



SHASTA COUNTY

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March 27, 2023

Honorable Kevin Crye
Honorable Tim Garman
Honorable Mary Rickert
Honorable Patrick Jones, Chair
Honorable Chris Kelstrom

Re: Voting Systems and Manual Tally in Shasta County

All:

I write to you today as the chief election official of the County of Shasta. Having served in this role since 2004 and having been duly elected five times by the voters of this county, it is right and fitting that I inform you, in writing, of the potential consequences of the recent actions taken by the Board.

As you all are aware, on January 24, 2023, the Board voted to cancel the county's contract with Dominion Voting Systems. On February 28, 2023, my office, the County Clerk & Election Department, brought forward an agenda item for the Board to select a certified voting system or vote to rescind the cancellation of the Dominion lease agreement. The Board Chair attempted to remove the voting system item during agenda preparation, and, when that was unsuccessful, added an item to the agenda to explore hand counting (a "manual tally") of paper ballots. That item moved forward; the Board took no action to secure a certified system. Additionally, the Chair attempted to alter county administrative policy to allow the Chair to eliminate any future proposed agenda items for any reason. This item failed. The Board adjourned without adopting a method to administer the election, potentially disenfranchising Shasta County voters and, especially, disabled voters.

At its meeting on March 28, 2023, the Board will take up these two items again. At that meeting, the Board must reinstate or enter a new voting system contract (March 28, 2023 agenda item R6). We recommend that the Board either take no action on March 28, 2023 agenda item R7 or adopt the Staff proposed policy. But if the Board instead opts for a full manual tally, it must plan to provide at a minimum the \$1,651,209.68 and 1300 staff members and necessary to implement a full manual tally.

The Board Must Reinstate or Enter a Voting System Contract

It is imperative that the voters of Shasta County continue to enjoy the right of franchise, and that elections in Shasta County continue to be performed with transparency, accuracy, efficiency and with a servant's heart. That is the job I was elected to do, and I intend to continue doing it.

At the upcoming meeting of the Shasta County Board of Supervisors, on March 28, 2023, we expect to discuss these same issues again. In advance of this meeting, I and several other county staff members met with Chair Jones and Supervisor Crye as a working group on March 13, 15, 20 and 27, 2023 in an attempt to reach a resolution that will protect the voting rights of Shasta County voters. At the meeting held on March 15, 2023, Susan Lapsley, the Deputy Secretary of State, reviewed a long list of federal and state laws that the Board could violate by not selecting a certified voting system.

In summary, the statutes require that all California voters be able to cast a ballot privately and independently. A voting system that includes technology is the only way available to comply with those laws.

If the Board Orders a Full Manual Tally, It Must Provide the Resources to Do So

My office has also diligently explored the available options and necessary resources for manual tally; given the timelines and complexity, we have been forced to put aside much our regular work to do so. We discussed these options as part of the working group's March 13, 15, 20 and 27, 2023 meetings. The attached document summarizes our findings. We conclude that it would cost a minimum of \$1,651,209.68 and require the addition of 1300 county staff members to implement a full manual tally.

On March 13, 2023, Supervisor Crye invited Linda Rantz to speak with our working group. Rantz supports manual tallying of paper ballots and claims that her method of manually tally could be easily adopted by Shasta County. This is not true. Rantz's plan assumes a materially different legal and factual background than the one we face in Shasta County. In fact, a full manual tally 'system' is not currently in use in any other California jurisdiction. In addition, as the Deputy Secretary of State indicated at our meetings, the Secretary of State is considering draft regulations that would affect the legality of any manual tally plan. In contrast to Rantz's plan, the document attached provides a realistic estimate of the resources required to implement a legal full manual tally in Shasta County.

The development and implementation of such an entirely new, untested, unproven program would be extremely difficult. It would require the County to develop policies and processes from the ground up to allow for all the complexities of ballot processing and tally. This includes but is not limited to developing processes for ballot examination and duplication, the tally itself, recording and aggregating election results by hand, allowing for meaningful observation, transportation, onboarding the hundreds of required temporary staff, adjudication of ballots and auditing the manual tally for accuracy.

As a result of these complexities, we do not recommend that the Board pursue a full manual tally. Instead, we recommend that the Board either take no action on this item or adopt the Staff Recommendation provided in connection with March 28, 2023 agenda item R7. As discussed in the attached document, this path secures the advantages of a manual tally without the complexity, delay, and errors inherent in a full manual tally. However, if the Board does not adopt our recommendations, it must provide the necessary resources—at least \$1,651,209.68 and 1300 new staff—immediately so that the Election Department can implement preparation for a full manual tally.

The Board Must Act on Both Items by March 28, 2023

Beyond these practical risks and limitations, there are several deadlines that are rapidly approaching that, if missed, could put future elections at risk, and could cause Shasta County voters to be disenfranchised.

As I stated in the meeting with both Supervisor Jones and Crye on March 15, 2023, if an election is called for August 29, 2023, the last date for the Board to act is March 28, 2023. This is the date by which the Board must (1) reinstate or enter a new voting system contract (March 28, 2023 agenda item R6); or (2) plan to provide the resources necessary to implement a full manual tally, if the Board decides to pursue that path (adding manual tally components as is contemplated by March 28, 2023 agenda item R7). Failing to act on March 28, 2023 with a potential August 29, 2023 election puts that election at risk, and the County would then be in jeopardy of disenfranchising voters. And even if there is no special election in August 2023, there may well be a special election called on the next regular election date, November 7, 2023. If the Board intends to request a full manual tally for that election, the Elections Department needs to know now, in order to plan. And the last date that the Board could approve a voting system agreement to comply with California and federal law for that election is May 9, 2023.

I hope and believe that that you all want to serve our collective constituents as I do. As you know, the position of clerk, *ex officio* registrar of voters, is a designated, elected office under state law. Cal. Gov't Code §§ 24000 subdiv. (c); 24009; 26802. In this role, I am "charged with the duty of conducting an election." Cal. Elec. Code § 320. While this Board retains some authority regarding elections within the County, that authority is "[s]ubject to the provisions of the Elections Code." Cal. Elec. Code § 25201. And that Code establishes numerous duties for me, as the elected clerk, beginning with the framing of the ballots through the final tally and canvass of election results. I take my statutory responsibility seriously. Creating a new voting system from scratch, that likely will not comply with state law, undermines my ability to perform those statutory responsibilities, intruding on my position as a duly elected Shasta County official. As a five-time elected official, with nearly 20 years of experience, I urge the Board to select a certified voting system.

Please carefully consider your decisions and understand that while my office is full of extremely competent and prepared professionals, even we cannot perform miracles. We need the resources and time required to carefully develop procedures to ensure no Shasta County voter is disenfranchised. If the county misses the deadlines contained within this letter the blame for election failure will rest surely at each of your feet.

Regards,

A handwritten signature in black ink that reads "Cathy Darling Allen". The signature is written in a cursive, flowing style.

Cathy Darling Allen

Shasta County Clerk/Registrar of Voters