

MAY ELECTION UPDATE

At the Board meeting on Thursday evening, March 6th, 2014, DEO Rhonda Davis was present via telephone and conducted the lot drawing to determine the placement on the ballot of the candidates running for director positions in the upcoming May election. The candidates' names (in the order they will appear on the ballot) are as follows:

- TWO YEAR TERM
 - Mike Parrish
 - Jimmy Leon Ivey
 - Roberta Z. Smith
- FOUR YEAR TERM
 - Steve R. Wilson
 - Sandy Rucker
 - Kenneth C. Thomas
 - Marshall L. Dunn, Sr.
 - J. Gordon Scott
 - Jim Cain

During the Public Input portion of the meeting, there were many questions asked and concerns expressed by members of the community. At just after 8 AM on Friday morning, Anita called our legal firm and spoke with Richard Toussaint, the District's attorney and Rhonda Davis, DEO for the May election, to share those concerns.

The following was in the 3/7/2014 email to the SPCFPD Board from SPCFPD's attorney, Richard Toussaint:

Rhonda has answered all of Anita's questions from this morning. I have reviewed her responses and concur.

While I was not on the call last night (I now wish that I had been), I do not believe that Rhonda misspoke, unless there was a question she did not understand due to the poor reception on her telephone. But let us review where we are: SPCFPD has appropriately called for an election and has received self-nominations from more candidates than there are seats available. SPCFPD has chosen the most inclusive form of election - a mail ballot election. SPCFPD has chosen an independent, experienced DEO who with her cohorts at TNC have handled many elections. SPCFPD has acted properly under the new statute governing this local government election. While it is true that our firm is located in Evergreen, SPCFPD is trying to accommodate the needs of the District's residents. SPCFPD has provided and continues to provide large amounts of time for citizen input concerning this election.

A mail ballot election gives everyone an easy way to vote, without having to drive to Guffey to a polling place. It eliminates the need for absentee ballots and allows the easiest access for everyone to vote. The vote counting will be done in an organized, fair and open manner. Similarly, the Board of Canvassers will provide an independent report.

Please inform us about how we can better meet the needs of SPCFPD and its citizens.

Richard Toussaint

The following was in the 3/7/2014 email to the SPCFPD Board from SPCFPD's DEO, Rhonda Davis:

Below are my responses to Anita's questions from this morning.

Will calls from Electors to the DEO regarding ballots mailed or received be charged to the District? Yes

Is the DEO also the election judge and can the election judges be local people? I believe this question and answer may have been lost in translation through teleconference. The discussion, as I understood it, was centered around a walk-in location for dropping off and picking up ballots and my response centered around the fact that the DEO is responsible for controlling the ballots and that can't be done at a walk-in location in Guffey. (1-13.5-1104(2)) My understanding of the question was: "Will the DEO appoint election judges to sit at walk-in locations?" My answer was no as I could not control the ballots. This office came to the conclusion that the walk-in location would be in our office and we would provide election staff (judges). This office intends to have election staff (2 election judges) within our office in order to allow the election to proceed smoothly, but we are willing to have up to two more election judges from the District. I would welcome registered electors from the Guffey area to let me know if they would like to be an election judge and we can appoint a couple more judges. Counting mail ballots in a mail ballot election may begin 15 days prior to the election by election officials. We can certainly do our best to choose counting days that work best with everyone's schedule.

There was a suggestion that maybe there could be a walk-in location in Guffey for at least one day. It was a good suggestion and I have researched it and believe we can accomplish this. Please consider what day(s) should be chosen, and who would monitor this location.

Can watchers be present when ballots are counted? We have no problem with watchers; we will follow the rules for watchers as provided by statute.

Will we pay the postage if the voter does not provide enough postage on the ballot? 1-13.5-1105(5)(b) – if an elector returns the ballot by mail, the elector must provide postage. Having said that, if a ballot comes to us with postage due, of course the postage will be paid by this office. Just be aware that we can't control a ballot with insufficient postage: it may be returned by the post office, or otherwise delayed.

Cancelling an election: pursuant to the (New) Local Government Election Code, (1-13.5-513) if the only matter before the electors is the election of persons to office, and if, at the close of business on the 63rd day before the election ***or any time thereafter***, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent to be a write-in candidate, the DEO shall, if instructed by resolution of the governing body, cancel the election and declare the candidates elected (the SPCFPD Board resolution does give the DEO this authority). Also: 1-13.5-304 ***Withdrawal from Nomination:*** any person who has filed a self-nomination may cause his or her name to be withdrawn at any time before the election by executing a written affidavit withdrawing from nomination and filing it with the DEO. I stated this in my election update along with the fact that most of the costs of election occur in March and early April.

Canvass Board Appointee: 1-13.5-1301-at least 15 days prior to the election the DEO shall appoint at least one member of the governing body and at least one eligible elector of the District (who is not a member of the governing body) to assist the DEO in the survey of returns. This shall constitute the Canvass Board for the election. (Discussion concerning the Canvass Board must have taken place after I ended my call. I remember only someone asking what a Canvass Board was and someone from the audience answered the question).

Can someone be a resident of only 1 day and be allowed to vote? Discussion at the meeting was the “challenge” to HB1303 by someone at a Colorado Springs election. HB 1303 is not a part of the new election code for Local governments and has no bearing on Special District elections. Prior to the passing of the new local government election law, the definition of a registered elector could be found in 32-1-103, which, among other requirements had a 30 day residency rule. Section 29 of the election code amends 32-1-301 to eliminate the 30 day rule.

IN SUMMARY: This new election code for local governments is new and certainly poses more than a few inconsistencies that will most certainly be worked through as elections are held. For instance, the rules for mail ballot elections do not provide for watchers, but it addresses/discusses watchers in other parts of the rule. Mail ballot plans are no longer required to be approved by the Secretary of state, however 1-13.4-1105(3) states “....mail ballot plan filed with the Secretary of State.” 1-13.5-108 states that the DEO shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of these rules.

Rhonda Davis