

At this time, Judge Hinojosa suggested that both items on the Agenda be addressed at the same time, and proceeded to read the following letter dated, March 13, 1998, submitted by Mr. Joe G. Rivera, County Clerk, regarding the issues of concerns:

Judge Hinojosa noted that the Precinct Count System, as recommended, was not an option because the County Commissioners Court has indicated that there were no monies available for that concern, and would not be available in the foreseeable future. He indicated that all but two counties in the state had paper ballots, and that the County needed to have the Central Count System work.

Judge Hinojosa remarked that the main problem experienced on Election night was the delay in the count, due to the ballots marked with pens that could not be read by the scanner. He reported that there were about five hundred ballots that were rejected by the scanner and had to be counted manually. He indicated that when a ballot was rejected, the scanner would stop, and the ballot removed manually and presented to the Resolution Board to be counted manually.

(1) Transportation of Ballot Boxes]

Judge Hinojosa questioned whether transportation of the ballot boxes contributed to the delay and the Elections Administrator noted that all the boxes were received by nine o'clock. He questioned why it took two (2) hours, and the response was that the Harlingen area boxes were delivered to the County building and transported by the Sheriff's Office.

Mr. Tony Yzaguirre questioned who brought in the boxes, and the Elections Administrator responded that the Brownsville area boxes were brought in by two persons, the Deputy and the Clerk of the Precinct, and the north area were taken to the County Building, and transported by the Deputy Sheriff and a Clerk, and added that at all times, the boxes were in the possession of two persons.

Mr. Yzaguirre questioned whether it was true that the boxes were not sealed when delivered, and the Election Administrator responded that it was true. She indicated that Ms. Lilita Huerta, Precinct 20 Judge, was called out at the last minute.

Judge Hinojosa suggested to complete the discussion regarding transportation.

Mr. Manuel Hernandez, resident, stated that the Law required that the election box be transported by the Election Judge.

Judge Hinojosa stated that he did not know if that was the Law and noted that clearly that did not happen. He stated that the boxes were transported to a centralized location in Harlingen and accompanied by a Deputy Sheriff all the way to the warehouse.

Ms. Amalia Cano, Elections Administrator, noted that the Secretary of State's Office was contacted and they had no problem with that procedure.

Mr. Manny Vela, Democratic Chairperson, noted that if it, in fact, was cleared by the Secretary of State's Office, it was a huge convenience for the Judges from the northern section of the County to have the boxes transported by the Sheriff and a Clerk.

(2) Issue of Markers

Judge Hinojosa noted that the two major problems concerning markers was that the markers would not scan. He noted that not only should a notice be placed in the newspaper, but every polling place needed to have a Notice, that if you do not use County approved pens or pencils, the vote will not be counted by the scanner and will delay the vote count.®

Mr. Vela requested that the Elections Administrator explain the process of counting the ballots after the scanner rejected them.

Ms. Cano stated that the scanner counted the ballot after the Resolution Board completed it. She noted that the Resolution Board resolved the problem, that they actually placed a tape over the oval and placed a white or black label and fed the ballot into the scanner.

Tony Yzaguirre questioned whether the problem happened to every candidate or only selected few, and Ms. Cano responded that only to the ones that marked with another type of pen.

Mr. Vela clarified that the question was whether it involved a specific race or across the board and the response was that it was across the board. He requested clarification as to the rejection, whether it was because the makings were outside of the oval or the type of marker.

Ms. Cano responded that she understood that some would mark with a big check mark or AX®, instead of filling out the oval.

Mr. Rick Hoffman, Republican Chairman, noted that part of the problem was that an AX® was marked, but it would not fill in the oval, and it was rejected, and the Resolution Board had to use a black marker or fill it in.

Judge Hinojosa suggested that there was a need to run ads in the newspaper to show how to mark the ballot, and once the agreement is reached as to the markers, then that would need to be part of the educational program.

Mr. Hernandez noted that there was a problem of the ink bleeding to the other side of the ballot, and that it could affect the reverse side of the ballot. He suggested to use heavier paper for the ballot to avoid the problem. He noted that the law allowed the use of a pen and that many people did not have the confidence of a pencil.

