participation of all AOCC members during discussions. He stated this coming legislative session will be a difficult one as there are some things on the agenda that we don't want to see, therefore we have to be an active vibrant association with an exchange of ideas and open to everyone's thoughts if we're going to work as a group. He also requested we all make personal contacts with our legislators and let the legislative committee know what we want and when they request information to please respond to their requests as they and the legislators need the information. He said if we don't get involved there is going to be legislation that will change how we do things and we're not going to like it. We need to assure people we do know what we're talking about, that we are honorable and accurate people and we care. If we don't, other people are going to be running elections in Oregon.

General Election Review and OCVR Assessment: Julie Pearson-Ruthven & Ravi Tanwar were in attendance and updated the group on the issues experienced during the General Election. Julie informed the group that on Election Day she and several members of Saber staff had gone to some counties so they could see the process and while there everything was working smooth, however later there was a significant system slow down.

A report from Saber concluded that the average maximum user load was 312.5 users/hr., approximately 2 million issued ballots, approximately 1.5 million received ballots, average of 70% idle CPU (Central Processing Unit) across data sites, excellent bandwidth between sites and zero replication issues. As far as the significant system slow down that some counties experienced, she reported the reason for the slow down was the scheduled “hot backup” was taken from the database during this time period, (9:45-10:00 p.m.) this is a snap shot of the system data of the three sites. After discussion regarding when would be the best time to do the “hot backup” the group thought that 4:00 a.m. would be a better time as to not interfere with work and have it up and going by 6:00 a.m. This will start right away.

Julie also explained system monitoring. She stated that Saber has people monitoring the health of the system all the time but especially during the two weeks prior to an election, during election day and night and on through the next day. They proactively maintain it to keep it at the level it needs to be so we get the kind of response times that we need.

The Help desk is 24/ 7 during election time. Apparently there have been some concerns with the help desk and their shortage of staff. There was praise for Donell Bowen and Ravi Tanwar for their excellent help. There were concerns expressed over the overflow of the help desk since they are now covering other states. Julie stated that other states are covered by the help desk which is located in Salem; however the one in Baker City is operating.

Julie stated that the system is not perfect, and we still have things that need to be enhanced and these enhancements need to be talked about. She stated that if the Change Control Board agrees to a change that affects something else in the system they need to go to their respective zone and ask before they make the decision to any changes. Some counties are having issues with printing labels. There were requests to analyze key stroke issues to make navigation easier and more efficient. Also be able to do add-hock reporting to be able to customize some reports. The Change Control Board will be looking at these issues during their January meeting.

Steve Druckenmiller reported that he had received a past due notice from the State on OCVR. He said what he’s looking for is more training. Before we meet at mid-winter he would like to have the clerks express the kind of problems and frustrations they have with the system. Julie said that the association needs to identify the kind of training that they want or need.

Sherry Hall, Clackamas County Clerk asked John Lindback if they ever thought about making a public service educational short video about how to vote a ballot. She reported they received many phone calls with questions. John said it was a great suggestion and HAVA funds can be used to educate voters, although there are complications since all counties do not use the same tally systems so it becomes a complicated thing to do and do well, but it does not mean that we should not do it. John will talk to the HAVA staff about this issue.

John stated election night reporting went well and was very pleased. He told the group he had many comments from counties and one common concern was the large ballot return volume at the end. Some felt that this was different than two years ago when ballots came in steadily. There was a discussion as to why we thought voters waited until the last two days. Several issues were identified, including the measures, which voters were confused about, the oval on the ballots being faint, the negativity of elections overall seemed to have people hold on to the ballots until the last minute, also different groups had get out the vote campaigns, which probably had an affect on the late turnout. Annette Newingham, Kathy Becket and Dana Jenkins stated that in their counties this election was almost identical to four years ago. Kathy said that she does not know of anything the clerks can do about this issue, except to best be prepared for this onslaught in the future.

John stressed the importance of prompt and steady election night vote tally. The vote-by-mail manual states that on election night we count votes until done. The reason for that is, the credibility of the vote by mail system, in part, depends on our ability to count votes in a prompt fashion and this needs to be the goal. Slow returns can put you on the hot seat faster than anything else and people start making conclusions blaming vote by mail. He stated we all care for this system and we don't want the snowball to start rolling. He said we need to address the problems that contributed to the late dumping of ballots and the slowness of counting ballots in some counties. John advocated a thorough review of the machines. John stated that he's not pleased with the quality of machines that the counties have been sold and doesn't understand why they need to be so temperamental. Jan Coleman stated it is her feeling the problem is not the machines but the quality of technical people working on the machines.

