

CITY OF TALLAHASSEE	
<u>CITY COMMISSION AGENDA ITEM</u>	
ACTION REQUESTED ON:	November 26, 2002
SUBJECT/TITLE:	Sunset Review of Commission Policy 118 CP and Approval of Absentee Ballot Canvassing Procedures
TARGET ISSUE:	N/A

STATEMENT OF ISSUE

Since 1983, elections for the office of City Commissioner have been conducted by the Leon County Supervisor of Elections. Although the majority of election activities are handled directly by the Supervisor's office, Section 2-28 of the City Code provides for the City Commission to act as the Canvassing Board for the purpose of certifying election results for standalone City elections.

City Commission Policy 118 CP requires the policy to be reviewed every five years, and any modifications to the standards for accepting or rejecting absentee ballots to be presented to the Commission for approval. The City Commission reconfirmed the procedures on January 14, 1998, prior to the last standalone City Commission election. Since that time, several changes have been made to the State election code which require changes to be made in the City's absentee ballot canvassing procedures.

RECOMMENDED ACTION

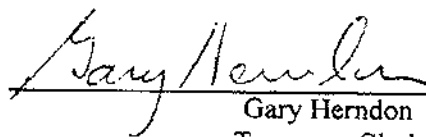
Approve Option 1: Reconfirm Commission Policy 118 CP and approve the revised absentee ballot canvassing procedures.

FISCAL IMPACT



Paula Cook

Treasurer-Clerk's Office / Records Administration



Gary Herndon
Treasurer-Clerk

For Information, please contact: Paula Cook, extension 8162.

ITEM TITLE: Sunset Review of Commission Policy 118 CP and Approval of Absentee Ballot Canvassing Procedures

SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS

HISTORY/FACTS & ISSUES

On December 18, 1991, the City Commission adopted Commission Policy 118 CP, which formally implemented procedures for determining the validity of absentee ballots. Although the specific procedures used to canvass absentee ballots had been in use since 1985, they had been formulated over a period of years in response to the City Commission's desire to streamline and formalize the process. Use of the procedures allowed the City Commission to remove itself from the initial absentee ballot review and delegate this task to staff but continue in its role as the Canvassing Board for City elections. Because the City of Tallahassee was one of the first governments in the state to establish formal procedures for handling absentee ballots, the procedures served as one of the models for canvassing board activities for elections monitored by the State Division of Elections.

The Florida Statutes require municipalities to adhere to Statutory provisions for conducting elections, and the standards for canvassing absentee ballots have consistently mirrored these requirements. While there have been changes in requirements over the past several years, the infamous 2000 General Election generated the most numerous changes to Federal and State Statutes. These changes are reflected in the absentee ballot canvassing procedures, and include a section on the "Clear Indication of Voter's Intent on Ballot" and the handling of provisional ballots.

The language relating to provisional ballots also represents a significant change from past elections, which could prevent the Supervisor of Elections' staff from finalizing the voting results before the noon City Commission Canvassing Board meeting. Provisional ballots are ballots cast by persons at a polling place for a variety of reasons, such as the voter being omitted from the registration rolls due to office error or voting at the wrong polling place. The determination to accept or reject these ballots requires Elections' staff to conduct additional research, as well as count the accepted ballots apart from absentee ballots. While City and Elections' staff are optimistic that there will be a minimal number of provisional ballots cast during City elections, it might be necessary to delay the Canvassing Board meeting until the City Commission's regular meeting later that day.

OPTIONS

1. Reconfirm Commission Policy 118 CP and approve the revised absentee ballot canvassing procedures.
2. Provide policy guidance to staff regarding additional changes that should be implemented.
3. Do not reconfirm Commission Policy 118 CP and attached procedures, which will require the City Commission to handle all aspects of absentee ballot dispositions.