Judge Hinojosa suggested the need to have the education program in the newspaper, television programs and to post Notices, approved by the Secretary of State, that says, "If you use a non-authorized pen it will delay the vote and can we buy pens that do not blot?"

Ms. Cano responded that the vendor recommended to use the Sharpies, and the pencils, because the pencils do not erase.

Mr. Hoffman noted that the problem was not the use of Sharpie but filling out the oval.

Mr. Eliseo Munoz, resident, noted that the pencils were not indelible, as were told, and had the problem of the Sharpies bleeding and affecting one portion of the ballot, which was a lay-out problem.

Mr. Muñoz noted that he demonstrated that pencil markings are easily erased and that the scanner will not detect it.

Mr. Vela noted that the Run-off Election would be on April 14, 1998 and that he did not foresee the same problem occurring. He stated that education was an issue and that possibly, at twelve noon on Election day, if sufficient number of boxes were available, to start counting earlier.

Judge Hinojosa stated that he disagreed with that process because of the inherent problems, and suggested that the Elections Administrator explore the issue of thick paper for the ballots.

Mr. Joel Galarza, candidate, noted that the Poll Judges needed more education, and detailed a scenario regarding a father and two sons, living together, but that the father was registered in another precinct.

Mr. Hernandez noted that write-in votes were not counted.

Mr. Yzaguirre questioned whether the Elections Administrator had notified the community of the required AID when registration cards were not available, and she responded in the negative.

Ms. Margarita Gonzalez, Brownsville Herald, noted that she wrote an article about it.

Judge Hinojosa noted that more publicity would be required.

Mr. Hoffman suggested to provide written procedure for the Judges when a vote was challenged.

Judge of Precinct No. 53, explained some of the problems encountered and Judge Hinojosa noted that some of the problem stemmed from the lack of education and proper training of the Judges. He noted that another perpetual problem was that people were not advised that the reverse ballot contained candidates, and that the Election Judges were not providing the information to the voters.

Mr. Hernandez noted that some people were not receiving the proper Precinct Ballot, but that problem was resolved early on.

Mr. Vela praised the Election Judges and stated that he did not know of one that didn't want to do a good job on Election day. He added that by the experience gained in this election, the Run-offs should be smooth. He stated that the problematic areas had been addressed, and needed to be brought up in the training session. He noted the difficulty in obtaining Election Judges to serve, and that it was not a financial gain to serve.

Mr. Mike Saldaña, Attorney at Law, noted a problem with the Early Voting Ballots mailed in response to the applications received. He stated that he was informed that a large group of applications, because of a clerical error, ballots were not sent out.

Judge Hinojosa noted that he understood that a large number of ballots were not sent out because the postage machine was not working.

Ms. Cano clarified that the mailing of ballots was delayed by two (2) days to send to voters because the machine broke down. She explained the problem with taking the ballots to the Auditor's Office, and waiting for a check, in order to mail the ballot herself.

Mr. Yzaguirre questioned whether any applications for ballots were not mailed timely or rejected, and Ms. Cano stated that if the applications were not received in the Office by the seven days before the election, the ballot was not mailed. Ms. Cano stated that applications received late were sent a Rejection Notice.

Mr. Vela question whether the Election Administrator had a list of persons that applied and received a ballot and the Election Administrator responded positively.

(3) Sealing of Boxes

Judge Hinojosa noted that there were four (4) issues concerning the sealing of the boxes that needed to be addressed;

- 1) The opening of the Early Voting Ballot boxes prior to Election day;
- 2) The submission of eight (8) ballot boxes not sealed from the Harlingen area needed to define Aseal;
- 3) One box taped and delivered by a Deputy Constable;
- 4) After the count, were the ballot boxes sealed, who had the keys, and was the facility sealed?

Judge Hinojosa noted he had discussed the above issues with the Elections Administrator, but wanted her to explain the process.

Ms. Cano noted that the law allowed to open the Early Voting boxes early.

Mr. Vela, noted that he was present when Mr. Don Crow, Early Voting Judge, opened the boxes the night before the Election. He stated that they did not start counting the Early Vote until the next day, and that the reason to open was to sort the ballots to count the next day, because the ballots were folded.