John also informed the group that one of the counties had a serious problem with the ES&S 550 that worked fine up until the middle of the night and then started given counts that were off. He said he had been calling ES&S to discuss this problem but had not been able to get a hold of them and they have not returned his calls. Kathy Beckett informed the group that she was the one John was talking about and explained her problem. She said that her reports were fine up until the 3:00 a.m. report. She didn't know they were off until the next day. She has tried to work through this and find out what happened. They think what it comes down to was an electrical problem. The audit report showed the totals were off but did not show they had an electrical problem. Kathy said this is a critical issue. John responded that it is a critical issue and ES&S has not provided a satisfactory response in terms of finding the real source of this serious problem.

John said that the legislature passed a bill last session, which provides in part, that the Secretary of State can decertify machines if there is a problem with them after consultation with the county clerks. He stated that if they can't provide us a level of trust with these machines that they're going to count and count accurately we need to make sure that every county that has them in Oregon is well informed about the issues and sit down with the Secretary of State and decide what needs to be done.

There were concerns expressed regarding surge protectors that apparently cannot be used for the 550's and 650's and the lack of information to Counties or the state that they could not be used on those machines and if that's the case, 1) Where is that stated in the machine's manual? and 2) What is it that could possibly happen and why we haven't been told this until now. Tassie O'Neil, commented that Ryder Elections is awesome. If there are any problems with ES&S, she goes directly to Ryder and they take care of the problem. They do help getting through issues and thought they should be a resource to help the state communicate with ES&S. John said he had talked to Tom Ryder but this is a situation where they need to talk directly to people from Omaha.

John's overall impression after this election is that we should take the off-election year to do some thorough planning for 2008, whereby the large counties, medium counties and small counties talk to each other and trade best practices that apply to each county.

There were concerns expressed regarding the vote by mail manual as it is difficult to maneuver through and hard to use efficiently. Tassie made a suggestion that maybe the vote by mail manual can have an index like the elections law book has. John said it was a good suggestion. He will discuss this issue with Gretchen to fix the problems.

Recess at 10:30 a.m. – 11:00 a.m.

Local Government Records Program Funding Proposal; Mary Beth Heckert, State Archivist, was in attendance to inform the group of a proposal of adding a nominal surcharge to documents recorded by county clerks. She stated that due to the lack of adequate funding, local governments, in particular counties and municipalities, struggle to develop, much less maintain effective records management and archives programs. By adding a surcharge of one dollar to recorded documents, the fees collected would in turn support a local government records program administered by the Archives Division. The Archives Division is proposing to have fifty-cents of every dollar collected stay with the County Clerk in a dedicated fund. The Archives Division will not have a say as how to use those funds. Fifty-cents of every dollar collected would go to the State Archives to further develop local government Archives and Record Managements programs with equitable distribution. In order to accomplish this there will be a need to amend ORS 205.320 relating to the clerks fee structure. She encouraged the clerks to contact the Washington State clerks and ask about this program which is in place in that state. Bill Burgess, Marion County, stated that before we go out there and say that we want a certain fee we better be able to document exactly how we are going to use that money and maybe have a discussion about what exactly we need in recording. James Morales was asked to take it to his committee for discussion and bring the recommendation back to the association.

General Election Review (Cont.); John discussed ballot handling and updates to the registration after the cutoff, with in the same County. He used an example of a voter that received the ballot at the old address and voted that ballot and they never requested a new ballot at the new address. Do we count that ballot? He stated he had e-mailed two clerks what they would do under that scenario and had two different answers.

One county said they would duplicate the ballot to the new address and the other would count the ballot. John said that he looked in the vote by mail manual but it did not specifically address this issue. Kathy Beckett stated that she's been around many years and always believed that when the voter cast the ballot at the address that you sent the ballot to and the ballot envelope is signed by the voter, then you assume they lived there at the time and it is a properly executed ballot. John Lindback said this is not about how to deal with this issue for this election since it's too late and hopes it does not come up as an issue in any race. This issue needs to be discussed and addressed in the next revision of the vote by mail manual, certainly before the next state wide election. John stated not to change anything now, to handle it as we've been handling it up to now. Steve Druckenmiller suggested that maybe the signature envelope should have a date line where the voter would date the signature and that would address some of the issues of eligibility.

Tassie O'Neil explained a similar issue, with a voter updating *out of county*. She said that they mailed a ballot to a voter as of the 20th of the month then the person updated in another county so there was an inactive ballot, and an active ballot, and the voter returned the inactive ballot to their previous county, she called the other county and discussed the matter. They agreed to forward the ballot to the other county and it would be duplicated. John congratulated Tassie, Dorothy and Nicole for the work they did in this the election, going above and beyond the call of duty dealing with difficult circumstances of inclement weather. This is a good subject for future conferences on how to cope with those types of unforeseen situations.

There were concerns and discussion regarding the duplicate voter list on OCVR. Currently, the list is not being generated accurately, nor is it complete. This issue is a SPIRIT issue. Nicole Williams stated that the Change Control Board is aware of the issue and will be working on this and other issues during their January Meeting.