ATTACHMENTS/REFERENCES

1. Commission Policy 118 CP.
2. Draft Absentee Ballot Canvassing Procedures.

City Commission Policy 118

Absentee Ballot Policy

DATE ADOPTED: December 18, 1991

DATE OF LAST REVISION: January 14, 1998

118.01 Authority: Section 2-25 of the City Code of Ordinances designates the City Commission as the Canvassing Board and designates the time the Board will meet as 12:00 noon on the day following the election. These procedures are an extension of this authority and are effective upon adoption by the City Commission.

118.02 Purpose: The purpose of this policy is to require procedures to be developed which will systematize and streamline the process used to review and determine the validity of absentee ballots.

118.03 Scope and Applicability: This policy applies to regular and special municipal elections held by the City of Tallahassee.

118.04 Policy Statement: It is the policy of the City of Tallahassee to develop procedures that assure the accuracy and integrity of the City's elections as it pertains to the canvassing of absentee ballots and standards for challenges and/or protests to the absentee ballot process.

118.05 Definitions:

Staff Review Committee: A committee composed of the City Treasurer-Clerk, the Deputy Treasurer-Clerk, and the Records Management Administrator.

Ex Officio Members: The Leon County Supervisor of Elections serves as a nonvoting advisor to the Staff Review Committee and the City Attorney serves as legal counsel to the Staff Review Committee.

118.06 Exceptions: All elections conducted in conjunction with a County, State, or Federal election wherein the election is not considered to be a City election.

118.07 Action Sections:

Preliminary Review: Pursuant to the contract with the Supervisor of Elections, he/she will be responsible for conducting City elections and presenting the City with all absentee ballots cast in the election.

Committee Meeting: The City Treasurer-Clerk will be responsible for the coordination of the committee meetings the day of the election to accept absentee ballots.

Committee Review: The committee shall review ballots for flaws/errors. The ballots will then be sorted and separated into categories based upon the error. All errors will be announced publicly along with the number of ballots with the errors.

Review of Standards: The City Attorney and the Supervisor of Elections of Leon County will be consulted each year prior to City election(s) to determine that standards included in the procedures remain in compliance with the Florida Statutes.

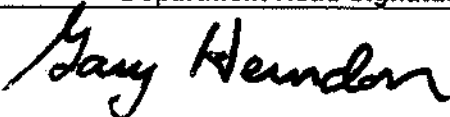
Review of Voter Signature: The Committee will be responsible for accepting from the Supervisor of Elections the absentee ballots and verification of voter signatures.

Opening of Ballots: The Committee will be responsible for the tabulation of the ballots and the presentation of the ballots to the Commission. The Treasurer-Clerk will present a resolution with the results of the Election for adoption by the Commission.

Procedures: See attached Absentee Ballot Canvassing Procedures.

118.08 ADMINISTRATION: The City Treasurer-Clerk shall be the administering department for this policy and shall be responsible for updating this policy as state statutory requirements change.

118.09 SUNSET REVIEW: The policy will be reviewed every five years. Any modifications to the standards governing acceptance or rejection of absentee ballots shall be presented to the Commission for approval.

Department	Department Head Signature
Treasurer-Clerk's Office Records Management Division	 Gary Herndon, Treasurer-Clerk



ABSENTEE BALLOT CANVASSING PROCEDURES

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CITY OF TALLAHASSEE
ABSENTEE BALLOT CANVASSING PROCEDURES

I. PURPOSE

The purpose of these procedures is to systematize and streamline the process used to review and determine the validity of absentee ballots. These procedures are in response to Commissioners' concerns that the electorate and candidates understand the process used to canvass absentee ballots and to eliminate to the extent possible any perceived influence or discretion the Commission may have over the process.

II. AUTHORITY

Section 2-28 of the City Code of Ordinances designates the City Commission as the Canvassing Board and designates the time the Board will meet as 12:00 Noon on the day following the election. These procedures are an extension of this authority and are effective upon adoption by the City Commission.