Mr. Muñoz noted that the Early Voting boxes were not properly sealed or locked. He noted that there was a semblance of a seal, but that there was not a seal register, or unique seals used. He noted that at the end of the day, Mr. Crow was preparing to leave without sealing or securing the boxes, and that he questioned Mr. Crow and that Mr. Crow did not seal or lock the boxes.

Mr. Yzaguirre questioned whether the Elections Administrator was notified and Mr. Muñoz noted that he brought it to the attention of the Election Judge.

Ms. Acevedo stated that she did not know, and that Mr. Crow did not inform her.

Mr. Saldaña questioned the purpose of sorting the Ballots a day before the election, and whether it really saved that much time.

Judge Hinojosa suggested that the Election boxes not be opened until Election day.

Mr. Yzaguirre questioned whose decision it had been to open the Election boxes.

Ms. Acevedo responded that it was the Election Judge=s decision to open the boxes.

Mr. Muñoz noted another problem encountered by the Early Voting Commission. He stated that the Code allowed for the Early Voting Judges to see thee results of the Early Votes, but that Mr. Crow denied that access. He stated that he finally relented and gave them the total number of votes cast, but not the specific results, and added that the Early Vote number did not correspond to the number reported as Early Vote count.

Mr. Vela requested to have Precinct by Precinct results.

Judge Hinojosa noted that the Election Commission needed to get a statement from Mr. Crow.

Mr. Muñoz clarified that the normal procedures for the preservation of records, once a box was counted, the box needed to be resealed, signed and locked; however the boxes were not secured on Election night.

Ms. Acevedo noted that the boxes were not locked until late Thursday.

Mr. Yzaguirre questioned whose responsibility it was to secure and lock the boxes and Ms. Cano responded that it was the Central Count Judge=s responsibility.

Mr. Yzaguirre=s questioned the Elections Administrator, Awhere do you come in? Where do you come in?@ as to say, Anobody locked these boxes?@

Ms. Cano responded that they closed the storage, and that AI don=t go in and look at any ballots, I don=t go in to look at any boxes.@

Tony Yzaguirre's question - AWhy?@

Ms. Cano responded that for the same reason, then the Judges are not doing their job. If I need to; then maybe I have to make it a policy, even though the Judge has his duty.@

Judge Hinojosa questioned who the Central Count Judge was, and the Election Administrator responded that at the last minute, a Temporary Emergency Judge was appointed, that being Ms. Ana Maria Duran, (related to the District Clerk).

Mr. Hernandez stated that it was his understanding that one of the scanners was the Election Administrator's Sister-in-law.

Ms. Cano stated that she checked with Secretary of State, and they had no problem with that worker.

Judge Hinojosa reiterated that there was no sealing or locking of the boxes until Thursday, and then only locked, not sealed.

Judge Hinojosa addressed the issue of the Ballot boxes not sealed from Harlingen and the Judge from Precinct No. 53 stated that he had problems with the seal and he accidentally peeled the seal.

Mrs. King, Election Judge, noted ballot boxes without locks.

Mr. Hernandez listed some of the boxes that he saw that had no wire seals or locks: that being:

Precinct No. 5 - Not sealed or signed;

Precinct No. 18 - Not sealed;

Precinct No. 20 - No wire seal or lock;

Precinct No. 57 - No lock or seal;

and that Palm Grove appeared to have the seal tampered with.

At this time, Ms. Cano stated that the vendor would be ready to demonstrate the procedure, and added that the ballots were already ordered, but needed to decide whether to use the Sharpies.

Mr. Hernandez noted some patterns of voting inconsistencies in some of the positions.

Judge Hinojosa stated that a response was needed with respect to the Early Voting Elections in terms of the unsealing and not sealing before the count, and noted that the issue of security of boxes prior to the count, was the ultimate responsibility of the Election Administrator to secure the boxes after the count.

Judge Hinojosa suggested a meeting for the following week to receive responses to the issues addressed.

There being no further business to come before the Election Commission, upon motion by Commissioner Yzaguirre, seconded by Commissioner Hoffman and carried unanimously, the meeting was **ADJOURNED**.

APPROVED this **28th** day of **April, 1998**.

ELECTION COMMISSION CHAIRPERSON

ATTEST:

TONY YZAGUIRRE
TAX ASSESSOR-COLLECTOR
SECRETARY-ELECTION COMMISSION