

COUNTY OF JEFFERSON

BOARD OF ELECTIONS

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To: Members of the Jefferson County Legislature and Mr. Robert Hagemann, County Administrator

From: Commissioners Eaton and Hall

Date: December 31, 2013

Re: 2013 Annual Report to the County Legislature in compliance with NYS Election Law 3-212.4

2013 Annual Report

2013 was a typical local election year. The major offices up for election were Jefferson County Clerk, the 15 member Jefferson County Legislature, City of Watertown City Council, and roughly half of the town and villages offices. For a local year there was a considerable amount of work due to much more competitive town and city races.

Our annual operating budget for the year was set at \$789,392. Much of this amount goes to office salaries, election inspector pay, printing, and mailing costs. We were under budget for the year by about \$133,000. This was due to a number of factors including; the lack of a county-wide Primary Election, a drop in printing costs starting in July 2013 which was not known to us in August 2012, and due to the fact that we dramatically consolidated election districts as a result of the 2010 Census and subsequent redistricting of the County Legislature for the first time since 2003.

Our staff was comprised of Commissioners Jerry O. Eaton and Babette M. Hall. The Deputy Commissioners were Trina Kampnich and Michelle LaFave. In May, Democratic Clerk Michelle Coullier and Democratic Deputy Commissioner Patti Shaughnessy departed. Ms. Coullier was replaced by Frances Sourwine and Michelle LaFave moved up from her Voting Machine Technicians position to Deputy Commissioner. A new Voting Machine Technician, Matt Shaw, was hired to go along with Voting Machine Technician Helen Fikes. Lori Mehaffy remained as Registration Clerk. There has been a large turnover in Democratic staff since 2012 due to people leaving for new jobs. The new staff has been excellent additions and are doing a great job despite their short time in the department.

The major change in 2013 was the reduction in Election Districts from a high of 93 in 2012 to 70 for 2013 and beyond. The Jefferson County Legislature completed its once in a decade redistricting of county legislative seats based on the 2010 census. The new districts were 95% the same as they were from 2003-2013. This made our jobs very easy in terms of the redistricting of election district lines.

Our goal was to consolidate districts since this was our first chance to do so after the replacement of the lever voting machines. The old machines had a much lower voter per election district ratio which did not allow for consolidation in prior years. Our goal was to save county funds without closing any poll sites or adversely affecting voters through poll site confusion. The reduction in districts saved our office and the taxpayers a great deal of money and time. The change reduces the potential for mistakes during the run-up to Election Day in terms of packing and election night reporting. It also reduces confusion at poll site tables and reduces the unique ballot styles on Election Day from 93 to 70.

As a result of this consolidation, we saved around \$22,000 in election inspector costs for the General Election alone. Those savings should continue through 2022 if all things remain constant. This also allowed us to reduce the inspector pool slightly and improve the quality of Election Day management. The savings was also felt in the voting machine room as there was less confusion with ballot styles, machine preparation, machine packing, and end of night reporting.

The office printing line was reduced due to the fact that our printer, Phoenix Graphics of Rochester dropped their per ballot price for Election Day ballots from .57 cents to .48 cents for 2013. This price is set to continue through 2017. This drop in cost was a great savings to the county while quality was not diminished in any way. Our printer is top notch and has been of great assistance with the optical scan ballots as well as our absentee ballots.

For the years 2012-2013, Commissioner Eaton was elected President of the NYS Election Commissioners Association (ECA). This was the first time since the ECA's founding in 1915 that Jefferson County was represented in such a capacity. Commissioner Eaton successfully oversaw statewide discussions surrounding early voting proposals, the transition from a paper voter registration system with the NYS Department of Motor Vehicles to an electronic one, and navigating the complexities of a Federal Court order which required each county to significantly upgrade its Election Management System (EMS) and voting machine software. Intensified political feelings in a Presidential Election year in our field created a higher level of mistrust between Democrat and Republican Commissioners and fueled contentious debates about election management. However, good government and fair play was able to be achieved.

Nominating petition season began on June 4 for the political parties. For a local year there was a huge amount of interest in town offices particularly. The City of Watertown City Council race drew 6 nominated candidates which meant there would be a Non-Partisan Primary for the first time since 2005. In addition, we had more valid petition challenges in 2013 than from 2008-2012 combined. The Commissioners invalidated 6 nominating petitions and 3 Caucus nominations through a public hearing process.

Once the nominating petitions were wrapped up, Independent Nominating Petition season began and ended in mid-August. There were no legal challenges to any of these petitions.