III. SCOPE AND APPLICABILITY

These procedures shall only apply to regular and special municipal elections. A municipal election held in conjunction with a Federal, State or County election shall be governed by applicable State Statute and the Canvassing Board shall be established as provided therein.

IV. STAFF REVIEW COMMITTEE

A "Staff Review Committee" (hereinafter referred to as the "Committee") is hereby established to assist the Commission in the carrying out of its duties as the Canvassing Board in accordance with the procedures prescribed herein.

A. Committee Composition

The Committee will be composed of the City Treasurer-Clerk as Chairman, the Records Management Officer and the Deputy Treasurer. If either the Records Management Officer or the Deputy Treasurer is unavailable, the City Treasurer-Clerk will appoint responsible supervisory personnel to serve on the Committee.

B. Ex Officio Members

The Leon County Supervisor of Elections will serve as a nonvoting advisor to the Committee and the City Attorney will serve as legal counsel to the Committee.

C. Meeting Time

Meetings of the Committee will be scheduled for 9:00 A.M. on the day of all regular and special elections called by the City Commission.

D. Meeting Location

The location of said meeting will be determined at least two (2) days prior to the election.

E. Notice of Meeting

The location and time of said meeting will be provided in advance to the City Commission, all candidates and the press.

F. Recording of Meetings

All meetings will be recorded by a taping device.

G. Open Meetings

Pursuant to F.S. 286, all meetings will be open to the City Commission, candidates, citizens and the press.

V. PROCEDURES

A. Preliminary Review

The Leon County Supervisor of Elections, pursuant to the contract with the City dated ~~November 21, 1989~~ November 13, 2002, is responsible for conducting City elections. As part of his duties he is responsible for presenting the City with all absentee ballots cast in the election. The Supervisor will, prior to 9:00 A.M. on the day of the election, complete a preliminary review of absentee ballots to provide an initial determination as to ballots that appear to be incomplete or contain a flaw. Included in this review will be a comparison of the voters' signatures found on the voter registration cards with that on the ballot. Any discrepancy between the two signatures found by the Supervisor of Elections will be brought to the Committee for resolution.

B. Committee Meeting

The City Treasurer-Clerk will convene the Committee at 9:00 A.M. on the day of the election and will accept the absentee ballots from the Supervisor of Elections.

C. Committee Review

A member of the Committee will review each ballot for flaws/inadequacies and the ballots will be sorted and separated into categories based upon the type of error. The Committee will then publicly announce each type of flaw/inadequacy and the number of ballots with this error, and based upon standards adopted by the City Commission listed in Section VII of these procedures, determine which of said ballots were valid or invalid. Candidates or electors wishing to challenge any of the decisions being made by the Committee will be advised to do so at this time prior to the opening of the ballots. No ballots will be opened until the Committee has made a decision regarding all flaws or errors.

D. Review of Voter Signatures

The Committee will accept from the Supervisor of Elections the absentee ballots which he has found differences in the voters' signatures and the Committee will compare the signatures on the ballot and voter registration card, respectively, and determine the validity of the ballot. In reaching a decision on these signature discrepancies, the Committee will use the additional considerations associated with signature discrepancies listed in Section VII., C. of these procedures. Candidates or electors wishing to challenge any decision being made by the Committee will be advised to do so at this time prior to the opening of any ballot.

E. Opening of Ballots

The Committee will open and count the ballots previously determined to be valid. Any ballot that is challenged will not be opened by the Committee and will be submitted to the Canvassing Board for final disposition. Flaws found on the inner envelope or on the ballot will be announced and treated as provided in Section VII. Candidates or electors will again be advised of their right to challenge.

F. Tabulation of Returns

The absentee ballots will be tabulated by the Committee and presented to the Commission at the 12:00 Noon meeting of the Canvassing Board, along with the unopened, challenged ballots. If there are no challenged or ballots uncounted for other reasons, the City Treasurer-Clerk, as Chairman, will present a resolution with the results of the election for adoption by the Commission.