Nicole also wanted to have a discussion on what "in line at 8:00 p.m." means. John said the historical interpretation on this issue is that people who are either in line or in the booth and have started the act of voting are allowed to complete the act of voting even if the completion of it occurs after 8:00 p.m.

Bill Burgess, Marion County, informed the group that he had a bad situation on election night, whereby voters were in line to drop the ballot off at the drop site and his making a determination of knowing where the line was at 8:00 p.m. Bill explained the scenario they encountered with mass traffic flow, both auto and pedestrian at 8:00, and making the determination that the cut off had to be "after the black pickup truck". Bill explained that they had to make a judgment call as to where to call the end of the line of someone in the act of voting at 8:00.

Lunch Recess at 12:00-1:30 p.m.

Steve Druckenmiller commented that Oregon has been running honest and accurate elections for 25 years as vote by mail has grown. It is a testament to Oregon and election officials of the last 25 years on how it was implemented and how well it works.

Vote by Mail Project; Adam Smith, Executive Director of Vote by Mail Project was in attendance to explain what this project is all about. He stated he's an evangelist on vote by mail and helps states who want to move towards that goal. He said a number of states are really exploring the possibility of going to vote by mail. Some States are looking into permanent non-excuse absentee as a step in the direction of full vote by mail. Other states like Idaho have decided to push legislation that will take Idaho directly into vote by mail. He told the group to expect more inquiries from out of state. He said people will be looking at the clerks in Oregon for guidance, information and assurance as to how exactly vote by mail works so well. The project's web site is: www.votebymailproject.org and his e-mail address is: ajsmith@votebymailproject.org He stated he would be thrilled to hear from anybody with thoughts and suggestions.

Recording Legislation; James Morales reported on the Recording Legislative proposals which the association has previously seen. (1) Marriage Statute Chapter 106, Rep. Kim Thatcher has agreed to sponsor the bill. (2) ORS 205.130, amendments designed to protect records from future attempts to remove documents from public records once recorded and (3) Military Discharges, proposed amendment to ORS 408.410 to 408.500. Diana Bradrick informed the group that the way the Military Discharge bill currently is drafted, would provide that if there is a computerized index, where the document series could be separated out, there would be a provision that the computerized index would be flagged as confidential so the name and document type would not show up in the index. If the records were on microfilm and commingled nothing would be done and the clerk would have until January 1, 2008 to begin keeping discharge records separately and restricting access to the records to only authorized party. As yet, this proposal has not been seen by the Veteran's Administration. Dee Berman will take this proposal to her local Veteran's Association representative. Kathy Beckett suggested that language should be added to the proposed legislation clarifying whether it is allowed to confirm that a record does exist, or to actually see the document.

James reported that he had followed up with OLTA on the cancellation legislation for documents that were recorded in error but not heard back from them.

Low Income Housing; The Housing Alliance is seeking funding for affordable low income housing. They've proposed to add a Document Recording Fee under ORS 205.323 of an additional \$15 per document to be paid to Oregon Housing and Community Services. This would increase the typical fee to \$21+\$15 per document. James believes that this fee would affect deeds and mortgages. He also said it would be very difficult to oppose this legislation in the legislature. There were lots of concerns regarding how far this could go. The group felt that we don't want to become tax or fee collectors. Steve stated that if we're going to oppose this we need a good argument.

John Lindback suggested that with a bill like this that deals with a sensitive issue such as low income housing, we might entertain the idea of taking no position, but have recommendations on policy issues we think the legislators need to consider and bring out all the arguments the association has. That way we would not be taking a position against affordable housing. James commented this was an excellent suggestion. Kathy Beckett suggested that we might look at how many or if anybody just walked out without recording a document because of fees.

As far as the Archives proposal, the group was in favor of seeing the legislation, identify what are the projects and get the clerks to send James what kind of projects the money would be used for and what the projected costs would be. Jan Coleman reiterated that it is vital that we all participate when the legislative committee asks for information or data.

Recess at 2:50 – 3:10 p.m.

2007 SOS Elections Legislation List; John Lindback explained the legislation list provided, which included, (1) extending the amount of time to collect ballots in case of emergency, (2) repeal of polling place statutes, (3) initiative reform (2 bills) (a) only one signer can write information about themselves on petition (exception for signers with disabilities) (b) no individual can alter information placed on a petition by a signer (c) registration and training of paid circulators (d) SOS will prepare state petition sheets – not the chief petitioners (e) circulation companies must maintain detailed records of who circulates petitions for them, conditions of payment and how much they were paid. (f) prohibit ballot title shopping. (4) compile, maintain and protect disability information in OCVR, (5) campaign finance housekeeping and (6) conduct of elections housekeeping. Also on the list was Rep. Greenlick bills; (1) post-election verification that each voting machine used in an election counted ballots correctly and (2) SOS Elections Division will verify signatures on state initiative, referendum and recall petitions. John stated that his thinking has evolved around the issue of the state verifying petition signatures. He now prefers the counties continue doing it, however he feels that we will not win the argument that we can continue the policy any longer that all the signatures on a sheet have to come from one county since all are located on one database. He said the challenge now is to figure out how that requirement can be eliminated and still have the counties do the verification. John asked that if anyone had ideas to please e-mail him and copy the legislative committee.