As we prepared for the Primary to be held on September 10, a major problem emerged over the Labor Day holiday. The City of Watertown's unique Non-Partisan Primary Act of 1920 was misinterpreted. The city has a quasi run-off system under this act of the State Legislature which features a truly Non-Partisan petition and ballot layout system. Since there had not been a Primary for City Council since 2005 and never one run on optical scan voting machines, the Commissioners were not aware that the city law calls for the ballot to be a "Vote for Two" scenario despite the fact the city law also calls for 4 candidates to move on from the Primary and be narrowed down to 2 winners in November.

When this issue was brought to the Board's attention on September 3, the absentee ballots had been in voter's hands for weeks and our ballot room was full of city ballots that read "Vote for Four". The Commissioners immediately consulted with the County Attorney and discovered the legal error. The error was immediately fixed internally. However, damage was done due to the confusion of voters and media coverage of the mistake.

The biggest obstacle became the fact that the entire election had to be "rolled back" in the voting machine room. All voting machines that had been tested prior to the discovery had to be re-done since new cards were required to be burned to comply with the Election Law and accepted testing standards. In addition, the Commissioners discovered the 1920 law required the candidate's names to appear on the ballot in alphabetical order which is contrary normal policy. We had placed the candidates' names on the ballot as a result of a bingo ball draw system which is used in every other situation in New York except for the City of Watertown; or so we thought.

While this seemed to fix the problem, a much bigger issue raised its head. Unbenounced to the current staff at the Board of Elections, the 1920 law had been repealed and replaced by the more modern 1993 Non-Partisan Primary Act. This law modernized certain sections of the old law while keeping some of the original legal parameters. One problem that quickly arose was the 1993 law stated the candidate's names on the ballot should be placed using standard Election Law procedures. This meant another quick change to the ballot to avoid any further legal issues.

Even though the issues were resolved prior to the election and Election Day went off without a hitch, the fact that the Commissioners had privately attempted to conduct meetings with the city's legal counsel and City Manager in May of 2013 and were rebuffed led to this bad situation. The Commissioners believe a meeting at that time would have uncovered these kinds of details. The issues at hand sparked a large debate in the media and between the county and city about the role of each government entity under the 1993 law. The Commissioners strongly advocate for a drastic overhaul of the 1993 law and have voiced that to the City of Watertown.

The General Election was much quieter than the Primary Election. One voting machine failure at 5:15 AM at the Village of Black River poll site was the only major problem of the day. This issue was immediately addressed by our Machine Technicians and by 6:15 A.M. a replacement voting machine was in place. This is a testament to our machine technicians, inspectors, and Election Day processes which allow us to be flexible and respond anywhere in the county quickly.

Once we began the recanvass of the November 5 General Election on November 13, three major contests came into play. In the Town of Rodman the Supervisor race was a 135-135 tie. While this race was easily resolved, the contests in the Town of Cape Vincent were not. On election night, incumbents in the town were trailing significantly on the voting machine count. However with over 300 absentee ballots legally cast, the race came down to the absentee count. When our Board staff started the count, lawyers representing both the Democrat and Republican candidates began systematically challenging absentee ballot envelopes and absentee ballots themselves. This lead to about 90 ballots not being counted which left the contests for Town Supervisor and Town Council in doubt.

Our staff preserved all challenges and locked everything in our ballot room through the three day legal window both sides had to bring court action in Supreme Court. On the last day for court action to be taken, the Democratic candidates filed suit to be heard in State Supreme Court in Jefferson County. Judge James McClusky set an initial hearing date of November 26 to hear the case. However, on November 22 the court action was withdrawn and we were able to finish the count on November 25 and certify the county's election results.

This was the Board's first legal challenge at this level in at least a decade and tested our internal procedures. Our policies were never questioned and in fact, were recognized by both sides as being fair and as complying with the state election laws regarding absentee ballot counting.

In closing, 2013 was a unique year which posed many challenges that were not anticipated and required our staff to be flexible in time management to get all our duties accomplished so that Election Day was successful. Despite the issues detailed, both the Primary and General Elections went off perfectly and there were no major issues when it counted.

2014 will see three elections. A Federal Judge has just recently ruled that New York shall hold its Federal office Primary Election on June 24, 2014. The normal State and Local Primary Election is currently slated for September 9, 2014 and the General Election for November 4, 2014.

Respectfully Submitted,

Babette M. Hall, Commissioner

Jerry O. Eaton, Commissioner