G. Committee Member Disagreement

Each member of the Committee will be allowed to question any absentee ballot. Any ballot where there is not unanimity among the Committee members regarding the validity/invalidity of the ballot will be set aside for presentation and disposition by the Commission.

VI. CHALLENGES TO ABSENTEE BALLOTS

A. Committee Level

As referenced in Section V above, the Committee, during its meeting, will receive verbal challenges to any absentee ballot, and any ballots so challenged will not be opened but will be preserved separately for canvassing by the Canvassing Board.

B. Protest to Canvassing Board

At the meeting of the Canvassing Board any elector or candidate present who believes that any absentee ballot is illegal due to any defect apparent on the Voter's Certificate may, before the ballot is removed from the envelope, file a written protest with the Canvassing Board against the canvass of such ballot, specifying the precinct, the ballot, and the reason for believing such ballot to be illegal. No challenge based upon any defect in the Voter's Certificate shall be accepted after the ballot has been removed from the mailing envelope.

C. Resolution by Canvassing Board

The Canvassing Board will review and rule on all challenges raised by qualified candidates or electors relative to absentee ballots. The Canvassing Board will also review and rule on all absentee ballots that were questioned by one or more members of the Committee.

VII. STANDARDS TO GOVERN ABSENTEE BALLOT

A. Valid Ballots

The following flaws or inadequacies have been determined by the Commission or courts to not be substantive enough to invalidate the ballots, and the ballots with these errors will be considered valid:

1. The ballot's envelope was signed by one witness, however, the names was illegible although the address could be verified.
2. ~~The secrecy envelope containing the ballot was not sealed.~~
3. The spaces for ~~party preference, county of residence, precinct number, or~~ name printed at the top of the ballot's envelope had not been completed.
34. ~~The ballot had been signed by one witness in the space designated for the notary public.~~
5. The voter signature on the ballot's envelope differs from the signature on voter registration card by including or excluding a middle name or initial.

46. The voter signed the ballot's envelope with a person's mark (X) and the voter registration card was signed with a signature marked (X).
57. The voter signed the ballot's envelope other than on the designated line.
68. The voter signed the ballot's envelope with a mark consistent with the voter registration card but also included a signature.
- ~~9.~~ ~~The voter did not check a reason for voting absentee.~~

B. Invalid Ballots

The following flaws or inadequacies have been determined by the Commission or courts to be substantive enough to invalidate the ballots and the ballots with these errors will not be considered valid:

1. The ballot was signed by the voter but did not have the witness required.
2. The ballot was not included in the an inner-~~white~~ envelope.
3. Identification marks had been made on the outside of the inner envelope containing the ballot.
4. Absentee ballot was received in the Supervisor of Elections' Office after 7:00 P.M., Election Day.
5. The ballot's envelope was not signed by the voter.
6. The ballot's envelope was signed by someone other than the voter listed on the final voters registration list as determined by a registration form (family member, power of attorney, etc.).
7. The mark on the ballot's envelope differed from the signature or mark on the voter registration card.
8. The ballot's envelope contained signatures of one or two witnesses but did not include his/her address(es).
9. There was an voter-identifying mark on the ballot.
10. The voter is deceased or has canceled status since the ballot was returned.
11. The voter voted at "polls".

C. Additional Considerations and Signature Discrepancies:

1. In reviewing and determining the authenticity of a voter's signature, the Committee will take into consideration.
 - a. The age of the voter.
 - b. The time that had elapsed between the signing of the voter registration card and the signing of the absentee ballot.
 - c. Written information submitted with the absentee ballot that provides a basis for a difference between the signatures.
2. The Committee will not take into consideration personal knowledge of Committee members or other information not included with the absentee ballot at the time of receipt.