Barbara Nielsen had a concern that needed to be addressed, she informed the group that some people came to her office and wanted to bring in a copy machine and copy petition sheets, she originally told them no as she's very concerned about having those petition sheet signatures out in the public, however her county counsel said they had the right to do it. John Lindback said this issue could easily be wrapped up in the initiative reform package.

Nicole Williams reported nothing had changed since the annual conference, except now they know what bills the Secretary of State will be introducing so that leaves with the clerks (1) clerks housekeeping bill (2) still have the Soil & Water. Jan Coleman

requested we e-mail her telling her how many “no candidate filed” positions we had on the ballot, roughly how many hours were spent counting those write-ins, how many votes they received and if they qualified. We also have a continuous traveler bill and will be looking for sponsors for that bill. Nicole and Jan asked if anyone had any ideas regarding this bill to please let them know. One of the ideas was to involve AARP in this issue. Terri Turi asked about addressing how to deal with the death of a candidate either in law or rule. Curry and Coos Counties had to deal with this situation during the General election, due to the death of a Circuit Judge. She asked John Lindback to explore the idea of clarifying the procedure by rule. John agreed to do so. Nicole also brought up candidate filings with the cities and how it affects the clerks. She said her cities really struggle with the process and the forms, they certified the candidates for the ballot and sometimes those names don’t match the filings. She wanted to know the feeling of clerks to possibly change so the cities candidates would file with the county clerk. After some discussion and mixed feelings on this topic Terri Turi was asked to raise the issue with the cities’ region chairs. There was a suggestion that clerks talk to their legal counsel regarding liability issues that might be associated with taking over the Cities’ filings.

Bill Burgess informed the group that Phil Miles was in the Salem hospital.

State RFP for Tally Machines; John Lindback, explained the HAVA requirements for the disability community to vote privately and independently for those people in attendance who were not familiar with the legislation. RFP committee will be meeting at the end of November to discuss the RFP for tally machines and DRE’s or a combination thereof. The initial intent was for there to be two RFP’s; one for Central Count Tally Equipment, and one for equipment to be used by voters with disabilities. Then, the committee decided to re-think the strategy as to whether or not to combine them. This committee is composed of Clerks, Secretary of State’s office staff and people from the disability community. John Lindback will be replacing Paddy McGuire on the committee. More clerks will be added to this committee. John commented that the Secretary State’s office knows there are counties that have been waiting for a long time for HAVA funds for central count equipment and would like to give them the money so they can go forward with the purchase, but the disabilities component has to come into play as well. They want to do it quickly so the equipment will be in place to use in elections of 2007 that way we would not be using brand new equipment, for the first time, in the 2008 elections. Kathy Beckett asked if there are any vendors that are able to provide such as system, as she was not aware of a vendor that had this capability. John commented that she may be correct, but he believes that every election jurisdiction in the nation is in the same situation with this, and feels we have to show our best effort to meet the federal requirement. Tassie O’Neil, Tillamook County, requested to be added to the RFP committee.

Positive feedback was received from users of the HTML ballot, and John felt this was something that will continue, as it was so well received. As for the ABMS system that was used by phone, it was the consensus of the group that it was far to labor intensive, and was not accessible. It was a very expensive learning experience with our HAVA funds. John agreed, however, Oregon was able to follow the federal law, and we were

not in the same class as some states like Maine, that were sued, and ordered to repay HAVA funds for being non-compliant.

Steve Druckenmiller commented that had a growing concern that the problems between the Secretary of State's office and ES&S is spilling into some other decisions, where it should not be. Steve feels that the HAVA funding should be available to all the counties to find the answer that best fits their system.

President Druckenmiller postponed until the mid-winter conference, discussion on AOC in the context of having the Clerk's meeting associated with AOC. He said it's not a bad idea to have a meeting, after the Election, unassociated with AOC, but it needs to be discussed amongst the whole association. The issue of ethics of election industry sponsorship of OACC Events was also postponed until the mid-winter conference. Mid-winter conference will be held at the Phoenix Grand Hotel and Salem Conference Center February 4 – 7.

The meeting adjourned at 4:25 P.M.

Respectfully submitted,

Maria Iturriaga
OACC Secretary