3. Clear Indication of Voter's Intent on a Ballot:

- (1) The following are standards to determine in a manual recount as provided specifically by section 102.166, Florida Statutes, on an optical scan ballot, whether there is a clear indication on the ballot that the voter has made a definite choice. The following marks constitute a valid vote for the candidate, issue choice, provided no other race on the ballot is marked or the choices in all other races are marked in the same manner:
 - a. The oval next to a candidate's name or issue choice is circled or underlined. The name of a candidate or issue choice is circled or underlined.
 - b. There is an "X", a check mark, a plus sign, an asterisk or a star, any portion of which is contained in a single oval and which does not enter into another oval.
 - c. There is a diagonal, horizontal, or vertical line, any portion of which intersects two points on the oval and which does not intersect another oval at any two points. If it is a horizontal line, the line must not strike through the name of the candidate.
 - d. Written words naming a specific candidate or issue choice that expressly direct the canvassing board to cast a vote for that candidate, or issue choice, such as "Vote for Doe," or "Please count this vote for Jameson," "Vote no on amendment," provided there are no other markings in the race that would constitute a valid vote for a different candidate or issue choice pursuant to rule.
- (2) If the majority of an oval designating a candidate or issue choice is filled in, that constitutes a valid vote for the candidate or issue choice, regardless of how other races on the ballot are marked.

(3) Notwithstanding (1), (2) or (3), the following circumstances apply to determining whether there is a clear indication on the ballot that the voter has made a definite choice:

a. With the exception of (4)(f)1., if a voter marks more candidates than there are positions to be elected for that office in one or more of the manners prescribed in (1), (2), or (3), the marks do not constitute a valid vote for any candidate in that race.

b. If a voter marks fewer candidates than there are positions to be elected for those offices, the votes for all of those marked candidates shall count.

c. Where one oval is marked as provided in (1), (2), or (3), and one or more other ovals are similarly marked and contain an "X", a cross-out, or another mark obscuring the filled in area, or contain words of error or affirmative choice directed to one of the ovals, such as "no", "not this", "ignore this", "don't want", "wrong", "vote for Smith", or "vote yes", the choice without the additional markings, or in the absence of additional markings, the choice indicated by the written words shall constitute a valid vote..

d. If a voter designates a vote for a named candidate on the ballot and also provides for a write-in candidate in the same race it shall be treated as follows:

a. If a voter designates a vote for a named candidate on the ballot and writes-in the same candidate, the vote shall count for that candidate.

b. If a voter designates a vote for a named candidate on the ballot and writes in the name of a different named candidate in that race, it shall be considered an overvote with neither candidate receiving credit for the vote.

c. If a voter designates a vote for a named candidate on the ballot and writes in the name of a person who is not a named candidate on the ballot in that race, it shall be considered an overvote with no candidate receiving credit for the vote.

d. If the voter does not mark a candidate or issue choice, the valid votes for other candidates or issues on the same ballot shall be counted.

e. A mark for a candidate or issue choice at issue in the recount shall not count unless determined to be a valid vote pursuant to this rule.

VIII. PROTEST OF ELECTION RETURNS OR PRACTICES

Any candidate or elector may file a protest of the returns of the election with the Canvassing Board prior to its adjournment or within five days of midnight on the date of the election, whichever is latest. Protests shall be in writing and sworn to and in the form provided for in F.S. 102.167. In the event of such protest of returns and before canvassing such returns, the Canvassing Board shall examine the counters on the machines or the tabulation of the paper ballots cast in such precincts and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines, the counters of such machines shall be presumed correct, and such votes shall be canvassed accordingly. The rights of all parties in interest to appeal to the court for protection against error are not annulled.

IX. NOTICE TO CANDIDATES

Copies of these procedures will be sent by certified mail to each candidate at least one week prior to the election.

X. APPROVAL OF PROCEDURES AND EFFECTIVE DATE

These procedures shall become effective upon adoption by the City Commission, this 26th day of November, A.D.,2002.

Approved - 1/8/85
Revised - 1/14/87
Revised - 4/13/88
Revised - 12/14/88
Revised - 12/16/92
Revised-12/18/96
Revised 1/14/98
Revised 11/26/02